

Minutes from July 15, 2014

Agricultural Advisory Committee Meeting

Attendees: Tim McGrath, Paula Linthicum, Jane Evans, Chuck Schuster, Eddie Kuhlman, David Weitzer, Charlotte McGehee, Linda Lewis, Michele Cropp, Doug Lechluder, Aliza Fishbein

Ag preservation: Bob Cissel, John Fendrick, Mike Jamison, Vince Berg

Staff: Jeremy Criss, John Zawitoski, Katherine Holt

Guests: Ellen Bogage, Tom Linthicum, Nicholas DeLuca, Chris Gillis (George Leventhal's office)

1. Introductions

With guests present, brief introductions were made.

2. Continued Discussion on the DISCUSSION DRAFT OF POSSIBLE PESTICIDE LEGISLATION – Review of the discussion from the May 20, 2014 meeting.

Last meeting, a proposed pesticide bill was presented to the Agricultural Advisory Committee (AAC) for comment. This month, more members of the farming community were present for a continuation of the pesticide bill discussion. In attendance were Ellen Bogage, Chesapeake Public Strategies, Bob Cissel, APAB Chair and Montgomery Agricultural Producers-MAP, members of the Montgomery County Farm Bureau and members of the Agricultural Preservation board.

The discussion opened with Bob Cissel who recently met with Council Member George Leventhal, the author of the bill. Bob explained that when the Montgomery Agricultural Producers (MAP) saw the proposed legislation, they felt it was important to go sit down with Councilmember Leventhal. Bob gave a brief synopsis of MAP's meeting with the Councilmember:

Despite the opposing views of MAP, Councilmember Leventhal said he would be moving forward with the bill. His concerns were for the adverse effects that pesticides have on pregnant women, young children and the elderly. It was noted that similar legislation has been enacted in other counties and states. MAP disagreed with the study that Councilmember Leventhal was using as evidence. MAP stated their position and submitted a letter that explains why the group is against the legislation. While agriculture is generally exempt from the bill, there are worries that if this bill passes, down the road, farmers will eventually be added to those who will have to conform to new regulations. MAP pointed out to Councilmember Leventhal that there are a couple thousand acres of farmland in Montgomery County that are leased by farmers but owned by the County. Under the proposed legislation, farmers using this land would have to conform to the new legislation. To this, Councilmember Leventhal agreed to revise the legislation to exempt farmers leasing county property.

After hearing about the MAP meeting with the Councilmember, further discussion ensued. To reduce redundancy, arguments that were already made and noted in the May 20 Meeting Minutes were omitted here.

New topics/points that were made are captured in the bullets below:

- Paula Linthicum wanted to see exactly where in the proposed legislation Agriculture was exempt. Many responded with different locations in the bill – notably line 57 and line 118.
- Linda Lewis referenced page 4 line 57 where the word “commodity” is mentioned. She asked, in this bill, “what is a commodity?” The definition in the legislation did not include fruits, vegetables and sod. This definition will be to be broader. This will be included in the suggestions made by AAC.
- John Fendrick addressed the issue that if someone puts a day care right next to his farm, under this bill, he would have to abide by the new regulations because of the drift and carry of pesticides. Now he wouldn’t be able to spray his own property.
- Others came up with existing examples of where current farms are located next to land that would be regulated by this bill. Adjacent properties would then have to be regulated as well because of their close proximity to regulated properties. Ovid Hazen Wells Park was noted as an example – the adjacent farm grows commodity crops. Currently, these adjacent farms are still exempt but these types of situations could be used down the road to extend the bill.
- Chuck Shuster said that the intent and purpose of the bill needs to be very explicit so that others in the future do not go outside the bounds of the original intent. He noted that future lawyers and lawmakers may have different interpretations that can lead to more regulation if the bill isn’t very carefully, explicitly written. Chris added that bills can include “intent” but when asked if intent was binding, he answered, “No.”
- Paula Linthicum wanted to make Council Member Leventhal aware that this bill has the very real potential of harming farmers’ ability to operate their business.
- Chuck Shuster pointed out that there is no protection for the farmer when the farm is adjoining a soccer field that does fall under the parameters of the bill. This needs to be included.
- Paula Linthicum asked if there is or could be an exemption for the Ag Reserve?
- Bob Cissel said that MAP’S concern is that the bill is not definitive about pesticides – It doesn’t name one pesticide it wants to ban. MOCO does not have someone on staff to determine what pesticides are supposed to be banned. He described the bill as being a “broad brush stroke” where it should be very carefully defined. As it is now, the bill bans “non-essential” pesticides and “non-essential” is not easily defined.
- Tom Linthicum also noted that there is no definition for essential or non-essential. Section 107-112 that tries to define it by listing products he says is not sufficient. A good definition is needed. Tim added that there is too much interpretation in the draft of the bill.
- Linda Lewis reminded everyone that this is another layer of regulation on top of the already existing EPA regulations. She referenced line 124.
- Mike Jamison referenced line 297 – 301 and asked who is the authority dictating Integrated Pest Management. He wanted to know who was making the decisions on what chemical is worse than others and what science was behind the decision. There

needs to be a qualified person deciding which pesticides are more or less environmentally friendly.

- Bob Cissel added that there is no one on the County staff that has the expertise to determine what pesticides should be banned. He said such a person would need to be hired. This highlighted the fact that the bill is not revenue neutral and would require funding even though it is supposed to be managed by complaint rather than regulated by a County agency.
- John Z. chimed in that a fiscal impact statement would need to be written to truly determine the fiscal impact. He said a comprehensive study would need to be done by an independent contractor.
- Chuck Shuster wondered why there is an attempt to regulate pesticides outdoors when nothing is being done to regulate what is going on inside day cares. There are many chemicals and products that are used indoors that might have negative health impacts.
- Bob and others agreed a better solution to regulating pesticide use would be to enforce current legislation. Many farmers have an applicators license and use tools like wind meters to determine whether spray will drift.
- Another component that would help would be to have more education. If products are used responsibly and according to their label, they are very safe. It is when they are used incorrectly that they become a problem. Educating homeowners who are using these products would be beneficial.
- Chris said that it would be very difficult to require homeowners to have a license.
- Bob Cissel said that the proposed legislation will require homeowners to put up signs in their yards when applying pesticides in larger than a 100 SF area. He said that this would be very hard to enforce and so it likely will not happen. Homeowners often over treat their yard because there is no regulation while farmers are very regulated and thus tend to use products in accordance with their instructions.
- Doug Lechlinder added that this legislation would have negative unintended consequences. As a sod farmer, a product that is considered “non-essential,” he worried about the legislation increasing and becoming more stringent in the future.
- John Fendrick said that there were parts of the legislation the farming community could agree on. He suggested pulling those parts out and making that the bill.
- Jeremy Criss said that before we start outlining what the farming community agrees with, we first need to make it clear that this bill is not supported by the ag community. He lobbied for having all farming groups go on record as being opposed to pesticide legislation.
- Paula Linthicum wanted to see how many people are negatively affected by pesticide application. She was interested in how big of an issue this really is.
- John Z pointed out that producers will be affected by this bill even if they are exempt.
- Bob Cissel said the bill is a stepping stone to future regulation that is going to inhibit the farming community’s ability to earn a living farming. Councilmember Leventhal cannot predict what happens to the bill in the future. Bob noted that private schools are not exempt and wondered if this bill would be grounds for future lawsuits.
- Many asked what the timeframe for the bill was and no definitive answer was given.

- Suggestions were to re-do the legislation, support existing controls, do more research and use broader definitions for agriculture.
- It was noted that the education piece is important. The other side of the pesticide story is how much they are needed and the good they do. Both viewpoints should be part of the discussion.
- Linda Lewis remarked that under current law, noxious weeds must be controlled. She pointed out that on her way into the County building where the meeting was held, she noticed thistle that had been there since the May meeting. Her point was that if laws are unenforced, they are ineffective. The noxious weeds outside the Montgomery County building should have been removed. Regulation is an important consideration when writing this new bill.
- Michele Cropp again noted the difficulty of getting rid of weeds like thistle without the help of pesticides. It is nearly impossible.
- Ellen Bogage said that Integrated Pest Management is not covered in this bill. Under this bill, it would not be allowed.
- The question was asked if any other council-members are involved with this bill. The answer was that no one else is sponsoring the bill at this time (other than Council Member Leventhal).
- John Z said it was important not to vilify chemicals. There are many that have extended the lifespan of humans – if we are going to look at adverse effects; we also need to see the positive ones.
- Paula Linthicum closed by asking if this bill was really necessary. Is it ethical for one councilmember who has a personal pursuit to change the lives of many in the county?
- Please note that AAC moved on to the other agenda items and then prior to adjourning the meeting the discussion on the Pesticide legislation continued as follows:
- Jeremy Criss said that he shared the Draft Pesticide Legislation with the MSCD, APAB, and MCFB and all of these agricultural groups are opposed to the Legislation.
- Doug Lechluder said this is a bad bill and the AAC should oppose it even though it contains an agricultural exemption. I do not think we need to point a finger at the homeowner. I am a homeowner in the County and I do not think I am a problem. We should not support an agricultural exemption and then point our finger at non-farmers.
- Aliza Fishbein said it was strange the legislation exempts County School properties but it applies private schools properties and golf courses.
- Doug Lechluder said if this Bill passes over time bit by bit it will create an environment to take away rights to farmers.
- Eddie Kuhlman said the AAC should flat out oppose Legislation. When the AAC including Hal Baker decided many years ago to support the Rustic Roads Program and we tried to make it work and we quickly learned this was a big mistake.

3. Approval of the AAC minutes from May 20, 2014

The minutes were approved. Eddie Kuhlman abstained. *(McGrath/Cropp)*

4. Update on New Appointments to the AAC

Aliza Fishbein, the new non-farmer appointment to the AAC was present. Nick DeLuca was present as a non-farmer member who is interested in joining. There was a brief discussion on changing the terms of the non-farmers to match those of the farmer members. Many AAC members agreed that this would be a worthwhile change to the current term structure and provide clarification that all AAC members (Farmers and Non-Farmers) would serve no more than 6 years.

5. Bill 35-14 Discharge of Bows-Amendments to reduce the safety distance from 150 yards to 100 yards

There was a public hearing on Bill 35-14 that reduces the safety distance for bow hunters from occupied buildings/state roads from 150 yards down to 100 yards. The original proposed bill attempted to reduce the safety distance to 50 yards. The general assembly compromised by reducing the safety distance to 100 yards. Once the bill passes in the County, it will be one step closer to making the safety distance consistent with state legislation. Bob Cissel explained that MAP was present to help argue for the reduction. He warned that there is a movement in the county to stop Sunday hunting. He suspects that the next issue that will be debated is hunting on Sunday.

6. Follow up from the Request from William Hendry-Forest Mitigation on the Purple Line

William Hendry owns a farm across the street from the Agricultural History Farm Park that totals 216 acres, is agriculturally assessed and located in the residential zones. Mr. Hendry requested that Jeremy Criss and the Ag Community help address the recent demands of the Maryland Transit Administration-MTA who plans to conduct forest mitigation on a portion of the Hendry farm to offset the construction and removal of forest along the proposed Purple Line. The Purple Line is a 16.2 mile light rail transit line between Bethesda and New Carrollton, Maryland. Mr. Hendry would like to raise the following question to MTA:

Are there public owned properties that forest mitigation should be considered by MTA before they consider private property that is actively being farmed? It was sited that when the ICC was constructed the state fulfilled forest mitigation requirements by planting trees on property owned by WSSC along the Patuxent River water shed.

After understanding the issue, the AAC felt that forest mitigation should be done on public property and would aide in the discussion if needed to make sure farm owners are not required to shoulder the burden of development down-county.

7. Update on recruiting farmer representatives on the Rustic Roads Advisory Committee RRAC

Jeremy Criss gave a brief update on how the recruitment was going for finding farmer representation on the RRAC. He mentioned the following farmers that should be considered: Audrey Patton, Randy Stabler, Todd Greenstone. He also mentioned the need for new farmer representatives on all the farming committees.

8. Follow up discussion on the RRAC. Letter from AAC, APAB and RRAC to the County Executive and copied to the council members and Director of DOT.

Jeremy Criss asked everyone to review the Draft letter from the agricultural groups to the County Government regarding ways to improve Rustic Roads in the County. Criss said the draft letter is a work in progress and he would welcome any comments or changes from the groups before it is finalized.

9. Message regarding interview process and questions for applicants that applied for the Chair of the Montgomery County Planning Board.

The new Chairperson of the Montgomery County Planning Board is Casey Anderson. It is believed that Casey Anderson could benefit from being educated on the role and importance of agriculture in our community. He doesn't believe there are many farmers in the Agricultural Reserve and that there are not many children going into farming. Paula Linthicum suggested the MCFB, AAC and MSCD should conduct some small farm tours for the new chair that would be beneficial.

10. Update on the 2014 Deer Damage Survey –

The DED has received 26 completed surveys. Most imply that we aren't making a dent in the deer population. Deer continue to do extensive damage to agriculture. The group was reminded about the deer donation program and the cold boxes. It was suggested that DNR advertise these cold boxes that are free if the meat is donated. Tom Linthicum said he spoke with Paul Peditto regarding how the DNR can help with the education and outreach to County Licensed hunters.

11. Follow up on the SHA-Ag Tourism Signing Program

The County is still waiting for a response from the SHA regarding the questions that were raised on the program. The Program requires that County trail blazer signs must be installed first before any signs are installed on then state road. The issue came up for those farms that are on state highways.

12. Next agricultural advisory committee meeting –

The August 19, 2014 Agricultural Advisory Committee meeting will be cancelled. However, there will be a brief meeting on August 11th to approve the minutes of the Pesticide Discussion that will be submitted to George Leventhal. Please note there was no quorum to approve the minutes from the brief meeting of the AAC.

The meeting was adjourned at 9:30 pm .