

**Agricultural Advisory Committee Meeting Minutes**  
**September 18, 2017**

**Note: All “bolded” text is from the Agenda.**

**Attendees:** Doug Lechliden, Aliza Fishbein, Michele Cropp, Eleanor Leek, Linda Lewis, Peter Driscoll, Dennis Kamber, David Weitzer, Ben Allnutt, Debbie Benson, Paula Linthicum

**Guest:** Jane Evans, Wade Butler, Nick Freeman, Bob Harris

**Staff:** Jeremy Criss, Josh Penn

**1. Meeting Called to Order and Introductions:**

**2. Approval of the July 18, 2017 AAC meeting minutes. There was no meeting in August.**

Accepted as amended (with minor grammatical corrections)

**3. The OAG is continuing to work with Office of Human Resources to complete the reclassifications of all OAG staff- The following reclassifications are complete-John Zawitoski, District Manager MIII, Karen Walker, OSC, Melissa Steed, PAA. The following reclassifications are still pending-Cathy Yingling, AA I, Jackie Arnold, AA, III, James Harne and Shelly Ingram Resource Conservationist I, II, III, and Jeremy Criss, Director MII.**

All positions are being reclassified because of the move to OAG. Details about positions are above in bold. The OAG is proposing to create a new job class for resource conservationist on a stepped I, II, III progression. Jeremy is trying to get OHR to support the change.

**4. The ZTA 17-06 (formerly ZTA 16-02) public hearing was originally scheduled for September 12, 2017 and it was moved to September 19, 2017 at 1:30 pm. There are three amendments that are proposed. Please see the attached letter from the AAC including a Draft ZTA 17-06 with amendments.**

**<http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/zta/2017/ZTA%2017-06.pdf>**

The three amendments proposed are attached in the meeting packet:

- 1<sup>st</sup> amendment (labeled Item 4 at the top).
  - o Starting on line 40 in bracketed bold lettering. There is currently no limit on housing on the farm; it is a function of what the farmer needs and the need for labor on the farm. The septic capacity determines the number of people who can occupy the house. The code allows no more than three mobile homes. Last year's 16-02 had a limited focus, so the ZTA was remanded to the planning board to result in 17-06 before us. This amendment: if there is no limit on the number of single family farm labor housing units, why should there be a limit on mobile homes which may be more practical because they are less expensive?
- 2<sup>nd</sup> amendment (page 6, in bolded lettering starting on line 62).
  - o This issue has to do with non-conforming use. When you have a dwelling on the farm that was built before June 1, 1958 it is considered a non-conforming use since it's from before the first zoning code publication. A non-conforming use is legally interpreted as allowed to continue, cannot cease that use, and the footprint

cannot be expanded. Will probably need to take out the words “1,500 square feet or whichever is larger.” Also, this is not just an arbitrary rebuild, it is an act of God, like a fire, that causes the rebuild.

- 3<sup>rd</sup> amendment (page 7 line 73).
  - o The owner must sign (taking the word “record” out). Right now, property owners must record the covenant before the application for a building permit is approved, which doesn’t make sense. The amendment spells out when the covenant needs to be recorded.

The committee work schedule is for Nov. 20<sup>th</sup>. Jeremy walked Nancy Floreen through the two amendments. As the lead sponsor, she appears comfortable with the amendments.

**5. Guest Bob Harris-Attorney with Lerch, Early and Brewer. Bill 2-16 and ZTA 17-03 Accessory Residential Uses-Short Term Rental. This Bill and ZTA are more of a down county issue that has impacted the definition of Bed and Breakfast uses that are also up county.**

[http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2016/Packets/20170912\\_14B.pdf](http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2016/Packets/20170912_14B.pdf)

<http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/zta/2017/ZTA%2017-03.pdf>

**Bob is proposing a change in the definition of Bed and Breakfast. Current definition: Bed and Breakfast means a detached house that is owner-occupied with no more than 5 guest rooms for rent and customarily serves breakfasts to guests. A Bed and Breakfast is permitted as an accessory use to farming. Proposed changes to the definition: The definition should be changed so that someone other than the property owner can operate the Bed and Breakfast. Meals other than breakfast should be allowed and consistent with the practice of Bed and Breakfasts elsewhere.**

Some people rent out their houses for a short term. This is more of a down-county issue. But the way Bill 02-16 and ZTA 17-03 has the definition of bed & breakfast raises questions. Bob Harris testified at a hearing last week on Accessory Residential Uses – Short Term Rental, proposing changes to the definition of B&B. Bob explained to the AAC that B&Bs are allowed in the AR today, though not sure if any are in existence. His client proposes to operate a B&B in the AR. He argued that the current rules are overly restrictive and would apply to AR properties just as they would apply to down-county properties, which is what the rules are meant to target. Allowing B&Bs with fewer restrictions will promote a growth in agri-tourism and help to keep ag land in ag. The opportunity to operate a B&B on a farm can provide extra income and is nice opportunity for a visitor to enjoy the AR.

Bob’s proposed changes: 1) Asked them to allow B&Bs to operate by a manager and not by the farm owner- himself/herself. It can be helpful for the farmer to have someone dedicated to managing the B&B. 2) Down-county the operations are limited to five bedrooms and the owner (farmer) would also have to occupy the same dwelling as the renters. Proposal asks the county to allow more than five bedrooms if on a large farm of 100 acres or more and that the farmer could live in a separate structure from the one being rented out. 3) If you are staying at a B&B in the suburbs there are many dining options outside of the B&B. In the AR, there are not many choices. In Montgomery County, you can only serve breakfast at your B&B. The proposal asks for the ability to serve dinner there as well, a farm to table type of dinner exclusively for the renters staying at the B&B.

There were no speakers in opposition to Bob's proposals, but it is still a process. It is moving forward.

Questions posed:

- Dave and Jane asked several clarifying questions, and questions about the type of farm that Bob's client currently operates.
- Paula asked if there has been any pushback from his client's neighbors. Bob responded that they are not aware of any. They are near Waredaca, on a main road, with a large property.
- Paula asked if the County will require a commercial kitchen. Bob said they are still considering that. Jeremy explained that you can get a license to use your own kitchen to produce non-hazardous foods to sell at farmer's markets or on-site at the farm. You can also get a license to sell (processed/prepared foods) hazardous foods. They will be subject to inspection and the kitchen will require stainless steel counters etc.
- Linda asked if this could affect her if someone abuses their privilege (ie could their mobile home and structure allowances be taken away?). Bob responded that he didn't anticipate a rush into B&Bs since they are hard to do and its only supplemental income. He suggested adding into the proposal that you can't expand the number of dwelling units on the property.
- Jane asked if the proposal is specific to B&Bs in the AR. Bob responded that the legislation covers the whole county. The requested revisions are only for properties that are 100+ acres with ag operations. The B&B would be accessory to farming.
- Dennis asked what the demand for B&Bs in the area is. Bob answered that it's limited. There are none active in the AR today, it is not a big money-maker. It's just a piece of the puzzle to cover costs. Michele added that in the late 1980s she and her husband operated a B&B on their farm with only two rooms but there were months' long waiting lists. The stay included free dinner (farm to table). It was mostly advertised to people traveling across country looking for a place to stall their horses at a resting point. They did it for years.

Paula voiced concerns about pop-up businesses, that more down-county people will buy up properties with the intent to open B&Bs and just lease to a few farmers. This wouldn't help anyone learn about ag.

Jeremy explained that the farm owner told the administration that if they couldn't open a B&B and make supplemental income they would have to develop the farm. They also have a permit where they can have outdoor special tented events (like weddings) for no more than 200 people.

Jeremy provided links to the Bill 2-16 in the agenda. The next scheduled event on this topic by the Fed committee is on Sept. 25<sup>th</sup>.

The AAC will support the amendment for the AR zone that would allow someone other than the farm owner to manage the B&B and the owner does not have to occupy the same building as the guests. The AAC supports both breakfast and dinner could be provided. **(Lewis/Cropp)**.

#### **6. County Council Bill 23-17 Animal Control-Performance Animal-Violations.**

[http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2017/Packets/20170718\\_6.pdf](http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2017/Packets/20170718_6.pdf)

**The MCFB, AAC, MAP and the Agricultural Center submitted jointly signed letters dated August 14, 2017 and again September 5, 2017 to the County Council requesting additional time. The September 11, 2017 Public Safety Committee Work Session was**

**attended by Elrich, Katz and Hucker along with Bill Sponsors Leventhal and Rice. Additionally, Lonnie Luther, John Fendrick, Randy Stabler, Marty Svrcek and Jeremy Criss attended. The Council members used this PS work session to acknowledge that they were granting additional time as requested by the agricultural community. No vote was taken at the PS work session and a meeting between the County Council and the agricultural community is pending. The County Council and staff acknowledged that they need our help to amend this Bill 23-17.**

Jeremy wrote a draft letter for the animal bill on behalf of AAC on Aug. 2. He never sent it because there was a request for all ag groups to come together, which resulted in the Aug. 14 letter. It included FB, Ag Center Fair Board, Montgomery Ag Producers, and the AAC. The AAC meeting packet included the letter that was submitted on the same day as the Ag Leaders Luncheon, requesting more time. The Council acknowledged at the luncheon that they were going to give us more time. At the 9/11/17 work session the council decided they want to meet with the ag community, acknowledging that their staff doesn't have the expertise to write this legislation that deals with all kinds of different animals. The Director Of Animal Control asked the question whether it is appropriate to have this bill located within chapter 5 (cruelty section).

Doug Lechlinder has been representing the AAC at ag community meetings and has kept David Weitzer apprised. Michele and Paula have a group working on the at the FB. Ag Producers and the Fair Board do too.

During the meetings, Robert Butz has asked why we don't use existing definitions that are in the code. Any activity that falls under the definition of ag and farming in the county won't be impacted by this bill and any animals associated with ag and farming would hereby be considered humane treatment of animals. Since he proposed this, several people have come back with additional changes. It seems that some feel the definitions of ag and farming don't clearly address fairs and exhibits and are more about activities conducted on private land. That is because Chapter 59 governs what one can do on their private property.

Jeremy explained that the situation is still in flux and we are getting closer to providing suggested language to the Council. Michele said that she and John Fendrick representing the FB are working on this as well. George Leventhal told Jeremy he'd let him know if they'll keep with the animal cruelty statute or shift it to the dangerous and potential dangerous animals under Animal Control services. Councilmember Leventhal doesn't want to impact animal ag. Michele raised that this could affect Maryland DNR's Scales and Tails that comes to the public schools.

- 7. The OAG responded to the County Department of General Services to develop a plan to visit the Site 2 property in White Oak (Former WSSC Sludge Composting Facility). The OAG asked for pictures of the facility, buildings and equipment to assist the agricultural community on items to be salvaged. Stay Tuned!**

Jeremy reached out to General Services to get pictures to disseminate to farmers in case anyone is interested in looking at anything out there. They would like to arrange a site visit.

- 8. Introduction of Bill 30-17-Weapons-Discharge of Bows-Amendments to conform to the passage of House Bill 313 Reduction of the Safety Zone Distance for bow hunting from 75 yards to 50 yards. Public Hearing is scheduled for September 19, 2017 at 1:30 pm.**  
[http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2017/Packets/20170912\\_13B.pdf](http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2017/Packets/20170912_13B.pdf)

This bill is about reducing the safety zone for discharge of bows from 75 to 50 yards. It has been approved by the State. Now we need to amend the county's weapons law to conform with the state. There is a letter in our packet that is in support of making the county's weapons law consistent with the state law. There is no reason to think it won't be adopted. The public hearing is tomorrow and as of today there are no speakers signed up.

**9. County DOT installing guard rails on County Roads-Zion Road complaint from Randy Stabler. The OAG has requested a meeting with the County DOT asking them to present the all rural road projects including the installation of guard rails that are pending so the agricultural community can be better informed. Stay Tuned!**

Sometimes farmers need to get off the road completely to get out of the way of traffic. Guard rails force us to the center line of the road. Jeremy contacted the chief of highway services and had a very good meeting. DOT has agreed to share their projects with Jeremy ahead of time. The guard rail construction has come under greater review by community stakeholders like the Rustic Roads Advisory Committee. Paula raised that it would be helpful to have the same opportunity with the state highway. Jeremy will ask Richard Dorsey at DOT who the state highway representative is.

**10. Follow up from the September 13, 2017 OAG meeting with Department of Police to suggest ways to help escort farmers and their equipment along County roads during the harvest season.**

Tom Dodone in charge of the Police Traffic division met with Jeremy. They came up with an idea to start a pilot program. Anyone who wants to participate should let Jeremy know, looking at spring planting season and fall harvest (times with movement of big equipment). You would need to give permission for Missy Donnelly at FSA to allow her staff to give Jeremy the dots on the GIS map that represent the area where you farm, then the police will calculate the time it takes to go from point A to point B. They won't allow active duty officers to escort equipment, but off-duty uniformed officers with police vehicles may be permitted. The farmer may have to pay for this, or OAG may be able to help pay for some of it.

**11. Introduction of Bill 28-17- County Minimum Wage-Amount-Annual Adjustment.**

**Public Hearing is scheduled for September 26, 2017 at 7:00 pm.**

**[http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2017/Packets/20170725\\_5C.pdf](http://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2017/Packets/20170725_5C.pdf)**

When this proposal came up last time we wrote a letter to the Council and the Executive. The Executive vetoed and the Council did not have enough votes to override the veto. The Executive thinks small businesses should be exempt and we think ag should be exempt as part of small businesses. The bill states that if you're under 19 years old then you aren't entitled to minimum wage. If we want to take a formal position, we can do so through the public hearing on 9/26. Linda recommended that we oppose the bill; her seasonal part time college students who work more than 20 hours are required to receive the minimum wage. Pete raised that it puts us at a disadvantage against other counties, and he is located only a few miles from Frederick. Jeremy added that PG and MoCo are the only two counties in the state that have their own minimum wages, the others follow the state/federal minimum

wages. Doug and Linda agree that no businesses should be punished in competition with other counties.

There was a motion to prepare a letter and oppose the minimum wage bill, the motion carried. (Lewis/Driscoll)

- 12. Follow up regarding the request from representatives of WSSC, DC Water, and Blue Drop regarding the marketing of Bloom-an exceptional quality bio solids-based soil amendment. Blue Drop is marketing it to farms, nurseries, gardens, landscapers, and soil blenders in MD and DC now and are interested in learning more about how to reach those markets. The OAG and MSCD have requested a site visit of Blue Plains to see the process for making Bloom. Stay Tuned!**

You may be contacted by the three organizations listed above. DC Water is a nonprofit subsidiary of WSSC. Blue Drop is subsidiary that is marketing a product called Bloom which is taken out of WSSC bio-digester down at Blue Plains Facility (Class A Soil Amendment). This product can be applied to vegetables, BUT if you use this class A soil amendment you cannot be certified organic status. Jeremy has asked for a site visit of the facility. Blue Drop wants to expand the product into the ag community.

You may be contacted by Dave Lake at County DEP or Kelly Love at MDA. Pete said that they sent him two trailers of the material and he has applied it to every other row. He's not sure how it will work with his nutrient management program but will do soil tests on it and find out.

- 13. Status of the New Appointments to the AAC. The AAC interview committee submitted recommendations to Executive staff on July 28, 2017. Stay Tuned!**

Names have been published. Confirmation will be on Sept. 26<sup>th</sup>.

- 14. Update on the Sugarland Road Broadband project-(See attached letter dated August 9, 2017 to Comcast)**

Still waiting on this project to happen. Dave and Dennis say that we are getting closer. It looks like they have done most of the pole ready work which is done by Verizon and Pepco. Then Comcast will get permits to use their poles, and then get to construction which will take 60-90 days.

- 15. Local Conservation Workgroup Meeting Wednesday September 27, 2017 @ 8:30 am-The MSCD and NRCS will be hosting a meeting to update farmers on the new requirements for federal and state conservation programs. Please see the attached program agenda.**

These programs include Federal EQIP program and Maryland Agricultural Cost Share MACS cost sharing programs. You will want to know how the guidelines and rules are going to be changed. Contact John Z and Jim Myers for more information. The federal government has required all soil conservation districts across the state to put these workshops together.

- 16. The Maryland Department of Agriculture Secretary Joe Bartenfelder will be visiting Montgomery County as part of the fall legislative farm tour day on Monday October 16, 2017. The secretary and members from the County Delegation and the County**

**Council will visit Waters Orchard, Sunny Ridge Farm and Waredaca Brewing Company.**

Anyone is welcome to join. There will be a lunch.

**17. Next Agricultural Advisory Committee meeting October 17, 201 in Room A. Please see the attached schedule of future AAC meetings due to the closing and reconstruction of the Up County Regional Services Center.**

**18. Additional Item – Josh Penn update on P&P and the Ag Tourism Study.**

P&P got a budget for the ag tourism study as part of FY18. They expect to take it to the planning board for final blessing on the scope of the work in mid-October. They have a list of people to invite (they have consulted with Jeremy). Hopefully the invitations will come out in the next month or so. The first meeting will be in November. The approach will be an interagency cooperative effort focusing mainly on DPS, OAG, and P&P. Josh welcomes all questions. They will be looking at broad terms (zoning, permitting, and anything else they can think of to help preserve character). They don't want it to be about farming and what supports farmers. Other counties have already gone through this process. They have support from the Council.

**19. Motion for adjournment (Lechliden/Lewis)**