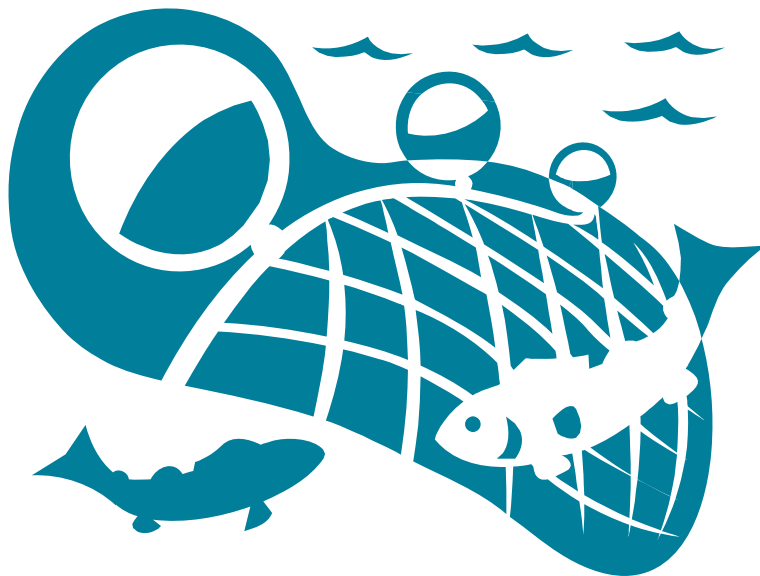


Maryland Working Waterfront Commission



Final Report

December 1, 2008

Maryland Working Waterfront Commission

Stephen McHenry, Chairperson



December 1, 2008

The Honorable Martin J. O'Malley
State House
100 State Circle
Annapolis, Maryland 21401

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, Maryland 21401

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, Maryland 21401

Dear Governor O'Malley, President Miller and Speaker Busch:

The State of Maryland has seen unprecedented growth along its shorelines in recent years and a commensurate increase in both waterfront infrastructure development and property values. These factors have contributed significantly to the difficult challenge that commercial fishermen face in gaining access to public waters. To help address these concerns, Chapter 30 was enacted during the 2007 General Assembly Session which established the Working Waterfront Commission.

The Commission was tasked with studying and making recommendations for protecting and preserving Maryland's commercial fishing industry's access to public trust waters. Due to an unanticipated delay, the Commission held its first meeting in December 2007, at about the same time it was originally expected to issue a final report. To allow for the completion of its work, Chapter 17 was enacted during the 2008 General Assembly Session which extended the authority of the Commission to December 31, 2008, and designated a final report deadline of December 1, 2008.

The Commission met eight times during the last year, and three Commission workgroups held a number of additional meetings during the summer of 2008. The Commission heard presentations from citizens, interest groups, academics, and State and local officials about issues facing the commercial fishing industry at the land/water interface. The Commission also reviewed state government programs currently being

implemented in Florida, Maine, North Carolina, and South Carolina to help deal with this increasingly challenging problem.

The attached report provides the findings and recommendations of the Commission. The Commission trusts that you will find this report helpful in charting a course for protecting and preserving Maryland's commercial fishing industry's access to public trust waters.

In closing, I want to acknowledge the very valuable assistance the Commission received from several State agencies during the course of our work, including the Department of Business and Economic Development, the Maryland Historical Trust (Maryland Department of Planning), the Maryland Sea Grant Extension (University of Maryland) and the Seafood and Aquaculture Marketing Program (Maryland Department of Agriculture). The Commission is also indebted to our very capable staff team of Sarah Widman and Andrew Gray, as well as to several other staff employed by the departments of Natural Resources and Legislative Services, for the excellent service that was rendered during the last year to support the work of the Commission.

Thank you very much for the opportunity to be of some service to this important rural and culturally significant industry in Maryland, and to all citizens of this State that benefit from the multi-faceted bounty of our beloved Chesapeake Bay.

Sincerely,

Stephen R. McHenry
Working Waterfront Commission
Chairperson

Working Waterfront Commission Membership Roster

Chairperson

Stephen R. McHenry
Maryland Agricultural & Resource-Based Industry Development Corporation
(MARBIDCO)

Commission Members

The Honorable Lowell J. Stoltzfus
Senator, District 38
Maryland State Senate

The Honorable Sue Kullen
Delegate, District 27B
Maryland House of Delegates

Gina Hunt
Department of Natural Resources,
Fisheries Service (DNR)

Vicky Carrasco
Maryland Sea Grant Extension

Susan Langley
Maryland Department of Planning
(MDP)

Brian Wimpee
Maryland Saltwater Sportfishermen's
Association

Renee Stephens
Department of Business and Economic
Development (DBED)

Larry Simms
Maryland Watermen's Association
(MWA)

The Honorable Sam Boston
Commissioner, Somerset County
Maryland Association of Counties
(MACo)

Russel Dize
Maryland Watermen's Association
(MWA)

The Honorable Percy Purnell
Mayor, City of Crisfield
Maryland Municipal League (MML)

Merrill Campbell
Watermen Representative
Coastal Bays

Roman Jesien
Maryland Coastal Bays Program
(MCBP)

Ben Parks
Watermen Representative
Lower Bay

Bill Sieling
Chesapeake Bay Seafood Industries
Association (CBSIA)

Bob Evans
Watermen Representative
Upper Bay

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Sarah Widman

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Department of Legislative Services (DLS)

Seafood and Aquaculture Program Representative

Noreen Eberly

Maryland Department of Agriculture (MDA)

Note to reader: Commission materials can be found at
<http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>.

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Executive Summary

The Working Waterfront Commission was created by Chapter 30 of the Acts of 2007, which tasked the Commission with studying and making recommendations for protecting and preserving Maryland's commercial fishing industry's access to public trust waters. After it became apparent that the Commission would need additional time to complete its work, Chapter 17 of the Acts of 2008 extended the authority of the Commission to December 31, 2008, and designated a final report deadline of December 1, 2008.

The Commission met eight times between December 2007 and November 2008. The most significant early success was in supporting legislation that was passed during the 2008 Session of the Maryland General Assembly (Chapter 281) which gave Baltimore City, municipal corporations, and counties in Maryland the authority to grant a tax credit for working waterfront properties.

The Commission identified four primary causes of access issues: (1) increased population growth; (2) declining profitability of the commercial fishing industry; (3) rising real estate values and other economic drivers; and (4) limited information exchange among stakeholders concerning issues, needs, and solutions to coastal waterfront access issues. These causes have the following effects in Maryland: (1) lack of commercial boat docking and unloading areas; (2) increased taxes paid by owners of commercial waterfront property; and (3) loss of commercial waterfront properties that supply services to commercial watermen.

In order to address these findings, the Commission recommends action in five areas: tax abatement; infrastructure preservation and development; local planning/zoning assistance; education/research/outreach; and federal legislation. The tax abatement recommendation is to reduce the impact of the inheritance tax on inter-generational working waterfront property transfers by either exempting, providing a special valuation for, or allowing an alternative payment schedule for working waterfront property.

The Commission's recommendations relating to infrastructure preservation and development revolve around funding. Specific recommendations include: providing greater weight to project scoring criteria for Waterway Improvement Program projects benefiting commercial fishermen; providing amenities at Langenfelder (Love Point) property; encouraging use of federal funding for economic development; creating a new State- or federally-funded economic livelihood program; and creating a new working waterfront conservation easement program.

Recommendations relating to local planning/zoning assistance dovetail with those relating to education/research/outreach. The Commission's intent is to encourage existing planning programs to work with local jurisdictions on access issues, to expand existing planning law, and to inform the public about commercial fishermen rights under State programs affecting access to public trust waters. Finally, the Commission recommends the support of any future federal legislation addressing working waterfront preservation.

Introduction

The Working Waterfront Commission was created during the 2007 session in accordance with Chapter 30 of the Acts of 2007 (see **Appendix I**) and was extended in accordance with Chapter 17 of the Acts of 2008 (see **Appendix II**). The purpose of the Commission is to study and make recommendations for protecting and preserving Maryland's commercial fishing industry's access to public trust waters. The preamble to Chapter 30 also cites the vital role that working waterfronts play in the economy, heritage, culture, and history of Maryland.

Governor Martin J. O'Malley appointed the Commission chairperson, Stephen R. McHenry of the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO), and the three watermen members of the Commission representing the coastal bay, the lower bay, and the upper bay. Senate President Thomas V. Mike Miller, Jr. and House of Delegates Speaker Michael E. Busch appointed one member each from the Senate and the House.

The President of the Maryland Watermen's Association (MWA) was appointed along with a member appointed by the President. The remaining members of the Commission were appointed as either the Secretary, executive director, director, president or their designee from the following:

- State Agencies -- Department of Natural Resources (DNR), Maryland Department of Planning (MDP), Department of Business and Economic Development (DBED), and MARBIDCO (selected as the chairperson);
- Associations -- Maryland Association of Counties (MACo), Maryland Municipal League (MML), Maryland Coastal Bays Association, Chesapeake Bay Seafood Industries Association (CBSIA), Maryland Saltwater Sportfishermen's Association; and
- Education institution – Maryland Sea Grant Program.

Staff support was principally provided by DNR and the Department of Legislative Services (DLS).

The Commission held a series of eight meetings, which began in December 2007 and concluded in November 2008. As a result of its work, the Commission developed several policy recommendations which are outlined in this report.

Background

According to the Maine Sea Grant publication "Access to the Waterfront: Issues and Solutions Across the Nation", 153 million people (more than half the U.S. population) live in the coastal zone. Additionally, over the next 50 years the number of people 65 and over in the coastal zone is expected to increase 147%. The combination of

the geographic and demographic shift experienced in the coastal zone is likely to cause a shift away from resource-based industries as residential development expands to service the population.

In Maryland's coastal zone, the Maryland Department of Agriculture states that there are 75 seafood processing plants that employ 1,471 people. DNR indicates that 8,265 commercial fishing licenses were issued in license year 2007 to 6,657 individuals. The National Marine Fisheries Service reported that for 2007 these individuals brought in 51.2 million pounds of seafood (finfish, oysters, and crabs) worth a dockside value of \$53.5 million. Salisbury University's Business Economic and Community Outreach Network conducted an economic impact analyst study of Maryland's rural industry sectors and found that the seafood and aquaculture industries in Maryland produced approximately \$352 million in direct economic output in 2004, which in turn generated approximately \$199 million in additional indirect and induced economic activity. In addition, seafood and aquaculture businesses supported 3,943 jobs and approximately \$22 million in both direct and indirect State and local tax revenue. Approximately seventy-five percent of this economic impact is experienced on Maryland's eastern shore.

The commercial fishermen contributing to this economic activity are in competition with the demographic and geographic shifts occurring in the coastal zone that is changing the use of the 44,000 waterfront (commercial and residential) properties that are estimated to exist by the Maryland Department of Assessment and Taxation.

The "Access to the Waterfront: Issues and Solutions Across the Nation" report also states that rising property values and taxes are the primary reasons cited in a waterfront access survey for why the waterfront transformation being experienced nationwide is occurring. Secondary factors listed in the survey include condominium and second home construction. A survey conducted by Commission member Vicky Carrasco (**Appendix III**) corroborated these findings which are the main reasons why the Commission was created.

Commission Structure

In addition to meeting as a whole, the Commission formed three workgroups to explore the issues confronting watermen's access and to evaluate potential recommendations. The three workgroups:

- reviewed other states' working waterfront programs (chaired by Vicky Carrasco of Maryland Sea Grant Extension);
- explored the establishment of working waterfront or maritime enterprise zones (chaired by Renee Stephens of the Department of Business and Economic Development) (DBED); and
- identified critical working waterfront sites in Maryland (chaired by Larry Simms of the Maryland Watermen's Association) (MWA).

Complementary Efforts by Other Groups

Two other groups are working on issues that parallel that of the Commission: working waterfronts as they relate to the boating industry and oyster restoration/aquaculture. The Task Force to Study the Boating Industry in Maryland was established by Chapter 523 of 2007 and extended by Chapters 11 and 12 of 2008 to June 30, 2009; the task force's report is due by December 31, 2008. This group has not yet issued its final report, but has considered recommending a no net loss of working waterfronts policy. The second group meeting concurrently is the Oyster Advisory Commission, which was established by Chapter 114 of the Acts of 2007, and has reviewed the scientific evidence concerning the introduction of a non-native oyster and the possibilities for oyster aquaculture, but appears to be looking to the Commission to provide recommendations for access to public trust waters.

Summary of Commission Activities

The Commission began meeting in December 2007 and concluded in November 2008. The Commission and its workgroups invited speakers to present on a variety of relevant issues, including:

- an overview of the Waterway Improvement Fund (WIF) by the Department of Natural Resources (DNR) Waterway Improvement Program (Bob Gaudette);
- a briefing on the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays' perspective on a private marina project in the Town of Crisfield (LeeAnne Chandler);
- a presentation by the DNR Fisheries Service on the various management options preliminarily being considered for the Langenfelder (Love Point) property (Gina Hunt, Marty Gary, Bob Gaudette);
- a discussion of the One Maryland Economic Development Tax Credit program as it might relate to the formation of maritime enterprise zones by the Department of Business and Economic Development (Stacy Kubofcik and Renee Stephens);
- a briefing on the Maryland Coastal Zone Program's Coastal Communities Initiative by DNR (Catherine McCall);
- a presentation by the owner of W.H. Harris Seafood and Harris Crab House and Seafood Restaurant regarding inter-generational working waterfront property transfers and other inheritance issues facing working waterfront properties (Karen Oertel); and
- a presentation on the Maryland Historical Trust's conservation easement program with guidance on how lessons learned from it might be applied to a working waterfront conservation easement program (Elizabeth Schminke).

In addition to holding these presentations, the Commission and its members conducted a number of related activities as follows:

- the Commission submitted its interim report on January 28, 2008 (see **Appendix IV**);
- Commission members Senator Lowell Stoltzfus and Delegate Sue Kullen (with support and testimony provided by the Commission) introduced Senate Bill 676 and House Bill 612 to give each county and municipal corporation the authority to grant a tax credit for working waterfront properties. Both bills were passed by the legislature and House Bill 612 was signed by the Governor on April 24, 2008 as Chapter 281, with an effective date of June 1, 2008 (see **Appendix V**), which provided some of the definitions used in this report (see **Appendix VI**);

- the Commission sent letters to 48 municipalities and 16 counties, the Waterman's Gazette (published in the May 2008 issue), and the Marine Trades Association of Maryland (e-mailed to its 270 members) regarding the authority to grant the tax credit authorized by Chapter 281 of the Acts of 2008 (see **Appendix VII**);
- Commission member Roman Jesien asked Bob Gaudette of the Waterway Improvement Program to speak with the property managers of current WIF project sites in Public Landing and George Island Landing regarding "no commercial fishing activity" signs on the properties which have since been removed;
- Commission member Vicky Carrasco surveyed watermen about access to public trust waters at the annual Waterman's Expo and presented her results to the Commission (see **Appendix III**);
- the Commission drafted a letter to the leader of the DNR workgroup deciding uses for the Langenfelder (Love Point) property regarding suggestions for how the property could be used and to ask for representation at future meetings of the workgroup (see **Appendix VIII**);
- the Commission drafted a letter to the Worcester County Commissioners at the request of Commission member Merrill Campbell requesting special use permits for the commercial fishing boat slips and a 50 foot by 50 foot unloading area at Public Landing Dock (The Worcester County Commissioners reviewed the letter and decided not to pursue any changes based on the Commission's recommendations.) (see **Appendix IX**);
- the Commission drafted a letter to the Task Force on the Future for Growth and Development in Maryland requesting that the Task Force consider recommending in its final report that the provisions for working waterfronts should be required by statute of Baltimore City and all counties and that the inclusion of these substantive provisions in comprehensive plans should be reviewed and commented upon by the Maryland Department of Planning (see **Appendix X**);
- the Commission drafted a letter to the Tidal Fisheries Advisory Commission regarding the development of a conservation easement program for the preservation of important working waterfront access sites (see **Appendix XI**); and
- the Commission's chairperson, Stephen McHenry, presented the Commission's findings to the Maryland Aquaculture Coordinating Council.

Working Waterfront Issues Identified By The Commission

Maryland's working waterfronts are an important part of our state's unique social, cultural and historical fabric. However, commercial fishing industry and water-dependent business access to the public trust waters of the State is eroding. The reasons for this erosion include the demographic and geographic changes occurring in the tidal parts of Maryland. The effect of these demographic and geographic changes is the increasing difficulty for commercial watermen and water-dependant businesses to find affordable places to do their work.

Working Waterfront Access Issues – Causes

A substantial number of coastal states appear to be experiencing waterfront access issues, as documented by the Maine Sea Grant report "Access to the Waterfront: Issues and Solutions Across the Nation." The most recent comprehensive study of working waterfront issues reviewed by the Commission was written by the South Carolina Sea Grant Extension Program and is anticipated to be published by the end of 2008. The draft report, entitled "Coastal Waterfront Access Challenges and Opportunities for South Carolina Marine Fisheries Stakeholders," notes four general causes of working waterfront issues as follows:

- Increased coastal population growth;
- Declining profitability of the commercial fishing industry;
- Rising real estate values and other economic drivers; and
- Limited information exchange among stakeholders concerning issues, needs and solutions to coastal waterfront access issues.

The Commission notes that these same general causes are thought to be driving the working waterfront issues found in Maryland. It should be noted that these causes are intertwined. For instance, increased coastal population growth has led to both (1) declining water quality, which affects the fisheries and subsequently, the profitability of the commercial fishing industry; and (2) increased demand for waterfront properties, which increases real estate values and subsequently, property assessments.

Working Waterfront Access Issues – Effects

The effects associated with the causes noted above include lack of commercial boat docking and unloading areas; increased taxes paid by owners of commercial waterfront property; and loss of commercial waterfront properties that supply services to commercial watermen.

Lack of Commercial Boat Docking and Unloading Areas

The main public access issue addressed by the Commission is a lack of access for commercial fishing operations. This is manifested by a lack of commercial boat slips and unloading areas. The primary reason for this appears to be the increase in demand for

slips by recreational boaters in commercial marinas, which has the effect of crowding out commercial fishing operations. More demand for slips has also led to an increase in slip fees, which effectively prices out commercial fishermen already sustaining losses due to a depletion of fish stocks and subsequent fisheries management changes, gasoline price increases, and foreign competition.

The lack of slips is exacerbated by commercial fishermen's need for transient slips throughout the Chesapeake Bay with certain dimensions and adequate parking. As opposed to recreational boaters, commercial fishermen need temporary slip access in a number of areas due to the seasonal shift in the different fisheries harvested in the Chesapeake Bay. Commercial fishermen also need slips of the proper width and length for their boats (usually longer and wider than spaces provided by newer marinas) and adequate parking space for unloading their gear.

Commission member Vicky Carrasco conducted a survey of working waterfront access needs and other areas were provided by chapters of the Maryland Watermen's Association. The sites that appear to be of greatest need include the following: Kent Island, Tilghman Island, Hooper's Island, Deale Island, the City of Crisfield, and along the West River. **Appendix XII** provides a map showing 1) the working waterfront access needs identified in the survey; 2) the working waterfront needs identified by solicitation of information from Maryland Watermen's Association chapters; and 3) the boating facilities that have received Waterway Improvement Fund funding and that primarily support commercial fishermen.

Increased Taxes Paid by Owners of Commercial Waterfront Property

Another main cause of the lack of slips for commercial use is rising real estate values for commercial waterfront property at a time of decreasing fishery profitability, which has the effect of increasing property taxes paid by owners of commercial waterfront property. Commercial waterfront property is defined in **Appendix VI**. The increase in property taxes has encouraged a conversion of property to other uses due to the fiscal impacts sustained by paying higher taxes and the opportunity to sell the land for substantial profits.

Loss of Commercial Waterfront Properties That Supply Services to Commercial Watermen

Another cause of the loss of access to public trust waters is the loss of commercial waterfront properties that supply services to commercial watermen. Inheritance taxes on commercial seafood processing operations have contributed to inter-generational transfer difficulties and the potential loss of commercial seafood operations. Heirs are often inclined to sell to residential developers who are willing to pay substantial amounts of money based on highest and best use valuation for the limited waterfront areas left in the State. Commercial waterfront properties may also be seeing changes in the zoning surrounding them, which makes it more difficult to harmonize their operations with their new neighbors.

Existing Maryland Law and Policies Affecting Working Waterfronts

A rough framework on which to build laws and policies for protecting and preserving Maryland's commercial fishing industry's access to public trust waters is largely in place, as described below. What appears to be needed is the refinement of existing land protection tools and the coordination of various existing planning and outreach policies.

Tax Abatement

Chapter 281 of 2008 gave Baltimore City, municipal corporations, and counties the authority to grant a tax credit for working waterfront properties. During the summer of 2008, a few counties looked at implementing this tax credit. However, anecdotal evidence indicates that local governments interested in adopting the tax credit are those that are unlikely to lose significant revenue as a result, implying that adoption of such a credit in those areas will not significantly reduce the tax burden for working waterfront properties.

While there is now a mechanism for the abatement of property taxes on working waterfront properties, the same is not true for income tax and death taxes, which include estate, inheritance, legacy, and succession transfer tax imposed by the State. Concerns have been raised about the impact of the tax burden associated with the transfer of a water-dependent business between generations.

Infrastructure Preservation and Development

The State has a couple of tools already available to it for the preservation of working waterfronts or the purchasing of land for the water-dependent industry. These tools include Program Open Space (POS), the Waterway Improvement Fund (WIF), and federal pass-through funding in the form of Community Development Block Grants (CDBG) from the Department of Business and Economic Development (DBED).

Program Open Space

POS was created for the purpose of expediting the acquisition of outdoor recreation and open space areas and provision of recreation facilities before land is devoted to other purposes. POS is funded by the State transfer tax of 0.5% of the consideration paid for the transfer of real property from one owner to another.

POS has been used for fee simple purchases and for the purchase of conservation easements. Conservation easements will be discussed in a separate section below. Recently, an ecological ranking or targeting protocol has been developed for POS purchases. The targeting protocol is a point-based system that is used to evaluate properties. A listing of the five ecological targeting criteria and whether working waterfront properties might or might not be eligible follow:

- ecological value – might be eligible under the water quality protection component of the landscape score due to the potential for pervious surfaces on working waterfront properties;
- special adjustments for multiple benefits – would be eligible under the recreational and historical/cultural value components (the third component is in-holding or adjacency to other State-managed properties);
- habitat maintenance or restoration value – unlikely to be eligible due to the lack of unique natural resource values or habitat restoration potential or both;
- management and operations – unlikely to be eligible for management by a DNR unit; and
- consistency with local land use – would be consistent with local land use planning criteria.

Case Study: Langenfelder (Love Point) Property

The combination of POS funds for land acquisition and WIF for infrastructure development represent a potential package for working waterfront retention and development.

For instance, the Langenfelder (Love Point) property located on Kent Island was purchased with POS funding and may receive WIF funding for the development of the harbor area. The Commission has expressed its opinion by drafting a letter to DNR regarding suggestions for how the property could be used and to ask for representation at future meetings regarding the property.

Waterway Improvement Fund

WIF provides funding for projects which improve and promote the recreational and commercial capabilities, conditions, and safety of Maryland's waterways for the benefit of the general boating public. Currently, there are three types of WIF grants that are applicable to waterfront projects on publicly-owned lands beneficial to commercial fishermen as follows:

- 100% State grant not to exceed \$100,000 – to develop and maintain public boating facilities;
- 100% State grant of an unlimited amount – to construct boating facilities on lands owned or leased by DNR; and
- Matching grants with a maximum 50% State cost-share with a local jurisdiction up to an unlimited amount – to engineer, construct, and maintain public boating facilities.

Case Study: Bayside Public Landing (Pelorus Marina) Property

In 2001, POS and Kent County jointly funded the purchase of 2.7 acres of waterfront along Rock Hall Harbor in Rock Hall. The acquisition was funded with POS State funding, WIF funding, Kent County funding, and POS Local funding allocated to Kent County. One of Kent County's stated objectives for the purchase was to preserve commercial fishing, which was allowed for by the opening up of the formerly private marina's 49 slips to commercial fishermen. Bayside Public Landing currently has slips, a boat ramp, and a wharf.

Case Study: Waterman's Wharf

The Calvert County Commissioners researched the possibility of providing a marina for commercial watermen in 1999 and concluded that a commercial marina would be too expensive. Instead, the commissioners entered into an agreement with the University of Maryland Center for Environmental Science's Chesapeake Biological Laboratory. The agreement called for a ten-year lease of the one-third acre 18-slip marina at \$1 per year with a ten-year option. The requirements for leasing a slip include being a Calvert County resident, being a participant in more than one fishery, and not being a boat-for-hire. WIF has provided a 100% State grant for improvements at Waterman's Wharf.

Community Development Block Grants

Federal Community Development Block Grant (CDBG) funding for economic development is potentially available to low- and moderate-income communities that wish to protect some of their working waterfront industries. CDBG funding is made available by the U.S. Department of Housing and Urban Development. While originally geared towards housing rehabilitation and neighborhood revitalization projects, the use of CDBG funding was broadened for economic development programs in the 1980s. In Maryland, the Department of Housing and Community Development (DHCD) is the primary State agency responsible for administering the CDBG funds. However, DBED has entered into a Memorandum of Understanding with DHCD for distribution of a particular type of CDBG funds for economic development (CDBG-ED).

The City of Crisfield is an example of the use of CDBG-ED funds in Maryland. The City of Crisfield received \$1.3 million in CDBG-ED funding through DBED for the purchase of land to create an industrial park that will contain some of its working waterfront industries such as seafood processing. While this does not preserve the waterfront per se, it can keep a necessary industry local. The CDBG-ED program is available for commercial and industrial economic development projects as a conditional

grant. The funding usually ranges from \$200,000 to \$1.0 million and may be used for the acquisition of fixed assets, infrastructure, and feasibility studies. One of the conditions of receiving the funding is that the CDBG-ED project must create employment for low-income and moderate-income individuals in non-urban areas of the state.

Conservation Easements

Conservation easements allow an entity, such as the State, to hold rights to use or control the use of land which does not belong to that entity. The land conservation easement could become a tool to be used to allow continuation of commercial fishing work (both for access and processing) on a property while easing the costs associated with ownership. For instance, landowners could sell or donate their development rights and still retain ownership to continue a commercial fishing operation.

Maryland has several existing conservation easement programs. Currently, Maryland has an agricultural easement purchase program implemented by the Maryland Department of Agriculture's Maryland Agricultural Land Preservation Foundation (MALPF) and a conservation easement program implemented by DNR's Rural Legacy Program. As noted above, POS funds also may be used to purchase conservation easements. In the case of MALPF, the State purchases development rights easements as a means of preserving productive agricultural land and woodland for continued production of food and fiber; limiting the extent of urban development; and protecting agricultural land and woodland as open space. Rural Legacy is implemented through the designation of Rural Legacy areas chosen by local jurisdictions and to which easement properties are added by approval of the Rural Legacy Board, consisting of the Secretaries of MDA, DNR, and the Maryland Department of Planning. Development rights easements on properties are purchased using Rural Legacy Program funding in order to protect agricultural and natural resources land from sprawl development and thus to promote resource-based economies and to develop greenbelts. However, these two programs are focused on the creation of contiguous conservation easement areas as opposed to strategic selection of individual parcels. Additionally, there are conservations easements purchased through the Maryland Environmental Trust.

Although these programs offer good ideas and frameworks for working waterfront conservation easements, the actual programs are not able to be used to purchase or maintain such easements. A completely new program would have to be created in order to implement and preserve working waterfront conservation easements.

Local Planning/Zoning Assistance

Because planning and zoning is a local government function, the State has limited authority to intervene in those decisions. However, the State does provide assistance to local governments with respect to planning and zoning. Two policies and programs already exist to facilitate this local planning element as it relates to working waterfronts.

Article 66B – Reasonable Access to the Waterways

The Maryland Annotated Code Article 66B section 3-05(a)(7) requires that commissioner counties and some code home rule counties along the tidal waters of the State incorporate working waterfront provisions in their comprehensive plans. However, Baltimore City, charter counties, and the code home rule counties that have opted out of Article 66B are not required to include these working waterfront provisions in their plans. In addition, it is not clear whether the requirement for the incorporation of a substantive waterfront provision in comprehensive plans is being reviewed and commented upon by the Maryland Department of Planning. Article 66B section 3-05(a)(7) reads as follows:

(7) (i) Each planning Commission of a county that is located on the tidal waters of the State and that exercises authority under this article shall include in its plan the designation of areas on the tidal water or in close proximity to the tidal water for the following purposes:

1. Loading and unloading finfish and shellfish;
2. Processing finfish and shellfish; and
3. Docking and mooring commercial fishing boats and vessels.

(ii) The designated areas under subparagraph (i) of this paragraph shall be geographically located to:

1. Facilitate the commercial harvesting of finfish and shellfish; and
2. Assure reasonable access to the waterways of the State by commercial watermen.

Coastal Communities Initiative

The Coastal Communities Initiative (CCI) under DNR's Maryland Coastal Program was launched in 2005 and provides financial and technical assistance to local governments to promote the incorporation of natural resource and/or coastal management (e.g. coastal hazards, public access, water-use activities) issues into local planning and permitting activities. The Maryland Coastal Program receives funding from the National Oceanic and Atmospheric Administration for the CCI program. Potential CCI applicants must apply to the Coastal Program's annual request for proposals to compete for funding to develop planning tools or receive project assistance. A portion of a recently completed CCI project addressed working waterfronts, which is discussed below.

Case Study: City of Crisfield Strategic Revitalization Plan

The City of Crisfield has completed a strategic revitalization plan with funding from CCI. Crisfield's plan includes a section on the Small Boat Harbor in Crisfield and indicates that this harbor should remain as it is – a working waterfront area. In addition, the City of Crisfield passed a resolution limiting the Small Boat Harbor to working watermen, boat builders and charter boat captains.

Special Area Management Plans

One tool that could potentially provide planning assistance in the future is the use of Special Area Management Plans (SAMPs). SAMPs are broadly defined in the federal Coastal Zone Management Act (CZMA) as the following: "...plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decision making." The CZMA encourages local jurisdictions to prepare these types of plans.

SAMPs are resource management plans and implementation programs developed to improve the management of a discrete geographic area. SAMPs are employed most often to supplement existing management programs in specific areas where the broad program policies are not working well, or where there is a need to better align coastal policy or to address complex multi-jurisdictional coastal issues. Because SAMPs can be time and resource intensive, it is critical to determine early on if this type of plan is really needed or if the situation can be addressed through another planning and coordination effort. The National Oceanic and Atmospheric Administration identifies determination criteria that might include "threats to significant resources or significant use conflicts which cannot be addressed with simple changes to existing authorities. Often multiple policies and authorities are involved; or a history of long standing disputes among jurisdictions."

Local Zoning Case Study: Annapolis Maritime District

The City of Annapolis passed a zoning law in 1987 to create maritime zoning districts. While the districts vary in their particulars, one maritime zoning district, the Waterfront Mixed Maritime (WMM), is intended to reserve areas along the water for maritime uses, support maritime business-related sales, and encourage the preservation of existing buildings and uses. The WMM district also provides for some non-maritime uses that support maritime uses and it is intended to maintain the visual image of an active maritime center. The overall effect of the maritime zoning districts in the City of Annapolis has been to create a commercial waterfront that includes boatbuilders, sailmakers, marine mechanics, welders, yacht brokers, and marine architects.

Local Zoning Case Study: Commercial Marine District at West Ocean City Harbor

Worcester County added a commercial marine district to its zoning in December 1998. The district was targeted on the West Ocean City Harbor and was intended to preserve and protect Worcester County's commercial fishing industry along with the commercial, industrial, and recreational

uses dependent on waterfront access. Also intended by the district is that no discrimination against normal commercial fishing operations or other commercial marine activity will take place based on noise, odor, vibration, fumes, dust, or glare. In order to affect the preservation of the commercial fishing industry, the West Ocean City Harbor has been divided into commercial and recreational sections with a joint parking area. The commercial section is further divided into dock spaces for the issuance of exclusive licenses to commercial fishermen.

Education/Research/Outreach

Planning Education

A number of organizations already exist in the State to support local government planning including two at the University of Maryland. The Institute for Governmental Service has an Academy for Excellence in Local Governance. The Academy provides a voluntary certification program for local officials. While not explicitly covered in its curriculum, a course on waterfront planning is within the scope of its mission, which includes applied research, outreach, and technology innovations concerning land use and growth management. Similarly, the Collaborative for Land Use Education is a network for the dissemination of information on land use and natural resource protection.

DNR also has planning outreach programs. One such program noted above is CCI under DNR's Maryland Coastal Program. Another DNR program is the Chesapeake Bay National Estuarine Research Reserve's Coastal Training Program. This program provides information about land use, resource management, environmental regulations, and water resources and includes stakeholders from State and local government as well as industry and private businesses.

State Program Information Dissemination

Several State programs have regulatory authority over working waterfronts that is not widely known. For instance, recipients of WIF monies can provide preferential treatment to commercial fishermen for slips. In addition, these recipients of WIF monies cannot deny commercial fishermen access.

The Board of Public Works (BPW) reviews applications for licenses to dredge or fill in State tidal wetlands. These licenses apply to anyone wishing to build a new marina or expand an existing marina. BPW has the authority to place conditions on licenses to dredge or fill in State tidal wetlands, and thus interested parties may request that BPW require conditions on the license that the licensee provide for commercial fishermen access.

Other States' Programs and Federal Legislation

A number of states have begun to address working waterfront issues as identified in the Maine Sea Grant report "Access to the Waterfront: Issues and Solutions Across the Nation." The Commission focused on the work of four states that appear to have policies and tools that may be applicable in Maryland: Florida, North Carolina, Maine, and South Carolina. These efforts, as well as federal legislation that has been proposed to preserve working waterfronts, are discussed below.

Florida

Florida has a significant amount of shoreline and is working on a number of initiatives related to the management of this land on the state and local levels. The Commission focused on two of the state's initiatives: the Stan Mayfield Working Waterfronts Florida Forever Grant Program for purchases of working waterfront property and the Waterfronts Florida Partnership Program for planning of waterfront use.

The Stan Mayfield Working Waterfronts Florida Forever Grant Program was created in 2008 to provide grants for the acquisition of land for the restoration and preservation of working waterfronts. It is funded by a 2.5% allocation from the state's main land preservation program, Florida Forever, which equates to approximately \$7.5 million in annual funding available for working waterfront preservation. Unlike Maryland's Program Open Space, which has a recreational access goal among others, the Stan Mayfield Working Waterfronts Florida Forever Grant Program is focused solely on land connected with commercial fishing or water-dependent products.

Florida also has developed a planning program, the Waterfronts Florida Partnership Program. The program was created in 1997 as a planning aid for the revitalization of working waterfronts and is implemented on a two-year competitive application process model through technical assistance and limited funding from the Florida Department of Community Affairs. After selection, the community creates a community-designed vision plan (also known as a special area management plan) for revitalization of the waterfront and begins to implement the plan. In the second year, the community continues to implement the plan and incorporates the plan into its local comprehensive plan. The Maryland Department of Natural Resources' Coastal Zone Management Program's Coastal Communities Initiative is capable of conducting similar assistance (development of a special area management plan) but would need to apply to the National Oceanic and Atmospheric Administration for a change in Maryland's federal Coastal Zone Management Program grant conditions.

On November 4, 2008, Florida voters approved a constitutional amendment to protect working waterfronts. Amendment 6 requires county assessors to set the value of working waterfront for tax purposes at its current use instead of at its highest and best use. The Florida legislature must adopt a new law to implement the measure.

North Carolina

In response to recommendations by North Carolina's Waterfront Access Study Committee (formed in the summer of 2006), the state established a Waterfront Access and Marine Industry Fund (WAMI). WAMI is intended to: "...acquire waterfront properties or develop facilities to provide, improve or develop public and commercial waterfront access." It is administered by the North Carolina Division of Marine Fisheries (DMF) within the Department of Environment and Natural Resources (DENR).

WAMI was capitalized at \$20.0 million in 2007 from certificates of participation, which are bonds that have debt service payments paid from the State Parks and Recreation Trust Fund but which use the property as collateral as opposed to using the state's taxing authority. In order for the property to be used as collateral the State must own the property; therefore, all WAMI acquisitions are state-owned. The funding was one-time for fiscal years 2007-2008 (a bill was proposed for \$20.0 million in general funds during the 2008 legislative session but did not pass).

The director of DMF has the authority to select sites for acquisition. To aid the DMF director in his deliberations, a public advisory committee has been set up consisting of Waterfront Access Study Committee members and people from various user groups such as kayakers, commercial fishermen, recreational fishermen, and county parks and recreation officials. The DMF director has also set up a Waterfront Access Coordination Committee consisting of staff from the following state agencies: DMF, the Wildlife Resources Commission, the Division of Coastal Management, the Division of Parks and Recreation, the Clean Water Management Trust Fund, the Division of Water Resources, and the Division of Water Quality. DENR provides staff support this group.

On April 2, 2008, thirteen sites were announced for funding from WAMI. Each of the purchases required a long-term maintenance agreement with a responsible party (such as a local government), which allowed for the acquisition of properties with structures. The WAMI funding was used for the following broad categories of projects: acquisition of land to expand or retain recreational and commercial fishing access (for instance, land with boat ramps, piers, and a marina in one case); funding of the development of boat ramps and piers; acquisition of land with fish houses in order to retain commercial fishing access explicitly; and expansion of a marine industrial park. The overall funding level was \$20.0 million, which leveraged \$51.1 million in additional state and local funding for projects totaling \$71.1 million.

North Carolina completed a working waterfront access report on October 1, 2008. The report made a number of recommendations including how the funding for WAMI should be structured. Since state ownership of properties precludes private enterprise, a recommendation was made to diversify future funding types to include conservation easements and low-interest loans so that private enterprises can retain ownership. A recommendation was also made to integrate WAMI funding with other state sources of funding for coordination purposes. Finally, it was recommended that a permanent source

of funding, such as a working waterfront trust fund, be established since the funding appropriated for WAMI in 2007-2008 was done on a one-time basis.

Maine

Working waterfront policy in Maine has been driven by a strong coalition of government, business, and educational institutions. The development of such a coalition is telling both in terms of the interest in working waterfront issues and the ability to affect change. One outcome of this coalition's work has been the development of the Working Waterfront Access Pilot Program (WWAPP).

The pilot program is run as a competitive application program with matching funds made available to purchase in fee simple, access easements, rights of way or development rights on strategically significant working waterfront properties. These matching funds are made available to commercial fisheries businesses, co-ops, municipalities, and other entities interested in preserving working waterfronts. Funding for the program comes from a combined \$5.0 million in 2005 and 2007 bond issuances under the Land for Maine's Future Program.

Application submission is facilitated by Coastal Enterprises, Inc., which is a private, nonprofit Community Development Corporation and Community Development Financial Institution focused on the creation of natural resource jobs and small businesses in rural Maine. [Please note: In Maryland, a publicly-chartered development organization somewhat similar to Coastal Enterprises, Inc. was established in 2004, the Maryland Agricultural and Resource-Based Industry Development Corporation.]

Properties are selected using scoring criteria. Criteria include the following: (1) economic significance of the property locally and in the State overall; (2) availability of other working waterfront properties nearby; (3) degree of community support; (4) level of threat of conversion to a use incompatible with commercial fisheries businesses; and (5) utility for commercial fisheries business uses. Through a working waterfront covenant, the state retains a permanent right of first refusal on the sale of the property, which allows the state to ensure that the property is kept in commercial fisheries use.

South Carolina

A report prepared for the South Carolina Sea Grant Extension Program titled "Coastal Waterfront Access Challenges and Opportunities for South Carolina Marine Fisheries Stakeholders" is in the final review stage and is expected to be published in late 2008. The report reflects a growing interest in commercial and recreational fishermen access issues in South Carolina. In addition to the causes of waterfront access issues noted above, the report found that local planning staff are addressing access issues, local governments are partnering with non-profit land trust organizations to acquire waterfront fishing access, and communities are identifying potential funding sources for access sites and historic commercial fishing dock preservation. However, it was also noted in the

report that overcoming limited information exchange between stakeholders will require a coordinated state-wide education campaign.

Federal Legislation

Activity related to working waterfronts is also occurring on the federal level, reflecting a growing awareness of working waterfront access needs. In particular, the need for funding to purchase and preserve working waterfront property in active use has been identified. Federal legislation was introduced in the 110th Congress to establish a waterfront access grant program for commercial fishermen. The legislation was introduced as S. 741 (Working Waterfront Preservation Act of 2007) and H.R. 3223 (Keep Our Waterfronts Working Act of 2007). The Senate bill would modify the Magnuson-Stevens Fishery Conservation and Management Act and the House bill would modify the Coastal Zone Management Act of 1972. However, the House bill was folded into a bill to reauthorize the Coastal Zone Management Act of 1972 and neither bill appears destined for passage in the 110th Congress.

Recommendations

Several working waterfront recommendations are proposed by the Commission to address the concerns of (1) lack of commercial boat docking and unloading areas; (2) increased taxes paid by owners of commercial waterfront property; and (3) loss of commercial waterfront properties that supply services to commercial watermen. In order to address these concerns, the Commission recommends action in five areas: tax abatement; infrastructure preservation and development; local planning/zoning assistance; education/research/outreach; and federal legislation.

Tax Abatement

Given the concern about rising taxes on property and the inter-generational transfer issues experienced by some water-dependent businesses, property, income or inheritance tax abatement is a possible policy solution.

There appear to be three possible avenues for reducing or mitigating the impact of the inheritance tax (Tax-Property Article, Section 7), as follows: (1) an exemption may be sought under Section 7-203; (2) an election for special valuation similar to that provided for real property that qualifies as farmland or woodland for five years prior to the death of the previous owner under Section 7-211; or (3) a provision for an alternative payment schedule for businesses that do not meet the current statutory criteria for a “small business” under Section 7-218.

Recommendation

- **The Commission recommends that the State enact legislation to change the inheritance tax to grant commercial waterfront properties (see Appendix VI for definition of commercial waterfront property) an exemption from the tax; provide a special valuation for commercial waterfront properties similar to the valuation provided for farmland or woodland; or allow for an alternative payment schedule that would draw out the payments, thus making them more manageable.**

Infrastructure Preservation and Development

Infrastructure grants could be used to provide funding for purchasing land for commercial fishing operations or maintaining and improving land for commercial fishing operations. The combination of Program Open Space (POS) funds for land acquisition and Waterway Improvement Funds (WIF) for infrastructure development represent a potential package for continuing the provision of working waterfront access. In addition, Community Development Block Grant funding for economic development (CDBG-ED) can be pursued through the Department of Business and Economic Development (DBED) in order to retain waterfront businesses locally, if not actually on the water.

Recommendations

- **The Commission recommends that the Waterway Improvement Program provide greater weight in the project scoring criteria to projects that provide commercial fishermen access to public trust waters in areas where access is needed.**
- **The Commission recommends that the Department of Natural Resources (DNR) work with commercial fishermen on the following amenities at the Langenfelder (Love Point) property:**
 - **install a low profile walkway since the existing bulkhead is too high for unloading seafood;**
 - **incorporate utilities at the recommended unloading area to allow for seafood activities;**
 - **develop at least 30 commercial fishing boat slips with piers and 20 slips or docking areas for transient commercial fishing boats;**
 - **construct a parking area suitable for supporting at least the 30 commercial fishing boat slips; and**
 - **conduct improvements that would support a remote tank setting for oyster aquaculture.**
- **The Commission recommends that DBED work with interested local jurisdictions on projects to revitalize their working waterfronts using CDBG-ED) funds as well as other economic development financial resources.**
- **The Commission recommends that a new State- or federally-funded program be created to provide loans, grants, and technical assistance in order to preserve the economic livelihood of working waterfronts. The program should be modeled on the work of Coastal Enterprises, Inc. of Maine. The Commission believes that the Maryland Agricultural and Resource-Based Industry Development Corporation is the appropriate entity to manage such a program, with the assistance of DBED, DNR, Maryland Department of Agriculture, and the Maryland Sea Grant Program.**

Working Waterfront Conservation Easements

Maryland has a finite amount of waterfront property available. The State's population continues to increase each year as does waterfront residential development. The Commission believes that as the population continues to increase working waterfront properties will cease to exist because of the economic burden of owning such a property. However, the maintenance of several strategically important working waterfront properties is critical for the continuation of Maryland's culturally and economically important seafood industry.

Recommendation

The Commission recommends that the State enact legislation to establish a voluntary program to purchase and maintain working waterfront

conservation easements. The Commission understands that in these difficult economic times funding such a program may not be possible in the immediate future. Annual State funding of approximately \$2 to \$3 million would likely be needed for a period of several years to adequately support the program. Options for funding such a program include State general funds, real estate transfer taxes paid from the revenue generated by the transfer of waterfront properties, or debt (State capital program) financing.

The proposed Working Waterfront Conservation Easement Program (WWCEP) would allow working waterfront property owners to apply for financial assistance to aid in the effort to preserve the working waterfront use of their property. The conservation easement would be held by the State and either DNR or MARBIDCO could be tasked with administering the program.

The Commission envisions that the WWCEP would operate as follows: voluntary applications made by property owners under WWCEP would be presented to an advisory board consisting of representatives of the Tidal Fisheries Advisory Commission, the Seafood Marketing Advisory Commission, and the Aquaculture Coordinating Council. The WWCEP advisory board and staff would review and rank each application based upon criteria to be developed. The criteria would include the importance of commercial fishing access in the area of the property, the nature of the maritime business use on the property, the immediate threat of the conversion of the property, and other factors.

The WWCEP would then issue conservation easements by purchasing the development rights to the property. The current property owner and future property owners would still be able to own and operate the land and dwellings as they see fit as long as the property is maintained in working waterfront commercial fishing use. Any changes regarding the use would have to be approved by the WWCEP. The WWCEP would also be responsible for inspecting easement properties on a regular basis to make sure the properties are in compliance with the terms of the agreement. These easements would be effective for a pre-determined period of time. [Options include a temporary 30 to 50 year term or a permanent term.] The payment from the WWCEP would reimburse the present applicant landowner for the development loss in value because of the conservation easement restriction. If a term easement is chosen instead of a permanent easement, then at the end of the easement term landowners would have the option to buy back the development rights on the property by 1) paying the WWCEP the fair market value of the development rights at that future point in time; and 2) providing proof that the commercial fishing industry no longer needs the property.

Because the Commission is set to expire in December 2008, the Commission recommends that the Tidal Fisheries Advisory Commission, working in conjunction with the Seafood Marketing Advisory Commission and the Aquaculture Coordinating Council, continue the work of developing the proposed legislation to implement the WWCEP. Please refer to Appendix XI for a copy of a letter sent to these groups requesting this assistance.

Local Planning/Zoning Assistance

Local planning/zoning assistance by the State is necessary due to the location of planning and zoning decision-making at the local level. A couple of programs already exist to facilitate this local planning element as it relates to working waterfronts.

Recommendations

- **The Commission recommends that the DNR Coastal Program work with local jurisdictions and other partners to incorporate the preservation of working waterfronts into annual Coastal Communities Initiative focus areas or other coastal planning activities.**
- **The Commission recommends that the Coastal Program give consideration to the preservation of working waterfronts through their enhancement area analysis for their next National Oceanic and Atmospheric Administration section 309 Assessment and Strategy.**
- **The Commission recommends that the State enact legislation to require the inclusion of substantive working waterfront provisions in the comprehensive plans of Baltimore City and all counties. In addition, the Commission recommends that the Maryland Department of Planning (MDP) review such plans to ensure inclusion of those provisions.**

Education/Research/Outreach

There is a need to bring commercial fishermen and local jurisdiction stakeholders together and to focus education, research, and outreach on the specific needs of these working waterfront stakeholders.

Recommendations

- **The Commission recommends that the following organizations develop waterfront planning outreach materials and work with local jurisdictions: the Academy for Excellence in Local Governance of the Institute for Governmental Service and Research; the Collaborative for Land Use Education; and the Chesapeake Bay National Estuarine Research Reserve's Coastal Training Program.**
- **The Commission recommends that the State enact legislation to allow for commercial fishermen to receive a reduced slip rate and to be given right of first refusal for slips when appropriate marina expansion or development**

projects for all types of marinas except residential community marinas are brought before the Board of Public Works.

- **The Commission recommends that the Maryland Watermen's Association (MWA) and the Chesapeake Bay Seafood Industries Association (CBSIA) contact the Maryland Department of the Environment (MDE) about being included on its interested file list for all commercial marina projects that fall under Environment Article Title 16 so that, short of legislation, the Board of Public Works can still consider the reduced slip rates and right of first refusal for commercial fishermen.**
- **The Commission recommends that the Waterway Improvement Program notify all counties that have or will receive WIF monies that they can provide preferential treatment to commercial fishermen for boat slips and that they cannot deny commercial fishermen access.**

Federal Legislation

In addition to all of the State recommendations above, there also is the opportunity to support federal legislation. A couple of bills were considered in the 110th Congress and may benefit from the support of working waterfront advocates in Maryland.

- **The Commission recommends that the Governor, DNR, and the Maryland congressional delegation support any future working waterfront legislation that provides funding for waterfront access, such as the two bills introduced in the 110th Congress: S. 741 (Working Waterfront Preservation Act of 2007) and H.R. 3223 (Keep Our Waterfronts Working Act of 2007).**

Implementation of Recommendations

The Commission understands that funding for these recommendations may not be available during these difficult economic times. However, the Commission believes it is vital to, at the very least, implement the recommended structures/programs for improving working waterfront access so that they exist and are ready to implement the goals of the Commission once funding does become available through the recommended avenues suggested by this report.

Due to the limited availability of funding in the short-term, the Commission believes that it is important to identify which of the above recommendations could be implemented in the short-term, and which of the recommendations could be implemented in the long-term.

Short-term recommendations include:

- providing greater weight in the project scoring criteria for Waterway Improvement Program projects that provide commercial fishermen access to public trust waters in areas where access is needed;
- asking MDP to review whether local jurisdictions have incorporated substantive waterfront provisions in their comprehensive plans; and
- having MDE include MWA and CBSIA on its list of interested parties concerning commercial marina projects.

Long-term recommendations include:

- creating and funding a working waterfront conservation easement program;
- creating education and outreach improvements and materials;
- enacting legislation to allow for commercial fishermen to receive a reduced slip rate and to be given right of first refusal for slips when projects for all types of marinas except residential community marinas are brought before the Board of Public Works;
- making changes in local planning and zoning assistance; and
- making further tax law changes.

Issues Considered by the Commission But Not Pursued in the Commission's Recommendations

The Commission formed three workgroups to explore the issues confronting working watermen's access. One of the workgroups explored the establishment of working waterfront maritime enterprise zones. Initially thought to be a promising idea, the proposed establishment of maritime enterprise zones (loosely modeled on an existing State economic development incentive program) was deemed to be an inappropriate tool for preserving working waterfront in Maryland due to the need to retain an existing maritime business infrastructure as opposed to attracting new business investment. Moreover, the dispersed nature of key working waterfront assets did not readily lend themselves to be placed in special purpose enterprise zones with State- and locally-funded employment incentives. A more selective approach is thought to be needed in order to preserve key access sites.

Appendix I – Chapter 30 of 2007 (Working Waterfront Commission)

MARTIN O'MALLEY, Governor

Ch. 30

CHAPTER 30

(Senate Bill 414)

AN ACT concerning

Working Waterfront Commission

FOR the purpose of establishing the Working Waterfront Commission; providing for the composition of the Commission; providing for the appointment of the chair of the Commission; requiring the Commission to study and make recommendations regarding protecting and preserving Maryland's commercial seafood industry's access to public trust waters; requiring the Commission to submit a certain report to the Governor and General Assembly on or before a certain date; providing for the staffing of the Commission; providing for the termination of this Act; and generally relating to the establishment of the Working Waterfront Commission.

Preamble

WHEREAS, Working waterfronts play a vital role in the economy, heritage, culture, and history of Maryland; and

WHEREAS, The General Assembly recognizes the private and public investment Maryland has made in the commercial seafood industry and communities; and

WHEREAS, Maryland's commercial watermen and seafood packers provide a valuable service as providers of quality seafood to the public, bearers of an invaluable cultural and traditional way of life, stewards of the environment, and contributors to the future growth of heritage and ecotourism; and

WHEREAS, The General Assembly recognizes specific measures must be taken to ensure the viability of Maryland's seafood industry communities, the supporting economies, and associated livelihoods and traditions; and

WHEREAS, The State must protect and preserve the commercial fishing industry's access to public trust waters; and

WHEREAS, The General Assembly recognizes that development pressures increasingly eliminate commercial working waterfront and jeopardize the viability of the commercial seafood industry; and

WHEREAS, The Chesapeake and Atlantic coastal waters provide a resource of great importance to Maryland and its citizens and make a significant contribution to the economic well-being of the State; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Working Waterfront Commission.

(b) The Commission consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Natural Resources, or the Secretary's designee;

(4) the Secretary of Planning, or the Secretary's designee;

(5) the Secretary of Business and Economic Development, or the Secretary's designee;

(6) the Executive Director of the Maryland Association of Counties, or the Executive Director's designee;

(7) the Executive Director of the Maryland Municipal League, or the Executive Director's designee;

~~(8) the President of the Chesapeake Bay Foundation, or the President's designee;~~

~~(9) the Executive Director of the Maryland Agricultural and Resource-Based Industry Development Corporation, or the Executive Director's designee;~~

~~(10)~~ (9) the Executive Director of the Coastal Bays Association, or the Executive Director's designee;

~~(11)~~ (10) the President of the Chesapeake Bay Seafood Industries Association, or the President's designee;

~~(12)~~ (11) the Director of the Sea Grant Program, or the Director's designee;

~~(13)~~ (12) the President of the Maryland Waterman's Association and a member of the Maryland Waterman's Association appointed by the President of the Association;

~~(14)~~ (13) the Executive Director of the Maryland Saltwater Sportfishermen's Association, or the Executive Director's designee; and

~~(15)~~ (14) three watermen appointed by the Governor representing:

- (i) the coastal bay;
- (ii) the lower bay; and
- (iii) the upper bay.

(c) The Governor shall designate the chair of the Commission.

(d) The Department of Natural Resources and the Department of Legislative Services shall provide staff for the Commission.

(e) A member of the Commission:

- (1) may not receive compensation as a member of the Commission; but
- (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Commission shall study and make recommendations regarding protecting and preserving Maryland's commercial fishing industry's access to public trust waters.

(g) On or before December 15, 2007, the Commission shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007. It shall remain effective for a period of 1 year and, at the end of May 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 10, 2007.

Appendix II – Chapter 17 of 2008 (Working Waterfront Commission – Reporting and Sunset Extension)

Ch. 17

CHAPTER 17

(Senate Bill 104)

AN ACT concerning

Working Waterfront Commission – Reporting and Sunset Extension

FOR the purpose of altering the date by which the Working Waterfront Commission must make a certain report; altering the termination date of the Commission; and generally relating to the Working Waterfront Commission.

BY repealing and reenacting, with amendments,
Chapter 30 of the Acts of the General Assembly of 2007
Section 1 and 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Chapter 30 of the Acts of 2007

SECTION 1. AND BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

- (a) There is a Working Waterfront Commission.
- (b) The Commission consists of the following members:
 - (1) one member of the Senate of Maryland, appointed by the President of the Senate;
 - (2) one member of the House of Delegates, appointed by the Speaker of the House;
 - (3) the Secretary of Natural Resources, or the Secretary's designee;
 - (4) the Secretary of Planning, or the Secretary's designee;
 - (5) the Secretary of Business and Economic Development, or the Secretary's designee;
 - (6) the Executive Director of the Maryland Association of Counties, or the Executive Director's designee;

(7) the Executive Director of the Maryland Municipal League, or the Executive Director's designee;

(8) the Executive Director of the Maryland Agricultural and Resource-Based Industry Development Corporation, or the Executive Director's designee;

(9) the Executive Director of the Coastal Bays Association, or the Executive Director's designee;

(10) the President of the Chesapeake Bay Seafood Industries Association, or the President's designee;

(11) the Director of the Sea Grant Program, or the Director's designee;

(12) the President of the Maryland Waterman's Association and a member of the Maryland Waterman's Association appointed by the President of the Association;

(13) the Executive Director of the Maryland Saltwater Sportfishermen's Association, or the Executive Director's designee; and

(14) three watermen appointed by the Governor representing:

- (i) the coastal bay;
- (ii) the lower bay; and
- (iii) the upper bay.

(c) The Governor shall designate the chair of the Commission.

(d) The Department of Natural Resources and the Department of Legislative Services shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Commission shall study and make recommendations regarding protecting and preserving Maryland's commercial fishing industry's access to public trust waters.

(g) On or before [December 15, 2007] **DECEMBER 1, 2008**, the Commission shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007. It shall remain effective for a period of 1 year **AND 7 MONTHS** and, at the end of [May] **DECEMBER 31, 2008**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 8, 2008.

Appendix III – Working Waterfront Survey

Background

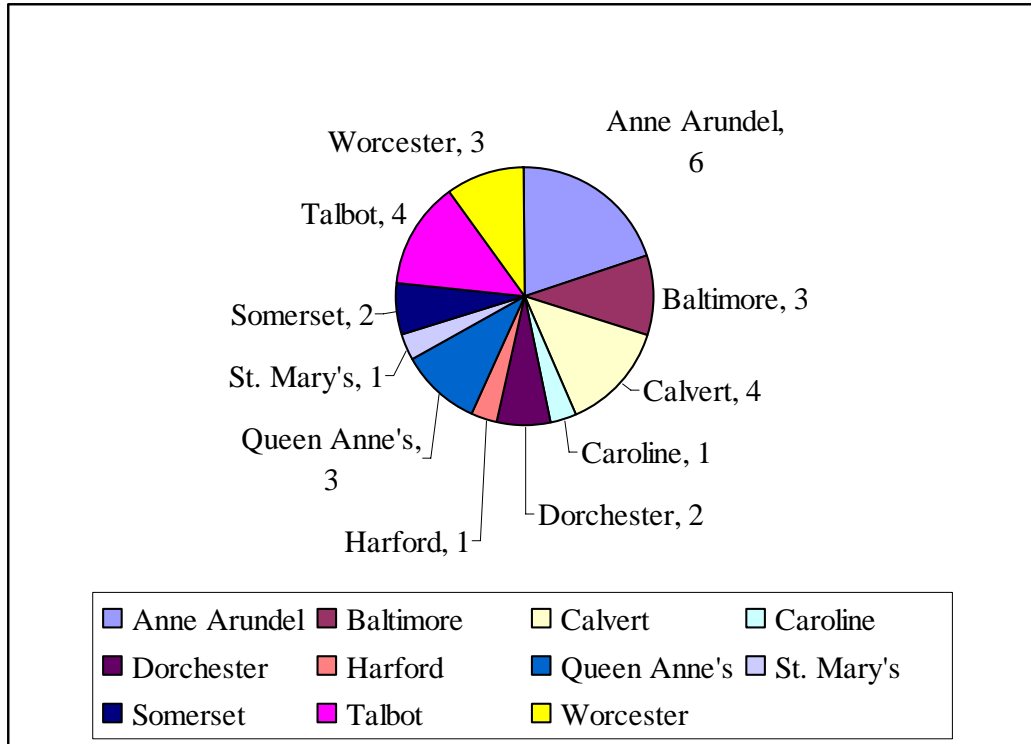
In late January 2008, the Working Waterfront Commission, with assistance from Maryland Sea Grant Extension, developed a survey. The survey was distributed to watermen at the Commercial Fisherman Expo (Expo) held January 25-27, 2008, in Ocean City, Maryland. Commission member Vicky Carrasco, with assistance from other Commission members, distributed a survey document on working waterfront access needs and issues.

The survey was intended to gather information on views about Maryland's coastal waterfronts and commercial watermen access needs. The survey was an optional two-side one page survey distributed to watermen when they registered during the Expo, and also available at the Maryland Sea Grant and Department of Natural Resources booths. The survey was not an instrument to statistically track the views of all Maryland watermen, nor to offer a scientific representation of this audience. Instead the survey provided some valuable information which justified the need for addressing waterfront access issues, and provided a preliminary list of locations on Maryland's coasts where waterfront access is needed or is under threat.

Summary of Findings

The survey included both open-ended and multiple choice questions. A total of about 31 surveys were completed during the Expo; the majority of respondents were from Anne Arundel, Calvert, and Talbot Counties. Respondents also listed the following coastal counties as their county of residence: Baltimore, Caroline, Dorchester, Hartford, Queen Anne's, St. Mary's, Somerset, and Worcester. **Exhibit 1** shows the breakdown by respondent county of residence.

Exhibit 1
Working Waterfront Survey
Respondent County of Residence

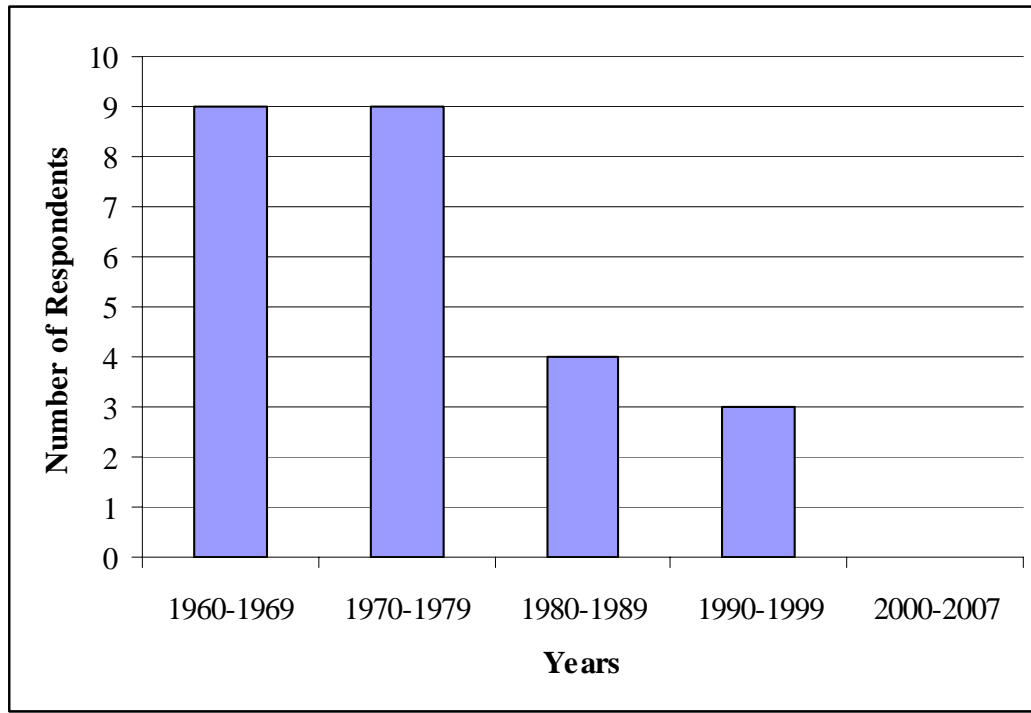


Source: Maryland Sea Grant Extension

The following provides a summary of some of the responses asked in the survey.

When asked when the best waterfront access for commercial fishing has taken place in Maryland (Question 5, years ranging from 1960s to 2007), there was a general trend that in the 1960s and 1970s, access was much more available to commercial fisheries than in the 2000s as shown in **Exhibit 2**.

Exhibit 2
Working Waterfront Survey
Perceptions on Years of Best Commercial Waterfront Access



Source: Maryland Sea Grant Extension

The main limitations that were listed for commercial fishing activities included (highlighted ones were most often cited):

- *price of slips;*
- ***availability of slips;***
- *expensive tie-up space at marinas;*
- ***cost of waterfront properties; and***
- *fishermen unable to purchase waterfront property by themselves.*

There was a question that was targeted to an audience with knowledge on issues pertaining to owning or maintaining waterfront properties. Of those responses, high property taxes were considered a major challenge. In addition, changing real estate prices and the consequent inability to compete with property bidders were an issue.

Some of the specific problems waterfront access problems cited included the following open-ended comments (highlighted ones were most often cited):

- *slip rental is high;*
- ***marinas don't want work boats;***

- *not enough slips;*
- *no or limited public access in Anne Arundel County;*
- *high taxes, inflated waterfront values, inability to store/service equipment;*
- *no public dock space;*
- *most waterfront property is now owned by residential owners; and*
- *fishermen, commercial and charter, being forced out by developers who don't want "stinking" work boats. Only want big money weekenders.*

As far as the needs for improvements to commercial marine infrastructure (Question 7), the following was identified:

- *set aside workboat slips/access;*
- *more public dock space;*
- *boat ramps for loading and unloading;*
- *bulkheads;*
- *need shuck houses;*
- *less dredging;*
- *seed oyster shell program; and*
- *oil and trash containers.*

When asked the question about additional conflicts commercial fishermen are confronting in their community (question 9), the following were mentioned:

- *people don't like watermen and their equipment;*
- *opposition from land developers, recent residents;*
- *no public dock space;*
- *luck so far but we know it's coming;*
- *infiltration of recreational crabbers and fishermen at all public ramps and landing. Sometimes can not back truck up to load or unload because of parking of trucks and trailers all over area;*
- *pleasure boats;*
- *new people don't like the smell;*
- *noise and storing gear; and*
- *no slip availability.*

On anticipated changes related to commercial fishing access in the coming years (Question 9) the responses mostly addressed the issue of increased development and therefore less access. This included fewer places to dock and unload, less access in general, and the conversion of work areas to sport fisheries. There was also a mention of limited crabs and fish to harvest.

The sites that appear to be of greatest need or of concern (Questions 6 and 12) include the following: Kent Island, Tilghman Island, Hooper's Island, Deale Island, the City of Crisfield, and along the West River. **Appendix XII** provides a map showing 1) the working waterfront access needs identified in the survey; 2) the working waterfront

needs identified by solicitation of information from Maryland Watermen's Association chapters; and 3) the boating facilities that have received Waterway Improvement Fund funding and that primarily support commercial fishermen.

After analyzing survey responses, the most prevalent issues included those related to waterfront properties, infrastructure needs, and newcomers. High taxation on waterfront properties is making it more difficult for waterfront businesses to compete and thus to sustain commercial watermen. Land availability for access was also an issue. As far as infrastructure, the number of slips, the ability to work on boats, and the need for loading and unloading space was a limiting feature that many commercial watermen often face. As for recent arrivals to coastal communities, there is a disconnect between their needs and the needs of watermen with watermen's long-time access at stake.

Limitations and Recommendations

There are several limitations to this survey. The scientific merit, including sample size, geographic representation, and watermen representation, cannot be fully analyzed. The lack of time and money did not allow for a more comprehensive study to further collect information to include in the Working Waterfront Commission report. This survey was more of an informal input process, taking advantage of the Expo and thus watermen attending this event and providing some insight on issues they were facing. There is a need to do more extensive scientific research that captures a representative audience. Additional information can be collected not only by using surveys, but also by watermen and stakeholders interviews or focus groups.

Survey

2008 Maryland's Watermen and Working Waterfronts Survey

The Working Waterfront Commission was created during the 2007 session of the Maryland General Assembly. The Commission is tasked with studying and making recommendations regarding protecting and preserving Maryland's commercial seafood industry's access to public trust waters. This survey, developed by Maryland Sea Grant Extension, is the first step in identifying issues and concerns watermen have about access to public trust waters and their views about the state of Maryland's coastal waterfronts. Please take the time to respond to this survey (front and back); it will be of great use for making recommendations to improve commercial watermen access to Maryland's public trust waters.

Thank you,
Maryland Working Waterfront Commission

All information collected in this study is confidential to the extent permitted by law. Data provided will be grouped with data others provide for reporting and presentation. Neither names nor the names of organizations will be used, unless specifically authorized so.

1) State license you possess:

FGR/FGN Hook & Line/Finfish Harvester TFL Commercial Crab License
 Commercial Oyster/Clam License Other None

2) County of Residence: _____

3) Please **check** which of the following limits your commercial fishing activities?

<input type="checkbox"/> Price of slips	<input type="checkbox"/> Maintaining waterfront properties
<input type="checkbox"/> Availability of slips	<input type="checkbox"/> High properties taxes
<input type="checkbox"/> Extremely expensive tie-up space at marina	<input type="checkbox"/> Changing real estate prices
<input type="checkbox"/> Cost of waterfront property	<input type="checkbox"/> Inability to compete with high property bidders
<input type="checkbox"/> Fishermen unable to purchase waterfront property by themselves	

Other:

Please **CIRCLE** one item above that is of most concern.

4) Is there a waterfront access problem for Maryland's commercial fisheries? Please circle **Yes** or **No** or **No Opinion**

If yes, please describe the problem

5) Circle when best waterfront access for commercial fishing has taken place in Maryland

1960s 1970s 1980s 1990s 2000-2005 2006/2007

6) Is there a need for additional commercial fishing access? Please circle **Yes** or **No**

If yes, which communities or locations would benefit from additional or better access?

More on BACK

7) Is there a need for improvements to commercial marine **infrastructure**? Please circle **Yes** or **No**

If yes, what are some infrastructure improvements that you would suggest? Please describe

8) From the choices below, please select any and all access losses that have occurred:

- Coastal property owners closing off or contesting public access
- Commercial fishing access lost through lease arrangements
- Competition from other users of public facilities
- Land-use access problems: parking, space for gear, etc.
- Conversion of working wharves to residential or recreational use
- Other, please explain...

9) Are there any specific conflicts with commercial fishing access in your community?

Please circle **Yes** or **No** Please explain

10) Is the price of commercial fishing access a factor that limits commercial fishing activities?

Please circle **Yes** or **No** Please explain

11) What are some anticipated changes (around commercial fishing access) you see happening in upcoming years (good and bad)?

12) Which Maryland communities would you consider critical working waterfront sites?

THANK YOU and ENJOY THE EXPO!!!
Please fold and place in box

Appendix IV – Interim Report



MARYLAND AGRICULTURAL AND RESOURCE
BASED INDUSTRY DEVELOPMENT CORPORATION
1410 Forest Drive, Suite 28 ~ Annapolis, MD 21403
Office: 410-267-6807 ~ Fax: 410-267-6809

J. Robert Frazee, *Chairman*

Stephen R. McHenry, *Executive Director*

January 28, 2008

The Honorable Martin J. O'Malley
State House
100 state Circle
Annapolis, MD 21401

The Honorable Thomas V. Mike Miller, Jr.
President, Maryland Senate
State House, H-107
Annapolis, MD 21401

The Honorable Michael E. Busch
Speaker, Maryland House of Delegates
State House, H-101
Annapolis, MD 21401

Dear Governor O'Malley, President Miller, and Speaker Busch:

I am writing to you in regards to the Working Waterfront Commission established during the 2007 Maryland General Assembly Legislative Session. The purpose of the Commission is to make recommendations regarding protecting Maryland's commercial fishing industry's access to public trust waters. As Chairman of this Commission, I wanted to provide you with the current status of the Commission.

Members were notified of their appointments by letter from the Governor this fall; the last of these notifications is dated December 6, 2007. The first meeting was held on December 11, 2007. At this first meeting the agenda included introductions of members, an overview of the responsibilities of the Commission, an overview of other states' working waterfront plans, and background information on Maryland's commercial fisheries. Members discussed possible ideas and requested information from Commission staff for the next meeting. A second meeting was held on January 16, 2008. At this meeting the Commission went over the information they had requested, brainstormed possible legislative ideas for the 2008 session, and heard two presentations, one from Bob Gaudette with Department of Natural Resources Boating Services regarding the Waterway Improvement Fund and one from LeeAnne Chandler

with Department of Natural Resources Critical Area Commission for the Chesapeake and Atlantic Coastal Bays regarding access issues in wetlands.

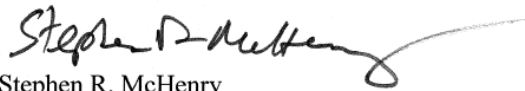
The Commission requested that Senator Stoltzfus, the sponsor of the 2007 legislation that created the Commission, introduce legislation during the 2008 session to extend the statutory authority of the Commission until December 31, 2008, and to modify the reporting deadline to December 1, 2008. This legislation has been introduced as SB 104. Additionally, Senator Stoltzfus and Delegate Kullen, both members of the Commission, are working on legislation based on discussions with Commission members.

The Commission submitted a letter on December 14, 2007, requesting that an extension be granted for submission of the report and stating that an interim report would be submitted to you on or before January 31, 2008. The Commission respectfully requests that the letter herein be considered the interim report.

The Commission members have chosen to hold their next meeting on February 20, 2008, at which time the members will continue their discussion on possible solutions to working waterfront access issues in our state. Members will continue meeting and working toward a final report with an expected completion date of December 1, 2008.

Again, I appreciate your support of this Commission. If you have any questions, please contact the Commission staff, Sarah Widman of the Department of Natural Resources at 410-260-8266 or Andrew Gray of the Department of Legislative Services at 410-946-5530.

Sincerely,



Stephen R. McHenry
Commission Chair

cc: Secretary John R. Griffin
Commission Members
Mr. Andrew Gray

Mr. Karl S. Aro
Mr. Warren G. Deschenaux
Ms. Sarah Widman

Appendix V – Chapter 281 of 2008 (Property Tax Credit – Commercial Waterfront Property)

Ch. 281

CHAPTER 281

(House Bill 612)

AN ACT concerning

Property Tax ~~Assessment~~ Credit – Commercial Waterfront Property

FOR the purpose of ~~establishing commercial waterfront property as a subclass of real property for assessment purposes; providing for the assessment of certain commercial waterfront property based on its use instead of its market value; requiring the State Department of Assessments and Taxation to adopt certain regulations; requiring the Department to provide certain notice to certain property owners; providing for certain applications for property to be assessed as commercial waterfront property; providing for the termination of a certain use assessment and the imposition of a certain penalty under certain circumstances; providing for the distribution of the proceeds from a certain penalty; defining certain terms declaring the intent of the General Assembly; making this Act an emergency measure; and generally relating to the assessment of certain commercial waterfront property for property tax purposes~~ authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant, by law, a tax credit against the county or municipal corporation property tax imposed on certain commercial waterfront property; authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit and certain other provisions to carry out the credit; defining certain terms; providing for the application of this Act; and generally relating to a local property tax credit for commercial waterfront property.

~~BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 8-101(b)
Annotated Code of Maryland
(2007 Replacement Volume)~~

BY adding to
Article – Tax – Property
Section ~~8-228.1~~ 9-248
Annotated Code of Maryland
(2007 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – Property

– 1 –

~~§ 101.~~

~~(b) Real property is a class of property and is divided into the following subclasses:~~

~~(1) land that is actively devoted to farm or agricultural use, assessed under § 8-209 of this title;~~

~~(2) marshland, assessed under § 8-210 of this title;~~

~~(3) woodland, assessed under § 8-211 of this title;~~

~~(4) land of a country club or golf course, assessed under §§ 8-212 through 8-217 of this title;~~

~~(5) land that is used for a planned development, assessed under §§ 8-220 through 8-225 of this title;~~

~~(6) rezoned real property that is used for residential purposes, assessed under §§ 8-226 through 8-228 of this title;~~

~~(7) operating real property of a railroad;~~

~~(8) operating real property of a public utility;~~

~~(9) property valued under § 8-105(a)(3) of this subtitle;~~

~~(10) conservation property, assessed under § 8-209.1 of this title; [and]~~

~~(11) COMMERCIAL WATERFRONT PROPERTY, ASSESSED UNDER § 8-228.1 OF THIS TITLE; AND~~

~~[(11)](12) all other real property that is directed by this article to be assessed.~~

~~§ 228.1. 9-248.~~

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "COMMERCIAL ~~FISHING~~ FISH OPERATION" MEANS ANY ACTIVITY FOR WHICH A PERSON IS REQUIRED TO POSSESS A TIDAL ~~FISHING~~ FISH LICENSE UNDER § 4-701 OF THE NATURAL RESOURCES ARTICLE.

(II) "COMMERCIAL FISH OPERATION" INCLUDES ANY ACTIVITY FOR WHICH A PERSON IS REQUIRED TO BE LICENSED AS A SEAFOOD DEALER UNDER § 4-701 OF THE NATURAL RESOURCES ARTICLE.

(3) "COMMERCIAL FISHING VESSEL" MEANS A VESSEL THAT IS:

(I) OWNED OR LEASED BY A PERSON POSSESSING A TIDAL FISH LICENSE UNDER § 4-701 OF THE NATURAL RESOURCES ARTICLE; AND

(II) USED IN A COMMERCIAL FISH OPERATION.

~~(3)~~ (4) "COMMERCIAL MARINA" MEANS A MARINA USED FOR COMMERCIAL PURPOSES THAT LEASES AT LEAST 20% OF ITS SLIPS TO COMMERCIAL FISHING VESSELS.

(5) "COMMERCIAL MARINE REPAIR FACILITY" MEANS A MARINE REPAIR FACILITY THAT DERIVES AT LEAST 20% OF ITS GROSS RECEIPTS FROM CHARGES FOR THE REPAIR AND MAINTENANCE OF COMMERCIAL FISHING VESSELS.

~~(4)~~ (6) (I) "COMMERCIAL WATERFRONT PROPERTY" MEANS REAL PROPERTY THAT:

1. IS ADJACENT TO THE TIDAL WATERS OF THE STATE;
2. IS USED PRIMARILY FOR A COMMERCIAL ~~FISHING~~ FISH OPERATION OR AS A COMMERCIAL MARINA OR COMMERCIAL MARINE REPAIR FACILITY; AND
3. FOR THE MOST RECENT 3-YEAR PERIOD, HAS PRODUCED AN AVERAGE ANNUAL GROSS INCOME OF AT LEAST \$1,000.

(II) "COMMERCIAL WATERFRONT PROPERTY" INCLUDES LAND THAT IS ADJACENT TO OR UNDER IMPROVEMENTS USED PRIMARILY FOR A COMMERCIAL ~~FISHING~~ FISH OPERATION OR AS A COMMERCIAL MARINA OR COMMERCIAL MARINE REPAIR FACILITY.

~~(B) THE GENERAL ASSEMBLY STATES THAT IT IS IN THE GENERAL PUBLIC INTEREST TO PROVIDE FOR THE VALUATION AND ASSESSMENT OF COMMERCIAL WATERFRONT PROPERTY THAT IS USED FOR COMMERCIAL FISHING OR COMMERCIAL MARINA PURPOSES ON THE BASIS OF THAT USE AND NOT UPON A GREATER VALUE ATTRIBUTABLE TO POTENTIAL USES OTHER THAN AS COMMERCIAL WATERFRONT PROPERTY.~~

~~(C) (1) (I) FOR PROPERTY TO BE ASSESSED AS COMMERCIAL WATERFRONT PROPERTY UNDER THIS SECTION;~~

~~1. THE PROPERTY OWNER SHALL APPLY TO THE SUPERVISOR ON OR BEFORE APRIL 1 IMMEDIATELY PRECEDING THE FIRST TAXABLE YEAR FOR WHICH THE USE ASSESSMENT IS SOUGHT; AND~~

~~2. THE APPLICATION SHALL ESTABLISH TO THE SATISFACTION OF THE DEPARTMENT THAT THE PROPERTY IS COMMERCIAL WATERFRONT PROPERTY.~~

~~(II) FOR GOOD CAUSE, THE DEPARTMENT MAY ACCEPT AN APPLICATION AFTER APRIL 1 BUT ON OR BEFORE MAY 1 IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE USE ASSESSMENT IS SOUGHT.~~

~~(2) COMMERCIAL WATERFRONT PROPERTY SHALL BE ASSESSED BASED ON ITS USE AS COMMERCIAL WATERFRONT PROPERTY AND NOT AT ITS MARKET VALUE BASED ON ITS HIGHEST AND BEST USE.~~

~~(3) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE USE ASSESSMENT PROVIDED UNDER THIS SECTION.~~

~~(4) (I) THE DEPARTMENT SHALL GIVE NOTICE TO OWNERS OF PROPERTIES THAT THE DEPARTMENT IDENTIFIES AS POTENTIALLY ELIGIBLE FOR USE ASSESSMENT UNDER THIS SECTION.~~

~~(II) THE NOTICE SHALL INCLUDE ANY INFORMATION NEEDED TO CONVEY:~~

~~1. ELIGIBILITY REQUIREMENTS;~~

~~2. FILING DEADLINES;~~

~~3. APPLICABLE LIMITATIONS; AND~~

~~4. CONTACT INFORMATION FOR APPLICATION FORMS.~~

~~(5) THE DEPARTMENT SHALL NOTIFY AN APPLICANT IN WRITING IF THE APPLICANT IS NOT ELIGIBLE FOR USE ASSESSMENT UNDER THIS SECTION.~~

~~(D) (1) IF ANY PART OF COMMERCIAL WATERFRONT PROPERTY IS USED FOR A PURPOSE OTHER THAN AS COMMERCIAL WATERFRONT PROPERTY;~~

~~(I) THAT PART OF THE PROPERTY CEASES TO BE COMMERCIAL WATERFRONT PROPERTY;~~

~~(II) THE USE ASSESSMENT UNDER THIS SECTION TERMINATES AS TO THAT PART OF THE PROPERTY; AND~~

~~(III) THE DEPARTMENT SHALL VALUE AND ASSESS THAT PART OF THE PROPERTY IN ACCORDANCE WITH SUBTITLE 1 OF THIS TITLE.~~

~~(2) IF A USE ASSESSMENT UNDER THIS SECTION IS TERMINATED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OWNER WHO PAID TAXES BASED ON THE USE ASSESSMENT UNDER THIS SECTION SHALL PAY TO THE DEPARTMENT A PENALTY AS CALCULATED IN PARAGRAPH (3) OF THIS SUBSECTION.~~

~~(3) (I) THE PENALTY DUE UNDER THIS SUBSECTION IS CALCULATED BASED ON MULTIPLYING:~~

~~1. THE DIFFERENCE BETWEEN THE ASSESSMENT OF THAT PART OF THE PROPERTY AS TO WHICH THE USE ASSESSMENT IS TERMINATED BASED ON ITS USE AS COMMERCIAL WATERFRONT PROPERTY AND THE ASSESSMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND~~

~~2. THE SUM OF THE STATE, COUNTY, AND MUNICIPAL TAX RATES FOR THE CURRENT TAX YEAR.~~

~~(II) THE TOTAL PENALTY DUE UNDER THIS SUBSECTION EQUALS THE AMOUNT DETERMINED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MULTIPLIED BY THE NUMBER OF YEARS, NOT EXCEEDING 3, FOR WHICH THE OWNER RECEIVED A USE ASSESSMENT UNDER THIS SECTION.~~

~~(III) ANNUAL INTEREST AT THE RATE OF 12% SHALL APPLY TO THE PENALTY CALCULATED UNDER THIS PARAGRAPH.~~

~~(4) THE PROCEEDS OF THE PENALTY COLLECTED UNDER THIS SUBSECTION SHALL BE DISTRIBUTED TO THE STATE, COUNTY, AND MUNICIPAL GOVERNMENTS IN THE PROPORTION THAT EACH TAX RATE BEARS TO THE TOTAL OF THE STATE, COUNTY, AND MUNICIPAL TAX RATES.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 8-228.1(c)(1) of the Tax Property Article as enacted by Section 1 of this Act, for the taxable year that begins July 1, 2008:~~

~~(1) An owner of commercial waterfront property may apply for a commercial waterfront property use assessment on or before June 30, 2008; and~~

~~(2) For good cause shown, the State Department of Assessments and Taxation may accept an application for a commercial waterfront property use assessment after June 30, 2008, but before August 1, 2008.~~

(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON COMMERCIAL WATERFRONT PROPERTY.

(C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

(1) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SECTION;

(2) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION;

(3) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

(4) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE CREDIT UNDER THIS SECTION.

~~SECTION 3. 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted shall take effect June 1, 2008, and shall be applicable to all taxable years beginning after June 30, 2008.~~

Approved by the Governor, April 24, 2008.

Appendix VI – List of Definitions

Chapter 281 of 2008 (Property Tax Credit – Commercial Waterfront Property) defined the following terms as part of giving Baltimore County, municipal corporations, and counties the authority to grant a tax credit for working waterfront properties.

- “Commercial waterfront property” means real property that:
 1. Is adjacent to the tidal waters of the State;
 2. Is used primarily for a commercial fish operation or as a commercial marina or commercial marine repair facility; and
 3. For the most recent 3–year period, has produced an average annual gross income of at least \$1,000.
- “Commercial waterfront property” includes land that is adjacent to or under improvements used primarily for a commercial fish operation or as a commercial marina or commercial marine repair facility.
- “Commercial fish operation” means any activity for which a person is required to possess a tidal fish license under § 4–701 of the Natural Resources Article.
- “Commercial fish operation” includes any activity for which a person is required to be licensed as a seafood dealer under § 4–701 of the Natural Resources Article.

Appendix VII – Letters to counties/municipalities, Waterman’s Gazette, Marine Trades Association of Maryland; and one-page tax credit information

Working Waterfront Commission

<http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>
Stephen R. McHenry, Chairperson



April 23, 2008

**The
Mayor of**

Dear:

The Working Waterfront Commission is writing to inform you about a recently enacted property tax credit for commercial waterfront property that is now available to be implemented at the discretion of local governing bodies in Maryland (effective June 1, 2008).

The Working Waterfront Commission is a State commission consisting of commercial fishing stakeholders, including local government representatives, created in accordance with Chapter 30 of 2007 and extended in accordance with Chapter 17 of 2008. The commission is tasked with studying and making recommendations for protecting and preserving Maryland’s commercial seafood industry’s access to public trust waters. The commission supported State Senator J. Lowell Stoltzfus and Delegate Sue Kullen in their efforts to pass legislation during the 2008 Maryland General Assembly Session which would aid Maryland’s commercial seafood industry’s access to public waters.

Senator Stoltzfus and Delegate Kullen introduced Senate Bill 676 and House Bill 612, respectively, which authorize the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to create a property tax credit for commercial waterfront property. Under the legislation, commercial waterfront property is defined as real property that is adjacent to the tidal waters of the State, is used primarily for a commercial fish operation or as a commercial marina or commercial marine repair facility, and has produced an average annual gross income of at least \$1,000 in the most recent three-year period. Both bills passed, and it is anticipated that Governor Martin J. O’Malley will sign one or both bills into law during the next several days.

The commission supports the creation of such property tax credits and strongly urges each county and municipality with waterfront access to provide the credit authorized in these bills for fiscal 2009. Therefore, during its budget deliberations on the fiscal 2009 budget, your local governing body may want to consider factoring in the impact of offering this tax credit and pass an appropriate authorizing resolution to implement this.

On behalf of the commission, and especially the commercial seafood industry that we hope to help sustain for future generations in Maryland, we thank you very much for considering this request. Contact information and further details on the commission can be accessed at our web site at <http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen R. McHenry". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Stephen R. McHenry
Working Waterfront Commission
Chairperson

Working Waterfront Commission

<http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>
Stephen McHenry, Chairperson



April 23, 2008

Dear Waterman:

The Working Waterfront Commission is writing to inform you about a recently enacted property tax credit for commercial waterfront property that is now available to be implemented at the discretion of local governing bodies in Maryland (effective June 1, 2008). The tax credit would aid Maryland's commercial seafood industry's access to public waters, and the commission asks for you to contact your local governing body about offering this tax credit for fiscal year 2009.

The commission is a State commission consisting of commercial fishing stakeholders tasked with studying and making recommendations for protecting and preserving Maryland's commercial seafood industry's access to public trust waters. The commission supported State Senator J. Lowell Stoltzfus and State Delegate Sue Kullen in their efforts to pass legislation during the 2008 Maryland General Assembly Session which would aid Maryland's commercial seafood industry's access to public waters. The bills authorize the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to create a property tax credit for commercial waterfront property. Both bills passed, and it is anticipated that Governor Martin J. O'Malley will sign one or both bills.

The commission supports the creation of these property tax credits for commercial waterfront property in localities and is asking each affected county and municipality to provide the tax credit authorized in these bills for fiscal 2009. Once again, the commission urges you to contact your county commissioners or council members and your town mayor and council members about offering this property tax credit for fiscal 2009.

Thank you. Contact information and further details on the commission can be accessed at our web site at <http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>.

Sincerely,

A handwritten signature in blue ink, which appears to read "Stephen R. McHenry". The signature is fluid and cursive.

Stephen R. McHenry
Working Waterfront Commission
Chairperson

Working Waterfront Commission

<http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>
Stephen McHenry, Chairperson



April 23, 2008

Dear Marine Trades Association of Maryland member:

The Working Waterfront Commission is writing to inform you about a recently enacted property tax credit for commercial waterfront property that is now available to be implemented at the discretion of local governing bodies in Maryland (effective June 1, 2008). The tax credit would aid Maryland's commercial seafood industry's access to public waters, and the commission asks for you to contact your local governing body about offering this tax credit for fiscal year 2009.

The commission is a State commission consisting of commercial fishing stakeholders tasked with studying and making recommendations for protecting and preserving Maryland's commercial seafood industry's access to public trust waters. The commission supported State Senator J. Lowell Stoltzfus and State Delegate Sue Kullen in their efforts to pass legislation during the 2008 Maryland General Assembly Session which would aid Maryland's commercial seafood industry's access to public waters. The bills authorize the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to create a property tax credit for commercial waterfront property. Both bills passed, and it is anticipated that Governor Martin J. O'Malley will sign one or both bills.

The commission supports the creation of these property tax credits for commercial waterfront property in localities and is asking each affected county and municipality to provide the tax credit authorized in these bills for fiscal 2009. Once again, the commission urges you to contact your county commissioners or council members and your town mayor and council members about offering this property tax credit for fiscal 2009.

Thank you. Contact information and further details on the commission can be accessed at our web site at <http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephen R. McHenry". The signature is fluid and cursive.

Stephen R. McHenry
Working Waterfront Commission
Chairperson

Property Tax Credit – Commercial Waterfront Property

In an effort to protect working waterfronts in Maryland communities, the 2008 Maryland General Assembly recently passed legislation (House Bill 612/Senate Bill 676) supported by the Working Waterfront Commission. This legislation gives counties and municipalities the authority to adopt local policies that provide property tax relief for working waterfronts.

Background

In recent years, waterfront property taxes in various jurisdictions in Maryland have increased as waterfront development has increased. Waterfront businesses (properties) that cater to commercial fishermen often face a challenge as property taxes escalate while the property use and revenue remain the same. In 2007, the Working Waterfront Commission was created to study and make recommendations regarding protection and preservation of Maryland's commercial seafood industry's access to public trust waters. The commission supported the introduction of the bills referenced above in order to provide property tax relief to businesses that service commercial fishermen.

Frequently Asked Questions

1. **What does this legislation do?** This legislation gives the authority to municipalities and counties to adopt, by law, local policies that can provide financial assistance (in the form of tax credits) to waterfront property owners if certain criteria are met.
2. **How much is the tax credit?** The credit amount is entirely up to the discretion of the individual local governing bodies. Scenarios that could be considered by the localities include property tax credits that would:
 - reduce the impact of increases in the assessment of commercial waterfront property;
 - effectively hold the assessment constant with the last fiscal year; or
 - effectively reduce the assessment to the value of two or three years ago.
3. **What is the duration of the tax credit?** The duration of the tax credit is also at the discretion of the local governing body to maintain maximum flexibility in terms of how the tax credit is structured and granted.
4. **Who benefits from the tax credit?** While additional eligibility criteria may be implemented by localities, there are three main beneficiaries of the tax credit:
 - commercial fish operations – reduced tax liability on property and therefore a greater likelihood of maintaining operations and contributing to local economies and rural heritage;

- commercial marinas – reduced tax liability on property in a time of increased fuel and material costs that will enable commercial marinas to maintain operations while providing dockage for commercial fishing vessels (Note: at least 20% of a marina’s boat slips must be leased for use by commercial fishing vessels); and
- commercial marine repair facilities – reduced tax liability on property and therefore a greater likelihood of continued operations to benefit the local maritime economy.

5. **How is the tax credit to be implemented?** The property tax credit authorization will take effect on June 1, 2008, at which time Baltimore City, a municipal corporation, or a county may grant a tax credit, by law, against the property tax imposed on commercial waterfront property under regulations and procedures adopted by the local jurisdiction. Commercial waterfront property is defined as real property that:

- is adjacent to the tidal waters of the State;
- is used primarily for a commercial fish operation or as a commercial marina or commercial marine repair facility; and
- has produced an average annual gross income of at least \$1,000 in the most recent three-year period.

6. **If property is sold, would the credit be removed?** If commercial waterfront property that is receiving a tax credit is sold, the property could remain eligible for a continued tax credit if the use of the property still qualifies, subject to local regulations.

7. **Who can be contacted for legal or other guidance?** Each local jurisdiction should seek guidance from its county or municipal attorney, and the local property tax assessment office may also be able to answer questions. Local officials can also visit the Working Waterfront Commission’s web site to check any updates to the Frequently Asked Questions document: <http://www.dnr.state.md.us/fisheries/commercial/wwc/>.

Appendix VIII – Letter to DNR Concerning Langenfelder (Love Point) Property

Working Waterfront Commission

<http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>
Stephen R. McHenry, Chairperson



June 24, 2008

Butch Norden
Department of Natural Resources
Tawes State Office Building, E3
580 Taylor Avenue
Annapolis, MD 21401-2397

Dear Mr. Norden,

The Working Waterfront Commission is writing to inform you about its interest in taking part in the discussions surrounding the future use of the Langenfelder (Love Point) property on Kent Island. At a recent Working Waterfront Commission meeting, Mr. Bob Gaudette and Mr. Marty Gary of the Department of Natural Resources presented a brief synopsis of the possibilities being explored for the property. The Working Waterfront Commission would both like to offer some suggestions for how the property could be used and ask for representation at future meetings of the workgroup deciding the uses for the Langenfelder property.

The Working Waterfront Commission is a State commission consisting of commercial fishing stakeholders, including local government representatives, created in accordance with Chapter 30 of 2007 and extended in accordance with Chapter 17 of 2008. The commission is tasked with studying and making recommendations for protecting and preserving Maryland's commercial seafood industry's access to public trust waters.

A couple of observations and recommendations for the use of the Langenfelder property have been generated by the Working Waterfront Commission that would further the mission of protecting and preserving Maryland's seafood industry's access to public trust waters. The overarching suggestion is to provide for a commercial fishing boat facility as one of the uses of the property as follows:

- Existing bulkhead is too high for unloading seafood – recommend that a low profile walkway be installed;
- Utilities are necessary for seafood activities – recommend that utilities be incorporated at the recommended unloading area;
- Lack of commercial boat slips – recommend the inclusion of at least 30 commercial fishing boat slips with piers;
- Inadequate parking for proposed uses – recommend incorporating a parking area suitable for supporting at least the 30 commercial fishing boat slips; and
- Future of aquaculture not supported – recommend construction of improvements that would support a remote tank setting for aquaculture (oysters).

As noted above, the Commission also recommends including a representative from the commercial fishing industry on the workgroup that is deciding the potential uses of the Langenfelder

property. This inclusion would allow for better communication of the commercial fishing industry's needs and would support the multi-use exploration being pursued for the site.

On behalf of the commission, and especially the commercial seafood industry that we hope to help sustain for future generations in Maryland, we thank you very much for considering these recommendations and for considering the request for inclusion of a commercial fishing industry representative in the workgroup that is deciding the uses for the Langenfelder property.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen R. McHenry", with a long, sweeping flourish extending to the right.

Stephen R. McHenry
Working Waterfront Commission
Chairperson

Appendix IX – Letter to Worcester County Commissioners Concerning Public Landing Dock

Working Waterfront Commission

<http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>

Stephen McHenry, Chairperson



October 20, 2008

Worcester County Commissioners
Worcester County Government
1 West Market Street
Snow Hill, Maryland 21863

Dear Worcester County Commissioners:

The Working Waterfront Commission is writing to commend you for the commercial fishing boat dock access at the West Ocean City Fishing Harbor. In the same spirit, the commission requests that the Worcester County Council consider granting special use permits for commercial fishing boat dock access and a 50 foot by 50 foot unloading area for commercial seafood catch at Public Landing Dock in the unincorporated community of Public Landing.

The commission is a State commission consisting of stakeholders from the commercial fishing industry and traditional communities. The commission was tasked with studying and making recommendations for protecting and preserving Maryland's commercial seafood industry's access to public trust waters. It was created during the 2007 session in accordance with Chapter 30 of 2007 and was extended in accordance with Chapter 17 of 2008.

It is the commission's understanding that on September 13, 1988, the Worcester County Commissioners passed Bill 88-10 County Boat Landings, which is codified in the *Code of Public Local Laws of Worcester County*, Maryland, county government article section 4-406. Among other components, section 4-406 prohibits the following activities: commercial activities including loading and unloading of produce, seafood, freight or merchandise; storage or warehousing of personal property; and anchoring, docking, mooring, or tying up to any county landing or associated piling. However, section 4-406 allows for the granting of special use permits for activities not permitted.

The commission notes that the West Ocean City Fishing Harbor is a county boat landing, but that it is exempt from the provisions of section 4-406 and instead has its own provisions codified in section 4-405. In effect, this means that there are eight commercial boat slips (pilings) at West Ocean City Fishing Harbor, which are available for lease on a two-year basis via a competitive bid process. The commission also notes that there is parking space adjacent to the slips at West Ocean City Fishing Harbor, which allows for commercial fishermen to unload their commercial seafood catch.

In contrast, the provisions of section 4-406 dictate that Public Landing Dock in Public Landing has neither boat slips available for commercial fishing boats nor an area for commercial seafood catch to be unloaded. Therefore, the commission requests that the Worcester County commissioners consider granting special use permits for commercial fishing boat slips and a 50 foot by 50 foot unloading area at Public Landing. This would provide access to central Chincoteague Bay, which is lacking at this time.

Worcester County Commissioners
October 20, 2008
Page 2

Thank you for your kind consideration of this request and your assistance in protecting and preserving Maryland's commercial seafood industry's access to public trust waters. I may be reached at (410) 267-6807, and further details on the commission may be accessed at our web site: <http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>.

Sincerely,



Stephen R. McHenry
Working Waterfront Commission
Chairperson

SRM/ADG/mrm

cc: Secretary John R. Griffin
Members, Working Waterfront Commission

Worcester County Commissioners
October 20, 2008
Page 3

bcc: Sarah Widman
Andrew Gray

Appendix X – Letter to Task Force on the Future for Growth and Development in Maryland

Working Waterfront Commission

<http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>
Stephen McHenry, Chairperson



November 6, 2008

Jon M. Laria, Esquire
Chair, Task Force on the Future for Growth and Development in Maryland
c/o The Department of Planning
301 West Preston Street
Baltimore, Maryland 21201-2365

Dear Chairman Laria:

The Working Waterfront Commission is writing to commend you for the work of the Task Force for Growth and Development in Maryland. The task force's work is timely given the need to address regional development concerns in Maryland, such as access to public trust waters of the State. The commission requests that the task force consider recommending that the working waterfront provisions found in Maryland Annotated Code Article 66B section 3-05(a)(7) be required of Baltimore City and all affected counties in Maryland and that the inclusion of these provisions in comprehensive plans be reviewed and commented upon by the Maryland Department of Planning.

Our commission is a State commission consisting of representatives from the commercial fishing industry, State and local governments, and other stakeholding communities. The commission was tasked with studying and making recommendations for protecting and preserving Maryland's commercial seafood industry's access to public trust waters. This access is vital not only for economic and nutritional reasons, but also will be critical from an environmental perspective as well as the State attempts to restore oyster cultivation in the Chesapeake Bay. The commission was created during the 2007 session in accordance with Chapter 30 of 2007 and was extended in accordance with Chapter 17 of 2008.

The Maryland Annotated Code Article 66B section 3-05(a)(7) requires that commissioner counties and some code home rule counties along the tidal waters of the State incorporate working waterfront provisions in their comprehensive plans. The provisions of section 3-05(a)(7) are as follows:

- (7) (i) Each planning commission of a county that is located on the tidal waters of the State and that exercises authority under this article shall include in its plan the designation of areas on the tidal water or in close proximity to the tidal water for the following purposes:
1. Loading and unloading finfish and shellfish;
 2. Processing finfish and shellfish; and
 3. Docking and mooring commercial fishing boats and vessels.

Jon M. Laria, Esquire
November 6, 2008
Page 2

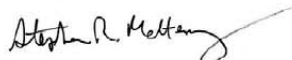
(ii) The designated areas under subparagraph (i) of this paragraph shall be geographically located to:

1. Facilitate the commercial harvesting of finfish and shellfish; and
2. Assure reasonable access to the waterways of the State by commercial watermen.

However, Baltimore City, charter counties, and the code home rule counties that have opted out of Article 66B are not required to include these working waterfront provisions in their plans. In addition, it is not clear to the commission whether the requirement for the incorporation of a substantive waterfront provision in comprehensive plans is being reviewed and commented upon. Therefore, the commission requests that the task force consider recommending in its final report that the provisions for working waterfronts should be required by statute of Baltimore City and all counties and that the inclusion of these substantive provisions in comprehensive plans should be reviewed and commented upon by the Maryland Department of Planning.

Thank you for your kind consideration of this request and your assistance in protecting and preserving Maryland's commercial seafood industry's access to public trust waters. I may be reached at (410)267-6807, and further information on the commission may be accessed at our website: <http://www.dnr.state.md.us/fisheries/commercial/wwc/index.html>.

Sincerely,



Stephen R. McHenry
Working Waterfront Commission
Chairperson

SRM/ADG/kjl

cc: Secretary Richard E. Hall
Secretary John R. Griffin
Secretary Roger L. Richardson
Secretary Shari T. Wilson
Members, Working Waterfront Commission

Jon M. Laria, Esquire
November 6, 2008
Page 3

bcc: Sarah Widman
Andrew Gray

Appendix XI – Letter to Tidal Fisheries Advisory Commission Regarding Conservation Easements

Working Waterfront Commission

Stephen R. McHenry, Chairperson



November 14, 2008

Mr. Bill Woodfield, Chairperson
Tidal Fisheries Advisory Commission
P.O. Box 259
Galesville, MD 20776

Dear Mr. Woodfield:

The Working Waterfront Commission has been meeting for about a year now and is currently expected to discontinue functioning on December 31, 2008 after delivering a final report and recommendations to the Governor and Maryland General Assembly. The Commission was tasked by the General Assembly with looking at ways to maintain the commercial fisheries' access to State waters. This access to docking and unloading sites, seafood processing businesses, and boat repair facilities is absolutely vital to a healthy seafood industry in Maryland. Of particular note, the Commission worked with Senator Lowell Stoltzfus and Delegate Sue Kullen to establish a local property tax credit for working waterfront properties which was enacted this year (and which has been considered or implemented by several local jurisdictions). The Commission also carefully looked at other states' working waterfront programs, and has looked at examples of existing Maryland programs which could help preserve important working waterfront access sites.

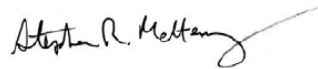
The Commission would also very much like to see a program established and implemented that would purchase and maintain conservation easements related to strategically important working waterfront properties. However, the Commission feels that this topic will need further discussion and refinement by various public and private sector stakeholders after the Commission expires at the end of the year. The Commission also believes that the upcoming General Assembly session may not be best time to try to pass legislation requiring the formation of a new program (with appropriate funding) for land conservation easement purchases. Nevertheless, the Commission believes that this is one of the most important recommendations stemming from our work.

With this background, the Commission would like to ask the Tidal Fisheries Advisory Commission to consider creating a workgroup dedicated to continuing the work of the Working Waterfront Commission with respect to refining the proposed policy for establishing a Working Waterfront Conservation Easement Program in Maryland. The Commission would also like to see members from the Seafood Marketing Advisory Commission and Aquaculture Coordinating Council included as members of such a workgroup, as well as perhaps a few former members of the Working Waterfront Commission.

The Commission's final report will detail various ideas concerning the functioning of a Working Waterfront Conservation Easement Program. The Commission hopes that the addition of this recommendation to its final report will give the Tidal Fisheries Advisory Commission and the proposed workgroup the added political impetus it may need in moving this proposal from the concept stage to actual program implementation. Our sincere wish is that within about two or three years time work can begin on preserving important working waterfront access sites through the purchase of long-term conservation easements.

Attached for your review is a copy of the conservation easement recommendations from the draft report. If you have any questions, please feel free to contact the Commission's staff, Sarah Widman at 410-260-8266, or Andrew Gray at 410-946-5556. Thank you very much.

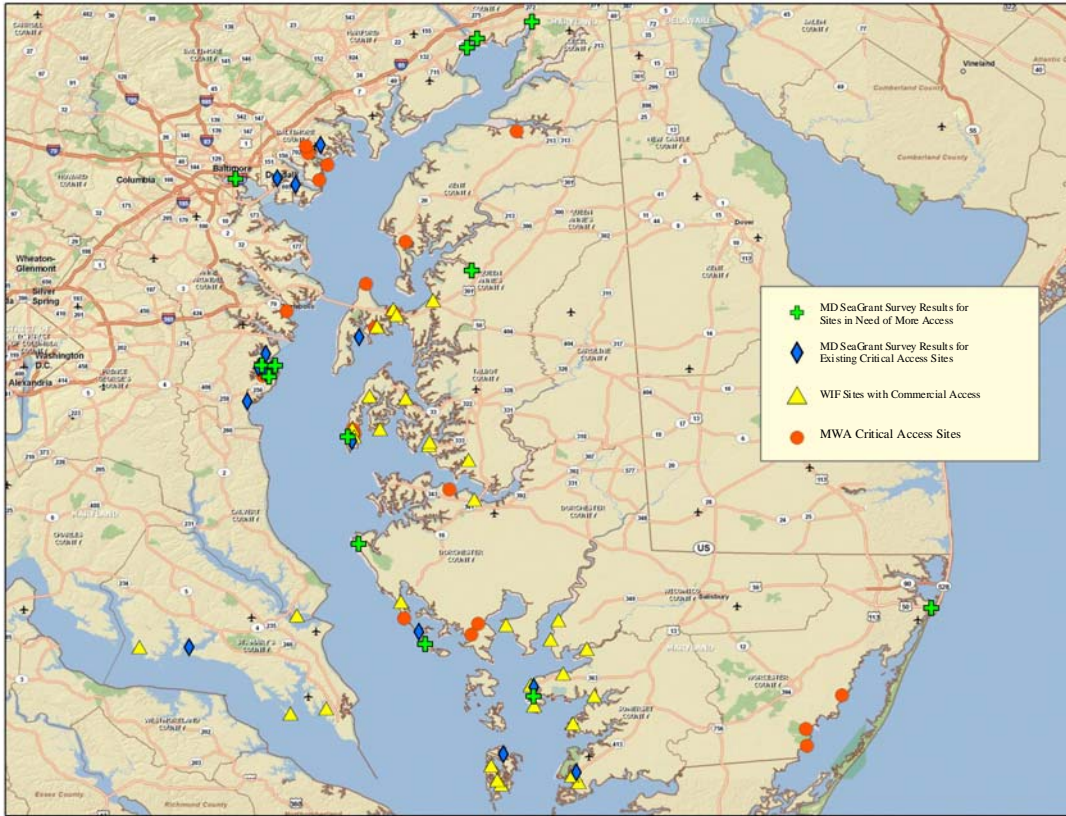
Sincerely,

A handwritten signature in black ink that reads "Stephen R. McHenry". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Stephen R. McHenry
Working Waterfront Commission
Chairperson

cc: Marty Gary, Staff, Tidal Fisheries Advisory Commission
Noreen Eberly, Staff, Seafood Marketing Advisory Commission
Karl Roscher, Staff, Aquaculture Coordinating Council

Appendix XII – Map and List of Working Waterfront Sites



List of Key Access Points for Commercial Fishing in Maryland

Maryland SeaGrant Watermen's Expo Survey Results for Access Sites

Is there a need for additional commercial fishing access? *If yes, which communities or locations would benefit from additional or better access?*

- West River (2)
- All (5)
- AA County (3)
- Tilghman Island (3)
- Parish Creek
- Baltimore, MD
- Shadyside
- Havre de Grace
- Perryville
- Northeast River
- Seaside
- Hoopers Island, Taylor's Island, Deal Island, Centerville, MD
- Western shore
- Deal Island
- Bay
- Ocean City, MD

Which Maryland communities would you consider critical working waterfront sites?

- Tilghman Island (3)
- Crisfield (2)
- Shadyside, Deale, West River
- Any with working watermen in the area
- Parish creek, West River, Blue Water, Rhode River
- Dundalk, Edgemere, Bowley's Quarters (Middle River)
- Southern MD
- Hoopers Island, Smith Island, Deal Island
- Kent Island, Eastern shore; residential growth has caused homeowners to fuss about commercial fishermen near their piers and docks.
- Everywhere
- Deal Island
- Bay

Maryland Watermen's Association List of Access Sites

Anne Arundel County:

McNasby's
Eastport, Annapolis, MD

Ellsworth Brown's Marina
Shady Side, MD

Baltimore County:

Rocky Point Park
2200 Rocky Point Road, Baltimore MD 21221

Middle River Aircraft Systems
103 Chesapeake Park Plaza, Baltimore MD 21220

Markleys Marina
233 Nanticoke Road, Essex, MD 21221

Sue Island Yacht Basin
850 Baltimore Yacht Club Road, Essex, MD 21221

Dorchester County:

Meredith and Meredith, Inc.
2343 Farm Creek Rd , Toddville, MD 21672 – 9729

Dorchester Crab Co.
2076 Wingate Bishops Head Rd, Wingate, MD 21675

WT Ruark Co. Inc.
2543 Hoopers Island Rd., Fishing Creek, MD 21634

Dale Jones' Property

Kent County:

Turner's Creek Park
13685 Turner's Creek Road, Kennedyville, MD 21645

Free State Seafood
21746 Sunnyside Ave, Rock Hall, MD 21661-2213

Queen Anne's County:

Wells Cove Marina
3212 Main Street, Grasonville, MD 21638

Lagenfelder Marina Inc.
400 Pier Ave., Stevensville, MD 21666

Ted Lee's Property

Queen Anne's County Slips
Rte. 552, Stevensville, MD

Talbot County:

Buddy Harrison's Property (Knapp's Narrows)

John Walton Property (Knapp's Narrows)

Pierpont Property (Knapp's Narrows)

Worcester County:

Public Landing
Route 365, Ocean City, MD

George Island Landing
George Island Landing Road, Stockton, MD

Taylor's Landing
Taylor's Landing Road, Girdletree, MD

Waterway Improvement Funded Projects Used by Commercial Watermen

Calvert County:

Waterman's Wharf

Dorchester County:

Trenton Street (Cambridge Creek)

Tyler's Cove (Tylers Cove)

Elliotts Island Boat Ramp (McCready Creek)

Queen Anne's County:

Dominion Marina (Little Creek)

Queenstown (Queenstown Creek)

Wells Cove (Wells Cove)

Kent Narrows Basin (Kent Narrows)

Somerset:

Wenona (Lower Thorofare)

Deal Island (Upper Thorofare)

Dames Quarter Public Ramp (Dames Quarter Creek)

Websters Cove Marina (Wicomico River)

St. Peters Creek (St. Peters Creek)

Rumbley (Goose Creek)

Jenkins Creek (Jenkins Creek)

County Wharf (Little Annemessex River)

Ewell (Big Thorofare)

Tylerton (Tyler Creek)

Tyler Creek (Tyler Creek)

St. Mary's County:

Fox Harbor (Smith Creek)

Paul Ellis Landing (White Neck Creek)

St. George's Island Pier (Island Creek)

Talbot County:

Balls Creek Landing (Neavitt) (Balls Creek)

Dogwood Harbor (Harris Creek)

Trappe Landing (La Trappe Creek)

Tongers Basin (Knapp Narrows)

Cummings Creek Landing (Cummings Creek)

Oxford – Town Dock (Tilghman St.) (Town Creek)

Honeymoon Bridge (St. Michaels Harbor)

Oxford Causeway Dock (Town Creek)

Wicomico:

Nanticoke Harbor (Nanticoke River)

Cedar Hill Park Marina (Nanticoke River)

Appendix XIII – Sources

Maine Sea Grant. May 2007. “Access to the Waterfront: Issues and Solutions Across the Nation.” Accessed on October 7, 2008, at <http://www.seagrant.umaine.edu/documents/pdf/07access.pdf>.

North Carolina Division of Marine Fisheries. October 2008. “Waterfront Access and Marine Industry Fund Report.”

Salisbury University’s Business Economic and Community Outreach Network. November 2008. “The Economic Impact of Resource-based Industries.”

South Carolina Sea Grant Extension Program. Draft Report June 2008. “Coastal Waterfront Access Challenges and Opportunities for South Carolina Marine Fisheries Stakeholders.”