

**GARRETT COUNTY YOUGHIOGHENY RIVER ADVISORY BOARD**  
**Garrett Community College**  
**Thursday, August 20, 1988, 7:00 - 8:30 p.m.**

**MINUTES**

**Board Members Present**

Don Sebold  
Roger Zbel  
Sull McCartney  
Asa McCain  
Rusty Thomas  
Jeremy Thayer  
Phil Frantz  
Jim Simms  
Shaun Sanders

**Guests**

John Hinebaugh  
David W. Baker  
Jean Frantz  
Phil Kisner  
Larry Frazee  
Don Frazee  
Paul Durham  
Ken Pavol  
George Edwards

**Staff**

John Nelson

**Call to Order** - The meeting was called to order by Chairman Sebold at 7:05 p.m.

**Approval of Minutes** - The Board discussed the minutes of the regular meeting conducted on July 9, 1998. Phil Frantz expressed his opinion that a number of corrections are needed to the minutes before they can be approved. Don Sebold stated that he believes that the second paragraph under item #9 on the last page should be changed to reflect that permission from the landowner is needed for access regardless of whether the property is posted or not. Don also stated that the first paragraph of item #9 should reflect his position that he is opposed to the 100 ft. buffer for agricultural use as well as the "no cut buffer" for logging. Phil Frantz suggested that because there are so many ambiguities and omissions from the draft minutes the Board should request a rewrite of the minutes before action on their acceptance can be made. Therefore, on a motion made by Phil, the Board voted by a 5 to 2 margin to request that John Wilson of DNR provide written verbatim minutes of the July 9, 1998 meeting and that these minutes be approved at the next meeting.

**Public Comment** - None

**Board Discussion** - The primary issue of the Board's meeting was to discuss the issue of the 100-foot buffer proposed for agricultural and timber harvest purposes. Phil Frantz expressed his firm belief that the buffer constitutes a taking of property rights and that a buffer width of 100 ft. is excessive in consideration of the existing regulations in timber

harvest projects. Phil stated that he is 100% against the buffer proposal and that if contested, such a buffer may be found to be illegal.

Don Sebold expressed his position that sufficient guidelines exist to regulate timber harvesting along any major stream channel in the County and that imposition of a 100-ft buffer in the Youghiogheny River Corridor is excessive. Don also expressed his position that the buffer is excessive for agricultural vegetative clearing purposes given the fact that most farmers already provide an adequate buffer between fields and the river.

Jim Simms expressed his position that Maryland is the worse state in the Country to conduct agricultural business. A number of programs exist to insure water quality and additional new programs are on the horizon which will add further costs to the production of agricultural goods. Jim stated that he is opposed to the buffer because it will impose an adverse economic effect on the landowner.

Rusty Thomas stated that he agrees with Jim Simm's assessment and stated that the ordinary farmer already maintains a distance from the stream with any cultivation of fields or pastures and that farmers want to maintain a high water quality level and are good stewards of the land.

Jerry Thayer stated that there is an approval process already in place for timber harvest operations. Harvest plans and grading permits must be reviewed and approved before any activities may be conducted. Current timber harvest guidelines maintain a 60% canopy cover on or near the river and that the harvesting of trees under these restrictions proposes no adverse effects in the river corridor.

Shaun Sanders expressed his opinion that existing environmental buffers are adequate to protect the river resource. The proposed 100 ft. buffer is an aesthetic control and imposes an excessive limitation on the land owners specifically within the Yough Corridor.

A question was raised regarding whether the proposed amendments would be submitted as emergency regulations. Paul Durham expressed emphatically that the proposed amendments are not to be submitted to the AELR Committee as emergency regulations. The proposed amendments would go through the normal public review process and will result in a public hearing before the regulations are promulgated.

Following this discussion Phil Frantz made a motion to remove the language in the draft regulations which would impose a 100 ft. buffer for logging and agricultural activities within the Youghiogheny River Corridor. By a vote of 6 to 2 the Board voted to adopt this motion. Phil made a further motion that a letter be drafted to the Board of County Commissioners and to Secretary Griffin stating the Board's opposition to the proposed 100 ft. buffer. Such a letter would be carbon copied to Delegate George Edwards and Senator John Hafer. By a 6 to 2 margin the Board voted to pass this motion to send letters to Secretary Griffin and the County Commissioners.

In follow-up to the discussion on the motion that the amendments may be submitted as emergency regulations, Don Sebold stated that he had discussed this issue with Senator John Hafer who is a member of the AELR Committee. Senator Hafer had informed Mr. Sebold that he would question any proposal to amend the Yough River regulations under emergency authority and that he would require a public hearing on any proposals. In consideration of this information Phil Frantz made a motion to write a letter to Senator Hafer to ask if he would alert the Board if the Department were to submit amendments to the AELR Committee under emergency authority. By a 7 to 1 vote the Board adopted this motion to send the letter to Senator Hafer.

In other matters Jerry Thayer noted that the Board needs to work together and cooperate in their efforts to make specific recommendations to the County Commissioners. Jerry noted that several members of the Board had approached the Commissioners to express their opposition to the buffer proposal and Jerry suggested that perhaps the entire Board should have been polled or invited to the meeting with the Commissioners. Jerry suggested that working cooperatively might prevent the Board from jumping to any conclusions on important issues considered by the Board in the future. As a follow-up to Jerry's comment Phil Frantz asked that John Nelson report the Board's actions to the Commissioners at their next regular meeting to confirm that the Board's actions are consistent with that of the County Commissioners. Mr. Nelson indicated that he would inform the Commissioners at their next regular meeting.

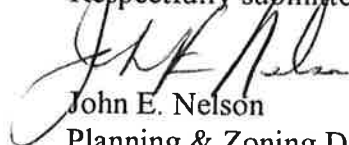
To summarize the DNR's position on the issue of buffers Paul Durham indicated the reason for specifying a 100 ft. buffer was to avoid the confusion for landowners and operators at the time of application. The current language in the law is unclear and it places Paul's office in an arbitrary situation in determining what the proper buffer width should be. Paul indicated that this was the primary reason for proposing a specific 100 ft. buffer in the regulations. Paul also clarified that 8.409 of the Wild River's Act specifies that the County Commissioners must review any proposed regulations and not actually approve the final draft. Commissioner's comments as well as the Board's comments must certainly be considered in the promulgation of any regulations.

#### Public Comment

No public comments

Jim Simms moved to adjourn which was passed by the Board with no further business at 8:25 p.m.

Respectfully submitted,

  
John E. Nelson  
Planning & Zoning Director