

MONTGOMERY SOIL CONSERVATION DISTRICT
BOARD OF SUPERVISORS MEETING
April 14, 2023

Approved
5-12-2023

The regular monthly meeting of the Board of Supervisors, Montgomery Soil Conservation District (MSCD) was held Friday, April 14, 2023, in person and virtually on the GoToMeeting platform.

People Present:

Robert Butz, Chairman
Robert Butts, Vice Chair
Tim McGrath, Treasurer
Linda Lewis, Supervisor
Joe Lehman, Associate Supervisor (virtually)
Chris Miller, Associate Supervisor
Tom Linthicum, Associate Supervisor (virtually)
Jeremy Criss, OAG
Mike Scheffel, OAG
Natalia Salazar, OAG
Kelly Nichols, Extension
Sam Engler, District Conservationist (NRCS)
John Zawitoski, District Manager (MSCD)
Kathleen Sigwart, (MDA) (virtually)
Karen Walker, Office Service Coordinator (MSCD)

The District Chairman, Robert Butz, called the meeting to order at 9:00 am and invited Kelly Nichols to present the Extension Agency report.

Agency Reports:

EXTENSION – Kelly Nichols - U of MD Extension, presented her report to the Board and circulated two flyers and explained that she will be forwarding the flyers in a PDF form to them via email. The first flyer was in reference to providing input to the Harry Hughes Center for Agro-Ecology on the impact of climate change on local farms. The second flyer is in reference to providing Tech support for farmers. The University of Maryland Extension and the College of Information have developed a call center to bridge the digital divide. The goal is to help farmers with internet access and the necessary equipment needed. The call center service is provided in both English and Spanish.

Kelly then reported she is working on 2 field projects: manure injections and an organic turf herbicide trail. She noted we must wait and see what this year will bring in terms of the research. She then provided an update on staffing and explained that several qualified candidates applied to fill the open Nutrient Management Advisory position. Hopefully this position will be filled soon. Kelly indicated that she reached out to John with another cooperator needing NMP writing assistance from the District. Kelly will coordinate with MSCD to get the NMP written. John shared MDA has established April 30th as the deadline whereby they will no longer accept waivers to get a nutrient management plan written by Districts. Kelly thanked John for the information and both John and Kelly are working to make sure no one falls through the cracks that need an updated NMP.

OFFICE OF AGRICULTURE: Jeremy presented the report for OAG, and the first item he addressed was an update on the PFAS issue and Senate Bill 319 and House Bill 158 which required pesticide registration and PFAS testing. Jeremy shared that MDA, MDE and the State Health Department will be studying the legislation over the summer, and he noted the use prohibition bills did not make it out of committee. Jeremy then went into details within his agency report to the Board.

Jeremy provided an update on the PFAS Article on the Wells #2 and #3 in Poolesville that were taken offline because they detected Forever Chemicals (PFAS). These wells are located towards the center of town and in residential and commercial areas.

As part of this discussion, Jeremy summarized the timeline of events surrounding the PFAS issue. Supervisors were asked to refer to Jeremy's report to follow along with the timeline of events.

Jeremy provided the latest information concerning **Bill 40-21- Individual Water Supply and Sewage Disposal Systems - Amendments (McCartney-Green)**. He reported that during the October 24, 2022, Transportation and Environment Committee work session several questions were raised that DEP staff did not have all the information. On March 7, 2023, the County Council passed a Resolution to extend the effective date of Bill 40-21. We will continue monitoring this Bill 40-21 that will be scheduled for a second T&E Committee Work Session. Jeremy explained the OAG will continue to report on this item as the Council continues to deliberate the merits of the legislation. More details concerning this Legislation in incorporated into minutes below:

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

Jeremy then reported on **Bill 18-22 Noise Control – Leaf Removal Equipment – Amendments**. He explained Bill 18-22 Noise Control-Leaf Removal Equipment was discussed during the T&E Committee work session on February 13, 2023, Councilmember Marilyn Balcombe presented an amendment to permit the use of gasoline blowers for farming uses and agricultural producers. On March 7, 2023, the Full Council voted unanimously to support the amendment to exempt agricultural producers from this Bill 18-22. The Bill 18-22 was scheduled for final reading for a second time on March 21, 2023; however, the County Council has tabled the bill for now. Jeremy explained further, that while County Council voted unanimously to exempt agriculture, there is a problem in the wording and how the rebate will work. He also noted the horticulture community is concerned how the legislation would impact their industry. More details concerning this Legislation in incorporated into minutes below:

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

Jeremy provided an update on the **Introduction of the Rustic Roads Functional Master Plan Update (March 14, 2023) - Planning Board Draft** (Orlin). The Public Hearing is scheduled for 4/18/23 at 1:30 p.m. with the TE Committee work session to be scheduled at a later date. Jeremy provided the Supervisors with the letter the Ag Advisory submitted on the matter. He noted there has been some contention within the Planning Board regarding their recommendations and the future structure of the Rustic Roads Advisory Committee. The Planning Board has recommended the committee increase its members from 7 to 9 and more than 3 farmers can be represented on the committee. John shared the District is working with several farmers along Rustic Roads that need new farm entrances. So far, the Rustic Roads Advisory Committee has approved everything the District has provided. Jeremy noted the committee has a requirement that farmers must receive 50% of their income from farming. Jeremy noted in the letter, to avoid having farmers disclose their financials status i.e., income tax returns, proof of equipment ownership would establish their income. Jeremy listed several types of ag equipment with the associated purchase costs that delineates their income to purchase the equipment. Tom Linthicum remarked on the proposal for having equipment ownership to meet the income requirement may preclude the equine and the production ag industries. Jeremy provided details on a plan to include them. More details concerning this the master plan update are incorporated into minutes below:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230314/20230314_5D.pdf

https://montgomeryplanning.org/wp-content/uploads/2023/02/Rustic-Roads-Functional-Master-Plan-Update-Volume-I_-The-Plan-Planning-Board-Draft.pdf

Jeremy then detailed the needs for **agricultural representatives of several County Boards and Committees:**

- **Rustic Roads Advisory Committee**-DOT Staff: Jeremy believes the previous staff representative is no longer on the committee and is not sure who replaced this person.
- **Water Quality Advisory Work Group**-DEP Staff Amy.Stevens@montgomerycountymd.gov
Travis Gorleski has been requested to serve at the agricultural representative of the WQAWG.
- **Agricultural Preservation Advisory Board**-OAG Staff Mike.Scheffel@montgomerycountymd.gov
*Non-Farmer Member-Nick Deluca, Farmer Member-John Fendrick-Replace with Randy Stabler
Farmer Member-Michael Jamison*
- **Agricultural Advisory Committee**-OAG Staff Jeremy.Criss@montgomerycountymd.gov
The deadline to apply is April 26, 2023. The Administration has not processed an announcement for AAC appointments for over two years. This delay will result in all 15 AAC members needing action taken on their appointments this year. This outcome conflicts with the County Code Chapter 2B where the AAC appointments are supposed to be staggered so that only 1/3 of the AAC members would need action taken annually, not with all members being appointed all at the same time. Jeremy noted that this is the first time this has happened in his tenure and there was a lengthy discussion on re-appointments.

The next item Jeremy reported on was the **Farm Tire Recycling Program for Montgomery County**. He indicated that the County DEP and DOT are scheduling a farm tire recycling program on Earth Day Weekend for both Saturday and Sunday 9:00 to 2:00 pm. **Saturday April 22nd – Crabbs Branch Depot and Sunday April 23rd – Poolesville Depot**. Only farm tractor tires and smaller tires are acceptable – NO OTR solids or wheel loader tires are allowed.

Jeremy then provided an Update on his **October 2023 Retirement**. Jeremy discussed how The Montgomery County Food Growers Association and Agricultural Advisory Committee remitted letters to the County Executive, CE staff and County Council recommending the process to replace Jeremy Criss. Jeremy indicated that he plans to retire in October and that to his knowledge, the letters that were sent in March have received no responses. Jeremy explained that he will be following up with the County Executive for the next quarterly meeting and he believes that is the sole purpose of the meeting.

Lastly, Jeremy provided an **update on the Maryland definition of Community Solar and impact on Montgomery County**. **Jeremy explained that** The State of Maryland revised the definition of Community Solar to allow up to a maximum of 5 MW as compared to the current threshold of 2MW.

More details concerning SB0613/HB0908 are incorporated into minutes below:

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0613?ys=2023RS>

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0908?ys=2023RS>

The OAG is hearing from different sources that our farm solar ZTA 20-01 may be revisited since the State definition of Community Solar has been expanded. Jeremy is concerned that this initiative may be used as an opportunity to remove the protection of class 2 soils and conditional use of approval and limited use.

Upcoming Meetings and Events:

Agricultural Advisory Committee-April 11, 2023; Montgomery Soil Conservation District Board of Supervisors-April 14, 2023; Agricultural Preservation Advisory Board-April 24, 2023; Montgomery County Farm Bureau Board of Directors-May 2, 2023; Agricultural Preservation Advisory Board-May 9, 2023; Montgomery County Farm Bureau Picnic-June 11, 2023.

After Jeremy presented his report, Linda asked how farmers can help him. Jeremy shared Farmers are going to have to step up to the plate and not depend on Ag Agencies. He noted that this administration is focused on Rural and Rustic Roads and not agriculture. Linda asked to be provided with the links for all the boards that need to be represented by farmers and she would champion this effort. The chairman also noted the MSCD Newsletter can be used as a recruitment tool. John also shared MSCD can use our social media outlets as well.

SECRETARY/ TREASURER’S REPORT - Chairman, Robert Butz, then addressed the approval of the minutes and indicated that all have received a copy of the minutes and asked if there were any discrepancies or corrections. Having no questions or corrections for the minutes, a motion was made by Linda Lewis and second by Tim McGrath and passed approving the March 13, 2023, Board of Supervisors Minutes. The chairman noted given this is a hybrid meeting, he would just call for any nays. The Chairman asked if there were any nays and there was none.

Karen then presented the March financial report and indicated that the checkbook and bank statement have been reconciled. She shared since our last meeting, MSCD has received the \$70,000 DEP payment for our WQPC Incentive Program. She explained there were no MDA expenses for the month of March and noted the only upcoming expense is for the Envirothon competition. She indicated that the Chesapeake Bay Trust Fund report was due on April 10th and it was submitted on time. She invited our new employee, Charley Chen, to introduce himself to the Board and in return, all in attendance at this meeting introduced themselves to Charley and welcomed him aboard. Following these introductions, a motion was made by Linda Lewis to approve the filing of the financial report. This motion was seconded by Tim McGrath and passed approving the upcoming Envirothon expenses and to file the March MDA financial reports. The Chairman asked if there were any nays and there was none.

DISTRICT ACTIVITIES REPORT AND PROGRAM UPDATE: Sam Engler, District Conservationist walked the Supervisors through the Activities report and highlighted that there were 3 conservation plans completed this month with another 16 plans in progress. The District also completed 3 Nutrient Management Plan Updates with 2 more in progress. The District received one new request for assistance that involves a technical assistance request for an ag well and a conservation plan. Sam also highlighted that there is a lot of design work listed on the report and he noted things are moving along. John noted that while the Activities Report lists more than 15 conservation plans in progress, and he explained that over the last year over 80 conservation plans were approved. So far this year, 24 conservation plans have been approved and John is proud of the MSCD staff work effort. However, John is still concerned with the number of conservation plans that will expire between now and 2025. John explained how conservation plans impact the WIP Goals and he took the opportunity to announce MDA will provide WIP updates to each District and their accomplishments and areas that still need to be addressed. The WIP update meeting for Montgomery County is scheduled for May 23rd at 11:00 and it will be a virtual meeting. John encouraged the Supervisors to join in on the meeting if they were available. After the WIP discussion, a motion was made by Linda Lewis and second by Tim McGrath and passed approving the Activities Report. The Chairman asked if there were any nays and there was none.

DISTRICT MANAGERS REPORT: NEW BUSINESS

Draft Letter to County ACAO – Jeremy’s Position – John explained that Jeremy has announced his intent for retiring at the end of September this year. While Jeremy has been advocating with the Administration a process for seeking his replacement, there hasn’t been much movement or feedback on his proposed process. It was suggested in the letter from the Ag Community expressing their concerns about the process for replacing Jeremy as well as advocating for the engagement of the Ag Community in the process might help the Administration identify the Key leadership in the ag community. John further explained that he provided a draft letter prepared on behalf of the District Board to review prior to the meeting today. This letter and its content, once approved, would be signed by the District Board Chairman, and sent to the County’s Assistant

Chief Administrative Officer. On Monday before the Board meeting, Robert Butz provided a revised draft letter for the Board to consider. Prior to the meeting today, John sent this revised draft letter to all Board members and included it in the packet for discussion for today's meeting. John asked Board members to refer to this letter to see if there are any additions or corrections they would like to consider. If there were no additions or corrections, he would like to advocate for Board approval to send this letter to the County ACAO following the meeting today. We should also BCC the OAG on the letter that was sent. Jeremy added there are additional individuals that should receive the letter including the County Executive, Chief Administrative Officer, and Dale Tibbetts. This led to a lengthy discussion on the process of replacing Jeremy's position and the existence of the Office of Agriculture. A motion was made by Linda Lewis and second by Tim McGrath and passed approving to send the letter. The Chairman asked if there were any nays and there was none.

Final Legislative Update: John explained he included in the Supervisors packets his final Legislative Update for the 2023 session. This was yet another busy legislative session and John indicated he aided in reviewing/analyzing/commenting/tracking 37 House Bills and 35 Senate Bills as part of the 2023 Legislative Session. John explained that those requesting copies of his legislative matrix have expanded to areas outside of the County. While he provided weekly updates on legislation to the OAG, MAP, Farm Bureau, WSSC in the County, SCD's in Frederick, Howard, Prince Georges Counties, and the Maryland Association of Soil Conservation Districts all now receive his matrix. Collectively we were able to provide a comprehensive approach to help analyze these bills and get comments and testimony before legislators. John asked Supervisors if there were any particular bills the Board would like feedback on, and he would provide updates on information that he could comment on. The attached matrix is updated through the last week of the session. The session officially ended on April 10th. John shared the compost bill was heavily amended and ultimately passed both Houses and there will be a role for the District to implement the changes. The compost structure size/area was reduced from 40K sq. ft. to 10K sq. ft. Additionally, John provided the update on the 2 PFAS Bills and he said he could provide updates on any of the bills that's on the matrix. John shared that he is proud of the relationships the District has developed with the legislators.

MSCD Annual Report –Publication – John explained that included in the Supervisor's packets is the MSCD annual report for the following year. This report highlights District programs and activities over the past calendar year. John explained how proud he is of the District's team and how hard they work to provide services to our cooperators and other partner agencies. Each year we publish this annual report on both the District's website and District Newsletter. We are in the process now of developing the newsletter for a May/June publication date. This annual report will be included in this edition. Please take the opportunity to review our report, it details the incredible diversity of our workload and what we were able to accomplish. We have a really strong team of professionals and John is very grateful for how everyone pulls together to get the work done.

Summary of 3/28 MACD BOD - John provided a quick summary of the more important items discussed during the March 28th Board of Directors Meeting. Hans Schmidt provided an update from MDA. Hans indicated that the MOUs for FY24 funding to the Districts will go out in April. Based on comments from the State's Legislative auditor, MDA needs to turn them around very quickly. He is asking District Boards to review and execute these agreements before the close of FY23 (June). There was brief discussion on the timing of the funds to Districts and John explained that it is MDA's intent to provide funds in accordance with State Fiscal Year Guidelines.

John summarized Hans's report further by explaining that during the March State Committee meeting, MDA announced the Regional Flat Rates will go into effect April 1st. Hans further explained that the COVID increased cost share assistance will expire at the end of March. Any projects wanting to take advantage of these expiring rates, applications must be executed and sent to the State Office by March 31st. While most of the State will be using the regional flat rates, a component based flat rate system is being tested as a pilot program

in Western Maryland area for the next six months. John shared once the pilot is evaluated, we may have an opportunity to use the component base flat rate system.

Hans provided a heads up that MDA will hold a Cover Crop Technical Advisory Meeting in April and will be offered as both a virtual meeting and in person meeting. John noted that MSCD has advocated to MDA to reconsider the timing for the Nutrient Management certification piece that is a part of the program. John said MDA's position is not to take any cover crop application without a current nutrient management certification. Kelly asked for the definition of a current plan. John explained that a cooperator can sign up if they have a current plan and if the plan expires after the submittal of the application, it is the farmers responsibility to make the plan current. John has no idea how MDA plans to follow up with cooperators that have current plans that will expire after signing up.

MDA will be providing a mailer to Cover Crop Applicants that states in bold letters, that MDA/District's will not accept any application if the application does not contain a current Nutrient Management Certification form. Regarding Nutrient Management – There are 7 U of MD Nutrient Management Advisor vacancies across the State: MDA/District's are assisting in plan writing. To provide this assistance, farmers will need to complete a Waiver form provided by Extension. U of MD will help identify those farmers needing updates and will inform farmers of the deadline on District assistance. John shared although MDA made the agreement with UMD, the Districts are doing the work. Kelly shared that only 4 more plans are needed for Montgomery County and John said he will double check with Adam.

Hans reported that as a head's up to Districts, MDA will be scheduling time with each District to discuss WIP Progress. This will occur most likely in April or May. Lastly, he reported that there was a really good response to the healthy soil program and thanked the district's for helping to get the word out about this new program. John shared MSCD used social media to get out this information out.

John then summarized the report Alisha Mulkey provided concerning some matters from the State Soil Conservation Committee. She will be sending out a survey about Board composition and will be putting together a forum to discuss the next generation of board members. It has become an increasingly difficult issue of finding people willing to serve. The SSCC will hold training for DMs on April 24th on Board meetings protocols. John has received a copy of the survey and he noted that MSCD seems to be following the proper procedures for Board Meetings particularly in approving conservation plans. John indicated he will report back on what he learns from the DM meeting in April.

Proposed Composting Facility: John provided information to the Board about a proposed composting facility in the Dickerson area that will represent a future request for assistance. A local composting company is seeking to enter into a lease agreement with a local farmer to conduct a food waste/organic material composting facility as an accessory use to agriculture. This compost company has applied for a grant from the USDA that will ultimately dictate the extent of the operation. This operation will be at least 1 acre but could approach up to 10 acres. This would be an extremely large project that would require grading and excavation. This level of disturbance would require the filing of a Notice of Intent with MDE and potentially stormwater management depending upon how the composting pad is classified. Another issue is that the pad area must not be in an area where ground water will approach any closer than 4 feet from the surface. In our preliminary evaluation, at least 50% of the farm property contains hydric soil which would not be suitable for the composting pad. A more detailed analysis of the site by NRCS Soil Scientist would need to be conducted to make a more accurate determination. If the area needed for the composting is also the area where the primary agricultural use is conducted, it may mean the size of the facility would need to be reconsidered to meet the accessory use requirement. This information was provided as a heads up to the Board as this will be a future Board meeting item for discussion. Mike shared the facility is completely dependent on compost company receiving funding

from USDA or EPA. John believes that MDE will be looking at the District to provide guidance and a conservation plan. Jeremy shared that this will be the first MDE permitted Compost facility in the county, and he is unaware if there are others in the state. There was a lengthy discussion on this matter, and it was noted that a huge grant is associated with this project.

Cover Crop TAC Meeting Summary from 4/6 – John summarized the most important takeaways from the MDA Cover Crop TAC meeting. No Nutrient Management Certification form, no accepted applications. MDA will not be mailing applications to producers. They want producers to come to the office to complete the applications. Sign up will likely begin at the end of June through July. In John's discussion with J Harne, our cover crop program coordinator, he feels given our producers have become accustomed to mailing in their forms and feels that if a producer prefers to mail in the form, that we should accept their applications. J has a system for collecting information from farmers that has been working well. Obviously, if a farmer prefers to come to the office to sign up, they will still have that option. The District would mail the applications to producers rather than the State mailing them out. The District recommended a longer sign-up period for producers to sign up for the program and it appears MDA will be accommodating that request.

DISTRICT MANAGERS REPORT: OLD BUSINESS

MDA FY24 GF Budget Submission: John reported that he has completed MDA's FY24 Budget Submission and remitted it to MDA. Based on the discussion and direction from the Board from the March meeting and to meet MDA's Budget MARK, the line item for in person Board meetings was reduced from 10 to 6, with 4 meetings being held virtually for FY24. This would reduce the amount of funds needed for mileage reimbursement. By doing this, our per diem amount is about \$200 over \$7,500 Budget MARK limit. John expects a MOU from MDA for the Board to consider by the May meeting.

MSCD NM Plan Update report: John reported that the District and MDA staff are currently engaged in about 4 or 5 nutrient management updates. This interim District NM updated plan approach is not intended to replace U of MD advisors but rather provide a vehicle to help maintain NM compliance while the University fills the 7 NM advisors statewide (including Montgomery). John acknowledged MSCD staff on this effort and pointed out that Ibraheem and Travis have done the lion's share of providing assistance for these updates.

MSCD Engineer - John thanked the Supervisor for providing introduction and he is happy Charley is on board. John reported that he has meetings scheduled with MDE to discuss the State's Small Pond Approval Process, and meetings with DPS and DEP to discuss County small pond approval submission guidelines and a meeting scheduled with the NRCS Area Engineer to discuss JAA for agricultural projects.

Update Lead Reclamation Project - Since our last Board meeting, a cooperator and their agents have been working with MNCPPC to employ a process and a Fee Reduction Request for Forest Conservation associated with their impending lead reclamation process. John didn't even know this process existed. The cooperator wants to pursue this option before exploring any further options for relief. We will be holding tight to see what the next steps will be with the cooperator following their approach with MNCPPC.

MSCD Educational Outreach (Envirothon/Schools) - John wanted to let the Board know that this spring we have been really busy with educational outreach to County schools. We are also very engaged with the upcoming Envirothon Program, as the District staff are directly responsible for 2 of the 4 testing areas for the local Envirothon program (Forestry and Soils). This included the development of training materials, setting up training areas and providing in-person instructional training. Our local training day was conducted on March 31st with the competition coming on April 27th here at the AHFP.

On April 11th, Kathleen and John conducted an in-school program with about 100 5th grade students at Fox Chapel Elementary School on the importance of Soil and Water Conservation.

Executive Session Statement From the April 14, 2023, Executive Session

In accordance with the Open Meetings Law, the Montgomery Soil Conservation District Board of Supervisors held an Executive Session immediately following the close of regular Board meeting on 4/14/2023, within the Multi-Purpose Room at Agricultural History Farm Park in Derwood.

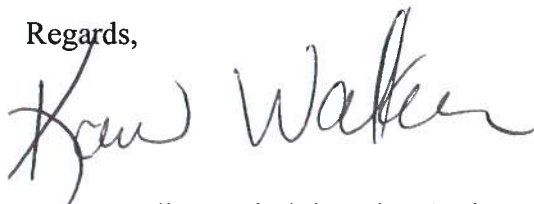
The statutory authority to hold this close session conforms with section 3-305(b)(2): **“To protect the privacy or reputation of individuals concerning a matter not related to public business.”** Supervisors discussed Cooperators’ Soil Conservation and Water Quality Plans whereby the Board took action to approve 3 Conservation plans.

This meeting will only be closed under the provision 2, all from General Provisions Art. § 3-305(b):

ADJOURNMENT AND NEXT MEETING

The chairman had no correspondences to share and the meeting officially adjourned at 10: 16 a.m. The next scheduled Board of Supervisors Meeting will be in person with the option to attend virtually on May 12, 2023, at 9:00 am.

Regards,



Karen Walker, Administrative Assistant

<u>MEETINGS HELD</u>	<u>MEETINGS ATTENDED</u>
3 Butz	75%
3 Butts	75%
3 McGrath	100%
3 Linda Lewis	100%
3 Doug Tregoning	100%
3 *Linthicum	100%
3 *Joe Lehman	100%
3 *Chris Miller	100%

*Associate Member