

**Montgomery County Agricultural Advisory Committee –
Revised Agenda September 26, 2023
Office of Agriculture- Jeremy Criss**

Attendance:

Tim Hussman, Pete Driscoll, Debra Tropp, Doug Lechliden, Ben Butler, Eleanor Leak, Lori Larson, Amanda Cather, Eleanor Leak, Mathew Lechliden, Michael Protas, Jane Evans, Russ Allnutt, John Brewer

Staff: Dale Tibbitts, Chuck Schuster, Jeremy Criss

Guests: Ellen Gordon, Marcia Kingman, Margaret Chasson, Jim Clifford, Caroline Taylor

Call the meeting to Order and Introductions-

Meeting came to order at 7:00 pm.

Approval of the July 18, 2023, AAC minutes- *Please note there was no meeting in August.*

Jane Evans/ John Brewer: Minutes Approved as corrected.

1. Bill 40-21, Individual Water Supply and Sewage Disposal Systems – Amendments

The OAG will continue to monitor this bill, which will be scheduled for a second T&E Committee Work Session.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230307/20230307_3A.pdf

Jeremy Criss said that the OAG is still monitoring this bill for a third Transportation and Environment Committee Work Session.

2. Bill 18-22, Noise Control – Leaf Removal Equipment – Amendments

The County Council tabled this bill, but the OAG will continue to monitor it.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230321/20230321_4G.pdf

Jeremy Criss reported that the County Council tabled this bill in March, and they scheduled it for a final reading on September 26, 2023. There is a stated exemption in Bill 18-22 for leaf removal equipment, including blowers, used by agricultural producers on agriculturally assessed properties where farming or agricultural use and activities are permitted. Jeremy said the County Council spent both the morning and afternoon sessions debating Bill 18-22 and it passed 10 to 1 with Gabe Albornoz opposing it.

34 **31B-10. Exemptions.**

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36 (c) Section 31B-9 of this Chapter does not apply to agricultural producers
37 located in the Agricultural Reserve Zone. Activities of agricultural
38 producers must be consistent with the definition of agriculture under
39 Section 2B-1]] on agriculturally assessed properties where farming or
40 agricultural use and activities are permitted under Article 59, Section
41 3.2.6 of the Zoning Ordinance.

**3. PFAS Update- DuPont, Corteva, Chemours agree to pay \$1.2B in ‘forever chemicals’
settlement | Manufacturing Dive**

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.manufacturingdive.com%2Fnews%2Fdupont-chemours-corteva-agree-to-1-2b-pfas-settlement-fund%2F652076%2F&data=05%7C01%7Cjeremy.criss%40montgomerycountymd.gov%7C6489c00848894305f2a608db9a9596e7%7C6e01b1f9b1e54073ac97778069a0ad64%7C0%7C0%7C638273739493232319%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=F0x60B4sltMhh0OkZKHPKWDxl9NQRwXTHio9DnYThbY%3D&reserved=0>

Jeremy Criss reported the settlement that obliges several chemical companies to pay fines that will be used for testing public water systems.

4. Office of Legislative Oversight (OLO) Report on the Status of Transferable Development Rights (TDRs) and Building Lot Termination (BLT) Easements

The OAG contacted Andrew Friedson, Chair of the Planning, Housing and Parks Committee, and learned that a work session on the OLO Report for TDRs and BLTs is delayed due to the fact that MNCPPC staff are still working on the new opportunities for using TDRs and BLTs. **The OAG is proposing the attached Letter of Intent/Interest** for any farmer that leases farmland which still has retained TDRs, as these farmers will need the ability to use these retained TDRs as equity to help purchase the farm. The OAG hopes this approach will enable the MNCPPC to better understand how many TDRs they will need to e plan for in TDR Overlay zones.

Jeremy Criss said that he was disappointed that this item was not scheduled for Council discussion before he retired. There are many farm families who are still leasing farms in the Agricultural Reserve that are owned by speculators, and these families are contacting the OAG to explore how the TDRs attached to these farms can be used as equity to help purchase the farms. Jeremy said that the County still needs to fulfill its commitment to the agricultural community by finding homes for the remaining 4,565 TDRs that have yet to be planned. . . Unfortunately, the County has limited amount of demand for TDRs that total 966 TDRs and most of these TDR receiving sites may never be able to accommodate TDRs for various

reasons, such as limited access to water and sewers,-community opposition and environmental regulations.

Amanda Cather asked how the TDR program could be applied to the Kiplinger farm where she lives. Jeremy said that while the Kiplinger farm is encumbered by the County Agricultural Easement program, the TDRs associated with any farm can be used as equity to reduce the amount of the mortgage when the purchaser is working with the Bank-lender. There are many farming families in the County who would not have been able to purchase their farms without the equity from the TDRs making their farms more affordable for agricultural production. Jeremy has offered to participate in the Planning, Housing and Parks Committee work session when this OLO report is scheduled.

5. The Office of Agriculture recommends that the County Government revisit the Farm Alcohol Production Zoning Text Amendment 18-03 and 18-14 with the following amendments.

The minimum lot size for all types of FAP should be amended to require 25-acres. Farm breweries and farm distilleries currently require a 25-acre minimum lot size.

The minimum on-site production requirements for farm breweries and farm distilleries should be amended to require five (5) acres which is consistent with farm wineries and farm cideries.

Farm breweries and farm distilleries currently require only one acre of on-site production. The OAG will require that FAP owners provide evidence of contract growing of specialty crops. Please see the attached AAC letter to the County Council and CE regarding these recommendations.

Doug Lechlinder led the discussion on the proposed amendments suggested by the OAG on the Farm Alcohol Production (FAP) zoning regulations. Doug said that he supports agricultural activities that are accessory uses to farming, although he questions whether some of the FAP businesses in place are functioning in such a way that farming is the primary use of the property. Doug said that he has worked with Jeremy on the draft AAC letter to the County Council and Executive and he asked the Committee what the pleasure of the group was.

Ben Butler motioned to approve the draft AAC letter and Tim Hussman seconded the motion. Doug asked if there was any discussion. Ben Butler said that he was part owner in Doc Waters Cidery and that every gallon of cider they produced was made by the family and they grew all the apples used as ingredients. Ben said that a farm brewery that is only producing herbs as ingredients for the beer is really not agriculture. Ben asked if the DPS was enforcing the provisions that allows FAP as an accessory use to farming. Jeremy Criss responded that all FAP business applications are approved by DPS and OAG and that DPS is responsible for enforcing the zoning regulations. Dale Tibbitts said the County Executive would be interested in the AAC's definition of accessory use to farming and he added " what does accessory use to farming mean?"

Amanda said that she wanted to ask a question related to Doug's opening comments for on-site production. She said she understands that wineries and cideries require 5 acres of on-site

production which consists of fruit, however, how can 5 acres of on-site production be applied toward a farm brewery. Jeremy responded that Lone Oak Farm Brewery has a 30+ acre property where they produce 10 acres of barley used as ingredients in the beer. Jeremy said he would like to replicate this model for both farm breweries and distilleries that would help to create incentives for growing specialty crops in the agricultural reserve.

Lori Larson said the intent of the FAP was to create a relationship between what is being produced from the farm and what is being sold from the farm and why there is a disparity.

Dale Tibbitts said that the County Executive understands that farm wineries and farm cideries can easily demonstrate on-site production of crops used as ingredients. Dale said that former Councilmember Hans Reimer wanted to create opportunities for both breweries and distilleries and he proposed locally sourced products in the region in an effort to make the FAP policy happen. Dale said the County Executive is interested in creating wineries and vineyards that will help to eliminate roof tops.

Tim Hussman asked for a better understanding of non-conforming uses for FAP businesses. Jeremy explained how the draft AAC letter references the non-conforming wineries and breweries that existed prior to the effective date of ZTA 18-03, meaning that they can continue their current style of operation if they do not expand or cease to exist.

Jim Clifford said that he understands how the FAP policy was developed to create a side hustle to farming as an additional way to generate farm income. Jim is concerned the side hustle on some of the FAP businesses on 25-acre properties has become the primary use on the farm. Chuck Schuster said that a commodity farmer could sell corn to the market and then side hustle corn for liquor as a way of increasing farm profitability. Doug Lechliden agrees with Jim Clifford in cases where a person buys 25 acres and then makes a farm brewery the primary use of the property rather than operate it as an accessory use for farming. Lori Larson said that we need to monitor cases where the side hustle becomes the full hustle. Jim Clifford said that anything that is grown as the side hustle should still be ok for alcohol to production and he suggested the draft AAC letter needs further thinking.

Doug Lechliden said this genie is already out of the bottle and asked how do we back it up. Ben Butler said that he is split and understands Jim Clifford's concern about exactly what we mean by accessory use to farming. Dale Tibbitts asked again what is accessory use. Jeremy Criss explained that an accessory use to farming is an ancillary use or subordinate use that does not represent or exceed 50 percent of the total acres of the farm property. Jeremy said the proposed amendments for all FAP businesses to require a 25-acre minimum lot size and require 5-acre on-site production is intended to make FAP businesses more difficult to approve.

Ben Butler asked if there was a hurry on this issue. Jane Evans said that there is a motion on the table to approve the draft AAC letter and wondered if the motion and letter get in the way of defining accessory use. Doug Lechliden asked Jim Clifford a legal issue— does the draft AAC letter send a mixed message, since we are setting up a way for businesses to compete with farming. Jim Clifford said the FAP policy is supposed to be revisited by the County Council.

Hearing no further discussion, Ben Butler rescinded his motion and Tim Hussman agreed to table the draft AAC letter.

6. Update on the October 1, 2023, Retirement of Jeremy Criss, Director of the Office of Agriculture

The position for the new Director of the Office of Agriculture was advertised during the summer and a total of five candidates were interviewed. The interviews were also attended by twelve stakeholders of agricultural groups etc. and Eleanor Leak represented the AAC and the MCFB. The new Director of the Office of Agriculture is Mike Scheffel, effective October 1, 2023, which is the same date that Jeremy Criss retires.

Jeremy Criss reported that he is happy that Mike Scheffel is the new Director of the OAG as Jeremy has trained Mike for the past 5 years and Mike has demonstrated his knowledge of the County Code requirements including working with various agricultural groups. Jim Clifford said that Mike has done a good job. Jeremy said that the OAG has already started the process to fill Mike's Farmland Preservation Administrator position and he hopes to have it filled before the end of the calendar year.

7. New DPS Policy for High Tunnels Used in Urban Areas for Producing Local Food

The Office of Agriculture worked with the Administration and DPS to eliminate the building permit and fee for high tunnels used in urban areas to produce local food. Natalia Salazar conducted research that showed Montgomery County was the only MD jurisdiction that was requiring a building permit and excessive fee for these temporary structures. **Please see the attached Agricultural Producer Certificate** that was developed to assist with the placement of these high tunnels in urban areas downcounty.

Dale Tibbitts said this new policy resulted in good cooperation between departments DPS, OAG, OFRS, and the CE to help expand opportunities down county for local food production and extend the growing season as high tunnels are becoming more common. Debra Tropp asked if the County was going to conduct outreach to down county residents. Dale responded that a press release was in the works and that we will need to follow up with representatives of the urban communities. Jim Clifford asked if there was a provision that would address the removal of the structure if it were abandoned, as the metal frame and plastic would become an eyesore for the neighbors. Dale Tibbitts said this would need to be looked at and the Certificate must require the removal of the high tunnel if food production ceases to exist.

8. Amendments to Chapter 49 Streets and Roads-Rustic Roads Advisory Committee-

On July 25, 2023, the County Council approved Bill 30-23 to amend Chapter 49, Article 8 on the Rustic Roads Advisory Committee (RRAC). The Council approved that three of the RRAC members shall be commodity farmers earning at least 50% of their income from farming and a fourth member will be recommended by the AAC as the AAC representative.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230725/20230725_13G.pdf

The OAG reached out to several commodity farmers who we believe meet the farm income requirements. The following commodity farmers responded that they are interested on serving on the RRAC:

Tom Linthicum, Mason Hopkins, John Jamison, Billy Willard. Sr. (AAC representative recommended by the AAC).

There was no discussion on this item.

September 6, 2023, Listening Session for the replacement of Shaeffer Road Bridge.
https://www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?Item_ID=43826&Dept=50&fbclid=IwAR382gOzfNYynbaFq9cf5fQ6ZSmrjQsB8Huk088qULrGxZZhBG419VTCHag

9. Agricultural Advisory Committee Appointments and Selection of New Chair

Interviews for new AAC candidates were conducted on May 31, 2023. The interview committee was Doug Lechliden, Mike Scheffel, Natalia Salazar, and Jeremy Criss. **Lori Larson is designated as our Conservationist and Patrick Jamison is designated as our Farm Economist.** Here is a summary of the AAC appointments and we will need to recruit additional farmers members and one more non-farmer member.

County Council Confirmation of AAC appointments is scheduled on September 12, 2023

Russ Allnutt	Farmer Member
Ben Butler	Farmer Member
Amanda Cather	Farmer Member
Jane Evans	Farmer Member
Tim Hussman	New Farmer Member
Lori Larson	Farmer Member and Conservationist
Matt Lechliden	New Farm Member
Michael Protas	New Farm Member
John Brewer	Non-Farmer Member
Debra Tropp	Non-Farmer Member
Aliza Silver	Can Continue as Non-Farmer Member until replaced
Eleanor Leak	Can Continue as a Farmer Member until replaced
Patrick Jamison	Can Continue as a Farmer Member- Farm Economist until replaced
Pete Driscroll	Can Continue as a Farmer Member until replaced
Jordan Cissel	We need to find another farmer member

This will be the last AAC meeting for Doug Lechliden serving as the Chair. We need to select a new Chair, Vice Chair.

Doug Lechliden apologized that this item should have been first on the agenda for this meeting. Doug said that he has spoken with Lori Larson a couple of times about becoming the next Chair and Lori has agreed. Doug said that Lori is a real asset to the AAC. Doug said that he has also

spoken with Ben Butler about becoming the next Vice Chair of the Committee and Ben said that he is happy to help Lori as much as possible given that he has a young family at home.

Hearing no further discussion, Jane Evans motioned to approve Lori Larson as the new Chair of the Agricultural Advisory Committee-AAC and Ben Butler seconded the motion. The motion passed unanimously.

Lori motioned to approve Ben Butler as the new vice Chair of the AAC and Russ Allnutt seconded the motion. The motion passed unanimously.

Jeremy Criss said that Eleanor Leak, Pete Driscoll, and Patrick Jamison will continue to serve on the AAC until they are replaced. Dale Tibbitts said the Executive moved forward without complications on requests for term waivers. Dale said the County will re-advertise the vacancies on the AAC so that Eleanor Leak, Pete Driscoll and Patrick Jamison would be able to reapply as farmer members. Lori Larson said that she would welcome anybody that recommends new members should come forward. Dale responded that it would be best if the committee waited for the vacancies to be announced.

10. Update on the Crossvines Facility

The Office of Agriculture, the Office of Food Systems Resiliency and the MC Food Council coordinated a meeting on September 14, 2023, for local farmers to meet with Chef Luis from the Crossvines Facility and discuss new opportunities for locally produced food to be sold to Crossvines for preparing meals for their guests and events. The Crossvines facility may be another marketing avenue for farmers to sell their locally produced food like the Farm to Food Bank-F2FB program, where 35 farmers are currently participating. The OAG is working with Chef Luis to develop a list of food products that he will need daily so the farmers can begin planning for the 2024 growing season.

Jeremy Criss said that he is hopeful that Chef Luis at the new Crossvines facility will provide opportunities for County farmers to supply directly marketed food to Crossvines, for direct purchase, and sell and promote locally-produced food in general.

11. Maryland Department of Agriculture Announces a Crop Damage Survey Resulting from White Tailed Deer.

The MDA announced that they need MD Farmers to respond to a survey that will document the total amount of crop damage from white-tailed deer. Montgomery County conducted a survey in 2014 that showed County farmers lost a total of \$4.4 million due to crop damage from deer. Here is the link to complete this survey.

<https://docs.google.com/forms/d/e/1FAIpQLScm-hzWm7QAmA9ysZkLA91miTEvhZdI3yCHhcToxCGlvbbXw/viewform>

Jeremy Criss encouraged everyone to complete the Crop Damage Survey resulting from deer damage that can be used to show how the deer population continues to have a negative impact on agricultural production in the County.

12. National Farmers Day October 10, 2023 Luncheon and Proclamation

Councilmember Laurie Ann Sayles would like to extend invitations to local farmers for a luncheon and proclamation that the Council office is organizing to recognize National Farmer's Day. They have it scheduled for Tuesday, October 10 from 12-1:30 p.m. at the Council Office Building.

Jeremy Criss said the OAG is working with the Council to send out invitations to farmers to attend the luncheon and Proclamation recognizing National Farmer Day.

13. November 6, 2023, Economic Development Committee Work Session on Agritourism at the Agricultural History Farm Park

The purpose of the meeting is to get a synopsis of current agritourism activities in the County and explore policies and programs we could put in place to boost this industry. To that end, we anticipate speaking roles for the Office of Ag and Planning (to comment on the recent study) and, importantly, a panel of actual agritourism practitioners.

Jeremy Criss said that the AAC needs to participate in the upcoming Economic Development work session on Agritourism. Hopefully this will be an opportunity to expand agritourism uses in the County that are still in the development phase. The MDA expanded the definition of agritourism to include incidental overnight farm stays and this new use is being considered in Montgomery County as an amendment to the definition of farming.

14. Next Meeting of the AAC is October 17, 2023, at 7:00 pm –

15. Upcoming Meetings and Events:

Montgomery Soil Conservation District Board of Supervisors – September 15, 2023
Montgomery Weed Control Board of Directors-Fall meeting-September 18, 2023
Up County Citizens Advisory Board-Ag. Reserve discussion-September 18, 2023
County Council Proclamation for Jeremy Criss-September 19, 2023
MSCD Cooperators Dinner-September 19, 2023, The Agricultural Advisory Committee meeting will be rescheduled due to the MSCD Cooperators Dinner.
Poolesville Day-September 23, 2023
Agricultural Advisory Committee-Rescheduled to September 26, 2023
MCFB Membership Committee-Ag on TAP @ Waredaca Farm Brewery-September 28
Last Day of Employment with Montgomery County for Jeremy V. Criss-September 29
Montgomery County Farm Bureau- October 3, 2023
National Farmers Day Luncheon and Proclamation-October 10, 2023, 12:00 pm
Agricultural Preservation Advisory Board – October 10, 2023
Economic Development Committee Work Session-November 6, 2023-Ag History Farm Park

Hearing no additional discussion, John Brewer motioned to adjourn the meeting and Ben Butler seconded the motion. The motion passed unanimously at 9:01 pm