



# PATUXENT RIVER COMMISSION

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☀ Please call Daniel Rosen at MDP 410-767-4577 if you have any questions or comments.

**Larry Hogan, Governor**  
**Councilman Michael Leszcz, Chairman**  
**Councilwoman Mary Kay Sigaty Vice Chairman**

*We, the Patuxent River Commission, envision a Patuxent River ecosystem as vital and productive in 2050 as it was in the 1950s. We therefore commit to be stewards and advocates for the Patuxent River and to lead and inspire actions to protect, enhance, and restore living resources and the natural, cultural, economic, and recreational values of the Patuxent River and its watershed.*

## MEETING SUMMARY

### February 8, 2017

### Maryland Department of Agriculture

### Annapolis, MD

### 4:00 p.m. - 6:00 p.m.

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**Members:** Michael Leszcz (Chair), Mary Kay Sigaty (Vice Chair), Martin Chandler, Kelton Clark, Guy Curley, Andrew Der, John Downs (for Luis Dieguez), Jason Dubow, Paul Emmart (for Jim George), Jack Fringer, Tay Harris (for David Brownlee), John McCoy, Erik Michelsen, Byron Petrauskas, Katina Shoulers, Mark Symborski, Al Tucker, Fred Tutman

**MDP Staff:** Jason Dubow and Daniel Rosen

**Visitors:** Scott Knoche, Morgan State University

#### Approval of Minutes

The minutes from the meeting of January 11, 2016, were adopted unanimously.

#### Science & Technical Workgroup Discussion: Calvert County Oyster Committee Proposal

Kelton Clark referred to a letter to DNR drafted by the Science and Technology Workgroup (STWG) about the Calvert County Oyster Committee's proposal. The STWG supports a "do no harm" approach to the three oyster sanctuaries to which the Calvert County proposal would make changes. The sanctuaries would have to retain the existing tier rankings from DNR and NOAA; the tier ranking will serve as a proxy for functioning of ecosystem services.

Erik Michelsen asked how a decline in tier ranking would be handled. Jason Dubow replied that any needed upgrades to the oyster sanctuaries would be paid for by the Calvert County Oyster Committee. Kelton Clark said that since his program works for the public, there would be no extra cost for establishing the science for monitoring the health of the sanctuaries. Mike Leszcz asked Mr. Clark to send a letter to the PRC, the Calvert oystermen, and Morgan State University to describe the role of the Patuxent Environmental and Aquatic Research Laboratory in this project. He added that feedback about the project and its progress would be necessary.

Kelton Clark noted that the Governor's Oyster Committee would review Calvert County's proposal and possibly make recommendations, which the county would incorporate into its final proposal. DNR would control the process to assess progress, but the process has not yet been worked out.

Erik Michelsen suggested that the STWG's response to the Calvert County oystermen's proposal was too much of a blank check. Too many question marks remain. Mr. Michelsen said he understood the desire to create such a project and study it, but more consideration of the effect on public resources was needed. In addition, monitoring the results would be expensive. Kelton Clark responded that he and his colleagues will help to set up and perform the monitoring. Mr. Michelsen acknowledged that the oystermen want a steady supply of oysters in order to survive in business, so a certain amount of trust between the oystermen and the state is involved. He floated the idea of the oystermen posting a bond. Jack Fringer answered that they don't have the funds to post a bond.

Jason Dubow said that DNR should have an interest in performing the critical analysis, which gave members of the STWG a level of comfort about their letter to DNR. Kelton Clark said he wanted the watermen to have ownership of the system. John McCoy said he would like to see a letter that weighed the benefits of an enhanced oyster harvest vs. the cost of restoring the reefs if their tier status slipped. Jack Finger said that DNR should be able to tally the economic benefits of the oyster harvest, because they receive a tag off of each basket of oysters and know where the oysters come from. John McCoy added that oystermen are also acutely aware of their exact costs and income. Jack Fringer calculated that oysters brought about \$30 to \$45 per bushel in recent years, and about 35,000 bushels came from the Patuxent. If you assumed the higher price, the earnings for all the Patuxent oystermen would total about \$1.5 million.

Mike Leszcz said that the Calvert proposal is a good start for the scientists, the oysterman, and the County. Kelton Clark made a motion to approve the STWG's letter to DNR, and Jack Fringer seconded. The Commission voted to approve, with Erik Michelsen opposed.

#### **Legislative Bills of Interest to the Commission**

Daniel Rosen distributed a table containing information about bills of interest to the Commission. Most were scheduled for hearings and had seen little other action. Mike Leszcz asked Mr. Rosen to update the table every two weeks and send it to Commission members. Kelton Clark said that a number of the bills were related to stormwater and asked if MDE had weighed in on them. Erik Michelsen replied that SB0472 is enabling legislation that creates a convoluted system through which municipalities can collect stormwater fees on property owned by the state, county, a college and university, or a local school system...but only if the municipality has established a dedicated stormwater management fund and property owned by the municipality is subject to the charges. Mr. Michelsen said that the bill probably won't pass.

HB0281 would essentially reverse the Governor's rollback of part of the BAT regulations established by his predecessor. Paul Emmart pointed to HB 537, which authorizes the installation or replacement of septic systems that do not use nitrogen removal technology on property located outside the Chesapeake and Atlantic Coastal Bays Critical Area; the bill requires MDE or the local approving authority to impose a fee for residential and non-residential septic systems. HB0417 is a departmental bill that was also introduced last year; it authorizes Bay Restoration Funds to be used for the purchase of cost-effective nitrogen and phosphorus nutrient credits up to \$10 million annually. The purpose of the bill is to help prime the market. Mary Kay Sigaty asked why the state would buy nutrient credits instead of just requiring BAT for septic systems. Ms. Sigaty added that she would not like to see credits generated in the Patapsco watershed used in the Patuxent watershed.

SB0108 requires that only a “NONSTRUCTURAL SHORELINE STABILIZATION MEASURE” can qualify for a property tax credit against county or municipal property tax. HB0617 and SB0029 clarify that units of local government with planning and zoning authority may adopt specified forest conservation thresholds and afforestation and reforestation requirements as part of its local forest conservation program that are more stringent than specified forest conservation thresholds and afforestation and reforestation requirements. Commissioners at first assumed that local jurisdictions already had this prerogative until it was recalled that DNR once prohibited Annapolis from imposing a stricter forest conservation standard on two subdivisions after Annapolis asked DNR to render an opinion.

### **Cattail Creek Restoration**

Mary Kay Sigaty made a PowerPoint presentation on the project to create 6,200 feet of planted buffer on a dairy farm along Cattail Creek. There isn't enough public land in Howard County on which to mitigate stormwater runoff to meet MS4 permit requirements, so the County seeks opportunities on private property. The Cattail Creek project will earn the County credit for treating 62 acres of impervious surface.

The dairy farm is located near Lisbon, MD, a town built long before concerns about stormwater. The town sits on a rise; its stormwater and the runoff from the farm's feed lot and milking parlor run down toward Cattail Creek. The problem is exacerbated by the fact that the landowner filled in marshy ground near the creek, so the soil no longer absorbs stormwater. The creek banks are not stabilized, and erosion is evident.

The restoration project includes 15 acres of streambank that will be forested and placed under easement. Some existing woodland will be thinned for “shaded pasture.” The WSSC participates in the project because Cattail Creek feeds into the Triadelphia Reservoir, which is impacted by sediment. The restoration project will reduce sediment loading in the reservoir. The reservoir is also subject to a TMDL for phosphorous and sediment. The WSSC budget provides funds for source protection projects.

Monitoring of the Cattail Creek project will be in place for at least three years. Howard County will assess the biological content of the water; stormwater utility fees will provide the funding. Contractors will be responsible for geomorphic monitoring. The WSSC will monitor water quality and stormwater flow.

The restoration project is taking place at the headwaters of Cattail Creek. Jason Dubow asked why headwater protection is so important. Mark Symborski replied that headwaters are the uppermost upstream source of water in the creek. If the headwaters are degraded, the negative effects cascade downstream. Erosion sends down enormous amounts of sediment, which clogs the river below and causes further deterioration. Old towns and roads located on high ground can burden headwaters with stormwater runoff.

Regarding future stormwater mitigation on private land, Mary Kay Sigaty said that owners of large commercial properties were part of a task force to find approaches they could support. Their report will be published soon. Most of the big commercial developments in Howard County drain to the Patuxent River.

**Open Floor**

Fred Tutman said that river cleanup day is scheduled for April 1. He added that Project Clean Stream and the Alliance for the Chesapeake Bay will not be cross-posting the Patuxent Riverkeeper events on their websites because of concerns about corporate sponsorship. Mr. Tutman also informed the Commission that the tourism workgroup needs to talk to DNR about their projects on the river, for example new signage and campsites. Mike Leszcz said that lake dredging has begun in Laurel.