



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Final Meeting Minutes

Meeting of the Chesapeake Bay Exception Review Committee

December 6, 2023, 2:00 p.m.

Microsoft Teams Electronic Meeting Platform

Present:

Committee:

David Schnare, Elizabeth Martin, Barbara Ryan, Mary Smith, Amy Gould, Kathleen Flynn

County Staff:

Nicola Mutesi, Steve Strackbein, Jan Leavitt, Jerry Stonefield, John Friedman, Bin Zhang

Committee Members Absent:

Som Govender, Edward Monroe, Alexis Dickerson

Call to Order:

Meeting called to order by Chairman Martin at 2:05pm. Martin made a motion to establish that each member's voice could be heard. Motion was seconded and approved 6-0.

Topic 1: ERC Business

1. Review of previous meeting minutes from November 1, 2023. Smith motioned to approve the meeting minutes. Motion seconded by Gould and approved 6-0.

Topic 2:

Discussion with staff on amendments to the County Code to incorporate amendments adopted by the State Water Control Board regarding 1) preservation of mature trees, 2) sea level rise and coastal resiliency, and 3) to consolidate the stormwater management and erosion and sediment control regulations by Jerry Stonefield and John Friedman

- a) Presentation on [proposed amendments to the Chesapeake Bay Preservation Ordinance \(CBPO\)](#) by Jerry Stonefield.
- b) Regarding the mature trees amendment, Schnare asked what this would do for a private landowner not on the water or anything at all not part of our responsibility just a homeowner who wants to take down a 70-year-old tree?
- c) Stonefield stated that within the RPA, they would need county approval to take down dead, dying, diseased trees or noxious weeds and the requirement is when they're



removed, replantings equally effective are required to maintain the buffer functions. That's usually a 1 for 1 if they cut down a tree, they re-plant a tree. The replanted tree won't be a 70-year-old tree, but they still have to go through the administrative approval. That process doesn't change. Because of our language in Ch. 122 and the Public Facilities Manual (PFM), which was amended a couple of years ago on RPA buffer requirements, functionally or substantively addresses the tree removal this is not going to change for those conditions.

- d) Martin wanted clarification that this won't affect landowners who aren't in the RPA.
- e) Stonefield stated that in Fairfax County the land area outside the RPA is called Resource Management Area (RMA). So, when the state language says Chesapeake Bay Preservation Areas, they mean both RPAs and RMAs. When the county first adopted the CBPO, it was decided no RMA delineation would occur. Rather, the rest of the county was designated RMA. Outside of the RPA, approval under Chapter 118 is not needed to remove a tree.
- f) Ryan asked if the scope of this is within RPA. Stonefield agreed. Ryan asked how one would define 'where necessary' and if there's any guidance given to that? And in particular, about some of the very large kinds of sewer pipe and stream restoration projects that are currently going on in Fairfax County, where upwards of 500 mature trees are being taken out for individual projects. And how would that affect those types of projects if at all.
- g) Stonefield clarified that the 'where necessary' on the PowerPoint slide is a shorter version of the language that's in the regulations and that he would paraphrase because he didn't have it memorized. He made it known that you can only remove mature trees where it's necessary to establish the proposed use. If it is necessary for sewer work the amendment wouldn't prevent tree removal. Sanitary sewer trunk lines are in the stream valley because they are gravity flow systems and must flow downhill. If it's necessary for the construction of the project they could be removed. If removal occurs, trees need to be replanted to the maximum extent practicable. If it's not practicable to replant the trees, it is not necessitated by the new language.
- h) Gould mentioned mature tree issues are a conundrum for her because the value of the mature trees can't be replicated with smaller trees that are planted. Even if you're putting in three times as many, it takes 30 or 40 years for it to have the same value. She stated the county doesn't address or seem to understand and it's a source of frustration for her. She stated the tree canopy is being reduced at record rates, but we all know the carbon capture, the metric tonnage that every mature tree holds is pretty unbelievable. When cutting down a tree, you're not just losing the carbon capture, you're also spewing metric tons of carbon back into the atmosphere.
- i) Stonefield stated that the new regs allow adaptive measures within the RPA—adaptation is a new allowed use. This would involve nature-based measures that are approved practices, designed according to specifications, involve limited use of fill, and maximize preservation of natural vegetation.

- j) Regarding coastal resiliency and adaptation to sea level rise, Smith asked how that would be implemented. Any one particular project may not do that, but cumulatively a lot of projects could have an impact and how would the County go about doing that kind of assessment?
- k) Stonefield stated that the assessment is actually the other way around. What is desired is an analysis of the impact to sea level rise on a 30-year horizon on a proposed project. If a proposal is something that is in the RPA today, and dry, but in 30 years, given the amount of sea level rise, would be impacted by that higher water surface. They need to consider that impact now and design the project to account for it so that in 20 or 30 years, they don't have to come back in to rebuild the structure to mitigate the impact of that sea level rise. The resiliency assessment would be required for all RPA encroachments as part of the WQIA. Exceptions cannot be granted if a resilience assessment has not occurred.
- l) Betsy asked if they were going to rely upon coastal inundation models from VIMS or NOAA and what would be the basis for the assessment. Stonefield confirmed that those are two examples of models developed by or for the state. NOAA's model is SLOSH (Sea Lake Ocean Surge from Hurricanes) where they have taken multiple scenarios of different hurricanes, different landfall locations, different directions and just run model after model and take a cumulation of the worst case of all of those to develop where that storm surge would be. And VIMS also contracted out to come up with projected sea level rise and develop GIS based application so they can zoom and find out where the projected sea level rise is for various scenarios. The regulations are in the intermediate high scenario with a 30-year time frame from the time of the application.
- m) Schnare stated that based on historical trends over 120 years, over a 30-year period, we're looking at 1/4 of an inch rise in sea level. The models that have been used have been shown to be defunct because the climate sensitivity numbers have been wildly wrong, and the Intergovernmental Panel on Climate Change has admitted as much. And so, if we're using what NOAA has been using, which is the intermediate one, we're looking at something that is simply unrealistic by any empirical measure, in addition, our county is 300 feet above sea level and even at the Potomac that the few properties we have, along the Potomac that have issues and we had one before us at the last meeting, the surge level and sea level is not outside of normal variability from storms. How do we address this in the context of actual empirical data where we have good reason to believe that the modeling approach has been chosen is in error?
- n) Stonefield stated that the State regulations require that the County utilize the models and forecasts that were developed by the State so until the State changes those models, we must use them. During the state process to amend the regulations, the County requested that localities have the authority to choose their own models because the county was working on some additional modeling. Stonefield would check to see if the County could request approval for something different. Alternative models would have to be approved by the State. Additionally, Stonefield confirmed that a vast majority of the County is far above sea level, and this would not have an impact on them. However, the way the regulations are worded, any encroachment into the RPA has to have a resilience

assessment. The problem is that the resilience assessment is only considering such things as sea level rise and storm surge. It does not account for changes in rainfall, which is a big part of climate change. So, the only properties that would have any additional impact to assess would be those along tidal Potomac and tidally influenced tributaries.

- o) Schnare asked a question regarding remediation efforts. The presumption is a sea wall is the approach that would be best used especially in industrial areas. If you can't do backfill or fill, then what about sea walls? What about a structural approach?
- p) Stonefield stated that some other provisions are that projects must comply with tidal wetland guidelines and living shoreline requirements. Living shorelines was changed a couple of years ago. Living shorelines is a very specific concept of vegetation approaches to stabilizing shorelines. The big change was that projects previously needed to consider a living shoreline. The change a couple years ago was projects must put in a living shoreline approach unless they can prove that a living shoreline approach will not work at that location. Living shorelines have a vegetation approach and a very flat slope. They are not hardened shorelines, not seawalls, not rip rap not your traditional structural approach.
- q) Betsy added that living shorelines can include things like offshore sills built out of rock, so it does include some kinds of structural approaches. The idea is that would break the wave action that would be eroding the shoreline, for example. Stonefield agreed that there are some structural components and that it doesn't have to be all plants, but it's not your traditional seawall.
- r) Stonefield concluded by noting that localities must amend ordinances by Sept. 11, 2024. Public hearings will be held in spring/summer 2024.
- s) [Presentation on Consolidation of Regulations by John Friedman.](#)
- t) Gould expressed concerns about the lack of enforcement on E&S (Erosion and Sediment) control. Without an enforcement component or mechanism or an increase of enforcement, water quality and quantity is going to suffer. She believes the County is very lax.

Topic 3: [RPA 101 Presentation](#) by Bin Zhang

Zhang gave the general overview of the CBPO and the VRRM (Virginia Runoff Reduction Method) sheet.

Topic 4: Set Next Meeting Date

No meeting date was set.

Adjournment

Flynn made a motion to adjourn at 3:45pm. Motion was seconded by Ryan.