Maryland . Coastal Zone Management Program

CHARLES COUNTY, MARYLAND

ADDENDUM
TO
STREAM VALLEY MANAGEMENT AND PROTECTION PROGRAM
FINAL REPORT

EVIDENCE of the ESTABLISHMENT of a LAND ACQUISITION PROGRAM

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ADOPTED COMPREHENSIVE PLAN LANGUAGE

NATURAL RESOURCE PROTECTION

INTRODUCTION

The natural environments of Charles County, its rivers and streams, marshland, forests and shoreline mainfests a diverse base of resources which support a wide variety of plant and wildlife communities. These diverse environments greatly contribute to the overall beauty of the area which in turn contributes to the County's visual quality and character.

In recent years Charles County has attracted increased growth and development. More than ever before, people are relocating to Charles County to enjoy its relatively low cost of living and proximity to Washington, D.C., as well as the benefits and aesthetics of its natural environments.

There is however a limit to the amount of growth various areas of the County can accomodate without degrading its environmental features or impairing the existing quality of life. The primary resource management issue, therefore, is how to maintain the County's air, water, land, and wildlife resources while managing growth.

The Natural Resource Protection Plan addresses this issue by attempting to balance the need of preserving the natural environment with the need for economic growth and development. To accomplish this task, a clear set of goals and objectives have been formulated that take into account the various levels of protection needed for different environmental features.

The next step was to conduct a detailed inventory and analysis of the various components of the natural environment to obtain a thorough understanding of existing physical features and conditions. Environmentally sensitive areas were identified as well as areas that are more resilient to disturbances. An inventory was also conducted of existing planning programs and regulatory controls to identify deficiencies and areas in need of improvement.

A resource management plan was then developed for the County's natural environments. Policies were developed to preserve the County's shorelines, inland habitat areas, and stream valleys, to protect present and future water resources, to guide land development, and to prevent degradation of natural resources from man-made pollutants.

Finally, various implementation techniques were described as recommended means to ensure that the policies and guidelines would be implemented.

GOALS AND OBJECTIVES

There is a general concensus throughout the County that its natural environments are a unique and valuable resource that should be protected. The overall goal of the Natural Resources Protection element of the Plan therefore, is to:

- **Protect the natural resources and enchance the environmental features of the County.**

To define this goal in more immediate terms the following objectives have been established:

- Cooperate in efforts to improve and protect the water quality of the Chesapeake Bay and its tributaries through adoption and enforcement of the County's local Critical Area Program.

- Adopt and enforce development performance standards, parallel to adoption and enforcement of a local Critical Area Program, which assure protection of sensitive inland and environmental features throughout the County such as the Mattawoman and its tributaries, Zekiah Swamp, Gilbert Run Swamp, Nanjemoy, Swanson and Indian creeks' watersheds.

- Strengthen the regulation of stormwater management, and undertake measures to assure that future development respects the unique features and natural character of each of its creeks and rivers.

- Conserve remaining wooded areas in the County, require new plantings to decrease erosion, and enhance streambank stabilization.

- Manage agricultural activities to minimize runoff and sedimentation to adjacent waters.

- Enhance the County's environmental preservation and conservation policies through existing administrative mechanisms including subdivision regulations, sedimentation control, environmental review processes, development regulations, and zoning.

- Initiate programs to protect groundwater resources.

- Establish a Charles County Environmental Land Trust to administer incentive-based programs to conserve sensitive natural lands and habitats, and coordinate or direct the efforts of other land trusts, (eg. Nature Conservancy, Maryland Environmental Trust, etc.) to accomplish County resource protection objectives.

- Initiate appropriate Development Guidance Systems to ensure that the County's limited development potential in the Critical Area brings about the best development possible. This permitted development should include the provision of desired community amenities and services.

- Develop programs and policies to assure the functional maintenance of all residential stormwater management systems, both privately and publicly owned, with fees paid for by the beneficiaries.

- Through public and private resources, purchase sensitive wetlands and conservation easements in the natural environmental areas as long-term strategies for preserving the wet-lands.

LAND TRUST ESTABLISHMENT

D R A F T

CHARLES COUNTY CONSERVANCY, INC.
ARTICLES OF INCORPORATION

FIRST: The undersigned Thomas Mac Middleton, Murray D. Levy, Nancy J. Sefton whose post office address is Charles County Government Building, Washington Avenue, La Plata, Maryland, 20646, being at least eighteen years of age, do hereby form a corporation under the general laws of the State of Maryland.

SECOND: The name of the corporation (which is hereinafter called the Corporation) is Charles County Conservancy.

THIRD: The purpose for which the corporation is formed are as follows:

A. To promote for the use and benefit of the general public the preservation and improvement of natural resources principally in, but not limited to, the geographic area of Charles County, Maryland. These resources shall include land and water resources, the plant and animal life thereon, and unique scenic, natural and historic sites.

B. To engage in an promote the scientific study of and education regarding such natural resources.

C. To use all properties held or controlled by the corporation and the net earnings thereof for the use and benefit of the general public and for charitable, educational, recreational, conservation, scientific and historical purposes.

FOURTH: The Corporation shall be authorized to acquire by gift, devise, bequest, lease, purchase, or otherwise real and personal property, both tangible and intangible, and interests therein, with or without restriction of use in accordance with the corporate purposes; to hold for investment or in trust and to sell, lease, encumber, or dispose of any such real estate, personal property or other proper evidences of indebtedness of any person, firm, partnership, association, or corporation for the benefit solely of this Corporation, and not for pecuniary profit.

FIFTH: The post office address of the principal office of the Corporation in Maryland is Charles County Government Building, Washington Avenue, La Plata, Maryland 20646. The name and post office address of the resident agent of the Corporation in Maryland are Thomas Mac Middleton, Charles County Government Building, Washington Avenue, La Plata, Maryland 20646.

SIXTH: THE CORPORATION SHALL NOT BE AUTHORIZED TO ISSUE CAPITAL STOCK.

SEVENTH: The number of directors of the Corporation shall initially be three (3), which number may be increased or decreased pursuant to the by-laws of the Corporation. The names of the directors who shall act until the first meeting or until their successors are duly chosen and qualified are:

Thomas Mac Middleton, Murray D. Levy, Nancy J. Sefton

EIGHTH: The following provisions are hereby adopted for the purposes of defining, directing, and regulating the powers of the Corporation and of the directors and members:

"Said corporation is organized exclusively for charitable, conservation, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue code, or corresponding section of any future federal tax code."

"No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article THIRD hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public.

NINTH: The duration of the corporation shall be perpetual. In the event of dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for an exempt purpose, any such assets not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations as said court shall determine, which are organized and operated for such purposes.

IN WITNESS WHEREOF, We have signed these Articles of Incorporation on _____ and severally acknowledge the same to be our act.

_____
Thomas Mac Middleton

_____
Murray D. Levy

_____
Nancy J. Sefton

D R A F T

BY LAWS OF
CHARLES COUNTY CONSERVANCY, INC.

Article I - Board of Directors

Section 1. General Powers. The property, affairs and activities of the Corporation shall be managed by a Board of Directors consisting of nine (9) members, as may be initially determined by the initial Board of Directors and as may be determined thereafter by appointment and at the Annual Meeting by the general membership. Five of the Directors shall be appointed by the Charles County Commissioners, one being the Chairperson of the Charles County Planning Commission or designee. The powers of the Board of Directors shall include the authority to accept, transfer and encumber property and interests in property and the authority to retain any necessary staff or contractors.

Section 2. Election. Officers and Non-appointed. Nonappointed Directors shall be elected by the general membership at the recommendation of the Nominating Committee at the Annual Meeting. Each director shall serve until a successor is elected and qualified.

Section 3. Terms of Office. Members of the Board of Directors shall be appointed or elected for One (1), two (2), and three (3) year terms initially, and thereafter shall be elected for two (2) year terms and shall assume their posts at the Annual Meeting of the Board of Directors. The terms of members of the Board of Directors shall expire on a rotating basis, with no more than one-third (1/3) of the director's term expiring at any one time.

Section 4. Removal. Any officer or elected director may be removed by affirmative vote of a majority of the current directors on the Board of Directors for failure to participate, non-performance of duties (i.e. missing three consecutive meetings) or other cause deemed sufficient by the Board. Appointed directors may be removed at the discretion of the Charles County Commissioners.

Section 5. Vacancies. In case of vacancy, the remaining directors may elect a successor to an elected director for the remainder of the vacant term. Vacancies of appointed directors shall be filled by the Charles County Commissioners.

Section 6. Call and Notice. The Board of Directors shall meet on call by the President or on written request filed with the Secretary by four or more directors. The Secretary shall give reasonable notice to each director of the time, place and date of each meeting by notice in writing mailed, postage prepaid, not later than the tenth day before the date set for the meeting and addressed to the director's last known post office address according to the Corporation's records, or by telegraphic or telephonic communication or notice in writing delivered personally

to the director's residence or usual place of business not later than the second day before the day set for the meeting. No notice of the time, date, place or purpose of any meeting need be given to any director who, in writing executed and filed with the records of the meeting either before or after the holding thereof, waives such notice or who attends the meeting.

Section 7. Annual Meeting. The Annual Meeting of the Board of Directors shall be held at the same place and on the same date as the Annual Meeting of members and at such time as the Board of Directors shall determine by resolution. Notice of the time, date and place of the Annual Meeting of the Board of Directors shall be given in the manner set forth in section 6. All meetings shall be governed by Robert's Rules of Order. The Board of Directors shall keep minutes of its meetings and a full account of its transactions. In the absence of notice or call, annual meetings shall be held in May.

Section 8. Quorum and Voting. At every meeting of the board, a quorum shall consist of a majority of the current directors serving on the Board of Directors. Unless otherwise specified in these By-Laws, the majority vote of those persons actually present at a meeting at which there is a quorum will prevail on all matters. There shall be no voting by proxy.

Section 9. Compensation. Directors shall receive no compensation for their services as such but may, by resolution of the Board of Directors, be allowed reimbursement for their expenses actually and reasonably incurred on behalf of the Corporation.

Section 10. Informal Action by Directors. Any action of the Directors may be taken without a meeting if a consent in writing setting forth the action taken is signed by two-thirds (2/3) of the Directors and filed with the minutes of the Corporation.

Section 11. Honorary Board. The Board of Directors shall by resolution, form an honorary board of directors made up of members of the Charles County Conservancy (the "Honorary Board") which shall serve as the Nominating Committee and have such duties and responsibilities as the Board of Directors shall determine. (See reference Article II, Section 5.) The Board of Directors shall elect members of the Honorary Board and any persons so elected shall serve at the pleasure of the Board of Directors.

Section 12. Special Meetings. Special meetings of the Board for any purpose or purposes may be called at any time by an officer of the Board or any two directors. Special meetings of the Board shall be held upon 4 days' notice by first class mail or by 48 hours' notice given personally or by telephone of similar means of communication, but such notice may be waived by any director. Any such notice shall be addressed or delivered to each director at such director's address as it is shown upon the records of the corporation or as may have been given to the corporation by the director for purposes of notice.

Section 13. Participation in Meetings by Conference Telephone. Members of the Board may participate in a meeting through use of

rence telephone or similar communications equipment, so s all members participating in such meeting are in simultaneous communication with one another, all such Directors shall be deemed to be present in person at such meeting.

Section 14. Rights of Inspection. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the corporation of which such person is a director.

Section 15. Self-Dealing Transactions. The Board shall not approve a self-dealing transaction except in accordance with this section and in compliance with Section 2-419(b) of the Maryland General Corporation Law. A self-dealing transaction is one to which the corporation is a party and in which one or more of the directors has a material financial interest or a transaction between this corporation one or more of its directors or between this corporation and any person in which one or more of its directors has a material financial interest. The Board of Directors may approve a self-dealing transaction if the Board determines that the transaction is in the best interests of and is fair and reasonable to the corporation, and after reasonable investigation under the circumstances, determines that this corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances. Such determinations must be made by the Board, in good faith, with knowledge of the material facts concerning the transaction and the directors' interest in the transaction, and by a vote of the majority of the directors then in office, without counting the vote of the interested director(s).

Article II - Officers and Committees

Section I. Officers. The officers of the Corporation shall be a President, Vice President, Secretary and Treasurer. All officers shall be Directors and shall be elected by the general membership at its Annual Meeting or whenever a vacancy occurs. Each officer shall serve for one year or until a successor is elected and qualified. The Board of Directors may, from time to time, appoint such other officers as it deems necessary. Appointed Directors are eligible to become officers.

Section 2. Powers and Duties. The President's powers and duties shall include:

a. Being the executive officer and overseeing the carrying out of programs.

b. Presiding at all meetings of the members of the Board of Directors.

c. Signing or endorsing checks, drafts, and notes in conjunction with the Treasurer.

d. Acting as an ex-officio member of all committees except the Nominating Committee.

e. Presenting an annual report to the Commissioners of Charles County and to the members at the Annual Meeting or designating a representative to present said report.

f. Signing all contracts and other instruments authorized by the Board.

g. Overseeing the hiring and firing of all salaried executive staff.

The Secretary's duties shall include:

a. Keeping minutes of all meetings of the membership, the Board of Directors and the Executive Committee.

b. Maintaining a file of the official documents and records of the corporation as directed by the Board.

c. Mailing notices of all meetings of the membership, the Board of Directors and the Executive Committee.

The Treasurer's duties shall include:

a. Collecting and receiving all monies due.

b. Acting as custodian of these monies and depositing them in a bank designated by the Board of Directors.

c. Disbursing the corporate monies in accordance with the budget or upon order of the Board and signing checks together with the President and/or other unauthorized officers.

d. Maintaining books and ledgers as directed by the Board.

e. Preparing monthly financial statements and presenting such statements to the Board or Commissioners of Charles County on request.

f. Reporting at the Annual Meeting of the memberhsip.

g. Performing such other functions as may be incident to the office.

h. Providing a bond to protect the Corporation.

Section 3. Executive Committee. The Board of Directors shall elect an Executive Committee consisting of the officers of the Corporation and one additional Director who shall be a County Commissioner appointee. The Executive Committee shall act for the Board of Directors during the period between Board meetings and shall exercise all powers of the Board except any which have been expressly reserved by resolution of the Board or by these By-Laws. The Secretary shall give reasonable notice to each member of the Executive Committee of the time, date and place for each committee meeting.

Committees. The Board of Directors may appoint such committees as it deems necessary to implement the purposes Corporation. The Board of Directors may authorize committees to exercise any powers of the Board.

Section 5. Board Nominations and Appointments. Prior to the Annual Meeting of the members, the Honorary Board shall nominate persons for the directors positions becoming vacant. The President shall appoint one board member to assist the nominating committee in this function. Board appointments by the Charles County Commissioners shall be made prior to the Annual Meeting.

Section 6. Alternates. In order to maintain the quality and continuity of executive committee meetings, the executive committee may by resolution provide for the attendance of alternates at such meetings in case of the unavoidable absence or inability of an executive committee member to attend. In no case, however, shall more than two alternates participate in any one meeting; nor shall a member be permitted to designate an alternate to attend at more than one-half of the meetings of the executive committee in any calendar quarter. If so provided by the executive committee, an alternate may vote and be counted for the purpose of determining a quorum for action on any matter except: (1) any matter related to changes of the articles, by-laws, directors and officers of the corporation, or (2) to the membership or rules of conduct of the executive committee.

Article III - Financial Affairs

Section 1. Fiscal Year. The fiscal year of the Corporation shall end of December 31 of each year.

Section 2. Bank Accounts. The funds of the Corporation shall be deposited in one or more banks or financial institutions as designated by the Board of Directors. All checks shall be signed by such officer or officers as the Board may from time to time designate.

Section 3. Insurance. The Board of Directors shall secure insurance to protect the Corporation, the Board of Directors and the officers from liability.

Section 4. Indemnification. To the maximum extent permitted by the Maryland General Corporation law, as from time to time amended, the Corporation shall indemnify its currently acting and its former directors and any director who serves or has served, at the request of the Corporation, as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any and all liabilities and expenses incurred in connection with their services in such capacities. The Corporation shall indemnify its currently acting and its former officers to the same extent that is indemnifies its currently acting and its former officers to such further extent as is consistent with law. The corporation may indemnify its employees and agents and to the extent determined by

the Board of Directors. The Corporation may also advance expenses, to the extent permitted by the Maryland General Corporation Law, to persons referred to above.

Section 5. County Funds. The Commissioners of Charles County shall approve all expenditures of County funds provided to the Charles County Conservancy.

Section 6. Annual Report. The board of the Charles County Conservancy shall submit an annual report of its activities to the Commissioners of Charles County. The Commissioners or their agents shall conduct an annual audit of the books and records of the Board.

Article IV Miscellaneous

Section 1. Gifts. The Board may accept on behalf of the Corporation any contribution, give, bequest or devise for the general purpose of the Corporation.

Section 2. Amendments. These By-Laws may be amended by the approval of the Board at any meeting duly called pursuant to the Articles or By-Laws, provided that the amendment has been submitted in writing to each Board member prior to the previous regular meeting.

Section 3. Membership. Membership in the Charles County Conservancy is open to anyone. Membership categories shall be defined by the Board.

Establishment
Of
Charles County Conservancy

Process

1. Commissioners, as individuals, act as incorporators and initial Board of Directors. Park Board Functions could be combined with Conservancy functions. (Parks Board Chapter of County Code attached.)

2. Commissioners appoint steering committee which recruits nominees for Conservancy Board and approval by the Commissioners, and which drafts Conservancy by-laws. Steering committee members could include representatives from: the County Park Board, Planning Commission, Audubon Society, Izaak Walton League, Board of Education, SMBIA, EDC, Charles County Bar, Farm Bureau, etc. Broad representation is ideal. Planning staff provides support to committee.

3. Commissioners approve Conservancy board and by-laws.

4. Conservancy board begins functioning with planning staff support.

5. County could fund Executive Director for Conservancy.

Public Benefit and Use

Sections A and C of the Third Article of the draft Articles of Incorporation stipulate that the Corporation's purpose and lands are for public benefit and use.

Accountability

The following sections of the Articles of Incorporation and draft by-laws ensure accountability of the Charles County Conservancy:

Articles:

Sixth - corporation cannot issue stock

Seventh - Commissioners as individuals are initial directors and are responsible for choosing successors.

By-Laws:

Article I

Section 1 - Commissioners appoint five (5) of nine (9) board members.

Section 2 - General membership elects non-appointed board members and officers.

Section 3 - Board members have two-year terms.

Section 11 - Board nominating committee made up of members.

Section 14 - Records open to inspection by board members.

Section 15 - Self dealing transactions subject to board investigation and approval.

Article II

Section 3 - Commissioners appoint a member of executive committee.

Article III.

Section 5 - Commissioners approve expenditures of County funds.

Section 6 - Conservancy board presents annual report to Commissioners, which is audited.

Article IV.

Section 3 - Membership open to Charles County residents.

MEMORANDUM

TO: Mel Bridgett, County Administrator

THRU: Jacquelyn M. Magness, Director of Planning JGM for

FROM: George J. Maurer, Senior Environmental Planner JGM

DATE: August 31, 1990

SUBJECT: Land Trust Information per Commissioner Levy's Request

The attachments to this memo are provided to you pursuant to Commissioner Levy's request at the August 28 work session on the establishment of a land trust. Attached are a matrix on the advantages and disadvantages of private vs public land trusts and a partial list of potential sources or members for a land trust steering committee or board. I believe the County can enjoy the best of both worlds in terms of public vs private trusts, by establishing a private land trust with appropriate accountability measures for County oversight. Key accountability measures could include: Commissioner veto over board selections and by-law changes, conformance of land trust acquisitions with the Comprehensive Plan, annual report submission to the Commissioners, and Commissioners approval of expenditures of County funds.

cc: Roy E. Hancock
Attachment

ADVANTAGES/DISADVANTAGES OF PRIVATE VS PUBLIC LAND TRUSTS

ISSUES	PRIVATE* LAND TRUST	PUBLIC** LAND TRUST
Ability to maximize charitable giving or land donations	+	-
Landowner receptivity	+	-
Availability of dedicated government revenue	-	+
Subject to political influences	+	-
Freedom to act expeditiously or with flexibility without governmental procedural, budgetary, or statutory constraints	+	-
Playing a role in implementing a Comprehensive Plan	+	+
Acquiring land for transfer to government	+	+
Accepting land transfers from government	+	+
Accountability on the use of government funds.	+	+
Permanence of land protection and stewardship	+	-
Privacy of land negotiations	+	-
Tax exempt status	+	+

* An incorporated land trust that is totally or largely independent of government. By-laws of such a trust can include accountability measures for government oversight.

**A land trust that is created by ordinance or incorporated as an arm of government.

\+ A likely or potential advantage

\- A disadvantage likely or potential

POTENTIAL NUMBERS OR SOURCES FOR LAND TRUST STEERING COMMITTEE OR BOARD

Board of Education
Planning Commission
Park Board
Park Superintendent - Tom Roland
Farm Bureau
Audubon Society - George Wilmot
Izaak Walton League
SMBIA - Warren Barley
EDC - Wes Hughes
Bar Association - Tom Mudd

Steering Committee and Board membership should represent a broad cross section of the County. Key representatives include those with environmental, real estate, banking, agricultural, legal and business contacts or expertise. County government officials with decision making authority on land use matters should be ex-officio members in order to avoid conflicts of interest. A completed list will be developed for the Commissioners to establish a steering committee.

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