

**Montgomery County Agricultural Advisory Committee
January 19, 2021 Meeting Minutes**

Attendees: Russ Allnutt (new farmer member, son of Ben Allnutt), Ben Butler, Lori Larson, Doug Lechluder, Chuck Schuster, Jane Evans, Debra Tropp, Peter Driscoll, Patrick Jamison, Jordan Cissel (work for Jamison ag and turf, new farmer member), John Brewer (new non-farmer member, at USDA APHIS, one of two chief data officers, was on detail for Sen. Van Hollen in the Senate), Amanda Cather (new farmer member, raises poultry in Poolesville), Eleanor Leak, Aliza Silver

Guests: Nick Magliato (lives in Bethesda but bought farm in 2000 on Whites Ferry Rd 55 acres, concerned that the ag reserve could turn into the solar reserve), Adam Darkins, Nancy Aldous (worked for county council as staff to Mike Subin and Michael Knapp), Jimmy Colihan (23.5 acres on Barnesville purchased 4 years ago), Wade Butler, Linda Lewis, Woody Woodroof, Ellen Gordon (on board of Sugarloaf Citizen Association), Bob Cissel

Staff: Jeremy Criss

1. Call the Meeting to Order-Introductions: 7:02 pm
2. **Approval of the November 17, 2020 AAC meeting minutes. *There was no meeting in December.***
Accepted as amended. (Driscoll/Larson)
3. **Update on the Solar ZTA 20-01. The Farm Solar Stakeholder Working Group met on November 17, 2020, December 2, December 16, and December 29, 2020. Doug Lechluder and Leslie Elder were the Co-Chairs of the Working Group. Doug Lechluder will attend the January 14, 2021 Joint PHED/T&E Committee work session to represent the agricultural community. The Full Council vote on the Solar ZTA 20-01 is scheduled for January 26, 2021. *I attached to my cover email the final reports and the Council staff packet and some suggested notes in case you want to call the Council members and advocate the recommendations of the Agricultural Reserve Stakeholder prior to January 26, 2021. Here is a link that will take you to the MCA sign on letter. https://docs.google.com/forms/d/e/1FAIpQLSfHHVQ_VfhQRZpzKHzyjViMxJIP-3_jR3kpCbzzAQkjWLMcxA/viewform Both Howard and Baltimore counties allow solar fields by conditional use of approval and the Baltimore County conditional use process is outlined in the link below.***

Baltimore County-The purpose and intent of this article is to permit solar facilities in parts of the rural and commercial areas of the County by special exception, and to balance the benefits of solar energy production with its potential impact upon the County's land use policies by ensuring sufficient safeguards are in place to protect the County's communities and its agricultural land, forests, waterways and other natural resources.

Jeremy sent the AAC three reports. The first report contained the recommendations that the 8-member Farm Solar working group could agree upon. The other two reports were minority reports. One of the minority reports was by the Ag Reserve Stakeholders which included farmers, MCA and SCA representatives. The second report was drafted by the representatives of the environmental community, including the Sierra Club, Poolesville Green, and two solar industry representatives.

Last week there was a T&E committee meeting. Jeff Zyontz prepared some amendments to the solar ZTA based on three reports written by the working group. Jeff sent the reports to Jeremy along with the County Council staff packet of materials.

There are still some issues that the Ag Reserve stakeholders are disappointed about because the PHED and T&E committee would not consider some of the recommendations from their report. The Council is scheduled to vote on the solar ZTA on Jan 26.

Jeremy provided a link in the agenda from Caroline Taylor with a sign-on letter from MCA that shows all the organizations that have signed on to it. Caroline wants to know why the AAC has not signed onto the letter yet.

A limited use is considered a permissible use by right if you meet the limited use standards for the use. A conditional use requires approval by the Montgomery County Hearing Examiner under the authority of the Montgomery County Board of Appeals. Montgomery County is divided into 21 separate geographic Policy Areas, each with an enforceable master plan. The AR zone is one of those policy areas. All other uses in the AR are secondary to agriculture. Those secondary uses can be approved by the hearing examiner and board of appeals, like cell phone towers as conditional uses, for example.

The Ag Reserve Stakeholders took the standards for approving solar fields in Prince George's county and developed a list of conditional use standards for Montgomery County. If the Council would accept the AR stakeholder recommendations, then solar should be considered a conditional use including the proposed conditional use standards. Both Howard and Baltimore counties approve solar fields as conditional use of approval.

The AAC would prefer the solar ZTA to go away. Prior to the working group, the ag and preservation community groups were unanimously opposed. But when we saw that the Council was moving forward, we have compromised and are putting forward recommendations for the only legal path to proceed with solar. We do not want the Planning Board to be the entity approving solar fields by site plan since they are responsible for enforcing the master plan and have already shown their

hand that they support solar fields and want to review and approve solar applications.

We have also been clear that we want Class I, II, and III soils to be excluded from solar. But we have compromised, and we now recommend that Class I and II soils be excluded, and now recommend Class III soils for solar.

Craig Rice, Andrew Friedson, and Sidney Katz are willing to support us. Doug Lechliden, Randy Stabler and Jeremy are working with them through upcoming meetings this week. Hopeful we can get two more members of the Council to join us.

In our meeting packets there is a page of call-in instructions to call Councilmembers. APAB and MAP are both sending letters. The Soil Conservation District is also working on a letter. MCFB has already submitted one letter for the exclusion of the prime productive soils and is working on another letter for conditional use.

Lori Larson: It would be helpful if we draft a letter so each farmer can get their contacts to also call in and send letters.

Pete Driscoll: What is the definition of a Class III soil?

Jeremy: Class III soils are considered productive. They have more limitations than prime soils; they may have higher amounts of clay or may have a little more slope. Usually between 8-10% slope. Prime soils are less than 8% slope. The classification also considers gravel and stones in the soil.

Eleanor Leak: How do we find out where the various class soils are in the County?

Jeremy: There is a soil survey that was done in the 1930s following the dust bowl and was most recently updated in 1995.

Woody Woodruff: Why do opponents not like conditional use?

Jeremy: Because they know that we are right that this is the only legal path to do this due to the AR master plan. The cost of the conditional use is expensive. Jeremy understands the expenses for going through the public process for site plans (limited use) vs. conditional use of approval are very similar. The hearing examiner allows for public input and the written order becomes a business license as a conditional use. Since the community may have opposition to the use, the hearing examiner incorporates community concerns into the requirements for the conditional use as part of the public record.

Gabe Albornoz, Nancy Navarro, and Will Jawando are the remaining members of the County Council and we need two of them to join us.

The Board of Appeals cannot deny a conditional use without a legal justification. Conditional use determinations must come to a final decision that allows the use including a negotiated outcome with the community.

A Limited is implies the landowner has a right to build a solar system if they meet the limited use standards including the engineering and permitting process. A Conditional use implies that a solar system " MAY " be built based on input from the community and the final opinion of the hearing examiner.

Linda Lewis: would a solar field prevent an eagle from establishing a nest?

Jeremy: I do not have an answer to that.

The AAC recommends that we remit a letter to the County Council outlining our concerns on this Solar ZTA 20-01.

Motion passed: for Jeremy and Doug to draft a letter on behalf of AAC based on our talking points. (Evans/Leak).

This is a great opportunity for SCA and MCA to work with the ag community. We really agree on this issue and it is great to work with them.

Ellen Gordon: Just wanted to reassure that, despite the two environmentalists on the stakeholders committee, most of the environmental community is NOT in favor of solar in the Ag Reserve, and she/they have been working hard to get other environmental groups to contact the Council and let them know that they don't believe the Ag Reserve should be opened up to solar, but that at a minimum, the Council must make it conditional use. We have gotten a few environmental groups and environmental activists sending letters to the Council.

Here's the link to the MCA letter:

https://docs.google.com/forms/d/e/1FAIpQLSfHHVQ_VfhQRZpzKHzyjViMxJIP-3_jR3kpCbzzAQkjWLmcxA/viewform

Ben Butler asked if there is anything in this letter, we should be wary of. Not sure if AAC needs to be a signatory to the MCA letter. It discusses the allowance of removal of forest. *Please note the AAC decided to remit a letter to the Council on our own and not sign on to the MCA letter.*

The ZTA is recommending solar systems up to 2 megawatts-MW. That is a commercial/industrial scale solar field encompassing about 10 acres of land.

- 4. Council Member Andrew Friedson will be introducing on January 19, 2021 Bill 5-21 Agricultural Land Preservation-Solar Collection Systems-Dedication of Business Personal Property Tax Revenue. The Public Hearing is scheduled for February 9, 2021 at 1:30 pm.**

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

This bill would provide sources of revenue for preservation from the solar industry. An estimated \$3.4 million could be generated over 10 years; this would be only the County's share of the personal property tax.

Motion passed: Doug Jeremy should write a letter in support of this bill. (Ben Butler/Jane Evans) Please *note the February 9, 2021 public hearing was postponed since the Solar ZTA 20-01 has not been adopted by the Council.*

- 5. Council Member Evan Glass introduced the Composting ZTA 20-04 on October 27, 2020 and the Public Hearing was conducted on December 1, 2020. The AAC, APAB and MSCD provided letters of support to the County Council for this Composting ZTA 20-04 that will increase the percentage of off-site materials used in the compost process from 20% to 50%. All the speakers were in support of ZTA 20-04 and they included- Brenda Platt, (U.S. Composting Council) Michael Protas (One Acre Farm), Ben Butler, and Ben Perry (Compost Crew). The PHED Committee Work Session is scheduled for January 25, 2021 at 9:30 am.**

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2020/20201027/20201027_6A.pdf

- 6. Delegate Fraser Hidalgo has proposed MC 15-21 that would enable deer harvested under Deer Management Permits to be processed and commercially sold for venison-deer meat. MC 15-21 - Montgomery County - Deer Management Permit Pilot Program. Delegate Eric Luedtke has proposed a bill to create an Income Tax Credit-Venison Donation Expenses-MD Deer Donation Program.**

The HB 7 will provide a \$50 tax credit to hunters who donate deer through the County's Deer Donation Program. OAG is supporting both bills.

- 7. The County Council will introduce an amendment to the Subdivision Regulations 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 amendment will exempt commercial buildings used on farms from the subdivision process. This is good news. Jeremy does not have dates for introduction and public hearing but will update us when he knows more.

- 8. Additional Items**

Governor Hogan just decided that starting this upcoming Monday farmers will be eligible to get the vaccine. Jeremy will get us more information when he has it.

9. **Adjournment** (Larson/Leak) 8:34 pm.

WELCOME to our new members!!!