Resolution No.: 16-669
Introduced: July 8, 2008
Adopted: July 22, 2008

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

SUBJECT: Proposed Amendments to County Charter

Background

(1) §5 of Article XI-A of the Maryland Constitution, §7-102(c)(3)(i) of the Elections Article of the Maryland Code, and §16-14 of the Montgomery County Code provide that amendments to the Charter of Montgomery County may be proposed by a resolution of the County Council. §5 of Article XI-A of the Constitution also provides that amendments to the Charter may be proposed by a petition signed by at least 10,000 registered voters of the County and filed with the President of the County Council.

(2) Under §7-103(c)(3)(i) of the Elections Article of the Maryland Code, proposed Charter amendments must be certified to the County Board of Elections on or before the third Monday in August in the year of a general or Congressional election at which those Charter amendments will be submitted to the voters. §16-16 of the County Code provides that a ballot title or summary, prepared by the County Council, of all proposed Charter amendments must appear in print on the voting machine or ballot.

(3) The Council intends to submit to the County Board of Elections for inclusion on the 2008 general election ballot:

Question A, Repeal of Legally Ineffective Provisions, which would repeal §§311A, 311B, and 313A of the Charter.

(4) A petition to amend §305 of the Charter was filed with the County Board of Elections. The Board of Elections determined that the petition has the required number of signatures and otherwise qualifies for inclusion on the 2008 general election ballot. That amendment would appear on the ballot as Question B, Property Tax Limit – Votes Needed to Override.

Action

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

The following Charter amendments must be placed on the 2008 general election ballot:

A

Repeal of Legally Ineffective Provisions

The County Council proposes to repeal §§311A, 311B, and 313A of the Charter of Montgomery County as follows:

[SECTION 311A. Limitations on Expenditures for Landfills in Residential Zones.]

[No expenditure of County funds shall be made or authorized for the operation of a landfill system of refuse disposal on land zoned for residential use.]

[SECTION 311B. Limitations on Expenditures, Contracts, and Permits for Burying or Trenching Sewage Sludge in Residential Zones.]

[No expenditure of County funds shall be made or authorized for the construction or operation of a system for burying or trenching sewage sludge on land zoned for residential use, nor may the County purchase or contract for the service of burying or trenching sewage sludge on land zoned for residential use. Also, the County may not seek federal or state permits for the burying or trenching of sewage sludge in residential zones.]

[SECTION 313A. Purchasing, Contracting for Goods, Services with C&P Telephone Company.]

[The County Government may not purchase and contract for goods and services with the C&P Telephone Company (C&P) unless C&P includes telephone subscribers in Gaithersburg, Maryland, and Montgomery Village in the Washington Metropolitan Area Telephone Exchange (MET) at local rates no higher than local rates charged MET subscribers in Bethesda, Silver Spring, Kensington and Rockville telephone exchange areas.]

The ballot for this question must be designated and read as follows:

Question A

Charter amendment by act of County Council

Repeal of Legally Ineffective Provisions

Repeal Sections 311A, 311B, and 311C of the County Charter, regarding use of County funds to operate a landfill system on residentially zoned land; burying or trenching sewage sludge on residentially zoned land; and telephone service offered by the C&P Telephone Company.

FOR AGAINST

B

Charter amendment by petition

Property Tax Limit – Votes Needed to Override

By petition the voters of Montgomery County propose to amend §305 of the Charter of Montgomery County as follows:

SECTION 305 Approval of the Budget; Tax Levies

The Council may add to, delete from, increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefore not later than June 1 of the year in which it is submitted.

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of <u>nine, not</u> seven, Councilmembers, the Council shall not levy an ad valorem tax on real property to finance the budgets that will produce total revenue that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index as computed under this section. This limit does not apply to revenue from: (1) newly constructed property, (2) newly rezoned property, (3) property that, because of a change in state law, is assessed differently than it was assessed in the previous tax year, (4) property that has undergone a change in use, and (5) any development district tax used to fund capital improvement projects.

The ballot for this question must be designated and read as follows:

Question B

Charter amendment by petition

Property Tax Limit – Votes Needed to Override

Amend Section 305 of the County Charter to require a unanimous vote of 9 Councilmembers, rather than the 7 out of 9 votes currently required, to levy a tax on real property that will produce revenue that exceeds the annual limit on property tax revenue set in that section.

FOR AGAINST

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council