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ENERGY & ENVIRONMENT COMMITTEE

July 24, 2015

Mr. Chris Harriman  
2006 Kings Forest Ter  
Mt Airy, MD 21771

Dear Mr. Harriman,

Thank you for reaching out to me about Bill 52-14, sponsored by Council President Leventhal and four of my colleagues. This legislation would, among other things, make it unlawful for a private property owner to use pesticides, herbicides, fungicides, and insecticides, such as Roundup, Scotts Turf Builder, and popular mosquito control insecticides on their lawns. If we adopt the measure as proposed, we would be the first major jurisdiction in the United States to ban the private use of pesticides for lawn care.

This legislation has aroused great passions and has divided our community in a way that I have rarely seen in my nine years on the Council. As chair of the council committee that has responsibility for our environment and for making recommendations on this bill, a responsibility that I take very seriously, I have given a great deal of thought as to the most responsible way to respond to the legitimate concerns regarding the health effects of pesticide exposure.

What are those concerns? A number of scientific studies have shown strong links between excessive exposures to pesticides and very serious health consequences. While these links, in the judgment of the National Cancer Institute, do fall short of being definitive, the linkages are strong enough in my view, and the view of many, to warrant invoking "the precautionary principle."

That is why it is my goal to pass what would be the strongest anti-pesticide law in the country, including, but not limited to, a ban on the use of pesticides by our county government, a ban on the use of pesticides on playgrounds in our parks, a ban on the use of pesticides in our watersheds, and a ban on the use of pesticides on most of our ballfields and in many areas of our parks.

**Where I differ from the sponsors of the legislation is primarily on one issue: whether now is the time to invoke an absolute ban on homeowners applying pesticides on their own private property.** After careful consideration, I have concluded that such a ban is premature. Here's why:

- 1) In my view, the most important issue confronting the Council is how we bring about significant changes in behavior on an issue our County has not previously seriously addressed or enforced. Indeed, our existing regulations, weak as they are, have not been

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enforced. **To go from where we are today -- with barely any public awareness and no serious preexisting government involvement, to become the first major jurisdiction in the country to impose an absolute ban is, in my view, an overreach.** Prior to adopting such a ban, I believe it is our responsibility to increase awareness as to the potential health risks. If our public is made more aware of the potential dangers, I believe it will significantly increase voluntary behavioral changes that lead to very substantial reductions in pesticide use;

- 2) Before imposing obligations on private citizens, **I think it is incumbent upon our County to lead and demonstrate the efficacy and costs of alternative, organic approaches.** The Kentlands, often heralded as a shining example of organic alternatives, is limited to approximately 7-9 acres of common property, is in the very early stages, and was quite controversial even with years of intense conversation and dialogue;
- 3) **The Attorney General's Office has advised us that banning pesticide use on private property is likely to be preempted under state law.** While certainly not dispositive, the opinion casts serious doubt over the legality of a measure that is deeply divisive and far-reaching;
- 4) The nation's leading experts at the National Cancer Institute have told us that **the state of the science with respect to the health risks is not "definitive."** While I personally believe that the state of the science is sufficient to warrant a much more proactive approach to pesticides, I believe it falls short of justifying a private property ban at this moment in time;
- 5) It has been generally acknowledged that **the proposed ban would be difficult, if not impossible, to enforce.** To adopt such a restrictive, divisive approach that is so difficult to enforce seems unwise to me; and
- 6) Just as we have done in other environmental initiatives, it is **a prudent course of action to first set a baseline level of pesticide use and a reduction goal prior to imposing a ban.** However, if we fail to reach our goal, then it would be reasonable to consider additional measures to curb the use of pesticides;
- 7) While there are some examples of situations where organic approaches to lawn care have been successful, it is a very different approach, produces different aesthetic results (more clover), would impose 25% more costs on homeowners initially, and is foreign to almost all of the lawn care companies in our region. We are still learning as a community.

Any one of these reasons could justify not proceeding with a ban at this moment. However, **the combination of all of these factors should give us considerable pause.**

I also believe that this legislation ought to generally exempt our higher-quality, competition-level playing fields in the county. Our leading local public and private turf experts have expressed concerns that, because of factors unique to our Mid-Atlantic climate, they require pesticides to ensure quality playing surfaces and to minimize player injury resulting from uneven surfaces.

Given these issues, I have asked our staff to draft as **amendments** to the proposed legislation provisions that would place Montgomery County at the forefront of efforts to reduce the use of pesticides:

- **Ban the use of pesticides on county-owned non-park land;**
- **Significantly reduce pesticides in our parks;** Ban the use of pesticides in park playgrounds; ban the use of pesticides on the local (non-competition level) playing fields; follow Seattle's model and create a list that will grow over time of park areas that are designated as pesticide free; require the Parks Department to pilot an organic playing field; create pesticide-free buffer areas near streams; and to require public reporting requirements that make explicit the circumstances under which pesticides are used;
- **Strengthen industry education/warning requirements:** When a lawn care company proposes the use of pesticides on private property, require residents to sign a document that identifies the reported health risks associated with pesticides, acknowledges that organic alternatives exist, and directs (or not) a lawn care provider to adhere to least-toxic Integrated Pest Management practices that call for a minimum use of pesticides;
- **Allow homeowner association members to choose:** Allow condo associations or homeowners associations to determine their own landscaping methods by holding an affirmative vote *of the membership* in order to adopt a pesticide regime for the maintenance of common elements;
- **Create a county-wide pesticide reduction plan:** Require the Montgomery County Department Environmental Protection to develop a baseline pesticide application level based on most recent Maryland Department of Agriculture data, set a goal of reducing non-agricultural pesticide use 50% by 2020, require the County Executive to propose additional measures should the county not meet the reduction target; and require that the Department not only enforce existing regulations, but conduct a vigorous public education campaign on pesticide use; and
- **Strengthen notification requirements for children's facilities:** Require impacted individuals be notified in advance of pesticide application in properties where children are frequently present, such as playgrounds and daycare facilities.

Thank you again for contacting me about this important piece of legislation. As I hope these amendments make clear, I believe that there are serious and justifiable concerns about the use of pesticides in our community. **We should take strong measures that will significantly limit the county's use of pesticides, and at the same time, ensure that homeowners and members of homeowner associations are in a position to make healthier choices.** If these measures fail to significantly reduce pesticide use in our county, and science continues to strongly suggest associations with bad health outcomes, then it would be proper to consider even more aggressive action. **I believe that this is a responsible approach that will lead to significant reductions in pesticide use while building awareness for our residents.**

Sincerely,



Roger Berliner  
Councilmember, District 1  
Chair, Transportation, Infrastructure, Energy, and  
Environment Committee