

The CLUE

Calendar of Events

Thursday, June 10, at 7 pm

CLUA Board (Elkton library) *All invited – discussion of future of CLUA web site*

Tuesday, June 15, at 2 pm

Board of County Commissioners (County Admin Building)

Wednesday, June 16, at 4 pm

WILMAPCO public workshop on Elkton Bicycle Plan (Elkton Town Hall) *See flyer at http://www.wilmapco.org/BikeElkton/EBP_public.workshop.flyer_6.16.10.pdf*

Monday, June 21, noon and 7 pm

Planning Commission (County Admin Building)

Monday, June 21, 6 pm

Charter Board (County Admin Building, Rising Sun Room) *Work session — Last review of charter proposal; public is invited to sit in*

Thursday, June 24, at 7 pm

CLUA Board (Elkton library) *All invited – discussion of Chesapeake Clean Water and Ecosystem Restoration Act of 2009 (see Cecil Watershed Watch article below)*

In This Issue: Report on “PlanMaryland” (p. 1); New fly ash law protects tidal waters (p. 3); New developments of concern (p. 3); More strip mining in the county endangers habitat (p. 4); Watershed Watch (p. 5)

Report on the “PlanMaryland” Public Forum

Jill Burke & Rupert Rossetti

The state Department of Planning held an open forum at Cecil College on Wednesday, May 26. Although there was an article that ran the week before in the Cecil Whig, very few citizens that were not representing an organization or business turned out for the Forum. Most attendees were from local or county governments or from the development community. Three CLUA members, Ron Hartman, Jill Burke and Rupert Rossetti attended.

These public forums are part of [the PlanMaryland](#) effort “to build on existing State and local plans and programs toward a new level of accountability from State agencies and local governments. The focus is not on new programs, more money or more State control. Instead, a new emphasis would be placed on the ways in which individual State agencies and local governments coordinate and work together on their respective responsibilities and actions. “ ([PlanMaryland: What is it?,p.4](#)) .

In working toward a new state-wide plan and vision for the future, the State Department of Planning has involved its citizens by staging public Forums. The Forum at Cecil was an eye-opening experience.

We were arbitrarily seated at tables by number. This created tables made up of different members of the community, government officials and developers. First, we answered demographic type questions such as age, how far away we work, etc. Then we launched into the real work of the Forum.

PlanMaryland has [12 planning visions](#): Quality of life and sustainability, public participation, growth areas, community design, infrastructure, transportation, housing, economic development, environmental protection, resource conservation, stewardship, and implementation. Table participants were asked to choose three and rank those 3 in order of importance. Each table had different issues that were important to it. Although there was overlap, there was a surprising amount of variety.

Next, the facilitator asked us to discuss what was working and what wasn't working for each of these issues. People spoke about everything from the comprehensive plan to the toll booths on I-95. We discussed the good, the bad and the ugly. After 45 minutes of discussing these issues at our tables, each group reported out to the group at large what was discussed and ended with a list of suggestions to make things work better.

The vision with the most importance to the most participants was quality of life and sustainability. Environmental protection, resource conservation and infrastructure were also highly ranked by the group. Many of the ideas to fix problems were creative and empowering. Jill and Ron's table ranked growth areas as the main concern and two of the fixes recommended were to create workable transfer of development rights (TDRs) and to stick to the newly created comprehensive plan. Rupert's group, largely made up of people who were members of the Comprehensive Plan Review Committee, ranked Quality of Life & Sustainability and Implementation highest, with Community Design & Environmental Protection tied for third. Their primary conclusions were that we cannot sustain 50% growth in our rural areas for another twenty years; need to specify a cap on development in those areas; should not “give away” development rights in the growth areas; and need better alignment among State agencies and all levels of local government on everything from planning to implementation. This forum, which brought together representatives from all the stakeholders, though the agricultural community did seem under-represented, provided a welcome opportunity to gain that alignment.

Overall, the CLUA participants came away thinking that it was a great session and an enlightening one. There will be another round of forums to discuss the results of these forums in the Fall. We hope to make an announcement in the newsletter so that more CLUA members can attend the next Forum. Until then, look at [the PlanMaryland](#) website and read more about this state wide initiative.

New Fly Ash Law Protects Critical Area

George Kaplan

On May 20, Governor O'Malley signed into law HB 1508 from the spring General Assembly session, which had been sponsored by Delegate David Rudolph. The bill, now law, received little fanfare, even in Cecil County, and it consists of a single sentence:

“THE DEPARTMENT MAY NOT ISSUE A PERMIT UNDER THIS TITLE TO INSTALL A NEW REFUSE DISPOSAL SYSTEM THAT WOULD ACCEPT COAL COMBUSTION BY-PRODUCTS FOR DISPOSAL OR FOR NEW NONCOAL MINE RECLAMATION USING COAL COMBUSTION BY-PRODUCTS IF THE REFUSE DISPOSAL SYSTEM OR NONCOAL MINE RECLAMATION WOULD BE LOCATED IN A CRITICAL AREA, AS DEFINED UNDER § 8-1802 OF THE NATURAL RESOURCES ARTICLE.”

The law, which goes into effect on October 1, bans the disposal of fly ash (and other types of coal burning residue) in the Chesapeake Bay Critical Area, within 1000 feet of a tidal shoreline. The new law will make it difficult, if not impossible, for fly ash to be used in the Stancill quarry near Charlestown, since much of the quarry is within 1000 feet of the Furnace Bay shore.

Fly ash disposal has created groundwater contamination in three sites in Maryland, and the prospect of its disposal in large quantities right on the shore of the Chesapeake Bay risked an environmental disaster.

We thank Delegate Rudolph for introducing the bill. In 2008, our county commissioners placed restrictions on fly ash disposal in the county through amendments to the Zoning Ordinance (CLUA supported those changes), but those amendments were overturned by a Cecil County Circuit Court last fall, which held that state regulations take precedence. This ruling led to the need for action at the state level. A number of CLUA members actively supported Del. Rudolph's bill as it made its way through the General Assembly process, and in the end it passed both houses unanimously.

For more information, see <http://mlis.state.md.us/2010rs/billfile/hb1508.htm> and <http://mlis.state.md.us/2010rs/bills/hb/hb1508t.pdf>.

New Developments of Concern As economic activity slowly picks up, we need to be vigilant about making sure that new development in the county is consistent with the new Comprehensive Plan and preserves the county's natural resources.

York Mining Permit Application: The proposal is to strip mine a large wooded area just south of I-95 between Red Toad and Belvidere Roads. See Eileen Butler's letter to the governor, immediately below. Contact Rupert Rossetti, RupertRossetti@aol.com, for more information.

Elk Point Marina: Another residential development has been proposed for this land on the western shore of the upper Elk River just north of Plum Creek. Septic fields would extend to the Chesapeake Bay Critical Area buffer line. The developer needs a change of zoning, from Marine Business to Suburban Residential, to proceed, and will seek the Planning Commission's support at its June 21 evening meeting. Citizen input is needed; contact George Kaplan, gkaplan@zoominternet.net, for more information.

An Open Letter to the Governor

New Strip Mining Plans in Cecil County Endanger Habitat and Streams

The Honorable Martin O'Malley
100 State Circle
Annapolis, MD 21401-1925

Subject: York Building Products — Belvedere Road Mining Expansion

Dear Governor O'Malley:

I am a resident of Cecil County and a long time advocate for clean air and clean water. I was happy to hear about the efforts the federal government and surrounding state governments are making to clean up the Chesapeake Bay; however, recent permit activities at the state level will likely threaten the success of that effort.

I am specifically referring to a mining permit being sought by the York Building Products Company. The proposed permit area consists of 277 forested acres of land identified on the state's Green Infrastructure Map and contains high quality habitat for Forest Interior Dwelling Bird species (FIDS). The site contains tributaries that flow into the Principio Creek, a high quality Tier II stream. Principio Creek and all its tributaries are classified as Use III waters, the only system within the Elk River Basin designated as such.

This area is so ecologically sensitive that when the Department of Natural Resources (DNR) staff surveyed the area on five separate occasions, they were able to identify 17 species of concern of plants and animals; 22 different families of benthic macroinvertebrates (some are extremely rare or possibly new State records); 2 wetland natural community types (found in association with the terraced seeps) "so rare and uncommon that they could in fact represent entirely new classifications which are currently unknown in Maryland"... and exhibit "extreme ecological significance." [Per DNR Memorandum from Greg Golden to Molly Edsall, dated 9-29-2009] In fact, DNR came to the conclusion that "this site involves one of the most significant, new habitat complexes documented by our biologists in the past two decades." [DNR Memorandum] With what York is proposing, there is a valid concern that mining activity will disrupt the hydrology of the site, negatively impacting groundwater flow to the perennial seeps.

It is clear from the correspondence between Maryland Department of the Environment (MDE) and DNR that there is a serious effort on the part of DNR to assist MDE to ensure that any mining activity does not negatively impact the important sensitive habitats found on the site. I appreciate MDE's efforts to withhold a permit to York until DNR commented on the proposed project. However, DNR has continually noted that "the surface mine as proposed will cause adverse impacts to the wetlands, perennial seeps and the rare taxa, unique communities and high quality aquatic systems found on the site" [Per DNR Memorandum to Molly Edsall from Greg Golden, dated 12-22-09] and there does not seem to be any resolution to DNR concerns to date.

With regards to the public process, the legal notice was printed in the paper on May 14, 2009 and the public had until May 28 to request an informational hearing from MDE. However, DNR did not review and comment on the permit application until September 29, 2009. I am concerned that the process in place is backwards. How would the public know to be concerned

about a permit prior to having access to the state's scientific experts' comments on an application? It seems to me the process needs to be reversed to allow the public to review any agency comments before requesting a public hearing.

I am hopeful that the State agencies will responsibly discharge their obligations under COMAR to ensure that the proposed mining operation will not have "an undue adverse effect on wildlife or freshwater, estuarine or marine fisheries," especially as scientists in DNR have noted this area to be amongst the most important in Maryland's central region due to the "complex of sensitive natural resources elements found in this area." [3/1/10 email between Greg Golden and Molly Edsall]

I respectfully request that you and the Secretaries of MDE and DNR consider the efforts of the Federal and State governments taken to clean up the Chesapeake Bay when considering this permit.

Sincerely,

Eileen M. Butler

cc: John R. Griffin, Secretary
Maryland Department of Natural Resources
Shari T. Wilson, Secretary
Maryland Department of the Environment

Cecil Watershed Watch

June 2010

Rupert Rossetti
(RupertRossetti@aol.com)

Upcoming Events:

- **Chesapeake Clean Water Act Informational Meeting**, 24th June, 7 p.m. Elkton Library. Guest Speaker, Terry Cummings, Chesapeake Bay Foundation. Hosted by CLUA. See first article.
- **Cecil Wade-In** Sat July 10th from 2 - 5 p.m. at North Bay Environmental Education Center
- **Sassafest** - SRA's first River Awareness Day. Saturday July 17th from 10:30 am - 4pm at Betterton Beach, on the Sassafra, (including **Wade-In**)

Federal Legislation: The Chesapeake Clean Water Act

The following is an excerpt from a Chesapeake Bay Foundation information sheet

Last October 20th, U.S. Senator Ben Cardin and U.S. Congressman Elijah Cummings introduced the **Chesapeake Clean Water and Ecosystem Restoration Act of 2009**

(CCWA). The CCWA includes several important provisions to encourage cost-effective and equitable local implementation of the Bay Total Maximum Daily Load (TMDL) and restoration of local waterways.

- Strengthens the legal basis of the court-ordered Bay TMDL to try to avoid years of wasteful legal challenges and uncertainty.
- Requires the State to work with localities to create Watershed Implementation Plans (WIPs) that provide clarity and certainty about pollution reduction expectations for local watersheds.
- Authorizes \$1.5 billion for Bay watershed localities to support installation, retrofit, or repair of urban stormwater Best Management Practices (BMPs).
- Sanctions an additional \$625 million for broader local implementation and monitoring efforts.
- Creates a watershed-wide water quality trading system that complements and augments existing local stormwater programs. Localities will have the option to purchase pollution reductions needed to comply with a local WIP, which are in addition to those already delivered by existing efforts focused on local streams, to avoid the cost of installing additional urban BMPs solely to meet their Bay requirements. For example, a World Resources Institute analysis concluded that municipalities could save hundreds of millions of dollars per year through the purchase of credits in lieu of retrofits for a portion of their WIP responsibilities (www.wri.org/stories/2009/12/how-nutrient-trading-can-help-restore-chesapeake-bay).
- Enhances existing efforts to restore local waterways and install well-designed BMPs that have been proven to increase local property values and associated locality revenue.

For more information on the CCWA, please visit the Chesapeake Bay Foundation's website at: www.cbf.org/ccwa and/or come to our next CLUA meeting on 24th June at the Elkton Library

So what IS a Wade-In?

A Wade-in is a popular, but unscientific check of water clarity. Participants walk into the water until they can no longer see the tops of their sneakers, then measure and record the depth. While Wade-ins provide a one-day snapshot of water clarity, these annual measurements are important because they raise public awareness.

Retired State Senator Bernie Fowler initiated the first Wade-in in the Patuxent some 25 years ago to dramatize water quality in the Chesapeake Bay and its

tributaries and to get the public involved in efforts to restore the bay. Water clarity is important because it allows the sunlight to penetrate the water, allowing underwater sea grasses - which provide important habitat for fish, crabs and other marine life - to grow and flourish.

The Wade-In measurement, also known as the "Sneaker Index," replicates the scientist's Secchi disc, a patterned device that is lowered into open waters to measure clarity.

Although there are more than 20 Wade-Ins held across the State each summer, this will be Cecil County's first, and Bernie Fowler is scheduled to attend!

Local Watershed Activities:

Sassafras River Association awarded Pioneer Grant

Reprinted from the May edition of the Sassafras Update, which is chock full of news about the SRA. www.sassafrasriver.org/whatwedo/2010_05_sassafrasupdate.pdf

SRA was recently awarded a \$ 65,000 Pioneer Grant from the Chesapeake Bay Trust to design a treatment wetland on an agricultural parcel in the watershed. Treatment wetlands, unlike traditional wetlands, maximize nutrient uptake (phosphorus and nitrogen) rather than support wildlife. SRA has been working with a local landowner as well as Cecil County Natural Resource Conservation Service (NRCS), Sustainable Science and University of MD Wye Research for several months, taking samples, identifying funding and discussing monitoring protocols.

The project includes an intensive monitoring component, pre and post construction, to analyze how nutrients move through the system. This data will enable SRA to quantify the total pounds of nutrient reductions versus the cost of the practice. Securing construction funds is the next step in this process. SRA has a grant pending with National Fish and Wildlife Foundation that will be announced in September.

New Stream Health Website shows Cecil Stream Waders results

On Tuesday 18th May, the Governor announced a new "Stream Health" website which will be very useful to those of us who live, work and play on and in the headwater streams!

The website, www.streamhealth.maryland.gov/, shows the results of the MD Department of Natural Resources various biological surveys on an interactive and scalable map. It is very easy to zoom in to one's local area and see which stream reaches are healthy, which reaches are in trouble and which reaches have not yet been sampled. The map includes the analyses from the DNR-led Maryland Biological Stream Survey and the volunteer-led Stream Waders Survey.

The new website will be invaluable as a tool to view the integrated results of past surveys, to identify places to go next year, to report back to the land-owners on whose property we sampled and to target those streams which need protection or restoration.

Water flows downhill, and the Bay is at the bottom! If we want to fix the Bay, the place to start is in our headwater streams! I urge you to go to the website and get involved. The Stream Waders program takes place every spring and is open to all!

Aquatic Life Declines at Early Stages of Urban Development

Excerpted from a CWP bulk e-mail

The Center for Watershed Protection (CWP) has been collaborating with the US Geological Survey's Effects of Urbanization on Stream Ecosystems (EUSE) research group to help interpret and disseminate the study results to local watershed managers and planners so they can base land use and management decisions on the best available science. A summary report of the EUSE study findings is now available, along with short video podcasts, as described in the summary below.

A new USGS report explains the effects of urban development on stream ecosystem health. Surprisingly, aquatic insect communities show little, if any, initial resistance to low levels of urban development that were previously thought to be protective of aquatic life. The study showed, for example, that by the time a watershed reaches about 10 percent impervious cover in urban areas, aquatic insect communities are degraded by as much as 33 percent in comparison to aquatic insect communities in forested watersheds.

The USGS determined the magnitude and pattern of the physical, chemical, and biological response of streams to increasing urbanization and how these responses vary throughout nine metropolitan areas: Portland, OR; Salt Lake City, UT;

Birmingham, AL; Atlanta, GA; Raleigh, NC; Boston, MA; Denver, CO; Dallas, TX; and Milwaukee, WI.

Comparisons among the nine metropolitan areas show that not all urban streams respond in a similar way. Land cover prior to urbanization can affect how aquatic insects and fish respond to urban development and is important to consider in setting realistic stream restoration goals in urban areas. Learn more about how stream ecosystems respond to urban development from USGS reports and video podcasts on the USGS website: <http://water.usgs.gov/nawqa/urban/>

Let us hear from you! The CLUE belongs to you. We'd like to know what you have to say. What are your concerns and interests regarding Cecil Land Use? Tell us about your pet peeves, your ideas for improvement, people you'd like to praise, process suggestions, new problems identified, new opportunities arisen, or new challenges to face. Speak up, and share with us. Write to the editor at gkaplan@zoominternet.net .

The Cecil Land Use Alliance newsletter is published periodically under the auspices of the Board of Directors. It is provided to all members, directors and available to the public at large. Suggestions and articles are welcome. They should be submitted to the editor by e-mail to gkaplan@zoominternet.net, or by mail to P.O. Box 215, Coloma MD 21917. We encourage our readers to visit our website at <http://cecillanduse.org>