

September 23, 2008



TRANSCRIPT
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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President	Councilmember Phil Andrews, Vice-President
Councilmember Roger Berliner	Councilmember Marc Elrich
Councilmember Valerie Ervin	Councilmember Nancy Floreen
Councilmember George Leventhal	Councilmember Donald Praisner
Councilmember Duchy Trachtenberg	



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1 Council President Knapp,
2 Good morning everyone. Welcome to County Council. We will begin our meeting this
3 morning with just a brief moment of silence. We have no one to provide an invocation,
4 so I would ask everyone just to, during our moment of silence, to be mindful of all of our
5 students who have now gone back to school and wish them well in their successes and
6 also given the explosion we saw in Pakistan over the beginning part of the week and the
7 economy, clearly many, many people throughout this world are struggling. So, let's take
8 a few moments for thoughts and prayers to all of them. Please rise. Thank you very
9 much. We now have a series of presentations this morning to begin our day. The first of
10 which is Proclamations in recognition of the exceptional recycling achievements at
11 Arcola Elementary School and Monocacy Elementary School by Councilmember
12 Leventhal.

13
14 Councilmember Leventhal,
15 Good morning. If the staff from Arcola and Monocacy Elementary Schools would join
16 me here and also the staff from MCPS Environmental and Recycling Programs. A
17 couple of months ago, we received a report, this was prior to our summer break, from,
18 and I see the President of the School Board is here, President Navarro, welcome, we
19 received a report from our Office of Legislative Oversight. We frequently get reports on
20 how Montgomery County is doing on recycling compliance. And as I hope most of our
21 residents are aware we have a goal in Montgomery County that we will recycle 50% of
22 all of our solid waste. The various sectors of the community are at different compliance
23 rates. Single family homes are doing really exceptionally well. Businesses not so well.
24 Montgomery County Public Schools, not so well. Compliance in recycling at
25 Montgomery County Public Schools overall is about 27%. And our County wide goal is
26 50%, so the Office of Legislative Oversight did a very helpful study of how to, which
27 schools were successful and which schools were not and what are the mechanisms by
28 which we can improve recycling in the public schools, which is important obviously for
29 many reasons. Recycling reduces our carbon footprint. When we reuse materials, we
30 don't need to use all the resources involved in creating new materials, whether it's
31 aluminum cans which are enormously resource intensive or plastic bottles or paper or
32 any other recyclable material. In addition, obviously, it reduces our need for landfill. It
33 reduces our need to incinerate garbage and spew all the particulate emissions into the
34 air from the incinerator. So, you know, recycling is a critically important component of
35 sustainable living in so many ways. And of course, at the schools, it is even more
36 important than most other sectors because when we instruct our young people to
37 recycle, then we are preparing the next generation for a lifetime of sustainable habits.
38 So it's really a very, very important issue. I want to thank the Montgomery County Public
39 School System and the School Board Vice-President Shirley Branman who has just
40 joined us here along with President Nancy Navarro. They were very cooperative with
41 the Office of Legislative Oversight and are going to, and I see School Board member
42 Pat O'Neill is here as well, so it is very timely. We have three outstanding school Board
43 members here to listen to this presentation and join us in recognizing our recycling
44 champions, Arcola Elementary School and Monocacy Elementary School, which were



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1 the only two, go ahead, let's give them a hand. [applause]. They were the only two
2 schools in the entire system to recycle more than 50% of their waste stream. They both
3 came in just above 50%. Now, how did they do it? I'm going to let them tell you, but I tell
4 you, so much of life is attitude. If you have a positive attitude, you can make things
5 happen and if you have a team, again, I'm going to let the schools talk about it, but if
6 you have an engaged and involved team that includes the top management of the
7 school, the building maintenance staff, the faculty, and the students, you can get it done
8 and we can achieve the kind of recycling rates that these two champion schools have
9 done. So I'm very enthusiastic today to present these two Proclamations, in no
10 particular order, just random order here, well, alphabetical order. I'm going to give
11 Arcola Elementary School first, this Proclamation. Whereas, Arcola Elementary School
12 in Wheaton is one of only two schools in Montgomery County to recycle more than 50
13 percent of its waste; and. Whereas, Arcola Elementary School Principal Eric Wilson has
14 empowered faculty, staff and students to be active participants in the school's recycling
15 program; and. Whereas, under the direction of teacher and recycling coordinator
16 Carolyn McAllister, the "Arcola Green Team" consists of third and fourth graders who
17 assist with recycling duties and promote energy conservation by going into all the
18 classrooms at the end of the day to ensure that computer monitors and classroom lights
19 are turned off; and. Whereas, Arcola also has created the "Glue Crew" that collects
20 empty glue bottles and glue sticks for recycling; and. Whereas, the Building Services
21 team, and who heads that up, he's right here, Charles Ogburn, good job, also
22 contributes to the school's success by emptying recycling containers on a regular basis.
23 Now that seems simple, but, you know, it makes a huge difference. You're not going to
24 toss your bottle into an overflowing can. Somebody's got to pay attention to that.
25 Whereas, as we all learn to recycle, we help make more efficient use of resources and
26 minimize the impact on our environment; Now, therefore be it resolved that the
27 Montgomery County Council recognizes the environmental example set by Arcola
28 Elementary School. And, be it further resolved that the County Council calls upon
29 residents and businesses of Montgomery County to recycle all eligible items, and to
30 conserve energy, as is being done by Arcola Elementary School students, teachers,
31 and staff. Presented today and signed by our Council President, Michael Knapp. Now,
32 I'm going to read the next one and I don't always read these in detail but it's, there's
33 great examples of what has occurred here at Monocacy Elementary School, so bear
34 with me and then we'll present them simultaneously. The second Proclamation.
35 Whereas, Monocacy Elementary School is one of only two schools in the County to
36 recycle more than 50 percent of its waste; and. Whereas, Monocacy Elementary School
37 Principal Cynthia Duranko has empowered faculty, staff and students to be active
38 participants in the school's recycling program; and. Whereas, under the direction of Gay
39 Riggs, building services manager and Monocacy's recycling coordinator, and star of a
40 super video that we really need to put on the cable system if we haven't already which
41 really shows an example of how you can be enthusiastic about recycling at your school,
42 the "Monocacy Green Team" consists of first through fifth graders who arrive at school
43 early to collect recyclables from classrooms; and. Whereas, Ms. Riggs supervises the
44 building services team and makes sure that no recyclable paper, cardboard box, bottle



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1 or can gets thrown out with the trash; and. Whereas, as we all learn to recycle, we help
2 to make more efficient use of resources and minimize the impact on our environment.
3 Therefore be it resolved that the Montgomery County Council hereby recognizes the
4 environmental example set by Monocacy Elementary School. And, be it further resolved
5 that the County Council calls upon residents and businesses of Montgomery County to
6 recycle all eligible items, and conserve energy, as is being done by Monocacy
7 Elementary School students, teachers and staff. Presented today and signed by our
8 Council President, Mike Knapp. So, let's get our two excellent principals here and
9 they're going to pose for a photo and then we're going to hear from both of them or from
10 their administrators and staff if they would like as to how they accomplished this great
11 achievement. So, Mr. Wilson and Ms. Duranko, let's come up here for the photo and we
12 will all get together and have a big smile.

13
14 Neil Greenberger,
15 [multiple speakers]. Looks great. Thank you.

16
17 Councilmember Leventhal,
18 Well done. All right. Mr. Wilson.

19
20 Eric Wilson,
21 Okay. Thank you.

22
23 Councilmember Leventhal,
24 Microphone is yours sir.

25
26 Eric Wilson,
27 I appreciate that.

28
29 Councilmember Leventhal,
30 Yes sir.

31
32 Eric Wilson,
33 Thank you all very much. You know, it is really great that we have the opportunity to be
34 here to share in this very wonderful effort that our school and school system is doing.
35 You know, oftentimes, you know, we talk to our children about, you know, doing things
36 to help the environment, being responsible for themselves, for their schools, and this is
37 going to be a great opportunity just to share with them the hard work and that their
38 efforts have been really truly recognized. So we just really want to thank the County
39 Council for recognizing the efforts of our school. Right now, what I want to do is turn it
40 over to the work behind what we have done. I'll turn it over to Carolyn McAllister and Mr.
41 Ogburn and they can talk about, you know, what really goes into our success at Arcola.

42
43 Carolyn McAllister,



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1 Hi. Well, the secret to our success is first having Mr. Wilson's support 100%. He is
2 behind us in everything that we do. He encourages us. And then Charles Ogburn, we
3 can make all the effort we want to put the containers in the right bins, but if they don't
4 put them in the right containers outside, then it was all for naught. So, those two really
5 get the credit, and our students. Thanks.

6
7 Councilmember Leventhal,
8 Mr. Ogburn did you want to say anything?

9
10 Charles Ogburn,
11 Good morning. No, I appreciate the award. But what it is, you know, I try to stress to my
12 staff the importance of, you know, separating the items because, you know, some of the
13 stuff, you know, we use, as far as building services, is recycled. And you know, these
14 are the products that we use on a daily basis. So I just try to stress teamwork and I talk
15 to the children and talk to the staff and just let them know, you know, to separate items
16 so we can just keep up the good work. [applause].

17
18 Councilmember Leventhal,
19 Now, Principal Duranko from Monocacy Elementary School.

20
21 Cynthia Duranko,
22 For those of you who have never been to Monocacy, we are known as the school that
23 learned at the foot of Sugarloaf Mountain. And it's a farming community and many of
24 our families are farmers and so we are very connected to the earth and world around
25 us. And so, with that spirit, our parents, and our students, and our staff are very
26 committed to preserving our world. Our Green Team led by Gay Riggs is a dynamite
27 dynamic part of our school. I'm going to let Gay tell you a little more about it, but she
28 truly is the spirit behind the whole program. In fact, this year, she got me to stop using
29 water bottles and I now use a reusable water. She shamed me.

30
31 Gay Riggs,
32 Good morning. It really surprised me when he said only 27% of Montgomery County
33 schools, you know, they're getting 27% of the recycle. It is just such a way of life at
34 Monocacy that it just, that number just surprised me, because we do, we are all
35 dedicated to that recycling, you know, one world, one chance type mentality. I have a
36 good team of the little children. They love being on it. They like doing it. The staff is
37 coming on board. With the older people, with the older children, you know, they, you
38 know, it was hesitant, you know, like there would be a trash can and a recycle can and,
39 you know, the grading papers would go into the trash can. Because that is what
40 everyone did. But I think if you can get them young and just start that learning process
41 of yes, we need to recycle, it'll work, so start them young. Thank you so much. Thank
42 you for the award. [applause].

43
44 Councilmember Leventhal,



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1 Thank you all for being here. We appreciate your leadership. Thank you so much.

2

3 Council President Knapp,

4 Well done. Thank you all very much. Our second Proclamation of the morning is
5 Proclamation in recognition of National Alcohol and Drug Addiction Recovery Month by
6 Councilmember Trachtenberg, joined by Councilmember Leventhal, and
7 Councilmember Berliner, the HHS, the Health and Human Services Committee.

8

9 Councilmember Trachtenberg,

10 Representatives from the Phoenix School, and also, I know, Rita Ramba is here from
11 Safe and Drug Free Schools. Come on up and join me, and Ron – as well, I'd like to
12 have him up here for the photo as well. [INAUDIBLE] Juvenile Services Program, we
13 have got some students. [multiple speakers]. I am very, very excited about this. As the
14 Council President noted, September is Alcohol and Drug Recovery Month. I had the
15 pleasure last week of participating in two recovery events that actually the County
16 Executive attended as well. We recognized our Alcohol and Drug Council that is seated
17 here in the County. We also recognize the Avery Road Treatment Center. Today is an
18 extension of a celebration that began last Wednesday by honoring the Phoenix School.
19 I think most of you know that I have a background in addiction. It is an issue clearly that
20 I feel very passionately about. What I came to learn very, very quickly is that it takes a
21 community, a community effort to really resolve the challenge of addiction. It is a
22 program like the Phoenix School Program that really deserves incredible accolades for
23 what they do and the fact that they offer our youth opportunities and a recovery for a
24 lifetime. In fact, in the work that I have done with kids over the years, I actually have
25 always told kids that it is those bumps and bruises and scratches that really make you
26 who you are as an individual. And they are something not to run away from and your
27 recovery is something that you should wear proudly because you've earned that. So, I
28 would ask that the students that are here today to remember that. I've asked
29 Councilmember Berliner and Councilmember Leventhal to join me because they, in the
30 last two years with me, on the HHS Committee, have made an incredible commitment to
31 funding addiction services especially for youth here in Montgomery County. So I'm
32 actually going to ask my colleagues to join me. We have got six paragraphs. How about
33 if we each do two? That way we are not too choppy.

34

35 Council President Knapp,

36 True example of collegiality.

37

38 Councilmember Trachtenberg,

39 And after we are done, I'm going to see if anyone wants to make remarks. We really
40 have some spectacular advocates and staff here as well as some really brave and
41 courageous students who are here to join us with parental permission this morning. The
42 County Council of Montgomery County, Maryland, whereas, substance abuse is an
43 unrelenting evil that destroys lives, ruins families and endangers neighborhoods; and.
44 Whereas, stigma and discrimination present obstacles and can be a mark of disgrace to



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1 those with substance use disorders who need access to treatment facilities, and for
2 those who want to reestablish their place in the community by entering the workforce.

3
4 Councilmember Berliner,

5 Whereas, educating our community about how substance use disorders affect children,
6 families and all community members is essential to overcoming stigma and
7 discrimination; and. Whereas, Montgomery County's Phoenix Drug Program is a
8 structured program for 60 students in grades 9-12 with substance use problems that
9 interfere with school attendance, performance, and behaviors; and.

10
11 Councilmember Leventhal,

12 Whereas, the Phoenix Drug Program provides a drug and alcohol free educational
13 environment that enables students to reduce their usage and function in a regular
14 school program; and. Whereas, the aim of National Alcohol and Drug Addiction
15 Recovery Month is to promote the societal benefits of treatment for alcohol and drug
16 use disorder, laud the contributions of treatment providers and spread the message that
17 recovery from alcohol and drug use disorders in all of its forms is possible. Therefore be
18 it resolved that the County Council of Montgomery County, Maryland, hereby proclaims
19 the month of September 2008 National Alcohol and Drug Addiction Recovery Month
20 and calls upon the people of Montgomery County to observe this month with
21 appropriate programs, activities, and ceremonies supporting this year's theme. Signed,
22 today, September 23rd, by our Council President, Mike Knapp.

23
24 Councilmember Trachtenberg,

25 Thank you very much George. I am actually going to ask Patty or Lauree if they would
26 like to make some comments from the Phoenix Program.

27
28 Patty Jenkin,

29 Yes. I'm Patty Jenkin. And on behalf of Phoenix, I would like to thank first of all my
30 students who put so much into their recovery. Also, Rita Rumba and Terry Hughes who
31 works with me and Kennedy Carrington. Thank you so much Duchy for, you know, just
32 supporting us and always being for the Phoenix Program. Because recovery is difficult.
33 It is not easy for our students to do what they do. Yet, they come every day and they
34 struggle with recovery. They go on and graduate high school and become really
35 functioning good citizens in our County. I just would like to give our students a hand. [
36 applause]. Thank you.

37
38 Councilmember Trachtenberg,

39 Rita? Lauree?

40
41 Lauree Hemke,

42 Good morning. I want to also thank everybody here because this is what this
43 represents, is a lot of people who support our students and our families. But I think,
44 also, I want to thank our students and our families also because this is about making a



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1 choice. That is what you have done. You've made a very positive choice in coming to
2 school every day and tackling your problems and your issues. And so we thank you
3 from the bottom of our hearts for the work that you do as well. And again, thank you
4 because we could not do this without MCPS support and our community support. So we
5 thank all of you very, very much. Thank you. [applause]
6

7 Councilmember Trachtenberg,
8 I think we've got everybody.
9

10 Council President Knapp,
11 Time for a picture.
12

13 Unidentified
14 You know what, I'd like Katie to come. [multiple speakers].
15

16 Unidentified
17 That was a cute way of saying that.
18

19 Councilmember Trachtenberg,
20 We might argue with the use of the word challenged.
21

22 Neil Greenberger,
23 Got to make sure I can see everyone's face so I can, so don't hide behind everybody.
24 Take a few of these. Smile through every one of them, I will take fewer of these. Few
25 more. Looks pretty good. Thank you.
26

27 Unidentified
28 Thank you. [multiple speakers].
29

30 Council President Knapp,
31 Thank you very much. Keep up the good work.
32

33 Councilmember Trachtenberg,
34 Tell the kids they were great.
35

36 Council President Knapp,
37 Excellent. And our final Proclamation of the morning is a Proclamation in recognition of
38 Mentor Month which will be presented by Council Vice-President Andrews.
39

40 Councilmember Andrews,
41 Thank you President Knapp. I would like to have the representatives from the Task
42 Force on Mentoring join me up here. I see that Shirley Branman is here this morning.
43 Shirley, you are going to be speaking at the breakfast so come join us. I don't know if
44 Judy Docka is here, I don't see her. She is also going to be speaking. It is a real



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1 pleasure to once again participate in a Proclamation for the Task Force on Mentoring for
2 Mentoring Month for October. I have got a stellar crew here. Barbara Williams is the
3 Vice-President of the Task Force. Fred Evans, ageless, timeless, Fred Evans.
4 [laughter]. Who's the Director of Programs. John Smith, who is the Chair, long time
5 Chair. And Shirley Branman, member of the Board of Education who will be one of the
6 speakers along with her colleague Judy Docka at the annual breakfast which is next
7 Thursday, October 2nd. And everyone is invited to come. It is always an inspiring
8 morning. You can learn about what it takes to become a mentor in Montgomery County
9 and learn about all the great mentoring programs that are currently going on. I want to
10 read the Proclamation to the Task Force and then ask John to say a few words about
11 what is ahead for the next year and for the breakfast. The County Council of
12 Montgomery County, Proclamation. Whereas, the Task Force on Mentoring of
13 Montgomery County, Inc., is dedicated to mentoring as a viable resource to County
14 children and young adults needing such services; and. Whereas, conscientious efforts
15 must be made by concerned citizens to help young people develop the values and
16 abilities necessary for positive and ethical decision-making and conduct; and. Whereas,
17 students' success in school, home, and the community is largely determined by
18 responsible and caring adult guidance, support, and encouragement; and. Whereas, the
19 up and coming generation will be the steward of our community and the leaders of our
20 community, our state and our nation; and. Whereas, mentoring is an excellent way to
21 reach communities of children and youth who may need a helping hand to reach their
22 full potential; and. Whereas, the Task Force on Mentoring of Montgomery County,
23 provides mentoring support to our children and youth, technical assistance, program
24 information, and related services to persons and organizations interested in
25 implementing a mentoring program in their community. Now, therefore be it resolved
26 that the Montgomery County Council hereby proclaims October, 2008 as "Mentor
27 Month" in Montgomery County. And, be it resolved that the County Council takes this
28 opportunity to thank the Task Force on Mentoring for their dedicated work and looks
29 forward to the breakfast which will be held on October 2nd which is entitled "Mentoring
30 K-12 Students – Giving Them A Reason To Hope". And presented today, the 23rd of
31 September, signed by Council President, Michael Knapp. Good work. [applause]. So
32 John, tell us about the breakfast.

33
34 John W. Smith,
35 Oh, the breakfast, actually, I would rather talk about the program.

36
37 Councilmember Andrews,
38 All right, then talk about.

39
40 John W. Smith,
41 Shirley is going to be one of our, actually the breakfast is going to be a dialogue
42 between Shirley Branman and Judy Docka. The reason we thought it was important to
43 invite them is because they have been very supportive of this Task Force on Mentoring.
44 They have done a lot of good work in terms of connecting us to institutions and



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1 organizations that have been very helpful to us. But the reason I really wanted to talk
2 about, last year, the students from Broadacres Elementary School, it's the first time
3 we've done any mentoring in an elementary school, but last year the students at
4 Broadacres Elementary School and Springbrook High School came here and then they
5 were recognized because Val Ervin back there came to visit the school, Broadacres,
6 and we wanted to celebrate the fact that these elementary school youngsters were
7 being mentored by the high school students from Springbrook. We trained, we believe
8 that high school students make good mentors. In fact, we have a relationship, a
9 collaboration between Silver Spring International Middle School and Blaire High School.
10 We have a relationship, of course as I mentioned, with Broadacres Elementary and
11 Springbrook. We also have a relationship with, a collaboration with Roberto Clemente
12 Middle School and Seneca Valley High School. Now, those three schools have sports
13 academies and the youngsters that are doing the mentoring, many of them come from
14 sports academies and I think people know that the sports academy is a program in the
15 school system that is an attempt to encourage youngsters who, grade point averages
16 are 2.0, no, not 2.0, but below 2.0, and in order to encourage them to do better
17 academically, there is the sports academy program. We have become part of that. We
18 are very, very high on that. What else do I need to say?

19
20 Councilmember Andrews,
21 That is good. That is good. That is perfect. Come to the breakfast next Thursday,
22 October 2nd, it's at Johns Hopkins University, right?.

23
24 John W. Smith,
25 Yeah, right, Johns Hopkins.

26
27 Councilmember Andrews,
28 And I want to also introduce Oliver Lancaster who is one of the founders of the Task
29 Force on Mentoring.

30
31 John W. Smith,
32 Yeah, right, so is this guy over here.

33
34 Councilmember Andrews,
35 And Fred Evans.

36
37 John W. Smith,
38 Fred.

39
40 Councilmember Andrews,
41 Come on up.

42
43 Fred Evans,



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1 I just want to say one thing. That is, I have been involved with the Task Force on
2 Mentoring since the day where I was principal of Gaithersburg High School, and the
3 one, we were talking about glue before, the glue is standing right behind me. I think he
4 deserves a really strong round of applause. [applause]
5

6 John W. Smith,
7 Let me just say one more thing.
8

9 Fred Evans,
10 I knew it.
11

12 John W. Smith,
13 My wife Betty is sitting right there.
14

15 Fred Evans,
16 That's right. I'm sorry.
17

18 Councilmember Andrews,
19 All right. That's great. I, actually I wanted to mention, I have known John for a long, long
20 time.
21

22 John W. Smith,
23 Right.
24

25 Councilmember Andrews,
26 John was actually one of my mentors. John was a Sunday school teacher of mine a
27 long, long time ago.
28

29 John W. Smith,
30 And he learned so much.
31

32 Councilmember Andrews,
33 When he was a young man. Even then, I knew that young man would go far. Thank
34 you.
35

36 Neil Greenberger,
37 Can we get everybody in for a photo? Just look right at me and smile. Great job. A few
38 more. Okay, big smile. There we go. Big finish. That's great. Thank you.
39

40 Council President Knapp,
41 [multiple speakers]. I just want to commend my colleagues for the Proclamations this
42 morning. I think they point to many, many examples of what Montgomery County is
43 such a fabulous place to live and it is clearly a result of the people that are here and the
44 commitment they have to their community and I think each of the three Proclamations



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1 certainly show that. Before we proceed, I just wanted to announce that Councilmember
2 Floreen is sick today and will be absent. We now turn to Ms. Lauer for any
3 Announcements and Calendar Changes.

4
5 Linda Lauer,
6 We have, on the Consent Calendar, Glenn will be going over some changes on the
7 abandonments, the four abandonments that we have. Those will be after the Consent
8 Calendar. The, another change in the Legislative Session, Bill, the Council will have a
9 worksession on Bill 36-07 on Development Districts and action will be scheduled later
10 for October 7th. Petitions received this week. One we received is opposing Bill 25-08,
11 the emergency medical services transport fee, and another Petition requesting
12 additional J-9 buses be made available during morning rush. That is all the changes we
13 have today.

14
15 Council President Knapp,
16 Okay. Thank you very much. Madam Clerk, do we have Minutes?

17
18 Council Clerk,
19 Yes, the Minutes of July 22nd and September 9th as well as the closed session Minutes
20 of September 9, 2008.

21
22 Council President Knapp,
23 Is there a motion to approve the Minutes? Moved by Councilmember Ervin. Is there a
24 second?

25
26 Councilmember Berliner,
27 Second.

28
29 Council President Knapp,
30 Seconded by Councilmember Berliner. Any discussion on the Minutes? Seeing none, all
31 in support indicate support by raising your hand. That is unanimous among those
32 present. Thank you. We now turn to the Consent Calendar. Is there a motion?

33
34 Councilmember Trachtenberg,
35 So moved.

36
37 Councilmember Berliner,
38 Second.

39
40 Council President Knapp,
41 Moved by Councilmember Trachtenberg. Seconded by Councilmember Berliner. Dr.
42 Orlin, if you want to join us on items 3H through K to clarify that before we move to
43 adoption.

44



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1 Glenn Orlin,
2 Right. The T&E Committee took this up last week and agreed with language, it's in the
3 top of your packet, in terms of revising the action clause number six. However, there
4 was conversations just this morning between Diane Schwartz-Jones, the Assistant
5 CAO, and the applicant. Their recommendation is to add the very last phrase which is
6 on the piece of paper that I handed out just a few minutes ago. It's really sort of belt and
7 suspenders language. The last part of the phrase would say, place abandonment areas
8 into out lots subject to public improvement agreed easements, which easements must
9 not be subordinate to any other liens or encumbrances. This makes sure the easements
10 have first call, if you will, over any other claims to the land.

11
12 Council President Knapp,
13 This is in the action portion of the resolution?

14
15 Glenn Orlin,
16 Of all four resolutions. All four resolutions are identical.

17
18 Council President Knapp,
19 But all four resolutions then addresses the same, it is the same number in each of the
20 four resolutions?

21
22 Glenn Orlin,
23 Exactly.

24
25 Council President Knapp,
26 Okay. Questions for Dr. Orlin? Okay. Further discussion on the Consent Calendar as
27 amended? I see none. All in support of the Consent Calendar, indicate by raising your
28 hand. That is unanimous among those present. Thank you. We are now turning to a
29 Briefing on Fourth quarterly analysis of the FY08 revenues and expenditures by the
30 Office of Management and Budget and the Department of Finance, and update on the
31 County Fiscal Plan. We also have joining us from the state, Warren Deschenaux, who is
32 Director of the Office of Policy Analysis of the Department of Legislative Services. In
33 addition, this is a bit out of tradition, but we, because of the fiscal difficulties we think
34 that we are all facing and the fact that the Board of Education is required to actually go
35 through and do its budget first, we have asked the Board of Education to join us for this
36 unusual fiscal update. So I would ask Board President Nancy Navarro and Board Vice-
37 President Shirley Branman to come up and join us on the dais if they would so that if
38 there are questions that they may have as they start the budget process, that they can
39 potentially get some clarification of those as well. Come on up. There you go. That's
40 right. I welcome the Board. We've all, as everyone knows, I think, we've started to have
41 conversations to try and figure out how we work more closely together so that we don't
42 end up with a big disconnect at the end of our budget discussion. So I appreciate very
43 much the Board's willingness to come down and join us and look forward to a



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1 successful conclusion to our budgeting process this year, even though it may not be
2 that much fun. Mr. Farber.

3
4 Stephen Farber,

5 Thank you, Mr. Knapp. You have before you in my packets a range of materials. We
6 have, for example, the presentation that the, that Warren Deschenaux, who has joined
7 us, made to the Senate Budget and Tax Committee in Annapolis just a week ago
8 yesterday. We also have the State Board of Revenue Estimates latest report. Their
9 official estimates, which, as Mr. Deschenaux will describe to us, are down from what
10 they were when the estimates were done last March. We also have from Larry Bowers
11 at MCPS a memorandum prepared at Dr. Weist's request in conjunction with the Board
12 of Education imposing some pretty strong restrictions on spending in the current fiscal
13 year in view of the problems that we are confronting at the present time. We've included
14 that so that everyone will be aware of what action MCPS is taking at the present time.
15 As you said, Mr. Knapp, what we are really trying to do is get everybody on the same
16 page. The fall has now begun. One week ago today, the Council made changes in the
17 Spending Affordability Law at the recommendation of the Management and Fiscal
18 Policy Committee. You will now be doing your Spending Affordability Guidelines not in
19 December, but in early February. As a corollary of that, what the Council intends to do is
20 at this point in the early fall get as much updated information on revenues and
21 expenditures as possible. This is particularly important because three of our four
22 agencies, namely the schools, the college, and Park and Planning, prepare their
23 budgets much sooner than the County Executive does. His, of course, is released on
24 March 15th. By mid-December, the schools, college, and Park and Planning all have
25 submitted budgets to their governing Boards. And that means that by Thanksgiving,
26 which is a little over two months from today, the agencies really will be very well along in
27 the budget process. That makes what you have done, Mr. Knapp, in terms of arranging
28 this session and trying to get everybody on the same page now, all the more relevant
29 because it is important that we have realistic numbers and realistic budgets prepared by
30 the outside agencies as well as by the County Executive and by the Council later down
31 the road. So that is the predicate of this session. We are fortunate, as you said, to have
32 members of the Board of Education with us and also Mr. Deschenaux from the
33 Department of Legislative Services. As well as, on my right, Jennifer Barrett, the
34 Finance Director. Joe Beach, the Director of Office of Management and Budget. Alex
35 Espinoza, the Operating Budget Coordinator.

36
37 Council President Knapp,

38 Okay. With that, I would actually turn to Mr. Deschenaux first, but I just, before I do that,
39 I just want to also thank this Council. I know that this Council is very cognizant of the
40 budget issues the we are facing. The MFP Committee under the Chair of Chairwoman
41 Trachtenberg has addressed the Spending Affordability issues that I know many of us
42 have been concerned about. This is something I think we're all united in wanting to try
43 to address early and in as coordinated fashion as we can, and so I appreciate the
44 Council's interest in doing that and willingness to have our Board members come join



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1 us. I was going to start with, I think, Mr. Deschenaux shared the bad news with us from
2 the state perspective. Obviously, we can control parts of our destiny. There are many
3 things that may not necessarily be within our control. And as we've heard already, that
4 the state is predicting a billion dollar shortfall going into next year. And I think it's
5 important for us to understand what the parameters of that look like, what the
6 projections look like. Obviously, there is a slots referendum on the ballot in November.
7 But, to get some sense as to what those elements will look, because however that
8 comes out will ultimately have an impact on what we end up doing in May when we take
9 our budget actions. So, welcome Mr. Deschenaux and thank you for coming. I
10 understand that Ms. Winger was your chauffeur today so we're glad that that worked
11 well.

12
13 Warren Deschenaux,
14 Yes. She believes in just in time delivery.

15
16 Council President Knapp,
17 Very good. [laughter].

18
19 Warren Deschenaux,
20 Okay. Mr. President, members of the Council, I appreciate, I think, the opportunity to
21 talk to you. I want to tell you, I'm from Annapolis. I'm here to tell you what kind of trouble
22 we are in. At least, we think we are. What you have in your packet, starting on page,
23 circle six and extending a few pages beyond is a presentation we shared with the
24 Budget and Tax Committee a couple of weeks ago that reflected what the assumptions
25 and expectations used by the Board of Revenue Estimates were in adjusting the
26 revenues, what those adjustments were, and then what impact those had on our
27 expectations with respect to our ability to maintain a current service budget. Okay. You
28 will recall a little more than a year ago, the Legislature went into special session and
29 took a number of actions effecting both spending and revenues. The outcome of that
30 was expected to be a sustainable budget. Unfortunately, the margins that were left in
31 that plan were not recession proof. And as a consequence of the deterioration since its
32 enactment, what was believed to be balanced and beyond, has been translated into a
33 potentially dire fiscal outlook at the state level. Right. Let's just look at the document, to
34 begin on page 7 of your packet, page 1 of the document itself. What we are showing
35 you here is the trend over the past five or six years in major economic statistics bearing
36 on both the United States' economy and the state's economy. If we look particularly at
37 employment and personal income and existing home sales at the national level, you can
38 see that there has been a considerable deterioration over the past three years in real
39 estate and over the past two years in personal income and employment, such that we
40 are on the cusp of going negative in terms of employment growth nationally. Translate
41 that to the state level. Although, we have imagined that our jobs were actually growing,
42 notwithstanding what was going on at the national economy, the most recent actual
43 statistics in terms of employment for the 1st quarter show that our employment growth is
44 negligible in the calendar year 2008 so far. Okay and there is every reason to expect

15

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1 that it will continue not to grow and possibly to deteriorate further. Why would we say
2 that? Well, look at initial unemployment claims. Again, this does not necessarily bear on
3 Montgomery County, but it does bear on the totality of the state. Okay. Initial UI claims
4 are up 20% so far this year. Personal income peaked in 2004 at 7% growth. We are
5 now looking at a year-to-date in 2008 of 5.4%. As we will see soon, that is not a
6 sustainable level, we believe either. And then the real estate market is particularly hard
7 hit in Maryland relative to the nation. What goes up, comes down. What goes up high,
8 has more room to fall. The graph illustrates what is happening with a key component of
9 our revenue bases, both at the state level and also here in your County. Wage growth,
10 we collect, or the Federal Government collects information on wage and salary income.
11 That is a component of the personal income statistic. You can see that that has been
12 falling over the recent period. That is the solid dark diamond on your graph. A more
13 real-time statistic that we have in terms of how wages are doing in the state is
14 withholding, which is evaluated on a monthly basis. And that has been declining
15 steadily, at least, in terms of growth rates. Okay, and again here, we are still seeing
16 increases, but the rate of increase is declining and that is what is being graphed on
17 page 1. So we are not actually getting less wages than the year before but we are
18 normally looking for a 5% or 6% annual increases in withholding and we are seeing
19 below 4%. All right. Page 2 of the document, exhibit 2, illustrates the deterioration from
20 last spring to current expectations in terms of key economic statistics. Employment, we
21 were looking for over 1% growth in 2008 calendar year. Now, about half of that. In 2009,
22 we were expecting to be bouncing back from that little real estate thing. And instead, we
23 are now expecting that we will be creaking along in terms of job growth through 2009
24 with a recovery time somewhere in '10 or '11. Now, as we all know from reading the
25 newspaper, the timing of any recovery is entirely speculative. This could be the rosy
26 scenario. In fact, this could be an incredibly rosy scenario. Nevertheless, you have to
27 make some judgments, and based on the forecasting services that were available at the
28 time these estimates were made, the expectation is that there will be some magnitude
29 of recovery in the middle of calendar 2009. Okay. That is the planning window. Now, as
30 we know from experience, that window can be extended depending on what actually
31 happens. Be that as it may, that's, those are the premises under which these numbers
32 are calibrated. Personal income, we were expecting it to stay in the zone of 5%. But
33 now we are looking for 2009 calendar year to fall below 4%. Okay. Wage and salary,
34 comparable formula. All right. So, these are not exquisitely optimistic assumptions on
35 which to predicate a forecast in revenues. Hence, the results, it is like telling a story
36 where you already know how it ends. Be that as it may, sometimes it's the journey, not
37 just the destination. Page 3 is what happened in fiscal year 2008 to our revenues. If you
38 are bottom-line minded, one might say we got off light, \$71 million down off of \$13
39 billion in revenues. We ended with a fund balance of almost \$500 million in our general
40 fund. So we are, we did good, maybe. But let's examine the details, those annoying little
41 things. The negative numbers are of course where we wrote revenues down. Positive
42 numbers are where revenues exceeded expectations. Where did we most exceed
43 expectations? Interest on investments. And that's not an economic revenue and it has
44 to do with the mix of securities that we were holding at the time or during the fiscal year,

16

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1 which included a little bit of Freddie Mac and Fannie Mae, which were paying above
2 market because they had to borrow it above market and they could not liquidate
3 because no one would buy them. So, or because they did not have the cash. So,
4 bottom line, that is an anomaly, but it's a good anomaly because it got us money that
5 we otherwise would not have. Turning to the other piece of the chart. I think there is a
6 question, perhaps.

7
8 Councilmember Leventhal,
9 I'm sorry, just on that point, presumably this is all before last week? That that number
10 would no longer be what it is on this chart?

11
12 Warren Deschenaux,
13 Well, this is all history. So, this is what it is.

14
15 Councilmember Leventhal,
16 Yeah.

17
18 Warren Deschenaux,
19 And we are not going to be able to count on.

20
21 Councilmember Leventhal,
22 Right.

23
24 Warren Deschenaux,
25 That excess return going forward. That is factored into our estimates going forward. The
26 debt is callable.

27
28 Councilmember Leventhal,
29 If we were to have a snapshot at this moment, that dollar balance would be substantially
30 lower on our investment portfolio, the state's investment portfolio?

31
32 Warren Deschenaux,
33 Hard to say, hard to, it will depend on, because, again, because the federal government
34 has guaranteed not the debtors or the creditors, but not the shareholders of those
35 GSE's, it depends on when the management gets around to restructuring their
36 obligations. That could be some time yet because they've got a lot to worry about. But,
37 once they do, we will fall back to a more normal market return.

38
39 Council President Knapp,
40 Ms. Trachtenberg.

41
42 Councilmember Trachtenberg,
43 Thank you, President Knapp. I actually just wanted to make a comment on what
44 Warren's response was to George's question. We had a conversation about the



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1 economic status here in the state and County yesterday within the MFP Committee and
2 one of the questions I posed was really about the trickle down impact of what we saw
3 on Wall Street last week and how that would affect things and when we'd have a read in
4 it. I think it's pretty clear, and I suspect Warren you'd agree with me that it will be a good
5 six months or so or longer before we really have a true understanding of what the
6 activity last week did actually to our net worth.

7
8 Warren Deschenaux,
9 The credit markets are being restructured.

10
11 Councilmember Trachtenberg,
12 Right.

13
14 Warren Deschenaux,
15 And we're going to have to see where it falls out on the borrowing side. The other
16 impact that is going to be rather potentially worrying, or definitely will be worrying,
17 whether it will end up being a problem we'll have to see, is on pension funds.

18
19 Councilmember Trachtenberg,
20 Right.

21
22 Warren Deschenaux,
23 You know, where does that leave the investments we have and the value of those
24 investments? And then what do we do about it if we discover we're twice as unfunded
25 as we thought we were? All right. The worrying signs in our closeout were in the top two
26 lines. Personal income tax was off 46. And the sales tax, even after, well, after
27 increasing the sales tax for the second half of the fiscal year was off 76. The tobacco
28 tax was off 17, also an area where we'd increased the revenues and the taxes. Okay.
29 So what did the Board of Revenue Estimates do based on the economics that we talked
30 about and based on the closeout that we just evaluated? Well, they took down the
31 revenues sizably. Looking at the impact in the current fiscal year, the total write-down is
32 431.9. Okay. I think it would be very precise. You can take it out even more decimal
33 places, if you like. Not that it matters. Yes?

34
35 Councilmember Elrich,
36 So, if I read exhibit 4 right, if I'm interpreting this right, assume that you all balance your
37 budget based on the May revenues in the second column, then you have got to whittle
38 away 431 out of the, out of existing planned expenditures for the year?

39
40 Warren Deschenaux,
41 Well, we had programmed a fund balance. As we went into July, that fund balance was
42 237.

43
44 Councilmember Elrich,



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1 So you have to whittle away 200 roughly.
2
3 Warren Deschenaux,
4 Plus the amount we under-attained in expected fund balance in 2008, which netted to
5 about \$50 million.
6
7 Councilmember Elrich,
8 Okay. And then going forward, you are looking at, if I look at the FY10 projections in
9 September, then the governor's budget has room for about \$200 million in increases
10 over the budget you put in this year, if I assume you tried to balance it on 14.5 of this
11 year?
12
13 Warren Deschenaux,
14 Yeah. Well, that's where we get our billion dollar problem in 2010.
15
16 Council President Knapp,
17 Just let him walk us through all that.
18
19 Councilmember Elrich,
20 Okay. I just want to make sure I'm following this.
21
22 Warren Deschenaux,
23 No, you are way ahead of me.
24
25 Councilmember Elrich,
26 Okay.
27
28 Warren Deschenaux,
29 But then you knew how it ended. All right.
30
31 Councilmember Trachtenberg,
32 He looked ahead in the packet.
33
34 Warren Deschenaux,
35 Yes, there is always one of those. All right. Page.
36
37 Councilmember Elrich,
38 I like to know where I'm going.
39
40 Warren Deschenaux,
41 Yes. Don't we all? All right. The, yeah, and then we are still looking because we are
42 dreamers for a 4.3% increase in fiscal year 10. Okay. Now what is going on between
43 fiscal year 2008 and fiscal year 2009 is that, in 2008, we had partial year
44 implementation of some of the revenue increases. In 2009, we have a full-year



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1 implementation of the revenue increases. So that drives up the bottom line. Our
2 underlying baseline expected growth, as you can see here, is really 1.4% if you took out
3 the factors there. But we are expecting almost 4% growth in 2010, off of 2009. That, if
4 there is a questionable number, well, they are all questionable but I think how much
5 growth we can legitimately expect in 10 is really open to debate at this point. How deep
6 we have to go in 2009 I think is also subject to some disputation. But, if we compare the
7 number we have in fiscal year 2010 to the number we thought we had for planning
8 purposes, you can see that we are more than \$500 million below that number as relates
9 to the previous forecast. So that does, all of these changes play very poorly in terms,
10 against our expected cost of maintaining current services, which is what is illustrated on
11 page 12. If you focus just on the ending balances, which is I guess the necessary
12 number in terms of budgeting, you have to at least end at zero under the state
13 constitution. Or at least, under the constitution you have to plan to end at zero. You end
14 up where you end up. In 2009, after taking into account the planned balances and then
15 the under-attainments, we expect a shortfall of at least \$246 million. So it will be
16 necessary either to find revenues of that magnitude or reductions of that magnitude to
17 bring the budget in at zero balance. The governor has indicated that he will be going to
18 the Board of Public Works, I am expecting it will be in mid-October. I don't think they will
19 be ready for the October 1st meeting, although they could surprise me. They do,
20 sometimes. We will see what is in that package when it arrives. I don't know what their
21 plan is for preparing people for the bad news. But, it will take reductions of at least \$250
22 million to bring the budget into round under these assumptions. All right. Assuming we
23 can get the budget balanced in '09, playing out the cost of current services, which
24 includes all of the formulas which provide A, the cost of providing retirement benefits to
25 employees and teachers, the Medicaid program, as well as the care and feeding of our
26 state agencies, will result in a gap of about a billion dollars. All of these assumptions
27 assume we leave our rainy day fund intact. We have something on the order of \$700
28 million in the rainy day fund that can be applied to mitigate. The problem with using
29 rainy day funds, of course, is that they are not regenerating by themselves. They will
30 require future appropriations to be replenished, so that just increases the stress
31 imposed on future budgets when presumably balance has been achieved. The first
32 place people tend to look when it comes to trimming the budget is where the budget is
33 growing. If you look on page 7, this chart looks very different than it did two or three
34 years ago when we were ramping up the Thornton funding formula. Local aid is
35 growing, we expect to grow the least. That in part reflects the modifications to the
36 inflation factor that were made in the 2008 session. Entitlements are growing
37 moderately, partly that is because we are finding or we are using special funds to, for
38 this year and next to fund our healthcare expansion program. General funds will
39 necessarily follow in '11 because those special funds will be exhausted. Where those
40 will come from, I know not. And then state agencies, care and feeding will represent the
41 largest category of increase. This includes providing money for our – liability as well as
42 fringe benefits, a 2% cost of living increase, meager by some standards, and other
43 operating expenses of the state agencies. Where is the money going to come from? I



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1 don't know but if we're going to go after the growth, the growth is, as you see it,
2 between '09 and '10. Okay. That is the good news. Don't you regret this?

3
4 Council President Knapp,
5 Thanks for sharing. Now, let's see if we have any questions for Mr. Deschenaux and
6 then we'll turn to our local folks. Mr. Elrich.

7
8 Councilmember Elrich,
9 So, you have got this rainy day fund, you look like a guy with an umbrella who seems a
10 rainy day, so why isn't that, why don't we look at that as, you know, a year or two fix
11 short of doing some of the drastic stuff people might do in terms of cutting?

12
13 Warren Deschenaux,
14 It depends.

15
16 Councilmember Elrich,
17 Doesn't that – your problems?

18
19 Warren Deschenaux,
20 Well, using, I think there is consensus that using the rainy day fund would be
21 appropriate if we had a clear path out. Okay. If it was part of a structured plan that got
22 us to balance within, or some semblance of balance within a reasonable period of time
23 without, you know, requiring ASX – in terms of another bubble to float us out for a little
24 while. I don't know that there is any bar to using the rainy day fund. But as I've heard it
25 expressed many times by the rating agencies, they expect it to be part of a plan that
26 gets you to balance and gets the rainy day fund replenished as opposed to just a way of
27 temporizing while we figure out which way the wind's blowing and how best to batten
28 up.

29
30 Councilmember Elrich,
31 Do you make assumptions about what it would look, what kind of economy, what levels
32 of employment and employment growth or wage growth you would have to have to have
33 a sustainable budget in the out years? In other words, is there some target that if we,
34 you know, if employment growth or wage growth hit this margin, if returns on non-wage
35 earnings were at this point, you would have a relatively stable.

36
37 Warren Deschenaux,
38 Well, if only we could remain stable on the spending commitment side, it would be a
39 little easier to project that. We have initiated a healthcare expansion which is predicated
40 on general funds being available in order to fully implement it and a new revenue source
41 predicated on recycling savings from uncompensated care that has yet to be
42 implemented and demonstrated. To the extent we actually go down that path, I mean,
43 there is some risks associated with that that are not factored into our spending right
44 now. You know, Medicaid is about 20% of our budget and that is at risk of going up or



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1 not depending on, you know, other features. We have a retirement program now which
2 will be costing ever increasing amounts because of the combination of unfunded liability
3 and growing wage bases. So there are, is a lot of stress on the spending side that
4 complicate discerning what the most desirable levels of job growth and wage growth
5 would be. You know, frankly, I don't know that a lot of that is within the capacity of the
6 state or state and local governments to substantially influence.

7
8 Councilmember Elrich,
9 Thank you.

10
11 Council President Knapp,
12 Mr. Berliner.

13
14 Councilmember Berliner,
15 You alluded to the pension set of issues. I was hoping you might elaborate a little on the
16 potential nightmare we face with respect to that issue.

17
18 Warren Deschenaux,
19 Which potential nightmare? [multiple speakers]. Oh, paying for it.

20
21 Councilmember Berliner,
22 Yeah.

23
24 Warren Deschenaux,
25 Oh, you know, one man's nightmare is, I don't know. Well. Let's just talk a little bit. Their,
26 the state will be paying something on the order of \$800 million annually for teachers,
27 community college, and library retirement in the next couple of years. I think we are
28 kissing \$700 million. The cost is going to go up \$88 million next year alone, simply
29 because, well it would have gone up \$88 million this year if the actuary had calculated
30 the liability properly, but he didn't. But in any event, it is going up by that amount plus
31 whatever increase is built in because of changes in the wage base. It is a very
32 expensive program. From the state perspective, I'm just, you know, speaking parochially
33 now, that aspect of the liability which is the result of compensation decisions made
34 locally is not subject to influence by the state. And the folks making those commitments
35 bear no obligation for the incidental costs but they do have to pay the salary, not a trivial
36 contribution. But we also are now facing, because the stock market went down, the fact
37 that we are unfunded. We were, you know, we were at 100% funding in 2000, 2001. We
38 are now down in the 70's for the teacher plan. In order to compensate for that, our
39 contribution rate will be rising for the next 50 years in order to restore some balance
40 unless somebody gets some cash into that fund. There are two solutions to this problem
41 from the state standpoint. One would be, of course, to share in some measure the
42 contribution. The other would be to adjust the benefit both for employees and for
43 teachers such that the total liability of the system is modified. Neither of those have
44 really been explored publicly, to my knowledge. But these are things that are going to



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1 have to be looked at, particularly if things don't improve. Okay. If we can't see a way out
2 of getting to balance within some reasonable period of time, I do expect that there will
3 be somebody looking at it. I know the minority party in the Legislature has made a
4 number of proposals that would involve shifting the responsibility to the counties. The
5 majority has declined to go in that direction so far. But I don't know at what point the
6 fiscal imperatives make the unthinkable more thinkable. We could be approaching that
7 period.

8

9 Council President Knapp,
10 Councilmember Leventhal.

11

12 Councilmember Leventhal,

13 Thank you Mr. Deschenaux for coming to Rockville today. It's very helpful to have you
14 here. On page 7 of your report, circle 13, of our packet, there is a footnote that says in
15 the projection for the coming, the next fiscal year, the fiscal year that the Legislature will
16 be working on in the next General Assembly session, it says the general fund increase
17 is reduced by 90 million in special funds attributable to slots. I thought that we were not
18 going to get the slots revenue for a couple of years after that. I thought it was three
19 years away. Could you explain that footnote?

20

21 Warren Deschenaux,

22 The assumption of our forecast is that what the Legislature has put in motion comes to
23 be, and that would include the passage in November of the slots referendum. A
24 component of that is the collection of up front licensing fees which are calibrated, I
25 believe, at \$5 million per 500 machines, something on that order. And those would be
26 paid in fiscal year 2010, accredited to the education fund which would then reduce
27 general fund obligations for K-12. That's how we're accounting for it anyway and that's
28 what that footnote represents.

29

30 Councilmember Leventhal,

31 So, how does that footnote manifest itself in the bar chart?

32

33 Warren Deschenaux,

34 Well, it means that the local aid line or bar would be \$90 million taller if the slots
35 initiative were not there because the liability would remain for mandated general
36 funding. I think what may be confusing to you is our fund accounting structure. What we
37 are counting on these charts is our general fund which includes our major taxes, and
38 the amounts that in theory the governor has either directed to budget without a
39 dedicated revenue or has discretion to budget. We have also a number of dedicated
40 funds, we call them special funds, which can only be used for specific purposes. In this
41 case, the license fees would be dedicated to the purposes encompassed in that local
42 aid bar, and reduce the amount of general funds that we need to credit toward that
43 purpose, because the special funds are available from the dedicated source.

44



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1 Councilmember Leventhal,

2 In effect, this bar chart is, as you say, liabilities, it's obligations that we don't have a way
3 of meeting right now, at the moment? Is that what these, when you say growth?

4

5 Warren Deschenaux,

6 Well, this is our estimate of spending growth to support current services for the three
7 categories of purpose indicated here, local aid, so that's, entitlements, that's mostly
8 Medicaid, and the state agencies, that's the --the bureaucracy. This is how much we
9 expect spending will, we expect spending will increase about \$1.2 billion between '09
10 and '10 if we don't do anything. So much of it is going to be in local aid, so much of it is
11 going to be entitlements, so much of it's going to be in the agencies. That is what we
12 are depicting here, projected general fund growth in those categories.

13

14 Councilmember Leventhal,

15 Now, does the dedicated fund that you mentioned that goes to local aid for schools, is
16 that the same fund that pays for our teacher pension commitments?

17

18 Warren Deschenaux,

19 All, the way the fund is structured, the governor has the discretion to use it to pay for
20 anything related through, for K-12, community colleges, or four year institutions. Our
21 assumption here is that it will go to K-12 and that it will substitute for general funds for
22 that purpose.

23

24 Councilmember Leventhal,

25 And would that include the obligation to fund teacher pensions?

26

27 Warren Deschenaux,

28 It could.

29

30 Councilmember Leventhal,

31 That'd be treated as local aid for K-12?

32

33 Warren Deschenaux,

34 It could. We're not, the legislation is not specific, but ultimately when the governor
35 budgets, he'll have to do it one place or another.

36

37 Councilmember Leventhal,

38 Because the way it is being described, and even the way the ballot language describes
39 it, the average reader would assume that it is paying for the purposes outlined in the
40 Thornton Commission Legislation, that it would pay for basic maintenance of program
41 and capital expansion and operating expenses of the schools themselves, not for
42 pension commitments. And the reason I ask the question is that the suggestion has
43 been made, the linkage has been made that if the slots revenue is not present, then
44 what will be reduced will be teacher pension obligations. But if the slots revenue is



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1 present, the suggestion is being made that what will be paid for are the kinds of things
2 that parents want to see in classrooms, teaching, and facility expansion. And so I am
3 trying to understand.

4
5 Warren Deschenaux,
6 I think.

7
8 Councilmember Leventhal,

9 We either will or we won't have the slots revenue but it seems to me that the suggestion
10 is being made that it's going to pay for two different things if we have it and if we don't
11 have it, it is going to cut something that is not paying for if we do have it. In other words,
12 it's either going into school program, it's either going into the classroom, operating
13 expenses for working teachers today and facilities expansion which is what the ballot
14 makes it sound like, if we have it, that is what it will go for. Then the suggestion is if we
15 don't have it, one might assume that we would not do those things, that we would not
16 fund Thornton. But the suggestion is also made that if we don't have the slots revenue,
17 we will cut something else. Well, you only have the revenue for one purpose, either we
18 have it we don't have it, either it's going into classroom purposes or it's going to fund
19 teacher pension obligations which is not actually what the constitutional amendment
20 says.

21
22 Warren Deschenaux,
23 Isn't that so? Aren't you supposed to say that? In Annapolis that's what they say. Let me
24 just make one point and then I do not have anything more to say on this.

25
26 Councilmember Leventhal,
27 Okay.

28
29 Warren Deschenaux,
30 Money is fungible. Whether revenue shows up or doesn't will have a great deal to do
31 with what we can afford and what we can't. Whether we can afford to expand classroom
32 or whether we can afford to subsidize pensions, those are decisions that are going to
33 have to be made with reference to the total pot of money that is available. In the case of
34 this education trust fund that is created, it is, it can be used to augment, it can be used
35 to be substituted for money that would otherwise be expended from the general fund.
36 Ultimately it is going to come down to who is making the decisions and what the options
37 are at the time. I think everyone will have a full opportunity to evaluate those in the full
38 ripeness of time. Let me just also say that the task of getting to balance without the
39 additional money associated with the BLT referendum will be considerably more difficult
40 than it will be should those revenues become available.

41
42 Councilmember Leventhal,
43 That is a valid response. If I could just say this, I have heard this slots money spent on
44 about six different purposes, so although it is true that money is fungible, and although it



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1 is true that balancing the budget requires a variety of different revenue sources, it is
2 also true that we cannot spend the same dollars five different ways. And so, what the
3 constitutional amendment suggests, is that, if you read it, you know, a reasonable
4 reader would assume, is that the revenue will be dedicated to fulfill the intent of the
5 Thornton Commission. If the revenue, if we get it, if it is spent to fulfill the purposes of
6 the Thornton Commission, it cannot simultaneously be spent on teacher pensions which
7 was the suggestion made to the County Council by the President of MACO, or on
8 health, social services, transportation, and a variety of other things which I've heard
9 suggested would suffer if we don't have the slots revenue. I see the link between
10 operating expenses of school systems that are paid for through local aid through this
11 dedicated trust fund. We are all concerned about those purposes, they're critically
12 important, the Board of Education, that is their bread and butter and they're represented
13 today. If we don't have those revenues it is possible that that account will suffer. But you
14 cannot spend the same dollars five different ways.

15

16 Council President Knapp,

17 I think Mr. Leventhal's point has been made. No, I just wanted to thank you for coming
18 down to share with us what albeit is not great news but is news nonetheless that we
19 then have to factor into what decision we're going to have to make in the coming year
20 and what discussions we're going to have to have with our delegation members and
21 figure out how we try to proceed. So I thank you for coming to give us this background.
22 And with that we're going to turn to our local picture. If you want to stay, feel free, if you
23 want to leave.

24

25 Warren Deschenaux,

26 I'm going to leave when Mel leaves.

27

28 Council President Knapp,

29 When the car is going.

30

31 Warren Deschenaux,

32 She is my ride.

33

34 Council President Knapp,

35 All right. She'll wave to me when it is time to go.

36

37 Warren Deschenaux,

38 Okay.

39

40 Council President Knapp,

41 Okay. So, now to our local picture and I recognize that this is a somewhat anomalous
42 activity, typically we get updates in November and we get updates in March, the state
43 kind of took a different tack this year, I guess it was legislated that it had to do another
44 update in September. And so, in light of that, I understand that we have done some



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1 additional forecasting locally, which I appreciate and it's also just to get us a general
2 update as to where we stand, relative to close out and just actuals as far as this year is
3 going. So with that, I turn it over to Joe, Jennifer, Mr. Beach. Okay.

4
5 Joe Beach,

6 All right. Good morning, the Council and the School Board members. I'll be referring to
7 the packet which is the update of the County fiscal plan, the addendum on circle page
8 one is just a review of the different materials Ms. Barrett and I are going to walk through
9 here. We are going to start as a reference point with the July update of the fiscal plan,
10 talk about some of the fiscal pressures, the FY08 fourth quarterly analysis, then talk
11 about some of the economic indicators, the revenue analysis, and then come back to
12 the update of the fiscal plan that we are looking at right now for FY10. So, turning to
13 page two in this packet, this is the July update of the fiscal plan that we shared with the
14 Council earlier in the year in July. Just to orient the Council, the School Board, and the
15 audience to this, this is the tax supported fiscal plan summary for Montgomery County.
16 So it includes just the tax supported revenues and related expenditures. It excludes any
17 grants or enterprise funds. So, it does not include, for instance, the County liquor control
18 fund or solid waste or the food services fund for MCPS.

19
20 Council President Knapp,
21 Okay, so you are on circle two.

22
23 Joe Beach,
24 I'm on circle page two.

25
26 Council President Knapp,
27 Of the addendum.

28
29 Joe Beach,
30 Of the addendum.

31
32 Council President Knapp,
33 Okay.

34
35 Joe Beach,
36 Yes, sir.

37
38 Council President Knapp,
39 Like this.

40
41 Joe Beach,
42 The FY10 revenues, far right column, again just the tax supported revenues, all the
43 major tax categories. We include in there the beginning reserves undesignated and
44 designated, and the net transfers that would include for instance the liquor control



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1 transfer into the County general fund. Total resources available at that time was about
2 \$4.1 billion. We deduct from that, line seven, other uses which would include cash for
3 the capital program, Paygo, current revenue, also the County's debt service obligations
4 for General Obligation Bonds and other debt instruments and the County reserves the
5 amount. We estimated available to allocate to agencies for the operating budget about
6 three and a half billion. What we had estimated in July for total agency use is on line 14,
7 about 3.8 billion. That produced a gap of about 251 million. Now, the expenditure
8 assumptions there on lines 10 through 13 were the 10 year growth rate. That is, if we
9 continue to spend for the last 10 years, in FY10 as we have for the last 10 years, that
10 would be, the agency operating budgets, we'll discuss later, a change that we are
11 suggesting to that methodology. So just as a reference point, that was a gap in July.
12 Turning to circle page three, the fiscal pressures here. What we have listed here are
13 some of the pressures just for context and background, that both all, the County
14 Government and all the agencies and counties will be facing in both '09 and '10. Of
15 course, we've talked to you before about the fuel costs. We are approaching \$20 million
16 just in FY09 between the School Board, County Government, Parks, and college in
17 increased fuel. There's also fuel related costs for petroleum based products like asphalt
18 and energy costs. We are anticipating rebids on the interagency electricity procurement.
19 That could have a significant cost increase as well. We have different federal, state, and
20 local mandates which will be increasing the fiscal pressure. I have listed just a sampling
21 of those below, both local and federal mandates. Of course, in number five, we get the
22 inflationary impact for our County contracts, food, and commodities. We have both an
23 expanding inmate population, we have opened the last pod in MCCF, and also in
24 discussions with Dr. Weist, we understand there's an expanding student population both
25 in '09 which was not anticipated and FY10 and increase in the estimated student
26 population growth for the School Board. Lines seven, eight, and nine reflect both
27 intergovernmental revenues as well as a potential shifting of state responsibilities to the
28 local governments, which was discussed somewhat in Mr. Deschenaux's presentation
29 as well. A lot of that is still evolving, but to the extent that state aid is reduced to the
30 local governments, to the extent that the shifting responsibilities, that would be added
31 pressure to Montgomery County. Other things that we're looking at, we don't have
32 quantified right now, would be the cost of increasing health insurance, workers'
33 compensation, and pension costs. As our stock market experience or our investment
34 experience does not improve or meet our assumptions, the County Government will
35 have to step up and increase its contribution to maintain funding in our pension plans.
36 And lastly, as we open and complete our capital projects, we are going to have to pay to
37 operate them, both staff, utilities, energy, things like that. That is a continuing obligation
38 as well that's going to put pressure on the operating budget.

39

40 Jennifer Barrett,

41 I'm going to take up on circle four of your packet of the addendum and I wanted to first
42 recognize that Rob Hagedorn and our Chief Economist David Platt are right behind me,
43 and prepared a lot of this material. First I want to focus on what revenue information is
44 available because as Warren referred to some of the estimates from of the state as



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1 questionable, I prefer that these are preliminary and partial. They're preliminary
2 because we only know so much information at this point in time, and partial because
3 some of them we don't have information on and cannot make estimates. We are basing
4 some of this information on economic indicators and trend data, looking at the first eight
5 months of this calendar year compared to the first eight months of the last calendar
6 year, and so we are making conclusions based on that trend information but without any
7 actual receipts from a lot of these revenue sources, we don't have any significant
8 income-tax receipts yet. That is a huge piece of information we usually work into the
9 estimates that we typically update the Council with at the end of November.

10
11 Council President Knapp,
12 Right.

13
14 Jennifer Barrett,
15 Because the November distribution is so significant especially here in Montgomery
16 County. We don't have any of that information right now, so that's why they're
17 preliminary and partial estimates. Focusing on some of the trends, and you also have
18 received in a previous packet, reference in the packet, the economic, the full economic
19 indicators report that Mr. Platt prepares and shows the whole economy, national,
20 regional and local. Focusing on just a few indicators particularly relevant to these
21 revenue sources, I am showing there on circle four under income taxes, the trends in
22 employment, the trends in personal income also occurring in Montgomery County as
23 with the state in terms of those trends being down slightly. And then capital gains is a
24 very significant one, that last line in the box, that one is particularly swung from what we
25 thought it would be when we put the FY09 budget is now in negative territory and that
26 doesn't even reflect.

27
28 Council President Knapp,
29 Right.

30
31 Jennifer Barrett,
32 The events of the last week and how long the market takes to work through the issues
33 in the financial market. We just cannot predict that right now. So, obviously the
34 preliminary conclusion is negative impacts on income tax revenues for the County.
35 Turning to circle five, on property taxes, there's only one real indicator that is particularly
36 impacting with the calculation of the charter limit, and making that calculation for FY10,
37 when we looked at inflation for the '09 budget, we were expecting inflation at 3.3%, but
38 you can see a revised number there, 5%. In FY10 that would mean the calculation
39 would result in revenues being able to go up a little more than we had previously
40 expected. So it's a positive impact of revenues for FY10, not affecting '09, but it affects
41 the calculation in '10 because inflation is part of the charter limit calculation. On transfer
42 and recordation taxes, of course, the housing market is the big news in the markets.
43 The bad news, we are not sure to what extent the work out that is happening in Wall
44 Street right now is going to actually affect the ability of people to sell their homes. That



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1 is what this revenue source is made on is those transfers and recordation taxes that the
2 County receives on the transfers of homes in the County and refinancings. As you can
3 see, home sales are down further than we had expected in the '09 budget, housing
4 prices, whereas we were looking at a slight increase, now we are looking at they're less
5 than they were before. And those trends right now just are downward in all areas. So
6 obviously, that is going to impact negatively transfer and recordation taxes. And then
7 finally, focusing on investment income, we, in the '09 budget, had predicted a fed funds
8 rate during FY09 of 2.2%, right not it's at 2% and we haven't seen a movement by the
9 fed to change that. We had predicted a fund rate in FY10 being 3%. The fed funds rate
10 is a good indicator of our ability to invest our short-term working capital portfolio, that's
11 not pension funds but the County short-term working income. And for instance, we have
12 got \$400 million in property tax receipts last week because of all the mortgage
13 companies paying property taxes for their mortgage holders. We, like the state, are
14 investing those things out just a little bit longer than the short-term overnight rates. We
15 had expected to achieve a two a half percent rate of return in the FY09 budget. We are
16 actually doing a little bit better than that, 2.63%, but that remains to be seen. Again,
17 that's very, could fluctuate very much based on the market conditions that we are
18 working through right now. But that is the investment income at the local level. The big
19 results are on circle six where we present to you three years of either results or
20 preliminary partial projections. Starting, if you want the good news, I was asked for it at
21 the MFP Committee, the good news, you put your hand over the bottom half of the chart
22 and look at FY08. Unlike the state, where they are trying to make up an unattained
23 surplus where they didn't meet their surplus expectations, we actually came in a little bit
24 higher on income tax, property tax, and transfer recordation tax over when we put the
25 May estimate together, which is what the '09 budget was based on. We had a slight
26 downturn in other taxes and we don't have information yet on investment income for '08.
27 That is one of the sources of revenue that is spread amongst many funds and is part of
28 our closing process for financial reporting. And it, just, closing is not done yet. This is
29 preliminary because we don't have that information right now. Highway user revenues, I
30 do have that number, and it's only about \$250,000 lower than the May estimate. So we
31 came in right on track with highway user revenues. So, for '08, we don't have to restore
32 fund balance based on these few revenue sources for the ending FY08 fund balance.
33 We came in ahead. That doesn't, we looked at fourth quarter expenditures, and I'm
34 sorry, Joe, how'd that turn out?

35
36 Joe Beach,

37 The first quarter expenditures were consistent with what we'd assumed in the budget in
38 the third quarter, slightly over about, actually the positive variance was about \$1 million
39 more than what we had assumed when we put the budget together for FY09.

40
41 Jennifer Barrett,

42 That is how we ended up '08. Now, looking at '09 on the few revenue sources here, we
43 have got some preliminary results, I just went over the indicators with you, this is a
44 projection prepared by Mr. Platt based on that partial information on indicator and trend



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1 data. It does show income taxes down, property taxes up. We have very stable, that is
2 our most stable revenue source because of the three year reassessment because of the
3 homestead cap, it works as a bank and we are able to plan on the revenues and they
4 come in pretty much as expected so we aren't changing that estimate at that time.
5 Transfer recordation taxes are down. We hope to do a little bit better on investment
6 income but will monitor that number. Highway user revenues, you can see the number
7 from the state, that is a real number, the 35.739. That is down from our estimate. You
8 can see if you compare it to the '08 number which we came in very close, highway user
9 revenues is a place we're being hit because of gas taxes and vehicle registrations.
10 FY10, the picture gets a little bit worse particularly in the income tax area. The base is
11 lower, income is lower, it travels through over the next year. You can see a positive in
12 the property tax with the charter calculation, but then down in some of those other
13 areas. We don't have information at this time on other taxes to provide to you.

14
15 Joe Beach,
16 Going to circle page 11 in the packet, again this is the fiscal plan update.

17
18 Council President Knapp,
19 Hold on. So you went back to the other packet?

20
21 Joe Beach,
22 Circle, I'm in the addendum. Oh, I apologize. Okay.

23
24 Council President Knapp,
25 Okay.

26
27 Joe Beach,
28 Circle page seven.

29
30 Council President Knapp,
31 Circle page seven. So, we're still in the addendum packet, page seven.

32
33 Joe Beach,
34 Correct.

35
36 Council President Knapp,
37 Circle seven.

38
39 Joe Beach,
40 Alright, we incorporated in this the preliminary revenue information that Finance has
41 prepared, so that's reflected for both FY09, FY10 as well, we keep the, one other
42 change is, and we have a list of supplemental, potential supplemental appropriations
43 that's part of this packet as well. Of course in July when we approved the budget we
44 didn't have an assumption of FY09 supplemental appropriations. Since then we've



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1 learned different things about fuel and some other obligations. So we've assumed that
2 in FY09 sort of as a worst case, and we've updated the expenditure assumptions on
3 lines 10 through 13. What we've done is instead of going with the 10-year average
4 growth rate which we've used in the past few fiscal plan assumptions, what we have
5 done is we've began with the FY09 rate of growth for tax supported budgets which was
6 about 3.7%. On top of that we've layered some major known commitments, some
7 information we've gotten both within the County Government but from School Board and
8 other agencies as well, which would include fuel cost increases, utility costs increases,
9 retiree health prefunding obligations, the operating impacts of capital projects, inflation
10 on existing contracts, and different program annualizations primarily in the Fire and
11 Rescue Service related to the opening of the West Germantown Station and some other
12 obligations going from FY09 to FY10. What that produces is an overall agency rate of
13 growth of about 5.7%. You can see that on line 14, about 3.7 billion total expenditures
14 for the four major agencies and a gap of about \$250 million projected. What this does
15 not include, for instance, would be pension cost increases, health insurance cost
16 increases, workers' compensation cost increases, because we don't have that specific
17 information at that time. One other note, we have talked before about the 10-year rate of
18 growth, there has been some skepticism about that number as well, it's just an
19 assumption about if we spend in that year as we have been spending, one exercise we
20 have done during the summer working with our other agencies is we asked them for
21 information on their same services budget for FY10 and they provided that information
22 to us, we've met with the budget directors of the other agencies as well. One thing we
23 found in that exercise was the same services budget overall produced about a rate of
24 growth of about 8%. So, I thought in some ways that sort of validated that prior
25 approach that we had, but nonetheless I think everyone acknowledges going into FY10
26 we are not going to have a same services budget, and we're not going to have 8%, we
27 can't afford 8% growth.

28

29 Council President Knapp,
30 The last two budgets have been at five and three, roughly, five and a half and.

31

32 Joe Beach,
33 Yes. With some program reductions as well.

34

35 Council President Knapp,
36 Is that it? Hold on, turn your microphone back on Joe.

37

38 Joe Beach,
39 Circle page eight.

40

41 Council President Knapp,
42 Page eight.

43

44 Joe Beach,



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1 Has potential, a list of just potential supplemental appropriations. We've tried to limit this
2 to just obligations, things we've learned about. We have an assumption. The first part of
3 the page shows approved supplemental appropriations in FY09, only \$250,000 to date.
4 Lower on the list we have an assumption of snow, that's also storm cleanup about 15
5 million in FY09 for a mild winter, we spent about \$10 million so it is a somewhat
6 conservative assumption. Other costs here, relocation of the Board of Elections lease
7 which has been discussed with the Council before. Below that we have the electronic
8 patient care reporting system which is a mandate from the State Emergency
9 Management Board, and then below that would be what we understand from the
10 Department of Transportation on asphalt cost increases during FY09. And then below
11 that would be the fuel cost increase estimates we have for the County Government and
12 the other agencies as well. So, total potential supplemental appropriations, about \$40
13 million, \$30 million of that would be both snow and storm clean up as well as fuel cost
14 increases.

15
16 Council President Knapp,
17 Good.

18
19 Stephen Farber,
20 One other point, Joe, you may have made, I am not sure, is the assumption on circle
21 seven in the fiscal plan summary that property-tax would be at the charter limit in fiscal
22 '10.

23
24 Joe Beach,
25 That is correct.

26
27 Council President Knapp,
28 Right. Okay. We have a couple questions. I actually had one I want to go back to Mr.
29 Deschenaux on because I just wanted to clarify this. Given where the state's current
30 fiscal situation stands, even with the passage of slot, if the slots referendum were to be
31 approved, it will provide resources but it doesn't solve the problem. [INAUDIBLE]. We
32 still have.

33
34 Warren Deschenaux,
35 We will, even assuming we remain on a trajectory that doesn't get any worse.

36
37 Council President Knapp,
38 Right.

39
40 Warren Deschenaux,
41 I think it is likely that we would need to make something on the magnitude of a half a
42 million, half a billion dollars in adjustments either to spending and revenues of a durable
43 nature in order to be back at a.

44



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1 Council President Knapp,
2 Right.

3
4 Warren Deschenaux,
5 To assume we're at a sustainable level.

6
7 Council President Knapp,
8 Okay, no, that was good. I just wanted to put that out there just because I think that is
9 important for people to understand that.

10
11 Warren Deschenaux,
12 Right. I mean whether.

13
14 Council President Knapp,
15 Stuff that you put out there was significant, even with slots it is still significant.

16
17 Warren Deschenaux,
18 Right. I mean, the, just the magnitudes will be somewhat different.

19
20 Council President Knapp,
21 Right. Okay. Thank you. Okay. Councilmember Leventhal.

22
23 Councilmember Leventhal,
24 So, just to clarify, the kind of bottom line number here on circle seven of the addendum
25 which is a gap of \$251.2 million, that gap assumes 8% growth and a property tax at the
26 charter limit?

27
28 Joe Beach,
29 Well, it assumes property tax at the charter limits for revenues but what it assumes in
30 terms of agency expenditures, is we had in FY09 3.7% growth, so we started that as a,
31 sort of a baseline. To that we added for each agency the obligations we know of right
32 now for things like fuel, utility cost increases, the operating costs of capital projects, and
33 the effective inflation under existing contracts. So we did an estimate for each agency
34 based on assuming, starting off from '09 to '10, 3.7% growth in their budget, and then
35 on that we layered specific obligations when we had the information available to us on
36 those other cost factors, which produced the estimates that you can see on lines 10
37 through 13 on circle page seven of the packet. We do not assume 8% growth.

38
39 Stephen Farber,
40 The old model, Mr. Leventhal, did assume 8% growth.

41
42 Councilmember Leventhal,
43 Okay, it says, so it is 7.3% between the second column at the end here, percentage
44 between '09 and '10, 7.5, I am sorry, I'm getting, my eyesight is getting bad.



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1
2 Joe Beach,
3 Oh, I'm sorry. You are looking at line seven, total uses.
4
5 Councilmember Leventhal,
6 Yeah.
7
8 Joe Beach,
9 That is a combination of line 14, the agency uses, and line seven, other uses. The other
10 uses includes things like cash for the capital program, current revenue in Paygo, debt
11 service obligations and reserves. So it's the total use.
12
13 Councilmember Leventhal,
14 So, what is the growth in the operating budget projected between '09 and '10 that leads
15 you to a gap of \$251 million?
16
17 Joe Beach,
18 In the operating budget it would be 5.7%. You can see that on line 14, the second to last
19 column.
20
21 Councilmember Leventhal,
22 Okay. Thank you.
23
24 Council President Knapp,
25 Turn to Councilmember Berliner but before I do that, I just wanted to also, I forgot to
26 recognize Council, Board member Pat O'Neil who is also with us and we have a group
27 of students who have joined us, they are students of Montgomery County
28 Environmental Activists who I believe are having lunch with Councilmember Berliner as
29 soon as we get done, which may be a while. Just so we know, so hope, just.
30 Councilmember Berliner?
31
32 Councilmember Berliner,
33 We hope you guys aren't hungry. Ms. Barrett, is it still contemplated that we are going to
34 have a savings plan presented to us or is that Mr. Beach?
35
36 Joe Beach,
37 Yes.
38
39 Councilmember Berliner,
40 And can you give us some idea of the order of magnitude of what we are going to be
41 talking about in that savings plan in order to make a significant dent in what we are
42 seeing?
43
44 Joe Beach,



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1 At this point I would not want to commit to any level or percentage, we are actually
2 reviewing some different options right now. So, I think to make a realistic and
3 meaningful contribution across all four agencies, I think we'd be looking for something
4 on the order of \$25 to \$30 million in savings in FY09 to carry forward to FY10.
5

6 Councilmember Berliner,

7 And I am presuming that we are having ongoing conversations on both sides of the
8 street with respect to the nature of that savings plans in order to ensure that when it
9 does come over that it is something that we can all go forward with, with some degree
10 of harmony?
11

12 Joe Beach,

13 As required in the Council resolution on the budget.
14

15 Council President Knapp,

16 Thank you.
17

18 Councilmember Berliner,

19 My other question would be, with respect to conversations that I know all of us have had
20 with various stakeholders, regarding their confidence in the numbers, and the
21 transparency of these numbers, do you have more confidence now that there will be
22 agreement with respect to the numbers that we are looking at? Because if we can't get
23 agreement with respect to the fundamental assumptions regarding the numbers, it is
24 going to be very difficult for us to get agreement as to the steps that are going to be
25 taken to fill that gap. So I am curious as to the steps you are taking to ensure that there
26 is both transparency with respect to the numbers and a mutual understanding that they
27 may be ugly but they are real.
28

29 Joe Beach,

30 As to the revenues, I defer to Ms. Barrett about that. As to the expenditures, we met
31 already, like I said, with all the budget directors of the other agencies, we met already
32 with Dr. Weist a couple of times on this. I am prepared to share any of our assumptions
33 on these projections with the Council or Council staff or any of the other agencies as
34 well. Now, as to the confidence in the numbers, first of all, this is a forecast of
35 expenditure obligations. I have already stated that. At this point we don't have specific
36 information on all those obligations right now, so it could be that the gap could worsen,
37 at least on an expenditure basis, between now and when we further refine our
38 estimates. And we can be, will be very transparent about what those assumptions are
39 and what those obligations are at this point. This is based on the information, the best
40 information we have available. This would be our estimate at this point. What it doesn't
41 show, what it doesn't assume at this point would be the programmatic or other cost
42 reductions necessary to produce a balanced budget.
43

44 Councilmember Berliner,



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1 Thank you, sir.

2

3 Council President Knapp,
4 Councilmember Elrich.

5

6 Councilmember Elrich,

7 A couple of things. One is, just to be clear, the purpose of the savings plan is not to
8 meet a shortfall in this year's budget, it is to generate surplus to be carried over that will
9 be used to offset tax revenues or whatever else in the budget that the Executive is
10 putting together for next year.

11

12 Joe Beach,

13 That's correct. We are not facing a current year FY09 deficit. This is to conserve
14 resources to bring forward in FY10. That's right.

15

16 Councilmember Elrich,

17 Okay. My other question is, and I think Roger is alluding to this, we have all heard
18 assertions that the Executive has information which does not get shared. I've had
19 people tell me, oh Howard County gives, you know, the other agencies information that
20 somehow is either different in advance of what Montgomery County does. I have asked
21 for specifics on that. I have yet to get an answer to what specifically anybody else gets
22 but that kind of discussion is out there. And I guess I want to follow up on Roger's to,
23 that we need, you know, I think everybody needs a reasonable level of assurance that
24 when data comes in, that data will be shared with everybody, and not delayed or, you
25 know, held up so that people feel we are holding information and is not available to
26 other agencies. I think it is just critical that there not be a delay between when it comes
27 in and when we start sharing it.

28

29 Joe Beach,

30 Sure. I have heard that as well. I talked to the Howard County Budget Director about
31 that as well and he indicated there was no specific information on revenue forecasts,
32 economic forecasts. The discussion that they had with their own superintendent was
33 general conditions, what they expected to be sort of the fiscal pressures and difficulties
34 both in FY09, in FY10, and I believe guidance to prepare their budgets accordingly. As
35 I've mentioned, we already met a couple of times with Dr. Weist, we are actually
36 arranging some other briefings with the union presidents, with, and with the other
37 agencies as well to brief them on these materials as well. One point I'd like to make
38 though, is there is a difference between sort of our work products and before we reach a
39 conclusion because we can have different estimates in time, but we need to analyze
40 those and really sort of validate that as well before we share that. There is also the time
41 the County Executive needs to make his own recommendations and his own decision
42 process. What I am saying is don't expect before March 15th, we are going to share
43 what the budget recommendations are, because either they are not formed at that time
44 or, you know, he, it is still in process.



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1
2 Councilmember Elrich,
3 I am not concerned about the budget recommendation side. My only concern is if you
4 get state data on say, incomes, that whenever we get that data, that that be shared,
5 income taxes, that that be shared with everybody so that they know what that number is
6 looking like coming from the state. I mean, it seems to me that it doesn't need to be
7 interpreted or we leave ourselves open to the question of whether we are providing
8 information that we have interpreted and people will say interpreted conveniently or not
9 conveniently. And I think people really want to be sure that they're looking at the same
10 numbers that you're looking at when it comes in. So, I would just encourage you to, as
11 you get data to share data. I don't expect you to share the budget plan as you are
12 constructing it. I would hope that you, in talking with the agencies, that they're
13 constructing budgets based on the kind of discussions you are having, but I at least
14 want the data issue resolved in a way that no one feels that it is either being withheld
15 unnecessarily or being massaged before it is being made available.

16
17 Jennifer Barrett,
18 We do get data throughout the year. I guess sharing it, the problem with doing it, or the
19 risk you take is if somebody draws conclusions from it. We'd do budget estimates, full
20 estimates that we're going to provide to the Council in the December, January
21 timeframe for your February decisions and then we do an update as part of the budget
22 process. And so, and there is no problem with having the right data. I mean, Mr. Platt
23 was in Annapolis with a group of people across the state that work with the revenue
24 estimators in the Comptroller's Office, so there is no problem in terms of having the right
25 data. That is really an inaccurate assumption or concern that you can just set aside. But
26 that is a risk you take is if we start sharing a distribution, everybody goes oh look, it's
27 up, and then starts making plans, that is the reason that we developed a process where
28 we do revenue estimates twice a year. We're giving you some preliminary partial results
29 now, because it shows a trend, but it is not data that you should be, that we would build
30 a budget on, not until we have a lot more information.

31
32 Council President Knapp,
33 Councilmember Trachtenberg.

34
35 Councilmember Trachtenberg,
36 Thank you, President Knapp. Actually, a response to what we are discussing here right
37 now and the comments shared by my colleagues, Councilmember Berliner and Elrich.
38 You know, I certainly, as the Chair of the Management and Fiscal Policy Committee
39 here at the Council have had a lot of interaction with people in the community about the
40 legitimacy of the numbers that we're using and I get e-mails and phone calls about this
41 all the time and I can remember last year during what was a difficult budget cycle, even
42 then, having some very public debates about whether or not those numbers were
43 accurate. I guess my perspective on this is that what we do is a work in progress and
44 pieces sort of fall into place at the beginning of the year as we look at the budget



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1 preparations. So I think it is important to take to heart what Jennifer has shared to us
2 this morning, which is that we have to make sure that the numbers are put into the right
3 context. I can remember last year struggling at a public forum to try to explain some
4 numbers that were given to me that were really being interpreted very differently. I kept
5 trying to find the plain English response to the questions that were being posed to me. I
6 think I did a pretty good job of trying to break it down into something that was
7 understandable. But I would really suggest to everyone listening this morning that I have
8 the highest confidence and regard in what we are given on a regular basis, and that is
9 the response that I have, not because I am toting the corporate line here, but because I
10 have had the experience at working with an excellent team and I have seen firsthand
11 when we go to New York City for our bond rating trip that indeed we have a very high
12 batting average, that our numbers are about 95% to 98% accurate typically. That is
13 extremely, you know, an unusual circumstance because we have got an economist and
14 an entire fiscal team. Not everybody has that. So I would just suggest to my colleagues
15 that while I understand the frustration in this, and clearly we are not going to know the
16 real impact of some of what has gone on financially in this country over the last few
17 weeks. We are not going to know that for months to come. I have the confidence that
18 we are going to be using numbers that are reasonably real as we proceed with any
19 budget decisions that need to be made.

20

21 Council President Knapp,
22 Board President Navarro.

23

24 Nancy Navarro,
25 Well, I just, am I on?

26

27 Council President Knapp,
28 You're on.

29

30 Nancy Navarro,

31 I just want to take this opportunity to thank you, Mr. President Knapp, for bringing us
32 together. I think it is timely for me to make this comment, because this is precisely what
33 we are trying to do here. And I know that Mr. Berliner, Councilmember Berliner and
34 Councilmember Elrich alluded to folks that were questioning the accuracy of the
35 numbers, and then quickly you responded talking about the superintendent and the
36 briefings you have had, so it quickly became linked to MCPS. I feel compelled to
37 respond and say that, you know, we're here because we understand very clearly just
38 like we have understood in all the years that this County has been providing excellent
39 service, that we have to come together at different points in time to understand where
40 we are. Sharing the data is very important. I mean, I am not sure, you know, how I get
41 from thinking that if we don't share the data somehow people are going to run with it and
42 try to interpret it in a different way. I know that MCPS has an excellent team that has
43 worked throughout the years in putting together budgets that reflect what are the
44 priorities, the needs, and how do we consistently achieve the results that we achieve in



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1 our school system. So I just wanted to thank everybody for this opportunity, all the
2 Councilmembers, for having both Vice-President Branman and I here because we are
3 very aware of this situation and, of course, we are not going to know exactly where we
4 are. I think not even Mr. Alan Greenspan could accurately predict where we were going
5 to be. But we are here also as a measure of a symbolic commitment to work together to
6 make sure that Montgomery County continues to realize everything that we hope for in
7 very, very difficult times. And as you saw, we put together a plan, we're freezing
8 positions, we're putting in the stops, because we understand that that supplemental that
9 we're asking for, perhaps, we are not sure if it's going to come or not. So we're taking,
10 we're doing whatever we can to ensure that we continue to be partners. But I just
11 wanted to allude that because I know at the Board table, we've never had discussions
12 about questioning or second-guessing numbers. We are here to make sure that we can
13 work together, so just want to thank you.

14
15 Council President Knapp,
16 Okay. Thank you. Thank you for your comments. Mr. Berliner? Okay. I had just a couple
17 questions. First, how much did we end up saving from our mid-year savings plan last
18 year?

19
20 Joe Beach,
21 Total savings were about, expenditure savings, about 4.4 million in our tax supported
22 funds. We also had an assumption, in our tax supported, it was not, and non tax
23 supported we had assumptions about savings, and our central duplicating function that
24 would be, have a tax supported impact and in liquor control, add a transfer of about,
25 about \$3 million. So, total savings were about 17.4 million. We had a goal of 19.1. So,
26 we did fall short of that goal, but largely had realized that. However, I want to point out,
27 is that that was disclosed in both the Executive's operating budget submission and in
28 our third quarterly analysis. So when you make a budget to estimate comparison, there
29 is no net loss from that. We had already incorporated that into our assumptions when
30 we built the FY09 budget.

31
32 Council President Knapp,
33 Okay. Could you get, can we get a breakdown of, you just kind of talked about, we had
34 the additional liquor fund transfer and a couple other things, just to get that?

35
36 Joe Beach,
37 Sure. Yeah.

38
39 Council President Knapp,
40 Okay.

41
42 Joe Beach,
43 We can provide that.

44



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1 Council President Knapp,
2 Mr. Deschenaux talked about the fact that the numbers he gave us in one of his
3 presentations, actually the state's close out numbers, you indicated at the beginning of
4 your presentation that we are not at close out yet. So what takes us so long to actually
5 get to that point? Do we actually have a state that's actually, has told us, okay, they
6 present us with their close out numbers and presumably they're somewhat larger than
7 us, but maybe he misspoke, I don't know.

8
9 Jennifer Barrett,
10 And I'm sorry. I hope I can give this justice. We close the books typically in about
11 November when we have some preliminary actual figures and then we have an audit
12 during November that we have audited final numbers. We have a very complex fund
13 structure, if you remember, we don't have just one single property tax. We have multiple
14 property tax funds, fire, mass transit, all those revenue funds. We, and the general fund
15 is affected by all of them because there is interfund transfers both back and forth with
16 everything, if you look at the schedule, C schedules I think in the budget book, showing
17 some of the revenues and the transfers. It is just a complex system we have. And the
18 close out happens in November. We are not trying to hold anything back but that's how
19 our process works.

20
21 Council President Knapp,
22 And that is why I am asking the question because if people.

23
24 Jennifer Barrett,
25 There's transfers both ways so until they kind of work on all the funds and some of the --
26 , small, more straightforward ones, but the general fund is the last to close and until that
27 closes, we just don't have a final bottom line number and the general fund is what you
28 want to know about.

29
30 Council President Knapp,
31 All right. Do we, are we, we're looking at potentially at a savings plan not for FY09, but
32 for FY10 and that's an important point to get out there too and I thank Mr. Elrich for
33 making it. Do we have any hiring freeze in place at this point? Are we?

34
35 Joe Beach,
36 Yes, there is a hiring freeze for the County Government and I believe for MCPS.

37
38 Council President Knapp,
39 Well, I know MCPS is, that's why I was asking the question.

40
41 Joe Beach,
42 Oh yeah.

43
44 Council President Knapp,



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1 I hadn't heard us announce anything one way or the other.

2

3 Joe Beach,

4 Yeah, we have retained our hiring freeze.

5

6 Council President Knapp,

7 We just, we continued on through?

8

9 Joe Beach,

10 Yes. That's correct.

11

12 Stephen Farber,

13 Yeah, I think technically it's a modified hiring freeze. Isn't it Joe? That is to say there are
14 exceptions that can be made, I guess the CAO and perhaps you also are involved in
15 that, is that correct?

16

17 Joe Beach,

18 That's correct. There is an exemption process that goes from OMB and down to the
19 CAO for essential positions that departments believe they need to recruit for.

20

21 Council President Knapp,

22 Ms. Barrett, you talked about a couple things. You had, on circle five you talked about
23 property taxes, and you had the economic indicators and talked about the rate of
24 inflation and that because of that, that fits into the charter limit calculation.

25

26 Jennifer Barrett,

27 The calculation.

28

29 Council President Knapp,

30 Right. What, given the numbers that we've got here, what order of magnitude does a
31 one and a half percent increase do relative to what you, what we would have available?
32 What does that change as far as the?

33

34 Jennifer Barrett,

35 You mean, if the inflation rate changed?

36

37 Council President Knapp,

38 If the inflation rate were, we had in the FY09 budget 3.3%, and it looks like we are at
39 5%.

40

41 David Platt,

42 [inaudible].

43

44 Council President Knapp,



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1 Go ahead.
2
3 David Platt,
4 [inaudible].
5
6 Jennifer Barrett,
7 Mr. Platt is reporting that the 1% would be \$23 million.
8
9 Council President Knapp,
10 Okay. So, 1% change is about 23 million.
11
12 David Platt,
13 [inaudible].
14
15 Council President Knapp,
16 Got it. so the 1.7 and, okay. Just wanted to get an understanding of the order of
17 magnitude. And what percent of our income tax assumption is from capital gains?
18
19 David Platt,
20 We don't have a break out of that.
21
22 Council President Knapp,
23 Okay. I just was curious because obviously, given the volatility that we have, that is
24 going to, come up.
25
26 David Platt,
27 The closest we come, good morning.
28
29 Council President Knapp,
30 Good morning.
31
32 David Platt,
33 The closest we come on the.
34
35 Council President Knapp,
36 Just tell everybody, tell everybody who you are real quick.
37
38 David Platt,
39 David Platt, Chief Economist.
40
41 Council President Knapp,
42 Thank you.
43
44 David Platt,



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1 Department of Finance. The closest we can come in getting an estimate on the effect of
2 the capital gains is on our November distribution.

3
4 Council President Knapp,
5 Right.

6
7 David Platt,
8 From the, those who file for an extension, so that is the best that we can get.

9
10 Council President Knapp,
11 Okay.

12
13 David Platt,
14 We have asked the state and the IRS for a breakdown on capital gains at our level and
15 that raises a number of concerns that they cannot break it out for us on an individual
16 County basis. And we have been pursuing that for quite a few years.

17
18 Council President Knapp,
19 Okay.

20
21 David Platt,
22 But to say that, where it falls in is the November distribution.

23
24 Council President Knapp,
25 And then as a percent of our overall income tax calculation it would vary significantly
26 from year to year, I would assume.

27
28 David Platt,
29 That is correct. In fact, our November distribution, since we are talking about
30 information, that is usually about 25% of our income tax for the year is the November
31 distribution, which includes the withholding and estimated payment, one-quarter of that
32 distribution, plus those who filed for an extension. That is about a quarter of the amount
33 of money.

34
35 Council President Knapp,
36 Okay. Good. Thank you. And then I guess just my final observation would be kind of
37 building on the comments that Mr. Elrich made. Our FY09 budget is fine. If we're looking
38 at saving money, we're looking at saving money going for FY10, is where we are right
39 now.

40
41 Joe Beach,
42 I mean, we had characterized this, we are not projecting a mid-year deficit. It is a lot of
43 stresses on FY09.

44



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1 Council President Knapp,
2 I don't disagree.

3
4 Joe Beach,
5 For the reasons we've discussed but.

6
7 Council President Knapp,
8 Right. No, I don't disagree. Obviously there's a lot of stresses on the entire fiscal
9 situation. I guess the only point I would raise is there has been some confusion out
10 there that the two day furlough that's been proposed has been in response to difficult
11 economic times. The reality is that the furlough that has been proposed by the
12 Executive has been in response to something that was already included in last year's
13 budget as a part of the \$8 million savings that we were looking at for the Executive
14 Branch which is similar to what we did with the Board of Education. It is not in response
15 to meeting the shortfall going into next year, because we are actually, I mean, economic
16 times notwithstanding, and the fact that we may have to look at a mid-year savings plan,
17 additional furloughs may be how we want to address that savings plan to build
18 resources going into FY10. But the current furlough plan is not a result of that response
19 to the economic difficulties that are out there in the world.

20
21 Joe Beach,
22 That is correct.

23
24 Council President Knapp,
25 Okay. I just wanted to clarify that for everybody. Further comments? I don't see any. I
26 thank you all very much for this. I know this is new and it's a little unusual but I
27 appreciate it given the economic difficulties that are out there. It's very helpful. I thank
28 the Board for joining us. And now we start lots and lots of additional conversations.
29 Okay. We are a little behind schedule but I thought that given where we are fiscally that
30 probably made sense to spend a little more time there. Give just a minute to move one
31 panel out and the next panel in. If we can I am going to try to see how much we can get
32 through here if we can. The only thing, we put the worksession on for the Ten-Year
33 Comprehensive Water Supply and Sewer Systems with the expectation that we could
34 actually bump that to the afternoon if necessary. And so that would be the only thing, --,
35 where we get with the Development District if we need to. I would expect that we would
36 try and get wrap up at 12:30 so people can have lunch, and then we would then
37 reconvene at 1:30. Okay? So we now turn to Legislative Session Day number 31.
38 Madam Clerk, is there a Legislative Journal to Approve?

39
40 Council Clerk,
41 You have the Journals of July 22nd and September 9th for Approval.

42
43 Council President Knapp,
44 Is there a motion?



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1
2 Councilmember Andrews,
3 So moved.

4
5 Councilmember Trachtenberg,
6 Moved.

7
8 Council President Knapp,
9 Moved by Council Vice-President Andrews, seconded by Councilmember Trachtenberg.
10 Is there a discussion on the Legislative Journals? Seeing none, all in support indicate by
11 raising your hand. That is unanimous among those present, thank you. We now, turn to
12 the Introduction of Bills. We have before us Expedited Bill 31-08, Grants - Council
13 review, sponsored by the Council Vice-President and cosponsored by all the rest of the
14 Council.

15
16 Councilmember Andrews,
17 Thank you. Well, we just had a perfect introduction I think to this Bill, this discussion
18 about what is facing us over the coming year and perhaps after that as well. What
19 Expedited Bill 31-08 would do is to ensure that before a grant, a major grant, a large
20 grant is applied for that either is above \$500,000 or requires more than \$250,000 of
21 County funds to match or requires two or more positions to be added to County
22 Government that the Council approve it. It is important that the Council, which is the
23 fiscal authority for the County, be able to ensure that its hands are not tied when we go
24 into a budget, whether it is for one year or whether we're looking longer than that. And a
25 couple grants have recently been applied for that would obligate the County to \$7.8
26 million in funding over the next five years if both approved. That is a substantial amount
27 of money and it is actually 80% almost of the total value of the cost of the programs.
28 And so we want to make sure that before that happens the Council agrees that that is a
29 commitment that we should make. Given the \$250 million budget gap that is projected
30 at this point for FY10, this, I think, is important to move along quickly and that is why it is
31 an Expedited Bill and I thank all my colleagues for cosponsoring it.

32
33 Councilmember Berliner
34 It looks like it is going to be a tough one.

35
36 Councilmember Andrews,
37 So far, so good. There will be a public hearing on October 14th at 1:30 and then we will
38 move from there, and look forward to hearing any public comment there may be but I
39 think it is important that we ensure that if the County is going to take on a substantial
40 obligation, especially multi-year one, that we have a Council agreement beforehand.

41
42 Council President Knapp,
43 I thank the Council Vice-President for the Bill and for his comments. I think this is an
44 important issue, it's important to remember that the Council is effectively the group that



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1 is responsible for signing the checks, if you will, and so we need to make sure that once
2 things exceed a certain threshold that we know what checks we're signing. I appreciate
3 you taking the lead on this very much. As the Council Vice-President indicated, public
4 hearing is scheduled for October 14th at 1:30 p.m. And a worksession will be scheduled
5 shortly thereafter although I am guessing since everyone is cosponsoring it, it should be
6 fairly straightforward. We now turn to a worksession on Bill 36-07, Development
7 Districts - Amendments. I wanted to start out with some comments and just thank the
8 indulgence of my colleagues. When I had scheduled this, I had done so expecting that
9 we could move to action and over the, beginning Friday afternoon, many, many people
10 in the community of Clarksburg contacted me and contacted the Council. I believe I had
11 70 e-mails from end of Friday evening to midday Sunday. There was a lot of confusion.
12 And so the Council has done this previously, seeing that the community that is most, or
13 could be most directly impacted right now, or the only community that could be most
14 directly impacted by Development District activities is Clarksburg, I thought it would be
15 important for us to walk through the elements of the Bill, clarify any points that are out
16 there for people, and to then have an opportunity for us to communicate that back to the
17 residents of Clarksburg and then bring this back for action on October 7th. And so I
18 appreciate the indulgence of my colleagues for that, in particular the Chair of the MFP
19 Committee who was a cosponsor of the Bill and in whose Committee this had been.
20 And so, that was my goal for today, is to really walk through what the Committee had
21 done, some of the pieces, I've got some questions, I think a couple other
22 Councilmembers do as well, and then we can begin to communicate that with the
23 community and see if there are outstanding issues that still need, that remain to be
24 addressed. With that I turn to the Chair of the MFP Committee and then to Mike Faden.

25
26 Councilmember Trachtenberg,
27 Okay. Thank you, President Knapp. We are going to let Mr. Faden walk us through
28 different policy components, specifically the applicability issue which I suspect is going
29 to generate some dialogue. But it's true, this Bill was introduced back last December
30 and there were four worksessions through the Committee in February, March 10th,
31 March 17th, and April, at which time what you have before you as a final Bill was voted
32 unanimously out of the Committee. In addition, there was a public hearing I believe back
33 last January. I am going to summarize what the Bill would clarify and revise and then I
34 would ask Mike to walk us through the different policy issues because, as I suggested,
35 that is probably where we are going to have some questions. And, you know, the Bill,
36 Bill 36-07 would clarify the definition of infrastructure improvement and it would do that
37 specifically to remove the ambiguity about whether a Development District can consist
38 of a single development. The Bill would expressly require that each petition to create a
39 Development District, that it would have to specify the proposed boundaries. Bill 36-07
40 would allow the Executive to require the applicants to pay a filing fee set by the
41 regulation, and that those fees would cover the cost that the Executive incurs in
42 reviewing a proposed Development District. It would also clarify the Bill, it would clarify
43 that the Executive can recommend that the District finance infrastructure items not listed
44 by the Planning Board in its provisional adequate public facilities approval. It would



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1 further specify how notice of the public hearing on the second Council resolution must
2 be given. The Bill would expressly allow the Council to amend a second resolution after
3 that notice and hearing as required to originally adopt the resolution. And importantly,
4 the Bill would clarify that fully developed property does not include property developed
5 by the applicant for a Development District or its successes and interest. The Bill would
6 also repeal the credit of Development District taxes against the impact tax, again
7 another item I suspect for conversation. Lastly the Bill would strengthen at the closure,
8 the disclosure required for buyers and potential buyers of properties in a Development
9 District or potential Development District. With that summary provided I ask Mike to walk
10 us through the different Committee amendments and, again, the various policy
11 implications.

12

13 Council President Knapp,

14 Before we do that I just have one comment and I think Mr. Leventhal had a comment
15 before we jumped in. I just wanted to note that, and I thank the Chair for the overview,
16 that the genesis of Development District Law really was found in this big report that we
17 did at the end of kind of the Clarksburg debacle a few years ago when we had the
18 implementation of Development District Act and analysis of issues raised by the
19 Clarksburg Town Center Advisory Committee which was co-authored by then Council
20 OLO staff, no Council staff Kathleen Boucher and Sue Richards, Senior Legislative
21 Analyst at OLO. And from a broader perspective, there's some general things I think I
22 would like to try and understand a little better, is it's important to distinguish I think
23 between what is new policy, if any, in here versus what is clarified as existing policy and
24 then those items that are kind of in the gray area in which a case could be made in
25 either direction. Have the, have these changes been contemplated in the new era of
26 kind of redevelopment, and is it important to think about this as a financing tool that is
27 useful in situations more so than just green field because we don't have much of that
28 happening anymore. And then, specifically, since we only have two pending
29 Development Districts that are out, or three pending Development Districts that are out
30 there, and they're all in Clarksburg, what is the impact of whatever we do here on
31 Clarksburg? Because I think that is an important point to understand and how that fits
32 relative to new projects that we may do going forward, whether it is at White Flint or at,
33 you know, the redevelopment elements that we're looking at at the different master
34 plans we're going to explore. So those are the pieces I would like to try and understand
35 as you walk through, Mr. Faden, I think that would be helpful. Mr. Leventhal.

36

37 Councilmember Leventhal,

38 Well, Mr. President, you have a difficult set of responsibilities. I have been in the chair
39 where you sit. And it's, you extend great courtesy to all Councilmembers and you are
40 respectful of the prerogatives, particularly of Committee Chairmen. And Chairwoman
41 Trachtenberg, I know you have done a lot of work on this issue and I know that our
42 departed colleague Ms. Praisner took an interest in this issue. I really want to urge my
43 colleagues to proceed with great caution at this time. We have just gotten a briefing
44 about how things have changed. We are not in the same place as a County as we were



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1 when this Bill was introduced. Not every initiative need happen. Not every initiative need
2 happen right now. Not every initiative need happen when we are trying to pull ourselves
3 out of an economic hole. Regardless of what clarification we provide, as the Council
4 President has stated, there is only one part of the County where Development Districts
5 are seriously under review now and we have heard concerns about housing prices the
6 further away you get from the Beltway, and we know that there are people who are
7 trying to preserve equity in their homes, we know that there are people who are trying to
8 sell their homes, we know that there are people who may be on the brink of foreclosure.
9 Having a cloud hanging over the sales of homes in one particular part of the County
10 right now is perhaps not the wisest approach. I appreciate that the Council President
11 has tried to extend courtesy to other colleagues by scheduling this Bill for consideration.
12 I wish it were not before us today. I just don't think the timing is good. I think some
13 initiatives ought to be shelved given economic circumstances and the realities with
14 which we are dealing. So I want to be respectful to my colleagues, we are in dire times,
15 it is time for us to pull together as a body and work together. But I don't welcome this
16 initiative and I am very skeptical that it needs to happen today. Those are my views. So
17 I just want to state that at the beginning of the discussion. I'm not sure the Council
18 needs to be dealing with this right now.

19

20 Council President Knapp,
21 Councilmember Berliner.

22

23 Councilmember Berliner,

24 Let me offer a couple of other views with respect to this. One, I have great respect for
25 the Committee Chair who has invested a great deal of time with respect to this matter.
26 In the hopes of allowing the Council and this tool, this financial tool to be a viable one in
27 the future, my understanding of the Chair's intent with respect to this and of its practical
28 effect is that it is without prejudice to what we decide to do about the Clarksburg
29 debacle. That is, that we could very well decide. As I know my colleague feels strongly
30 about, and I know that the Council President has strong feelings about that, the
31 Clarksburg situation was so bad that we ought to just say, no that one is not going
32 forward. But it was in that context that the MFP Chair said, as well as the former Council
33 President, said we must clean this up so that it is available to us on an ongoing basis.
34 And that we need to reform it so that, we certainly are going to have situations I know in
35 White Flint where we are going to need a financial instrument that is going to allow for
36 there to be the infrastructure in the White Flint Sector Plan that we are all going to be
37 insisting upon if the plan is to go forward. My understanding of the intention with respect
38 to the Committee's recommendation of the legislation before us is to, as carefully as
39 possible, clean up some of the worst abuses, so that we can have this instrument
40 available to us. And it is for that reason that I felt that this was a positive step forward
41 without prejudice to what we ultimately decide to do with respect to the Clarksburg
42 debacle. I appreciate the Council President's desire to make sure these matters are in
43 fact delinked and to the extent to which there is overlap to understand the nature of that
44 overlap and that we can progress in a manner that is consistent with a Bill that has been



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1 around for some period of time and a great deal of work has gone into it. It is not as
2 though we've rushed this legislation. It has been before, has been waiting I believe for
3 over six months, if you will, about that at any rate. It seems as if the fundamental issues
4 are not really going to change between now and the next 12 months regardless of the
5 financial community's concerns.

6
7 Council President Knapp,
8 Councilmember Elrich.

9
10 Councilmember Elrich,

11 I have two levels of concerns about this. The first is, I think we need a Bill to deal with
12 how to go forward on other projects. There has been a lot of discussion on over at least
13 two areas about having a mechanism in place that allows some other form of funding of
14 infrastructure. So I actually do see the value of doing this. I don't have any objection to
15 doing that now. My assumption had been that this was prospective action for how we go
16 forward with new Development Districts. My concern is that the memo that comes with
17 this and the argument in the memo, particularly the presence overwhelmingly of two
18 parties who are involved in the area in Clarksburg, says that this is not about going
19 forward, this is, this worries me that this is an effort not to clarify how we do this better,
20 but to sanitize what was done in the past. I am not interested in sanitizing Clarksburg.
21 We're trying to figure out how to make something that was wrong right in a way that
22 gives people no redress to the problems that were created up there. And so I am very
23 worried that anything in here doesn't have, I am concerned that things in here need to
24 have a firewall between what goes forward and what happened in the past. Because I
25 don't want to do something and impose something on people that looks like we're just
26 cleaning up language, which really changes their ability to seek redress, or get the
27 Council frankly to deal with the issues that occurred in Clarksburg. I think we really,
28 really need to do that. I have some specific concerns about the Bill in here, in terms of
29 whether I think this is the best way to achieve what we want to achieve for future
30 projects. But I think that it is not inconsistent with the spirit of what is in here, or what is
31 the link to the past that has me really, really concerned about this. I hope that this
32 Council can at least make the decision to come up with good policy for the future but not
33 try to somehow rewrite the history.

34
35 Councilmember Berliner,

36 Just one final observation, and the Chair knows this better than I, while I was on the
37 Committee we had repeated discussions with respect to that very point. There is a
38 specific provision in the Bill that is intended, I believe Mr. Faden can confirm this, is
39 intended to achieve exactly that objective, as to whether it does so to everyone's
40 satisfaction I can't speak to. But I can tell you that there was a lot of conversation as to
41 whether or not this Bill would be used in a way to, quote, "sanitize the past". It was the
42 Committee's recommendation in the Bill before us that is explicit in being absolutely
43 neutral with respect to the past, not affirming or negating that which occurred previously.
44 That is the intent of the Bill that is before us. Again, as to whether or not it achieves that,



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1 Mr. Faden can enlighten us with respect to that, but that was certainly the Committee
2 Chair's desire. It was my desire while I was on the Committee and we fought very hard
3 to get that kind of language in so that we would not change the playing field for those
4 who believe that redress is necessary and wanted to make the kinds of arguments that
5 they are making with respect to the past, we did not want to disturb the playing field with
6 respect to those issues.

7

8 Councilmember Trachtenberg,

9 If I could interject at this point, I would, I very much appreciate the comments provided
10 by my colleagues, and in particular the comments provided by Councilmember Berliner.
11 He is very accurately describing, not only my intent, but for the most part, the dynamic
12 that occurred within the Committee when we had the various worksessions on this Bill. I
13 have always seen this Bill has a forward thinking vehicle. As someone who lives in the
14 White Flint, North Bethesda area, while I would agree that, you know, right now there is
15 going to be a natural interest and impulse to immediately go to the past in Clarksburg
16 and also the future around Clarksburg. For someone like myself who's quite aware of
17 some of the decisions that this body is going to need to make about the redevelopment
18 of White Flint, I have to admit that there was some of that selfish motivation in wanting
19 to go forward with this as well and I've never made a secret of it but I've always looked
20 again at the Bill as being a forward thinking piece of legislation.

21

22 Council President Knapp,
23 Mr. Praisner.

24

25 Councilmember Praisner,

26 I did not have the opportunity to sit and listen to all the testimony.

27

28 Council President Knapp,
29 Duchy, turn his microphone.

30

31 Councilmember Praisner,

32 I'm sorry. I didn't have the opportunity to sit here and listen to all the, to the hearings
33 and the issues, so I guess I am a little bit behind the eight-ball in that regard. However, I
34 do believe that looking at the Bill, and I believe it does, it is a neutral Bill that doesn't try
35 to rewrite history. And I think it is important that we move forward with it.

36

37 Council President Knapp,
38 Okay. Mr., with that, Mr. Faden.

39

40 Michael Faden,

41 If I could, let me try to briefly discuss the three questions that Council President posed
42 in a general way before going through the specific policy issues and Committee
43 amendments that are in the packet here. From our point of view, very little in this Bill
44 represents new policy. Almost all of it is a clarification, trying to do better essentially



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1 what the current Development District Law attempted to do. The best example of the
2 new policy is the strengthening of the disclosure requirement which was not as
3 extensive under the current law as the Committee provided in this Bill. We think the law,
4 as amended by this Bill, would work hopefully equally well in a redevelopment situation
5 as it would in green field development. There aren't a distinction made, there's no
6 distinction made on that. The definition of development includes, as it did since the law
7 was first enacted, includes redevelopment, although it hasn't been used in a
8 redevelopment context to date. Finally, nothing in the Bill itself is specific to Clarksburg.
9 As we get into it, particularly the applicability section which Mr. Berliner and others
10 referred to, we can discuss the details on that but from our point of view, this is a
11 general Bill, it can apply to future actions in Clarksburg, it will help sort out some of the
12 procedural issues there, but it doesn't affect anything we think that has happened and it
13 is not tied to Clarksburg or any other geographic location.

14
15 Councilmember Elrich,
16 I don't understand how it can be used in Clarksburg but not apply to anything that has
17 happened in Clarksburg.

18
19 Michael Faden,
20 What it says, the end of the Bill, the applicability section says, let me focus you on it and
21 quote it, it's circle 23, circle 25, essentially, starts at the bottom of circle 24, the
22 applicability and interpretation section which if it's the Council's preference, we can go
23 right to because that does appear to be the focus of a lot of discussion. It is four parts,
24 it's four subsections. The first subsection basically says that any change in the law,
25 chapter – of the Development District Law, made by this Bill applies to actions taken
26 after it, with respect to any Development District, whether the Development District was
27 created before or after this act takes effect. What that is intended to do is simply say
28 that where this Bill provides new procedures or clarifies the existing procedures or
29 increases the options available, that that could apply to future changes in an existing
30 Development District. The place where that would have the most logical application is
31 Clarksburg because that is the only unfinished Development District. The two previous
32 Development Districts in West Germantown are effectively finished. What's happening
33 is that the bonds are being paid off but there is no further action to be taken as far as we
34 are aware, the Clarksburg Town Center District, excuse me, has gone through two-
35 thirds of the process. The Council approved the second resolution about five years ago
36 to create the District. The District has never been implemented because the Executive
37 never asked for it until last January and thus the Council never approved the third
38 resolution to authorize the sale of bonds which is necessary for the District to actually
39 be up and running. That District is incomplete. There may or may not be, you may or
40 may not take future action on that District, simply, this Bill, once it goes into effect,
41 anything in here would apply to the future action you take. Subsection B, closely linked,
42 says anything in this Bill does not affect any Council resolution or other action already
43 taken with respect to a Development District. Nothing in here changes anything already
44 done with respect to Clarksburg or the other two Development Districts.



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1
2 Councilmember Elrich,
3 Has anything been done? I mean, we haven't taken the third step.
4
5 Michael Faden,
6 You haven't, that is correct.
7
8 Councilmember Elrich,
9 So, basically everything could be done because we haven't taken the third step.
10
11 Michael Faden,
12 Exactly. All options on, with respect.
13
14 Councilmember Elrich,
15 That is my problem Mike, that is not a firewall. That means anything could be done to
16 Clarksburg on the basis of this Bill because we haven't taken the third step yet.
17
18 Michael Faden,
19 That would have been true anyway. You have.
20
21 Councilmember Elrich,
22 Can I write this?
23
24 Michael Faden,
25 If this Bill didn't pass, you still can take, you still have essentially unlimited options with
26 respect to that Development District.
27
28 Councilmember Elrich,
29 I guess I'll go back to my original point. I thought that we were looking at a prospective
30 Bill, what to do with the next level of developments that came forward to treat them in a
31 more sensible way than we did in Clarksburg, not to provide the ability to use
32 interpretations and clarifications in this Bill in the past. If we wanted to deal with
33 Clarksburg, this Council ought to have a discussion about Clarksburg. But essentially,
34 you're saying this isn't about Clarksburg, but in fact everything we do here could be
35 about Clarksburg.
36
37 Michael Faden,
38 No.
39
40 Councilmember Elrich,
41 Never mind that.
42
43 Michael Faden,



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1 No, I am not saying that. If we can go to subsection C, I think that will help illuminate
2 that point. Subsection, just to reiterate, subsection B attempts to say that nothing in this
3 Bill effects an action already done. In other words, you've gone two-thirds of the way,
4 but not the whole way in Clarksburg Town Center. That resolution, those two
5 resolutions, the second one particularly is not affected by this. It stands as it is. It could
6 be amended. It could, you could terminate that District, you can fund that District, you
7 can do any of the things that you already could have done. The third, subsection C, this
8 goes directly to what you were talking about, and is what Mr. Berliner focused on earlier.
9 Subsection C, and Mr. Berliner and I have had some discussions about whether it as
10 clearly written as it ought to be. And I think there is probably room for improvement but I
11 can tell you what it was intended to do. This is the neutral provision. During the
12 Committee discussions, parties on both sides would have liked to have said either that
13 any change in here ratifies what went on before, or any change in here makes it clear
14 that what went on before was not done according to law. This subsection C tries to walk
15 down the middle and take neither of those positions. What it says that any amendment
16 to the law made by this Bill, and here's, starting on line 628, I'll quote, does not indicate
17 that the previous version of a provision amended by this Bill should be interpreted
18 differently from the same provision as amended by this Bill. In other words it's telling a
19 court.

20

21 Council President Knapp,
22 Yeah, that might need to be in other words.

23

24 Michael Faden,
25 All right.

26

27 Councilmember Elrich,
28 So, give me, give me.

29

30 Councilmember Trachtenberg,
31 Many times.

32

33 Councilmember Elrich,
34 So give me a practical, I mean, my practical application is, you, for example, on the
35 bright side, set out good notice provisions in this Bill, three Districts in Clarksburg would
36 fail the notice provisions as laid out, those are what's required in this Bill. Could I just
37 declare that you can't do a Development District in Clarksburg because they fail the
38 provisions of this Bill?

39

40 Michael Faden,
41 No, that, what, that provision we just quoted would say that you look at what notice was
42 actually given and compare it to the notice provision that was in the law before this and
43 see if it met that standard. In other words, and that one is very clear in fact, well,
44 subsection D we'll go on to, focuses particularly on notice, but in a more general way it



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1 is saying the standards back then were the standards and you interpret them, apply
2 them, and if somebody wants to raise a legal issue about whether the law was complied
3 with, you look at the law then, the law before this Bill.

4
5 Councilmember Elrich,
6 I sure wish there was a firewall here.

7
8 Council President Knapp,
9 Well, that maybe something we propose. Councilmember Leventhal, and then let's get
10 back to Mr. Faden to actually walk through some of the pieces. I would like to break as
11 close to 12:30 as we can.

12
13 Michael Faden,
14 Sure.

15
16 Council President Knapp,
17 So, we will probably go a little past that though so people have a chance to get back at
18 1:30.

19
20 Michael Faden,
21 Okay. Going.

22
23 Council President Knapp,
24 Mr. Leventhal. Hold on. Mr. Leventhal and then back to Mr. Faden.

25
26 Councilmember Leventhal,
27 Well, I just, I just want to be clear that I was happy to co-sponsor the Council President's
28 initiative that would terminate the Clarksburg Development District. That's not before us
29 today.

30
31 Council President Knapp,
32 It is not.

33
34 Councilmember Leventhal,
35 If we wanted to provide clarity to people in Clarksburg we would move that resolution. If
36 I were living in Clarksburg right now, despite the assurances that this is not about
37 Clarksburg, this is merely to clean up existing policies so that we can impose
38 Development Districts in the future, the clear message I would get is they're getting
39 ready to impose the Development District in Clarksburg and indeed, there are members
40 of the Council I think who seek to do that and unless his position has changed the
41 County Executive seeks to do that. Let's not be confused. This will apply to any
42 Development District. It does lay the groundwork for applying the Development District
43 tax in Clarksburg, if that is the judgment of this body. It's not my position. I have
44 cosponsored legislation to terminate that. You know, this neither precludes, this



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1 absolutely does not preclude the imposition of the Development District in Clarksburg. It
2 does clean up procedures that will facilitate doing that in Clarksburg. If I were living in
3 Clarksburg I would be getting a pretty clear message about the intent of the Council as
4 of today. So, if that is the signal that a majority of this Council wants to send I would just
5 urge my colleagues to recollect what I said before, times have changed. We are in a
6 different place. No matter what your view was before, I would just urge you to consider
7 the state of the housing market and the state of the economy. I think, I thought it was a
8 bad idea before, I think it is a really bad idea now.

9
10 Council President Knapp,
11 Mr. Faden.

12
13 Michael Faden,
14 Going back to page two of our cover memo, one of the major issues this Bill dealt with
15 was the issue of eligible infrastructure which was a two part issue, very contentious one.
16 Basically, the question was, the first question was whether development, well,
17 infrastructure that serves a single development or is the responsibility of a single
18 developer could be funded through a Development District. The conclusion of Council
19 staff in the report of a year ago was that yes, it could, the legislative history is fairly clear
20 on that, the language in the law was not as clear. The Committee recommendation and
21 the actual language I can point you to on circle ten of the Bill makes that clear, well, it
22 does two things. Subsection I goes to the single development, single developer issue,
23 and it says that the District can fund an infrastructure improvement which primarily
24 serves residents or occupants of one development or subdivision only if either there is a
25 finding of general public benefit, that is paragraph one, starting on line 237, or either the
26 Planning Board or the Executive recommends that the District announce that
27 improvement and the Council concludes that the public interest justifies that. This
28 highlights the issue but it doesn't preclude the Council from funding through a
29 Development District that sort of infrastructure.

30
31 Council President Knapp,
32 Okay, do that one more time in plain English.

33
34 Michael Faden,
35 Okay. If an infrastructure item, for example, a road and intersection, interchange,
36 anything, primarily serves residents or occupants of only one development or
37 subdivision, this is what has been called the single developer issue, as amended, the
38 law would say that the, a Development District can fund that infrastructure item if either
39 the Council makes one of two findings. Either, on finding number one, starting on line
40 237 on circle ten, the improvement also provides added transportation capacity,
41 enhanced public services, or other significant public benefits to other people, to other
42 developments or subdivisions. Or number two, either the Planning Board or the
43 Executive recommends that the District finance that improvement and the Council finds
44 that the public interest justifies the District financing it. So, it spotlights any item that



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1 primarily serves one development but does not preclude the Development District from
2 funding that item if either of these findings is made.

3
4 Councilmember Elrich,
5 So, does that mean, say a newly constructed neighborhood, could the internal streets of
6 that neighborhood be put in the Development District?

7
8 Michael Faden,
9 The legislative history on the original law is fairly clear that internal streets were not
10 intended to be funded by a Development District. I think this may broaden that if you
11 find that funding those would provide added transportation capacity for other people, for
12 other residents or occupants, then yes.

13
14 Councilmember Elrich,
15 So I'm building a shopping center, and I'm building an access road to my shopping
16 center that serves primarily the people in the adjacent neighborhood, but I declare that
17 other people will come to this shopping center from beyond the neighborhood,
18 therefore, this should be part of a Development District?

19
20 Michael Faden,
21 Or that the road allows a cut through to other areas. The answer is yes. That is a case
22 by case decision that the Executive recommends on, the Planning Board recommends
23 on, and you ultimately decide.

24
25 Councilmember Elrich,
26 I'll just make a general statement, I mean, this I find very worrisome, this provision,
27 because I think what you are going to find is, and I think about this as a government,
28 from the perspective of government versus private, developers may well offload all of
29 this infrastructure in the form of Development District taxes. Our residents in a place like
30 Clarksburg two or some other mythical place, may wonder why the heck they're being
31 asked to pay multiples of the County property tax for roads, for sidewalks, potentially for
32 street lighting, all these things that are normal, that come with normal developments and
33 exist in normal neighborhoods that nobody else in Montgomery County pays. And we
34 are going to be the bad guys because, instead of seeing it in the cost of their house and
35 paying for it in the cost of their mortgage, they're going to pay for all these things in
36 County taxes and we are going to have a very hard time explaining why you are paying
37 for every inch of infrastructure in your neighborhood and nobody else in the County is
38 doing that. And I think it's going to lead to a real political problem frankly in the long run.
39 I don't think this is a politically wise direction to go to. We're going to look like we're just
40 out there robbing the bank.

41
42 Council President Knapp,
43 Councilmember Berliner?

44



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1 Councilmember Berliner,
2 Am I correct Mr. Faden that we are not obligated under this language, in fact the
3 decision does come back to the Council, and the Council in every instance is free to
4 determine whether or not the infrastructure that has been proposed is proper for a
5 Development District? So our discretion is not in any way limited by this legislation. It
6 doesn't preclude that which you may believe ought to be precluded as a matter of
7 policy, but it does in no way commit us with respect to any outcome and it serves to
8 highlight the very issue that you are concerned about, such that if it is, it has to have
9 extraordinary justification and we may all feel like in that instance the justification is
10 insufficient.

11
12 Councilmember Elrich,
13 I don't see anything here that requires extraordinary justification. I don't think it would be
14 much of a stretch to say I want the roads and sidewalks included in a Development
15 District, then we would have the discretion to do that. I think it would be, sometimes it is
16 unwise to give people discretion. I can think of lots of times that we would not say, you
17 know, you have discretion to do what you want here. Not every choice that you would
18 make with discretion is a good one. I think this is a public policy matter, having the basic
19 infrastructure provided.

20
21 Councilmember Berliner,
22 I don't think you should project onto us your own lack of discipline. [laughter].

23
24 Councilmember Elrich,
25 Roger, you and I have had long talks.

26
27 Council President Knapp,
28 All right. Continue on.

29
30 Michael Faden,
31 The other aspect of the eligible infrastructure issue was resolved on the same page,
32 circle ten, subsection eight, starting on line 231, this is the question of whether required
33 infrastructure, that is infrastructure that the Planning Board requires the development,
34 and I emphasize development, not a developer, to provide as a condition of
35 development, whether that kind of infrastructure can be funded by a Development
36 District. In that respect, although there was very strenuous arguments from certain
37 parties, we think the legislative issue is very clear and the previous actions of the
38 Council is very clear, that Planning Board required infrastructure can and has been
39 funded by a Development District. Subsection H makes that clear. This is language that
40 I believe the Executive Branch provided, the Committee adopted, basically says any
41 infrastructure improvement financed by a Development District may include
42 infrastructure required by the Planning Board as a condition of plan approval.

43
44 Council President Knapp,



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1 Further questions on number one? Okay.

2

3 Michael Faden,

4 The second issue back on page three of our cover memo is the timing of property owner
5 consent. Mr. Brown, David Brown, who's here, who represented some Clarksburg
6 residents, argued very strongly that essentially the initial petition which was approved,
7 signed by 80% of the property, owners of 80% of the property, in fact it think it was
8 either close to or equaled 100%, that was submitted before the Development District
9 process at the Town Center started, which was insufficient that there had to be another
10 petition before the Council actually took the action. Council staff did not agree. This was
11 analyzed pretty exhaustively in the report of a year ago. We believe that there is only
12 one petition, a property owner petition required unless a Development District is
13 expanded from its original boundaries. This Bill makes it clear what was implied but not
14 specified in the current law which is that the initial petition request, initial petition has to
15 specify the proposed boundaries of the Development District. The Council is not
16 required to adopt those boundaries, it can either shrink or expand them, but what this
17 Bill says is that if the Council expands the Development District, it has to then get a
18 property owner petition from 80% of the owners, owners of 80% of the property in the
19 expanded area, not to redo the petition for the entire Development District.

20

21 Council President Knapp,

22 How does that impact the two proposed Development Districts in Clarksburg?

23

24 Michael Faden,

25 They would, unless their boundaries are changed, that petition was filed some years
26 ago for the two proposed Districts, the Council approved the initial resolution which is
27 basically the, we will look at this resolution. Hasn't approved the creation resolution.
28 They would not be required, under either the current law we believe or this Bill they
29 would not be required unless the Council decided to expand the boundaries of those
30 Districts to submit any new property owner petition.

31

32 Council President Knapp,

33 So, even though we had significant notice issues with those, the question as to whether
34 or not those new residents who, even during the public hearing it was raised, I think
35 legitimately.

36

37 Michael Faden,

38 Right.

39

40 Council President Knapp,

41 As to how they were notified. Those two Districts, if the Council chose, could still
42 proceed on the basis of those initial petitions.

43

44 Michael Faden,



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1 That is correct. Although you also certainly have the option if you think the notice
2 failures, if there were any, were so serious that is by itself a reason not to go ahead with
3 the District.

4
5 Council President Knapp,
6 Did the Committee discuss whether or not to go back and have a more significant
7 requirement for those Districts, because obviously, I mean, while there is no direct
8 linkage.

9
10 Michael Faden,
11 Right.

12
13 Council President Knapp,
14 There is a linkage whether we like it or not because you have kind of got those two in
15 play.

16
17 Michael Faden,
18 Those are examples of the problem which this, the issue that this focuses on, which is
19 what happens when there is a change of property owners or more particularly, when
20 there is a sell-off of lots and lots of houses built and new people, new property owners
21 come into the District. The Committee's approach, which was the staff recommendation
22 also and the Executive's recommendation, was to stick with the initial petition,
23 assuming, not assuming, because notice should have been given and in fact, I can say
24 this from the staff point of view, we believe notice was given even if it was not always
25 comprehended. There is a separate issue, a very tricky one with respect to those two
26 potential Development Districts as I think most Councilmembers know, which is that
27 most, if not all, of the properties sold in those Districts had covenants attached allowing
28 the builder to impose private infrastructure charges if no Development District is created
29 there. So that, while that is not an issue under this Bill, when and if you decide whether
30 to create a District in, either of those two Development Districts, you will need to
31 balance the possibility of somewhat larger, or potentially larger private infrastructure
32 charges against whatever the Development District would charge and the Executive's
33 recommendation on those two Districts points to that fact.

34
35 Council President Knapp,
36 So, on the next, because the second resolution for those two Districts has not yet been
37 passed.

38
39 Michael Faden,
40 Yes.

41
42 Council President Knapp,
43 The Council is still in the process of deliberating as to whether or not it wants to adopt
44 that second resolution, so the Council's next action could be to either proceed with



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1 those two proposed Districts for which it has received petitions or to just let them sit
2 there indefinitely.

3
4 Michael Faden,
5 Correct.

6
7 Council President Knapp,
8 Thereby taking no action.

9
10 Michael Faden,
11 That is correct. Council.

12
13 Council President Knapp,
14 The Development District is ever forwarded.

15
16 Michael Faden,
17 Correct. The Council is not obligated to create any Development District anywhere, the
18 complicating factor, as I mentioned, is the potential.

19
20 Council President Knapp,
21 Understood. I'm just saying but, no, to the point that Mr. Berliner and Mr. Elrich raised
22 earlier though, if this was to be prospective and to not necessarily open a door to keep
23 these other three Districts kind of play.

24
25 Michael Faden,
26 Right.

27
28 Council President Knapp,
29 Is there an action that the Council could take to say we are not going to, obviously I put
30 a resolution in for the one District that was created, but you still have these two that are
31 out there pending.

32
33 Michael Faden,
34 Right.

35
36 Council President Knapp,
37 Is there something, some action that the Council could take to address those two that
38 are just kind of in limbo?

39
40 Michael Faden,
41 You could pass a resolution saying we are not going to create these, or you could bring
42 up, or the same thing, I think you could bring up, someone could introduce and bring up
43 a resolution to create them and then the Council could reject them.

44



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1 Council President Knapp,
2 Councilmember Leventhal and the Chair and then Councilmember Elrich.

3
4 Councilmember Leventhal,
5 I am agnostic on the question of whether there ought to be a second petition. I do think,
6 you know, if I lived in Clarksburg and had moved in and there was a lack of clarity as to
7 whether or not these taxes would be imposed, I would be pretty grouchy about the idea
8 that when there was only one property owner, 80% of him said, sure let me tax the
9 people who buy my properties, you know, and that that was considered a petition. That
10 does not seem like a real clean process. It is pretty interesting how for a Bill that really
11 has nothing to do with Clarksburg, every single question here and every single
12 comment is all about Clarksburg. The issue of whether consent ought to be obtained
13 from the residents is germane whether or not we require specifically a second petition.
14 Here is where I think the issue of consent is critically important. The dialog that I've had
15 with my constituents in Clarksburg, I think there is an acknowledgment that they may
16 have to wait a while for a new library. I think there needs to be an understanding, if you
17 expect Skylark Road to be modernized very rapidly, if you expect some of these roads
18 to be built very rapidly, if you expect a library to come on line quicker than it ordinarily
19 would, then there is costs and we're going to allocate these costs to you. If you don't
20 want the costs allocated to you, then let's have a real understanding of what is the
21 timeframe by which we're going to bring the infrastructure on line, particularly with
22 respect to the library which is the major thing that needs to be paid for here, that's the
23 big chunk of what has to occur. If the community is willing to wait in return for not having
24 the Development District imposed, or if the community is in a hurry, which I don't sense
25 that it is, but that's a conversation that we, as decision makers, ought to have with our
26 constituents regardless of whether there is a formal mechanism for a petition. I would
27 like to get a sense from my constituents in Clarksburg about what is, what is their
28 timeframe, and what is their hurry for bringing some of these specific infrastructure
29 items on line and if the County Executive is going to propose a Development District
30 there, I would hope the County Executive would be very candid about if we get these
31 revenues, this is the timeframe by which we're going to bring the infrastructure,
32 particularly the library, on line, and then we better hold to that because if, you know, the
33 County's track record of bringing on some of these big capital projects is not always
34 great. And the worst-case scenario, I don't know where a majority of my colleagues are
35 at on this, I don't know what the sense of the body is. I know, if you had taken a vote a
36 year ago those Development Districts would have been imposed in Clarksburg, that was
37 where a majority of my colleagues were a year ago. More time has elapsed, more
38 uncertainty has been sparked, three of us have said we ought to impose the
39 Development District in one of the potential Development Districts, that's only three. So,
40 I don't know where the sense of the Council is on this, but I would hope that we have a
41 real conversation about, here is what you are going to pay, here is what you're going to
42 get, this is the timeframe by which you are going to get it, if you didn't pay, this would
43 mean these delays and in these major infrastructure items. That is fair. That would be
44 fair to people. And wouldn't it be nice to be fair to folks in that part of the County for a



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1 change. Let me go back to the last issue. I'm sorry I didn't jump in on this before. I want
2 to read Mr. Faden's memo. The first paragraph on page three, that the assertion that
3 there is a distinction between who pays between the developer and the home buyers,
4 this is the issue of whether or not the Development District Act should be credited
5 against the, whether if the Planning Board has required something of the developer, that
6 the developer then ought to do what some people said is double billing. They have to do
7 it anyway and then they're making the homeowners pay for it and Mike Faden says,
8 yeah, it is perfectly fine to make the home owners pay for it through a Development
9 District tax because the distinction between the developer paying for it and the home
10 buyers paying for it is erroneous anyway, because subject to market limits, that's an
11 important proviso, a developer will always try to pass those costs on to buyers. A
12 developer will always try to pass those costs on to buyers. I don't know what is going to
13 happen with this Bill. I don't know whether my colleagues are going to vote for it or not,
14 but let's remember that phrase later. Because the very same thing can be said about
15 impact taxes. Let me assure you. And that was the debate we had around the growth
16 policy. There is no free money. Costs are passed through, taxes are passed through,
17 somebody pays. Most of these developments are highly leveraged, they're built with
18 borrowed money. So there is not some Uncle Scrooge McDuck sitting on a gigantic pile
19 of gold coins somewhere building homes in Montgomery County where we just snatch
20 those gold coins away, no one has to pay, or the man behind the tree has to pay. The
21 costs are passed through. That is going to be true of developer obligations from the
22 Planning Board. That's going to be true of Development District taxes which are explicit.
23 And it's going to be true of impact taxes. They are passed through to homebuyers.

24
25 Council President Knapp,
26 MFP Chair Trachtenberg, then Mr. Elrich, then Mr. Berliner, and then we're going to
27 break for lunch.

28
29 Councilmember Trachtenberg,
30 Actually, I just wanted to insert a comment. I thought that Mr. Faden was correct in the
31 description of the Committee conversations, again, the many conversations that we had
32 on the timing issue. I think really, after a number of conversations, it was very clear that
33 we thought a resolution independent of this Bill was the way that that could be
34 addressed.

35
36 Council President Knapp,
37 Mr. Elrich.

38
39 Councilmember Elrich,
40 On this last point we were discussing about timing and somewhat related I think to fully
41 developed property, because those two things do play together, I do disagree with my
42 good friend Mr. Brown about having a vote after the fact because I think nobody in their
43 right minds would create a Development District, particularly if the roads or anything had
44 been built and you are sitting there, why are you going to vote then to add on several



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1 thousand dollars a year to your tax bill when everything you are going to benefit by is
2 sitting out in front of you. I don't think that is a process going to produce anything that's
3 usable for the County. But I think the timing issue is critical in another way. What I have
4 a problem with is creating the Development District, stretching out the implementation of
5 the Development District until the lots are sold and the houses are sold and then the
6 imposition of the taxes on people at that point. If I was going to deal with the timing
7 issue, I think there ought to be time certain when you have to apply for a Development
8 District, the Development District has to be granted, and the developer has to start
9 paying taxes on every single lot and parcel that's created in the Development District
10 before anything is sold. And then, when it's sold, the tax bill goes with it and a person
11 can go up to Clarksburg and they can say here is my tax bill, here's the County tax,
12 here's the Development District tax, do I want to buy a house in Clarksville or do I want
13 to buy a house someplace else? But they ought to be required, and that's not just them,
14 it requires the Council and the Executive, I think this Bill should require the completion
15 of the Development District process prior to the sale of any home and that the
16 imposition of taxes has to be on the property of the developer before the sale of any
17 home. Then there's no issue about notification, there is no transparency problems, we
18 are collecting money from the people who are benefiting from the rezoning that has
19 been done. To me that's a lot cleaner process. But to let somebody string this thing out
20 until they have sold the houses, I mean, I don't know if Mr. Faden wants to discuss a
21 meeting that occurred prior to the decision not to bring the Development Districts
22 forward that I have been told about, I mean, this is very political when you decide you're
23 going to bring these Development Districts forward. I think this process needs to be
24 complete before you sell a house. I don't see where any of us would object to having it
25 complete before you sell a house. Then there is no mystery to it. Everybody knows what
26 they are paying for and they will either buy it or they won't buy it.

27

28 Council President Knapp,
29 Mr. Berliner. And you are between us and lunch.

30

31 Councilmember Berliner,
32 Then I will be very quick. I am hungry. I just wanted to add to the fairness issues that
33 Councilmember Leventhal raised, a point that Mr. Faden made, which is to make sure
34 that we appreciate, and Mr. Faden maybe you can give us some estimates with respect
35 to it, what the private infrastructure charges could be in the order of magnitude with
36 respect to this, such that if we decide not to go forward with the subsequent
37 Development Districts, which we may decide not to do. As Councilmember Leventhal
38 said, there is no free lunch here, that these contracts provide for the recovery of these
39 facilities and private, may, and private infrastructure. So, I think we need to understand
40 whether we are actually helping these citizens or potentially harming them by not going
41 forward with the follow-up Clarksburg ones. And I would say with respect to my
42 colleagues' concerns about timing, that I know that the MFP Chair, and I believe this Bill
43 sought to address those concerns by imposing timelines on the Executive Branch to
44 ensure that this process does not drag out such that there is such a disconnect as



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1 occurred in Clarksburg. So that was one of the reforms that I believe is embedded in
2 this Bill to ensure we don't get there again and without prejudice to saying since it was
3 so messed up in Clarksburg we are not going to go forward with it.

4
5 Councilmember Trachtenberg,
6 And that needs to be done separate.

7
8 Council President Knapp,
9 Okay, at this point I would suggest we adjourn for lunch, we reconvene at 1:30. What I
10 propose is that we actually come back and do the Amendments to Ten-Year
11 Comprehensive Water Supply and Sewerage Systems Plan, then move into the
12 Timeline for the Property Use Study and I will consult with folks as to when we get back
13 to this worksession piece. But we've got folks waiting for those other two and I know the
14 Council is very concerned about those other two as well.

15
16 Councilmember Leventhal,
17 Quick question on timing, Mr. President, when would you estimate the Council be done?
18 There is another event this afternoon that a number of us may want to be attending.

19
20 Council President Knapp,
21 I am shooting for no later than 4:00. Is that, what.

22
23 Councilmember Leventhal,
24 That, I mean, our first responsibility is here. That may obviate our attendance at the
25 other event.

26
27 Council President Knapp,
28 Okay. Well, let's consult, let's consult afterwards, when we return. Okay. Thank you.

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1 Council President Knapp,
2 Good afternoon. Welcome back. We now resume our session today with a worksession
3 on Amendments to the Ten-Year Comprehensive Water Supply and Sewerage Systems
4 Plan: water and sewer category changes, Councilmember Floreen is ill and so
5 Councilmember Berliner of the Committee will be walking us through the various
6 elements. So I turn it over to Councilmember Berliner.

7
8 Councilmember Berliner,
9 Thank you, sir. Does everyone have their packet handy? It is a lovely 80, 91 page
10 packet that will be important because Keith's suggestion, and I think it's a good one, is
11 that we focus first and dispose of those in which all the relevant parties are in
12 agreement, and that would be, I believe, number three, if you look at the first page and
13 on your left-hand side under the number, we will be first talking about three, five, six,
14 seven, and eight. All, those are all items in which there's very little controversy with
15 respect, at least among the relevant players. So Keith if you'd like to walk us through
16 those, then we can dispose of those and then focus on those that require a little more
17 conversation.

18
19 Keith Levchenko,
20 Right, for each of those, just to clarify the, in those cases, the Executive, Park and
21 Planning staff, Planning Board, and Committee recommendations are all in concurrence
22 either for approval or denial. So those might be the quickest to go through first, and then
23 we can also, and then catch up with the other ones where there is some differences of
24 opinion between the agencies. The first one was item number three, Sandy Spring
25 Road, LLC. The write-up on that begins on page 7 of the packet. It's a 1.56 acre I1
26 zoned property on Sandy Spring Road just east of Route 29 not far from another
27 category change item we will be talking about in more detail perhaps, which has a little
28 more controversy associated with it. This one does not. They're requesting a, they're
29 within the water and sewer envelope and requesting service so that they can actually
30 reuse the property. There was some question initially, when this initially was through the
31 administrative delegation process about whether the future reuse of the property was
32 consistent with the zoning. But as noted in the packet, that future reuse will be dealt with
33 through future Planning Board reviews. But because they are within the water and
34 sewer envelope, all the parties agree that they should be approved for the category
35 changes.

36



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1 Council President Knapp,
2 So everyone agrees.

3
4 Keith Levchenko,

5 The next one, item number five, that's located at, the write-up begins on page nine of
6 the packet. This is a 0.9 acre RE1 zoned property located in the Glenn Hills area. The
7 Council has seen a number of these requests over the past several years. Right now,
8 consistent with the master plan and the water and sewer plan, water and sewer service
9 is severely restricted in this area, and restricted only in cases where there's a
10 documented public health problem. So the Council has been going through a number of
11 requests over the past several years and denying them. There is a, as called for in the
12 master plan, there is a survey of the area that is planned to be undertaken to determine
13 what is the current situation of septic in the area, whether there are environmental
14 issues associated with that and what solutions, whether septic improvements or some
15 sewer improvements in the area are warranted based on that. However, because of the
16 size of this study, we're not anticipating any results any time soon. It is just getting
17 underway. But until that study is completed, there are not assumed to be any, the
18 Council has not made any exceptions to that policy in terms of providing service except
19 for the restrictions I mentioned. The applicant did provide some information regarding
20 some cases where there were approvals. I've tried to, in the packet, identify the
21 differences I saw between those. In fact, at the Committee worksession, the applicant
22 also provided an additional case which I've also discussed in the packet for the Council.
23 But at this time, all of the review agencies are consistent in their recommendation to
24 deny the request. The next one is item number 6, the Kline property. This is an R200
25 zoned 5.6 acre property located near the town of Laytonville on Olney Laytonville
26 Road. Their property will abut a new main that is being, a new water main that is being
27 built to serve the town of Laytonville, and all the parties agree that this property should
28 be allowed to hookup to that through the category change process. The, when the
29 Council first approved the, extending water to the town of Laytonville, and we'll talk
30 about that in a separate item here, there were some concerns about what properties
31 would be eligible to be served and we'll get into that detail. This R200 zone property
32 doesn't fall within the concerns that were raised initially by the Council. So all the parties
33 concur that this property should be approved. That's item six, yeah.

34
35 Council President Knapp,
36 [inaudible comments].

37
38 Keith Levchenko,
39 It's an alignment for a main that will serve the town of Laytonville, but there are some.

40
41 Council President Knapp,
42 That's item six?

43
44 Keith Levchenko,



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1 Right. There are some properties outside the town that will abut. Actually, we'll get into
2 the broader issue in a second, but this is just one particular property that all of the
3 parties agreed should be recommended for approval now. Number seven is a
4 recommendation by the Executive to establish a public health problem area in the
5 Clarksburg Historic District. This item has been discussed previously by the
6 Transportation and Environment Committee in previous sessions with regard to the
7 costs of extending service. There's not an issue of whether the area should be served.
8 It's a matter of how it can be staged properly so that it can actually be feasible for the
9 property owners to afford it. So there are still those outstanding issues. But the public
10 health designation will provide a couple of benefits in this case. It will allow for expedited
11 service in cases where people are ready to go. And I think it also does focus the issue
12 in terms of some of the public health issues that are likely to be a problem there
13 because of the small lots, and at least provide some focus to it as we try to move
14 forward with some financing issues. So all of the parties agreed that the designation
15 should be approved.

16

17 Council President Knapp,

18 One comment. I appreciate and I appreciate the notation the staff has made as it relates
19 to looking at ways to address the cost issue for both hookup there and other places. I
20 was just at a meeting last evening with the Clarksburg Citizen's Association, or
21 Clarksburg Civic Association, and one of the issues that came back again was, if and
22 when we ever get to a rational discussion with WSSC about how we are going to fund
23 their needed infrastructure requirements, which we hope would happen sometime,
24 although with the economy as it is, I'm not sure we're going to get to the level that we
25 need to, that this be something that gets rolled into that discussion, not necessarily to
26 pay for all, through those additional charges should we pay through all of those
27 extensions, but potentially to look at that as a way to help defray some of those costs as
28 we're going to replace our aging infrastructure and look to try and bring up those other
29 places into compliance. Thank you.

30

31 Councilmember Berliner,

32 Number eight.

33

34 Keith Levchenko,

35 And the last consent item had to do more generally with the town of Laytonville's
36 extension of water. There are a number of properties non-RDT zoned properties outside
37 the town that the Executive is recommending be treated for future category changes
38 through a general map amendment when those properties are ready or when the
39 alignments built on the properties are ready to hook up. As I mentioned earlier, the
40 Council's primary concern when it first approved water to the town of Laytonville was
41 that properties that would otherwise not be eligible outside the town would not be
42 ultimately served by this, by the water extensions to the town. That really was focused
43 on the RDT zoned properties. None of the properties that are suggested in this proposal
44 by the Executive would fit that category, and all of the parties agreed that this is an



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1 appropriate way to pursue service for these properties in the future. One key issue is
2 that it is more efficient and more cost effective for the properties in advance of the
3 alignment to signal to WSSC that they would like to hook up so that the connections
4 could be done at the same time the alignment is built. It actually saves each property
5 owner a significant amount of money to do it that way. So this will enable that process to
6 happen as well.

7

8 Council President Knapp,
9 Again, one question, I apologize. Since they're all in my District.

10

11 Councilmember Berliner,
12 [inaudible response].

13

14 Council President Knapp,
15 Is there someone facilitating the process to make sure all of these properties are ready
16 to proceed forward together at the same time? I mean, I understand doing all of the
17 properties at one time as a general map amendment, that makes sense. But I'm just,
18 who then brings them all back together again to make sure that that happens and the
19 timeframe that you just indicated would make the most sense to actually get the best
20 cost for WSSC?

21

22 Alan Soukup,
23 Actually, Alan Soukup with Environmental Protection. Actually, because of the
24 complexity of the project and the construction schedules and things like this, WSSC
25 would like to have all of the property owners who want connections constructed along
26 with the new mains to file their applications for service by October 1st of this year. We
27 have been, we have notified the property owners, actually, it was an earlier deadline
28 and it got pushed back because of some right-of-way issues. But we had notified all of
29 the property owners along the right-of-way through WSSC that this was an issue, and
30 here's what they can do, and here's what it's going to cost. And we've gotten a
31 moderate response given the circumstances. I think it's not unexpected and we're still
32 getting a few calling in even today. So what we have been doing at DEP is we have
33 acknowledged that these properties qualify under the abutting mains policy for service
34 which is an authority that we have. So we're letting those folks go ahead and apply for
35 service, and we've, in fact, we've generally acknowledged at WSSC that all of the
36 people that are in this general amendment would qualify.

37

38 Council President Knapp,
39 Okay.

40

41 Alan Soukup,
42 So everyone who wants a service application has to get it in to WSSC by the end of the
43 month, and they'll be in the process and be sure that they have their connections
44 constructed. They have to pay for it.



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1
2 Council President Knapp,
3 Right.
4
5 Alan Soukup,
6 It'll be done. Those folks who wait will have to come along later.
7
8 Council President Knapp,
9 Do people know that the cost differential between doing?
10
11 Alan Soukup,
12 Yes, we explained that to them.
13
14 Council President Knapp,
15 Okay. So [inaudible].
16
17 Councilmember Berliner,
18 Some people may choose not to.
19
20 Council President Knapp,
21 Sure.
22
23 Councilmember Berliner,
24 Not to want to be served at this time, so they'd need..
25
26 Alan Soukup,
27 And some people are getting connections who don't want service right now but want to
28 pay the lower rate for it.
29
30 Council President Knapp,
31 Right.
32
33 Alan Soukup,
34 So they'll wait and then connect up when they're ready.
35
36 Council President Knapp,
37 How many properties did we contact, do you know?
38
39 Alan Soukup,
40 I believe it was approximately 60.
41
42 Council President Knapp,
43 Okay.
44



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1 Alan Soukup,
2 And that includes some out lots and things like that that don't have development on
3 them.

4
5 Council President Knapp,
6 How many responded?

7
8 Alan Soukup,
9 I think we have about 15 so far.

10
11 Council President Knapp,
12 Okay. Thank you.

13
14 Councilmember Berliner,
15 All right. I think that concludes our conversation about the items that were
16 noncontroversial. Now let's turn to number one in your packet. And Keith, why don't you
17 walk us through those issues? Let me first give Catherine an opportunity to introduce
18 herself. I apologize that I didn't have both you and Alan formally introduce yourselves at
19 the beginning. Why don't you do so now?

20
21 Catherine Nelson,
22 I'm Catherine Nelson on behalf of the Planning Board today.

23
24 Councilmember Berliner,
25 Thank you. Thank you for being with us. Keith, you want to walk us through the issues
26 related to our first item?

27
28 Keith Levchenko,
29 Okay. This concerns about a 35 acre RE2 zoned property located east of Ednor Road
30 east of Norwood Road in the Cloverly master plan area. The applicant is seeking to
31 build a place of worship on the property. I've noted in the packet the church that they've
32 identified as interested in the property. I put in some significant amount of detail in the
33 packet regarding how the Council has dealt with what we call these PIF requests in the
34 Cloverly master plan area. There's been a number of them. And in fact, in the packet,
35 there's a map that shows a number of requests and how they were dealt with nearby. I
36 think, suffice it to say that there's been a difference of opinion between the Council and
37 the Planning Board on how to deal with PIF requests in the Cloverly master plan area,
38 and in this specific area of the master plan. The Planning Board has recommended
39 denial on a number of cases. The Council has been willing to look at them on a case by
40 case basis. So that's where things have stood up until this one has come to us. In this
41 case, I think all of the parties agree that more information is needed with this request.
42 The Planning Board is still recommending denial, but in this case, the Executive had
43 recommended deferral and the Committee in this case went with denial, I think,
44 because they wanted to send a pretty strong message to the property owners seeking



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1 to develop PIF requests that they needed to have a significant amount of detail provided
2 to the Council. Now what we don't have in the 10-year water and sewer plan is specifics
3 regarding what that is. The Council has been dealing with these on a case by case
4 basis as mentioned before. And I think what we want to do when we review the plan
5 later this fall, more comprehensively, is look at how we can provide some more detail to
6 applicants as to what they need to provide. At a minimum we'd expect some site-
7 specific information as to what they intend to build on the site, what the environmental
8 impacts would be, some, the kind of information that would be preliminarily provided to
9 Park and Planning through some of its processes. We don't quite know how to define
10 that yet, but I think that's a chief concern of the Council is seeing these requests in a
11 somewhat speculative way. So, in this case, the Committee recommended denial,
12 which happened to be the same recommendation as the Planning Board but for
13 different reasons.

14

15 Councilmember Berliner,

16 Let me just observe as one member of the Committee that my reasons were probably
17 more aligned with Park and Planning's reasons.

18

19 Keith Levchenko,

20 Okay.

21

22 Councilmember Berliner,

23 But, each of us had our own reasons and felt that denial was appropriate and that they
24 can come back in a year. But, my own particular view was that this wasn't appropriate
25 for this particular site and I find it difficult to imagine how my view would change in a
26 year's time but it's certainly possible that that could happen. Councilmember Leventhal.

27

28 Councilmember Leventhal,

29 Well, since my friend Roger has felt the need to clarify his position, I'll go ahead and
30 clarify mine too, because I do, it is always with great reluctance that I say no to a house
31 of worship because I do think they play such an important role in our community, but in
32 the past, including in the Cloverly master plan area, we've known quite a bit and we've
33 had dialogue with the religious institution and we understood what purposes it was
34 going to serve. We understood what compromises it was willing to make. We
35 encouraged them to facilitate dialogue with the community. We did not require
36 impervious surface limits, but the churches themselves voluntarily offered them. None of
37 those were present in this case. Roger has indicated how he might feel a year from
38 now. I don't want to indicate how I might feel in future. I was willing to go along with an
39 absolute ban on water and sewer hookups for religious institutions and other private
40 institutional facilities in the RDT zone. That was a tough vote we made a couple of years
41 ago and I have not felt that that same principal would apply with respect to my vote in
42 other zones, even in rural zones RE2 or rural cluster or other zones. And I take the
43 needs of religious institutions very seriously. I believe that there is a great need for
44 space for these very important community-serving institutions. But we deserve to know,



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1 particularly if there's a conflict, which I concede there is in this case, with the master
2 plan. We deserve to know exactly what community serving function it's going to play
3 and what concessions the land owner's willing to make and what representations it's
4 willing to make to the community and we didn't have any of that in this case. So my vote
5 in this case was without prejudice to future applications. I, you know, I acknowledge that
6 the Cloverly master plan and the residents of Cloverly are a little frustrated at some, you
7 know, the profusion of churches that may have cropped up along the highway to
8 heaven, but I also think that, you know, we're not in a position to update master plans as
9 often as we would like. And the reality is circumstances do change. So I think, the other
10 point I think we need to make here is what we don't want to do, is we don't want to send
11 a signal that land speculation is in order, that, you know, just if it's a church you can
12 then significantly change the value and change the use of a rural zoned property. That's
13 not our intention at all. So, churches do need to find space, churches do need to provide
14 their services. And when we have all of the details about a proposal, I've been looking at
15 those with great interest and attention, but we didn't have that much information here.

16
17 Councilmember Berliner,
18 All right.

19
20 Council President Knapp,
21 Just one question.

22
23 Councilmember Berliner,
24 Yes sir.

25
26 Council President Knapp,
27 I just wanted to make sure I understood. So the reason that everyone voted to deny was
28 there was concern that this was just purchased with a lack of clarity and potentially to
29 get the sewer hookup and that value that could then, it could then be sold for something
30 else?

31
32 Keith Levchenko,
33 No. There are, we do have provisions in the water and sewer plan that limit the approval
34 to the particular use identified here. I think what is said here is that that use is not well
35 defined. Yes it's a church use but.

36
37 Council President Knapp,
38 So then why deny as opposed to defer? I guess that was the part I didn't understand?

39
40 Keith Levchenko,
41 Well, we have done both in the past.

42
43 Council President Knapp,
44 Right.



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1
2 Keith Levchenko,
3 I think in this case, the Committee, I think, was signaling that they wanted a strong
4 signal to the community that there had to be a significant amount of detail provided. As I
5 noted, we don't have a lot of guidance in the 10-year plan right now for that.

6
7 Council President Knapp,
8 Right.

9
10 Keith Levchenko,
11 But we are intending to work on that.

12
13 Councilmember Berliner,
14 And I believe that there was some Committee members that felt the distinction between
15 deferral and denial in this instance was fairly minor because it was going to take about
16 that long for them to come back with the information that was required regardless. And
17 so it was not a big distinction but some of us also felt that.

18
19 Councilmember Leventhal,
20 I didn't feel, I mean, I'm just one Committee member, I didn't feel that I had enough to
21 go on to say oh I'd love to consider this later. The information before me was insufficient
22 and I voted it down.

23
24 Council President Knapp,
25 Did we give some guidance as to when we hope to have some of these guidelines put
26 together by us so people at least know when to expect stuff from us?

27
28 Keith Levchenko,
29 Well, we have been told that the 10-year plan update from the Executive, his
30 recommendations regarding will be coming over this fall. That's when the Council will
31 have its chance to review that and make any changes it wants to make.

32
33 Council President Knapp,
34 Expect to make the additions.

35
36 Keith Levchenko,
37 Right.

38
39 Council President Knapp,
40 That would be the logical point that we would do that.

41
42 Keith Levchenko,
43 Right. That would all go to the state for final approval as well, although I don't think they
44 would necessarily delve into these kinds of issues.



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1
2 Council President Knapp,
3 No, I just would.

4
5 Councilmember Leventhal,
6 What would go to the state?

7
8 Keith Levchenko,
9 The 10-year plan ultimately has to be reviewed and approved by the state. However, in
10 a lot of these issues that are more locally defined, they are generally not going to
11 probably get too involved in some of the information that we want applicants to provide
12 to us.

13
14 Councilmember Leventhal,
15 Yeah, let me be clear. I don't want another PIF policy debate right now. I'm not seeking
16 that. I'm not seeking some sort of detailed instruction manual for how you can convert a
17 rural parcel into a non-rural use. That's not what I'm looking for. But I have had
18 sympathy for the needs of houses of worship in the past including in rural zones outside
19 the RDT and I might in the future, if the use was specified and if it was very clear that a
20 dialog had taken place with the community, and that concessions had been made by
21 the land owner. I don't want to necessarily write those things down. It's more, I mean,
22 we had a debate about PIF's in the RDT Zone. I'm not seeking in the 10-year plan or
23 anywhere else some sort of written guidelines for here's how you can get around a
24 master plan or here's how you can use a rural zone for a non-rural purpose. I'm not
25 looking for that. I think we have to take, you know, we're going to.

26
27 Council President Knapp,
28 That's.

29
30 Councilmember Leventhal,
31 In our wisdom as a County Council, we're going to continue to review these applications
32 and try and achieve the public interest.

33
34 Keith Levchenko,
35 I think we just want to determine what's the minimum specificity that applicants should
36 know in advance that they should provide.

37
38 Council President Knapp,
39 Okay.

40
41 Keith Levchenko,
42 So that we avoid having to have a back and forth with them up front at least.

43
44 Council President Knapp,



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1 That's all. In light of the conversations we've had before, I know that there's a need for
2 both in the communities and in the -- to great, tell us what game we're playing. And so I
3 just wanted to make sure if we're going to do that that we have that spelled out at some
4 point in the future, we're going to let them know when we're going to do it so they know
5 what to be looking for. I mean, it's just guidance as to what we're expecting in an
6 application, great, that's it. I just want to make sure people know when to kind of expect
7 to see something.

8

9 Councilmember Leventhal,

10 Okay. I mean, along those lines, if I may, along those lines, I think this is one more case
11 where we would benefit from having Executive staff and I'm going to call out his name,
12 Tim Warner, who's been named by the County Executive to be a liaison to religious
13 institutions who can, this is not an easy thing to interpret, it's not going to be a bright
14 line, but I do think that religious institutions are entitled to a friendly ear just like every
15 constituent is entitled to a friendly ear somewhere in County Government. And that if
16 Mr. Warner's listening or if anyone who works with him is listening, you know, we might,
17 he might delve into what has occurred here and with other precedents and to try and be
18 as fair and as candid as we reasonably can be with this particular category of
19 applicants. Because it's certainly, it's going to come up again.

20

21 Council President Knapp,

22 Sure.

23

24 Councilmember Leventhal,

25 But, having said that, I mean, there is some ambiguity because circumstances differ.
26 You know, one parcel in a master plan may be better suited than another parcel
27 elsewhere in a master plan. In this case, you know, Ednor Road is somewhat different
28 than Norwood Road where we approve some of these things. I don't want to completely
29 take away our discretion.

30

31 Council President Knapp,

32 Sure. Okay. Thank you.

33

34 Councilmember Berliner,

35 All right. That takes care of number one. Number two is an interesting case. Why don't
36 you walk us through that, Keith.

37

38 Keith Levchenko,

39 That's at the bottom of page 6. It's a 13-acre RDT zoned property located on Kings
40 Valley Road on the northwest side of Ridge Road in Damascus. The property does
41 currently abut a main along Kings Valley Road and the applicant is seeking to hook up
42 to that. The Planning Board had recommended a denial based on its interpretation of
43 the 1980 Agricultural Preservation master plan. However, we have had a water and
44 sewer plan policy in place for sometime allowing for property owners whose property



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1 predates the main in any zone to get a single hookup from an abutting main. The
2 Council has, in fact, approved those in the past. The Committee recommended approval
3 2-1 with Councilmember Leventhal opposing. I'm sure he can speak to that,
4 recommending approval or concurring with the County Executive on this one.

5
6 Councilmember Berliner,

7 All right. Number 4, if there are no questions, let's move to the last one, Burtonsville.

8
9 Keith Levchenko,

10 All right. This is a 9.5 acre RC zoned property located on Route 29 north of Burtonsville.
11 It's near where Route 29 was realigned. The applicant is seeking to build a senior
12 housing townhouse community, and in fact, there's a special exception that would be
13 required in order to do that. It's early in the special exception process. The Council in
14 the past, when it's had category changes that have come up that involve special
15 exceptions, has traditionally deferred them pending the outcome of the special
16 exception. In this case the Committee felt that the special exception itself was not far
17 enough along and felt that it should be denied. The Committee did note that if the
18 special exception process does conclude and is approved in some manner, the
19 applicant could come back and request service at that point. [multiple speakers].

20
21 Councilmember Praisner,

22 I was hoping my colleagues would go through the recommendations. That particular
23 area of Route 29 is a very rural area. I think it's dealing with three acres that have
24 homes on it. It borders – water shed and the – reservoir and the applicant is asking for
25 an extension of a sewer line up to that. I think that's a bad precedent to set. Granted,
26 while it is going before the Board of Appeals, I think us taking action at this time will not
27 affect the Board's decision. I would recommend that we accept the Committee
28 recommendation of denial.

29
30 Councilmember Berliner,

31 Thank you, sir. Your views were taken into account, obviously, by the Committee's
32 action, which did support denial of this one.

33
34 Keith Levchenko,

35 That was it. Those are all of them. Well, the schedule now is the next Council session,
36 which I believe is October 6th.

37
38 Council President Knapp,

39 Yeah.

40
41 Keith Levchenko,

42 That's right, we'll have a resolution and attachments drafted based on the action, or
43 discussion today so that you'll have it in front of you for final action.

44



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1 Councilmember Berliner,
2 That would be great, sir. Thank you. Thank you for walking us through that so well.
3 Thank you guys for being with us.
4
5 Council President Knapp,
6 Okay. We are now turning to the Timeline for Property Use Study, an Update. I think as
7 many people know a proposal was put forward by the Executive Branch nearly two
8 years ago, not quite, to put a significant land swap in place, moving various parts of the
9 County's activities at Shady Grove and the County's sites there, looking at the Training
10 Academy, looking at other parcels that existed throughout the County, and trying to
11 coordinate a large migration of various activities and a consolidation of a number of
12 activities. We had our last update, I believe, for the full Council, back during our budget
13 discussion. There has, I would note that there has been a fair amount of concern
14 expressed to many of us as it relates to parcels located near where the Executive
15 Branch has suggested locating other things, Web Tract, GE Tech Park property in
16 Gaithersburg, and so I know residents of those, adjacent to those properties have been
17 in contact with many, I know that the Executive Branch has had meetings with all of
18 those folks as well. So I'm assuming we'll hear about those. I just wanted to briefly kind
19 of walk through the type of e-mails that I know we're getting. Before I do that, I also want
20 to recognize that the Mayor of Gaithersburg has joined us as has the Assistant City
21 Manager Fred Felton. Mr. Katz, welcome. But just, this is kind of typical of the types of
22 messages that we're getting and the types of questions that we're asking. And actually I
23 don't think they're dissimilar from some of the concerns that Councilmembers have
24 raised. Says, Mr. Knapp, I plan to attend the September 23 County Council meeting
25 specifically to learn about the property use initiative. I've attended local meetings in the
26 Lakelands and Kent [inaudible] to hear County Executive's spokespersons say they
27 have a plan for a land swap. No rationale or budget justification, just a plan. For the last
28 five months I've been seeking planning data about this land swap, likely worth more
29 than \$200 million, to no avail. I ask the County Council to consider these questions
30 which do not compromise the County's ability to negotiate but do address legitimate
31 taxpayer concerns. Why is a property use initiative being considered with no
32 fundamental data on how and why this plan is best for taxpayers? How can the market
33 value of taxpayer owned properties be considered a secret? If this is a buyer's market
34 for real estate sales why is Montgomery County entering into what is truly a sole source
35 procurement? If the entire deal does not take place in one fiscal year can it really be
36 cost neutral? What if the land swap is not cost neutral next year? I respectfully ask you
37 as a County Councilmember to differentiate between privileged information for
38 negotiation and public information. The County Council and County Executive have
39 fiduciary obligation to clearly explain why this initiative is the best use of our tax dollars
40 and how this plan was derived, not just the what of the plan, which is the only part of the
41 plan currently outlined in the County website. Thank you for your consideration.
42 Constituent in Gaithersburg. So I just wanted to put those out there because I think
43 they're the types of questions that I know I'm being asked in lots of different
44 communities. So I think it would be worthwhile. There wasn't information provided to



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1 everyone preceding the discussion. I understand there was information that you brought
2 over with you, correct? Okay. I also must note that I like the updated marketing. We've
3 gone from our property use study to the smart growth initiative update. I just wanted to
4 note that. But with that, I will turn it over to, Linda, do you have any opening, Okay?

5
6 Diane Schwartz Jones,
7 Thank you.

8
9 Council President Knapp,
10 Introduce the team and away we go.

11
12 Diane Schwartz Jones,
13 I will do that. Thank you. Good afternoon, Council President Knapp and members of the
14 County Council. I am Diane Schwartz Jones, Assistant Chief Administrative Officer in
15 the Office of the County Executive. With me this afternoon are David Dise, the Director
16 of the Department of General Services, Jennifer Barrett, the Director of the Department
17 of Finance, I have Joe Beach, the Director of the Office of Management and Budget,
18 we've Chief Tracy with the Department of Police, we have Chief Bauer with the
19 Department of Fire and Rescue Services. I was going to acknowledge the presence of
20 Mayor Katz, and you beat me to that. We're here to update the County Council on the
21 County Executive's significant initiative to implement smart growth plans, create transit
22 oriented development, and provide for County facility needs. I'd like to begin by
23 clarifying what we call this initiative. This is a smart growth driven initiative and the
24 name by which we call this effort is now the Montgomery County Smart Growth
25 Initiative. We have the opportunity to invest in our infrastructure needs in a way that will
26 poise us to achieve high paying quality jobs, create opportunities for sufficient and
27 affordable housing placed near mass transit, redevelop and clean up old industrial sites,
28 make overdue investments in County facilities with lasting benefits, and reduce reliance
29 on leases for our space needs. We are at a critical point in time for the County both
30 economically and from a land development perspective. We are at a transition point.
31 The County of 30 to 40 years ago has moved from a single income bedroom
32 community, commuting into D.C. for jobs into dual income employment centers within
33 our own boundaries. We have greater population, greater needs for jobs, greater needs
34 for housing, and greater needs for services. We must plan for these needs so that
35 decisions today, even though difficult, don't become the problems of tomorrow. While
36 we struggle with the hardships of the real estate market, the economy, and needs for
37 important public facilities, we can take advantage of current conditions and use them to
38 the County's overall and long-term benefit. We can acquire property now at a time when
39 land values have flattened in order to meet important public needs such as
40 implementing the Shady Grove Sector Plan vision for the County Services Park and
41 creating a transit oriented biosciences education, employment, and residential hub so
42 we don't fall further behind as other jurisdictions focus on where tomorrow's jobs will be
43 found. We can move old outdated facilities to sites zoned for them in order to realize
44 multiple objectives. And a couple of years later when our facilities are completed and



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1 the economy's had a chance to turn around, we can dispose of our properties, realize
2 better values, and implement a better long-term vision for housing and jobs. We have
3 previously provided you with a plan that is overall quote, cost neutral. What does cost
4 neutral mean? Cost neutral means that the costs of new land and facilities equals land
5 values, plus programmed and anticipated to be programmed construction funds, plus
6 eliminated and avoided lease amounts, plus new net tax and fee revenues. Our update
7 this afternoon will focus on five distinct areas, project balance sheet, Executive timeline
8 summary, conceptual finance plan, upcoming budget requests, and overall site-specific
9 summaries. Copies of the project balance sheet, Executive timeline summary, and
10 conceptual finance plan, and the individual site updates are attached. We have made
11 enormous progress over the past several months since we last briefed you. We expect
12 to send over budget amendment requests in the next couple of weeks in four specific
13 areas, general planning, equipment and maintenance operations center, Public Safety
14 Training Academy, and a bond resolution for the Liquor Warehouse. In January, we will,
15 with next fiscal year requests, be asking for additional funds for land acquisitions. All of
16 this will be described in greater detail by our Director of OMB Joe Beach. As Mr. Leggett
17 indicated at the Gaithersburg Town Hall meeting last week, we will be assembling a
18 Smart Growth Initiative Advisory Group to help guide us to implement this broad
19 initiative. We are working on the composition of this group, which will include community
20 representation. We appreciate the opportunity to update you on the progress we have
21 made and to answer questions that you may have. With that, I'd like to specifically
22 address a few of the things that you noted in a representative type of comment from the
23 community. One of them has to be with the fact, you know, how we've been out there
24 discussing what we're planning to do. As everyone knows, we've gone out there very
25 early on in the process, normally when we would go out to the public, we'd be much
26 further along in terms of what our plans would be than what we have done with this one.
27 We did this in response to a need to react quickly because of pending projects. So, and
28 also, because of the need to be transparent, the desire to be transparent, and so we
29 have been out there early. We've met numerous times with all different types of
30 communities. Actually, what we have found is we have found that the information that
31 we're gleaning from these meetings has been very productive and we have factored it
32 into how we have moved pieces around and modified some of our planning decisions.
33 Just to illustrate some of these, we went out earlier on and we were talking about
34 possibility of having a warehouse behind the GE Building with the warehouse would
35 have part of the PSTA, it would have the MCPS Food Distribution Facility, an indoor
36 shooting range. We realize that there were a number of challenges to having outdoor
37 facilities out in Dickerson which is where we were talking about having the tracks and
38 the outdoor training aspects of the PSTA and putting the food warehouse right behind
39 the GE Building. So we modified our plans. We identified the Web site, while we had at
40 one-time thought even though it wasn't suitable for school buses, we had talked about
41 the possibility of Emoc. That wasn't fruitful but we did determine that if we kept the
42 PSTA together, that could be a very good place for the PSTA to go. We've been out
43 numerous times talking with that community. I've, we've been to two public meetings,
44 I've had probably four or even more meetings with the community leadership, we have



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1 looked, because of the feedback we got, we initially were talking about 29 acres, we
2 now are looking at 41 buildable acres so that we can pull ourselves back a little bit from
3 the community, moving things around so that some of the uses that might be most
4 bothersome to them would be pulled back. We met last night with them. We actually,
5 what we did is we organized a tour with live demonstrations at the Public Safety
6 Training Academy. We took them on a bus tour around the facility and at places that
7 would be representative of the equidistance from their own homes might be to the
8 facility out at Web. We showed them what they would see or hear, which was actually
9 nothing at most of the points so that they could get an understanding of how the facility
10 would operate. We had demos going. The burn building was going at that time. We had
11 police on the tracks going. We took them all around. We took them inside to see the
12 facilities then we took them in for just a briefing, a PowerPoint presentation on what the
13 current concept is. We got good feedback. As a result of that feedback, we still have
14 more work to do on the concept. We're going back to work on that. With respect to the
15 issue of sole source, someone indicating this was sole source, I think we all need to
16 remember that how this all began actually was a request for expressions of interest in
17 order to implement the Shady Grove Sector Plan Amendment, requests for expressions
18 of interest for the County Service Park. As a result of that, certain property was brought
19 to our attention. As we started looking at that project and realizing that property that was
20 suitable for other important things that we needed, we began, there were more pieces
21 that were coming into this. So I don't think it's correct to say that it's just simply a sole
22 source project. Not only that, I would point out that with respect to the KC6 and 7
23 property, that was part of a public process where it was even identified for the receipt of
24 the Emoc facility. So there's been lot of process, it's been over time and it's been in a
25 variety of ways. With respect to the, whether or not we would share what our estimated
26 values are, or expected prices are for the land that we own or the land that we're
27 seeking to acquire, this was, in particular with respect to the land we own, it is well
28 recognized in the state government article in the Public Information Act that when we
29 get an appraisal for property that we own and are seeking to dispose of or for property
30 that we're seeking to acquire, that actually is protected under the Public Information Act
31 until we actually acquire it. Now, what the assessments are, the, what the tax assessor
32 estimates the value of property to be, that's public information. What we have done in
33 order to provide information and get it out to the public in general is we have provided a
34 summary of the costs. We've put all of the costs together and so we're giving you the
35 gross costs and we'll be able to walk you through those. And if you wish to go into more
36 detail, we're happy to do that. We do have the detail. We'd be happy to go into closed
37 session like we do for every other property acquisition or disposition that the County
38 undertakes that's always discussed in closed session. With that, we have though, we do
39 want to get the numbers out there. I would like to turn this over to David Dise now.
40 Thank you.

41
42 Council President Knapp,
43 Thank you.
44



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1 David Dise,
2 Okay. Thank you very much, Diane. The second page of the handout is a spreadsheet
3 titled Smart Growth Initiative Project Balance Sheet. The purpose of this is to break
4 down the current sites as well as the existing sites we have and the proposed sites that
5 we intend to develop, and listed under column A, actually should be column B, best laid
6 plans and reviewers being what they are. Column B which is the next column titled
7 Income in Millions, is a combination, as Diane just said, of the value of current property
8 we own and the disposition of that, the values of leases that we will terminate as well as
9 leases that we will avoid or back fill by use, by combining current facilities into new
10 structures and new sites and thereby be able to move other offices into the spaces that
11 those offices will leave and avoid the likelihood of future leases and as well as
12 combining CIP-funded projects that will not be built but instead, for instance, the PSTA
13 which will now go into the new construction.

14
15 Council President Knapp,
16 As you walk us through, I just want to, could you give us a timeframe as to what you
17 think this, what was the baseline for the calculations? Is it five years, eight years? I
18 didn't see it here.

19
20 David Dise,
21 It's 20 years on the lease values and things of that sort, it's projected out 20 years,
22 which is typical for our lease history. And as far as the actual timeline, the schedule of
23 the projects, we'll go into that in the next page. The next column, which should be C, is
24 the expenditures. This involves both property acquisition as well as the costs of design,
25 investigations, and studies as well as construction for the total. Again, briefly going
26 down column A, we have identified the sites that we're looking at, GE Tech Park, which
27 is the proposed site for the Public Safety Headquarters, which will be Police, Fire,
28 Homeland Security, and other related operations. The Finnmark site which is the
29 intended site for the new Liquor Control Warehouse, and then the Web Tract, both
30 PSTA and Food Warehouse, those are separated, of course, because of their
31 differences in design, different projects and ones a school, and one's a County property
32 or operation I should say. KC6 and 7, which again, is the acquisition and design and
33 construction of those facilities which will be both transit fleet maintenance as well as
34 highway operations and maintenance. Seven Locks is the Radio Shop relocation. Radio
35 Shop is currently located on the east side of the County Service Park Shady Grove and
36 behind the school bus depot. That will obviously have to come off and we will, intending
37 to locate that at the current Seven Locks site for the maintenance facility. The Park and
38 Planning maintenance operation, and then beginning with line nine, this is the
39 development of the new facilities, the PSTA. We've broken out the County Service Park
40 East and West, both for disposition, because of the potential for phasing of those
41 operations as development occurs and the acquisition and construction of new facilities.
42 First District Police Station, the current police headquarters on Research Boulevard,
43 which, again, I'm sure most of you realize is a very overcrowded and aged facility as
44 well as then as you see calculations for lease terminations, the lease back filling, and



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1 avoidance, et cetera. So the simple math is, before I go into that, note the notes at the
2 bottom of that page which point out that operating budget impact is not calculated into
3 this. This is a capital, these are capital funds that are summarized. There is some
4 environmental cleanup that may occur. We don't know how much. We are, in fact,
5 involved in developing, hiring consultants now to do some environmental assessments
6 at the current County Service Park. These are, vehicle maintenance and transit
7 operation facilities have been in operation for a number of years and although we
8 absolutely have the utmost confidence that those are environmentally sound practices,
9 we can't attest to everything that's occurred over the years. We need to do some
10 environmental studies. We're not sure exactly what will be involved in that. And then
11 escalation of land value is included at an annual rate of 8%. Again, this is annualized
12 over a period of time, though current rates are low. We've also just come through a stint
13 of years where rates were excessively high. This is an industry standard. Based upon
14 that, we have income from the sale of property and termination of leases, et cetera, total
15 of \$514.9 million. Expenditures and the cost of development construction and
16 acquisition of properties at 484 with a net gain at the end of, estimated to be \$30.3
17 million with the understanding that we have some additional work that's anticipated,
18 environmental impacts and things of that sort. If there's any questions on that sheet, if
19 not, we can proceed to the next sheet.

20

21 Council President Knapp,
22 I'm sure there'll be some questions.

23

24 Diane Schwartz Jones,
25 Whoops, sorry.

26

27 Council President Knapp,
28 Go ahead.

29

30 Diane Schwartz Jones,
31 What we were going to do, if we walk you through this and then the timeline and then
32 we give you the finance plan, I think it will.

33

34 David Dise,
35 I think, yeah, for the whole picture. [multiple speakers].

36

37 Council President Knapp,
38 If you want to walk through it all first then we'll do questions.

39

40 David Dise,
41 That would be, I think that would be helpful because this is just one component of the
42 overall plan.

43

44 Council President Knapp,



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1 Okay.

2

3 David Dise,

4 All right. The next page is the timeline summary because there has been a lot of
5 questions about when we expect all of this to occur. We are in negotiations for the
6 acquisition of properties on all of the sites that we're looking at, the GE Tech Building,
7 the Finnmark property, KC6 and 7, Web Tract, and of course we already own the Gude
8 Landfill, Seven Locks maintenance site. Park and Planning, we have met with them on
9 a number of occasions. They are reviewing an inventory of sites that are available to
10 them and considering what their options are there, so we don't anticipate acquisition at
11 this time for that location. So those are all underway. They, we don't anticipate them
12 ending within the next year and that is not only the negotiations but also the actual
13 closing on the properties, which is why some of these dates are projected out into, for
14 instance, November of next year or early the year after. We expect to begin design very
15 soon. Obviously, we have identified January 15th of '09 which is when we expect to
16 come to Council with PDFs and request funding for those things. So we expect design
17 to begin immediately. Some existing contracts, others we'll solicit proposals for to
18 acquire A&E services, with then moving to construction, coming back to the Council
19 after that, as is the model design first then construction. And with occupancy, I want to
20 point out regarding occupancy that the end of construction is projected. Occupancy is
21 an educated estimate based upon how long we think it will take to move from the
22 existing facilities to those new facilities. Some of this can be expedited through, in fact,
23 all of this can be expedited through different procurement strategies as well as design
24 and construction contracts. This is, assuming conventional approaches, this is the
25 estimate schedule that we have now. With that, I'm going to turn over now to the
26 Director of Finance, Jennifer Barrett, to discuss the financing plan, the conceptual
27 financing plan.

28

29 Jennifer Barrett,

30 Good afternoon, everyone. The page on your packet with some words on it about
31 conceptual financing plan, just a general sequence of activities as Mr. Dise just laid out,
32 acquisition of property, design construction, or renovation will be disposing of the
33 vacated sites and then having private development with significant economic returns
34 occurring on those properties. That's the smart growth part of this initiative. In terms of
35 how we go about financing something like this, I like nothing better than the challenge of
36 coming up with how we finance huge initiative, than this. What we're looking at is using
37 some initial bridge financing. This is similar to what you would do if you are, you know,
38 building a new house and then selling an old one, where we would have some kind of
39 revolving line of credit that we would use to initially fund some expenditures. But
40 because of the significant returns and inflow of cash we will have from sales of property,
41 we don't want to lock in long-term financing for all of the expenditures because we're
42 going to have those disposition returns coming in. So after we're seeing how everything
43 works out with the expenditures and then the returns from the dispositions, we would
44 then lock in long-term financing for the net of those two. I'll illustrate that with some



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1 numbers on the spreadsheet attached. So, we're using the LOC as a bridge. The
2 disposition proceeds offset some of the acquisition construction costs. Some of these
3 costs were already planned, are programmed in the CIP or were planned to be
4 programmed in the CIP. They are numbers that we'd seen before. And then we have
5 another opportunity in that we have net returns moving into the future from lease
6 savings, where we're going to move out of leased facilities, back filling, and lease
7 avoidance, where we would have had to have leased additional space but we'll be able
8 to move into vacated space. And then there's a net fiscal impact, some net tax revenues
9 that will be resulting from the redevelopment of these significant sites. We're taking care
10 of the Liquor Warehouse, funding that separately, aware of the road bonds initiative with
11 liquor revenues, and so we would be funding this warehouse acquisition and renovation
12 out of that separate source of financing. If you turn to the next page with the
13 spreadsheet, in my presentation, the black numbers, I think you all have the color
14 versions, are expenditures and the red numbers are actually income coming in, okay?
15 The first line shows the acquisition and this presentation shows it over the year. So,
16 we're buying some properties currently shown in FY09 and '10. That's when the actual
17 money would be going out the door at settlement. We have planning design and
18 construction expenditures shown on row 5 running from '09 through '12 totaling \$320
19 million. We have land disposition occurring in FY11 and '12, 256 million. That's a
20 significant sum coming back into us. And then there are some offsets because some of
21 this money was either programmed or planned to be programmed in the CIP. The cost -
22 - between my number and other numbers is some of it is also in the Liquor Warehouse
23 project shown at the bottom of the page separately. What we would do is there's a line
24 14 labeled Net Additional Funds Required. You can see that has outflows of cash in the
25 first three years netting, but also inflows in FY12. That totals, the net of those numbers
26 is 105.634 million. What we would do is we would do short-term financing for those first
27 three years while we just have kind of cash going out. And I show the year by year costs
28 of that assuming the line of credit interest only on rows 20, 21, and 22. What I would do
29 is in FY12, is take out the net with long-term financing fixed rate bonds such as our
30 General Obligation Bonds. I'm assuming that that's going to be the 105 million, that net
31 difference between the costs and the revenues coming in and then I show the debt
32 service related to those bonds in FY12 through '14. When you add up those on kind
33 debt service costs on the line of credit and the bonds, you get your ongoing costs on
34 line 26 and then offsets are on lines 28, 29, and 30 with a significant savings from lease
35 terminations. These costs all go into the future but I'm using our usual six-year display.
36 Savings from back filling or lease avoidance, we'd have, if we clear some space out of
37 the Executive office building, we would be able to bring in other spaces or spaces that
38 we would have had to find space for. And then on line 30, the net tax revenues or fiscal
39 impact from the redevelopment showing on that line going out. So your positive impact
40 begins in FY12, again, the red numbers on this sheet are actually positive impacts
41 coming in or inflows so that that's from a financing standpoint over multiyear periods.
42 That's another way of looking at it as being cost neutral is that we actually can pay for
43 this from the revenues and benefits of the program. I want to note that this financing
44 plan's flexible. I don't have to issue all the GO in one year. I can spread out a line of



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1 credit and only draw on it as needed. So we would try to approach the financing in that
2 way. Obviously there is a lot. We have a long road ahead of us. But this is a conceptual
3 financing plan to show you how it would work.

4
5 Council President Knapp,
6 Okay.

7
8 Diane Schwartz Jones,
9 Before we go into the, before we go into the individual site specific update information,
10 did you want to ask questions about the numbers or did you want to hear from Joe
11 Beach on the budget approach?

12
13 Council President Knapp,
14 It's up to you. I mean, you want to, did you want to complete the presentation?

15
16 Diane Schwartz Jones,
17 Why don't we go ahead and do the budget.

18
19 Council President Knapp,
20 Go ahead. Continue on.

21
22 Joe Beach,
23 Good afternoon. We were going to bring forward the budget requests and PDFs to the
24 County Council this year in a couple of different phases. Within a week, hopefully if
25 we're able to work very efficiently, we'll be able to get to you four different PDFs. The
26 first one I think Ms. Jones had mentioned earlier was the facility planning smart growth
27 initiative which would provide planning funds for the projects that were listed in the
28 presentation including the First District Police Station, the Public Safety buildings,
29 Emoc, the PSTA, MCPS Food Service, and the other facilities as well. So that would
30 provide funds for planning. The Liquor Warehouse along with the authorizing financing
31 resolution with that as well which would provide design funds for that facility as well as
32 property acquisition funds that would, of course, be backed by liquor revenue bonds.
33 We will need to transmit amendments to the existing PSTA project. One of the ways we
34 want to fund the facility planning project would be through a transfer from the existing
35 PSTA project. There is available appropriation. We've already discussed this with Mr.
36 Orlin as well about the appropriate resolution to do that. But we would have to have
37 amendments to that existing PDF. And then finally, design funds for the Emoc facility as
38 well that would be for all three components, for the transit component, the fleet
39 component, and the highway maintenance. So that would provide funds for design
40 through the design development phase of this project. So, consistent with the approach
41 we've taken to other CIP projects, we would be doing planning and design through the
42 design development phase of the project. Once we have a solid estimate of the
43 construction costs, we'd be bringing those appropriation recommendations forward to
44 the Council at the appropriate time. Now, in January, later in this fiscal year, with the



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1 other CIP amendments, we are going to bring recommendations for appropriations for
2 property acquisition which would take place in FY10 for the other properties we do need
3 to acquire as part of this project and also design funds for several projects including the
4 GE Tech Park, including the First District Police Station, the Public Safety complex, the
5 bus depot, the Radio Shop, the Public Safety Training Academy, the Food Service
6 Facility, and the Park and Planning maintenance facility. So we do have a lot of work to
7 do in the next week and over the fall and winter, but we will be bringing those PDFs and
8 those requests forward to the Council as soon as possible.

9
10 Council President Knapp,
11 Okay. Now, turning to the specific sites, we'll walk you through what we've been doing
12 and what we've been looking at and where we stand on these various sites.

13
14 Diane Schwartz Jones,
15 The Public Safety Headquarters.

16
17 Councilmember Leventhal,
18 It would be helpful, could you just remind each of us the precise location of each of the
19 sites. We're talking about them, you know, you are referring to them with names that I
20 think I know where they are all, but if you could just specify precisely what parcel,
21 precisely the address.

22
23 Diane Schwartz Jones,
24 Well, I don't have the address but I can tell you where they are. So I think I can get you
25 close enough.

26
27 Councilmember Leventhal,
28 Please. Right, please.

29
30 Diane Schwartz Jones,
31 Okay, the Public Safety Headquarters building at the GE Tech Park which is right off of
32 Route 28, it's the old National Geographic site. That entire park includes an office
33 building and a warehouse. The warehouse is referred to as the Finnmark warehouse or
34 the, and then the building for whatever reason has sort of lapsed into the name of the
35 GE Tech Park or GE Tech Building.

36
37 Councilmember Leventhal,
38 So, that's actually what was the basis for my question. GE Tech Park and Finnmark are
39 adjacent to each other in the Lakelands, right in front of that lake?

40
41 Diane Schwartz Jones,
42 They are adjacent, they are adjacent to.

43
44 Councilmember Leventhal,



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1 Yeah.

2

3 Diane Schwartz Jones,
4 It all used to be part of the National Geographic site.

5

6 Councilmember Leventhal,
7 You would think it was all one parcel? That's what I was confused about.

8

9 Diane Schwartz Jones,
10 It was at one time.

11

12 Councilmember Leventhal,
13 Right, okay.

14

15 Diane Schwartz Jones,
16 And, it was, and it's been broken apart, and actually the whole thing is I believe the GE
17 Tech Park. But there's the building and the warehouse and whether we call it the
18 Finnmark warehouse or the Pea Pod warehouse.

19

20 Councilmember Leventhal,
21 Good.

22

23 Diane Schwartz Jones,
24 Is all part of the same site.

25

26 Councilmember Leventhal,
27 Thanks.

28

29 Diane Schwartz Jones,
30 With that lovely lake and the pretty pink trees that we like to show you the picture of.

31

32 Councilmember Leventhal,
33 Yeah.

34

35 Diane Schwartz Jones,
36 Where we want to put the Public Safety Memorial directly in front of it.

37

38 Council President Knapp,
39 And Diane, as you do that, could you also just give us a sense of the size of the
40 parcels?

41

42 Diane Schwartz Jones,
43 The, I did not, I'm working off of memory on this so you have to bear with me. The GE
44 Tech Park is approximately 100 acres, is that correct, David? It's approximately 100



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1 acres, and that's, I'm talking about the total park. Right now, talking about the Public
2 Safety Headquarters building, which would just be the office building piece of it at the
3 GE Tech Park, we've completed a traffic study which were determined that the filling of
4 that building will not add additional load onto the roads that is already reflected in the
5 background capacity because the building's been there literally for decades. It's a
6 beautiful building. And actually, if any of the Councilmembers would like a tour of it, we
7 would be happy to arrange that for you. The appraisal is complete. We actually got two
8 appraisals. We wanted to go back and have the highest and best use analysis of that
9 site done because there was some question, as you may know or may not know, that
10 under the annexation agreement that total site is approved for an additional 700,000
11 square feet of development. In fact, there's already a pending application by the
12 contractor purchaser to put approximately 200,000 square feet of flex warehouse/office
13 space in front of Lake Placid that, you know, is in dispute right now. There's some
14 disagreement between the property owner and the city. But we would not be looking to
15 put that on the site, the additional 700,000 square feet. We would be looking to treat the
16 front of the lake as a park , basically putting the Public Safety Memorial in front of it and
17 having it available for public use. Anyway, we went back but we had to resolve in our
18 own minds for our own satisfaction what the value was based on the highest and best
19 use. We've completed that analysis. We have been in discussions, are continuing in
20 discussions with the property owner or contract purchaser. We've had a building
21 assessment completed which looks at how we can, fist of all, what the condition is, what
22 do we need to do to move in. We have a very good handle on what we need to do to
23 move in. We've completed our environmental review. We've been working with, David
24 Dise's staff has been working with the Department of Police and with the Department of
25 Fire and Rescue Services as well as DOT to revise programs of requirements in order
26 to determine what they will, how they will go into this building. We had a market analysis
27 done because we wanted to understand what moving these two large departments,
28 creating our Public Safety Headquarters building would do for the area businesses and
29 that study concluded that they will generate approximately an additional \$5 million of
30 revenue for area businesses each year. We have been in ongoing discussions with the
31 city of Gaithersburg. I think that we have made very good progress. We have what I
32 would consider to be the framework for a good understanding. Actually, very, very good
33 progress of late. I hope that Mayor Katz agrees.

34
35 Sidney Katz,
36 I would agree.

37
38 Diane Schwartz Jones,
39 Thank you.

40
41 Sidney Katz,
42 [inaudible].

43
44 Unidentified



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1 Yes.

2

3 Diane Schwartz Jones,

4 Very good. Our staff was actually meeting again today as well. The negotiations with the
5 contract purchaser, there is a letter of intent that is circulated. We've had several
6 meetings over recent weeks, we actually have been meeting for a long time, but our
7 meetings have picked up because we have made some significant progress and we are
8 reviewing the letter of intent right now. General, just for the record, that we are not
9 proposing any modifications to the site itself other than the Public Safety Memorial and
10 what we need to do inside the building in order to make it code compliant so that we can
11 move these departments in. We have met with the community, what I would say either,
12 you know, towards the end of the winter early spring and I would actually, would like to
13 go back out to this community. I think it's time to go back out there, talk to them, show
14 them what the most current plans are and start discussing with them.

15

16 Council President Knapp,

17 Before you move to the next one, what are you, what's moving into this building?

18

19 Diane Schwartz Jones,

20 Moving into the Public Safety Headquarters building would be the Department of Police,
21 excuse me, the Montgomery County Police Department, get them out of Research
22 Boulevard, which I think we all know the condition of that building. The Department of
23 Fire Rescue Services would move in, in totality into that building. And we would look to
24 have the Department of Transportation, some portions of the Department of
25 Transportation move in as well as the First District Headquarters moving in on the first
26 floor and Homeland Security, thank you, and Homeland Security as well.

27

28 Council President Knapp,

29 Mr. Leventhal.

30

31 Councilmember Leventhal,

32 Yeah, if it's in order, Mr. President, this might be the point at which we break up the
33 presentation and entertain questions.

34

35 Diane Schwartz Jones,

36 We can do that.

37

38 Councilmember Leventhal,

39 Since, at least, you know, as far as I'm concerned, I mean, I, like all my colleagues, you
40 know, I get e-mailed with specific questions about specific parcels so, if I.

41

42 Council President Knapp,

43 Let me.

44



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1 Councilmember Leventhal,
2 As we go through parcel by parcel.
3
4 Council President Knapp,
5 Yeah. It probably makes sense to go through parcel by.
6
7 Diane Schwartz Jones,
8 We could. Do you want me to finish talking about the warehouse piece of this parcel
9 then since they're adjacent.
10
11 Council President Knapp,
12 Since they are both the same parcel.
13
14 Councilmember Leventhal,
15 Okay.
16
17 Council President Knapp,
18 Let's do that and.
19
20 Councilmember Leventhal,
21 Fine.
22
23 Diane Schwartz Jones,
24 Okay.
25
26 Council President Knapp,
27 Do those so we kind of help.
28
29 Diane Schwartz Jones,
30 And, if it would help, we could have Vanna here. Do you have that with you?
31
32 David Dise,
33 Yeah.
34
35 Councilmember Leventhal,
36 Yeah.
37
38 Diane Schwartz Jones,
39 Okay. You, oh, you have that, good. Okay. So we're looking at page four which shows
40 you GE Tech Building, it's called the Park, that's actually where the office building, it's
41 52 acres and then the warehouse site which is Finnmark is 36 acres. We talked about
42 the Public Safety Headquarters building. The Department of Liquor Control Warehouse,
43 the traffic, you know, obviously, the traffic study was done for both properties, that was
44 completed. That concluded that, of course again, the full capacity of that warehouse is



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1 reflected in the background traffic but our use would result in a 40% overall reduction of
2 trips from that site, over 50% reduction of truck trips from that site, and a total
3 elimination of truck trips on weekends and in the evenings compared to the current use.
4 Our appraisal for this site has been completed, as has the building assessment, as has
5 our environmental study, and the program of requirements. The market analysis that I
6 mentioned for the Public Safety Headquarters building did also include the Department
7 of Liquor Control, and the discussions with the city of Gaithersburg, again, we feel that
8 we're, what we've done is we're trying to take a holistic approach to viewing this site
9 with the city and that has been the basis of making some real progress in our
10 discussions. Negotiations with this property owner are, they're ongoing. They've been a
11 bit slower but they are ongoing. In terms of general here again, there are no
12 modifications that are proposed other than interior and perhaps providing a canopy over
13 one or two of the truck bays. The other thing I do want to mention about this site,
14 though, when we went out to this site, if I may, when we went out to this site, we
15 ourselves observed that we thought that, these are deciduous trees that are planted
16 between the homes and the warehouse. We felt that additional landscaping is
17 necessary just, no matter what the use is over there, that additional, the community
18 would benefit from some additional buffering. So we do plan to provide some additional
19 buffering. We also, there are more truck loading docks in that building than what we
20 actually need, so we would be looking to try to focus our use of loading docks away
21 from the back portion of that building. So that's where we are on that site. Did you want
22 to ask specific questions about this site now?

23

24 Council President Knapp,
25 [inaudible] questions.

26

27 Councilmember Leventhal,
28 Okay.

29

30 Council President Knapp,
31 Questions on that site.

32

33 Councilmember Leventhal,
34 Thanks. Thanks Mr. President. Let me just make a couple of quick comments generally.
35 My impression is that the Leggett administration has done a very thorough and
36 conscientious job here. And I think the bulk of what you all are trying to do, you seem to
37 be working well together and in the aggregate, I think this plan has much merit. I was
38 and my colleagues will recall, those who were on the last Council, I was pretty critical of
39 Park and Planning when it brought the Shady Grove Master Plan to us because it didn't
40 seem like good planning to me to put forward a plan that only dealt with one master plan
41 area and yet it was abundantly clear and everybody knew at the time that the proposal
42 to relocate these functions had significant impacts on other communities and yet, those
43 communities felt like they were being shut out, one community in particular which we'll
44 get to later. And so I had real concerns at that time and I was skeptical that we would be



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1 able to realize this vision because I thought that the obstacles to moving these services
2 were just too great. I think that you guys are doing a good job of moving this forward. I
3 think your statement, Diane is very apt and important that there was, and I remember it
4 vividly, this request for expressions of interest so the accusation that anything is being
5 done in a, you know, closed doorway or not an aboveboard way, it isn't so. It's been a
6 public process. And people were, land owners were invited to bid on these County
7 functions. That is a very important point that bears repeating, that the community
8 understands, and there's a paper trail that shows. There was a very public process by
9 which land owners were invited to bid. What would help me now because I do, as all of
10 my colleagues do as I say, read my e-mail, and I would like to be in a position
11 knowledgeable and thoroughly to respond to things that my constituents are asking me,
12 is I'd like to understand, you said, with respect to the Lakelands property, that it's time
13 for another community meeting, yes. I'd like to see how we can facilitate, you know, how
14 can we, well, let me say first of all, in my office I have a magnet, a refrigerator magnet, I
15 have it on my filing cabinet and it's a quote from Woodrow Wilson. And you've probably
16 all heard me quote it many times. And it says if you want to make enemies, try to
17 change something. So I fully understand. I mean this is my job and I understand that
18 anything different from the status quo will get a reaction, and a negative reaction from
19 many. I understand that. So on its face that's to be understood. People are saying you
20 are changing something, it's in my neighborhood, I don't like it, don't do it. Then to try to
21 delve deeper, okay, what are the concerns? The Mayor of Gaithersburg is here. What is
22 it that you're hearing? And you had a meeting you said several months ago, you're
23 going to have another one. How can we articulate specifically what are the issues that
24 the folks in the Lakelands and the vicinity are raising? Later we'll get to the Web Tract,
25 where, you know, a very organized community there, and how are you ameliorating
26 those, for example, when you say you are going to put the First District Police
27 Headquarters on the ground floor of this building, you know, in my experience, my
28 constituents tend to like a strong and visible police presence. So I'm trying to sort
29 through what is it about this plan, now I'm just talking about the Lakelands, that people
30 don't like? It's not for to you articulate that. I guess I would ask the Council President, or
31 the Council Vice-President whenever this comes up, to sort of help us facilitate so that
32 we, the Council, can have a real dialogue. People need to know that they've been
33 heard. People need to have their questions legitimately answered. We should not be in
34 a situation, which I feel we are a little bit, and this is not to be critical, I think you're doing
35 a lot of work on this and here's yet more work to do, but I feel like we're in a position
36 where we get a kind of one-sided presentation from the administration. Again, I don't
37 mean to be critical. I mean, you are making a presentation on the work that you've
38 done. Then later I get e-mails raising a variety of questions and I wonder how we could
39 facilitate bringing those together. What is it that the community is concerned about?
40 What is it that the community thought was going to occur on this site?

41
42 Diane Schwartz Jones,
43 I do know some of the things and I can tell you what they are.
44



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1 Councilmember Leventhal,
2 Yeah. Yeah.

3
4 Diane Schwartz Jones,
5 This is through going out and meeting with the community. And again, I think that is, the
6 Lakelands community is less, I think, I don't want to speak for them, but I think that their
7 concerns, because we spoke with them after plans had changed, maybe there's more
8 current information even in the Kentlands community, but we need to get out to both of
9 them. But some of their concerns are, they wanted to know about process, and so this
10 is one of the things that we are dealing with with the city of Gaithersburg. Some of the
11 things I think, do you mind if I say some of the things?

12
13 Sidney Katz,
14 No go ahead.

15
16 Diane Schwartz Jones,
17 Okay. Some of the things that we have talked about that I'm hoping would provide the
18 comfort, is we have told the city that we are perfectly willing to commit ourselves to do
19 with the city what we do with Park and Planning, which is that if we plan to change, it
20 would basically be an Article 28 mandatory referral process. We would model it exactly
21 on that so that if we plan to change the use or do external construction on that site, we
22 would submit ourselves to a mandatory referral type of review with the City of
23 Gaithersburg's Planning Commission and that would provide a hearing. So, that was
24 one of the things. There was concern about process. There was concern about the front
25 of the lake. And we have made very, very clear that we intend to preserve that. We
26 have heard concerns about traffic and we need to get out there and share the results of
27 our traffic study. I think people are also very afraid. I think there's a lot of misinformation
28 about what's intended to go on this site. There have been questions about a stand of
29 trees and what we have, our position on the stand of trees is we are certainly willing to
30 look at that. It's seven acres of trees, three acres of which or four acres of which is
31 buildable. But, you know, we need to look at that because that could be a very good
32 preserve area, offset area for trees. So we're looking at that particular point.

33
34 Council President Knapp,
35 We can control the trucks because the trucks and the traffic that comes into our site is
36 under our total control as opposed to where you have a tenant and you don't have the
37 control over who's coming and who's going. The other thing is that we are not motivated
38 by profit to try to gain the most profit we can out of the development density. Actually,
39 you know, for those who are afraid of change, which I think is a very apt observation, for
40 those who are most afraid of change, I do think that the best hope for this site which has
41 some really beautiful, beautiful features to it is County ownership because realistically
42 speaking, that site will not stay as it is. There has also been concerns about revenues
43 but we're looking at a total package. We're looking at this site holistically as I mentioned
44 earlier. So I think some of these things we can address.



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1
2 Councilmember Leventhal,
3 Mm-hmm.

4
5 Diane Schwartz Jones,
6 I don't know if.

7
8 Councilmember Leventhal,
9 Yeah. That's helpful. Again, if there were some way that we, before we get all of these
10 PDFs, before we have to raise our hands and vote for them, if there is some way that
11 the Council could structure a real dialogue so that, and I don't know, I'm not suggesting,
12 and I don't think anyone should come up to the microphone now. But, you know, we got
13 this flurry of e-mails saying don't hold a closed meeting. Okay. We're not holding a
14 closed meeting. We're holding an open meeting. We, I would like to know that the
15 communities have access. I'm glad you are holding community meetings. I encourage to
16 you hold a lot of them. I would hope that communities know that they also have access
17 to us before we raise our hands and vote. If there is a some way to have, to facilitate,
18 you know both sides of this, that communities could say, this is our concern, the
19 administration can say we've heard that concern, here's what we're willing to do about
20 it, the Council can be educated, maybe we may want to suggest modifications or at
21 least we have the full blown thing, because as good as this presentation is, and I don't
22 mean to be critical, it does seem a little one sided. The other thing, let me just briefly
23 say, you didn't need to change the name of this initiative to get my support for it. I hope
24 you didn't have to hire some expensive consultant.

25
26 Diane Schwartz Jones,
27 Actually, yeah.

28
29 Councilmember Leventhal,
30 To come up with that.

31
32 Diane Schwartz Jones,
33 The name of this initiative has gone through much discussion.

34
35 Councilmember Leventhal,
36 Well, I hope not too much, seriously.

37
38 Diane Schwartz Jones,
39 But much more than it deserved.

40
41 Councilmember Leventhal,
42 Yeah, I think so.

43
44 Diane Schwartz Jones,



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1 But this is, we were trying to capture, because this is not just about County property. It
2 loses, that point it gets lost in the dryness of.

3
4 Councilmember Leventhal,
5 Yeah, but if I sign up for a smart growth initiative taskforce, I might think I was being
6 consulted on a whole wider range of topics than.

7
8 Diane Schwartz Jones,
9 Understood.

10
11 Councilmember Leventhal,
12 Just, you know, where should the Emoc be located.

13
14 Diane Schwartz Jones,
15 Well, it's not just about that, though.

16
17 Councilmember Leventhal,
18 Well, okay.

19
20 Diane Schwartz Jones,
21 I mean, I think.

22
23 Councilmember Leventhal,
24 But seven or eight major facilities.

25
26 Diane Schwartz Jones,
27 We'll get to some of these other things, too.

28
29 Councilmember Leventhal,
30 All right.

31
32 Unidentified
33 [inaudible] go ahead.

34
35 Diane Schwartz Jones,
36 The one thing I failed to mention which I could mention when we get to the PSTA site if
37 you'd like, is that we have created a biosciences taskforce which is being led by David
38 Mott and that biosciences taskforce is looking at what we, where we need to go as a
39 County with the biosciences industry and a strategic plan in the future. So.

40
41 Councilmember Leventhal,
42 What does that have to do with this?

43
44 Diane Schwartz Jones,



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1 It has everything to do with the PSTA site.
2
3 Councilmember Leventhal,
4 With the Research Boulevard site?
5
6 Diane Schwartz Jones,
7 No, the PSTA site.
8
9 Councilmember Leventhal,
10 Shady Grove Road?
11
12 Diane Schwartz Jones,
13 The PSTA is located at the intersection of Great Seneca Highway.
14
15 Councilmember Leventhal,
16 Yeah.
17
18 Diane Schwartz Jones,
19 Route 28 and Key West Boulevard.
20
21 Council President Knapp,
22 Across the street from the hospital.
23
24 Councilmember Leventhal,
25 Yeah.
26
27 Diane Schwartz Jones,
28 Right. Where the bubble tea place is if you like bubble tea at Travilah Square.
29
30 Council President Knapp,
31 Or that.
32
33 Diane Schwartz Jones,
34 But that site, do you want to stay on the this site before you?
35
36 Unidentified
37 Yeah.
38
39 Council President Knapp,
40 Keep.
41
42 Unidentified
43 Yeah.
44



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1 Council President Knapp,
2 Do you have, let's do questions on this site. Marc do you have a question on this site or
3 more on the overall?

4
5 Councilmember Elrich,
6 More generic.

7
8 Council President Knapp,
9 Okay. Question on this site Phil?

10
11 Councilmember Andrews,
12 Yeah. Thank you.

13
14 Council President Knapp,
15 And before that, the only, the question I would ask I think for, I think it kind of gets to Mr.
16 Leventhal's point and I know that this has been an issue that's been out there in the
17 community, is what of this do you need Council approval for and what of this can you
18 just go ahead and do on your own? Because I think that's one of the concerns that
19 people have is that you can just go ahead and do it or there's no logical place for a
20 public input. That's what I think people are trying to figure out is, if we had issues, where
21 do we direct them and how does that manifest itself? What do you think you can do with
22 us or without us?

23
24 Diane Schwartz Jones,
25 Okay. We need, and we have told, this question has come up to us in public as well. We
26 answered this that the ultimate decision on funding of course is the County Council's
27 decision. And so that is where you come in. The Council resolution for the Liquor
28 Warehouse, that is where you come in. Oh, I'm sorry.

29
30 Council President Knapp,
31 We all.

32
33 Diane Schwartz Jones,
34 Okay. So those are the key places where the Council comes into this is in deciding
35 whether or not you're going to put the money behind implementing this.

36
37 Council President Knapp,
38 So does that mean things cannot proceed unless we approve the resources or do you
39 start, I mean, do you?

40
41 Diane Schwartz Jones,
42 There, if we need money to do these, to do this, then they cannot proceed without your
43 actions.

44



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1 Council President Knapp,
2 Okay. Are there things that you can do without money?

3
4 Diane Schwartz Jones,
5 The only thing we could do potentially would be if we did a true swap. We could do that
6 without money. But we're not looking to do it that way. We're looking to do this where,
7 you know, I think that Joe Beach described to you that we plan on bringing you PDFs
8 for all of this.

9
10 Council President Knapp,
11 So you are seeking Council's approval for the resources so that if I am a public person
12 out there concerned about where I engage in the process, it will be through when you
13 send over PDFs seeking approval for the allocation of resources that would be the point
14 where, I'm a public that's write engage?

15
16 Diane Schwartz Jones,
17 Well, no.

18
19 Council President Knapp,
20 In addition to whatever public communication may be had.

21
22 Diane Schwartz Jones,
23 That's what I was just going to say.

24
25 Council President Knapp,
26 There's that, but I mean.

27
28 Diane Schwartz Jones,
29 Because I've been out there, we have been out there extensively.

30
31 Council President Knapp,
32 Sure. Right.

33
34 Diane Schwartz Jones,
35 With meeting with community representatives and we're going to continue doing that
36 because it's important.

37
38 Councilmember Andrews,
39 Okay. Thanks. Actually, I would take a step back and say that the Council has already
40 had an impact on the shaping of this plan because at least the Public Safety Committee
41 had the benefit of having several briefings about the initial plans on the Public Service
42 Training Academy and the original proposal was to move most of it to the GE Tech site.
43 That has changed as a result of a lot of rethinking of it and I think partly due to a
44 negative reaction from at least members of the Public Safety Committee, I think other



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1 Councilmembers too, to very problematic aspects of moving the PSTA to that site or
2 separating key functions of it and moving some of it to Poolesville, which is I think the
3 Executive concluded after some thought that, you know, that wasn't the best way to do
4 it, and then looked for another site which you've now put forward as the Web Tract as a
5 site where it can be integrated together. So there really are a lot of opportunities for the
6 public in my view to have an effect on this not just at this stage where we get an
7 appropriation request. In fact, the public, as Councilmember Leventhal has noted, has
8 been letting us know of concerns and I know many of us have had meetings with
9 members of the community as have you. I think that's already had an impact on the
10 evolution of this proposal and it has evolved.

11
12 Diane Schwartz Jones,
13 Definitely.

14
15 Councilmember Andrews,
16 Quite a bit in the last year. It's gotten better and I think that's largely due to listening to
17 the reaction that you got from various stake holders. So I think that's a real step forward.
18 I'm glad to know and I've spoken with the Mayor about this recently that there are good
19 discussions going on with the city of Gaithersburg about issues the city has and
20 concerns. I think it is important to note that the plan that the County has for the GE Tech
21 site is to use the current buildings, to use the current warehouse for the Liquor
22 Warehouse and to use the current office building for the co-location of the Police
23 Headquarters, Fire and Rescue Headquarters, Homeland Security. You've added the
24 transportation, some aspect of that and then the First District Station, which is currently
25 the Rockville Station, and Seven Locks, and then the Public Safety Memorial in front of
26 the lake. Essentially, the property would look the same as it does now. It is a beautiful
27 property as I think everybody knows. And I think it is critical to maintain that. It is really a
28 jewel there in terms of its environmental features. I think it is, there's a lot to what you
29 say about the odds of it staying that way are better if it's not privately owned given the
30 capacity that could be developed there, at least is in dispute at this point. But I think the
31 long term, it is, that would be riskier. But I think it is important for the County to provide
32 compelling assurances to the city and to the local community about how it will remain in
33 the future after all of us are gone. There will be new decision makers here in a few
34 years and it's important that that commitment remain after the current crop of people are
35 gone, and that, I think, is an issue that needs to be resolved to the satisfaction of the
36 community. So I wanted to say that about the GE Tech Park and I'll come back with a
37 couple other questions when we get to the other parcels. But I do think that the plan has
38 evolved in a positive direction and I think you've done a good job of listening to the
39 feedback you've gotten and there's going to be more, but it's gotten much better. The
40 financials are critical because even if it was, even if everyone agreed that it was a great
41 idea, it still has to be cost effective, especially given the economy that we're in and our
42 budget situation. So it's real important that the numbers that you are developing are
43 well-founded and that they withstand scrutiny. So I think we really do have to have a
44 good understanding of the construction estimates, for example, as well as the other



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1 estimates because, I don't know, it's all based on assumptions many of which we're not
2 aware of at this point. We need to go into detail in that to have a comfort level that the
3 numbers are solid. So those are my comments for now.

4
5 Council President Knapp,
6 [inaudible] okay, go ahead.

7
8 Diane Schwartz Jones,
9 Going on to the next piece, the Emoc at KC6 and 7, and Mr. Leventhal, KC6 and 7 is, if
10 you are visualizing the Shady Grove Master Plan there's Crabbs Branch Road sort of
11 ends where that Grove Shopping Center is, and KC6 and 7 is across the street from the
12 Grove Shopping Center and it's actually being extended beyond there towards the town
13 of Washington Grove. Oh, there we go, if you look at page 2, as Mr. Dise is showing
14 you that you can't see he's circled but it's right about there. Sort of at that confluence of
15 Shady Grove Road, I-370 and the ICC is where the KC6 and 7 is approximately located.

16
17 Councilmember Leventhal,
18 I hesitate to ask, is that all forested now?

19
20 David Dise,
21 No.

22
23 Diane Schwartz Jones,
24 No. Some of it has, and there are actually, it's.

25
26 David Dise,
27 This is an older picture actually.

28
29 Diane Schwartz Jones,
30 One of the issues, you know, right now where we are in KC6 and 7, we have our traffic
31 studies under review. Our appraisal is complete. We had to go back again and do some
32 noodling on the highest and best use. We've concluded that. Conceptual massing,
33 we've been looking at the conceptual massing, addressing what both the fact that the
34 state highway has sort of wedged itself in between KC6 and 7 and there's some
35 wetlands that we're working around and looking at how to make the Emoc fit over at
36 KC6 and 7. So that's underway. The environmental, we will do, as we do for all property
37 acquisitions, we will do a phase one assessment. We have no expectations, we have,
38 we don't expect there to be any problems whatsoever. The program of requirements for
39 the Emoc has been completed and we are in negotiations, we, here again there's a
40 letter of intent that has been circulated, we think that we've made very, very good
41 progress and we have a very good approach that we think will be very positive and lend
42 a lot of stability to making this whole plan work where we're sort of trying to link things
43 together so that we know, can have some certainty on dates by which things will
44 happen. So that is under review right now. We're going to be getting together later this



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1 week to have more discussions on that. We actually have a meeting with the Shady
2 Grove folks later this week and there's more meetings that, actually there was one that
3 had been scheduled for September 30th as well with one community that I think is going
4 to be rescheduled because of the holiday. We're continuing to engage with those
5 conversations as well in terms of the community. We also have, I have spoken with the
6 Mayor of Washington Grove. There was a concern that the Mayor had as it related to
7 access allowing Robert's Oxygen to access through that property to get out to the
8 Crabbs Branch Extended. We're certainly agreeable to that. And we will be reengaging
9 as well as appropriate with the Mayor for Washington Grove. Before I go to the next
10 one.

11
12 Councilmember Andrews,
13 Are there questions about this parcel?
14

15 Councilmember Leventhal,
16 No I would just note, this one was clearly delineated in the master plan so that there
17 should not be confusion from the community about what was expected to go here.
18

19 Diane Schwartz Jones,
20 Yes, and actually, one thing I do want to mention about this one as well, in fact, the
21 master plan itself, when the Council approved the sector plan amendment for Shady
22 Grove, it contemplated that Emoc, as you noted, would go to KC6 and 7 and it
23 contemplated that the density from KC6 and 7 would then be transferred over to the
24 County Service Park for the urban village, that transit oriented development that is
25 contemplated there. That had a sunset date of January. What we need to, we're working
26 with the County Attorney's Office and with Park and Planning to bring back to the
27 County Council whatever pieces we need to do in order to put that back into place so
28 we get the density put back in the right place as originally contemplated in the plan.
29 With respect to the Public Safety Training Academy and the Montgomery County Public
30 School Food Distribution Warehouse at the Web Tract, the Web Tract is approximately,
31 it's a total of 129 acres. It is located right off of Snofer School Road. It is bounded by
32 Snofer School, it is bounded by a portion of an old Nike site, a federal site, a portion of
33 the East Village Community, and the Montgomery County Airpark. We initially, as I had
34 mentioned, were looking at acquiring 29 acres of that 129 acres. We realized that it
35 would be better if we acquire the 41 buildable, what we're calling buildable, acres from
36 the overall 129 acres. Basically, this site, do you have the site?
37

38 David Dise,
39 Yes.
40

41 Diane Schwartz Jones,
42 The site has two sites to it. It has a.
43

44 David Dise,



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1 Page five.

2

3 Diane Schwartz Jones,

4 It's split by a wetland. We're looking now at acquiring this entire portion of the site. It has
5 preliminary plan approval as you can see. The site that we are looking to acquire has 13
6 warehouse buildings that have been approved for it already. We have done a traffic
7 study. We've received the draft back. Our use results in a significant reduction of trips
8 from the approved plan. According to our traffic consultant, the reduction of a.m. trips is
9 there would be 696 fewer trips generated because our use is so much less intense than
10 what had been approved for that site and the p.m. trips, there would be 605 trip
11 reductions from what has been approved for the site as opposed to our use with respect
12 to the PSTA and the warehouse. We didn't bring you the concept plan. We talked about
13 bringing you what the concept plan was that we showed the community last night but
14 because of the feedback that we got on the track location, we asked our consultant to
15 go back and relook at that a little bit, make some changes to it and bring you back
16 something that rather than showing what we're not going to do, to show you what we're
17 planning to do in response to what we heard last night. Our appraisal has been
18 completed for that property. I mentioned to you where we are in the concepts. We will
19 be doing an environmental study. We don't think that there will be any problem. You
20 may have heard some folks have mentioned that there's an easement on the site, that
21 the U.S. Government had a no assembly easement on a portion of the site that we're
22 looking to acquire. That is actually, the owner of the site is attempting to clear that off,
23 but in any event we have looked at it, we've done an overlay and it has no impact
24 whatsoever on our uses. The easement prohibits assemblage of 25 people or more and
25 the portions of the site that it touches on, for what we're looking at, it related to the old
26 missile silos that were on the adjoining property. They're empty. But it is noteworthy. I
27 think that one member of the community pointed out a one meeting how little
28 Gaithersburg, this little site was defending the entire east coast and I think it's very,
29 there could be some very good tribute things that we could do to the fact that by having
30 our Public Safety Training Academy there, we continue to place the defense of
31 Montgomery County at that site. So there are.

32

33 Council President Knapp,
34 And do smart growth? Wow.

35

36 Diane Schwartz Jones,
37 Well, the smart growth is at the other site.

38

39 Council President Knapp,
40 Going to bake apple pie there and have a flag factory too.

41

42 Diane Schwartz Jones,
43 We are. We are. We certainly know how to package, we eventually hit on how to
44 package things. The program of requirements is complete. Negotiations are, with the



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1 property owner are ongoing. There's a lot of communications flying back and forth in our
2 meetings with the community. We do meet regularly with this community. We have, with
3 some of the leadership from the East Village we have at least once a month breakfast
4 meetings with them and we organized for the entire community a tour, as I mentioned
5 earlier, of the Public Safety Training Academy with the help of Chief Bauer here, I
6 mean, he did a great job getting his crew and Captain – is back here who also did a
7 great job getting things organized so that we could have live demonstrations going on. I
8 think it's important to remember, though, one thing, you know, that's a two-edged sword.
9 Because on the one hand when you are standing right next to a demonstration going
10 on, that's not what you are going to see or hear, that's what you are seeing at ground
11 zero, not necessarily from your own personal property but that's why we also did the
12 bus tour to try to provide a frame of reference for how it might orient to their own
13 neighborhood. We will continue to meet with this community and we'll bring back a
14 revised plan. We're happy to bring the revised plan back to the Council if the Council's
15 interested in seeing it. This is one as well, we are talking about a significant reduced
16 utilization of this site than what has been approved for it. So, you know, I think that, I
17 don't know if anybody has questions on this site.

18

19 Council President Knapp,
20 Questions on this site?

21

22 Councilmember Leventhal,

23 All right. First question, it wasn't too long ago when there was a proposal for senior
24 housing on the site which was inconsistent with the zoning and, number one it was
25 inconsistent with the zoning, but number two, the Airpark indicated that there were
26 restrictions because of its fly space. How do you deal with that here?

27

28 Diane Schwartz Jones,

29 Well, I actually have more than passing familiarity with the senior housing and the,
30 because I was representing the Airpark during that period of time.

31

32 Councilmember Leventhal,
33 Okay.

34

35 Diane Schwartz Jones,

36 That was going to be, if I recall correctly, an eight-story residential dwelling unit
37 structure right next to the Airpark and there were significant concerns about what that
38 would do to the, our financial representations to the state, our financial assurances to
39 the state with respect to the grants, excuse me, to the federal government as it relates
40 to the grants that we received for the Airpark. Here, first of all, it's what we're not moving
41 I think is significant. We are not moving the observation tower over to the Airpark. We
42 are not moving the flashover building, we're making the structure, we're making
43 alternative plans for how to address that with some intergovernmental agreements. The
44 structure for the Fire Safety Training Activities Building, did I say it correctly? The Fire



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1 Safety Training Activities Building is going to be about six stories tall. We have had
2 multiple conversations with Keith Miller with the Revenue Authority about this.

3
4 Councilmember Leventhal,
5 What about the FAA?

6
7 Diane Schwartz Jones,
8 We have not yet talked to the FAA but we will definitely be engaging whether it's Delta
9 Associates or whomever with respect to the Airpark to make sure that we are in
10 compliance with all requirements. We are aware of the part 77 requirements and know
11 that we need to be in compliance.

12
13 Councilmember Leventhal,
14 Okay. Second question. So, again, I just, I feel a little bit at a loss here because this is
15 one community I have heard from a lot over the years. There have been different things
16 proposed there. I thought that their complaints had a lot of merit at the time that the
17 Shady Grove Master Plan came up, that it had a big impact on them, but they were out
18 of the planning area and they felt like they were consulted, were not consulted and I
19 thought that their complaints had merit. So, you are representing that you are meeting
20 with them, you're having breakfast with them, you're taking them on tours. I appreciate
21 that. That all sounds good, but they're not here, and I'm not suggesting, I, Sharon
22 Levine is here, but I'm not suggesting that they come up to the microphone today. But I
23 really would love it if we could have, if we, the Council, could have the benefit of some
24 public, you know, exchange and interchange so that their concerns, if they still have
25 them, maybe they have all been ameliorated, I heard a lot of concern from them a few
26 months ago and haven't heard it recently, if their concerns could be voiced publicly, if
27 you could respond to their concerns, if we could just structure that in some way. This is
28 a very active community, the representation has been made before with prior proposals
29 that oh, well, what we're proposing here is less intensive of a use than the absolute
30 maximum that might be approved by the Planning Board. That community had been
31 very skeptical about that because not always is the absolute maximum allowed under
32 zoning ever really approved and it takes time and maybe they figured they could block it
33 at various steps along the way. So, the representations you are making here, I don't
34 want to undermine what you are doing. You are here in good faith but, you know, that
35 community I've heard from so much in terms of skepticism and not believing the
36 reassurance of County Government and all that that if we could just have that, if we
37 could just structure that back and forth here with some representatives of that
38 community and you and us.

39
40 Diane Schwartz Jones,
41 We could do that. What we can do offline, I can, when I go back to my office, we can
42 talk about whether we want to do a forum, how we want to go about structuring
43 something like that, but we can definitely do that.

44



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1 Councilmember Leventhal,
2 Yeah. The other thing I just wanted to say because I don't know whether the message
3 that the Council President received, it either came from the GE Tract neighborhood or
4 the Web Tract neighborhood I'm sure, you know, if there, it might be that we don't need
5 any closed sessions on this. It might be that, you know, you have ways of relaying
6 information to us individually that don't violate the open meetings law.

7
8 Diane Schwartz Jones,
9 That's true.

10
11 Councilmember Leventhal,
12 So if there are issues that are proprietary or they're issues of you're going to undercut
13 yourself by citing a price or something, I don't think we should have closed meetings on
14 this topic.

15
16 Diane Schwartz Jones,
17 Okay.

18
19 Councilmember Leventhal,
20 I mean, it just, it raises people's.

21
22 Diane Schwartz Jones,
23 We agree, we're not.

24
25 Councilmember Leventhal,
26 Hackles unnecessarily.

27
28 Diane Schwartz Jones,
29 Well, unfortunately, I think that the statement that was made in the press was a little bit
30 inaccurately reflected because we did not say that we were going to ask for a closed
31 session. When we were asked about it, we said we didn't know and the concern was
32 voiced in terms of the negotiations, but we agree, we think the numbers that are overall
33 numbers need to be out there. Clearly you need the numbers to understand them and to
34 see them and so we were trying to come up with a way of addressing all concerns.
35 That's what you have in front of you today. If you're asking, I'm not sure what you are
36 asking for beyond what we have.

37
38 Councilmember Leventhal,
39 No, I'm just, I don't think we should have any closed meetings on this topic.

40
41 Diane Schwartz Jones,
42 Okay.

43
44 Councilmember Leventhal,



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1 I.

2

3 Diane Schwartz Jones,
4 That's fine.

5

6 Councilmember Leventhal,
7 I'm disinclined to have them.

8

9 Diane Schwartz Jones,
10 Okay. The other thing though that I do want to be clear is on this prelim, this has already
11 been through Park and Planning. We know what has been approved at the Web Tract
12 now by Park and Planning. Unlike conversations historically for this site, we know
13 exactly what has been approved and what can be built there.

14

15 Councilmember Leventhal,
16 Indeed but when you look outside your breakfast nook window and what you see is a
17 bunch of trees and flat empty space, the idea that something else might happen there is
18 abstract and in the future.

19

20 Diane Schwartz Jones,
21 I agree with you.

22

23 Councilmember Leventhal,
24 You are going to get mad at the specific person who's saying I'm going to put something
25 here rather than what I'm proposing to put here is better than what might go there
26 someday if someone else shows up.

27

28 Diane Schwartz Jones,
29 I agree.

30

31 Councilmember Leventhal,
32 You and we, the County, become the target rather than some hypothetical private
33 sector person who might or might not be a more intensive use.

34

35 Diane Schwartz Jones,
36 I agree.

37

38 Councilmember Leventhal,
39 Who knows.

40

41 Diane Schwartz Jones,
42 Well, we'll let's, when we, we'll go back and I can talk with your staff and we can figure
43 out or, you know, I'm not sure how you want to direct that and if you wanted to, or if you



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1 want to think about it and talk amongst yourselves and then let me know how you would
2 like to structure something.

3

4 Council President Knapp,
5 We'll work here and we'll get with people, that's the best way to do.

6

7 Diane Schwartz Jones,
8 Okay.

9

10 Council President Knapp,
11 An open house or a forum or some type.

12

13 Diane Schwartz Jones,
14 Yeah.

15

16 Council President Knapp,
17 Of an event that reaches out to everybody.

18

19 Diane Schwartz Jones,
20 Okay.

21

22 Council President Knapp,
23 Other specifics on this site?

24

25 Diane Schwartz Jones,
26 Right.

27

28 Councilmember Andrews,
29 The, on page, well, let's see what is it, on the Smart Growth Initiative Project balance
30 sheet, which is on column C, the Web Tract PSTA figure, you estimate the expenditure
31 at 103 million for property acquisition, design, and construction for the new PSTA, have
32 you factored into that all of the requirements that go with building a new building, fire
33 code requirements.

34

35 David Dise,
36 Absolutely.

37

38 Councilmember Andrews,
39 That will apply for this particular building where the burn building is shown?

40

41 David Dise,
42 Yes. Absolutely. This is, we've had consultants work with us that are highly experienced
43 in designing facilities like this in here. Thank you. We have worked with consultants that
44 are experienced in designing facilities like this, and those have factored into our



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1 requirements. And obviously, the structures themselves will be lead silver that are
2 occupied for classroom training purposes and others, the training buildings are typical of
3 those associated with the state-of-the-art. There's been a tremendous amount of
4 research done and as a result of the POR requirements and discussions with both the
5 Police Department and Fire and Rescue to make sure that we're providing those, and
6 again, using as the County Executive stated last Wednesday, ensuring that we are
7 using efficient and environmental friendly training tools as opposed to burning tires,
8 pallets and hay bales. So all of that planning has gone into this.

9
10 Councilmember Andrews,
11 We've generally seen construction projects come in above what was estimated, and the
12 County has struggled with this.

13
14 David Dise,
15 Yes.

16
17 Councilmember Andrews,
18 To come up with better estimates so that we don't see the final costs vary as much as it
19 has. What level of confidence do you have in this estimate? What, is it based on a low
20 range, a mid range, a high range of probability, and granted, until you have final design,
21 you don't have that kind, as much certainty and confidence as you would otherwise. But
22 how can we be confident that 103 million is close to what it will actually be?

23
24 David Dise,
25 I'll begin by saying that I think there's no one more acutely aware of our, of the
26 reputation and the concerns that have existed and the need for us to be more accurate
27 in our estimating than I am, which is a charge that I have clearly extended to the staff
28 that are committed full time to this entire initiative to make sure that what we're doing is
29 a number that is one that we are very confident in. As you say, given at this stage, this
30 is a number that we have a lot of confidence in for this point, as we enter into more
31 detailed design, both from the site preparation as well as construction of the buildings.
32 The buildings, the classroom structures themselves, the firing range in the basement,
33 those things, there's tremendous amount of industry information that indicates what
34 those typically cost, and so we're confident in those numbers. But as we get into the
35 final details, and certainly in our conversation with Management and Budget, when we
36 are putting numbers forth in PDFs, we need to stand on those. It's not, it's my
37 commitment to not want to come back and do these things, do revisions to estimates.
38 When we put an estimate in front of you this is one that we're going to be relying on
39 heavily.

40
41 Diane Schwartz Jones,
42 I also wanted to add.

43
44 Councilmember Andrews,



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1 That's important.

2

3 Diane Schwartz Jones,
4 I'm sorry.

5

6 Councilmember Andrews,
7 Go ahead.

8

9 Diane Schwartz Jones,
10 One thing I want to add, that one of the great, I mean because I've observed many
11 projects over time, one of the great enemies of the stability of project numbers is the
12 passage of time. So the quicker that we are able to actually implement what our plans
13 are, the less risk that we have to the stability of the number that we're, the validity of the
14 number that we're getting in the first place.

15

16 David Dise,
17 Which is a good point and why the schedule that I've presented to you today is reflective
18 of what some might consider a relatively aggressive schedule. We do intent to.

19

20 Councilmember Andrews,
21 But you are looking at construction being done by November of 2011 for the Public
22 Safety Training Academy.

23

24 David Dise,
25 Correct.

26

27 Councilmember Andrews,
28 Under your.

29

30 David Dise,
31 Correct.

32

33 Councilmember Andrews,
34 Chart on, which is about three years away.

35

36 David Dise,
37 That's correct. Moving to design and construction at a rapid pace.

38

39 Councilmember Andrews,
40 Mm-hmm. Okay.

41

42 Diane Schwartz Jones,
43 That's why we're going to need to.

44



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1 Councilmember Leventhal,
2 Could we get you to reassign some personnel to the purple line? [laughter].

3
4 Council President Knapp,
5 Actually a whole list of projects we may need to get them to focus on.

6
7 Diane Schwartz Jones,
8 We are going to need to get our PDFs lined up for the, so that we can actually move
9 forward with the acquisitions and make these things happen.

10
11 Councilmember Andrews,
12 Right. I think what we want to get to a point is where the estimates are as likely to be
13 higher than they turn out to be as lower. I mean, we want to be to the point where we're
14 really hitting, you know, a point where we're going to see them come, the estimates
15 come in above what it ends up being. If we're really estimating as accurately as
16 possible, it shouldn't always be on the low side.

17
18 David Dise,
19 I absolutely agree. We don't want our estimators to be the low bidders. Absolutely. And
20 that is a commitment that I have.

21
22 Councilmember Andrews,
23 Glad you are focused on it.

24
25 David Dise,
26 Yes.

27
28 Council President Knapp,
29 Okay. Let's finish up the last parcel real quick and then I think Councilmember Elrich
30 and I have got a broad question.

31
32 Diane Schwartz Jones,
33 The last parcel is the one that we admittedly have the least information on for you at this
34 time. This would be the MCPS bus depot at Gude. We are going to be ordering a traffic
35 study. The initial study we did was really just a fitting. Can you, how much of the 100
36 plus acres of the old Goody Landfill is capable of being reclaimed for something of this
37 nature and, you know, can we fit the size of what we need for MCPS? So we've done
38 that. So we figured out can it fit? Now, the question is how can it be done, is it feasible
39 do it and we need to do a lot more studies on that. We recognize that. We also
40 recognize, however, there are other places that have done much more elaborate things
41 with their closed landfills and their pre-Subtitle D unregulated landfills and so, for
42 example, in Massachusetts, there is a shopping center that's built up on top of an old
43 landfill. There's a, elsewhere, there's a Home Depot, I think in the state of Washington
44 that is built on top of an old landfill. So the reclaiming is possible. We just need to know



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1 a lot more about it and we need to get much more engaged with the community on this.
2 We've had one meeting, two meetings, I'm sorry, with the community, one with the
3 community leaders. We're trying to set up a process. We have spoken with the MDE
4 about what their level of involvement might need to be. We do understand from both
5 MDE and also from some of our own folks that there is a, I don't want to package this
6 that this is, you know, for the benefit of the environment but there is an environmental
7 side benefit of doing this, which is that you are creating less leech because you are
8 creating a different type of a cap on a closed landfill. But, really to say that that's the
9 reason, you know, that's, we're not trying to sell it with that. I mean, we're just trying to
10 understand it and so right now there's a whole lot more work that we need to do and
11 that we're going to be getting engaged in doing it as soon as we get more planning
12 money put in place to move forward with that. So, with that, I don't know if I adequately
13 addressed the biosciences taskforce. If you want more information on that, I'd be happy
14 to respond to that.

15
16 Council President Knapp,
17 Let's just, Marc's got some questions, Phil's got a question on the bus depot, and the
18 only other thing that wasn't addressed here is Park and Planning and so why don't you
19 let Phil ask his question, I've got that one [inaudible].

20
21 Diane Schwartz Jones,
22 Okay.

23
24 Councilmember Andrews,
25 All right, thanks. One of the unfortunate things about the Gude Landfill site is that the
26 acres that are usable are the 35 acres that are closest to the community. So you have a
27 situation with buses that's different than you have with many other uses in that you are
28 going to have a period where there's idling in the morning although the, I know the
29 school system is working to modify that as much as they can. But you are going to have
30 air pollution issues that you need to address in some way. So I know you've had a
31 couple meetings with the Derwood Station Homeowners Association and other
32 residents and that is a real concern, it's a concern of mine as well. Because you are
33 talking about a lot of buses in one place on at the same time in the morning. Depending
34 on which way the wind blows, I think you're going to have to work with the school
35 system to find ways to minimize the impact if that ends up going on that portion of the
36 landfill.

37
38 Councilmember Leventhal,
39 This is why we need biodiesel.

40
41 Council President Knapp,
42 There you go.

43
44 Diane Schwartz Jones,



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1 Well, we need to look at, we do need to look at that and they, this community asked us
2 to look at, they made some, we thought, pretty good suggestions of things that we
3 wanted to explore also in terms of other areas on the site and so.

4
5 David Dise,

6 Yeah. I just wanted to add both with this as well as the Web Tract comment about, since
7 I've been relatively new to the process over the last few months, I've been singularly
8 impressed with the input from the communities in our meetings with them. These are
9 obviously concerned citizens. Many of them are very bright and done a lot of research
10 on their own that I found pretty valuable and has challenged us to think creatively about
11 our solution. So it's been very good that we had a meeting with this community just last
12 week. The weeks tend to roll together.

13
14 Diane Schwartz Jones,
15 The 15th.

16
17 David Dise,

18 It might have been the week before that. And they've asked some good questions about
19 this that I have my staff back looking at, at some options, whether it's all on this site,
20 moving some dirt, doing some fill in other areas to try and push this back away from the
21 community to a higher extent. So those are great comments and so I think it's important
22 to point out that our engagement with the community is helping to make these better
23 projects in the end and we are looking at this. This, as Diane said, presents a lot of
24 challenges from an engineering standpoint. We do think it's doable. We want to make it
25 an appropriate site. The challenge that you pointed out Mr. Andrews is a singularly
26 important challenge, that of idling buses and again, I agree with Mr. Leventhal that there
27 is a relatively short-term solution that we can derive benefit from by the biodiesel usage,
28 which I think would be a good way for to us lead.

29
30 Council President Knapp,

31 Okay. Mr. Elrich, then we'll be done by 4:00 at the latest if we're not done sooner. And
32 I've got questions, too, so save me a little, leave me a little time.

33
34 Councilmember Elrich,

35 I don't have any intentions of going until 4:00. None of you would let me anyway.

36
37 Councilmember Trachtenberg,
38 [inaudible].

39
40 Councilmember Elrich,

41 Absolutely. I guess, I think you kind of hit on it when you used the word aggressive. I
42 was going to use the word aggressive. I mean, I think given the kind of cynical
43 comments that occasionally get made we wonder whether we can design and build a
44 dog house in three years and you are talking about major, major projects. And we've



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1 heard repeatedly about bottlenecks in the approval process both internal to our own
2 workings and at Park and Planning, and that can delay things for years. I mean, I've
3 listened to explanations for why things haven't gotten off the ground. It has nothing to do
4 with materials or anything else. It has to do with processes. People said I, you know, we
5 can't design buildings and things far simpler than this in less than two years. So I hope
6 that you've actually engineered a different process that will not only benefit this, but
7 which will benefit the other projects that we try to do in the County. So I think it's
8 critically important to do. I mean, the private sector would never do things with the kind
9 of delays that we do them in. So I'm hopeful that that is the direction we're going in. My
10 concern is in the capital budget process because we really struggled with this last
11 capital budget and there are a lot of items that didn't make it into the capital budget that
12 sit on a list of things that may or may not get built if money materializes or if we decide
13 to go into the capital reserve or whatever else it is we might do. And I wonder how this
14 all fits in. You know, do you envision things coming out? Is this going to be strictly
15 additive to the process? I mean, how do we balance all this together and given the
16 issues we've had with the presentation this morning on the lovely state of the budget,
17 and even if it's not all cash up front, it certainly could add substantially to interest costs
18 which have to come from someplace. So how do you make this all work in the context of
19 everything else we're trying to do?

20

21 Council President Knapp,
22 Look at everybody reaching for the microphone.

23

24 Joe Beach,
25 If I could, many of these projects were already anticipated, were in, if not fully funded,
26 but many of these projects including Emoc, the First District Police Station, PSTA, were
27 already in the CIP. What this project will do is fund them to completion with construction
28 as well. And at this point, the ways things can change, we don't, we see this as additive
29 to the existing CIP. We don't see this as going to require things to be, you know, to
30 come out of the CIP to allow capacity for this, so that's.

31

32 Councilmember Elrich,
33 But how additive? I mean, we had a lot of question about a lot of the budget estimates
34 and it wasn't uncommon for someone to present to us that, you know, this is the number
35 in the budget for a library, wink-wink, nod-nod, it's going to be at least \$15 million more
36 than what's in the PDF. So how, if this is additive, it's still additional money. I mean,
37 where, I mean, do you have a sense of how this will all play out with what we've put out
38 in the six-year CIP?

39

40 Joe Beach,
41 Well, to answer the first part of that question, we don't see, at this point, the estimates
42 you are seeing are our best estimates with the information we have at this point. We
43 haven't done the advance design that would give us that higher level of confidence in
44 the numbers but we don't expect significant variations from this. We still have, as you



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1 saw on the balance sheet, we still have a balance in the project. I think we've been very
2 conservative in what we've budgeted. So I'm not, without presenting you with a full CIP,
3 I'm not sure what other specific assurances I can give you, but what we have in mind is
4 this would be in addition to what is in the current CIP. We don't anticipate pulling
5 projects out in order to preserve the capacity. We do have sort of a separate, as Ms.
6 Barrett walked you through, a separate financing plan for this. This does have some
7 special considerations like the land disposition and lease termination aspect to it.

8

9 Councilmember Elrich,

10 I just feel like we're looking at a lot of things that have, we don't have a PDF, we don't
11 have drawings, we don't have specs, I mean, we're talking about something which is
12 very, all these things are very theoretical except for, it seems to me, the GE Building
13 and Finnmark where we actually know that you have got a building and you're just going
14 to rehab it. A lot of this stuff looks theoretical. And your numbers require a lot of faith on
15 everybody's part that they're going to play out that in the way you say. How would you
16 deal with if the market's not right for a sale of our assets? How does that, how would
17 you deal with that? Because I don't, you know, I don't want to be driven to sell the
18 assets at an extremely low price because we're desperate to get a sale. But if we hold
19 them for when the market is better for a sale, what's the plan to bridge that should that
20 happen?

21

22 Jennifer Barrett,

23 I think we can make an economic analysis about the costs of, continuing some carrying
24 costs on that short-term financing versus holding it and having the prices go up. I mean,
25 we can, this is a conceptual financing plan but we're going to have to deal with each
26 thing situationally, I think, and that is a good example, but you can do some analysis to
27 come up with the right conclusion for a situation like that.

28

29 Councilmember Elrich,

30 And you have appraisals on our assets now that are relatively, that give you a level of
31 confidence that we're in the ballpark?

32

33 Diane Schwartz Jones,

34 We do.

35

36 David Dise,

37 Absolutely.

38

39 Councilmember Elrich,

40 Yeah.

41

42 Diane Schwartz Jones,

43 Oh, we do, on most of them we definitely do. And I think.

44



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1 Councilmember Elrich,
2 I've supported this direction from the beginning and I think this is a really good idea
3 basically, and I'm really encouraged at the discussions you're having with the
4 community. I think what Phil said is true, this has gotten a lot better. I thought it was an
5 interesting project to begin with but I think you guys have made it a lot better through
6 interactivity. I don't sense any effort to kind of bulldoze people with the idea that this is
7 so brilliant that all other oppositions has to get out of the way. I mean, I really do feel
8 you've engaged folks in this and will continue to engage them. But I just think that the
9 money piece is really, really critical because we're not going to have a lot of flexibility.
10 You know that. And so we cannot afford to step into something that we're going to have
11 a really hard time getting out of.

12
13 Diane Schwartz Jones,
14 I just have to do this pun intended.

15
16 Councilmember Elrich,
17 Okay.

18
19 Diane Schwartz Jones,
20 It's not our intention have a fire sale of the land, so, but you knew that was coming. We
21 actually are also looking at how, for example, at the County Service Park we are
22 thinking about how do we, you know, do we master plan this? How do we do this? We
23 want to make sure that we go about this in the way that creates the best value for the
24 County and the best return to really, really make this an overall smashing success. With
25 respect to the PSTA site, you know the Gaithersburg West Master Plan is under review.
26 There have been a lot of discussions on it. And we see this as a really essential piece to
27 providing support for some great things that can happen over there as a science-city
28 type of hub type of a community. You know, we've had conversations about this and we
29 have asked our land be looked, so in that context as well. I think that for, of all of the
30 pieces, that area would probably, we're understating our value on the PSTA site in
31 particular. So we also are cognizant of the fact that we want to do this in the way that
32 gives us the best return at the best time.

33
34 Councilmember Elrich,
35 Okay.

36
37 Council President Knapp,
38 I just have some questions on, well, just basic elements. First of all, in each of these,
39 you said you have revised program of requirements complete for all the projects. Could
40 we get copies of those PORs?

41
42 Diane Schwartz Jones,
43 You don't, and you want copies?

44



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1 Council President Knapp,
2 Yes, please.

3
4 Diane Schwartz Jones,
5 Yes.

6
7 Council President Knapp,
8 So we could see that so we'd have some understanding because like for the PSTA,
9 we'd had a program of requirements that had been put together on the existing sites so
10 to see kind of where the variabilities are and things like that so we can actually get into
11 some of the details of that. Also, well, lots of questions, I think Marc touched on what I
12 think is one of the more significant issues is, we went through our capital budget
13 process this spring with an expectation of trying to reserve some capacity so we could
14 address some other key priorities. Not the least of which was this, there were four high
15 schools that we actually put off for an additional two years apiece, two of them for two
16 years, two for one year, which total about \$400 million altogether that if we could have
17 figured out a way to do it I think this Council would have funded them. If I look at the
18 costs associated with this, you are looking at roughly \$500 million, potentially only 100
19 million that you might use for long-term financing, but you're still going to have to tie up
20 this money someplace in the course of this process. So I just want to put out there that
21 there are a number of competing priorities that the Council didn't fund that this is
22 necessarily coming up against. I appreciate what Mr. Beach indicated as it related to the
23 fact that there are PDFs for some of these projects already existing, but I think with the
24 exception of the PSTA, all of the rest of them were pretty much in the out years and
25 weren't big dollars associated with any of them. Am I wrong there, Linda?

26
27 Unidentified
28 [inaudible].

29
30 Council President Knapp,
31 That's the only one that had significant dollars in it, everything else had some, even the
32 First District had some dollars in the out years.

33
34 Unidentified
35 [inaudible].

36
37 Council President Knapp,
38 Right, right. So there's not really any big dollars attached to any of the PDFs that would
39 be coming over. So we've got to figure that out. Also, I'm just curious, how are we
40 paying for all this right now? It sounds like we've got an awful lot of people working on
41 this doing stuff that is not insignificant and I thought we generally had to have some type
42 of PDF or some type of thing.

43
44 Councilmember Trachtenberg,



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1 Jennifer's free.

2

3 Diane Schwartz Jones,
4 I'm free also. Actually, I'm negative free.

5

6 Council President Knapp,

7 You know, but my concern is, I mean, I don't mean that kind of joking, but, you know, I
8 see some of our construction folks over here who, we get told a lot as to why things get
9 delayed and a lot of, you know, a lot of it is distractions and other things. Not that this
10 isn't an interesting project. But where are we with all the, you know, we just passed a
11 CIP with \$1.8 billion worth of projects in them that we wanted to make sure are moving
12 forward, too. Are all of those projects still on track while we've been doing this?

13

14 David Dise,

15 Absolutely. We actually have two Department of General Services staff working I'd say
16 full time but that would be an insult to their time. Extraordinary.

17

18 Council President Knapp,
19 [inaudible] time?

20

21 David Dise,

22 Yes. Extraordinary levels of effort to keep this project going, and that is funded under
23 the general services budget. We, and some money under, for the consulting services,
24 but please understand when I say consulting services, we're talking conceptual
25 diagrams and things like that.

26

27 Council President Knapp,
28 Right.

29

30 David Dise,

31 Which is why the timing of coming to you with PDFs and getting funding for the planning
32 funds and those is critical for January because we'll be at a, sort of a critical point to
33 proceed with more in depth studies to be funded for contracts and consulting services.

34

35 Council President Knapp,

36 Okay. Which then gets me to the next one which you talked about, kind of, no significant
37 variations. If I remember correctly from our CIP discussion back in the spring, projects
38 at this stage of conceptualness would generally have a cost variability of about 50% in
39 either direction. Right Hamid? I mean, if I, if, given the conversation I know we just had
40 last spring that would have been roughly the answer you'd have given me, that if this
41 kind of number was here it would have been, well, we're in the ballpark by about 50%
42 which means you're talking about, you know, potentially a factor of two as it relates to
43 the costs that are here. Is that an accurate recollection of our discussion from the
44 spring?



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1
2 Hamid,
3 [inaudible comments]. Worst case scenario, [inaudible] would be 30%, that's what
4 industry says. Our assumption has always been in between 10 and 15%.
5
6 Council President Knapp,
7 Right. Once you get the design.
8
9 Hamid,
10 [inaudible comments].
11
12 Council President Knapp,
13 Okay.
14
15 Hamid,
16 [inaudible].
17
18 Council President Knapp,
19 Okay.
20
21 David Dise,
22 And once again, I'll point out again Hamid and Rossa have been dedicated,
23 extraordinarily time to this. There's no euphemism I can come up with to describe the
24 time commitment except that I get e-mails from the at 3:00 on Sunday afternoons.
25
26 Council President Knapp,
27 Right.
28
29 David Dise,
30 But, so the effort to drill down on these numbers realizing the timing and the criticality of
31 this and the reliance that both Council and the public has on the numbers that we
32 publish. So, we've been very, very careful with this before we came to this point.
33
34 Council President Knapp,
35 The bridge financing piece, have we done anything like that before of this scale?
36
37 Jennifer Barrett,
38 Quite honestly, our commercial paper program is a lot like that because we issue it in
39 anticipation of issuing the bonds. In this case, we probably would, there's some banks
40 that have done some things like this for local jurisdictions and so that's what we're
41 looking at. Just basically a loan.
42
43 Council President Knapp,
44 Right. And this loan for 300 and whatever it is?



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1
2 Jennifer Barrett,
3 270.
4
5 Council President Knapp,
6 270, sorry, so the 270 would not count against our debt capacity?
7
8 Jennifer Barrett,
9 Honestly, Joe and I chatted about that briefly. We need to talk about that because that
10 is not a long-term number, so not the whole thing. And we need to figure out in what
11 ways it counts in terms of during that bridge time, the long-term financing I think should.
12
13 Council President Knapp,
14 Right.
15
16 Jennifer Barrett,
17 Absolutely.
18
19 Council President Knapp,
20 Under the five.
21
22 Jennifer Barrett,
23 But the bridge financing, not something that we expect to pay back but I want to talk to
24 Joe and his staff and we wanted to get together and meet and discuss exactly how it
25 would affect debt capacity. We want to do the right thing there. But we also want to
26 make sure we are not double counting an impact because.
27
28 Council President Knapp,
29 Sure.
30
31 Jennifer Barrett,
32 Why would we count it here and then also count it in our GO capacity. So we need to
33 talk that through.
34
35 Council President Knapp,
36 Okay. And this notion of cost neutrality which sounds really good, but cost neutral from
37 when to when? Starting when and ending when? Is that the 20 year window?
38
39 Jennifer Barrett,
40 Fully over the 20 year bond period, although if you look at the trend on line 32.
41
42 Council President Knapp,
43 Line 32 of which page, I'm sorry.
44



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1 Jennifer Barrett,
2 Of my financing piece.

3
4 Council President Knapp,
5 Your page, okay.

6
7 Jennifer Barrett,
8 Conceptual financing. Particularly, the tax revenues here on line 30, the lease
9 avoidance savings, the leased, I'm sorry, leased savings and lease back fill avoidance,
10 you know, they continue on. So we basically look at it over the 20-year period. But, and
11 then the tax revenue numbers continue over the next few years also, so this is
12 significant. I mean, you basically have paid back your costs almost immediately.

13
14 Diane Schwartz Jones,
15 Finance took it out on the yearly basis and then for the project balance sheet, we used
16 the 20 years also because we figured that that would equate to the debt period and, so
17 for the lease period in terms of we used the same assumptions.

18
19 Council President Knapp,
20 Okay. So, we're looking.

21
22 Jennifer Barrett,
23 [inaudible] calculation is done.

24
25 Council President Knapp,
26 So when people say that cost neutral, we're saying over a 20-year period?

27
28 Diane Schwartz Jones,
29 Right, avoided lease, but reduced to the net present value. Looked at it, what we did on
30 the lease is we looked at it with assuming a 3% escalation which is what typically what
31 the leases will go up, 3 to 5% per year, and then using a net present value factor of I
32 believe it was 4.5%, which is, I think, the federal government rate.

33
34 Council President Knapp,
35 Okay. I guess my other question is what, each of these is contingent upon each of the
36 other ones and to make all of this work, so what happens if one of these doesn't
37 happen, one of these doesn't work? What's the plan B?

38
39 Diane Schwartz Jones,
40 Well, that would be a problem. I guess I can't answer that question because it depends I
41 suppose which one doesn't work?

42
43 Council President Knapp,



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1 Okay. Are we going to do some analysis to, I mean, I mean, all, I guess my only
2 concern is all of these are contingent upon each of the rest of them. And so, the
3 element of cost neutrality, the element of getting they payback, a lot of these things, and
4 so you could walk into a project like this and saying okay, to Joe's point, we're not going
5 to have to pull projects out of the CIP or redo a lot of things unless one of these things
6 halfway through, one of the other sales doesn't work and now all of a sudden we've kind
7 of got this on the bottom line and we've got to figure out how to, I mean, the only place
8 left to go is out of your GO Bond capacity ultimately. And so I guess that's what I'm just
9 trying to figure out is how do we.

10
11 Jennifer Barrett,
12 If we move a facility to a new location, we will.

13
14 Diane Schwartz Jones,
15 Right.

16
17 Jennifer Barrett,
18 Get the best cost value we can out of the land. You know, if we can move these
19 facilities in these chunks, you know, the Web Tract, KC, those are the [inaudible] getting
20 on the new location and then we will, you know, work diligently to clear the land, make it
21 available, and get the highest value we possibly can over it. That's what this is about is
22 redevelopment of the County Service Park and the PSTA.

23
24 Councilmember Leventhal,
25 Mr. President.

26
27 Diane Schwartz Jones,
28 And.

29
30 Councilmember Leventhal,
31 Are you asking for a plan B on financing or a plan B location?

32
33 Council President Knapp,
34 Well, I'm just, for either, I mean each of these is kind of contingent upon.

35
36 Jennifer Barrett,
37 The financing.

38
39 Council President Knapp,
40 The financing I kind of understand.

41
42 Jennifer Barrett,
43 Very flexible.

44



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1 Council President Knapp,
2 Right.

3
4 Jennifer Barrett,
5 Yeah.

6
7 Council President Knapp,
8 That I kind of understand, but if one of these pieces doesn't work so we've got a bid on
9 a piece of land or something doesn't come together or our land doesn't sell.

10
11 Diane Schwartz Jones,
12 Well, let me, follow, let me, I'm going to take it in reverse order because I think that's the
13 easiest way to go.

14
15 Council President Knapp,
16 Okay.

17
18 Diane Schwartz Jones,
19 That's the easiest question to answer. Our land, I mean, if our land doesn't sell, it's hard
20 to imagine that a site right next to a Metro Station is not going to sell. Montgomery
21 County's areas of developable land are diminishing. That's part of why we're looking at
22 trying to focus our available land in, you know, approximate to transit so the land will
23 sell. I mean, I've never seen a situation where land will not sell.

24
25 Council President Knapp,
26 I have no doubt we can get a price for our land.

27
28 Diane Schwartz Jones,
29 Pardon me?

30
31 Council President Knapp,
32 I have no doubt we can get somebody to pay something for it, but I'm just not sure if it's
33 the numbers that we necessarily want.

34
35 Diane Schwartz Jones,
36 Well, I think our numbers are conservative and I think that the answer would be that if
37 need be, and that was what Mr. Elrich is, where he was going with it is, will you hold it a
38 little bit longer than if you have to so that you are not doing this, you know, fire sale
39 situation and the answer is yes. That is what we would do. We don't want to just be
40 dumping it for the sake of getting something and even if it's nothing. But I just cannot
41 imagine that happening. And you know, we're about, we're looking to structure this so
42 that we're creating value. That's part of what some of what our discussions have been
43 too frankly, is how we, with our, with some of the people we're negotiating with, how we
44 go about structuring it so that we do create value. So, that's about the sale of the land.



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1 With respect to, you know, if one site doesn't work, you know, I don't want to think
2 negatively because we [inaudible], but we would look for an alternative. You know, we
3 want to be able to, our objective is to implement the County Service, the moving of the
4 County Service Park, to implement the sector plan amendment, to implement creating a
5 Public Safety Headquarters, and really the difficult one, the only one that is truly difficult
6 are some of the pieces on the County Service Park, I think, in terms of how to locate
7 them. And that's we just have to keep looking for a fix if we can't move one piece of it.

8

9 Council President Knapp,

10 The other thing I'd like to see, too, is more specific project timelines. It's interesting,
11 given the timelines you've laid out here, there's an interest in building a hospital in the
12 up-County.

13

14 Diane Schwartz Jones,
15 I'm sorry.

16

17 Council President Knapp,

18 There's an interest in building a hospital in the up-County and so I've had conversations
19 with a couple of our different healthcare providers as to the things they want to do. And
20 they've, I've seen some detailed outlines as to how quickly they think they can actually
21 get through the entire development process, just the process piece which Marc was
22 alluding to and actually have something constructed. The soonest, and this is all they're
23 going to build is that hospital, and they actually don't have to go through all of the land
24 pieces because they already have those, the soonest that either of them can do
25 anything would be, to have something constructed would be first quarter of '12.

26

27 Diane Schwartz Jones,
28 Well.

29

30 Council President Knapp,

31 So I just, it's just, it's interesting because each of these is coming in at roughly similar
32 timeframes and we still actually have to do all of the land pieces, too.

33

34 Diane Schwartz Jones,

35 Well this is, you're actually getting at a slightly different issue, I think, which is that, do
36 you take your land totally through the entitlement process before you dispose of it, or do
37 you go to some point along the entitlement process before you dispose of it, which
38 would affect your timeline, or do you dispose of it and let someone else take the risk
39 and the carry time too, which, and that drives your price. You end up with a different
40 price.

41

42 Council President Knapp,

43 I'm not even looking at the price, I'm just looking at the actual process to getting these
44 construction projects completed.



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1
2 Diane Schwartz Jones,
3 But it drives the time. I'm just talking about from a disposition standpoint. That would
4 drive the time. From the acquisition standpoint or from building what we build, we go, as
5 you know, we go through the mandatory referral process for our projects and so, once,
6 you know, we can really, we can be in control of where we get there. Some of the
7 delays that you have noted, Mr. Elrich, I think some of those did not relate to mandatory
8 referral projects.

9
10 David Dise,
11 Let me add that there are process improvements that we're looking at now. We view this
12 project as an opportunity to model good practices, both in contracting as well as
13 process improvement and building a team approach, cross-collaborative among
14 departments, for instance, engaging Permitting Services early in the process and things
15 of that sort so as to streamline these processes. We have a system that definitely could
16 benefit from process improvement and we look forward to using this as a means to do
17 that. We do have some detailed Gant charts that provide substantial detail behind what
18 we're seeing. And we can get those to you.

19
20 Council President Knapp,
21 Good.

22
23 David Dise,
24 Okay.

25
26 Council President Knapp,
27 Okay. I appreciate the information that you provided. It's a good update. We'll work with
28 you to figure out how we actually seek more and additional community input. I think
29 there will be lots more questions and to the extent that Councilmembers have additional
30 questions I'll make sure we gather them and get them over you to you. And then we'll go
31 from there. But again, if we get the PORs and the timelines I think that'd be helpful. I
32 particularly wanted to thank Chief Bauer and Tracy for their invaluable input during this
33 entire discussion today. [laughter]. It was fabulous. No, thank you all very much, and
34 the Council is adjourned.

35
36 Diane Schwartz Jones,
37 Thank you.

38
39