

MEMORANDUM

June 9, 2011

TO: Government Operations and Fiscal Policy Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Worksession:** Bill 12-11, Ethics – Gifts – County Employees – Roadside Solicitation

Bill 12-11, Ethics – Gifts – County Employees – Roadside Solicitation, sponsored by Councilmember Andrews, Council President Ervin, and Councilmember Rice, was introduced on April 5, 2011. A public hearing was held on May 3.

Bill 12-11 would amend the County Ethics law to prohibit a County employee from standing in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle during official work hours.

Background

The County Ethics Law, §19A-16, generally prohibits a County employee from soliciting a gift to the employee or another person or organization during official work hours or while wearing an official County uniform. However, the Ethics Law contains an exception to this general prohibition to permit an employee to solicit charitable donations during official work hours or while identifiable as a County employee if the charity drive is approved by the County Executive. One example of an “approved” charity drive for County employees is the annual “Fill the Boot” campaign where Montgomery County Fire and Rescue employees solicit donations for the Muscular Dystrophy Association (MDA) during official work hours while wearing County issued uniforms. A copy of Executive Order No. 277-07 approving this charitable campaign is attached at ©6-7. During this campaign, County fire fighters routinely solicit donations from the drivers of motor vehicles while standing on roadway intersections and median dividers.

The County has limited authority to regulate roadside solicitation due to State law preemption. The Maryland Vehicle Law applies generally throughout the State. The Maryland

Transportation Code, TR §25-101.1¹ preempts all County legislation on any subject covered by the Maryland Vehicle Law unless expressly permitted by a public general law. Any County law that is inconsistent or identical to a provision of the Maryland Vehicle Law is preempted. Therefore, the County does not have the authority to enact a law either permitting or prohibiting the solicitation of money or donations on any part of a roadway, median divider, or intersection.

Two provisions of the Maryland Vehicle Law regulate the conduct of pedestrians in roadways. First, TR §21-507(a) prohibits standing in a roadway to “solicit a ride, employment, or business from the occupant of any vehicle” except for the occupant of a disabled vehicle who seeks help from another vehicle. A “roadway” is defined as “that part of a highway that is improved, designed, or ordinarily used for vehicular travel, other than a shoulder.” TR §11-151. The Attorney General has interpreted this statute broadly to include the solicitation of donations due to the public safety purpose of the statute. See 93 Op. Atty Gen. Md. 31 (2008).

Second, in Montgomery County only, a minor must not stand in “a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle.” TR §507(g). This subsection is enforceable in the County by issuing a warning to a minor. Unless specified otherwise, a violation of the Maryland Vehicle Law is a misdemeanor. TR §27-101.

However, the General Assembly has banned roadside solicitation in other counties. TR §21-507(c) prohibits a person from standing on a roadway, median divider, or intersection to solicit money or donations from the occupant of a vehicle in Carroll, Charles, Frederick, Harford, and Washington Counties. TR §21-507(d), (e), and (i) prohibit a person from standing in a “highway” to solicit money or donations from the occupant of a vehicle in Prince George’s, Anne Arundel, and Howard Counties. “Highway” is defined as broader than roadway, and includes shoulders, median dividers, bicycle and walking paths, and other property in and near the roadway.

These limits on roadside solicitation in neighboring counties were enacted to protect both pedestrians and motorists and to permit the free flow of traffic. Although the County does not currently have the authority to enact a general ban on roadside solicitation,² the County does have the authority to limit roadside solicitation by County employees during official work hours. The County has a special duty to provide for a safe workplace for its employees under both State and Federal occupational safety and health laws. Although a County employee has not yet suffered an injury while soliciting donations during official work hours, fire fighters have recently suffered injuries in other states while participating in a roadside solicitation charity drive. Newspaper reports of an accident in 2009 and another in 2010 are at ©9-10.

Bill 12-11 would prohibit a County employee from standing in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle during official work hours. Councilmember Andrews explained the purpose of this Bill in a memorandum attached at ©8. It is important to note that this Bill would not eliminate the MCFRS employee “Fill the Boot” campaign for Muscular Dystrophy. Fire personnel could still

¹ References to the Md. Transportation Code are stated throughout as “TR.”

² A State Bill that would have authorized the Council to enact a local law regulating roadside solicitation was withdrawn by its sponsor during the 2011 legislative session.

solicit donations during work hours³ at approved parking lots or other public spaces away from roadways. Under current law, a County employee can engage in roadside solicitation when not at work as long as the employee does not violate State law.⁴ The Bill would not change this.

Public Hearing

There were 10 speakers at the public hearing on May 3, 2011. County Fire Chief Richie Bowers, testifying on behalf of the Executive (©14-15), John Sparks, President of the IAFF Local 1664 (©16-17), Stephanie Goldklang, Executive Director of the Maryland-DC Office for MDA (©18-21), Samantha Wilson, Misty Brown and her daughter Abby, and Allen Latt all opposed the Bill arguing that it would reduce local collections for MDA by County fire fighters. Dan Wilhelm, testifying on behalf of the Greater Colesville citizens Association and the Montgomery County Civic Federation (©22), Eileen Finnegan, testifying on behalf of the Hillandale Citizens Association (©23), Erwin Mack, testifying on behalf of the County Pedestrian Traffic & Safety Committee (©24), and Ellen Tenenbaum (©25-26), all supported the Bill arguing that roadside solicitation is dangerous for both pedestrians and drivers.

Issues

1. How would the Bill affect the “Fill the Boot” campaign for MDA?

All of the testimony at the public hearing opposing the Bill centered on the annual “Fill the Boot” campaign to raise money for the Muscular Dystrophy Association. The opponents argued that the Bill would virtually end the annual fund raising campaign and thereby hurt the people who are served by this charitable organization. Although the Bill would prevent the Fire Chief from authorizing fire fighters to solicit funds while standing on a roadside median divider, intersection, or roadway *while at work*, the Bill would not prevent these fire fighters from “filling the boot” *on their own time* or while standing in other locations *on County time*. The Bill would require the fire fighters to modify their campaign, but it would not prevent fire fighters from voluntarily raising money for MDA. Many worthy charities, including MDA, raise funds without roadside solicitation.

MDA argued that the “Fill the Boot” campaign in other local Counties received significantly less contributions after roadside solicitation was banned in the County. We have no reason to doubt the accuracy of these statements, but entering into a roadway to solicit funds for any purpose is already prohibited by State law in Montgomery County. As the photographs of the 2010 “Fill the Boot” campaign show, fire fighters routinely enter into the roadway to collect money. It is unlikely that any organization can conduct a roadside solicitation campaign without any of its volunteers ever entering into the roadway. The Bill would end the County’s sponsorship of this type of charity campaign by its employees.

³ A charitable campaign during official work hours must be approved by the Executive.

⁴ Photographs of County fire fighters during the September 2010 “Fill the Boot” campaign indicate that some may have violated State law by entering into the roadway to solicit contributions. See photos attached at ©11-13.

2. Should the Bill be enacted?

MDA is a worthy charity. The contributions received from the “Fill the Boot” campaign provide assistance to people in need. However, the County to sponsor the campaign in its current form conflicts with the County’s need to safeguard pedestrian and motor vehicle traffic in the County. Permitting County employees to enter into a median strip, intersection, or roadway to solicit funds for charity is dangerous for these employees, other pedestrians, and occupants of motor vehicles. On May 5, 2011, the County Pedestrian and Traffic Safety Advisory Committee (PTSAC) approved a motion supporting Bill 12-11. See the minutes of the May 5 PTSAC meeting at ©30-31. **Council staff recommendation:** approve the Bill as introduced.

<u>This packet contains:</u>	<u>Circle #</u>
Bill 12-11	1
Legislative Request Report	5
Executive Order No. 277-07	6
Councilmember Andrews Memo dated March 31, 2011	8
Newspaper Reports of Roadside Solicitation Accidents	9
Photos of County Fire Fighters	11
Public Hearing Testimony	
Fire Chief Bowers	14
John Sparks	16
Stephanie Goldklang	18
Daniel Wilhelm	22
Eileen Finnegan	23
Erwin Mack	24
Ellen Tenenbaum	25
PTSAC Meeting Minutes – May 5, 2011	27

Bill No. 12 -11
Concerning: Ethics – Gifts – County
Employees – Roadside Solicitation
Revised: March 30, 2011 Draft No. 2
Introduced: April 5, 2011
Expires: October 5, 2012
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Andrews, Council President Ervin, and Councilmember Rice

AN ACT to:

- (1) prohibit a County employee from standing in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle during official work hours; and
- (2) generally amending the ethics law concerning the solicitation of gifts by County employees.

By amending

Montgomery County Code
Chapter 19A, Ethics
Section 19A-16, Soliciting or Accepting Gifts

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 19A-16 is amended as follows:**

2 **19A-16. Soliciting or accepting gifts.**

3 (a) A public employee must not solicit a gift to the employee or another
4 person or organization:

- 5 (1) from any business or person who:
- 6 (A) is registered or must register as a lobbyist;
- 7 (B) does business with the County agency with which the
8 public employee is affiliated; or
- 9 (C) is, or owns or operates a business that is, regulated by the
10 County agency with which the public employee is
11 affiliated;
- 12 (2) during official work hours, or at a County agency, or from any
13 other public employee who is supervised directly or indirectly by
14 the public employee;
- 15 (3) while wearing all or part of an official uniform of a County
16 agency, or while otherwise identifiable as a public employee;
- 17 (4) for the employee's own benefit, unless the Ethics Commission
18 approves the solicitation; or
- 19 (5) with the intent of affecting or offering to affect any action by
20 County agency.

21 (b) However, a public employee may solicit a gift:

- 22 (1) from public employees during official work hours, or at a County
23 agency, for a charitable drive that is approved by the County
24 Executive or (for public employees of the legislative branch) the
25 President of the Council, when the solicitation is part of the
26 public employee's official duties;

- 27 (2) from any person to a charitable organization, as defined in the
28 state law regulating public charities, or a municipality, if the
29 public employee does not solicit gifts primarily from those
30 persons who do business with or are regulated by the county
31 agency with which the public employee is affiliated, or from
32 other employees who are supervised directly or indirectly by the
33 public employee;
- 34 (3) from any person, during official work hours, while identifiable as
35 a public employee, or at a County agency, for the benefit of a
36 County agency or a nonprofit organization formally cooperating
37 on a program with a County agency if the solicitation is
38 authorized by the County Executive or (for public employees of
39 the legislative branch) the President of the Council in an order
40 printed in the County Register that designates:
- 41 (A) the public employee authorized to solicit the gift;
 - 42 (B) the purpose for which the gift is sought;
 - 43 (C) the manner in which the gift may be solicited;
 - 44 (D) the persons or class of persons from whom gifts may be
45 solicited; and
 - 46 (E) the type of gifts that may be solicited;
- 47 (4) while wearing all or part of a uniform of the corporation, to a
48 nonprofit fire or rescue corporation of which the public employee
49 is a member; or
- 50 (5) from any person to a charitable organization, as defined in the
51 state law regulating public charities, while identifiable as an
52 elected official, if the employee lists in a supplement to each

53 annual financial disclosure statement each organization to which
54 the employee solicited a contribution during that year.

55 This subsection does not permit a public employee, during official work
56 hours, to stand in a roadway, median divider, or intersection to solicit
57 money or donations of any kind from the occupant of a vehicle.

58 * * *

59 *Approved:*

60

Valerie Ervin, President, County Council Date

61 *Approved:*

62

Isiah Leggett, County Executive Date

63 *This is a correct copy of Council action.*

64

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 12-11

Ethics – Gifts – County Employees – Roadside Solicitation

DESCRIPTION: To amend the County Ethics law to prohibit a County employee from standing in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle during official work hours.

PROBLEM: The County has a special duty to provide for a safe workplace for its employees under both State and Federal occupational safety and health laws. Roadside solicitation is dangerous, and permitting County employees to do this during official work hours undermines the County's efforts to increase pedestrian and traffic safety.

GOALS AND OBJECTIVES: To protect both pedestrians and motorists and to permit the free flow of traffic.

COORDINATION: Police Department

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: Roadside solicitation is banned in Prince George's, Howard, Anne Arundel, and Frederick Counties.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney, 240-777-7895

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Under Ethics Law



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Employee Solicitation Waiver	Executive Order No. 277-07	Subject Suffix
Originating Department Fire and Rescue Service	Department No.	Effective Date 8/23/07

SOLICITATION OF GIFTS - MUSCULAR DYSTROPHY ASSOCIATION

Pursuant to § 19A-16(b)(3) of the Montgomery County Public Ethics Law, the County Executive authorizes the Fire Chief to designate employees assigned to Montgomery County Fire and Rescue Service to solicit gifts for the benefit of the Muscular Dystrophy Association (MDA) as part of its "Pass The Boot" campaign, in accordance with the requirements established by this Executive Order.

Employees authorized to solicit gifts

Any employee designated by the Fire Chief may contact potential donors directly.

Purpose of the Gifts

The purpose of the gifts is to support MDA, a 501(c)(3) tax exempt charitable organization dedicated to conquering neuromuscular diseases that affect more than a million Americans.

Manner of Solicitation

The Fire Chief, or the Fire Chief's designee, must authorize all solicitations. A public employee authorized to solicit a gift under this Order may participate in presentations, conduct general solicitations through mailings, participate in media activities, or meet personally with potential donors. An authorized public employee may solicit gifts during official work hours, while identifiable as a public employee, but must not solicit any individual or entity that has a contract with Montgomery County Fire and Rescue Service or any other County agency with which the employee is affiliated.

Source of Gifts

Designated employees may solicit gifts from any individual or entity, including associations, businesses, corporations, foundations, service organizations, chambers of commerce, community groups, religious organizations, and other government agencies.

Types of Gifts

Gifts may include monetary contributions, goods and services, technical assistance, training space, furniture or equipment cost.



MONTGOMERY COUNTY EXECUTIVE ORDER

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Employee Solicitation Waiver	Executive Order No. 277-07	Subject Suffix
Originating Department Fire and Rescue Service	Department No.	Effective Date 8/23/07

Manner of Acceptance of Gifts

Unless the donor makes a written request that there be no public acknowledgement of the gift, the Fire Chief may publicly acknowledge each gift by placing a notice in the Montgomery County Register indicating the gift donated, the identity of the donor, the identity of the recipient of the gift, and the purpose for which the gift will be used. The Fire Chief may issue a press release, if desired.

The Fire Chief must notify the Office of the County Executive of the funds collected for the MDA Fill the Boot Campaign. The Fire Chief may fulfill this requirement by submitting a request for placement of a notice in the Montgomery County Register as outlined above.

This Executive Order is issued under the Authority of § 19A-16(b)(3) of the Montgomery County Public Ethics Law and Ethics Commission waiver dated April, 6, 1990.

Approved:

Isiah Leggett, County Executive

8/23/07
Date

Recommended by:

Thomas Carr, Fire Chief
Montgomery County Fire and Rescue Service

8/21/07
Date

APPROVED AS TO FORM AND LEGALITY
OFFICE OF COUNTY ATTORNEY
BY Ed Hatten
DATE 8/21/07

March 31, 2011

MEMORANDUM

TO: Councilmembers

FROM: Councilmember Phil Andrews



SUBJECT: Prohibiting roadway solicitation by County employees on County time

Bill 12-11, drafted at my request, and co-sponsored by Council President Ervin and Councilmember Rice, would amend the County's Ethics Code to prohibit County employees from soliciting donations in roadways while on County time. This measure would stop County employees from endangering themselves and drivers, pedestrians and bicyclists while on County time.

It is inherently and needlessly dangerous for individuals to enter highways to solicit contributions from drivers. In Sante Fe Springs, California in 2010, and in Waxahacie, Texas in 2009, firefighters conducting "Fill the Boot" campaigns were struck by vehicles (see attached articles). As a result, the local fire chief in Texas suspended the roadway campaign. Allowing County employees to solicit in roadways on County time – as is done now -- is not only dangerous; it undermines the County's efforts and credibility in promoting pedestrian and traffic safety. If County employees continue to solicit in roadways, it is only a matter of time before an employee is injured or killed by a vehicle. This bill is what the Council can do at this time to reduce the chances of that happening. Until the Council obtains authority from the General Assembly to prohibit roadway solicitation altogether, the Council cannot prohibit County employees from soliciting in roadways on their own time.

Except with regard to roadways, the bill would not change the current law that allows the County Executive or the County Council to authorize County employees to solicit for charity on County time.

05/07/2010

Calif. firefighter struck, injured by car during fundraiser

The 53-year-old firefighter was listed in serious but stable condition

By Bethania Palma Markus
The Whittier Daily News

SANTA FE SPRINGS, Calif. — A firefighter was injured while collecting money for a nonprofit organization Thursday morning.

The firefighter was at Valley View Avenue and Alondra Boulevard collecting money from passing drivers for the department's annual "Fill the Boot" fundraiser for the Muscular Dystrophy Association when he crossed lanes and was struck by a small pickup truck at about 9:45 a.m., said Whittier police Officer Mike Dekowski.

Dekowski said the 53-year-old firefighter was taken by ambulance to UCI Medical Center and was listed in serious but stable condition.

"He's conscious and talking," Dekowski said.

Fire Department officials wouldn't release his name, citing medical privacy laws.

Santa Fe Springs firefighters were at that intersection and Telegraph and Carmenita roads Tuesday and Thursday from 8 a.m. to 12 p.m. and 2:30 p.m. to 5:30 p.m. for the yearly fundraiser, officials said.

The department has been participating in the yearly drive for seven years, said Janet Ortiz, department spokeswoman.

"We're going to work with the Whittier police and look at the results of the investigation and we'll re-evaluate how or if we'll do it in the future," Ortiz said.

The firefighter was struck while walking in an eastbound lane of Alondra Boulevard, Dekowski said. The light had just turned green and he was trying to get to the sidewalk.

The driver stopped after the collision and the incident is being considered an accident, Dekowski said.

"Technically (the driver) had the right of way. He was not at fault," Dekowski said. "Chances are (the firefighter) didn't see the truck and the truck never saw him coming."

East and westbound lanes on Alondra Boulevard were closed following the accident, Dekowski said. The eastbound side was closed for about four hours.

Carroll Wills, communications director for the California Professional Firefighters Association, said firefighters nationwide ask drivers and pedestrians yearly to fill their boots and donate the collected money to the MDA or burn foundations, he said.

The International Association of Firefighters sponsors the Muscular Dystrophy Association and firefighters have been participating in "Fill the Boot" for about a half century, he said.

"In my memory this is the first time I've seen a situation where someone was injured while conducting a 'Fill the Boot' drive," he said. "They're typically conducted extremely safely."

Waxahacie FF Struck by Vehicle During Fill the Boot : Chief Suspends Campaign

Posted By [Fookie](#) On April 24, 2009 @ 19:37 In [Metroplex](#) | [No Comments](#)

A passing vehicle struck a Waxahachie firefighter near the intersection of Marvin and Ferris avenues at about 3:27 p.m. Thursday. The firefighter was working with three others during the department's annual Fill the Boot campaign benefiting the Muscular Dystrophy Association. The fireman, Marcus L. Brown, 32, was transported by ground ambulance to Baylor University Medical Center in Dallas, where he was treated and released.

According to the accident report, a 2006 Lincoln Mark LT pickup driven by Charlie L. Smith, 49, of Waxahachie was turning left from Cow Path Alley. Smith told police that, as he turned left, another vehicle stopped in front of him, causing him to turn into the inside lane.

Smith told police Brown was standing in the roadway and stepped in front of him as he completed his turn, according to the report, which indicates several witnesses to the accident.

The fire department had just started its three-day benefit fundraiser campaign at 10 a.m. Thursday. Fill the Boot has been held in the city for more than 20 years. During last year's campaign, members raised a little more than \$14,000 from public contributions and had a goal of \$15,000 for this year's drive.

Crews of three to four firefighters had rotated throughout the day at the intersections of Marvin and Ferris avenues and at Indian Drive and U.S. Highway 77, collecting donations in a large boot.

"Typically, this has been a fundraiser that firefighters from around the country have done to benefit MDA," said campaign coordinator Capt. Don Alexander in an interview with the Daily Light prior to the accident. "The public has been really generous in the past and so far this year - and that is what really surprises a lot of the young guys who do this because they don't expect it."

Responding to the accident scene were additional personnel from the Waxahachie Fire Department along with the Waxahachie Police Department and East Texas EMS.

Fire Chief David Hudgins said that, due to the accident, the Fill the Boot campaign is suspended until further review for safety considerations.

"We have done this drive for years and never have had a problem or an accident until today," he said. "Now, with traffic the way it is, we will have to re-evaluate it."

"We will be contacting several businesses in the area to do the campaign in front of their stores in the future," he said. "We will no longer work on the streets."

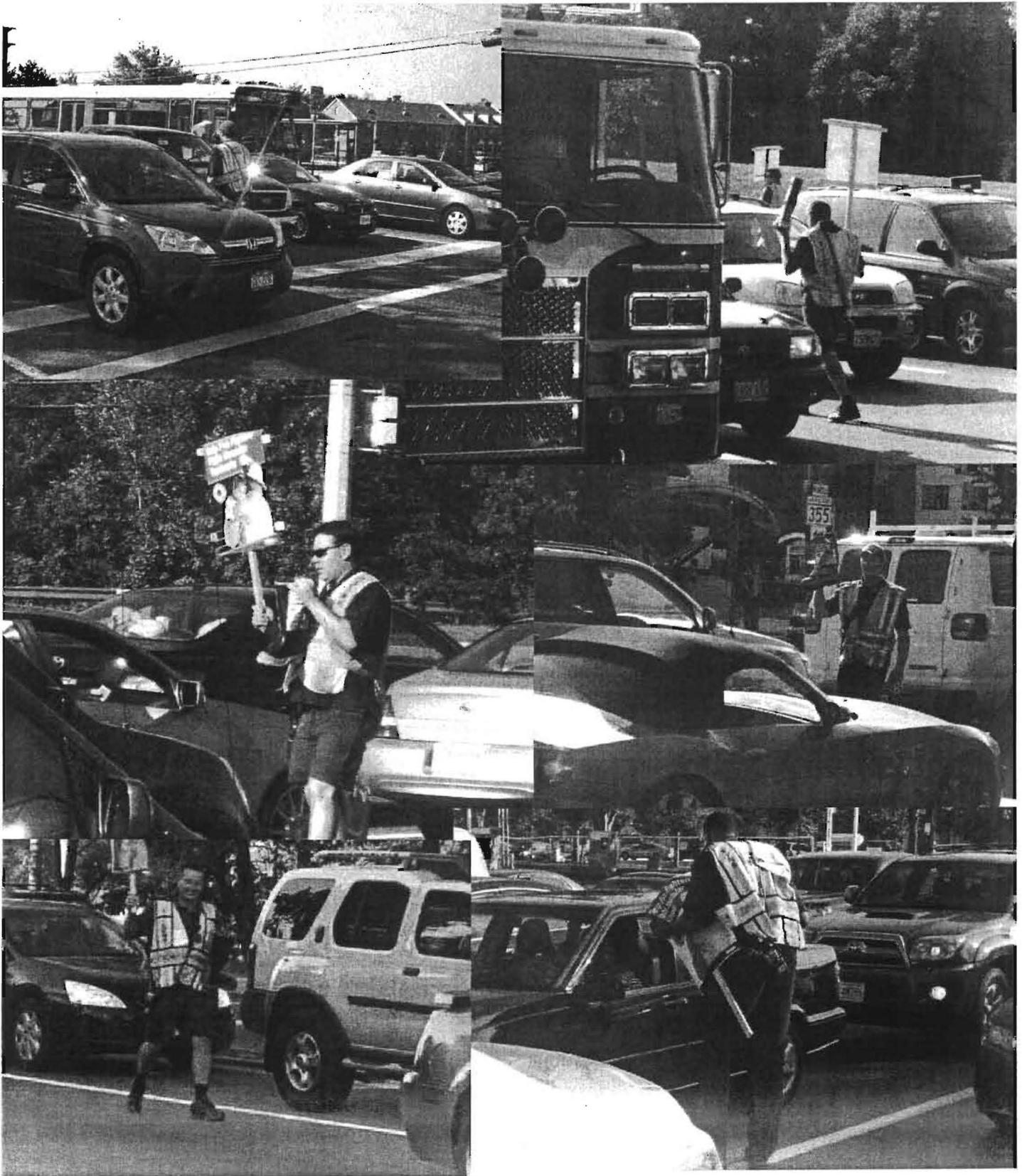
By ANDREW BRANCA

[Daily Light staff writer](#) ^[1]

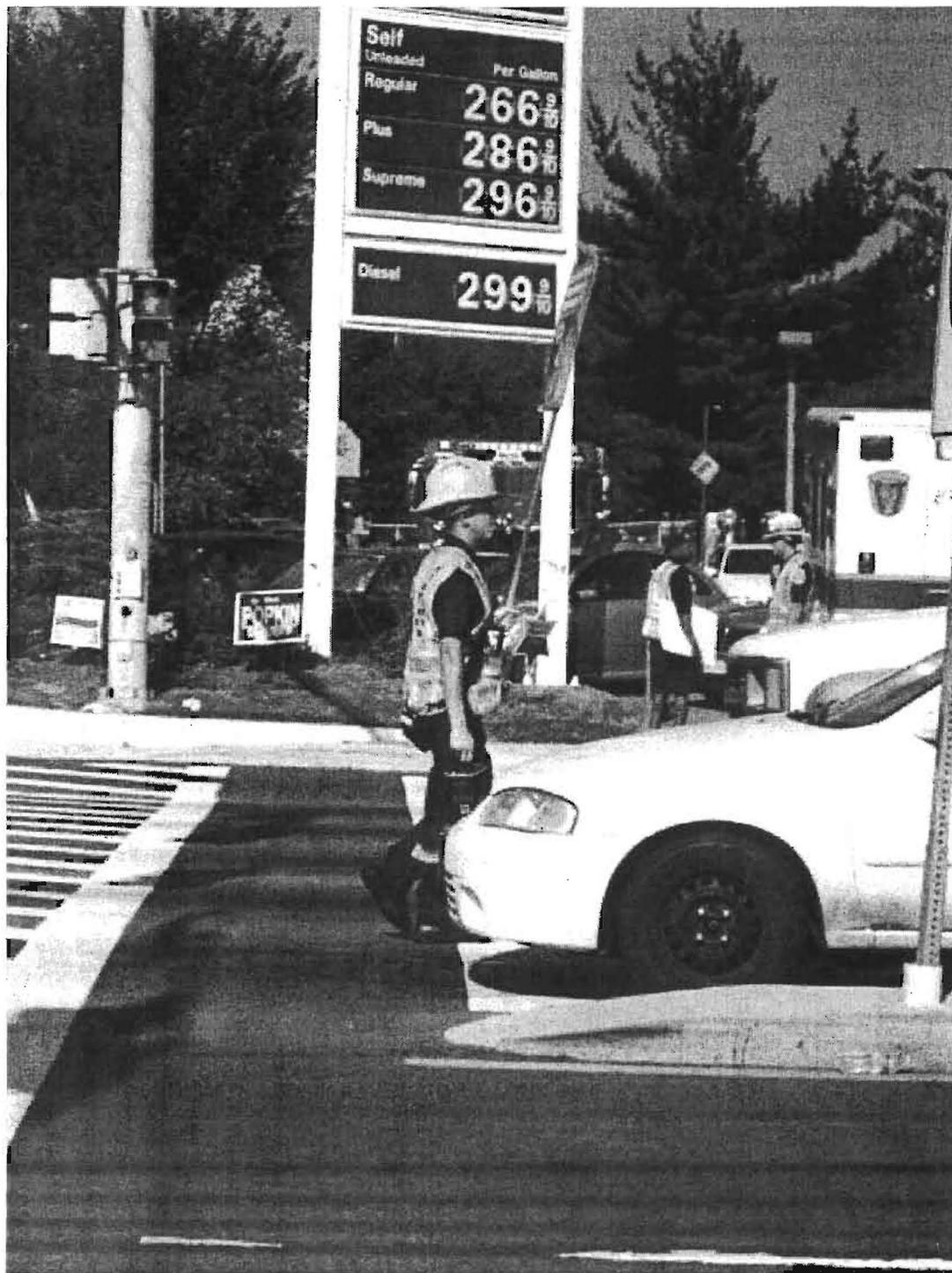
Article printed from Texas-Fire.com: <http://www.texas-fire.com>

URL to article: <http://www.texas-fire.com/2009/04/waxahacie-ff-struck-by-vehicle-during-fill-the-boot-chief-suspends-campaign/>

Photos of Montgomery County Firefighters
Fill the Boot, September 2010







Bill 12-11
Ethics – Gifts – County Employees – Roadside Solicitation

Public Hearing - May 3, 2011

Testimony of Montgomery County Fire Chief Richie Bowers

Good afternoon. My name is Richie Bowers and I am the Montgomery County Fire Chief. I am testifying in opposition to Bill 12-11 on behalf of County Executive Isiah Leggett. This bill will negatively impact some of our most vulnerable residents that have Muscular Dystrophy -- and is not needed to maintain public safety.

Bill 12-11 would prohibit County firefighters and paramedics from collecting donations at intersections and roadways during our annual "Fill the Boot" effort. That would, in turn, significantly reduce the funds collected by my personnel to support the Maryland Office of the Muscular Dystrophy Association (MDA).

Funds collected by our on-duty and off-duty Montgomery County firefighters and paramedics have exceeded \$200,000 during each of the last several years. These donated funds directly serve children and adults with Muscular Dystrophy who live in the County.

If Bill 12-11 is enacted, the reduced collections from our Fill the Boot effort will directly impact:

1. access to clinics for diagnosis and care;
2. the number of children attending summer camps;
3. assistance to purchase medical equipment such as wheelchairs, leg braces and communication devices;
4. professional and public health education for those affected by Muscular Dystrophy;
5. support groups for individuals dealing with Muscular Dystrophy; and
6. research about the disease.

Bill 12-11 would also prohibit special roadside collection events such as the Fill the Boot effort that was conducted by County firefighters and paramedics after 9-11-01 to support the family members of the 343 firefighters and paramedics that lost their lives at the Twin Towers. If our County experienced a line of duty death, Bill 12-11 would prohibit us from having a special Fill the Boot event for that family.

Montgomery County firefighters and paramedics have not experienced a single incident or injury during a Fill the Boot campaign. My personnel are trained

public safety officers who have extensive experience working on roadways and highways. They conduct their Fill the Boot program with every safety precaution. This is very different from panhandlers, newspaper sellers, youth groups or other inexperienced individuals who are more likely to solicit funds in unsafe ways at busy intersections.

As Fire Chief, I instituted a number of safety measures for the Fill the Boot activity. Firefighters are required to wear safety vests, use appropriate signage about the event, and appoint an intersection Captain to watch traffic signals while firefighters and paramedics collect from stopped vehicles when the traffic signal is red.

As you know, the County Executive previously requested that the State enact enabling legislation to authorize the County to establish a permit system for roadside solicitation. A permit system that applies to anyone engaged in roadside solicitation, not just County employees, is the best option for addressing public safety concerns relating to this type of activity.

I urge you to curb Bill 12-11 and continue to support our children and adults with Muscular Dystrophy. Roadside solicitation by Montgomery County firefighters and paramedics is critical to our successful Fill the Boot campaign. Thank you.



LOCAL 1664

Montgomery County Career Fire Fighters Ass'n., Inc.

May 3, 2011

Public Hearing – Bill 12-11
Ethics – Gifts – County Employees – Roadside Solicitation
John J. Sparks, President
Montgomery County Career Fire Fighters Association

Good afternoon. My name is John Sparks, and I am the President of the Montgomery County Career Fire Fighters Association, International Association of Fire Fighters, Local 1664. On behalf of Local 1664, I am here to testify against Bill 12-11.

For more than half a century around the United States, and for more than 25 years here in Montgomery County, fire fighters, paramedics and EMTs have enthusiastically and safely conducted the Fill the Boot campaign to raise money for the Muscular Dystrophy Association.

What started as a good will gesture in one northeastern city has become a formal bond between MDA and the IAFF across the country. Fire fighters nationwide consider it part of their mission to raise money for MDA through Fill the Boot. The IAFF has emerged as the single largest sponsor of the MDA.

Fill the Boot also offers an opportunity for career and volunteer fire fighters to work together for a worthy charitable cause. It fosters better relationships between career and volunteer personnel.

As I noted a moment ago, Fill the Boot has been conducted safely for 56 years. In the 25 years of Fill the Boot in Montgomery County, there has not been a single reported accident or injury attributable to the campaign.

This is not a surprise because we are trained, public safety officers who have extensive experience working on roadways, often under extreme hazardous conditions.

We conduct our Fill the Boot program with every safety precaution, including uniforms and/or safety vests and extensive signage. We have intersection captains in charge of watching traffic signals and communicating with fire fighters collecting there. We collect from stopped vehicles when the traffic signal is red. And our efforts are preceded by a media campaign to alert the public that the Fill the Boot campaign will soon be underway.

16

Safety is important to us. That is what we do. Bill 12-11, however, isn't needed for our safety. And in exchange for virtually no benefit, it will do significant harm.

This bill will cost the local MDA office nearly 20 percent of its budget – money that is desperately needed to serve kids and adults in Montgomery County who suffer from terminal neuromuscular diseases.

And make no mistake -- there's no viable alternative to our roadside efforts. Specifically, I'd like to address the suggestion that has been made to us that we can conduct a successful Fill the Boot campaign in front of shopping centers. First, IAFF experience nationally demonstrates that the drop off in contributions can be 75-80 percent when Fill the Boot is moved to shopping centers. Anne Arundel County's experience is even worse – they experienced a 97 percent drop off when a roadside solicitation ban went into effect.

Second, it's difficult – and becoming more difficult – to coordinate with landlords and tenants at shopping centers to get permission for sustained charitable efforts. Some companies bar all solicitations in front of their premises. And just last Christmas season we saw Giant supermarkets severely restricting the Salvation Army's presence in front of its stores.

More important, Fill the Boot is a “brand” that has been nurtured and developed nationally for over 50 years. It represents a national fundraising effort associated by the public with MDA, just as Jerry Lewis and the Labor Day Telethon are associated with MDA. Just as “The Susan G. Komen Walk for the Cure” is a national fundraising effort associated with fighting breast cancer and the “Heart Walk” is a national fundraising effort associated with fighting heart disease and strokes.

You cannot simply throw out these brands, replace them with new fundraising techniques, and expect them to be nearly as successful in raising money for these worthy, charitable causes – especially in these challenging times when corporate sponsorships and philanthropic giving are down significantly.

Lastly, let me point out that the traditional Fill the Boot campaign has widespread public support. People willingly donate their nickels, dimes, quarters and dollars to help fill the fire fighters' boots. It takes lots of those small donations to reach \$250,000, and each of those donations can be viewed as the public's way of showing its support of the program.

Thank you for the opportunity to testify, and I will be happy to answer any questions you may have.

Testimony of
Stephanie Goldklang
Executive Director, MDA MD/DC
On Bill 12-11

- Good afternoon. My name is Stephanie Goldklang and I am the Executive Director of the local office of the Muscular Dystrophy Association.
- You each have a Power Point presentation that explains our concerns about this bill and the serious impacts it will necessarily have on some of the most vulnerable residents of the county. I won't go through the entire presentation but I will simply highlight some key points.
- My office serves Montgomery County children and adults who are affected by muscular dystrophy, a term that designates a group of hereditary muscle-destroying disorders which vary in inheritance pattern, age of onset, initial muscles attacked, and rate of progression – none of which can be stopped or reversed.
- In the past 10 years, approximately 600 Montgomery County children and adults with muscular dystrophy have been served by my office, and currently we are providing services to approximately 270 Montgomery County residents.

- Our services cover a variety of critical needs:
 - Visits to clinics staffed by interdisciplinary teams of top health professionals at Children’s National Medical Center, Georgetown University Hospital and Johns Hopkins University Outpatient Center;
 - A weeklong overnight summer camp for kids with neuromuscular diseases, where activities are geared to campers’ abilities and include swimming, horseback riding, fishing, dancing, boating, arts and crafts, and more – “a slice of heaven,” as Mattie Stepanek used to call it;
 - Assistance with the purchase and repair of durable medical equipment such as wheelchairs, leg braces, and communication devices;
 - Support groups that provide emotional and practical support for individuals and families affected by neuromuscular diseases;
 - Grants to clinics and professionals to cover research and other services; and

- Most of all, we offer hope that one day we will find a cure for these terrible diseases.
- We do all this with funds we raise ourselves. Our office is entirely self-supporting and receives no funds from the National MDA Office, no government funds, no United Way funds, and no fees from those it serves.
- And we do this in a fundraising environment that already is difficult and challenging, with corporate sponsorships on the decline.
- As we have done for more than 25 years, we rely heavily on the Montgomery County Fill the Boot campaign, which now raises nearly 20% of our total annual budget.
- We know this bill isn't directed at us. We know you all support what we do.
- But the consequences of this bill fall squarely on us.

- There is no way we can replace Fill the Boot revenue that would be lost if this bill passes. There is no viable alternative to raising this amount of money, this amount of our budget.
- Make no mistake -- without that money, we will have no choice but to drastically reduce and in some cases eliminate the critical services we provide.
- As you balance the pros and cons of this bill, as you weigh the positive and negative consequences, we just hope that you fully appreciate the disastrous impacts passage of this bill will have on some of our most vulnerable residents.
- Thank you, and I am happy to answer any questions you may have.

**Montgomery County Civic Federation
&
Greater Colesville Citizens Association**

Montgomery County Council
Council President Ervin
Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

May 3, 2011

Re Bill 12-11 Roadside Solicitation (Support)

Dear Councilmember:

I am Dan Wilhelm, President of the Greater Colesville Citizens Association (GCCA) and Vice President and Legislation Chair for the Montgomery County Civic Federation (MCCF). I am speaking for both groups.

GCCA and MCCF have been active in trying to get legislation passed to stop the unsafe practice of people soliciting for donations from occupants of vehicles. As you know, it is currently illegal for those requesting donations to walk out into the street. That however does not stop them. I rarely see people confining their soliciting activities to the curb or median and that applies also to the county firemen during their fill-the-boot campaign. That is why we support Bill 12-11 as a step in the right direction.

The sole purpose of the bill is safety – safety for those county employees collecting donations and safety for motorists.

The fire union argues that the bill will stop them from conducting their fill-the-boot campaign. That is false. They will still be able to ask for donations at many other locations. I suggest they solicit in shopping centers, just like other groups do.

The fire union also argues that their members remain out of the street. That again is false. Let me give you my personal experience where I came very close to having an accident, both with another vehicle and with a fireman. I was on my way home from work traveling the beltway and exited north onto US29. At the intersection with University Blvd., where the lanes are divided, many firemen were conducting their “fill the boot” campaign. They had fire equipment parked on both sides of the four-lane road at that point, partially blocking both the left and right lanes. This backed up traffic onto the beltway, which slowed traffic down even more than normal. Once I finally reached the intersection with University, the driver of the vehicle directly in front of me (in the third lane from the right) unexpectedly slammed on his breaks so he could make a donation. I swerved and barely avoided striking the vehicle. A fireman was walking toward the stopping vehicle and I barely avoided hitting him. The fireman was well into the second lane off the curb.

Both GCCA and MCCF urge the Council to pass Bill 12-11 as a means to protect public and county fire employee safety.

Sincerely,



Daniel L. Wilhelm
GCCA President
MCCF VP and Legislation Chair

**Hillandale Citizens Association
Testimony in Support of Montgomery County Bill 12-11
Before Montgomery County Council, May 3, 2011**

The Executive Committee of the Hillandale Citizens Association believes that ending the practice of Montgomery County employees soliciting from occupants of vehicles while “on the clock” is an important step forward in promoting roadway safety. We are not quibbling with allowing paid employees to appropriately solicit for selected charities as their schedules permit, but we do desire for employees to do so safely, AND do so without causing harm to another County priority — pedestrian safety.

Distracted drivers and brazen or anxious solicitors are a dangerous mix for our intersections. The County has the responsibility to not contribute to these conditions by encouraging “on the clock” employees to participate in this activity. The County is responsible for worker safety. Given that the County is self-insured, ending this practice is common sense.

The tradition of “fill the boot” for Muscular Dystrophy is a many-decades-old endeavor for our career firefighters. The event provides competition between our fire stations and nationally between union locals. Collecting while “on the clock” is relatively new for Montgomery County. Prior to being granted this privilege, the highest amount that Local 1664 raised was \$ 74 k in 2004. But since being “on the clock,” the sums increased to \$ 254 k in 2009; with \$ 216 k tallied last year. These much larger totals are the direct result of a bigger presence with full shifts at our intersections courtesy of County residents. We congratulate the firefighters on their success, and ask them to please continue their work for MDA in a safer manner beginning with Labor Day weekend 2011.

Beyond the inherent safety risks, there are additional consequences of our “on the clock” employees collecting from occupants of vehicles:

- Many large groups are now imitating the behavior of swarming intersections to solicit donations. We’ve seen several different church groups on New Hampshire Avenue at Powder Mill Road and at Lockwood Drive. These groups are “just like the firefighters” including wearing safety vests as they walk between lanes of cars.
- Our paid employees are essentially undermining the County’s pedestrian safety program by being on medians and walking through traffic. These actions add to the public’s lack of recognition of how pedestrians should behave and lessen the respect that drivers should pay to individuals in harms way. We need to make pedestrians and drivers more responsible for their respective roles on the roads, not encourage employees to engage in questionable behavior.
- Just like other roadside panhandlers, our paid employees do not follow the state law and do enter the roadway to collect. The temptation of getting money in hand is just too overpowering to stay on a median. Firefighters enter the roadway with each red light cycle approaching drivers in all lanes of traffic. Having our police officers respond to these infractions by “on the clock” employees is not a reasonable solution to the public safety problem created with this activity.

The Executive Committee of the Hillandale Citizens Association thanks Councilmembers Andrews and Rice along with Council President Ervin, our District Councilmember, for sponsoring Bill 12-11. We ask that all Councilmembers join with them to support improving the safety of our roadways and keeping employees safe. Please vote to pass Bill 12-11.



PEDESTRIAN TRAFFIC & SAFETY ADVISORY COMMITTEE

2 May 2011

To the Honorable Members of the Montgomery County Council:

It is with a sense of regret that I must urge you to "prohibit a County employee from standing in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle during official work hours."

Regret, because I'm aware of the good cause addressed by the Montgomery County Fire and Rescue employees on behalf of the Muscular Dystrophy Association.

At the same time I have the most serious concern about anyone standing in/on the median or other portions of the roadways normally used by vehicles, because of the distraction caused by such persons, potentially leading up to harm being done to either the pedestrian and/or the driver of any vehicle as the result of that distraction.

Why? Because I have had the most unfortunate memory of actually hitting a pedestrian who used improper means to cross the roadway and that memory will never go away.

I primarily represent the Crossroads, the major intersection of New Hampshire Avenue and University Boulevard, which is in both Montgomery and Prince George's County, where pedestrian accidents were so repetitive that the intersection was for many years known as the third most dangerous intersection in the State of Maryland. Even now, after Montgomery County, Prince George's County and the Maryland State Highway Administration spent \$7,000,000 in making that intersection more safe for pedestrians and drivers, we have had deaths and injuries.

The roadway and or the median is no place for pedestrians to solicit or sell items, it is to facilitate and expedite vehicular traffic.

The Montgomery County Pedestrian, Traffic and Safety Advisory Committee, (PTSAC) which I Chair, was asked too late to consider the action being discussed in the Maryland General Assembly, but this Montgomery County action is on our agenda for consideration on May 5, 2011.

Please help those who find worthy causes and wish to solicit funds for those, find less intrusive places to do so.

Thank you.

Erwin H. Mack
Chair, PTSAC

Erwin Mack
Chair
Delegate Bill Bronrott
Vice Chair

Ramin Assa
Justin Clarke
James D'Andrea
Doris Depaz
Valerie Ervin-
Councilmember
Steve Friedman
Kenneth Hartman
Arthur Holmes, Jr.
Lt. James Humphries
Alan Migdall
Colleen Mitchell
Peter Moe
Alyce Ortuzar
Richard Romer
Jack Strausman

STAFF
Jeff Duncel
Roselle Paquette

Testimony in Favor of Bill 12-11 before the Montgomery County Council
Ellen Tenenbaum, County Resident and Motorist
May 3, 2011

My name is Ellen Tenenbaum, and I've been a county resident living in Derwood since 1984. My husband and I have 3 children, who were raised in Montgomery County public schools and sports. I work at Westat, a survey research firm here in the county. I'm also a classical pianist, giving concerts all over the area, in churches, the public libraries, community centers, and for charitable causes. So as you can guess, I drive quite a bit. This citizen knows about traffic safety from a road's eye view!

Thank you for allowing me to testify in favor of Bill 12-11:

- 1. As a Montgomery County citizen who drives; and
- 2. As a citizen who greatly respects the Montgomery County Fire and Rescue employees and their very substantial charitable efforts.

1. Let me address the first role first – as a citizen who drives. I'm driving in my car, approaching a red light and encountering a roadside solicitor standing in the median coming up to other cars. In the course of approximately one minute, here is my thought process now:

Uh-oh. What's this?
 This is very distracting and not safe. Look, he's right there in traffic. He could get killed!
 Uh-oh, I'm trapped.
 Who is this? What do they want?
 I don't know if this is a legitimate organization.
 Do they want money just for muscular dystrophy or for themselves too?
 I don't know enough. I can't think.
 Boy, they've got me feeling guilty.
 Is the light about to change?
 I hate this.
 OK I'm rummaging down here for my wallet while my eyes are darting around trying to pay attention to traffic. My utmost concern has got to be traffic safety! But it's not!
 This is getting me stressed.
 What bills do I have? Only a couple of tens.
 What about coins?
 The light changed!
 Oh here's a fistful of quarters, dimes, whatever!

2. This deplorable thought process leads me to address my second role – as a citizen who greatly respects the Montgomery County Fire and Rescue employees and their very substantial charitable efforts. It is a great organization that deserves to be regarded intelligently. With safer, more engaging fund-raising strategies, this fine organization can be a role model. It can succeed in its charitable fund-raising goals in a way that draws in the community, so that we citizens can understand its efforts clearly. It will achieve its fund-raising goals safely – that is, consistent with its own central mission of keeping us safe.

In summary, the fact is that roadside solicitation

- makes people feel trapped, stressed, guilty, and unable to think clearly;
- contributes to distracted driving; and
- is an immediate threat to our citizens' public safety and well-being, by threatening the safety of the solicitor, the driver, and others on the road.

Ellen Tenenbaum
6 Titonka Court
Derwood, MD 20855
301-793-1863
ellentenenbaum88@gmail.com

MINUTES FOR MAY 5, 2011
MEETING OF THE PEDESTRIAN AND TRAFFIC SAFETY ADVISORY COMMITTEE

Members Present: Erwin Mack, Chair; Colleen Mitchell, Vice Chair; David Anspacher, MNCPPC; Captain Thomas Didone, MCPD; Steve Friedman; Arthur Holmes, MCDOT; Alan Migdall; Alyce Ortuzar; Reemberto Rodriguez, Silver Spring RSC; Richard Romer representing Councilmember Ervin; David Sharp; Ramin Assa via phone; Jack Strausman; Peter Moe, MSHA;

Members Absent: Darrel Droblich; John Britton, Municipal League; James D'Andrea, MCPS;

County Staff: Jeff Dunckel, Pedestrian Safety Coordinator, Will Haynes; MCDOT-DTEO; Nadji Kirby, MCDOT-SRTS;

Guests: Councilmember Phil Andrews; Richard Hoye; John Wetmore

1. Committee Business

Erwin Mack, Chair, called the meeting order at 7:02 pm. Ramin Assa was connected to the meeting via phone, as he was away on a business meeting. The first order of business was approval of the minutes from the March 3, 2011 meeting.

MOTION: A motion was made by a committee member and seconded to accept the minutes as presented. The March Minutes were approved unanimously, without further discussion.

As John Britton was unable to attend tonight's meeting, Jeff Dunckel introduced Matthew Folden, the City of Rockville's newly designated Pedestrian and Bicycle Safety Coordinator. Folden thanked the committee for inviting him. He has been a transportation planner in Rockville for the last three years. This new position is an enhancement of his previous position, now responsible for coordinating all the different pedestrian and bicycle programs being implemented in Rockville by different agencies. Folden should be considered the point-person for anyone having questions about pedestrian or bicycle programs in Rockville. Rebecca Torme will still be responsible for site plan reviews and land use planning issues.

MOTION: Peter Moe moved that a letter be sent to the City of Rockville, congratulating them on taking such an important step as designating and hiring an individual to serve as a Pedestrian and Bicycle Safety Coordinator. Alan Migdall seconded the motion. The letter will be addressed to the Mayor. The motion passed unanimously.

The floor was opened for up to 10 minutes of comments from visitors. John Wetmore, producer of the Perils for Pedestrians cable TV show, commended the recent efforts of the County to plan and build a hiker/biker pathway on Bradley Boulevard, between Wilson and Goldsboro. Wetmore expressed his support of the County's effort while recognizing that there was some significant opposition from local residents. He asked that the County do what was right, and build the hiker/biker pathway. David Anspacher (MNCPPC) stated the plan would be before the Planning Board in July, if others wished to express their support of the project. Wetmore also expressed surprise that the debate seems to have taken on a very anti-bicyclist tone from some of the opposition. Steve Friedman commented that Bradley was already a very heavily trafficked route for cyclists.

Dunckel announced that the contracts for the education activities, planned for the High Incidence Areas (HIA's) had been executed, kick-off meetings had occurred, and that pedestrian surveying and plans for education activities in the next two HIAs (Wisconsin Avenue and Four Corners) were underway. Because the school at Four Corners (Blair High School) generates a high volume of pedestrians, Four Corners will be addressed first in order to have education activities underway by the next school year; pedestrian safety education is anticipated to be a big part of the effort at the Four Corners HIA.

Action: Dunckel stated a presentation by MCDOT staff to the PTSAC on plans for education in the HIAs

will be made at the July meeting.

Due to Ramin Assa needing to end his phone participation by 8:00 pm, his Subcommittee topic of the Sidewalks-Pedestrian Network Assessment was addressed next:

6. Subcommittee Reports, Updates, and Recommendations:

Sidewalks-Pedestrian Network Assessment Subcommittee - Alan Migdall presented the report submitted by Ramin Assa. Migdall summarized for the group that what was being proposed in the report was an inventory of deficiencies in the pedestrian network for future remediation, as described in the original Pedestrian Safety Initiative, Strategy 2. The idea being proposed is to do this on a small scale as a pilot for future application on a broader scale. The pilot locations (two locations) are yet to be identified. Assa reviewed what work had been done the last two months: numerous meetings were held. The ideas for constructing a network-assessment have been determined and are included in the report. The Subcommittee would like to have the PTSAC endorsement of recommending to MCDOT two pilot locations to conduct the assessment, as described in the report. Mack asked if a vote on the action could be deferred until the July meeting. Assa indicated he would hope to get the PTSAC support for proceeding with the pilot assessment as described in his report. Dunckel clarified that this proposal was first made by the PTSAC back in November. The description of the assessment had now been laid out in Assa's report – pick two locations using the criteria described in the report. The hope tonight is to get some support, input and feedback from the committee on a number of issues: good locations for a pilot; does the committee support this effort; what concerns might the committee have about this assessment; are there specific areas and characteristics the PTSAC would suggest be included in selecting a pilot location. Assa clarified that a limited area was being sought, perhaps ½ square mile area - - with a supportive local neighborhood association that may help conduct the surveys. Mack asked to defer final action until July 7.

MOTION: Alan Migdall moved that the PTSAC endorse the concept of a sidewalk-pedestrian network assessment, as described in the report, and that actual locations be recommended at the meeting in July. Existing tools and existing databases for these locations (by the State and/or others) will be included in the evaluation. The motion was seconded by Ramin Assa. The motion passed unanimously.

In discussion, Alyce Ortuzar reiterated her request that MSHA provide a presentation on what they are doing in the Ashton-Sandy Springs area in terms of connecting the non-contiguous sidewalks in that area - - what the State is doing may provide insights into how we can proceed with this project. Peter Moe responded that this issue was being discussed at MSHA, and that the process should look at models that had already been completed: how to collect information, what information to collect, how to incorporate the information into a model: all these things need to be considered for this pilot. The subcommittee should help sort out these issues for the final recommendation. Moe asked about the criteria of selecting a location that is about to have other sidewalk-pedestrian network and capital improvements constructed - - why would we prioritize an area that is about to have major changes in its infrastructure. Migdall explained his perception: this was to address areas that were about to be under construction, so that the improvements constructed would actually address the needed connectivity improvements, and where construction would already be occurring would be places where additional needed construction could be identified. Moe: the data from the survey should inform the design of the planned projects. Assa agreed, reminding Moe that the purpose of this proposal was to do a pilot, so the needs of one limited area could be assessed and whether this assessment would be useful to the engineers designing and building improvements in these areas. If so, then this could be expanded into larger geographical areas.

2.) Discussion of WMCCAB Meeting and Follow Up Letter

Mack began the discussion with an explanation that he had not received in the mail the letter from the Western Montgomery County Citizens Advisory Board (WMCCAB), though it was addressed correctly to his home. He recently discovered this, and just received a copy of the letter yesterday. This did not afford much time to review and consider the issues being raised in the letter, prior to tonight's PTSAC meeting. There were also no guests from the WMCCAB at tonight's meeting – so not sure how to sort out the issues raised in the letter. Mack did note that items one and two spoke to the need to be able to track issues and concerns reported to the 311 system, and other agencies

outside of the County organization.

Migdall explained his experience, and how 311 is not currently tracking reported items, other than whether they have been assigned to the appropriate agency. Rich Romer concurred that the tracking of reported problems is something the County Council would like to see the system do; it is the goal they are moving towards. Art Holmes commented that this issue has also come up at CountyStat reviews; the CAO is aware of the problem. Leslie Hamm is the Director of the 311 system. Mack suggested that items one and two from the letter be directed to Leslie Hamm. Moe described the MSHA CCMS system, where the State assigns a tracking number to complaints they get. The two systems are not linked, and probably never will be. But perhaps the County staff that reports the issue to the State could record the CCMS number, and report that back to the reporting citizen.

Dunckel noted that item two was not a 311 system, as these reports are not routed through 311. Romer suggested forwarding the web-based resource issue up to the Public Information Office, since they are responsible for both 311 and the web pages.

MOTION: The committee member moved that the items that related to the County's call center and website (item number one and two) be forwarded to the Public Information Office for resolution. The motion passed unanimously.

Item three, utility poles and fire hydrants obstructing the sidewalk and the lack of coordination, was discussed. Moe recalled that the issue was more about lack of feedback to the community, and that coordination was occurring but without the community's knowledge. Ortuzar suggested that people who actually walk and bike these facilities need to be consulted. Jack Strausman cited the complications of dealing with constrained Rights-of-ways, and property owners sometimes unwilling to cooperate with easements to allow clearance of utility pole installations. Friedman suggested that the issue was less about coordination between the agencies, but about coordination of communication back to the folks with concerns about their pathways. A better system to communicate - - other than slapping something up on a website - - may be needed. And it is more than just feedback - -it is disseminating information past those who may attend meetings - - to the larger community. Reemberto Rodriguez thought we should be creating a culture that says: we will not impede sidewalks with utility poles or fire hydrants. Holmes pointed at that access is a function of time; ADA didn't exist 50 years ago. Now we are going back to fix things. We are working with MSHA and the US Dept. of Justice to prevent future problems using the permitting process - - but that does not fix yesterday's problems. Moe recalled that the feedback to the community on these ongoing issues was what was discussed at the January meeting as being needed. David Sharp asked how citizens report problems; 311 is the venue to use.

Ramin Assa noted that items four and five restate the citizens' desire to have their voices and concerns heard - - that improving communications is the key to addressing the concerns expressed in the letter. Where problems are observed, the citizens need to be heard and explained what the situation is. Colleen Mitchell pointed out that while communication is important, doing projects correctly - - addressing the concerns of the citizens and building things as requested - - is really more important. Feedback and communication may be important, but being responsive with the solutions to citizen identified problems is more important.

Art Holmes asked that if anyone sees something dumb being done, to let him know about it personally - - that he wants to know about it. But 311 is the system the County is employing to be more responsive to the citizens.

Mack asked if the letter should be sent to all department heads; Holmes thought that would be appropriate. Romer commented that the letter has already been distributed to the Council and the Executive, so there was really no need for the PTSAC to take additional action.

Holmes stated that MCDOT would take the letter, research the issues raised, and report back to the PTSAC on what actions have been taken and what responses have been prepared. This will be provided to the PTSAC before the July meeting. Moe pointed out that item 4 indicates an interest and willingness to work with the PTSAC on identifying pilot areas for the Sidewalk-Pedestrian Network Assessment, as proposed earlier by Migdall and Assa. Moe requested that Migdall and Assa reach out to the WMCCAB and obtain their participation in selecting a pilot study

area (in the Western Montgomery County.)

Action: Mack requested that all Department Heads receive a copy of the WMCAAB letter and that MCDOT report back to the PTSAC at the next meeting on what was done in response to these issues.

4.) Councilmember Andrews' Legislation – Permitting of Panhandling/Roadside Solicitation

Mack introduced Councilmember Phil Andrews, explaining that he had invited Councilmember Andrews in response to Andrew's request that Mack speak at the introduction of the Legislation, Bill 12-11, on Roadside Solicitation. This was following last month's PTSAC discussion of State legislation on the issue being considered in the Annapolis Legislature.

Andrews stated his support of the pedestrian safety issue, commending the PTSAC for their efforts on this issue that is of such importance to Montgomery County. Andrews passed out the legislation he introduced, along with photographs of County Fire Fighters conducting the "Fill the Boot," Campaign where fire fighters walk into the street to collect contributions for the Muscular Dystrophy Association. Andrews supports raising money for this cause, but questions whether this is the correct way to do it. It puts fire fighters at risk in the roadway- - in California and Texas, fire fighters were recently struck by vehicles while doing this activity. The bill introduced by Andrews, was also sponsored by Councilmembers Ervin and Rice. It is trying to do at the County level what we can do; efforts to pass similar legislation limiting roadside solicitation at the State level failed this year. The County can not yet prohibit solicitation in a median or in traffic. But what this bill does is prevent County employees from doing solicitation in the roadway during County work hours; this is an effort to keep our County employees from engaging in dangerous pedestrian behaviors on County-time, on behalf of fundraising. The bill is opposed by the County Executive, the County fire fighters, and the Chief of Fire and Rescue Services. Andrews pointed out this current practice sets a bad example, and is inconsistent with our efforts to teach and enforce safe pedestrian behaviors. Andrews seeks the support of the PTSAC for this County legislation: it is important that the County Council knows what the PTSAC thinks of this legislation. It is scheduled for committee hearings in June, and is expected to go to full Council after that.

Upon being questioned, Cpt. Tom Didone expressed the opinion that traffic is not a safe place to be walking or standing, and should be discouraged. Steve Friedman noted that if fire fighters were hurt in traffic while on the job, this could be a workers compensation case that would affect insurance rates for all County employees. This activity is also observed at some of the busiest and most conflicted traffic intersections - - because that is where the money is. Peter Moe asked for a nod of heads that whatever the issue for pedestrian safety, that the PTSAC fully acknowledges, appreciates, and supports the fine work of the County's fire fighters – both paid and volunteer. There was consensus from the committee on this acknowledgment.

Richard Hoye, a guest, was invited to speak to the issue. He is a retired professional fire fighter who has participated in the "Fill the Boot," campaign in the past. His issue was that this legislation targeted just one group of roadway users, and that roads were in fact for all user groups. This legislation is targeted at the vulnerable user of the public space; the users posing the threat (the vehicles) are the ones that should be regulated. Hoye feels heavily congested intersections are safer because of the congestion, with cars traveling at slower speeds. Putting people in the roadways is contributing to traffic safety as it slows traffic, stated Hoye. Alyce Ortuzar disagreed, stating people and cars do not belong in the same space.

Andrews pointed out that current State law does prohibit going into the roadway for any reason other than being with a disabled vehicle. Fire fighters are currently breaking the law with the "Fill the Boot" campaign. That puts our police in a tough situation of not enforcing state law. Andrew clarified that his legislation was proposed to end this conflict - - at least for County employees while they are working for the County.

Colleen Mitchell pointed out that fire fighters are the models of the community for children; having them walking in the street when we are trying teach the children that they shouldn't be jaywalking sends a conflicting message. Jay walking is one of our most serious pedestrian safety problems. Allowing fire fighters to walk in the street sets a bad example, she stated.

Erwin Mack made an impassioned personal statement of his experience of striking a pedestrian who was jay walking. He expressed his support of the fire fighters and the Muscular Dystrophy Association, but stated he felt there had to be a safer way to raise the funds for this worthy cause. He read the bill's provisions to the PTSAC.

MOTION: Jack Strausman moved that the PTSAC support Bill 12-11, prohibiting a County employee from standing in a roadway, median divider, or intersection to solicit money or donations of any kind from the occupant of a vehicle during official work hours. Alyce Ortuzar seconded the motion. The motion passed with 10 yeas, two abstentions, and one opposed based on procedural grounds.

Migdall expressed concern that there was nobody at the meeting to express the other side, such as the Chief of Fire and Rescue Services or the County Executive's Office. Several members expressed the opinion that both sides of the issue had been discussed.

3.) MCPD Plans for Increased Enforcement

Spring has arrived and so has enforcement, proclaimed Cpt. Tom Didone. MCPD has been working with High Incidence Areas; this spring we are trying something called corridor enforcement. This is a culmination of the other enforcement actions that have been underway this spring (Street Smart). Taking a stretch of roadway that links in a couple of HIAs, a targeted, enhanced enforcement effort has been launched, called "Operation Safe Street." All illegal traffic and pedestrians actions – many contributing to unsafe pedestrian situations - - are being ticketed in this zone - - this raises general awareness. These enforcement waves will be continued on a smaller scale throughout the year. Traffic squads are being asked to get together once a month and do some enforcement in HIAs and Safe Routes to School locations - -or high trafficked corridor, doing enforcement with zero tolerance. This will be rotated throughout the County using a team approach. The last couple of years, MCPD has been handing out flyers and increasing awareness, now they will be doing enforcement. The police are going to stop giving awareness, and start giving citations.

Historically, Officers have been reluctant to give tickets to pedestrians. This is a change of culture for police – a work in progress. In the first day (May 4,) police made:

400 Contacts/Stops were made

156 Citations were issued – to both drivers and pedestrians (mostly drivers)

Speed cameras continue to be a key component to slowing traffic down and increasing pedestrian safety. Slowing down vehicles give drivers several more seconds to avoid a collision, increases the compliance rate of drivers stopping for pedestrians, and if pedestrians are hit, they are less severely injured.

The first quarter pedestrian collision statistics are in: the County pedestrian collisions are down from last year's first quarter. Early analysis reveals:

72% are occurring on the street

28% are in parking lots

60% drivers at fault

40% pedestrians at fault

65% occur between 6:00 am/6:00 pm

35% occur between 6:00 pm/6:00 am

Didone described the two pedestrian fatalities to date (as end of April.) All pedestrian related accidents report are now coming directly to Didone so that he can monitor what is happening.

Alyce Ortuzar expressed concern about the lack of crosswalks and signalized pedestrian crossing opportunities for large stretches of roadway – such as Georgia Avenue. She wants police to show some discretion when pedestrians have to jaywalk because there is no opportunity to use a crosswalk or signal. Peter Moe cited the States's Strategic Highway Safety Plan, now under development for the State to address these system-wide issues for improving both pedestrian safety and pedestrian mobility: two sides of the same coin. Providing for safe mid-block crossings is one issue being addressed. Moe noted that the effort is using Montgomery County as a model for action across the State – Dunckel and Didone are part of the work group developing this strategic plan. Friedman cited the recent example of the new mid-block crosswalk on Bethesda Avenue that has greatly improved safety where people were naturally crossing at the parking garage. Friedman commented that literally overnight, the situation changed from hazardous to

safe with the addition of the crosswalk at the mid-block. Wetmore asked about unmarked crosswalks at sections of road without crosswalks - - wasn't it legal to cross there? Moe and Didone replied that the realistic interpretation of the law was that pedestrians at mid-block are only jaywalking if they impede the path of vehicles. Pedestrians are to cross at either a marked or unmarked crosswalk (intersections without crosswalks) stated Didone.

5.) Update on FY 12 Budget for Pedestrian Safety Initiative

As Bill Selby was ill and unable to attend, Jeff Dunckel directed the committee's attention to the County Executive recommended budget for FY12 in the meeting packet. The budget for FY12 will be discussed at the next meeting, in July, at which point the County will have determined what the actual budget will be for FY12. Dunckel noted that many of the ideas and issues discussed with Al Roshdieh at the September and November meetings were reflected in the recommended budget now before the Council. Mack noted that the budget at just over \$3 million, was \$2 million less than two years ago. Romer announced that the full Council would be taking up the pedestrian safety budget on Tuesday, May 10. Romer asked whether the State's supplemental budget allocation had been added to the pedestrian safety budget under the amendment. Holmes responded that MCDOT was fighting to add more money into pedestrian safety, such as for pedestrian signal timing modifications. Didone noted that a need he has observed is for the increased maintenance of crosswalks - which are starting to disappear on the street; he encouraged the committee to support additional funding to MCDOT to reinstate the maintenance of crosswalks.

6. Subcommittee Reports, Updates, and Recommendations:

Ramin Assa already discussed the Assessment being developed by the *Sidewalks-Pedestrian Network Subcommittee*.

Bicycle Access and Safety Subcommittee: Steve Friedman described the recent work of a work group that is planning a Ride-along for June, where County leaders, policy makers, and decision makers will be hosted by the bicycle advocacy community for a bike ride along some of the County's facilities, to raise awareness of some of the issues confronting bicyclists. Friedman expects about 30 riders to participate. Initially, the plan is to start in North Bethesda, travel past the BRAC facilities, and end up in Silver Spring at the Civic Center - traveling on a variety of different bicycle facilities. Dunckel noted, that while Rodriguez had not yet been approached and did not yet know about the plans, Rodriguez had volunteered to host the follow-up debrief at the Silver Spring Civic Center, where the ride will conclude.

The Montgomery Civic Association is organizing a Montgomery Bicycle Conference on the morning of Saturday, May 14. Bike to Work Day is scheduled for Friday, May 20. Information and registration is on the Washington Area Bicycle Association (WABA) website. Friedman expects good participation with pit stops all over the region.

7. New Business/Committee Comments

- PTSAC Membership Selection Committee: Erwin Mack described the upcoming selection of new members, as some of the committees previous member's terms expire on July 31. Friedman and Mitchell have volunteered to serve on a Selection Committee. If anyone else is interested in serving on the Selection Committee, let Dunckel know.

- Change in Leadership: Erwin Mack announced that his term of office is over as of the end of July, having served two terms on the committee. Mack has made an inquiry as to whether an exception can be made to the two term limit in the PTSAC legislation that would allow him to serve a third term, and perhaps continue serving as its Chair. He has considered serving the PTSAC as an incredible honor and would like to continue to serve. Mack has been told that exceptions are sometimes made; he is considering applying for a third term, and will decide soon. Ortuzar expressed her hope that Mack would reapply for a third term. Dunckel thanked Erwin for having stepped up to plate three years ago, when the Committee needed a new leader, and having nurtured the Committee into a very collegial, constructive, productive group that is benefiting not only MCDOT, the Council and the Executive, but the entire population of Montgomery County.

Dunckel announced that, given the looming change of leadership issue, MCDOT is seeking nominations for the next Chair of the committee. Any Committee member may nominate another member, or themselves, by sending

him an email with the nomination, and an explanation of why they would be a good Chair, and a resume or statement of qualifications to be Chair. MCDOT will evaluate these nominations and recommend to the County Executive who should be appointed as the next Chair. The legislation clearly states that the County Executive appoints the Chair of the committee. The solicitation for new members will go out in about a week, with a one-month window for candidates to apply.

The following members are eligible for reappointment to another term, and should send a letter and resume to Dunckel:

Valerie Ervin
James D'Andrea
Alan Migdall
David Sharp
Jack Strausman

8. Adjourn

The meeting adjourned at 9:35 pm

- Next Scheduled Meeting Date: July 7, 2011

H:\CommOutreach\Pedestrian Safety\PTSAC\Agendas-Minutes\Meeting Minutes\2011\May\Minutes for PTSAC 5-5-11-Final.doc