

**Montgomery County Agricultural Advisory Committee
Meeting Minutes February 15, 2022**

Attendees: Pete Driscoll, Chuck Schuster, Patrick Jamison, Eleanor Leak, Doug Lechliden, Janes Evans, Ben Butler, Russ Allnutt, Lori Larson, Debra Tropp, John Brewer, Aliza Silver

Staff: Jeremy Criss, Greg Wims

Guests: Tim McGrath, Adam Darkins, Jennifer Freeman

NOTE: All Agenda Items are BOLDED

1. **Call the meeting to order and introductions.** 7:04 PM
2. **Approval of the January 18, 2022, AAC minutes.** Approved as corrected.
(Leak/Evans)
3. **Introduction of Bills: November 2, 2021- Bill 40-21- Individual Water Supply and Sewage Disposal Systems - Amendments (McCartney-Green)**
The Transportation and Environment- T&E Committee work session is still pending.

As of now, the working session for the septic tank legislation hasn't been scheduled. Jeremy is monitoring the County Council's agenda.

4. **ZTA 21-07 Height and Density Allocations for MPDUs-Affordable Housing-**

The Office of Agriculture is working with the League of Women Voters to suggest an alternative way to achieve incentives for affordable housing that uses TDRs. The Office of Agriculture remitted a second letter to the County Council that advocates amendments to TDR Overlay zones that will create incentives for using TDRs for affordable housing. Please see the attached request from Council Member Reimer to the Office of Legislative Oversight- OLO to provide a status on the use of both TDRs and BLTs to the Council. This will be the first report on the status of TDRs and BLTs since 2008.

OAG has been working with Margaret Chasson of the League of Women Voters. OAG submitted letters to the County Council outlining the recommendation from the League of Women Voters to modify the TDR overlay zones to create incentives for affordable housing.

In the packet Jeremy shared with the AAC is a request from Councilmember Reimer to report the first accounting of TDRs and BLTs since 2008. This is a positive development. Hopefully the report will show that there have been very few TDRs created since the Great Recession. The ones that have been created were from easement acquisitions from land by OAG, that maintains the property for food and fiber production and potential child lots for the grantor's children. The remaining "Excess TDRs" are created, serialized, and given back to the property owner who can hold onto them or sell them. Since 2008 most TDRs that have been created are associated with agriculture preservation easement acquisitions. This report will help the county get a complete accounting of TDRs left in the sending area (the AR zone). The receiving zones are down county, also called the TDR overlay zones, where the TDRs are used to build additional units above the base zone density for the TDRs the developer purchases.

The TDR program is designed to build back lost equity from the 1980 downzoning that created the Agricultural Reserve. The sale of TDRs provides equity opportunities for farmers to expand agricultural production and the purchase of farmland. TDR sales have been used to purchase equipment, invest in the farms, and used for estate planning.

Previous Planning Boards have instructed the staff to propose using TDRs in development projects and encourage developers to purchase TDRs. The TDR status report will hopefully be an opportunity to educate the Council and staff on the importance of the TDR program. With the elections coming up, OAG will likely have at least 6 new members to educate.

Tim commented that developers view TDRs as extortion; developers want more incentives to sweeten the pot. Developers are doing everything they can to get around using TDRs.

Margaret Chasson suggested changing the ratio of what a TDR can be used for, particularly for affordable housing. Right now they're a ratio of 1 TDR to 2 single family structures (detached); the League is proposing to increase the ratio to 4. Currently, the ratio is 1 TDR to 2 duplex buildings; the League is proposing to increase the ratio to 5. Currently, the ratio is 1 TDR to 2 townhouse units; the League is proposing to increase the ratio to 8. Currently, the ratio is 1 TDR to 3 apartment building units; the League is proposing to increase the ratio to 10.

The League is proposing these recommendations to the County Council to amend the threshold ratios for using TDRs. The conversation would start in the PHED committee. At this time, it's unclear whether these recommendations would be discussed as part of the current ZTA 21-07 or as part of a separate and new ZTA.

OAG's letter is supportive of affordable housing and supportive of ZTA 21-07, but that what the Council is currently considering would undermine those efforts. This is why Councilman Reimer has asked for the report. The report will take a while for P&P and OAG to coordinate. Right now, the ZTA 21-07 only addresses Multi Planned Development Units-MPDUs not TDRs.

MPDUs have never required the use of TDRs, so developers have been building MPDUs without the use of TDRs. If the Council emphasizes the building of MPDUs, they will effectively de-emphasize the use and value of TDRs.

5. **Public Hearing and Action on Supplemental Appropriation FY22-27 Ag Land Preservation CIP Program-February 8, 2022-Please see the attached PDF file on the Racial Equity and Social Justice-RESJ recommendations on the Supplemental Appropriation totaling \$3,675,816 for Ag Land Preservation Easements and OAG staff responses to the Office of Management and Budget.**

Since the last AAC meeting, the Council held the public meeting and action for the supplemental appropriation to the Ag Land Preservation Capital Improvement Program. We spoke last time about the County Executive's recommendation on our FY23-28 Ag Land Preservation submission. He did not recommend additional funding.

This is a supplemental for FY22-27. There are two sources of money to make up this appropriation. One is the rural legacy application that Mike Sheffel prepared and submitted to

DNR last year. OAG was only granted half of the requested amount in the application. The application was for a farm on east side and a farm on the west side of the county. Only the west side farm was approved. The second source of money is from Broad Run Creek Farm in the amount of \$953,055. The balance, approximately \$2.7 million is from the rural farm on the west side of the county. That equals \$3,675,816 total.

Jeremy forwarded in AAC's materials packet the racial equity and social justice report on this supplemental appropriation. The OAG failed that racial equity and social justice lens. All Appropriations are supposed to be reviewed through that lens. The money is state money and will not be used for providing opportunities for access to land for farms less than 50 acres. There was no discussion on this when the Council had a public hearing on it. After the public hearing, the council approved the supplemental. Now the money has been appropriated to the project. OAG is now going to purchase the rural legacy easement for the farm that was approved on the west side of the county. OAG will use the Broad Run Creek Farm money and some other monies and apply it to a rural legacy easement on the east side farm.

Easement acquisitions are confidential. We cannot know which farms they are specifically. Today OAG got a response from the state of Maryland about the Broad Run Creek Farm. They didn't ask the county to reimburse the state for the monies OAG got for the termination of the Beverley easement. The state told them today that they're not going to request they reimburse the funds or challenge the County's certification. They have asked some questions about what the conservation park will be used for. Parkland preservation and ag preservation are both under land preservation category at the county and state levels.

6. **Follow up on Bill 16-21-Environmental Sustainability- Building Energy Use Benchmarking and Performance Standards**

The letter from the AAC to the County Council recommended that Bill 16-21 should be amended, and Montgomery County should follow the lead of Washington State and exempt all existing and new agricultural buildings.

Lori helped write a great letter to the Council on agricultural buildings, which was discussed at the last AAC meeting. DEP had identified 10 equestrian buildings in the county right at 25k sq ft or bigger. AAC suggested we should follow the lead of Washington State and exempt existing and new agricultural buildings. Dec 9 was the last T&E work session on this bill. At the December 9 work session T&E members didn't discuss agricultural buildings.

7. **Beginning Farmer Course- The Beginning Farmer Course will start next Thursday evening, February 10, and run for a total of 9 weeks. For more information, visit the registration website. The local in-person classes will be held at the Montgomery County Fairgrounds. Topics will include soils, crop planning, financing, equipment, permits and licenses, and pest management.**

OAG works with the University of Maryland Extension every year on the Beginning Farmer Training. The class will be 9 weeks long and began last Thursday. It will run on Thursdays for the next 8 weeks. Chuck is helping Kelly Nichols with that course. As of last Thursday, they

had 8 people signed up, and probably 2 more will join. The class is in building 2 at the fairgrounds.

8. **State Bills in the 2022 Legislative Session we are tracking.**

- a. This is not an exhaustive list. There are just too many agriculture related bills to report this evening, though OAG provides a fiscal impact and feedback on all the bills.

SB 39 Feasibility Study to reinstate MDA Meat Inspectors

Prior to 1991, MD was a USDA certified state. There were 14 MDA meat inspectors that could inspect and sign off on all kinds of meat processing facilities in the state. Prior to 1991, Maryland didn't need USDA inspectors. In 1991, William Donald Schaeffer in the name of reducing duplication of services, terminated the MDA meat inspectors. During the pandemic, we realized we need local capacity for a local food resiliency system. This study will look at the cost of reinstating the meat inspectors. VA, WV, and PA have maintained their state meat inspectors.

SB 268 Transfer of Enforcement from MDA to MDE for pesticide enforcement- Withdrawn

This bill was introduced by Sen. Sheryl Kagan to start the conversation about transferring authority from MDA to MDE. It was withdrawn because the cross-filed House bill had a non-favorable report.

HB 485 Sunday Hunting in Montgomery County

Back in 2017, we were able to get House Bill 330 passed to allow 11 additional days of Sunday hunting in Montgomery County from one half hour before sunrise to 10:30 am. It was negotiated with the equestrian community. However, there was a sunset provision in that bill, setting it up to expire in 2022. This bill removes that sunset date to make these new dates and times permanent, a total of 18 Sunday hunts in Montgomery County. It's proven to be an effective tool at reducing deer herds.

HB 184 On-Farm Composting Facilities Regulations

This bill is cross-filed with SB 229. It will take MDA regulations and expand the footprint for on-farm composting without an MDE permit from 5k sq ft footprint up to 40k (that's still less than an acre). The goal of the bill is to create opportunities for composting on farms, including food scraps, to generate more soil amendments to improve soil health. Compost is applied to the farms in accordance with nutrient management plans. Currently in the regulations, a livestock farmer can compost horse manure and bedding material up to 40k sq ft without a permit. We're trying to replicate that standard as it relates to feedstock 2, which pertains to food scraps.

HB 318 On site wastewater regulations

This bill pertains primarily to farm alcohol production. Currently, wastewater can be applied to your farm fields according to your nutrient management plan except when the management window is closed during the winter months. The bill talks about the storage of the wastewater on site. Right now OAG has an MOU with MDE, to allow application of waste water to compost piles when the nutrient management window is closed. This would change the conditions of the MOU, so OAG is concerned.

SB 296 Agritourism Definition to include Incidental overnight farm stays

Today, if a county wants to adopt incidental overnight stays, it may. This mostly refers to tourism, mainly camping. Montgomery County doesn't currently allow this. MCA and SCA

would likely oppose expanding this into Montgomery County. Several other Maryland counties are pushing for this.

SB 567 SDAT Assessments on Farm Alcohol Production and Agritourism properties

We've learned over the last year that after these buildings are established and are agriculturally assessed and considered a farm, the departments of assessments and taxation aren't contacting the property owner and are simply changing the tax assessments to residential/commercial; the buildings in addition to the properties. This bill would stop that from happening. It would instruct and require that the Department of Assessments and Taxation not reassess the properties, and to let them remain agricultural when a county permits the use and buildings as part of an agricultural designation.

HB 934 Prohibition on the Use and Sale of Gasoline Blowers

This state bill that would do what we understand DEP wants to do. Lonnie Luther explained to County Executive Elrich that electric blowers won't last all day. The Farm Bureau is opposed to this bill.

Chuck asked about - HB 596, SB 783 – amendments to the state constitutions. Purpose of establishing that every person has right to a healthful and sustainable environment and requires state to serve as trustee as state natural resources and conserve, protect them for the benefit of everyone including present and future generations. Farm Bureau discussed this during the Day in Annapolis and opposes it. Jane will forward the Farm Bureau's information about the bill to Jeremy. Some of the churches are promoting the bill. One of the concerns is that it states, "sustainable and regenerative environment," but these terms are not defined. Delegates have said that they want to promote organic, so Chuck explained how that would degrade the Bay by encouraging tillage and causing sedimentation of the bay instead of herbicides. These delegates didn't understand this. Since 1992, when Genetically Modified Organism-GMO seed was approved by FDA, we have seen a 75% reduction of use of pesticides. Farmers using GMO seed are protecting the environment much better and today crop yields are higher with GMO seed which helps to feed the world population that keeps growing. There's a House hearing on this bill Feb 23.

9. **Mike Scheffel and Jeremy Criss have a meeting with MNCPPC staff to begin discussions on the Rustic Roads Master Plan Update.** <https://montgomeryplanning.org/wp-content/uploads/2016/11/RusticRoadsFunctionalMasterPlan1996ocr300.pdf>

<https://montgomeryplanning.org/planning/transportation/highway-planning/rustic-roads/rustic-roads-master-plans/>

OAG met with P&P yesterday to discuss the upcoming master plan update. The last master plan was established in 1996. They started to update the rustic road master plan in 2019, but it was paused with onset of the pandemic and the planning staff assigned to rustic roads- Leslie Seville retired. The P&P hired two new people, who are both working on the rustic roads master plan update. One is Jaime Pratt, and the other is Roberto Duke.

Jeremy asked members of the AAC, if we live in the Ag Reserve and use these roads, how we would feel about the condition of rustic roads; Jeremy would like to provide a summary to P&P on the state of rustic roads in Montgomery County; are they safe, adequately

maintained, and need more improvements? Do the trees hanging over them need to be trimmed more often and more aggressively? Please share with Jeremy, in our own words, how we feel about this program. Jeremy hears all the time the program results in unsafe roads for vehicular traffic and farm equipment.

The County has a county-wide CIP for bridges; for scheduling maintenance and replacement. Jeremy suggests that the County needs a county-wide CIP for all rustic roads. DOT has no idea when work will be done on one road or another until there's an electric sign about upcoming road work. If we had one CIP for rustic roads, we could have one place to go to look at all the roads designated as rustic and see the schedule for maintenance. It was suggested that MCDOT should also reinstate the program for clearing and grubbing along the shoulders of the rustic roads.

10. The MD-DNR Released the deer harvesting report for the 2021-2022 Hunting Season and deer harvest rates are down statewide and Montgomery experienced a significant decline approximately 19%. <https://news.maryland.gov/dnr/2022/02/10/maryland-hunters-report-taking-70845-deer-in-2021-2022-season/>

The harvest in MD is down again; the statewide hunting harvest being down 13%, and the Montgomery County harvest being down by 19%. These are the deer reported as harvested to DNR. As we continue to advocate to the MD DNR that we need additional tools for hunting and reducing deer herds in the county, DNR will likely respond that the farmers don't have any room to complain because they're not hunting on their farms and aren't using deer management permits sufficiently. The DNR told us this before when we asked to extend the hunting season from the end of January to the end of February. Virginia's hunting season ends in March. The DNR won't provide us the number of registered sport hunters in the state, which would probably show a decline, since most sport hunters are growing older and we're not getting more young hunters. Jeremy has told DNR that farmers are not hunters. Approximately 60% of our farm ground in the County is leased. Most landlords don't want hunting or potential liability of hunting on their property. There are farmers who won't hunt on their own ground because they're afraid of liability too.

We do know the total number of deer management permits that are issued and how many deer are harvested with them. Jeremy going to ask Delegate Luedtke and Senator Feldman to ask DNR how many registered hunters do we have in the state today. *Please see the link below from the US Fish and Wildlife Service showing that MD is #9 state with the fewest number of registered hunters that Jane Seigler provided.* <https://www.msn.com/en-us/news/us/maryland-is-the-9-state-with-the-fewest-registered-hunters/ar-AAPKtT8>

11. The next meeting of the Agricultural Advisory Committee is March 15, 2022.

12. Adjournment: (Silver/Driscoll). 8:28 PM.