

MINUTES

**Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
1804 West Street, Suite 100
Annapolis, Maryland 21401**

November 12, 2020

CALL TO ORDER: Chairman Charles C. Deegan called the special meeting to order at 10:00 a.m. Chairman Deegan announced that the special meeting was being held remotely on Microsoft Teams due to the current public health emergency. He shared that the special meeting was being recorded and streamed live to the public and that a copy of the recording would be made available on the Commission's website. The purpose of the special meeting was for the Commission to consider and vote on the renewable energy regulations.

Executive Director Kate Charbonneau did a roll call to confirm the Commission members in attendance.

Commission Members in Attendance:

Tim Adams, Prince George's County
Curtis Beulah, Harford County
Gail Blazer, Worcester County – Coastal Bays (Town of Ocean City)
Carolyn Cummins, Worcester County – Coastal Bays
Jeffrey Ferguson, Eastern Shore at Large
Anita Grant, Western Shore at Large
Sue Greer, Charles County
Deborah Herr Cornwell, Department of Planning
Michael Hewitt, St. Mary's County
Matt Johnston, Anne Arundel County
Charles Laird, Somerset County
Pat Mahoney, Calvert County
Gary Mangum, Queen Anne's County
David Marks, Baltimore County
Catherine McCall, Department of Natural Resources
Michael McCarthy, Talbot County
Ewing McDowell, Department of Commerce
Marianne Navarro, Baltimore City
Julie Oberg, Department of Agriculture
Steven Parker, Cecil County
Tammy Roberson, Department of Environment
Donald Sutton, Kent County
Caroline Varney-Alvarado, Department of Housing and Community Development

Commission Members Not in Attendance:

Sandy Hertz, Department of Transportation
James Lewis, Caroline County
Jennifer Merritt, Worcester County – Chesapeake Bay

APPROVAL OF MINUTES: Commissioner David Marks motioned to approve the October 2020 minutes, and Commissioner Adams seconded. All voted to approve.

MAPPING UPDATE:

Chairman Deegan asked Ms. Lisa Hoerger to provide an update about the status of current mapping projects and recent mailings. Ms. Hoerger informed the Commission that staff had recently sent letters to citizens in Harford County and the Towns of Havre de Grace and Port Deposit informing them of changes on their property to the Critical Area boundary. Commission staff were answering questions from citizens and staff would soon be delivering Summary Draft maps to those jurisdictions.

REGULATIONS:

VOTE – Renewable Energy Regulations

Ms. Hoerger presented for vote to publish as proposed, the draft regulations for renewable energy generating systems in the Critical Area. She started by thanking the efforts of the Renewable Energy Workgroup members chaired by Catherine McCall that included Debbie Herr Cornwell, Julie Oberg, Jim Lewis, Matt Johnston and Mike McCarthy. She also acknowledged the work and assistance of her colleagues Charlotte Shearin, Nick Kelly, Kate Charbonneau, Emily Vanieri and Ren Serey, the former Executive Director and Gary Setzer, a former Commission member.

The draft regulations are the culmination of three years of effort and provide the basis for review and approval of solar energy generating systems of all sizes in the Critical Area. The regulations consist of amendments to COMAR 27.01.01 General Provisions; COMAR 27.01.02 Development in the Critical Area; COMAR 27.01.09 Habitat Protection Areas in the Critical Area; COMAR 27.01.14 Solar Energy Generating Systems; COMAR 27.02.01 General Provisions; COMAR 27.02.04 State or Local Agency Actions Resulting in Major Development on Private Lands or Lands Owned by Local Jurisdictions; COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands; COMAR 27.02.07 Commission Review, Decision Process, Time Frames; COMAR 27.02.08 Appeals.

Ms. Hoerger directed the Commissioners to her original November 12, 2020 staff report and her revised staff report, both of which are incorporated into and made a part of these minutes. Ms. Hoerger read into the record the purpose of the regulations which are as follows:

The proposed regulations address the fact that medium and large-scale solar projects are considered a commercial or industrial use in the Resource Conservation Area (RCA) and, if allowed, those types of uses would require growth allocation. However, medium and large-scale solar are generally temporary and not intended to be an anchor for new growth areas in a jurisdiction; therefore growth allocation is not an appropriate means to site these projects in the RCA. The regulations will attempt to achieve a balance of supporting the State's goal of increasing renewable energy projects across the State while protecting the land, habitat and water resources in the Critical Area, but especially in the RCA which constitutes 80% of the Critical Area.

The proposal addresses community, commercial, industrial and utility-scale solar generating stations in the Critical Area. Rooftop solar, and generally ground-based, accessory solar for individual private use would be regulated only to protect the Critical Area Buffer and other Habitat Protection Areas.

Ms. Hoerger then reviewed the changes made by the workgroup and staff since the September and October meetings as outlined in both November staff reports. During the review, Ms. Charbonneau asked whether a clarification was needed to COMAR 27.01.14.05 D (1). The suggested change was to delete "...to 20 percent of the entirety of the project area" and amend it to read "...to 20 percent of the entirety of the forest and develop woodlands in the project area". These same changes were made in 27.02.05.15-1 D (1).

A similar change was made to 27.01.14.05 D (2) from "...entirety of the project area" to "...entirety of the forest and developed woodlands in the project area". The same change was made to COMAR 27.02.05.15-1 D (2).

Ms. Charbonneau suggested a change in COMAR 27.01.14.05 C (2) from "development rights" to "density rights". The same change was made to the definition of "reservation of resource conservation area density rights" to ensure the term "density" was used consistently.

No other changes were proposed. Ms. Hoerger said the next step in the process is to send the draft regulations to the Division of State Documents and to the Administrative, Executive, and Legislative Review Committee.

There were no questions for Ms. Hoerger. Chairman Deegan recognized Commissioner McCall who moved on behalf of the Renewable Energy Workgroup, that the Commission take the following actions:

1) To approve the regulations affecting the following Code of Maryland Regulations:

COMAR 27.01.01 General Provisions

COMAR 27.01.02 Development in the Critical Area

COMAR 27.01.09 Habitat Protection Areas in the Critical Area

COMAR 27.02.01 General Provisions

COMAR 27.02.04 State or Local Agency Actions Resulting in Major Development on Private Lands or Lands Owned by Local Jurisdictions

COMAR 27.02.05 State Agency Actions Resulting in Development on State-Owned Lands

COMAR 27.02.07 Commission Review, Decision Process, Time Frames

COMAR 27.02.08 Appeals

(2) To approve regulations adding the new chapter COMAR 27.01.14 Solar Energy Generating Systems and adding the new regulation to existing COMAR 27.02.05, Regulation 15 Solar Energy Generating Systems; and

(3) To authorize Commission staff to publish these regulations as proposed regulations in the Maryland Register.

The motion was seconded by Commissioner Mahoney and was approved unanimously.

OLD BUSINESS

There was no old business to discuss.

LEGAL UPDATES:

Assistant Attorney General Emily Vainieri provided no legal updates.

NEW BUSINESS:

Ms. Charbonneau noted that there would not be a December meeting.



Lynette Fullerton, Commission Secretary

1/6/2021

Date of Approval