

MONTGOMERY SOIL CONSERVATION DISTRICT  
BOARD OF SUPERVISORS MEETING  
April 12, 2024

Approval  
5-10-24

The regular monthly meeting of the Board of Supervisors, Montgomery Soil Conservation District (MSCD) was held virtually on the Zoom platform and in person on Friday, April 12, 2024.

People Present:

Robert Butz, Chairman  
Tim McGrath, Treasurer (Virtual)  
Tom Linthicum, Supervisor  
Doug Tregoning, Supervisor  
Joe Lehman, Associate Supervisor (Virtual)  
Robert Butts, Associate Supervisor  
Mike Scheffel (OAG)  
Natalia Salazar (OAG)  
John Zawitoski, District Manager (MSCD)  
Sam Engler, District Conservationist (NRCS)  
Karen Walker, Office Service Coordinator (MSCD)

The Chairman, Robert Butz, noted Supervisor Linda Lewis would not be attending the meeting and he called the meeting to order at 8:59 a.m. The Office of Agriculture was the only partner agency in attendance and the chairman invited Mike Scheffel to present the report for OAG.

Agency Reports:

**OFFICE OF AGRICULTURE** – Mike Scheffel presented the report for the Office of Agriculture and noted he would only address a couple of items from his report. Below are items that were addressed.

- Office of Legislative Oversight (OLO) Report on the Status of Transferable Development Rights (TDRs) and Building Lot Termination (BLT) Programs - On April 5, 2024, Montgomery Planning staff sent the Office of Agriculture an updated memo on their draft recommendation for how to support the TDR and BLT programs through the Incentive Zoning Update. Currently, developers are required to purchase BLTs in order to develop at a higher density than the baseline level in the CR and LSC zones. The Planning Department's draft recommendation is to require that developers purchase either BLTs or an equivalent number of TDRs and to provide an incentive for purchasing TDRs instead of BLTs. One idea is for the OAG to buy TDRs from landowners at a set price and "sell" the TDRs to the developers for the same price. This would require changes in executive regulations. Once the developer uses the TDRs, a TDR extinguishing document would be recorded to close the loop on the TDRs assigned to a development project. Mike explained that Park and Planning is trying to find avenues to get TDRs and BLT program moving and is considering creating an incentive zoning project with public benefit points to encourage developers to utilize TDR's and BLT's. Mike provided details on the project and noted how it would be planned for in the CR and LSC zones. Developers would prefer working directly with the County (OAG) over trying to locate farmers or landowners with TDRs they are willing to sell. In principle, Mike is happy with the concept as it would create a marketplace that doesn't currently exist. Programmatically, OAG would be responsible for 2 items: to purchase the TDR from a farmer or landowner and then to sell the TDR to the developer. Mike noted OAG is not trying to make a profit and the TDR would be sold as a determined market price. Mike is unaware of the County Executive's position on this matter and there was a lengthy discussion in particular of the value of a TDR and BLT. Mike shared that it is a very good first step.

- Planning Board meeting with agricultural leaders - On March 29, 2024, the Planning Board met with representatives from different agricultural groups and the OAG to discuss the benefits of the Agricultural Reserve, threats to farming in the Reserve, the need for revamping the TDR program, agritourism, and the importance of including farmers in discussions on legislative changes that affect farming and the Reserve. The Planning Board was very interested in hearing from the farmers and looks forward to continued discussions and farm visits. Mike shared the new planning department, the board, board chair and staff are incredibly supportive of the agriculture economy in the county, and they are open to ways to help farmers continue farming and maintain economic viability and protect the Ag Reserve. The Chair, Artie Harris, made it clear he does not have a down county only perspective and is very interested in ways to make the County's Agricultural Reserve special as a working landscape. John shared the ag community wants to be better engaged and to be a trusted source of information that planning board can go to. Tom noted that he has heard good things about the new planning board.
- ZTA 23-09, Farming – Incidental Outdoor Stays- After meeting with Councilmembers Marilyn Balcombe and Dawn Lucdtke on March 1, 2024, representatives of Montgomery County Farm Bureau, Montgomery Agricultural Producers, Montgomery Countryside Alliance, and Sugarloaf Citizens Association scheduled a meeting with the two councilmembers for April 22, 2024, to provide feedback on this ZTA. Mike informed the Board that at this time, there wasn't anything specific to report and mentioned the Ag Preservation Board met last week and is basically a new Board. Wade Butler is the most recent member, and there will be a new non-farmer member soon. The non-farmer representative, Margaret Giblin just stepped down. The Ag Preservation Board developed a position letter and feels if there is going to be an incidental outdoor stay it must be defined outside of the definition of farming; potentially as a conditional use only and tightly defined so there will be minimum impact for future agriculture use on the property. Mike shared a follow up meeting has been scheduled to provide more insight and clarity.
- SB1082/HB1328, Solar Energy and Energy Storage - Development and State Procurement - The OAG has been informed by the county Office of Intergovernmental Relations that this state bill will likely not go forward.
- HB0798, Montgomery County - Alcoholic Beverages - Class D Beer and Wine License – Farm Breweries and Limited Wineries - The OAG has been informed by the county Office of Intergovernmental Relations that this state bill will not go forward.
- Visit Montgomery Rural Branding Initiative - Visit Montgomery received a grant from the Economic Development Administration for branding and marketing agritourism businesses in Montgomery County. After receiving feedback from the agritourism businesses in the county, on February 28, 2024, the OAG and Visit Montgomery hosted a second listening session to receive input from other stakeholder groups. With the information they collected during both sessions, Visit Montgomery will hire a consultant to generate branding and marketing recommendations and will convene subsequent focus group discussion meetings.
- Junior Achievement Program of Greater Washington - This program teaches 7<sup>th</sup> graders in the county about financial literacy, work readiness, and entrepreneurship. Located in Finance Park at Thomas Edison High School, the program includes a simulated shopping center where the students learn to “shop” for food and other necessities within their budgets. The Director of Development, Devin Donaldson, contacted the OAG to see how they could partner with the OAG, Extension, and agricultural leaders to include more agricultural education in the program. They would like the students to learn about careers in agriculture, local food options, and the Ag Reserve. On April 22, 2024, representatives of different agricultural groups and Extension will visit Finance Park to learn more about the program and explore collaboration. Mike said OAG is always trying to get more agricultural opportunities in the

classroom. Devin Donaldson developed this program, and the program is not just reflecting what farmers do but it will include other industries associated with agriculture. Juniors will have the chance to learn about other industries and employment opportunities.

- Vacancies in the APAB and RRAC - Wade Butler applied for the last vacancy in the Agricultural Preservation Advisory Board (APAB), was recommended by the County Executive, and appointed by the County Council today, April 16, 2024. However, Margaret Giblin has announced that she will be stepping down, so a new vacancy will be announced in the near future.

The three farmers that applied to the Rustic Roads Advisory Committee (Tom Linthicum, Mason Hopkins, and John Jamison) were interviewed by the County Executive's office, but appointments have not yet been made. Tom shared he has received an email about his nomination.

Upcoming Meetings and Events: Agricultural Advisory Committee meeting: April 16, 2024; Montgomery County Farm Bureau Board meeting: May 7, 2024; Agricultural Preservation Advisory Board meeting: May 14, 2024

**SECRETARY/ TREASURER'S REPORT** - Chairman Robert Butz addressed the approval of the Board minutes and noted all have received a copy of the minutes and asked if there were any changes or corrections. Doug believed the calculation for the percentage of meetings attended was not correct. He explained that his attendance for the year is 67% and Chris Millers is 33%. There was a discussion on a better method of calculating the percentage of Board Meetings attended, to be based on a 12-month rolling average. The Chairman called for an amended motion to correct the March Minutes. A motion was made by Doug Tregoning and seconded by Tom Linthicum and passed approving to correct the attendance for Doug as 67% and Chris as 33%. The Chairman then called for another motion noting that moving forward, the Supervisors attendance calculation will be on a rolling 12-month average. A motion was made by Doug Tregoning and seconded by Tim McGrath and passed approving Supervisor attendance calculation be based on a rolling 12-month calendar average. Having no further changes, a motion was made by Doug Tregoning, seconded by Tom Linthicum, and passed, approving the March 12<sup>th</sup> Board of Supervisors Minutes as amended.

The Chairman invited Karen to present the financial report. Karen noted the checkbook and bank statement have been reconciled. She shared there are no MDA expenses this month and noted she is working on spending down the FY24 WQPC Operating funds. She also noted MSCD has received the MDA 4<sup>th</sup> quarter payment and a notification of the final FY24 Chesapeake Trust Fund payment should be arriving soon. The only expense that needs to be addressed is attendance for the MASCD Summer Meeting. Karen mentioned there will be a price increase after May 18<sup>th</sup>. John shared the MASCD Summer Meeting dates are July 8<sup>th</sup>, 9<sup>th</sup>, and 10<sup>th</sup>. Karen shared in relationship with the summer meeting, the MSCD has submitted several MASCD Services Awards for the Summer Meeting and noted all were submitted by the April 18, 2024, deadline. Karen said she would follow up on the hotel cancellation policy and would make room reservations to attend the MASCD Summer Meeting. She would email Supervisors for the meeting registrations. Tim said he plans to attend, and Doug will be attending also. Having no expenses to address, Karen recommended Board approval for the filing the March MDA Financial report. A motion was made by Doug Tregoning and seconded by Tim McGrath and passed approving to file the March MDA Financial report.

**DISTRICT ACTIVITIES REPORT AND PROGRAM UPDATE** – The District Conservationist, Sam Engler, presented the Activities Report and noted there is a lot of small pond activity the District is performing for the County and City of Gaithersburg. Some of the pond work is just continuation of projects and there are some new projects too. There is one RFA; 18 conservation plans in progress and 7 completed plans for the Board's approval. John remarked on the pond activity and provided details on the increase in pond work. John noted the good news is the City of Gaithersburg will be providing financial support for the work that Charley is doing to support the City's small pond approval workload. The District is in the process of drafting a Memorandum of Understanding (MOU) that will provide funding initially for a five-year period.



The Chairman inquired if Sam had any other matters to present to the Board and Sam responded no. The Chairman shared on a personal note it is good to see the District involved with small pond work and he noted it broadens MSCD scope of work and adds to the consistent workload for the engineer. Doug commented that over the years he has seen a lot of Activities Reports and he noted there was a significant increase in activity for the district for this month. John remarked the District has been very busy this month. There was a short discussion concerning the State Committee meeting and issues Districts are facing across the State with clearing forest land for agricultural land uses. It seems each month, more and more requests are being made to clear forestland. The challenge for Districts is that the impact with erosion and sediment control is not able to be covered under a soil conservation and water quality plan because Maryland's field office technical guide does not have land clearing as an approved NRCS conservation practice. Which in short, prohibits the District from aiding through the conservation plan. There was a lengthy discussion on this matter and John indicated that the State Committee will be actively pursuing some kind of guidance document to help Districts. The Chairman encouraged a consistent approach that would treat all landowners equally and put the District in a defensible position if assistance can be provided.

### **DISTRICT MANAGERS REPORT: NEW BUSINESS**

**Legislative Update** -John indicated that each Supervisor was provided a legislative update document. In the interest of time, John provided comments on a couple of bills that were of importance to the District. More notably, The Ag BMP, Best in Show bill that got significantly amended and was heavily watered down. The District's small pond fee bill passed. The most troubling legislation impacting District's was HB1101 cross filed with SB0653. Sponsored by Sen. Malcolm Augustine and Del. Sara Love, the Act restores justice after the U.S. Supreme Court's *Sackett v EPA* decision last year removed Clean Water Act protection for intermittent and ephemeral streams and most wetlands. That decision essentially eliminated the public's right under the Clean Water Act to bring a lawsuit against polluters of those types of waterways. While Maryland has strong laws protecting wetlands and waterways, the public does not have a right under state law to enforce clean water protections. This bill sets a national precedent by restoring that right under state law, allowing communities to file lawsuits for illegal pollution discharges in these waterways. This District was initially named, both as an entity and individuals, that could be named in legal actions. The final bill that passed excluded Districts from being subject to this legislation. John encouraged Supervisors to read his report and if there were any specific legislation they had questions about, he would provide them with an update.

**District Annual Report** - Provided in the Supervisors packet is the annual report for the District for calendar year 2023. The District will be publishing our annual report first on the District website and then again in our District newsletter slated for publication in late May or early June. The Chairman noted the report is a lot of work and thanked John for completing the report.

**NEW MACS Cost Share Caps** - Provided in the Supervisor packets is the information concerning updates to the increase in MAC programs and the changes that will become effective on 4/15. **Non-Animal Waste Treatment and containment:** Projects \$150,000/project; \$200,000/project-pooling agreement; Remove total farm/person cap. John was impressed with the removal of the total farm element.

**Animal Waste Treatment and Containment Projects:** \$200,000/project; \$200,000/project-pooling agreement; \$450,000/person (active either installed by applicant or conveyed); 50% cost-share rate on start-up and/or expansions. John noted the major change is for startups. John also noted for animal waste MDA wants an operator to seek co-cost-share. John shared the federal funding may not be available immediately and he provided an example of a farmer planning to expand the operation and was not sure if federal funds would be available in the needed timeline. Sam shared the feds are trying to work with the operator to see if federal funding could be available.

**Cover Crop Field Day (May 7<sup>th</sup>) Wash. County** For any Supervisor that may be interested, NRCS and U of MD Extension are hosting a Cover Crop Field Day on May 7<sup>th</sup> from 8 to 3 pm. Must RSVP by April 23<sup>rd</sup>.

**Grazing Cover Crop Field Day (May 8<sup>th</sup>) Wash. County** - There is also a Grazing Cover Crop Field Day being hosted by NRCS and U of MD Extension on May 8<sup>th</sup> from 1 to 3 pm. RSVP by April 23<sup>rd</sup>.

**Envirothon Training Day (April 10<sup>th</sup>)** - The District staff provided training to six (6) Envirothon Teams that will be competing here at the AHFP on May 3<sup>rd</sup> for an opportunity to represent Montgomery County at State Envirothon Competition. The competition will be held at Mount Saint Marys College in June. District staff provided hands on training on the soils and forestry components. With partner agencies providing training with aquatics and wildlife. The 5<sup>th</sup> Issue this year is alternative energy. John shared his disappointment with our State Envirothon Team as they have been unable to provide sample tests or training guides for the 5<sup>th</sup> Issue this year. We are trying to find contacts in County Government at DEP that might assist but so far, we are still trying to get this part locked down.

**Draft Annual Plan of Work** - Provided in the Supervisors packet is a draft annual plan of work for our office. As part of the District's plan for succession for when John eventually retires, having in place the annual plan of work document that highlights what a typical year of routine work items the District is involved with will be extremely valuable to have in place and would be very beneficial for the next District Manager. This annual plan will be reviewed annually during the December Board meeting. In addition, John plans to put together an orientation book that will have examples, templates etc. that can be used as guidance. The supervisors agreed that it is sound planning.

## **OLD BUSINESS**

**MDA FY25 Operating Budget Request (Mar 31<sup>st</sup>)** - The MDA Budget was due back to MDA by March 31<sup>st</sup>. To meet this deadline, John prepared the District's budget submission. The budget submission included a summary of the cost changes as compared to the District's FY24 approved versus the FY25 General Fund Budget request. There are a few cost changes from our FY24 approved for the FY25 submission that John discussed that includes an increase in funds to cover costs associated with the MSCD's Board of Supervisors MASCD summer & winter meetings conference and Board meeting expenses and mileage reimbursements for this year as well as increase in costs for conducting our annual audit.

**Supervisor Appointments – Tom Linthicum** - Tom was appointed by the State Soil Conservation Committee to fill the Farm Bureau's appointment on March 21<sup>st</sup>. Tom has received his confirmation letter and oath of office. Unfortunately, the oath did not have the seal and Karen made arrangements to have the seal applied.

**Summary of Apr11<sup>th</sup> SCD WIP Progress Meeting** - This meeting was held the Thursday prior to Friday's Board meeting. The Chairman attended the meeting and said the animal goal numbers are not realistic and the District will be challenged in meeting the Animal Waste Management System goal. John shared that 90% of animal units in Montgomery County are equine and MSCD is actively engaged in identifying equine operation that utilizing RI's to address waste management. The goal is daunting but the District will be working diligently to make advances in documenting these RI's

## **Board Executive Session Summary from the March 8<sup>th</sup> Closed Session**

In accordance with (§ 3-306) (c) (2) or § 3-104, the Montgomery Soil Conservation District Board of Supervisors held a closed session for the purpose **“To protect the privacy or reputation of individuals concerning a matter not related to public business.”**

**Time of closed session: 10:08 a.m. Place: Small Conference Room – Agricultural History Farm Park.**

**Members who voted to meet in closed session: Butz, Butts, McGrath, Lewis**

**Persons attending closed session:** Zawitoski, Walker, Butz, Butts, McGrath, Lewis, Linthicum

**Authority under § 3-305 for the closed session (see statement above): § 3-305(b)(2)**

**Topics discussed:** Soil Conservation and Water Quality Plans completed and ready for Board Approval

**Each action Taken:** Approval of 13 Conservation Plans

**Statement concerning entering into an Executive Session following the April 12<sup>th</sup> Open Board Meeting Session:**

**Board Chairman Statement about entering into a closed Session following the April 12<sup>th</sup> MSCD Open Meeting.** MSCD Chairman Robert Butz made the following statement: In accordance with (§ 3-306)(c)(2) or § 3-104: “Immediately following the Open Session Meeting, The Montgomery Soil Conservation District Board of Supervisors intends to enter a closed session. In accordance with (§ 3-306) (c)(2) of the Open Meetings Law, and for the purpose **to protect the privacy or reputation of individuals concerning a matter not related to public business**”; the Board by majority vote shall enter into the closed session to discuss and approve Soil Conservation and Water Quality Plans and to discuss landowner-specific -details involving a request for assistance from a county landowner.

**Motion to Enter Closed Session made by:** Tim McGrath

**Motion seconded by:** Doug Tregoning.

**Members in favor:** Robert Butz, Tom Linthicum,

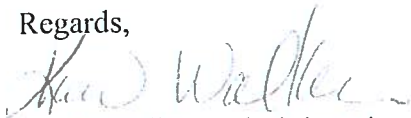
**Opposed:** None

**Abstaining:** None

**Absent:** Linda Lewis

**ADJOURNMENT AND NEXT MEETING** The Chairman had no correspondences to share. The open meeting was adjourned at 10:07 a.m. The next scheduled Board of Supervisors meeting will be in person with the option to attend virtually on May 10, 2024, at 9:00 am.

Regards,



Karen Walker, Administrative Assistant

<b><u>MEETINGS HELD</u></b>	<b><u>PERCENT OF MEETINGS ATTENDED (ROLLING 12 MONTH)</u></b>
Butz	100%
Linthicum	80%
McGrath	100%
Linda Lewis	80%
Doug Tregoning	90%
*Robert Butts	90%
*Joe Lehman	50%
*Chris Miller	70%

\*Associate Members