

GARRETT COUNTY YOUGHIOGHENY RIVER ADVISORY BOARD
Garrett Community College
Thursday, July 9, 1998, 7:00 - 9:30 p.m.

MINUTES

Board Members Present

Don Sebold
Roger Zbel
Sull McCartney
Asa McCain
Rusty Thomas
Jeremy Thayer
Phil Frantz

Staff

John Nelson

Board Members Absent

Jim Simms
Shaun Sanders

Guests

Patty Manown-Mash
David W. Baker
Gary Yoder
Danny Teets
Larry Teets
Dan Clements
Paul Durham
Ken Pavol
Pam Andersen
Mary Goldie Stubbs
John F. Wilson

Call to Order - The meeting was called to order by Chairman Sebold at 7:10 p.m.

Approval of the Minutes - The Board discussed a correction to the minutes of the working session held on June 17th. Since there was not a quorum, the business conducted was not official and this should be reflected in the minutes of the meeting. The Board voted to amend the June 17th minutes and to approve them as amended. The minutes of the May 28th meeting were approved as written.

Public Comment - None

Board Discussion - The Board asked DNR staff to review the issues they had identified at the June 17th meeting. Pam Andersen distributed revised copies of the regulations and proceeded to address the Board's concerns. (Please note that the numbers, which follow, relate to the issues identified by the Board and are reflected in the June 17th minutes.)

Issues

1. The Board was concerned about the differences in the format of the regulations as contained in the plan and the revised regulations which have been distributed to the Board.

Pam explained that the new formatting is required by the Division of State Documents.

2. The Board did not clearly understand the difference between “activity” and “use”. Pam indicated that she had added a clarification sentence to the definition of “activity” to include a “recreational pursuit”.
3. The Board wanted to know if the management plan needed to be changed to reflect the changes in the regulations. John Wilson indicated that once the revised regulations were finalized, they could be inserted as the new Appendix G. The Board debated the issue of whether commercial fishing should be allowed on the Youghiogheny River. Pam, Paul and John tried to explain that fishing was a legitimate use of the River and the Department was trying to clarify this by revising the “Wild River” regulations. After considerable discussion and a motion by Phil Frantz, the Board members voted (six to one) to support the Department’s effort to clearly define the “Scenic Corridor” and what constitutes a “commercial activity”.
4. Pam Andersen indicated that it was not an acceptable practice to use the word “service” as part of the definition of “guide service”.
5. Pam indicated that she had added the word “placed” as part of the definition of “structure” as a way to address temporary structures or mobile structures, such as buses.

Phil felt that the word “water” should be included in the definition of the “Wild River”. This addition would remove any question about what constitutes the River. Pam indicated that the “Scenic Corridor” could be defined as the “water within the Wild River and the River’s bottom”.

6. Pam indicated that it was the Department’s intent to include the entire river bottom in Zone 1.
7. Pam Andersen agreed to remove the last phrase “in the zone within which activities are to be conducted”. Chapter 2, Section B would read, “Unless otherwise provided by law or in these regulations, no commercial activities shall take place on land or water within the Scenic Corridor, except as permitted by these regulations”.
8. In Chapter 2, Section .02A, the word “before” will be deleted, and therefore, there should be brackets in front of and after the word “before”.
9. Jerry Thayer suggested that 100 foot buffer is not related to the issue of commercial fishing. John Wilson explained that the current regulations talk about an area of where no disturbance will occur. This addition to the regulations is an attempt to define that area. DNR staff also reminded the Board that it was the Department’s overall intent to do a general clean-up of the regulations and not just address commercial fishing. Phil and Don felt that the proposed 100 foot buffer unfairly restricts their rights and could possibly constitute a “taking”. The DNR staff indicated that buffers have been used in other areas (the Critical Area around the Chesapeake Bay) and have not been ruled a “taking”. There

was considerable discussion regarding the restrictive nature of this buffer. Phil suggested that the existing timber harvesting BMPs do an adequate job of protecting the Youghiogheny River and maybe this language should be used. Phil and Don also felt that there needs to be a mechanism which allows the removal of trees which are knocked down by ice or wind. Roger Zbel and Rusty Thomas expressed concerns that previous timber harvests have cut trees right down to the River. Sull McCartney indicated that he agreed with a no-cut buffer and he didn't feel that trees left down were wasted. Although there was considerable discussion, the Board did not identify any agreed course of action to resolve this issue.

Pam Andersen described the change in the proposed regulations that would require all recreational users to have written permission from the landowner if the land was posted. Don disagreed with this approach and there was considerable discussion related to this issue of trespass. Gary Yoder indicated that it is extremely difficult for anglers to know when they are on private property unless the land is posted.

10. John Nelson felt that the Board should be involved in requests for "exceptions". Pam and John indicated that the Department could use the County government as a mechanism for the distribution of these "requests for an exception". Pam suggested that the language could be changed to "ask " the Board to comment.

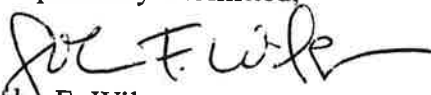
Don Sebold asked if the Board would receive any feedback on their input. John Wilson indicated that the Department would send Garrett County a copy of the proposed regulations following the period of Departmental review which they could distribute to the Board.

Since the issue of written permission was never resolved, Paul Durham asked the Board how they would like the language in the regulations to read. After considerable discussion, the Board voted (six to one) to require written permission regardless of whether the property was posted or not. Jerry Thayer and Sull McCartney felt that the State had a responsibility to inform the recreational user concerning the location of private property.

Rusty Thomas asked if the Department had developed a Fire Plan and a Rescue Plan. Paul Durham indicated that DNR had developed both plans.

There were no further comments offered by the public and there was no further business and the meeting adjourned at 9:30 p.m.

Respectfully submitted,



John F. Wilson