

MINUTES

Baltimore County Commission on Environmental Quality (CEQ)
September 27, 2023 at 7 pm in-person, in Chesapeake Conference Room, 1st floor, Jefferson Building at 105 West Chesapeake Ave, Towson

CEQ webpage: www.baltimorecountymd.gov/Agencies/ceq/index.html

Attendance: Carol Newill, Andy Miller, Mahnaz Mazaheri Assadi, Brian Fath, Lois Jacobs, Dustin Shearer, Steve Malan, Brian Lindley, Henry Ayakwah, Kirsten Hoffman. Excused absences: Valerie Androutsopoulos, Brian Bernstein, Lynda Eisenberg, Karen Wynn, Radu Zamfirache.

CEQ has 12 members with two vacancies - one to replace Linda Davis (County Executive appointment), one from David Marks' district, and we may lose Lynda Eisenberg owing to her new job with Howard County Planning which has a standing meeting on Wednesday – which might lead to a vacancy in Julian Jones' district.

I. Welcome to our first in-person meeting in over 3 years. Masks are optional. Anyone who feels unwell is asked to stay away. We will increase ventilation by opening windows, and use the room air filter. If the local Covid-19 hospitalization rate becomes too high then we will resume meeting on-line. Interested Commissioners please volunteer to form a committee to manage this.

II. County Councilmember David Marks requested that CEQ provide information related to County Code on Weed Control, especially Prohibited Acts. Citations have been issued for pollinator gardens and meadows while public support in Low-Impact Landscaping has been growing. There is huge interest in the county, state, and nationally in the use of native plants and pollinator gardens that involve plants that grow more than 8 inches high and ways of replacing the reliance on turf grass only.

Kirsten Hoffman will speak on “Proposed Changes to the Baltimore County Weed Ordinance.” She will address the recent change in MD State Law including that law’s definition of “Low Impact Landscaping,” the law in other counties and municipalities, and a recommendation for updating County Code. Ms. Hoffman is an experienced architect who is active on the Executive Committee of the Green Towson Alliance and the Legislative Affairs Workgroup of the Maryland Native Plant Coalition. They worked on the legislation that was passed last year and will go into effect next year. Kirsten is very interested in habitat restoration and especially native plants. Green Towson Alliance encourages using native plants and minimizing turf lawn, with goals of supporting habitat for native wildlife, decreasing contributions to global warming, and increasing resilience to climate change in our geographic area.

Presentation by Kirsten Hoffman:

Growing interest in “Low Impact Landscaping”. We know the environment is changing, with more hot days, more extreme storms and floods. Each individual can actually do something and one action with impact is planting native plants.

The 2021 “National Gardening Survey of the National Wildlife Federation found 19% plan to transform a portion of their lawn to wildflower native landscape, up from 9% in 2019.

Balt County DPW webpage in 2019 pointed out the downsides of turfgrass as requiring a lot of inputs, nonnative plants, negative impacts on environment. They argued there are alternatives including “Bayscaping,” landscaping to help Chesapeake Bay, and encouraged people to plant something other than turfgrass. [Code violations are only called out when there is a complaint.]

Low-impact landscaping is widely encouraged at federal and state level as well as many NGOs like NWF, Alliance for Ches Bay, Ches Bay Foundation, Blue Water Baltimore.

UMD extension wrote about the need to manage lawns more sustainably – esp. with dramatic declines in pollinators and climate change. DNR has back yard program encouraging people to work with nature (HabiChat Wild Acres Program)

Low impact landscaping is using native plants to create a diverse landscape to help protect clean air and water and support wildlife – a picture of a pollinator garden was shown - and can include native trees, shrubs and perennials. U of MD Extension has many plant lists to meet different needs (e.g. deer-resistant)

Native plants require less (if any) inputs, retain and filter storm water, tend to have longer roots than turf grass, provide year round food, shelter and nesting sites, improve air quality (no need for mowing), increase biodiversity. If we don't have habitat on private lands, we can't support wildlife (86% of land east of Mississippi is in private hands). Even putting a few native plants in your yard can make a difference. Most responsible growers harvest their own seeds from local native plants.

(Interruption while county computer was updating – continued with slides shown on a laptop)

Steve Malan argued that turfgrass is often needed for access. A lot of weed ordinances are because of people not mowing their lawn. There is also some breeding going on in the turf industry to try to remedy some of the recognized problems. But Kirsten replied that we also now have many lawns that are never used and are in turf grass just as default.

Brian Fath pointed out that you start by creating plant diversity and then diversity in everything else will follow.

Pollinators are in crisis – Councilmember Mike Ertel a few weeks ago met to

discuss the problems affecting native bees and encouraged further public education and awareness. In 2017 the Center for Biodiversity found that more than half of native bees were declining and ¼ were imperiled and at risk of extinction. USGS points out that they are the primary pollinator for many of our crops and they are critically needed. Native plant gardens – showed some pictures with local examples. You can have a colorful spring-summer garden and even in fall when they fade a bit they still provide a lot of benefits.

We discussed low-impact landscaping as defined by the state; other terms include conservation landscaping, managed natural landscaping, Bayscaping, eco-friendly landscaping, xeriscaping.

CEQ produced a report on conservation landscaping in 2007.

Current laws

Baltimore County Code – weed ordinance puts an 8-inch limit on plant height. If someone complains, the County can cite and fine the homeowner and force cutting to 3-inch height.

Part B of the Code specifies gives: bona fide agricultural property and natural habitat areas; but right now there is no exception for low-impact landscaping. MD State passed a bill in 2021 saying that HOAs cannot write rules that restrict low-impact landscaping. There have been cases where HOA told homeowners to take out their native plants and plant turf grass. There were lawsuits. The homeowner played a role in bringing this to the General Assembly resulting in the 2021 law. Have HOA's been informed that the law has changed? Possibly not; individual homeowners have to bring it to the attention of their HOA.

MD State Law i.e. House Bill 32(2021) Real Property – Restrictions on Use – Low-Impact Landscaping, - defines “Low-Impact Landscaping” as:

“LANDSCAPING TECHNIQUES THAT CONSERVE WATER, LOWER MAINTENANCE COSTS, PROVIDE POLLUTION PREVENTION, AND CREATE HABITAT FOR WILDLIFE”

In the law, Low-Impact Landscaping includes:

1. BIO-HABITAT GARDENS AND OTHER FEATURES DESIGNED TO ATTRACT WILDLIFE;
2. POLLINATOR GARDENS AND OTHER FEATURES DESIGNED TO ATTRACT POLLINATOR SPECIES;
3. RAIN GARDENS AND OTHER FEATURES THAT USE NATURAL BIOLOGICAL PRINCIPLES TO RETURN RAINWATER TO THE SOIL AND TO FILTER RAINWATER OF EXCESS NUTRIENTS; AND
4. XERISCAPING AND OTHER FORMS OF LANDSCAPING OR GARDENING THAT REDUCE OR ELIMINATE THE NEED FOR SUPPLEMENTAL WATER FROM IRRIGATION.

This state law applies only to HOAs.

In our Baltimore County Code, our proposal is to add an exception for managed low-impact landscaping to the list of exceptions for otherwise prohibited acts. Thus the County would have the authority to modify the requirement in the case of low-impact landscaping:

§ 13-7-401. - PROHIBITED ACTS; PENALTY.

(b) Authority to modify the requirements.

(1) The Department may modify the requirements of subsection (a) of this section in the cases of bona fide agricultural property, natural wooded areas, naturally vegetated landscape buffers in residential areas, stream protection areas, habitat protection areas, steep slope and erodible soil protection areas, storm water management facilities areas, unimproved areas in more than 3 acres, areas publicly owned and maintained as natural areas, and private open-space areas covenanted with the county as recreational areas to be maintained in their natural state.

Around Maryland, some other municipal ordinances have taken this approach, for example in College Park; exception is for naturalized and native managed landscapes. Other jurisdictions that have also exceptions to weed ordinances include Brentwood, Hyattsville, Bowie. In other states, Minneapolis and Green Bay have amended their municipal ordinances.

Possible push-backs to low-impact landscaping in Baltimore County:

1. Some aggressive native plants spread very easily; you have to be careful about putting these in a yard.
2. Questions about risk of attracting rats or other types of undesirable wildlife. Balt County DPW Clean Green Baltimore County webpage stated that the weed ordinance was to keep the rodent population under control. However the Department of Permits and Inspections webpage specifies ways to control rats, specifically removing the trash which attracts rats – not the native plants which were themselves not attracting the rats.
3. Another possible pushback is that low-impact landscaping looks messy to some people. Nancy Lawson, Maryland native plant writer, advises homeowners to show “Cues to Care”, which are items and practices which illustrate that the low-impact landscaping is planned, intentional and well-maintained.

Other jurisdictions

Minneapolis has a full ordinance for managed native landscapes, and includes specifications such as: keep gardens safe, manage noxious weeds, managed natural landscapes shall not include turf grass lawns left unattended for

purpose of return to natural state.

Green Bay Wisconsin talked about edging. They have a requirement for distinct and clearly defined borders; mowed, mulched, pavers, sidewalk or street edge. Boundary conditions – avoid having your plants encroach on sidewalks and rights of way. It should clearly be a tended garden.

Pathways through your garden show it is intentional; signage can be useful (e.g. “pollinator garden”); certifications such as “Baywise” run through Master Gardeners UMD Extension program. Other groups will certify a yard for good practices as well. Are there costs for certification? Not sure. There might be for the signs.

Conclusion: more and more acceptance of low-impact landscaping and the public is embracing it; more native plants available at nurseries; many options; many of gardens pictured were in the Green Towson Alliance competition. We propose a simple change to County Code to allow for Low-impact Landscaping, and it would be helpful to have the support of the CEQ.

On a related topic, people are working on legislation now to strengthen invasive plant law and get those out of nurseries; Maryland has a pretty short list that should be much longer. The Maryland Native Plant Coalition is working on that invasive plant legislation and working on a web site now.

Steve Malan said he ran the nursery inspection program for the state for 27 years. They respond to what the public wants. It's homeowners who make the poor decisions. Turf and landscape is the second largest agricultural business in MD after poultry and they will oppose this choice and want ordinances to keep requiring turf grass. It's really important to follow the Minneapolis lead by not allowing just letting turfgrass grow wild.

Steve planted native plants on an 0.8 acre plot a number of years ago after removing the trees, and has had to add Roundup more often to deal with persistent invasives. Anywhere that you don't maintain the invasives will come so it does come down to maintenance. Kirsten has not had any more problem than with non-native plots. Any open ground with no natives will have invasives, but the more native coverage, the more they will crowd out invasives.

Dustin suggested having information provided at county's native plant giveaways.

The MD Native Plant bill calls for stickers that can be downloaded and used to market plants that are certified as Maryland natives at the point of sale.

Regarding the code enforcement – inspectors need to know the rules; Brian Lindley says they often to come to EPS to inquire. There is outdated code on the website – 12 inch limit used to be required, then went down to 8 inches but there is inconsistent information on the website.

Low-impact landscaping is consistent with law even if it doesn't contain native plants – but nonnative plants don't confer the same ecological benefits because they did not coevolve with local insects and animals.

Lois Jacobs commented that when planting forest plots the county can't always find the less-common native tree species. But when people ask for them, more of the nurseries will carry them and will carry a wider range of species.

Brian Fath: other than having Councilman Marks introduce the proposed legislation, what more is needed? Steve would like to see our commission participate in making recommendations about the legislation. Carol points out that we do need to write a report and we can make recommendations based on Kirsten's report as there is consensus about the recommendation. Brian Fath points out that Kirsten's group already has a report and we could write up something much shorter with a recommendation for support. Steve says step 1 is to read others' legislation as models.

Carol asked CEQ Commissioners to please volunteer to join a workgroup on this topic. Brian Fath, Lois, Steve, and Carol will take Kirsten powerpoint slides, see about further exploration of other municipalities' laws, and then write up a recommendation for what Councilman Marks should propose as county code.

III.8 pm: Minutes of 5/24/2023 meeting were already accepted by vote online.

IV.Update on Plastic Bags bill. Valerie, Karen, Lynda.

Valerie sent an email today about the amendments that were suggested. The bill doesn't go into effect until Nov.1. Julian Jones recommended waiting until it has been in effect before consideration is given to making changes. So according to Valerie the amendments were tabled. Brian points out there is no new messaging to inform the public of the deadline on plastic bags as far as we know. Should we ask the County Executive's office what they plan as messaging?

IV.5 Horacio Tablata ("HT") is the new Director of DEPS; started at end of July. He was invited by Baltimore County Green Alliance (BCGA) and Karen Wynn's Maryland Waterways to speak at Sept. 18 BCGA meeting at Waver's Marina in Essex. He was asked to address what are DEPS' priorities and what priorities have been communicated to him by the County Executive; also he was informed what are the priorities of the 23 member organizations of BCGA, and was offered their assistance.

V. Update on Oregon Ridge Master Plan. Park Nature Council members and County staff from Recreation & Parks and DEPS are exploring better control of deer in order to allow regeneration of the forest's trees and understory.
- July 2023 visited Catoctin Mountain National Park and toured with the Ranger and manager who is spearheading deer control and forest regeneration efforts. They are trying to bring the deer population down to manageable levels.

- Nature Council president Dr. Ralph Brown is organizing a group to work with Ben Porter of Rec & Parks. The role that DEPS plays in the deer control program, according to a staff member in Carrie Oberholtzer's office, is mainly is to take care of the permit paperwork, and DEPS does not make policy decisions for the deer hunt. The bill that the Council passed is already specific in terms of the policy. There is an agreement with USDA and DNR to make sure all permits and licenses are handled. Can only be done on county parks and done a certain way. The last hunt was last season after two years skipped during COVID. The Nature Council thinks the last survey greatly undercounted the population because trails were in poor condition and survey staff was not able to travel through the park to the same degree as they had in past surveys. They decided to cull 14 deer whereas prior to the 2-year hiatus they used to take 60/yr. DEPS thought 14 was low too. The study used to be done in fall, now in winter as per DNR requirements. The deer aren't necessarily in the same place at that time. DEPS is hoping the survey will be done more in Nov-Dec. and the hunt in Feb-Mar.

- 9/21/2023 met online with Dr. Jacob Bowman, the Chairman of the Department of Wildlife Ecology at the University of Delaware. Discussed best practices for measuring impact of deer on the forest and for decreasing the number of deer. Might be useful to estimate browsing impacts independent of actual count of deer; browsing impacts can be compared year-to-year for insight as to deer impacts on the forest, which is actually the main problem being addressed.

VI. Update on County Forest Conservation code changes. No changes since CEQ meeting of 5/24/2023. State law (SB 526 /House bill 0723) Forest Preservation and Retention, addressed several concerns that were raised by speakers at CEQ's Symposium in 2022, except not the time period for maintaining newly planted trees. BCGA is following up with County Councilmembers Marks, Patoka and others. So far no progress.

VII. Closing comments: Carol Newill

Thanks Brian Lindley for his WebEx support over the last few years and hopefully we won't need have online meetings again; if we do, Carol would appreciate collaboration with other CEQ commissioners in coming to that decision.

For the coming set of presentations, Carol requests input on what people think is important and worth doing. Should we have any more white papers? Topics?

Our next speaker (10/25) is Ryan Mayenschein from the Maryland 5 Million Trees initiative and Carol is asking him to specifically address how they handle tree maintenance. A commissioner stated that conservation planting has led to maintenance problems for farmers and they have learned that a longer maintenance period was needed, so the farming community would support a longer maintenance requirement for contractors.

Upcoming CEQ meeting dates in 2023: 10/25, 12/6.