

Farms,



Communities,



AND COLLABORATION

A Guide

TO RESOLVING FARM-NEIGHBOR CONFLICT

Farms, A Communities, AND COLLABORATION Guide to Resolving Farm-Neighbor Conflict

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Preface

THIS MANUAL IS A GUIDE TO RESOLVING THE KINDS OF CONFLICTS THAT ARISE WHEN FARMERS AND NON-FARMERS LIVE TOGETHER IN RURAL COMMUNITIES: conflicts over farming practices, life styles, land use, the environment. We designed the manual to help farmers and neighbors, regulators, local government officials, environmental advocates, and interested citizens become familiar with the process of collaborative problem solving. Collaborative problem solving draws on mediation and/or facilitation skills and involves an approach to conflict that engages participants in resolving differences constructively. Equally important, the process helps build socially strong and economically vital communities.

The manual that follows reflects the authors' varied professional expertise as well as our experience working with communities around the state as they grappled with farm-neighbor conflicts. We have divided the manual into four chapters that provide the context and the concepts that can help you reach accord on critical matters. An appendix of contact information with Web addresses appears at the end. The chapters are:

- The Issues, page 3
- The Rural Landscape, page 6
- The Laws and Regulations, page 13
- The Process, page 23

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The Issues

NONFARMING NEIGHBORS

worry about...

- * Odors and air pollution
- * Dust and flies
- * Well and ground water contamination
- * Peace and quiet
- * Property values
- * Quality of life

THROUGHOUT THE NORTHEAST, SUBURBAN LIFE IS SPILLING OVER INTO RURAL COMMUNITIES.

City dwellers and suburbanites seeking serenity, open space, and fresh air are moving to the country. Often times they locate right next to a farm or within a farming community. For many, farming is only vaguely familiar:

Picturesque barns Pleasant landscapes Fresh vegetables

But suddenly, these new neighbors are face to face with the stark realities of farming:

➡ manure spreading ➡ pesticide spraying ➡ equipment noise
➡ odors & dust ➡ housing for migrant labor
➡ slow-moving tractors on roads

“What are you guys doing over there?”

“I’m protecting my crops against pests and diseases.”

“These are animals. Of course they smell.”

“My fields need to be fertilized.”

“I can’t harvest my fruit without migrant and seasonal workers.”

“I’m working my farm.”

AND THEN FARM-NEIGHBOR CONFLICTS ERUPT. Some even grow to the point where the entire community is involved. Polarization may crowd out communication.

Of course, not all farm-neighbor conflicts involve newcomers. Sometimes concerned neighbors are farm families themselves. Sometimes the changing nature and scale of agriculture in a given place leads to conflict.

AND WHEN CONFLICT ERUPTS, MANY OF US TURN TO THE LAW.

Laws and regulations are meant to impose order, to balance competing rights and claims. Laws and regulations are supposed to protect all parties. Farmers, for example, have certain legal rights to farm and an interest in preserving their livelihood. Neighbors, meanwhile, have certain legal rights to clean air and water and an interest in preserving their peace and quiet.

But laws and regulations are not always sufficient. Because rights often clash. And because rights don't wash away anger or worries. And angry, worried neighbors find ways to express their displeasure.

The
neighbor
asks:

“Can he get away with that?”

“I’ll take him to court.”

“I’ll complain to the town supervisor.”

“I’ll start a protest movement.”

Offended and exasperated, some farmers feel attacked.

The
farmer
asks:

“I’m just trying to make a living.”

“Can he get away with that?”

“This is my land and no one can tell me what to do.”

“I was here first.”

FARMERS

are concerned about...

- * Making a living
- * Keeping good land in production
- * Planting and harvesting on time
- * Growing high quality produce
- * Providing nutrients for crop production
- * Controlling plant diseases and pests
- * Environmental regulations
- * Adequate supply of labor

"I'll just make his life miserable,"

"I'll just make his life miserable,"

"I'll just make his life miserable,"

"I'll just make his life miserable,"

"I'll just make his life miserable,"

"I'll just make his life miserable,"

CONFLICTS OVER INTERESTS. CONFLICTS OVER CONCERNS. CONFLICTS OVER THE INTERPRETATION OF LAWS AND REGULATIONS. Each party believes its interests and concerns are paramount. Each party believes its facts are accurate, its take on the situation true and clear. Farmers and neighbors often do not talk to each other about the problem.

Or... One party is not satisfied with the response of the other.

Or... One party doesn't understand the other's point of view or the other's fears.

And sometimes both sides think about escalating, which in turn raises the specter of reprisal.

BUT FARMERS AND NEIGHBORS have more constructive options besides ignoring each other, shouting, or threatening. They can build understanding and work on reconciling their differences in a way that leads to win-win outcomes. Because doing so...

- ➡ saves time
- ➡ saves money
- ➡ saves aggravation
- ➡ avoids hurt feelings
- ➡ builds trust
- ➡ builds relationships
- ➡ builds communities
- ➡ generates outcomes more likely to meet everyone's needs

SO, WHEN A CONFLICT THREATENS TO SPIN OUT OF CONTROL, WHAT CAN YOU DO?

Try a different approach to resolving conflict. Empower yourself and your community. Reach out to people with collaborative problem-solving skills. People like mediators or facilitators who can help parties in conflict move beyond accusations, anger, and frustration to instead focus on issues, mutual interests, and problem-solving strategies.

Collaborative community problem solving

helps farmers and neighbors resolve conflicts in a manner that builds trust and enhances community understanding.

to
learn
more,
read
on...

The Rural Landscape

MARYLAND'S AGRICULTURAL SECTOR

FARMING IS A BIG DEAL IN MARYLAND:

an over \$6 billion industry that accounts for over 60,000 jobs on farms, in processing plants, in supplier operations, and in retail stores and restaurants. We have about 12,100 poultry, horticulture, grain, dairy, fruit, vegetable, hog, and other livestock farms, which cover over 2 million acres. Our farms supply us with more than just food: in particular, lush landscapes of rolling green fields in central and western Maryland, flat fields of grain on the Eastern Shore, and serenely grazing livestock throughout the state.

DIVERSITY REIGNS. Poultry farms with 250,000 chickens, 7 employees and dairy farms with 40 cows and only a part-time employee; fresh market crops like watermelons and sweet corn; processed crops like peas and beans; value-added products like fruit preserves, cheese, and table wine; and Thoroughbred racing stables. Full-time and part-time operators. Farms that have been in the family for generations and farms operated by first generation farmers. Products sold directly to supermarkets, to commodity buyers, and to consumers on the roadside or in farmers' markets. Products for export and products for domestic consumption. And although Maryland is a small state, we rank 7th nationally in Broiler production.

FARMERS MUST BE DOING REALLY WELL. RIGHT!?!?

Well, not quite.

Farming is a tough and risky business. There are many factors farmers can't control:

Weather
Cost of supplies
Product prices
Global and domestic competition
Trade and foreign policy
Taxes

OTHER FACTORS ADD STRESS TO FARMERS' LIVES:

- * Environmental concerns
- * Community relations
- * Complex financial arrangements
- * Unstable and sometimes inadequate labor supply
- * Changing technology
- * Pests and disease
- * Uncertainty over federal farm policy
- * Interpersonal dynamics of a family business

HERE'S THE BOTTOM LINE. Some farmers run profitable operations enjoy a comfortable standard of living. Others earn more modest return and count on outside income from a spouse or a second job. Still others may have trouble paying farm expenses. Most farmers will tell you they love their work and way of life, even with the challenges and stresses. But regardless of size, profitability, or product, farming is a 24/7 commitment.

Maryland farms have become more productive over the years while the total amount of acreage farmed has declined. Since 1974, Maryland has lost over 3,000 farms and seen the loss of over 500,000 acres of farmland. The vast majority of those acres were lost to suburbanization, as population shifts brought more and more development to rural parts of the state. There are currently around 12,100 farms occupying just over 2 million acres in Maryland.

What accounts for these trends?

- * Poor financial returns
- * Marginal soils
- * No heirs to take over
- * High price offered for land (e.g., alternative use as housing or commercial development)
- * Physical and mental exhaustion
- * Technological change and globalization of markets

MEANWHILE, THE NUMBER OF **large** FARMS HAS INCREASED.

Technology tends to favor expansion by letting farmers benefit from economies of scale. Farmers save on labor and time by making greater use of their machinery. Imagine a highly automated poultry house. With the latest equipment and up-to-date design, one house can provide for the raising of nearly 30,000 birds in one flock. But today's modern poultry houses can cost close to half a million dollars, with most farms operating several houses. Also consider that in order to supply feed for Maryland's poultry industry, grain farms need to adopt economies of scale as well.

Bigger happens to be preferred by many food processors and retailers as well. In the fruit and vegetable sector, priority is often given to producers who can consistently deliver predetermined quantities of product while meeting quality, size, and packaging specifications.

But guess what? (And this is a neat paradox.)



(The number of small farms in Maryland has also jumped in recent years.)

Think organic lettuce and eggplant, fresh market tomatoes and cantaloupe, and corn mazes, too. Small-scale operations, devoted to high value-added and niche products and services aimed at affluent urban and suburban markets, offer an alternative to capital-intensive, large-scale enterprises.

FARMERS AND THE ENVIRONMENT

FARMERS ARE PART OF AMERICA'S

HERITAGE. They helped sustain early settlements in Maryland and on the American frontier. Agriculture was the bedrock of our early state and national economies. Today, American farmers feed a nation of over 300 million people and a sizeable portion of the world population, as well.

In 1960, the average U.S. farmer produced enough food and fiber to feed 46 people annually, while today that number has grown to 143!

Most farmers also try to be stewards of the land. As they fertilize and seed and harvest, they help our society preserve and protect the land for current and future generations.

AND YET, THEY SOMETIMES FACE A

DILEMMA: how to balance concerns about conservation and the environment with concerns about economic viability. Finding the right mix can weigh heavily.

"I need to make a profit off my land. I don't need the government or nosy neighbors telling me what to do."

"My farm abuts a stream and I certainly don't want to pollute my own drinking water."

"I'm mindful of the regulations and my neighbors' concerns. I spend a lot of time trying to follow the regulations without going broke."

"If I don't protect and care for my land, I'll lose my biggest investment."

The pressure is on. Since the mid-1980s, the environment and personal health have been linked in consumers' minds. That means closer attention to the impact of farming practices on the air we breathe, the water we drink, and the food we eat.

"I'm OK with a worm in an occasional ear of corn. But pesticide—no way!"

Most farmers are mindful of these concerns. Even as they use chemicals to help protect their crops, many also follow environmentally sound "best management practices" such as:

- ➡ **no-till cultivation methods**
- ➡ **grass buffers near streams**
- ➡ **integrated pest management**
- ➡ **secure manure handling systems**

They work with University of Maryland Cooperative Extension educators, and with consultants, government agency representatives, farm suppliers, and bankers to find and implement cost effective methods that pass environmental muster.

"I follow a strict nutrient management plan that tells me the best time to spread manure on my fields. It's cheaper than buying fertilizer. It's also more natural."

changing technology

But problems can arise because technology is not foolproof.

“Yuck. The odor from your fields is awful. And that lagoon really stinks even if you just installed the latest storage and handling equipment.”

Technology also keeps changing.

“How do I know the best time to invest in some new machine or process? Every time I turn around, there’s a newer and better idea.”

Moreover, new technology is expensive. Farmers in environmentally sensitive areas, like the Chesapeake Bay region, may qualify for government assistance through matching funds or grants when they install new equipment or update their practices. But, without some financial support, farmers may not have the resources to invest.

“If I have to buy that new sprayer, you know, the one with ‘eyes’ that see the trees and let me cut down on excess chemical use, I might as well chop down the whole orchard.”

Farmers, like the rest of us when faced with too much uncertainty and too many choices, may opt out for a while, watching and waiting until the technology is proven by others and becomes more affordable.

NEIGHBORS AND FARM LABOR

ANOTHER SORT OF ENVIRONMENTAL CONFLICT SOMETIMES ARISES IN RURAL AREAS. That is, conflict over a changing community environment.

“What is happening to this town? Who are all these people?”

“Apples don’t ripen at my convenience. They need to be picked now. Those workers help me harvest the crop.”

“We just added another 200 head. These folks have a job to do; they milk and feed our cows.”

Foreign workers are increasingly common on Maryland farms. In some communities, conflict arises over their presence. Neighbors may resent the flood of new arrivals that come for jobs that last from several weeks to several months and others who settle in for what seems to be the long haul. They may have concerns about whether farm workers are paid fair wages and provided adequate housing. Neighbors also worry about how these workers fit (or don’t) into the community.

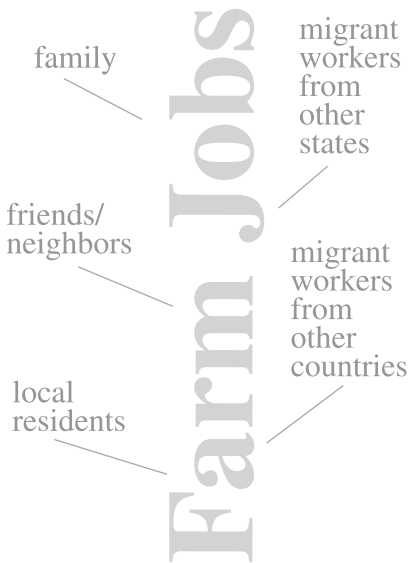
It used to be that farm families supplied almost all the labor needed on the farm. As farms grew larger, farm operators began hiring labor from the local community. During peak season, farmers turned to friends and neighbors for help.

But times have changed. Local residents aren't as eager to take farm jobs as they once were, and domestic migrant workers have found more stable work back in their home towns. Still, farms are getting larger and farmers' demand for labor keeps growing.

"My dairy farm employs two full-time milkers. When I was a kid, my dad managed with my mom, my sister and me."

"Since we bought that vegetable farm down the road, we can't handle the work load ourselves. Every summer I have to bring in crews from out-of-state."

Mexican-Americans, Mexicans, Guatemalans, and others from Central America now supply an increasing amount of the labor to Maryland



farms. And they are changing the social environment in many rural communities. These immigrants, legal and illegal alike, work and usually live on local farms. They shop in town and send their children to local schools. Some stay in the state year round and others come for the harvest season only through federal programs. They bring their language, their customs, and their own group cohesion.

BOTH NEW AND LONG-TIME RESIDENTS MAY HAVE TROUBLE ADJUSTING. For some, the look and feel of the community are no longer familiar. They may be suspicious of "foreigners." They may worry about the impact on property values, on educational quality, on crime rates, on the demand for social services.

"All these Hispanics in the stores and wandering around town. They don't speak English; they look scruffy; their camps are an eyesore."

"Who's going to pay for that new migrant health clinic? I sure can't afford higher taxes."

Likewise, farm workers may not feel welcome in local communities. They, too, may have trouble adjusting. The culture, the language, the laws, the surroundings. All new, all different.

"I just want to buy some food. Why is everyone staring at me?"

"I work hard for my money. And I save a lot, too. My family in Mexico depends on me."

Maryland agriculture needs workers to keep production going. And with local labor in short supply, farmers will continue to look beyond the state's borders for help.

THE RURAL-URBAN INTERFACE

THE FACE OF RURAL MARYLAND IS

CHANGING. All across the state, as elsewhere in the U.S., the siren song of country living calls loudly to city dwellers and suburbanites. They come seeking open spaces, quiet, and a slower-paced lifestyle that can be found in our rural communities. This demographic shift has most recently begun to display itself on the Eastern Shore, but agricultural communities in Southern and Central Maryland have been experiencing population growth and strong development pressures for decades.

But when these newcomers arrive, they find themselves smack in the midst of a rural reality that might not be what they had envisioned.

Many are shocked. Many get angry. Many are unfamiliar with the customs of the community. They have no long-standing relationship with long-term residents. They lack knowledge of commonly accepted agricultural practices and relevant laws and regulations. What they do know is that their expectations about life in the country are being violated. So the neighbors voice their concerns. They call state and county regulators. They call the local Soil Conservation District office. They call University of Maryland Extension. They write letters to the local newspaper. They circulate petitions. And they sometimes call a lawyer.

But are protests, court proceedings, and harassment the best way to resolve the problem? Probably not. All too often, the farmers get defensive. The neighbors feel frustrated. Communication ceases. Community relations fray.

"Their cow broke my fence and wandered into my yard."

"Do you believe it? The farmer next door was running some giant piece of equipment at full throttle-and the flood lights were shining right in my window-at one in the morning!"

"I can't drive down the road without running into some tractor or running over some cow dung."

"The guy across the way is actually dropping weed killer from an airplane. It's not safe to breathe around here."

"That manure is polluting my well. I'm going to file a lawsuit."

"I can't even go outside. We're being assaulted by flies. That farmer is looking for trouble."

"I moved here for my kids. But all that's happened is we traded city traffic for noisy equipment. Now we worry about pesticide drift instead of exhaust fumes and wandering livestock instead of lost pets. And don't get me started on the illegal immigrants. This has got to stop!"



So what's the alternative?

Here are a few suggestions for productive farmer-neighbor interactions

- 1 Farmers provide neighbors with information about the farm (hold an open house; send newsletters) and how to contact the farm owner with questions and concerns.
- 2 Neighbors contact the farmer immediately and directly when problems arise and treat the farmer with respect when sharing concerns or asking questions.
- 3 Farmers and neighbors openly and calmly discuss what constitutes normal and acceptable farming practices.
- 4 Farmers are mindful of neighbors' concerns and anxieties.
- 5 Neighbors understand the financial and technical constraints that may affect the farmer's ability to address their concerns.
- 6 Neighbors respect the economic and social context of farming.
- 7 All parties seek to compromise on a practice or intended outcome and allow for a reasonable transition period.
- 8 Farmers and neighbors call upon social and economic supports, including individuals and organizations that can assist them through a potentially difficult conflict management process. This may involve facilitation and conflict resolution programs and resources that can assist farmers and neighbors in finding a mutually acceptable resolution of the problem.

**THIS MODEL CAN
BE TURNED INTO
REALITY.**

And you can make most of it happen on your own. The last two suggestions, which often require outside assistance, are discussed in Chapter 4, *The Process*. But first, we'll explore one other preliminary topic: the laws governing agriculture. The next chapter contains an introduction to the legal and regulatory framework within which so many conflicts unfold.

The Laws and Regulations

NOTE TO READERS OF THIS MANUAL: The following is not a legal document. It provides brief summaries of several relevant laws and some hypothetical situations that are intended only as examples to live up the text. If you have any questions or concerns about farming practices or neighbors' actions, please contact any of the resources noted on pages 31 or call an attorney.

Farming is an art and a science. Ask any farmer how he or she decides which fields to work first, when a hay crop is ready to bale, or whether an animal needs some TLC. The farmer is likely to shrug and say something about soil drainage and which fields face south, the velocity of wind and intensity of sun, and the look in the eye and sound of the moo of a favorite cow. But the very same farmer is sure going to use exacting instrumentation to test the sweetness and crispness of the fall apple crop, to measure proportions for a pesticide application, to count bacteria in the milk tank.

Farming is also humanity's oldest economic activity. Like other human pursuits, farming generates its share of byproducts, some of great value and some we'd like to be rid of. The desirable offshoots include the food we eat and the country landscapes we enjoy. The undesirable but occasional side effects can include noise, odor, and dust.

It is these unwanted effects that most often lead to complaints by neighbors and demand for regulatory controls.

"We shouldn't have to worry about noxious fumes in the air and unclean drinking water."

"The farmers think they own the roads around here. They drive their equipment from field to field at five miles an hour and you can't get past them."

"These farmers just ignore us. It's time for the town to do something about these problems."

Not surprisingly, a host of laws and regulations governing agriculture have been adopted over the years. Most try to balance the art and the science of farming without undermining its economic viability. In other words, the laws recognize variance in conditions and practices within this diverse profession while respecting the precision that modern technology makes possible. In doing so, they also seek to balance the competing interests of farmers, neighbors, and society as a whole.

"This is my farm and you can't stop me from building a new barn."

"I want to enjoy my weekends and you're taking away my peace and quiet."

"I don't want to find blemishes on the apples or bugs in the lettuce."

The primary objective of state and federal laws governing farming is to protect the environment and the health and safety of communities. Other state laws, as well as local laws, mean to preserve farming as a preferred use of land resources and a viable sector for rural economies.

This second set of laws are commonly known as “right-to-farm” laws, and in Maryland, at least, they seek to limit nuisance lawsuits against agricultural operations. Additionally, these ordinances put the non-farming public on notice that agriculture is a valued economic and cultural component of the community.

CATEGORIES OF LEGAL CLAIMS

STILL, NEIGHBORS HAVE THEIR SHARE OF COMPLAINTS. And sometimes their concerns and worries about farming practices turn into legal claims. These legal challenges generally fall into four categories:

- * Negligence
- * Trespass
- * Violation of environmental laws
- * Nuisance

NEGLIGENCE

“HASTE MAKES WASTE” as the old adage goes, and it can certainly get a farmer into trouble. Neighbors affected by what they perceive to be lax farming practices may decide to file a claim of negligence in court. Negligence is a cause of action against a farm that can arise from careless actions or failures to act that result in injury to a person or damage to property.

“That farmer is so lazy. He didn’t bother to rebuild the broken fence in the pasture so the whole herd broke free and trampled my raspberry bushes. And that crop was coming in real good; it would have brought me hundreds of dollars down at the farmers’ market.”

If a court finds the farmer guilty of negligence, the judge will require financial payment to the injured neighbor for damages (losses sustained) and may levy an additional fine to punish and deter similar behavior in the future. Examples of negligence are inadequate supervision of employees, allowing cattle to stray, and failure to maintain equipment or facilities.

Betsy and her family own an apple orchard a few miles out of town. It’s harvest time and she tells Sergio to hitch a tractor to a wagon packed with full apple crates. This is Sergio’s first season with the farm and he has little experience hauling heavy loads. As he drives along the edge of the orchard, the wagon tips over and spills the crates and apples into the road. At that very moment, Steve drives by and swerves to avoid the obstruction. The car ends up in a ditch with damage to its front end, and Steve is transported by ambulance to the emergency room. The police cite Sergio for traffic violations and predict that Steve will file charges of negligence against Betsy for inadequately supervising an employee.

example of trespassing

Every fall, Rick lowers the manure level in the storage facility on his dairy farm as he prepares for the coming winter. He applies several loads of manure to a harvested corn silage field upslope from his neighbor's property. But one day, the tractor and manure spreader get stuck in a wet spot. He unloads the spreader into what becomes a soupy pile in order to lighten the load and get the tractor moving again. He leaves the pile, intending to distribute it with a bucket loader the next day. But heavy rains hit the area that night and wash the manure pile across the fence and onto Joe's and Linda's property. A few days later, they talk to a lawyer about filing a trespassing charge against Rick.

TRESPASSING

THE MEANING OF TRESPASSING SEEMS FAIRLY STRAIGHTFORWARD: walking onto someone's property without his or her permission. This kind of trespass in farm country is most often a complaint by farmers about nonfarmers.

"Hey! Didn't you see the sign on that gate? It means 'keep out.' Now get out before I call the sheriff."

But trespassing in an agricultural setting can mean something more. Recent court rulings have declared that the movement of chemicals, soil, or animal waste across property lines also constitutes a trespass. Such a determination is almost certain if the incident deprives a person of the use or enjoyment of his or her property.

"The spring thaw hit pretty fast this year. Mud from Bill's field over there washed into my yard, killed my grass and went right into my pool."

Farmers beware. Herbicide drift, sedimentation from an eroding field, and liquefied manure washing across the property boundary can constitute a trespass. If a court finds the farmer guilty, the judge can award monetary damages, require actions to prevent future trespasses, impose a punitive fine, or even order jail time.

VIOLATION OF ENVIRONMENTAL LAWS

CONCERN ABOUT THE ENVIRONMENT HAS BEEN A HOT POLITICAL, SOCIAL, AND ECONOMIC ISSUE FOR SEVERAL DECADES. In response, federal, state, and local governments have enacted many kinds of environmental laws with a variety of environmental goals. The laws' most basic goal is to maintain or improve the quality of air, water, and wildlife habitats by reducing the flow of contaminants into the environment that results from human activity. And yet, cities and towns, real estate developers, residents and consumers, manufacturers, farmers, and naturalists all continue to be embroiled in tussles over the environment.

"The factory up the hill is belching smoke as black as tar. The smell is unbearable and everyone around here is coughing like crazy."

Environmental laws are violated when the damage is noticeable or when the risk of damage to natural resources has increased. Convicted violators are charged for the value of damages sustained and for cleanup costs. They must also pay a penalty for breaking the law and sometimes an additional fine for the legal cost of prosecuting the case.

Farmers have often been the target of environmental suits. Livestock operations generate manure, which can run into a creek if it is not properly stored and applied to cropland. Orchards require pesticides, which may poison wildlife if handled carelessly and instructions on the label are not followed. Note to neighbors and farmers: Even where states and localities pass laws to protect farmers' general right to farm, environmental scofflaws are made to pay.

NUISANCE —PRIVATE AND PUBLIC

Farming is not always neat and tidy. No matter how careful and particular a farmer may be, acceptable and sound farming practices sometimes generate odors, noise, and dust.

"Irritants, all! What are we going to do?"

Indeed, there is a long-standing relationship between nuisance claims and agriculture. From a legal perspective, a nuisance is an activity that causes unreasonable and substantial interference with another's quiet use and enjoyment of his or her property. In rural areas, odors are the most common cause of nuisance claims. Noise, flies, and dust may also be problematic.

"I don't own a clothes dryer and every spring I have to worry about hanging my laundry outside. The dust kicked up by the farmer's plow always messes up my clean sheets."

The doctrine of nuisance is a common law concept that evolved over the centuries as judges settled disputes between individuals. It centers around two

Winters on George's dairy farm require some routine maintenance, including removing snow from his bunker silo and piling it alongside the structure. After the spring thaw, what remains of the snow pile is the corn silage that was scooped up while George cleared the snow. George normally cleans up the silage residue by moving it to his fields when he spreads manure. But this year, things were different. The winter was particularly snowy and he had no choice but to push the snow farther back toward the ditch running behind the bunker. When spring arrived, he left the old silage in place and as the temperatures warmed, the pile started to ferment. After a heavy spring shower, runoff from the silage entered the ditch and traveled to a nearby stream, causing several fish to be killed.

corresponding property ownership principles:

➡ property owners have the right to use and enjoy their property free of unreasonable interference by others

➡ property owners cannot use their property in a manner that may cause injury to others.

Nuisance law makes it possible to sue a neighbor whose actions adversely affect your property. The suit can ask that the neighbor stop the activity

and/or reimburse you for lost value (i.e., damages). Activities that a court finds to be “unreasonable” for the local area and cause “substantial interference” with neighboring land are considered nuisances.

➡ **A PRIVATE NUISANCE GENERALLY INVOLVES TWO PARTIES.**

“I don’t know what he’s burning down there, but he’s got a fire going every night and I can’t stand the smell.”

Story of William Aldred vs Thomas Benton

ONE OF THE FIRST RECORDS OF A COURT CASE INVOLVING A CONFLICT between a farmer and a neighbor was heard in England in 1610. William Aldred sued his neighbor, Thomas Benton, for erecting a pigsty near Aldred’s house. The court ruled in favor of Aldred, but Benton appealed. He argued that “the building of a house for hogs was necessary for the sustenance of man and one ought not to have so delicate a nose that he cannot bear the smell of hogs.” The appeals court rejected Benton’s claim and found his pigsty to be a nuisance.

This early English court deemed society should protect four things in a home-habitation by man, the pleasure of the inhabitant, necessary light, and wholesome air. Society’s standards for the comforts of

the home have changed little since. The Aldred-Benton case defined the key issues still considered in farming nuisance disputes: is the use alleged to be a nuisance reasonable for the area and does it substantially interfere with neighboring property?

The problem exemplified by the pigsty story - conflicts between neighboring uses - is the basis for local zoning ordinances. Zoning is built on the idea that incompatible uses ought to be physically separate. Zoning laws adopted by rural local governments typically specify zones permitting agricultural uses.

➡️ A public nuisance

is interference with the rights of a substantial portion of the community. Oftentimes, the nuisance is believed to threaten the health and/or safety of community residents. The plaintiff in a court action alleging a public nuisance must be a public entity, such as a town council or county or state prosecutor.

"Don's and Carol's farm may be the only one left around here, but we're all up in arms about the workers they bring in every summer. The noise level at night is awful, especially on Saturday. That camp's a nuisance; the neighbors want it closed down."

The dilemma is obvious. Farmers trying to do their work and neighbors trying to protect their property and lifestyle. What's to be done? They could talk it over. They could complain to the town supervisor. They might even take the conflict to court.

"No judge will let you get away with that! Your farm has caused me nothing but aggravation since I moved in here."

"We're not doing anything illegal. I have the right to plow my fields, hire workers, and keep animals. Get off my back."

➡️ In sum...

Nuisance suits are often just that: angry and desperate attempts to change something you don't like, even if it's legal. But many states and localities have decided that farming is a land use that generates value and is worth protecting. To ward off nuisance suits that would otherwise interfere with farmers' right to farm, many communities have passed legislation protecting farms from private nuisance suits so long as the

farm's practices fall within some norm or industry standard. Farmers are not similarly protected from public nuisance claims.

RIGHT-TO-FARM LAWS

STARTING IN THE 1950S, THE APPEAL OF LIFE IN THE URBAN FAST LANE BEGAN TO WANE. People moved from the city to the suburbs in large numbers. The suburbs soon filled to overflowing and spread into rural areas. Some people even skipped over the suburbs altogether and headed straight for the country. Others bought weekend and summer retreats in remote villages and towns.

"The scenery is stunning out here. And I just love waking up with the sun."

"I feel really close to nature now. I can smell the grass, hear the birds, and watch the deer feed in my yard. And the best thing is, it's safe!"

With more people came demand for more houses. Soon houses were eating up farmland.

➡️ And then, conflicts arose.

"Do we put another strip mall here and housing development there?"

OR

"Do we preserve open space and farmland?"

TRYING TO FIND THE MIDDLE GROUND BETWEEN THESE TWO POSITIONS, all 50

states have adopted right-to-farm laws and all 23 Maryland Counties have adopted their own version of right-to-farm ordinances as well. Right-to-farm laws recognize the unfairness that nuisance law can impose on farms when people unfamiliar with farming practices move into traditionally agricultural areas.

"The animals sure look peaceful, but boy do they smell. I have to hold my breath when I go outside. I'm going to demand the town do something about this."

"Who does she think she is? My family's been farming here for 60 years and she just waltzes in and thinks she's going to impose her city ways on us. She's got a lot of nerve!"

The intent of right-to-farm laws are to discourage neighbors from pursuing nuisance lawsuits against farmers because of odor, dust, noise from field work, spraying of farm chemicals, slow moving equipment, or other occasional effects of normal agricultural production. Right-to-farm laws provide a measure of security for the established farmer who practices sound best management principles in the day-to-day operation of his/her farm. The laws also put the non-farming community on notice that agriculture is a vital component of the region's economy, character, and culture. In this way, right-to-farm laws serve as an educational tool for rural residents who might be new to the area and unaccustomed to living near production agriculture. The laws often establish methods by which new residents are notified that their home in the country is in close proximity to a living, working, and sometimes fragrant farm.

MARYLAND'S STATE RIGHT-TO-FARM LAW

Our state law relating to nuisance suits against agricultural operations is found in the Maryland Annotated Code, Courts and Judicial Proceedings Article, Section 5-403. The law applies to "agricultural operation" which is defined as "an operation for the processing of agricultural crops or on-farm production, harvesting, or marketing of any agricultural, horticultural, silvicultural, or apicultural product that has been grown, raised or cultivated by the farmer."

The law states that if an agricultural operation has been:

- * Underway for a period of one year or more;
- * Is in compliance with applicable federal, state, and local health, environmental, zoning and permit requirements related to any nuisance claim; and
- * Is not conducted in a negligent manner;

Then:

- * The operation, including any noise, dust, or insects from the operation, may not be deemed to be a private or public nuisance; and
- * A private action may not be sustained on the grounds that the operation interferes with the use or enjoyment of the other property, whether public or private.

State law does not:

- * Prohibit a federal, state, or local government from enforcing health, environmental, zoning, or any other applicable law;
- * Relieve any agricultural operation from the responsibility of complying with the terms of any applicable federal, state, and local permit required for the operation;

*Relieve any agricultural operator from the responsibility to comply with any federal, state, or local health, environmental, and zoning requirement;

*Relieve any agricultural operation from liability for conducting an agricultural operation in a negligent manner; or

*Apply to any agricultural operation that is operating without a fully and demonstrably implemented nutrient management plan for nitrogen and phosphorous if otherwise required by law.

The Maryland statute was amended in 2006 to, if not an action brought by a government agency, require parties in dispute to utilize the services of local agricultural reconciliation boards, or, in their absence, the Maryland Agricultural Conflict Resolution Service (ACReS) under the Department of Agriculture prior to bringing a nuisance action in court against a farmer.

ELEMENTS TO LOCAL RIGHT-TO-FARM ORDINANCES

All 23 Maryland counties have adopted some degree of protection against nuisance lawsuits for the farmers. Several key elements that are often included in the more comprehensive county right-to-farm ordinances include the following:

1. A Good Neighbor Policy is generally a statement that pertains to those normal activities associated with agricultural or forestry production that are performed during various times of the year. Statements will often provide that such daily activities shall be performed in a manner that will have minimal impact on the environment as well as human health.

2. Key Definitions often include the standard four definitions which are the most commonly included definitions for *agricultural land*, *agricultural operations*, *forestry operations*, and *generally accepted agricultural and forestry practices*.

3. Limitations of Action set forth the circumstances wherein the agricultural or forestry operation is protected from nuisance complaints.

4. Resolution of Disputes and Procedures details the procedures that are in place to file a complaint with the appropriate agency. This section also often provides the processes and procedures used to investigate and resolve a complaint.

5. An Agricultural Reconciliation Board is a five or seven member committee of appropriate members of the community who mediate and sometimes arbitrate disputes between parties resulting from nuisance complaints. Authority granted to the board varies county to county, but overall their goal is to resolve the dispute before it reaches the courts.

6. A No Standing Clause is a provision that state the plaintiff would have no standing in court if he/she did not seek and/or obtain a decision on the dispute from the county's Agricultural Reconciliation Board or from the states agricultural mediation program.

7. A Bad Faith Clause states that a plaintiff can be found liable for any/all expenses incurred by the defendant if the reconciliation board finds that he/she brought the case in bad faith or without substantive justification.

8. Method of Notice refers to the method by which the law is communicated to both new arrivals and those already living in an agricultural area. The most common methods are notices sent out with yearly property tax bills and a Transfer Disclosure Statement signed when a property is transferred from one person to another.

protecting our water, air, and land

WATER QUALITY LAWS AND REGULATIONS

Maryland Agriculture plays its part in keeping the Chesapeake Bay healthy, too. Every farm that is home to 8 or more animal units (1 animal unit = 1,000 lbs of live animal weight) must complete and adhere to a certified Nutrient Management Plan providing oversight of nitrogen and phosphorus. Additionally, farms that use chemical fertilizers, sludge, or animal waste in their operations, must also operate under a certified plan. In Maryland, a Nutrient Management Plan is a plan prepared by a certified nutrient management consultant or certified farm operator to manage the amount, placement, timing, and application of animal manure, fertilizer, biosolids, or other plant nutrients to minimize nutrient loss or runoff and to maintain the productivity of soil when growing agricultural products.

Plans set forth goals for crop yield and the amount of nutrients needed to meet those yields, helping to ensure the proper ratio is met and minimize unused N and P. At the end of the season, farmers compile a year-end summary of actual nutrient usage and submit it to the Maryland Department of Agriculture, Office of Resource Conservation. With over 92% of eligible farms in compliance in 2006 covering over 94%, or 1.25 million acres, of Maryland's farmland, the state's farmers are continuing to do their part in the recovery of the Chesapeake.

PESTICIDE LAWS AND REGULATIONS

THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT establishes procedures for registering pesticides with the U.S. Department of Agriculture. It also requires the EPA to regulate the use and sale of pesticides to protect human health and the environment. In order to use certain restricted pesticides, farmers and professional applicators must be certified; they can earn this certification by attending courses, passing a certification test, and maintaining continuing education credits.

FEDERAL AIR QUALITY LAWS AND REGULATIONS

MANY OF US TAKE THE AIR WE BREATHE FOR GRANTED. If you can't see it, smell it, or taste it, it's probably OK. Or so you think. Tiny particles of dirt and toxins can waft through the air undetected by most folks. The Federal Clean Air Act is supposed to insure the outcome suggested by its name.

Farming has historically benefited from a broad exemption from the act. Odors have been the major air quality issue involving agriculture, and odors are not included in air quality standards. More recently, though, concerns about particulate matter have raised questions about the farming exemption. The recent renewal of the act set standards for fine particulate matter emanating from human activity. Common culprits: vehicle exhaust, coal-fired power plants, and municipal waste treatment facilities.

“See that haze? That’s a lot of fine particulates floating through the air. Too many little particulates and some folks may have respiratory problems.”

PROGRAMS

RECALL THE DISCUSSION FROM THE PREVIOUS CHAPTER. Most farmers try to be stewards of the land. Most try to protect and preserve their land and respect the surrounding environment. But sometimes, economic and other factors interfere with this goal.

“Prices are way down this year but my costs keep rising. How can I afford to focus on the environment when I can barely pay my bills?”

Maryland has given farmers at least a partial answer to that question. The Maryland Agricultural Water Quality Cost Share program, administered by the Maryland Department of Agriculture has, since 1984, been providing grants to farmers to cover up to 87.5 percent of the cost to install conservation measures known as best management practices on their farms to prevent soil erosion, manage nutrients and safeguard water quality in streams, rivers, and the Chesapeake Bay.

“Now I can make just one call and get the answers I need.”

“Cost-share funds let us improve our barnyard and make it easier to properly handle our manure and keep runoff out of the creek.”

Farmers work with these professionals to identify and address environmental concerns around their farmsteads and in their fields. In 2006, Maryland farmers received **\$9.4 million** in grants from MACS to install more than 1,600 projects on their farms to control soil erosion, manage nutrients, and protect the Chesapeake Bay! Farmers who received cost-share grants from the program in 2006 invested more than \$1.3 million of their own money into a range of capital and special projects, estimated by MDA to have prevented nearly 1.2 million pounds of nitrogen and 28,500 pounds of phosphorous from entering Maryland waterways each year. Cover crops, nutrient management services, grassed waterways, manure transport, waste storage structures, riparian forest buffers, filter strips and watering facilities were among the most popular BMPs installed with help from MACS.

CONCLUSION

“So this is what farmers must deal with 24/7. All these rules and regulations. I didn’t know. Maybe if we had just talked about this and shared some information, there wouldn’t be so much misunderstanding.”

“Well, the neighbors have their complaints and concerns but I have my rights. There’s got to be some way we can manage this.”

The next chapter will give you some pointers.

The Process

CONFLICT IS NO STRANGER IN OUR PERSONAL OR BUSINESS LIVES OR IN THE LIFE OF OUR COMMUNITIES.

It often has a way of catching us unaware. A series of seemingly harmless comments. A rush of annoying behaviors. A string of offensive actions. Suddenly everything explodes. Anger. Frustration. Resentment. Helplessness. Rage.

“I’m just fit to be tied. First she says the tour guide won’t answer her questions. Then she starts on the accommodations. Now she’s got the whole group riled about the food, the itinerary, you name it. And we’ve got another whole week of this trip.”

“Every night it’s the same thing. Loud, obnoxious, indecent music. If he doesn’t turn that thing down, I’ll throttle him the first chance I get!”

And then the outcome. Alienation. Bad feelings. Hostility. Sometimes even violence. But conflict doesn’t have to end this way. Indeed, there are other ways to handle differences, disagreements, and intense clashes that preserve rather than destroy relationships and strengthen rather than divide communities.

“We don’t have to be enemies. Let’s talk.”

“There must be a solution we can all agree to...”

Information helps. Knowledge. Facts. Data. Real stuff to grapple with instead of raw emotions. That’s why there’s so much information in earlier chapters about farming, the environment, and laws and regulations. Even so, questions, disagreements, and conflicts will occur as farmers and neighbors go about their daily lives.

When problems arise, there is a range of ways to respond. All involve problem solving and the search for win-win outcomes. The simplest is direct communication between two neighbors. The most complex involves planning and participating in a large-scale community problem-solving process. The way to proceed generally depends on the situation at hand. Whichever approach you use, remember that productive interactions and increased trust result from:

- * sharing information
- * building common knowledge
- * strengthening relationships

“Sounds pretty vague to me. Help me understand the benefit of a problem-solving process.”

Think back to the first two chapters, where we briefly talked about building understanding and reconciling differences in a search for mutually beneficial outcomes. The potential pay-offs from doing this include:

- * savings of time, money, aggravation
- * stronger interpersonal relationships and community ties
- * agreement about ways to resolve problems
- * self-sufficiency in dealing with problems
- * more acceptance of, and satisfaction with, outcomes
- * greater knowledge about controversial issues and engagement in civic life

First steps

What can you do when things next door are not as you would like them to be?

“I see him out there on the tractor every day. Just what is he spreading on those fields?”

“That new neighbor knows nothing about farming. And now he’s talking to the others about the noise from our tractor.”

“If they build a new barn, that means still more cows and more stink.”

“The town has no right to prevent me from expanding my farm.”

BEGIN BY TALKING. This first step may be obvious, but is often ignored. Attempt to get answers to your questions. Provide helpful information directly. Make contact person-to-person.

One reason talking is so useful is that it builds relationships. And relationships make it easier to work through differences. Another reason talking helps is that it can prevent misunderstandings. All too often, people jump to negative conclusions without bothering to check if those conclusions are correct. Sometimes talking can clear up the facts. Sometimes talking can help clarify why other people are doing something you don’t like. So when things are not as you would like them to be, reach out.

“Thanks for calling. I appreciate the information and reassuring answers.”

How to talk

WHETHER YOU’RE A FARMER OR A

NEIGHBOR, your attitude and style are critical.

Always approach the other person in a way that minimizes the chance of a defensive reaction.

Here are some helpful hints:

DON’T ATTACK. Even if you think you know what’s going on, your interaction is more likely to succeed if you approach your neighbor with respect and questions. Try: “I’ve heard that you’re concerned about the spray we’re using. Can I answer any questions or try to explain exactly what we’re doing?”

USE “I MESSAGES” AS MUCH AS POS-

SIBLE. Avoid accusations couched in “you”

language. Avoid: “You wake me up at 6 am every Saturday morning.” Instead, state the problem in a way that clarifies and specifies the effect it has on you. Try: “I have trouble sleeping past 6 am on Saturdays because of the machinery noise.” This may take practice at first, but using this technique furthers productive communication.

ASK QUESTIONS. Try to make them open-

ended rather than attacks masquerading as

questions. Try: “I don’t understand why you have to be out so early in the day. Can you please explain?” Avoid: “Didn’t you realize all that noise would make me up?”

"I'll stop by Betty's house so we can exchange information and explore the issues."

Sometimes talking, information sharing, respect and reason don't resolve your concerns. Still more obstacles block the way.



So consider other cooperative options. Often this means turning to an "honest broker," someone trusted who can help you and your neighbor have a more productive conversation. Many times, the person who can offer the most effective help will have some training in mediation skills. It can be useful to involve a trusted third person even if you have some of these skills yourself. When the issue is more complex and involves many people and interests, try a community-based problem-solving process. Both two-party mediation and community-based problem solving are described below.

Second steps

MEDIATION. Let's start with the simpler process, mediation by an honest broker. Mediation is a good second step when you and your neighbor are unable or unwilling to talk directly.

Mediation is a voluntary process. It involves a small number of people agreeing to meet and trying to cooperatively resolve their differences. The mediator facilitates the conversation without taking sides, giving advice, or pushing people to agreement. Mediation allows each person to gain clarity about options and resources. It also provides an opportunity for listening and considering someone else's perspective. Once people are helped to talk without shouting and jabbing and defending, they frequently come up with an agreement that satisfies all those involved. If the mediation fails, the parties can pursue whatever other options exist for dealing with their concerns.

The Maryland ACRoS program administered by the Maryland Department of Agriculture offers certified mediation and conflict resolution services especially designed with agricultural issues in mind and, as mentioned earlier, many counties in Maryland have established Agricultural Reconciliation Boards through their right-to-farm ordinances to deal with farmer/neighbor conflicts before they escalate to the court system. (See The Resources at the end of this guide for information about contacting MDA's ACRoS program)

WHY MEDIATE? BECAUSE MEDIATION:

* encourages communication and cooperation

- *fosters relationships
- *allows people to shape their own solutions
- *can be scheduled at dates and times convenient to the people involved
- *focuses participants' energies on looking for solutions
- *is cost effective.

COMMUNITY PROBLEM SOLVING.

Mediation is a great way to deal with issues

between a few people. But sometimes a lot of people want to weigh in on an issue. Sometimes a dispute between two neighbors taps into deeper concerns.

The whole community may start taking sides. Old timers. Newcomers. Farmers. Nonfarmers. Citizens. Advocacy groups. Regulatory agencies. Local government. This is when it may make sense to think about a "collaborative community problem-solving process," also known as multiparty mediation. Whichever name you prefer, the process varies based on the complexity of the issues and the number of people involved.

example of mediation

Remember Betsy, whose employee, Sergio, spilled a wagon full of apple crates? And Steve, who swerved and ended up in a ditch? Well, Sergio paid his traffic ticket and Betsy's insurance covered damages to the vehicle and related medical costs. When Steve sued Betsy for negligence, the court recommended mediation. After consulting with their respective attorneys and being told that mediation might help and couldn't hurt, Betsy and Steve agreed to meet with a mediator.

The session began with Steve accusing Betsy of hiring incompetent employees and demanding a large cash settlement for her negligence. Betsy responded defensively, telling Steve that he knew nothing about her orchard or the kinds of people she hired.

The mediator reflected back to Betsy and Steve, in nonjudgemental summary form, what each was saying. In doing so, she let both Betsy and Steve know she had been listening carefully and

understood, without endorsing, their points and concerns. Her nonconfrontational phrasing helped Betsy and Steve hear what each was trying to say.

Gradually the tone of the direct conversation between the two of them moved from anger and defensiveness to a more honest exchange of information. Steve learned that many of Betsy's employees were former migrant farmworkers who were learning useful skills. Betsy acknowledged her mistake in assuming Sergio could manage a full wagon without more training. She apologized for all that had happened to Steve and talked about what would happen to her insurance payments, not mention the court-imposed fine, if she were found guilty of negligence. It wasn't clear to Betsy that the farm could survive that cost increase. After several hours, they agreed to a smaller cash settlement and five years of free produce from Betsy's farm. Steve and Betsy acknowledged that this resolution was fair and more satisfying than any court judgement would have been.

A community problem-solving process is usually organized in response to an existing problem or situation. People realize they're stuck. Their ability to act is blocked by others with opposing perspectives. Lots of people have opinions. No one can come up with an idea that satisfies enough people.

A collaborative community problem-solving process can help officials and residents get to a satisfactory resolution—especially when people feel stuck.

HERE'S A TIP: starting even before a crisis arises is a whole lot more efficient.

So the next time your town or village wants to change its comprehensive plan, invite public discussion that is inclusive. When multiple factions have already staked out positions on, say, the utility of extending sewer lines into outlying areas, try a new strategy. Start by toning down the rhetoric. This simple step may be a necessary precondition for preserving community peace. And then consider a collaborative community problem-solving process.

Let's now look at the key elements of this process and some comments on how to move it forward.

1 Convener

"Tell me, who's going to lead this effort?"

No matter what the motivating cause, collaborative community problem solving generally begins when someone starts to systematically pull people together. This person is referred to as the convener. The convener needs to be someone (or some representative group) who is respected by, and has access to, people on all sides of the issue. The convener may be a local person, perhaps an

elected official, a community elder, a well-known clergy or businessperson. Sometimes the convener is a mediator or facilitator who will assist throughout the entire problem-solving process. Other times the convener works closely with a neutral third party from the start.

Elected officials or appointed boards are usually the ones who make decisions about public issues. But decisions that affect many in the community are often controversial. Zoning. Property values. Lifestyle. Local culture. All too often, leaders and citizens alike participate in processes that leave them feeling polarized, unsatisfied, and alienated. When this happens, the wrong lesson is learned: all you can do is hunker down, bear through it, and see who gets their way.

But in many cases, public outcry can be more constructively managed and mitigated through open airing of community interests and concerns. In other words, carefully structured approaches to obtaining broad public input in the decision-making process can lead to the holy grail of public policy: better decisions and wider community support.

"How will we ever solicit all the input we need?"

"The farmers are convinced all the newcomers want to put them out of business."

"If we adopt Plan B, then everyone who supports plans A and C will be furious."

2 Facilitators & Mediators

"We need someone who will pay attention to the process but has no stake in the outcome."

In most communities, there are people with facilitation skills. They run meetings. They keep the dialogue flowing. They enable a process. Sometimes there are people with mediation skills. They, too, keep the dialogue flowing. But they do so in the context of a conflict. They guide the search for mutually acceptable solutions. Facilitators and mediators can play important roles in community problem solving.

A few words of caution. It may be difficult to get such people involved in every issue. They have jobs. They have families. They have lives. They may be perceived as being close to one side or the other. Even more important than time, facilitators and mediators must have credibility. In addition, community problem solving requires a major commitment of time, energy, and resources from all who participate.

Assess the situation carefully to determine whether such a process makes sense at this moment in your community. If the issue is important, finding an honest broker is usually worthwhile; you may need to search outside the community for a facilitator or mediator. This person is generally compensated for his or her time. Sometimes local governments cover the cost. Other times everyone involved contributes. Local foundations may be willing to support efforts to bring people together to solve tough problems.

3 Decision Makers

"We'll be putting in a lot of hard work. We want to be sure our efforts aren't ignored."

Good point. Solutions that result from collaborative community problem solving are advisory.

This is where the convener comes in: he or she usually begins by talking with officials who have the authority to make formal decisions. These decision makers must be willing to seriously consider the input provided by residents during a community problem-solving process. To increase the chances this input will be acceptable, they should set clear parameters for any solution or plan. This assures folks who participate that their time and hard work will have the intended result.

4 Assessment

Assuming the decision makers support the idea, the convener and/or facilitator begin(s) by asking questions:

- * What is the history of the situation and those involved?
- * How do different members of the community view the issue?
- * Who needs to be involved in whatever process is designed (i.e., who are the stakeholders)?
- * What information about the issue(s) is available?

As the convener and facilitator gather answers to these questions, the convener explains the problem-solving process and assesses people's willingness and ability to participate.

5 Process design

Now it's time for the design phase.

"Help me understand what people who design these processes are concerned about."

There is no one perfect design for a collaborative community problem-solving process. Successful processes typically reflect the individuals, institutions, and issues involved, as well as the local culture. Successful processes also typically include these elements:

FEASIBILITY. The process must be feasible. Participants need to understand what they're agreeing to and for how long.

INCLUSIVENESS. The process needs to be inclusive, with the diversity of perspectives represented.

PARTICIPATION. People must have different ways to participate. Only one mode of participation, speaking at a public hearing, for example, is not enough.

INFORMATION. Information must be readily available to the wider public and technical information must be accessible to non-experts.

AGREEMENTS. Participants agree on rules for collecting information, choosing options, and making recommendations.

Designs differ based on local needs. Most include a carefully conceived, but flexible, sequence of large public meetings open to everyone and smaller group or task force meetings that accomplish specific tasks and report back at large meetings. A core group working with the conveners/facilitators will design the process.

6 Action

Individuals and groups who have signed on as the core organizing group now gather to review where things stand and to implement their design.

"We need to share what we've learned during the assessment and then figure out what else we should know."

Participants may decide they need to do more base building and extend invitations to more stakeholders (people affected by, or with strong interests in, the issue). Or, they may decide to just get the process rolling.

Whenever that time comes, the core group reaches out to the community. These key participants typically set up meetings where neighbors who have not yet been involved can voice their concerns. When all sides have been heard, the facilitator helps the core group begin to develop and explore options for resolving the problem.

"We've got lots of potential solutions. Now let's negotiate some agreements."

Throughout this stage of the process, the facilitator and core group keep the wider public informed. They hold public meetings. They write articles for the local newspaper. They give interviews on local radio shows. They distribute flyers and do whatever else will help everyone stay informed about recommendations being made.

“I’m sold. When can we get started?”

But wait...community problem-solving processes are not a panacea. They don’t always work.

Conveners, decision makers, and citizens should consider the following variables before plunging ahead:

TIME AVAILABLE BEFORE A DECISION MUST BE MADE. Emergencies or crises can’t be put on hold while citizens deliberate. However, stopgap measures that involve community problem solving sometimes can remove the pressure, giving citizens time to participate in decision making.

LEVEL OF INTEREST. It’s hard to get a process going if there’s little or no interest in an issue.

DEGREE OF POLARIZATION. Too many people on different sides of the issue may be unwilling to work together.

NEED FOR LEGAL CLARIFICATION. If a decision sets or challenges a legal precedent, people may prefer to have a court decision.

ACCEPTABLE OPTIONS. Community problem solving works best when citizens can consider a range of options. When legal, financial, or technical realities limit creativity, starting such a process may not be worthwhile and might even increase frustration levels.

Getting started

If you think collaborative community problem solving makes sense, talk to others. Contact an elected official, a town or planning board member, someone in an influential local or state organization, and those working with—or against—you on the issue. Think about the leaders in your community who may be able to get others to participate. Some local mediation centers facilitate community problem solving or know others who do. University of Maryland Cooperative Extension educators may be another source of information about how to get started.

An annotated list of resources begins on the next page. Call one or two or three. Ask questions. Collect information. Give it a try.

The Resources

The Maryland Mediation and Conflict Resolution Office (MACRO) within the Maryland Judiciary, serves as an alternate dispute resolution (ADR) resource for the state. MACRO supports innovative alternative dispute resolution programs and promotes the appropriate use of ADR in every field. MACRO works with many others across the state to support efforts to advance the conflict resolution practices in Maryland's courts, communities, schools, state and local government agencies, criminal and juvenile justice programs, and businesses. For more information go to www.court.state.md.us/macro/ or call 410-841-2260.

Maryland Agricultural Conflict Resolution Service (ACReS) is the official USDA-certified agricultural mediation program for Maryland, offering confidential service to the agricultural community and others with concerns related to agriculture. Consultation with ACReS staff and the initial mediation session is at no charge. If additional mediation sessions are needed, costs are shared by the parties. Full or partial waivers of fees may be available based on income. For more information go to www.mda.state.md.us/acrs/index.php or call 1-800-492-5590.

Maryland Farm Bureau is an independent, grassroots, non-profit association of farmers and rural families dedicated to increasing the economic prosperity of its members and improving their quality of life. With over 28,000 member families across the state, Maryland Farm Bureau is the voice of agriculture in Maryland. For more information go to www.mdfarmbureau.com or call 1-800-248-9012.

Maryland Cooperative Extension is a statewide, non-formal education system within the College of Agriculture and Natural Resources and the University of Maryland Eastern Shore. MCE educational programs and problem-solving assistance are available to citizens and are based on the research and experience of land grant universities such as the University of Maryland, College Park. Extension staff are dedicated to

promoting youth and local leadership, building partnerships and coalitions, and provide a wide variety of educational resources for the local community.

For more information about MCE and to find your local office go to <http://extension.umd.edu/> or check your local telephone directory.

Maryland Department of Agriculture was organized to provide leadership and support to agriculture and the citizens of Maryland by conducting regulatory, service, and educational activities that assure consumer confidence, protect the environment, and promote agriculture. Visit MDA's website at www.mda.state.md.us or call them at 410-841-5700.

The Natural Resources Conservation Service, a division within the U.S. Department of Agriculture, provides technical assistance and information, and sometimes financial incentives, to help farmers, ranchers, and other private landowners conserve their soil, water, and other natural resources. NRCS works with local conservation districts and local governments as well.

For more information visit their website at www.nrcs.usda.gov.

Soil Conservation District offices are located throughout the state of Maryland and serve their communities in developing and implementing soil and water conservation plans, nutrient reduction strategies, water quality programs, and other related conservation measures. For more information visit the Maryland Association of Soil Conservation Districts' website at www.mascd.net.



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