

Montgomery County Agricultural Advisory Committee
Meeting Minutes
February 16, 2021

Attendees: Debra Tropp, Doug Lechluder, Pete Driscoll, Jane Evans, Ben Butler, Amanda Cather, Patrick Jamison, Jordan Cissel, Russ Allnutt, Aliza Silver, Eleanor Leak, John Brewer

Guests: Adam Ortiz (Dir. of MoCo DEP), Chuck Schuster, Alan Soukup (DEP, Sr. Planner, Intergovernmental Affairs Division), Steven Shofar (DEP, Division Chief of Intergovernmental Affairs Division), Randy Stabler, James Colihan (farmer in Barnesville), Adam Darkins (Garrett Park, attending as a guest), Ellen Gordon,

Staff: Jeremy Criss

1. **Call the Meeting to Order-Introductions:** 7:02 pm
2. **Approval of the January 19, 2021 AAC meeting minutes.**

Approved as amended. (Driscoll/Leak)

3. **The Montgomery County Department of Environmental Protection-DEP is proposing legislation that will require all residents with septic systems to have them pumped out every 5 years and there will be a \$100 rebate. The purpose of legislation is to protect groundwater and extend the life of the septic systems. Representatives from the DEP will be attending our AAC meeting to discuss this further.**

Adam Ortiz joined the meeting to present this new legislative proposal to the AAC. He described how the county is focusing on cleaning up our streams and tributaries that lead to the Chesapeake Bay. He complimented the partnership between DEP and OAG and explained that DEP wants to tighten up septic systems. The county does not have a strong grasp on the integrity of septic systems, as there is no inspection requirement. It is a liability environmentally and we are also subject to the Clean Water Act; we need to comply with TMDL requirements for things like bacteria etc. DEP has proposed legislation, but they want to get feedback from stakeholders first, including the agricultural community.

Steve Shofar: The legislation would require that property owners who have a septic system pump their tanks once every 5 years and report that. They are proposing a \$100 rebate to residents who do that.

Alan Soukup: The proposal would require septic tank pump outs. We estimate the county has 20,000 septic systems. Within the AR zone, there are about 9,600 septic systems. Slightly less than half are in the AR. Several years ago, DEP recognized that once a septic system is permitted and installed the county has no further interaction with the owner of the systems until it fails. That has raised concerns over the years.

Periodic maintenance of septic systems can increase the longevity and reduce the need for significant costs. DEP is initiating a septic system management program, to include a database inventory of existing wells and septic systems in the county, provide outreach assistance about operation and maintenance for well and septic systems, and planned online mapping access for well and septic system owners. The Department of Permitting Services recommends that septic owners pump out their tanks at least once every two to five years, depending on usage.

Doug Lechluder question: have you talked to people in the business of pumping these tanks?

Steve: not yet. But we expect to do that. This legislation would have impact on pumpers and haulers. We have spoken with WSSC about what impact this will have on their facility at Muddy Branch.

Doug: I am unsure if they have the capacity at Muddy Branch.

Alan Soukup: we expect to divide the county into 5 areas; one area for each year. We expect this to take a while to ramp up. WSSC has plans to open a new facility on Gude Dr., which will increase their capacity.

Jane Evans: do you have the staff and facility for all the recordkeeping? Many of these tanks do not have cover or access point and they need to be located, how much of a problem will that present? Some people may not know where their tanks are.

Alan Soukup: We are working with IT staff on mechanisms to manage the data flow for this program. Ultimately it could require more time and effort. Folks are going to need to install covers to the septic tanks.

Randy Stabler: the rebate seems a bit deceptive since it comes out of our taxpayer dollars. I understand that our sewage treatment plants are not up to the Watershed Implementation Goals for the Chesapeake Bay. Is this the cheapest way for the county getting to reach this end goal? I would like to see data that our septic systems are polluting our groundwater.

Adam: data shows that septic systems that are maintained are not a problem. We want to catch the ones that are not being maintained. We have a water quality protection fund, and that money is dedicated just to clean water. DEP makes decisions about how to use the money to best reduce pollution. We believe that septic systems that have a potential for polluting the waterways are worth paying attention to. The money comes from the water quality protection charge.

Steve: we get credit from MDE for every tank we pump, so that helps us save money. This would be an economical way to protect the groundwater. WSSC had a sanitary overflow consent decree where they spent over 1 billion dollars to upgrade their sewer system.

Alan: the wastewater treatment plants have undergone extensive upgrades using funds from the Bay Restoration Fund.

Ben Butler: septic systems can be expensive. These systems are designed to last 30-50 years. Will there be a discount or change in regulation on new systems now that they will be required to be pumped out every 5 years?

Steve: We are unaware of regulatory changes. You run the risk of discharging solids from your tank into your drain field and clogging your system. That means that you will have to replace your system sooner. We want to formalize reminders to get people to do the pumping and provide small compensation for doing the task.

Ben: how will this work? Will you mail letters to residents when it is their turn?

Steve: We plan to send out a mailer to property owners and ask for their contact information. It is best to get email addresses to remind you when your 5-year cycle is coming up. We could also send out letters, though it is wasteful of paper.

Ben: what type of follow up or enforcement after the letter is sent? Who determines frequent use?

Steve: if we do not get confirmation from property owners, we will send reminders, and the Department of Permitting Services or DEP could then take over enforcement. We chose 5 years to not overregulate.

Aliza: What is an average cost of pumping tanks in the county?

Steve: a typical tank is \$250-400 per pump. If you need someone to poke around to find your tank, that cost might be higher. Those may also be higher for larger tanks, like for those located in Potomac.

Jeremy: we would like to look at a copy of the legislation. Our job is to advise the County Council and Executive, so we will likely provide comments as part of the legislative process.

- 4. The County Council conducted a Straw vote on the Solar ZTA 20-01 on January 26, 2021. Please see the attached AAC letter that was remitted to the County Council. They voted 6 to 3 for conditional use of approval and 5 to 4 to protect both Class 1 and 2 prime soils from locating solar fields. The ZTA is supposed to be scheduled on the County Council agenda for ACTION February 23, 2021. We are trying to understand language of the amendments from the Straw Vote. The DEP is reevaluating the soils GIS layer to better understand why parcels greater than 15 acres in size was chosen when we are aware of several pending solar fields in both Howard and Baltimore counties that range in size from 4-13 acres.**

The AAC sent a letter with final recommendations to the County Council. The Straw Vote of the County Council from January 26, 2021 resulted in 6-3 for the conditional use of approval instead of the limited use for a site plan. There was a 5-4 vote to protect classes I and II soils from solar siting. Jeremy believes the ZTA will come back for Final Action on Feb 23. He is hopeful the amendments from the straw vote will be adopted. OAG met today with County Executive Elrich and DEP staff Sarah Ramirez about reevaluating the soils GIS data. Proponents had been saying they needed at least 15 acres to site solar fields, but in other counties using the conditional use process involves 4-13 acres. The density of solar fields is very high in parcels under 15 acres, which is how they are getting 2 megawatts. Usually, the rule of thumb is 1 megawatt requires 5 acres and 2 megawatts requires 10. Looking at Class III-VII soils with a contiguous 5 or more acres, that would provide Montgomery County with 445 total properties for a total of 4,462 total acres for potential solar fields.

This was all the result of months of work by Doug Lechliden and Randy Stabler -Jeremy thanks them for their efforts in getting us to this point on this solar policy.

5. **Council Member Andrew Friedson proposed Bill 5-21 Agricultural Land Preservation-Solar Collection Systems-Dedication of Business Personal Property Tax Revenue. The Public Hearing scheduled for February 9, 2021 was postponed because the Solar ZTA 20-01 has not been adopted by the County Council. *The AAC should provide a letter of support.***

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210119/20210119_11B.pdf 5.

Jeremy and Doug are working on the letter that the AAC has requested. The bill would program the County's share of business personal property taxes that the solar companies would pay to be used for the county's agricultural preservation programs.

6. **The County Council Approved the Composting ZTA 20-04 on February 9, 2021. This ZTA will increase the amount of off-site materials (wood chips, horse manure-bedding materials, food scraps) used in the compost process from 20% to 50%.**

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210209/20210209_12A.pdf

The ZTA will increase the percentage of off-site materials from 20-50%. This can include food scraps now as part of a composting pile in addition to manure and horse bedding, wood chips. The County Council did not have anyone testifying against this ZTA.

7. **The County Council introduced the Subdivision Regulations Amendment SRA 21-01 to exempt farm facilities from the subdivision process Chapter 50 for commercial buildings used for Agritourism, On-Site Farm Markets and Farm Alcohol Production. The public hearing is scheduled for March 2, 2021. *The AAC should provide a letter of support.* We learned that the MDE regulations require subdivision of lots that were recorded after November 18, 1985 and this regulation may negatively impact the SRA 21-01. There will be opposition on this SRA by the Planning Board and other civic groups.**

This would apply to a brand-new commercial building used for ag tourism, farm alcohol production, or on-site farm markets.

OAG learned that a MDE septic system regulation on a lot recorded after 1985, would have to go through subdivision. We will probably see some opposition to this subdivision amendment. Jeremy has spoken with Caroline Taylor and she has several valid concerns. Jeremy proposes an alternative system for reviewing a commercial building to be done with DPS pre-design consultation and perhaps a more formalized process for more comments from neighbors who raised challenges with and/or objections to the commercial building and the use.

8. Update on State Legislation for the 2021 Session.

HB 490 Pilot-Commercial sales venison-Deer Management Permits

This bill, sponsored by Delegate Fraser Hidalgo, would create a pilot program for deer harvested through deer management permits. There is currently a law that, administered by DNR and MDA that prohibits the commercial sale of venison.

HB 7 Income Tax Credit-Venison Donation Expenses-MC Deer Donation Program.

This bill would expand the 2018 tax credit for hunters who donate to the hungry and needy. It would apply specifically to hunters who donate through the Montgomery County donation program.

HB 1488 General Assembly overridden Governor's veto 2020-MD Farmer Procurement

This bill would require all Maryland food providers to create a nutrient management plan. If you wanted to sell to cafeteria or school, you would be in front of the line before other institutional buyers to give farmers leg up on the provision of food at wholesale levels.

HB 831 MD Food Resiliency Council-Food insecurity due to Pandemic

This bill would create a council to study food insecurity from the pandemic and make recommendations to promote greater food access.

HB 472 Glyphosate Prohibition-HB 474 was withdrawn by the sponsor

This bill is a prohibition on the use of Round Up. It was withdrawn by the sponsor last week. Chuck pointed out that this bill will be sent for a summer study, so it is not going away completely. We want to make sure what comes out of the summer study is supportive of agriculture's use. Jeremy will monitor the participants of the summer study and recommend the appropriate stakeholders.

HB 991 Forest Banking-Forest Banking Credits for existing, standing forests

Jeremy discussed this bill with the Maryland and Montgomery County Farm Bureaus in December. It would allow existing standing forests as eligible for forest banking credits, reversing the Attorney General's ruling on that matter.

HB 1069 Private Well Safety Program-New Transfer Tax

OAG is concerned about this possible brand new transfer tax administered by MDE. It is like the septic system bill we just learned about, but it is to protect the safety of wells.

HB 581 COVID-19 Differential Pay

Many folks are looking at this bill, which could require payments as high as \$9 million in back pay.

HB 577 H2A and H2B Seasonal Workers due to the Pandemic

This bill would require additional lodging requirements in conflict with federal housing statutes. The lead sponsor learned that H2B workers do not require housing, so as he is learning more this bill could be changed.

9. Adjournment. (Leak/Evans) 8:11 pm