



AGRICULTURAL PRESERVATION ADVISORY BOARD

November 30, 2021

The Honorable Tom Hucker, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: Bill 40-21, Individual Water Supply and Sewage Disposal Systems – Amendments

Dear Council President Hucker,

The Montgomery County Agricultural Preservation Advisory Board – APAB met on November 9, 2021 for its regularly scheduled meeting. During the meeting, bill 40-21 was discussed and the Board moved and approved providing testimony for the November 30, 2021 public hearing.

The Department of Environmental Protection – DEP reached out to the agricultural groups prior to the introduction of bill 40-21 to inform them of goals of this legislation. When the APAB met with DEP staff, there was concern about the language requiring an easement and an inspection and maintenance agreement as well as the imposing of penalties if a landowner is in violation of this legislation.

Approximately 50% of the septic systems are in the Agricultural Reserve Zone. The APAB believes the easement requirement and inspection and maintenance agreement are an impediment to farmers and will create another cost to live in the County. While DEP described the goals of this bill to the agricultural groups, they did not share a sample easement or inspection and maintenance agreement. The APAB does not know who will be able to perform the required inspections and if a landowner cannot perform them, it will be a de facto tax without calling it a tax.

The APAB is concerned about lines 136 – 141 and lines 146-148. The bill would give new authority to DEP that had previously been under the Department of Permitting Services authority – inspection of septic systems and imposing penalties related to septic systems. This is a duplication of efforts and will create confusion to landowners.

In the policy review submitted by DEP, it states only one other county in Maryland currently requires septic pump out - Queen Anne's. Queen Anne's County's legislation does not have penalties tied to the law. Howard County's septic legislation only encourages septic pump out and similarly does not have any penalties associated with it. The APAB opposes the bill as



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written and believes there should be an effort to educate landowners with septic systems prior to proposing legislation with penalties as Howard and Frederick Counties have done.

The DPS had been the department involved in septic system inspections previously, the APAB does not know why another department needs to inspect the system – could the DPS complete an inspection form collecting the information the DEP needs?

The APAB is aware of the requirements to meet its MS4 permits, the agricultural sector in the County and State have done their part to meet the Chesapeake Bay WIP, this bill will put another burden on the farmers. The APAB believes educating the landowners, encouraging pump outs and offering reimbursement for compliance are a better method than imposing fees, penalties and easements.

Please accept this as the written testimony for the Montgomery Agricultural Preservation Advisory Board.

Sincerely,

Michael Jamison, Chairman

cc: Marc Elrich, County Executive
Jeremy Criss, Director, Office of Agriculture
Adriana Hochberg, Acting Director, Department of Environmental Protection