TRANSCRIPT

October 27, 2009

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember Michael Knapp
Councilmember Nancy Navarro
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember George Leventhal
Councilmember Duchy Trachtenberg

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COUNCIL PRESIDENT ANDREWS:
Good morning, everybody. Welcome to a session of the County Council. We're glad you're here, and we have a busy agenda for the next several weeks that's going to have a lot of growth and development and budget parts to it, so we're looking forward to addressing those issues in the next few weeks. But we're going to begin today's session with an invocation by Elizabeth Marsh, the Interim Minister at the Unitarian Universalist Church in Rockville, and I'll ask Miss March to join us at the front. Please stand for the invocation.

ELIZABETH MARSH:
Thank you. It's a pleasure to be here with you this morning. Will you join me in a spirit of meditation and reflection? We come together this morning to do important work together. This morning, at happens at every sunrise, we are just beginning. A whole day remains before us, bright and clear, unwritten and undecided, a mystery and a wonder. May we be bold enough to honor the wide-open promise of this day. We come together this morning as a diverse group of people. We represent people from many backgrounds, religious and nonreligious traditions, diverse families, cultures, and mindsets. Our varied and rich histories make us who are. We bring our many stories with us into this room. Our life experiences crowd in with us and are persistent company as we make our way through this day into the next. We are and we represent a diverse group of people. All the while, all of us are human. We share a desire to breathe deeply of the clean, fresh air. We find joy in eating delicious food that nourishes our minds and bodies. We hope to be good neighbors, and we seek to be remembered well. We are all human, and we are more alike than we are different. As we come together this morning, as we go forward in our unwritten and wide-open day, may we honor our differences and remember our similarities. May we have the strength to remain in difficult conversations. May we hold each other's humanity with tenderness and respect. May we humbly remember that we are but one person among many, and may we courageously recall that one person among many can make all the difference. With kindness on our hearts and our minds, may it be so, and amen.

COUNCIL PRESIDENT ANDREWS:
Thank you, Miss Marsh. We are now going to have a presentation to recognize the outstanding career of Corrine Stevens, and I'm going to ask Councilmember Leventhal and Miss Stevens, Mr. Firestine, and Miss Ahluwalia to come up to the front.

COUNCILMEMBER LEVENTHAL:
Good morning. It has been a pleasure during my 7 years here to work with Corrine Stevens, both in her role as Chief Financial Officer at the Health and Human Services Department and as Director of Special Needs Housing and mostly recently as Chief

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Operating Officer at the Department of Health and Human Services, and we are going to present her with this proclamation, which is a joint proclamation from the Council and the Executive. She's had such an illustrious career that I'm--it's-- there's a lot to say. "Whereas, Corrine A. Stevens has dedicated her 32-year professional career to addressing the problems of child welfare, homelessness, mental illness, poverty, domestic violence--" Come on up here, Corrine. Smile for the camera. "And working hard overall to improve the quality of life for Montgomery County residents; and whereas, Corrine Stevens has provided leadership and vision to connecting government, community organizations, and advocates to ensure that all three work together to bridge the differences that separate us and together help solve serious social problems; and whereas, Corrine Stevens has demonstrated a tradition of superior leadership, exceptional public stewardship, volunteerism, and high ethical standards, and through her guidance, service, and commitment, she has inspired a generation of public-service employees and community organizers; and whereas, Corrine Stevens has been tireless in her efforts to improve and build upon good government and the highest standards of accountability, advocate for the critical needs of staff, partners, and consumers, and continue to support good practice; and whereas, Corrine Stevens has touched and enhanced the lives of many public employees, colleagues, partners, and consumers of our services in Montgomery County through her exceptional public service; now, therefore, do we, Isiah Leggett, County Executive, and Phil Andrews, Council President, hereby proclaim Thursday, October 29--" not today, Tuesday, October 27, Mr. President? It's an advance notice here. Be prepared for Thursday, which will be Corrine A. Stevens Day.

COUNCILMEMBER FLOREEN:
All right!

COUNCILMEMBER KNAPP:
You have two days to prepare.

COUNCILMEMBER LEVENTHAL:
"In recognition of Corrine's long and distinguished services to the residents of Montgomery County at the Department of Health and Human Services." And let me see if either Mr. Firestine or Director Ahluwalia would like to make any comments about Corrine. Come forward.

UMA AHLUWALIA:
I'm just too overcome with grief to talk about it. It has been terrific working with Corrine for 2.5 years, and I'm going to miss her, and I think the department --for the department, it's

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been a terrific loss to have her leave us. We're glad that Sherry's here, but I think having Corrine leave us with, you know, just 32 years of service. We could have done with 36. Would have been better, but... We wish her well. Thank you.

COUNCILMEMBER LEVENTHAL:
Tim.

TIM FIRESTINE:
I'll just add my thanks. A few minutes ago, I just discovered she--32 years ago, when Corrine came, she decided she was only going to stay for a couple of years. Thank God she stayed for 32, so... We're really going to miss her and look forward to working with Sherry in her place.

COUNCILMEMBER LEVENTHAL:
Corrine?

CORRINE STEVENS:
Well, thank you very much, Mr. Leventhal, Mr. Andrews, Mr. Firestine. I've spent a lot of hours in front of the County Council over those 32 years. Some of them I wish, perhaps, I hadn't spent, but I've rarely been at a loss for words during those sessions. Listening to that proclamation sort of does leave me speechless. As Tim said, I thought I would only be here for 2 years. I didn't think I would work in a public agency, having come out of the private sector in New York City, but I have to say that being a social worker in Montgomery County has just been outstanding, has offered me incredible career opportunity, and Montgomery County will no longer be my employer, but it is still my home. And I am looking forward to finding a new niche as a volunteer and as an advocate, and some of you know who my friends are, so I will probably will be back again. Thank you very much.

COUNCILMEMBER LEVENTHAL:
Great. Well done. So we're presenting you with this proclamation and also a very special County Council, Montgomery County, plate.

CORRINE STEVENS:
Thank you very much.

COUNCILMEMBER LEVENTHAL:
There you are.

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CORRINE STEVENS:
Thank you so much.

COUNCILMEMBER LEVENTHAL:
All right. Thank you. All the best. Thanks for everything. We've got to pose.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Leventhal, and thank you, Corrine Stevens, for an incredible career with Montgomery County and service to the people of our County. We're now going to go on to general business and announcement agenda and calendar changes. Miss Lauer.

LINDA LAUER:
No changes today, but the Council does have one announcement. They're going to be conducting a public hearing on the housing element of the General Plan on December 1 at 1:30 P.M. That's it.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you. And there are no petitions this week, so our next item is action on approval of the minutes of October 13, 2009. Is there a motion for approval?

COUNCILMEMBER LEVENTHAL:
Move approval.

COUNCILMEMBER FLOREEN:
Let's go for it.

COUNCIL PRESIDENT ANDREWS:
Moved by Councilmember Leventhal. Seconded by Councilmember Floreen. All in favor of approving the minutes of October 13, 2009, please raise your hand. And that would be Councilmember Navarro, Councilmember Trachtenberg, Councilmember Floreen, myself, Council Vice President Berliner, Councilmember Knapp, Councilmember Ervin, Councilmember Leventhal. They are approved, 8-0. Our next item is the Consent Calendar. Is there a motion for approval?

COUNCILMEMBER KNAPP:
So moved.

COUNCILMEMBER ERVIN:

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Second.

COUNCIL PRESIDENT ANDREWS:
Moved by Councilmember Knapp. Seconded by Councilmember Ervin. Any comments on the Consent Calendar? Councilmember--let's see. Actually, let's see. I've got Councilmember Trachtenberg, then Councilmember Navarro, then Councilmember Leventhal.

COUNCILMEMBER TRACHTENBERG:
Thank you, President Andrews. I wanted to pull out the Item 2C, which is action to approve the Local Government Debt Policy. There was a fairly comprehensive conversation of the resolution at yesterday's Management and Fiscal Policy Committee worksession. I would note for Councilmember Leventhal, who had posed some questions last week, that one of the things Finance Director Miss Barrett spoke with us about was the origin of the state law, which, again, is in the packet provided to all Councilmembers. Also there was a unanimous agreement, endorsement from the committee, to support the resolution as proposed. The changes actually in the law are clarifications, rather than substantive changes to the proposed policy itself. So that would be the standing recommendation from the committee, and again, I just wanted to add some definition for colleagues about what we had talked about and what we had agreed to within the committee worksession. Dr. Orlin is here if there are any additional questions.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Councilmember Trachtenberg. Councilmember Navarro.

COUNCILMEMBER NAVARRO:
Thank you. I just wanted to comment on Item 2A, which basically is an introduction to support an application to the state for the Community Legacy Funding designation for the area of Burtonsville specifically-- $300,000. Very important application. Keeping our fingers crossed to hopefully be able to address some issues in Burtonsville, specifically in the 198 corridor. For a long time, there has been hope that something grand can occur there. Obviously, financial difficulties have made it impossible, but this is a small gesture that would go a long way if we're able to receive those funding and be able to at least do some improvement. So just wanted to point that out for the community. Thank you.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Navarro. Councilmember Leventhal.

COUNCILMEMBER LEVENTHAL:

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Just two quick comments, Mr. President. First of all, I wanted to congratulate Sherry White, who takes over for Corrine Stevens, and I encourage my colleagues to take a quick look at Dr. White's CV, which is agenda Item 2B. I think we should all feel proud of the very high level of talent that we're able to attract for these positions in Montgomery County, and although we're sorry to lose Corrine Stevens and will look forward to celebrating Corrine Stevens day on Thursday, I think we are very fortunate to have Dr. White in this position. And then I also wanted to comment on Item D on the Consent Calendar. I'm really delighted that this worked out--that we are able to identify $5 million to devote from our ALARF fund, which became swollen with the receipts from the state. The state paid us back in a really large amount of funds, and there's a historically large amount in the ALARF, and so we are devoting 5 million, thanks to the intervention of the state legislature, to our very highest priority for land preservation in this County, which is our Agricultural Reserve. And I know we're just introducing this today, but I assume it's not controversial and it likely will pass on the Consent Calendar, so I just wanted to take note that this is yet another sign of this Council's ongoing commitment to keep the pledge that was made in 1980 when our Agricultural Reserve was created. This is a public trust that all of us in this generation have to continue and to pass on to the next generation to make sure that we do extinguish development rights and that we do preserve our agricultural zone in perpetuity.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Leventhal. Very well said. Councilmember Knapp.

COUNCILMEMBER KNAPP:
I'll just --since Mr. Leventhal was so eloquent, I'll just say ditto as it relates to Item D on the ALARF for the Building Lot Termination Program. It is a big step forward, and the fact that we actually have money in that program is a place I'm not sure any of us expected we would be this early in the process, and so I thank him for his efforts in that regard and look forward to passage of that from the Council. And we look forward to looking at BLT regulations in the coming weeks to try to actually come up with a way to actually ensure that program is truly viable, as we continue our efforts to preserve the Ag Reserve. I also wanted to follow up on Ms. Navarro's comments as it relates to the state Community Legacy Funding, the application. We are all hopeful, and the PHED Committee has an update on the Burtonsville area about every 6 months as it relates to agenda Item 4--or 5. I guess 5. We had actually asked that it happen sooner than later, that we get that next update to look at both the zoning--the overlay zone--more broadly, to make sure that the goals of that were going to be--how those fit within the economic development goals and pursuits, and ultimately we will have heard something about this grant by that time, so we'll understand how those pieces fit in, too. So we share in your commitment to try to

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revitalize downtown Burtonsville and make it be the place that all of its residents hope that it will be.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Knapp. And I wanted to ask Mr. Firestine or Miss Ahluwalia if they would like to come forward for just a couple of minutes with Miss White to just make a couple of comments. This is a very important appointment that the Council is about to confirm to the Department of Health and Human Services, and I wanted to give the chief administrative officer and the director of the department and the nominee a chance to make a couple of comments. Mr. Firestine.

TIM FIRESTINE:
Thank you.

COUNCIL PRESIDENT ANDREWS:
Push the button, Tim.

TIM FIRESTINE:
Thank you. We had a discussion recently about succession planning, and I think it shows that there are strong candidates out there who are still very interested in working for Montgomery County even as we lose our skilled leadership in the organization. I think Sherry White is a good example of that. As Mr. Leventhal said, she has an outstanding resume which she brings to the County government, and she has been right in the middle of some of our hottest issues over the last couple of years. So, appreciate your support for Sherry in this position.

COUNCIL PRESIDENT ANDREWS:
Thank you, Mr. Firestine. Miss Ahluwalia.

UMA AHLUWALIA:
Good morning. I want to thank Mr. Leventhal for putting forward her nomination today--the nomination that Mr. Leggett submitted. Miss White has been the chief financial officer over at the department for the past... 2 years? Close to 2 years. And when we hired her, we knew someday Corrine was going to retire. She was making noises even back then. But we--when Corrine and I together interviewed Sherry, we knew this would be someone that we could grow and brought extremely valuable skill sets to the department, and I'm very, very pleased to sit here today and support Sherry's appointment as the chief operating officer. It will be different, but it will be good, so...thank you.

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COUNCIL PRESIDENT ANDREWS:
Thank you, Miss Ahluwalia. And, Miss White, would you like to make any comments?

SHERRY WHITE:
Thank you all for the opportunity to be a part of the challenges that we're going to be working through over the next few years. I would like to say that I'm looking forward to my new job with equal parts of excitement at the opportunities and challenges, but also with the recognition that I'm losing a terrific mentor and role model, so it's with great sadness that we see Corrine leaving.

COUNCIL PRESIDENT ANDREWS:
Well said. Well, thank you, and we're glad that you're eager to take up the challenge that is before you, and we appreciate the confidence that has been placed in you by the people sitting next to you and by the Executive. And I think we're now ready to vote on the Consent Calendar, so all those in favor of the Consent Calendar, which includes the confirmation of Miss White, please raise your hand. And that is unanimous. Congratulations, and we look forward to working with you. We're now going to move on-- thank you, Mr. Firestine, Miss Ahluwalia, Miss White. We're now going to move on to the District Council session, and our first item is introduction of a resolution to approve the use of Advance Land Acquisition Revolving Funds for acquisition of real property-- Jo Anne Morris, trustee property in Derwood. Action is tentatively scheduled for November 3, 2009. So that is for introduction, and I'll ask-- actually, no motion. I think without objection, that will be introduced. Next, Item 4--action on the Zoning Text Amendment 09-01, Sandy Spring/Ashton Overlay Zone - prohibited uses. The PHED Committee is recommending approval with amendments. I'll turn to the chair of the PHED Committee, Councilmember Knapp, for the committee's recommendation.

COUNCILMEMBER KNAPP:
Thank you, Mr. President. The committee unanimously recommended adoption of ZTA 09-01. By way of background, this was sponsored by Councilmember Elrich on March of this past year. It would amend the zoning ordinance to prohibit additional uses in the zone, which is the Sandy Spring/Ashton Rural Village Overlay Zone. It was done by Mr. Elrich at the request of Councilmember Praisner, at the request of his staff. He had sponsored the ZTA after Mr. Praisner's passing. And it made sense for us, as we try to improve upon the clarity in the Sandy Spring/Ashton Rural Village Overlay Zone, to better clarify what a rural village was to be and should be. And there were some elements that were in that shouldn't be and some elements that shouldn't be that should be, and so if you follow through the packet, you can look at all of the specific uses that are there, but it was a

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pretty straightforward amendment, and it was recommended unanimously by the committee.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Knapp. Councilmember Leventhal.

COUNCILMEMBER LEVENTHAL:
Well, I understand that, you know, a number of discussions have taken place regarding both this ZTA and the next ZTA, and I understand that ZTAs affect the entire overlay zone and are not necessarily intended to address only just one parcel, but I am curious as to this parcel in Sandy Spring that we had a lot of testimony on. So if ezStorage does not go to that location on Route 108, what happens to that location?

JEFF ZYONTZ:
Well, it can still use any of the uses allowed by the zone and not prohibited by the overlay zone, but for sure, it cannot go forward with its self-storage proposal.

COUNCILMEMBER LEVENTHAL:
So did the purchaser buy that lot or just had an option on the lot?

JEFF ZYONTZ:
I am--I am told, and have not confirmed myself, that there was an option on that lot.

COUNCILMEMBER LEVENTHAL:
I see. OK. So it reverts back to its original condition, which is--

JEFF ZYONTZ:
They won't exercise their option,

COUNCILMEMBER LEVENTHAL:
What most people would describe as a ramshackle barn that's not in use.

JEFF ZYONTZ:
I have no description for you of the existing use.

COUNCILMEMBER LEVENTHAL:
OK. Well, we'll watch that with interest because I share the desire--I hope that my constituents get whatever they want there on Route 108. There was a lot of testimony about a Rural Job Zone and a cafe and a bakery and all kinds of desired uses there, and it

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will be interesting to see, now that the self-storage isn't going there, whether indeed the market does provide those kinds of amenities that the neighbors said they wanted. We'll continue to watch how that--how that property ultimately--what ultimately happens there.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Leventhal. Are there any other comments or questions about Item 4, which is the ZTA 09-01? OK. I don't--

JEFF ZYONTZ:
With-- as amended by the committee.

COUNCIL PRESIDENT ANDREWS:
OK. All right. OK. Mr. Zyontz, why don't you describe briefly what the change was from the introduction?

JEFF ZYONTZ:
Essentially, both the Planning Board and others had thought that as it was introduced, it was a little bit overbroad on deleting some uses that should be back in the zone. The specific list that would not be excluded from the zone is cable communication systems, electrical power and transmission and distribution lines, railroad tracks, rooftop-mounted antennas and related unmanned equipment from buildings, equipment cabinets and equipment rooms, telecommunication facilities, telephone offices, and communication centers. Those were in the original list as being prohibited, and under the recommendation of the committee, they'd continue to be allowed.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you for the description. All right. I think we are ready to vote on the ZTA, seeing no other Councilmember lights, so I will ask the clerk to call the roll on ZTA 09-01.

~~Mary Anne Paradise~~MARY ANNE PARADISE:
Ms. Navarro.

COUNCILMEMBER NAVARRO:
Yes.

~~Mary Anne Paradise~~MARY ANNE PARADISE:
Mr. Elrich.

COUNCILMEMBER ELRICH:

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Yes.

~~Mary Anne Paradise~~MARY ANNE PARADISE:
Miss Trachtenberg.

COUNCILMEMBER TRACHTENBERG:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Miss Floreen.

COUNCILMEMBER FLOREEN:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Mr. Leventhal.

COUNCILMEMBER LEVENTHAL:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Miss Ervin.

COUNCILMEMBER ERVIN:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Mr. Knapp.

COUNCILMEMBER KNAPP:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Mr. Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:

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Mr. Andrews.

COUNCIL PRESIDENT ANDREWS:
Yes. ZTA 09-01 is approved, 9-0. Thank you very much. Next item is going to be Item C, number 5 on the agenda, which is action on Zoning Text Amendment 09-05, Burtonsville Overlay Zone - allowed uses. I'll turn to the chairman of the PHED Committee for the committee's report.

COUNCILMEMBER KNAPP:
Thank you, Mr. Chairman. The PHED Committee recommended 2-0-1. Councilmember Elrich supported the ZTA but wanted to add a list of prohibited uses, which is a topic I'm going to get to momentarily, that would recommend revisions--Sorry. Recommend approval of the proposed ZTA with provisions to allow recently approved preliminary plans to proceed under the conditions of their approval. The committee believed, 3-0, that the substantial investment made by the holder of a recently approved preliminary plan justified the grandfathering provision in this instance. Councilmember Navarro was not able to join us in the committee that day, and so we anticipated that there would be further dialogue once we actually got to the full Council, and it's my understanding that there is an amendment that Ms. Navarro has included in the packet that will address further issues that she has heard as it relates to concerns from the community. The amendment that she would propose, which I will let her add--let her raise, but would add to the list of prohibited uses in the Burtonsville Overlay Zone. It would also grandfather current uses that would be made nonconforming by the adoption of her amendment. By way of background, there are 3 zones beneath the overlay zone for the Burtonsville Employment Area of the Fairland Master Plan--I-1, I-3, and OM. The permitted land uses in each of these zones are different. The Planning Board denied a preliminary plan for a self-storage facility because the Fairland Master Plan did not envision a self-storage use in the I-3 Zone. A recent Circuit Court opinion overturned the Planning Board's opinion. The Circuit Court determined that the Burtonsville Overlay Zone gave a property owner the right to use any of the uses allowed in the I-1, I-3, and OM Zones. ZTA 09-05 would sustain the Planning Board's interpretation of the allowable uses in that zone. So we did amend it to allow for the approved preliminary plan to go forward, which would allow for the original use to occur but would, given Ms. Navarro's note, I believe, would limit other uses. I think with that, I will turn to Miss Navarro and actually see if she wanted to raise an amendment at this time.

COUNCIL PRESIDENT ANDREWS:
Actually, Mr. Elrich has his light on.

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COUNCILMEMBER KNAPP:
Oh, OK.

COUNCILMEMBER ELRICH:
She wants to do the amendment first.

COUNCIL PRESIDENT ANDREWS:
Very good. OK. All right. I'll turn to Miss Navarro then.

COUNCILMEMBER NAVARRO:
Everybody speak at once. Well, first of all, let me just also add to what Councilmember Knapp has described. The original impetus for this particular proposal had to do with a desire to clarify the intent of the Master Plan as it relates to job creation in that area, and given the fact that this particular parcel as it relates to ezStorage had actually purchased the land, and given some information that surfaced later on in terms of what Planning Board had communicated to them in terms of moving forward, the community--specifically the East County Regional Services Board--felt that they should be grandfathered, and I am fine with that, with the recommendation from the committee. However, in an attempt to hopefully clarify this confusing, I guess, zone, to a certain extent, in consultation with Council staff, my amendment basically provides-- if you look on circle 23, double-underlined, line item 14-21, it just basically addresses some additional prohibited uses with the intent of hopefully focusing that area for more job creation purposes. Also, circle 24, line item 39, is another prohibited use, as well as on page--circle 25, line item 61-63 all the way down to 76. And if you just sort of read through it, these are particular uses that wouldn't generate a lot of jobs necessarily, but as was mentioned by Councilmember Knapp, everything else is grandfathered in. Whoever is there right now gets, obviously, to stay, and the hope is that that area in the future will be able to be a hub for some job generation, which is badly needed in that district. So I move that amendment to the recommendation from the committee.

COUNCILMEMBER ELRICH:
Second.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Navarro, and I see that Councilmember Elrich has seconded the amendment, so the amendment is before the body. Are there any comments on the amendment?

COUNCILMEMBER KNAPP:

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The only --the only point I would raise, and this was a point of discussion during a committee meeting--it's something I alluded to during our Consent Calendar--is the committee wanted to come back and look broadly at the Overlay Zone to see what the--it was a pretty confusing discussion that we had in the committee when we tried to figure out what the Overlay Zone was supposed to do as you try to tie the other 3 different zones into it. And so we wanted to come back and actually make sure that what was being purported to be done with the land use actually fit with some of the economic development goals for the Burtonsville community. And so we are trying to-- given the PHED Committee schedule, we figure we are going to be meeting enough times through the course of the fall and winter that we could probably fit in other opportunity to have a lengthy discussion about Burtonsville and to make sure that all of those pieces jibed. And so I appreciate the amendment that the Councilmember is offering, and we may make some further recommendations as to clarification and refinement once we kind of take that more comprehensive look.

COUNCILMEMBER NAVARRO:
And I look forward to that. I just wanted to comment that most certainly, I think there is ample need to carefully study, and also since, you know, we know that things are shifting every day, and according to the economic situation, there may be opportunities in our limitation. So I also want to thank the committee for wanting to take the time to do a more comprehensive look at that particular zone and a particular area. Thank you.

COUNCIL PRESIDENT ANDREWS:
OK.

JEFF ZYONTZ:
If I may.

COUNCIL PRESIDENT ANDREWS:
Thank you. Mr. Zyontz, go ahead.

JEFF ZYONTZ:
I'm sorry. Just two factual points. Number one, it is a complicated zone because it used the OM Zone uses, even though there was no OM underlying zoning there, and this--the ZTA would allow you the uses in your underlying zone, but then there are a list of specifically prohibited and specifically allowed uses. So in that way, it's a little bit more complicated. The other point is, Councilmember Navarro's amendments are consistent with the committee's recommendation to the extent that they go. That is, the lines 14-16

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that deal with grandfathering recently approved preliminary plans are identical to the committee recommendation.

COUNCIL PRESIDENT ANDREWS:
Thank you. Mr. Elrich had wanted to speak about the amendment or about the measure, and I had cut him off, so it's Mr. Elrich, and then Miss Ervin.

COUNCILMEMBER ELRICH:
I just want to comment--I just want to comment on the introduction that was made. I think part of it was the fact that the property had already been purchased, but I think there are a couple other even more significant things involved in the decision that we made, because I strongly supported the original intent of the ZTA, and had other issues not prevailed, I would have still thought the ZTA was a proper thing to do. The Council can, in fact, change the zoning, but a couple of things came to light that I think muddied the waters. The first was that the owner was operating not just on having purchased the property and doing wishful rezoning, but had actually talked with Park and Planning staff and had been told not only that the staff member thought that it was permissible, but that the legal department thought it was permissible. And so, if you're acting on that kind of information, it's not exactly like you've stumbled into this and then said, "I want to change the zoning from one use to another use." And I found that a complicating factor in trying to decide what the right thing to do was here. And the other thing was that the complexity of the zone meant that you could actually put another self-storage facility two lots down on 198, and so if the goal was to prevent hideous self-storage facilities from going into this zone--I use that in... What's the word? A sarcastic sense, because it's not very well liked by people, frankly, but if you're going to put these into the zone, we effectively weren't stopping them from going into the zone. And so while we thought that, you know, this ZTA would have prevented it, the way the zone was written, it could have been done two doors down, totally legally, and without the confusion that was created by the action of the Planning Board. So I felt that if it could go two doors down, you know, what are we really accomplishing? And two doors down actually is a more prominent location on 198, so if you're worried about your gateway, this property is tucked up against the exit ramp of 198; the other properties sit more prominently on 198, and it seemed that we could even achieve our purpose without the amendment Miss Navarro has put in anyway, so I thought that with the other complicating factors, I could support the ZTA as amended by the committee.

COUNCIL PRESIDENT ANDREWS:
All right. Thank you, Councilmember Elrich. Councilmember Ervin,

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COUNCILMEMBER ERVIN:
Thank you. I congratulate Councilmember Navarro for her boldness here, I think, with presenting us with this ZTA because it's clear from the information that I received from members of that community--because we share the district line--that this is a--was a very important issue for them, and even though the Regional Service Center Committee decided to--that the best way to go was to grandfather ezStorage, I compliment her for the vision that she has for District 4 and for the East County. But at the same time, I'm concerned about the permitted use of storage facilities, and my question is to probably the PHED Committee, how you will be taking this up in the future, because clearly, we need storage facilities in the County. And this is the --we just voted on one ZTA that permitted a use. We're about to vote on another that will permit a use. So I would like to know where in the County do storage facilities go?

COUNCILMEMBER KNAPP:
I will actually turn to staff, because it's a question that Ms. Floreen asked in our committee, and staff actually can answer that question. It is important to note that what we addressed in this instance are two overlay zones, not necessarily underlying zones. But I'll turn to Mr. Zyontz to answer the question that we answered for the committee.

JEFF ZYONTZ:
Right. We did look at where self-storage facilities were permitted in other zones in the County. You'll find that information on page 2 of the packet. It is allowed in the C-2, C-3, I-1, I-2, I-4, MXTC, and MXTC/TDR Zone unconditionally. Two other zones with conditions. It's a lot of acreage. And I didn't total it--3,400 acres total, but again, it's the economics that make self-storage work or not work. It's--it's sort of whether they're outbid by the other uses in the zone, and typically, they tend to end up more in the industrial zones than those other zones because they can bid properly. But we did look at the distribution of where those existed in the County. Of course, I can provide that to the Council whenever they wish.

COUNCILMEMBER ERVIN:
Yeah, and I wanted to also ask about what these facilities look like, because I know a lot of the conversation was about the aesthetics of these kinds of buildings, and I can tell you that I've seen, in different parts of the country, where people are developing and building storage facilities that you can't really tell what they are from the outside, so... And I think there's another issue here, and that has to do with people who move a lot who tend to live in apartments, and I think we're--we have to be careful that we don't cut off their ability to get to these storage facilities if we keep putting them further and further out into industrial zones. So it's just something that I am concerned about. I appreciate the conversation that

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we're having on this today, but I think that these issues are going to be very important as we move into the future.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Ervin. I do not see any other comments on the amendment, so we're now going to vote on the amendment offered by Miss Navarro. All those in favor, please raise your hand. And that is--that would be Councilmember Navarro, Councilmember Leventhal, Councilmember Trachtenberg, Councilmember Floreen, myself --it is unanimous. There we go. All right. We're now ready, I think. for a vote on the ZTA--ZTA 09-05, Burtonsville Overlay Zone, as amended by the Council and the committee. So unless there are any other comments, I'll ask the clerk to call the roll.

~~LINDA LAUER~~MARY ANNE PARADISE:
Miss Navarro.

COUNCILMEMBER NAVARRO:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Mr. Elrich.

COUNCILMEMBER ELRICH:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Miss Trachtenberg.

COUNCILMEMBER TRACHTENBERG:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Miss Floreen.

COUNCILMEMBER FLOREEN:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Mr. Leventhal.

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COUNCILMEMBER LEVENTHAL:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Miss Ervin.

COUNCILMEMBER ERVIN:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Mr. Knapp.

COUNCILMEMBER KNAPP:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Mr. Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Yes.

~~LINDA LAUER~~MARY ANNE PARADISE:
Mr. Andrews.

COUNCIL PRESIDENT ANDREWS:
Yes. The ZTA 09-05 is adopted, 9-0. And that concludes the District Council session. We are actually running a little bit ahead of our worksession. I'll ask Mr. Orlin if we have everybody here who we need here for the worksession, which is scheduled --it's scheduled to start at 10:30. I see Planning Board staff. All right. OK. All right. Well, I think we can get started, then. All right. Let's go. All right. I'll turn then to the chair of the PHED Committee for the PHED Committee's report on the Growth Policy. And this is a--before Mr. Knapp starts, I'll just mention this is a worksession. We have the rest of the morning and just about all the afternoon set aside for the worksession on this to identify the issues that are of interest to the Council to see if there is a request for any additional information, any additional proposals, and then we will come back to this next week and the week after, if necessary, to finalize the Growth Policy for the next two years.

COUNCILMEMBER KNAPP:

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Thank you, Mr. Chair--Mr. President. I will actually ultimately turn this over to staff to walk us through all of the pieces. This is one of the few things that we are statutorily required to do every 2 years, which is to review our Growth Policy and make any proposed modification, refinements, or any changes to it for the next two-year period. The committee has met 3 different times over the course of the last month to address all of the various issues that have been proposed by the Planning Board and issues raised by the Executive branch. We're going to start with an overview from the Planning Board, and then Dr. Orlin will walk us through the pieces. In the time since the committee has acted, we've gotten a series of addenda from the Executive branch, which Dr. Orlin will walk us through. I think we got one every day for the last 3 days. Anyway--just two. So we will walk through some of those pieces, and we will address them as we get to the specific items in which the-- they relate to. With that, I will turn it over to the Planning Board to walk us--do a quick overview.

ROYCE HANSON:
Very good, and Mr. Stanley will take you through a brief introduction.

ROLLIN STANLEY:
Hi. Rollin Stanley, Planning Director. I'm going to go over a quick introduction. Some of this information has been shown to the PHED Committee, but has not been shown to the larger Council at large. "Larger Council at large"? And I'd like to just go through in about 10 minutes some facts and figures that led us to propose what we propose. I've always like this quote:
"When a road is built, it's a strange thing how it collects traffic." What is Growth Policy? It provides guidance on matters concerning land use, growth management, social, environmental, and economic issues. That's in the legislation. It's almost verbatim. APFO: the AGP must include guidelines for the administration of the APFO. That sets us up where we are. Does it work? Well, we've pretty much built as planned, so it has worked. We've got office parks, shopping malls, quality single family neighborhoods, cul-de-sacs versus connecting streets, congestion, and higher-density CBDs. So it's worked as it was planned to do. But we've evolved. Times have changed. We're now concerned about greenhouse gases, water quality, infrastructure cost, changing demographics, consumer demand, and vehicle miles traveled. Is it time for change? Well, growth is more than managing subdivisions, as I'll get into in a moment. It's dealing with constraints, environment, changing demographics, and greenhouse gases. And as bit of a teaser, the demographics--when you look at the demographics, they're changing rapidly in the community, and what I'll use in this brief presentation is a lot of information about Bethesda and Silver Spring going back to a comment that Councilmember Berliner made during an earlier presentation about focusing on where we've changed in compact growth

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and what that resulted in. But when you look at Bethesda and Silver Spring versus the County in terms of the demographic changes, they've been dramatic. A big drop in the white population. A huge increase in Hispanic population as well as other categories. I guess I'm in the "other" category. Alternative review proposal-- what we're thinking about is looking at compact growth and its ability to reduce per-capita VMT and greenhouse gases. It improves sustainability of suburbs, will help preserve existing neighborhoods, and maximize future County revenue. One thing we have to be cognizant of is what's happening at other levels of government, so right now, EPA, HUD, and DOT got together--we have House Resolution 2454, which you know as the Climate Change Bill, but they're also creating a Partnership for Sustainable Communities, and they're focusing on access to affordable housing, more transportation options, and protecting the environment through minimum densities, a jobs/housing balance, existing infrastructure, mixed uses, and alternative modes. That's in their wording, and in fact, they're having a big meeting about that this week or next. They're looking at coordinating federal programs, evaluating the role of MPOs-- metropolitan planning organizations--and you'll start to see this in the Surface Transportation Bill, which will have direct impacts on our funding. State legislation also is in place, so next spring, we have to report, beginning next-- every year, on where the APFO restricts development in priority funding areas. And that's what we're talking about today. What are the driving factors behind a broader view of growth? Well, I got this quote from a book that Miss Floreen recommended to me, "Traffic":
"Building more lanes equals more miles driven, growing faster than natural increases." So, we have a County Green Policy. It says next year-- this is the last year we can increase greenhouse gases. Next year, we have to start reducing. In fact, we're going to have to reduce greenhouse gases to 80% of 2005 levels by 2050 and reduce 10% every 5 years after. It's not possible, quite clearly. There's no meaningful reduction in suburban greenhouse gases. It's built, and there will be no fundamental shifts in that, and this goes back to a statement that Council President Andrews made about, we're built the way we are. People will continue to drive. That's a fact of life. Our buildings won't get us there. 32% of the greenhouse gases nationally are created by buildings. In a place like New York City or a higher-built environment, 79% of greenhouse gases come from buildings. We're about cars, so the vast majority of our greenhouse comes from cars. So our LEED Silver requirement won't get us there. It just won't. How can we deal with this? Our VMT will increase, even without any growth. Even if we all drive electric cars, it's not going to get us there, because we're going to have to produce coal house-- coal-fired energy. We're going to hear a bit about traffic speed today. Compact growth needs slower speeds. And we heard a lot about this in the testimony in the White Flint situation--the gentleman in the wheelchair talking about that. In fact, to create pedestrian speeds, you have to be going at less than 20 miles an hour to create eye contact between a driver and a pedestrian.

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VIDEO NARRATOR:
We'll now show you what typical traffic looks like in evening rush hour on Rockville Pike, from Jones Bridge Road to Twinbrook Parkway. In this split-screen video, top of the screen condenses a 17-minute trip down to one minute, while the bottom of the screen charts the travel time using the same graph we introduced earlier. Recall that the green line on the graph represents free-flow speed, which in this example is just under 7 minutes. As you can see, traffic is backed up at the first 2 lights. Taking only this part of the trip into consideration, the Level of Service would most certainly be an F. However, once the car passes Cedar Lane, traffic clears up, and the car is able to reach speeds approaching free flow. The car continues toward White Flint and past the mall with little traffic until coming to a red light here at Nicholson Lane. It then once again reaches speeds near free flow. And the entire trip is eventually measured at LOS E.

ROLLIN STANLEY:
That's just to give a perspective on some of the discussion we'll have in a little bit. Does compact growth preserve neighborhoods? And this is a direct question that Councilmember Berliner asked. Well, 98% of commuters favor public transit for others. Compact growth brings services to existing neighborhoods, it directs growth to the Metro Station Policy Areas, and it will lower per-capita energy use. And I want to focus on Bethesda and Silver Spring as the compact growth areas we favored and what impact has that had. Well, when we look at what's happened in those areas since 1990, there has been a 13% increase in office space in Bethesda, 15% increase in Silver Spring, and Silver Spring is actually now at the level that Bethesda was in 1993. Increase in households-- there's been a 26% increase in Bethesda. There's been a 32% increase in Silver Spring. Median house values. There's been 134% increase in Bethesda. There's been 160% increase in Silver Spring. Change in household size. Well, interesting enough, the only parts of the County where we're actually seeing an increase in the number of people living in households are in north Bethesda, Silver Spring, and in Bethesda-Chevy Chase. And you can see the numbers there. In fact, in the County, it's actually dropping. And now this is the projection from 2005 to 2030, and the neighborhoods that will actually drop the most are the areas out the furthest, as we see some examples here. Like in Clarksburg, we expect it to drop about 18.5, Darnestown 17%, et cetera. And we've seen big changes in retailing activity. There's been a 45% increase in the number of businesses in Bethesda and Silver Spring, in the downtown areas, in that time period. And these are neighborhoods we all love, and they've had positive impacts. Are existing neighborhoods changing? Well, this is an interesting statistic. 63% of the people over the age of 65 live in single-family houses. Another 12.5% live in townhouses and duplexes. That's current. There will be a fundamental shift in our existing neighborhoods in the next 20 years. We

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surveyed, in 2005, senior citizens in the county. One-third of the people over the age of 65 have suggested they may leave the County when they retire or are unsure as to whether they will want to stay. That's a big fundamental change. The reasons? Economic, family, lack of services, housing diversity are all cited as areas, which total over half of the respondents' response. And when you look at where seniors are thinking about where they're going, they're thinking about compact growth. 22% of them surveyed say they'd like to think about moving into Silver Spring or Takoma. Almost 21% said Bethesda or Chevy Chase. Only 2% suggested the same area, or 4% said moving out further into a rural area. And we're not actually providing that kind of options for them in our current building patterns. And so what you see is, in this map about household head-- head of household in terms of age categories, these outside areas are where the impacts will be felt the most because that's where the predominance of the families, or households, are older. And then we look at who we're trying to attract, and you look at Generation Y-- Generation Y, I think, was born in '84. They're going to be graduating starting this year. And when are they coming? Where are they going? Well, 41% of them surveyed say they're going to want to rent for a minimum of 3 years, and that will not be the single-family neighborhoods, predominantly. It will be our compact growth areas. 77% plan to live in an urban core. In fact, when they're surveyed, blue is Generation X, which was, I guess, the seventies. Green is Generation Y. We're actually seeing an increase in Generation Y over Generation X looking for an urban setting, wanting to live closer to work, where they live --sorry, the type of home they live in is of less importance. In fact, of that surveyed population, 44% want to live in close in, urban-lite. That is, in fact, us-- close-in urban-lite. 37% want to live in an urban environment, and a very low percent want to live further out. These are not just the people we're trying to attract. These are the children of the people who live here today. So compact growth will help preserve existing neighborhoods, attract new residents, create affordable housing, and provide homes for County residents. It will also have a vast impact on the tax base. Who are our future tax base-- tax base coming from? Well, the minority population has increased here since '87 dramatically, and it's actually --by this time, it's about 46%. Hispanics account for about 50% of that increase, and of the foreign- born, it has doubled to 30% of the population. Tax revenue. This is where I live. This is about three-quarters of a mile away outside our office window in Woodside Village. This has 140 units. This has one. The assessed value of that building is about $32 million. The assessed value of that building is about $810,000. The property tax paid last year on that building was about $350,000. Here, it was 8,700. We estimate the income tax on that building last year at about $287,000, and in this building, it was about 2,100. This recordation tax for the building. Right now, currently, there's 9 units for sale in that building. This building hasn't sold in 15 years. So the impact on future County revenues of this kind of growth in compact areas is dramatic. In fact, the growth in the assessable base of one acre of land in a 20-year period in

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Bethesda was almost $9.8 million. In Silver Spring, it was 4.2 million. In the rest of the County, it was just under $418,000. And so when you look at the appraised values within the county, with the darker colors --the red and these colors-- it's obvious where the higher assessed values are, because the densities are higher. So when you look at the vast area of the County, as we've built as planned, our ability to increase taxes or raise revenues over the next 20 or 30 years is very limited in those areas. And so when you think about the income taxes as well, you'll see in Bethesda and Silver Spring, it's rising faster than it is in the rest of the County. You've seen this before. This is the population pyramid I showed you before. It looks real good right now, in 2000--wide in the middle, and over the next 30 years, we're going to get a lot older, and it reaches the point where since 1990, we've seen a 46% increase in the number of seniors. It will reach 81% increase by the year 2030. What that means is--you look at '05, '10, and '30, that the number of working adults to every senior citizen is dropping dramatically. We expect a 38% drop. That has serious implications on our revenue stream. And then when you look at cost of utilities--so here's a map of the WSSC facilities, and they estimate that by 2025, there will be--50% of the services will reach or exceed its useful age, and it gets higher when you look at the cast-iron structure. There's a lot to replace. So, the Alternative Review Procedure looks at, within a half-mile of transit, in the green blobs, are within the Metro Station Policy Areas and buses with a 15-minute headway, looking at Growth Policy a little differently. Now, the recommendation here from the PHED Committee is to reduce that to 10 minutes. The Alternative Review Procedure is based on what's happening around the country, in places like California and other places, and in what the federal government is looking at now with those 3 agencies, saying that if you build mixed uses to a minimum of 50% residential--if you build to a minimum of 55% of your density--so building near the transit, maximizing density-- and you meet energy efficiency goals and provide workforce or MPDU housing, that you get an Alternative Review Procedure where, in our case, we had recommended to the Planning Board that 50% of your PAMR fees go to transit in the area and 25% go to affordable housing. The PHED Committee recommended that 75% go to transit. Here's an example. This is Silver Spring Metro stop. On one side, we see development --office, residential, mixed use--and then there's this plaza, which they're actually thinking of rebuilding as a plaza. We'd like to see if the Growth Policy can actually offset the APFO biases about creating higher fees for people inside Metro Station Policy areas to get these kinds of things we're talking about--jobs, housing ratio, people closer to services, and improving a really terrible entrance to the subway system. Conclusion? Encouraging compact growth in Metro Station Policy areas has the ability to increase the potential to reduce greenhouse gas, increase our potential to meet future Countywide servicing replacement, increase the potential for preserving neighborhoods, and create pedestrian environments that will, in fact, have slower traffic and higher densities. The next step is the Growth Policy should be about more than traffic and school capacity, as is emerging in

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federal and state legislation, and it should think about being consistent with those changes --in fact, hopefully leading them in that direction. And this type of thinking will provide for our aging population which we currently have, preserve our existing neighborhoods, and attract Generation Y into our compact neighborhoods and then give them the option to move into our wonderful single-family housing as their family situations change. And that's the end of the presentation.

ROYCE HANSON:
And an affirmative vote would be deeply appreciated.

COUNCIL PRESIDENT ANDREWS:
Ha ha! I'm sure. Thank you, Mr. Stanley. All right. Thank you for that overview, and I don't see any comments there, although I just did want to ask a couple of questions that you can get back to me about, and that is, you had mentioned that--I think the statistic was that one-third of seniors are not sure about staying, and that was a big change. Are we--that is a significant number, but do we have previous surveys to show that that's a different number than in the past in terms of the number of seniors that are thinking about staying or leaving?

ROLLIN STANLEY:
I don't think so, but I'll check. That survey was done 4 years ago, in 2005. I do know that. But I'll check.

COUNCIL PRESIDENT ANDREWS:
OK, because if it's a change, then that would be more significant, as well, than if it weren't. OK. And I'll turn to Council Vice President Berliner and then Councilmember Leventhal and Councilmember Ervin.

COUNCIL VICE PRESIDENT BERLINER:
Mr. Stanley, one of the statistics you cited, I believe, is in error, but I could be in error, and that is our greenhouse gas emissions and the relative proportion of buildings versus our transportation sector. Miss Floreen and I have worked on the COG board on these sets of issues for some period of time, and unless I'm mistaken, in Montgomery County, two-thirds of our greenhouse gas emissions in fact come from our buildings --one-third from residential, one-third from our commercial buildings--and one-third from the transportation sector. So when you say we can't get there by buildings, part of the impetus behind things like our home-energy loan program was to ensure that we maximize our retrofit of our existing buildings. We certainly won't get there on the new stuff, but when you talk about

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what contributes to our greenhouse gas emissions, I believe it is two-thirds building, one-third transportation sector.

ROLLIN STANLEY:
I'll check that. That's very unusual for suburban communities that are so decentralized because of the driving, the vehicle miles traveled. Keep in mind that the reduction in greenhouse gases--like I say, even if we all switch to the electric cars, it's not going to get us there because we have to charge them with coal-fired energy.

COUNCIL VICE PRESIDENT BERLINER:
Hopefully, it won't be coal-fired, but I understand.

ROLLIN STANLEY:
One of the other things you have to think about with respect to buildings is, we're going to have a presentation this week, for example, by the Tower Companies on their LEED Platinum building in Rockville. A great building, but everybody still has to drive there. So the offset, or the comparison, of the building itself to how people are getting there somewhat tempers the efficiency of the building, et cetera.

COUNCIL VICE PRESIDENT BERLINER:
I am not, in this conversation, attempting to diminish the importance of our land use controls on our greenhouse gas emissions. I am just trying to put it in context. I totally agree with your-- with the thrust of your observations, that we must do better if we're going to reduce vehicle miles traveled. No question about it.

ROLLIN STANLEY:
I'll check that stat, and I'll get back to you.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Council Vice President Berliner. Councilmember Leventhal.

COUNCILMEMBER LEVENTHAL:
Well, I fully expect that whatever Growth Policy I end up voting for or against, I'll be attacked for it in the election year. And I think it is--and I want to follow up on a couple--I had some of the similar questions that my colleagues asked. First of all, we're a big, expensive metropolitan area, and, you know, we met with the senior leadership of Montgomery a few weeks ago, and the Council President of course was correct when he told them that we want to retain seniors for their wisdom and for what they have to offer and for their life experience and for the fact that they don't send their kids to public school,

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but they do pay taxes, and so for all of those reasons. But I also think that if you look at Atlanta, if you look at Tampa, if you look at Chicago --when people are at the end of their working lives, they think about moving out of expensive metropolitan areas. I don't know what those statistics really mean, and my question is similar to the Council President's. My wife and I have talked about retiring in Mexico at the end of our career. And will we do it? I don't know. It's idle discussion. But, you know, I don't know whether I'll retire in Montgomery County, honestly. So I don't know that it's surprising that in a mobile society, where people have choices, that they might look for better weather or look for a lower cost of living. I don't know how to equate that. I don't know that that means we failed, although we hear that from time to time--sometimes our friends at the Commission on Aging, who are excellent advocates--but I don't know that we should necessarily take that as a failure, that people at the end of their working careers want to move away from the metropolitan area where they were working and slow down, live somewhere different, have different scenery. I don't know what to make of that, and I'm not sure how significant it is. I do think that there--and I see it vividly. I do think that there is a difference in approach among generations about what Montgomery County ought to look like and what my constituents are looking for. And that is vivid in the debate on White Flint, it's vivid in the debate on the Science Cluster, and it's vivid in the debate on the Growth Policy. And we see younger working people who are very interested in having amenities and dining out opportunities and arts and entertainment opportunities, and we see people who moved to Montgomery County some decades ago who feel nostalgic for what Montgomery County looked like when they moved in. And those are human reactions. There's nothing right or wrong about that, but we're--but these 3 discussions that we're having right now have sparked anxiety--and some of it, it is generational. I'm not trying to stereotype anyone, but we certainly see it on display. The reality is that the metropolitan area will look different in the future than it looks today. It looks different today than it did in the past. Things do change. And the other reality is that the population will grow. The birthrate exceeds the death rate, and particularly at a time of economic uncertainty, the nation's capital is a job magnet, and people will want to live in the large area that encompasses Washington, DC. And so if we don't create more compact development in Montgomery County, closer to the Beltway, the demand will still be there for housing in the broad Washington, DC, area, and if we don't permit an expansion of the housing stock, as the Growth Policy suggests, in a more concentrated way at Metro, there will be an expansion of the housing stock in the exurbs--in Frederick County, in Carroll County, and in the outer counties. And so, that's the reality. When we talk about sprawl and we talk about White Flint as sprawl, White Flint is so far within the development envelope now, it isn't sprawl, and the alternative really is sprawl. The alternative really--are housing units further and further away. And so we're going to have a really lively discussion on these 3 matters before us--on the Growth Policy, on White Flint, and on the Science cluster-- and a critical question is going to be, do we mean

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it when we say we want to reduce vehicle miles traveled? Because if we truly want to reduce vehicle miles traveled, there is no question that we have to do more to co-locate jobs and housing. That does not mean that every single person who locates in a house will walk to the job that is next door. Of course it does not. Husbands and wives have different work locations. We can't--we can't control or predict what every resident will do, but it stands to reason that co-locating jobs and housing will make it easier for many who choose the housing to work in those jobs that are located right next door. And so, if the alternative is a scattering approach, which is what I've been hearing from some colleagues, that, no, don't put it all in one place; we should put everything all over the County. Well, that's what we've been doing since the pre-World War II era, and that is a recipe for more vehicle miles traveled, not less. So, those are some initial thoughts as we get into this debate. I mean, I'm interested in some of the dialogue that took place in the PHED Committee. I don't entirely understand, and we'll learn from the chairman, about what changes were made. I know that after that--that during and after that discussion, some pretty sharp criticism was levied at some Councilmembers, and, you know, that just comes with the territory. We ran for office. We've got thick skins. I'm--this is my third--this will be my third time going before the voters here in Montgomery County and asking them to let me keep this job, and I fully anticipate that I'll be attacked and criticized for whatever vote I cast. And I fully anticipate that the dialogue that will take place on this Growth Policy will be heated. The fundamental realities that I've outlined remain true. The population is going to grow, and we have to figure out how it's going to be housed, and if we say we don't want it to be housed in Montgomery County, it will just move further and further away, and the population will have to drive longer and longer distances.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Councilmember Leventhal. I wanted to just add a comment. I agree that Metro Station Areas are the most suitable areas for intense development in the County, and I think that the--since we are--we have two major Master Plans that are before the Council, although at different levels of review right now--the White Flint plan and the Gaithersburg West plan--I do think there is a striking difference in their ability to handle development in terms of their locations, given that one is at a Metro station and is interior, further in, and the other is several miles from a Metro station and further away from all the other aspects that you get when you're further in, in terms of numbers of buses going nearby and so on. So I think the idea of concentrating development near Metro stations is a very sound policy, and I have suggested that it would be better not to put as much of additional jobs in the Gaithersburg West area and to spread that around to some of our Metro station areas, which I think are better able to handle it, as well as to the East County, where there is an imbalance, a significant imbalance, of jobs and housing and where, if you were to locate more jobs there, more high-quality jobs, you would provide

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more opportunities for people who live there now to work closer to where they live. With that, I'm going to turn now to Councilmember Ervin.

COUNCILMEMBER ERVIN:
Thank you very much. I am very much looking forward to this conversation. I think it's interesting and timely in light of what's happening in our County, the huge demographic shifts that we're all witnessing. I moved to the County a couple of decades ago, had my two children, who are now grown up and moved away, and I'm in my 50s, and I consider myself a person who's looking at leaving my suburban lifestyle and moving into one of these Metro Station Policy areas, where there are lots of people who are not just in their 20s and 30s. There are people like me in my age group who are considering that we're going to be working for a lot longer than we used to, and I wanted to talk about or get into this conversation, Rollin, with you about your slide presentation, where you show, at some point in the future, where the numbers of seniors living in this County --I will be one of them, but I will be working for a very, very long time, I have a feeling, as are so many more people who are 65 and older. It's not a magic number anymore that says you automatically retire. We're witnessing that right now in this down economy. People who had planned to retire are sticking around because they have to. So I'm really interested in talking about some of these other demographic shifts, like the slide that showed--I wish we had the slide presentation; hopefully we'll get a copy of it--but the slide that showed the numbers of white families who are no longer here. Where are they going? Because we're seeing the same kind of demographic shift in our public school system. As an aside, Mike Knapp and I were talking the other day. He went to visit his daughter's school up in Germantown. There were only 3 white kids in the whole class. This is becoming a big issue. All you have to do is walk into any public school in any neighborhood in Montgomery County, and you will see that. Mike says in his district there are a lot of families who home school. I'm wondering where these families are going, because it's not that--clearly, the Latino population is skyrocketing, but there's got to be some explanations here for what's happening to all these families, because we're talking about young families with school-age children. And also, what is the impact going to be on how we build and plan schools for the future. If we're looking at these kind of demographic shifts, the conversations about White Flint, the conversations about Gaithersburg West--what are these urban schools? What does it mean for how we plan for them in the future? So I think the whole issue around quality of life is going to be paramount in my mind in terms of how we are able to go back out into our communities and talk about what this Growth Policy actually means to them in their everyday lives. So I'm really looking forward to the conversation.

COUNCIL PRESIDENT ANDREWS:

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Thank you, Councilmember Ervin. Council Vice President Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Just one last observation and inquiry that I hope we will get into over the course of the next several weeks, and it goes back to an observation that, Mr. Stanley, you raised with respect to the nature of our Growth Policy. And it's been a conversation that I've had with staff and I'm sure all my colleagues have struggled with, and that is that for a long time, we've been advised that our Growth Policy is an Adequate Public Facilities Ordinance. It is an--it is a Growth Policy only--in fact, we should change the name, and a lot of us believe we ought to change the name. It isn't about growth to begin with, because we've hardly been growing, and it's not about growth. It may be about how we want to manage growth, but it isn't about growth, per se. It is about, and it has been historically about, whether or not we have the facilities in place to accommodate growth. Now, I, for one, am not necessarily going to object if we expand the conversation, as long as we change the name, to include other considerations. But those other considerations typically I hear from our staff, for example--they don't belong in the Growth Policy. You should put them in Master Plans. And so it is that demarcation between what belongs in our Adequate Public Facilities Ordinance and what belongs elsewhere that I think we could all stand to have a more searching inquiry into. And I do urge that we come up with a different name, and I would love to have this "Growth Policy" be the first one that literally we change the name, and if it requires amending statute to do so, we should do so, because part of the dynamic in our larger community with respect to the issues we deal with are intensified by simply calling it a Growth Policy. And we shouldn't do that. It's not necessary, and it isn't what we are doing. So I just share those observations with my colleagues.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Council Vice President Berliner. Councilmember Elrich.

COUNCILMEMBER ELRICH:
I'd just like to make a couple of observations about where we are at this point, anyway. Nobody has been talking about scattering everything all over the County. I think, you know, the discussion, for example, on Life Sciences in Gaithersburg West has been focused on, does it make sense for some of this to be moved to the corridor in Germantown which sits along the CCT, for the very reason that more jobs and more of this kind of activity was envisioned up there at one point, and would that not be a logical place for things to go? It's also talking--we've also talked about locating some of this activity in the eastern part of the County, around the FDA development and Washington Adventist Hospital because there's a great need not just for jobs, but quality jobs, supposedly, on the east side of the County. And so there are multiple locations to put

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things, and they're not all bad locations and we need to discriminate between good locations and bad locations. I think to some extent what's trying to be done with the Growth Policy are issues that ought to be addressed in the Master Plans. I mean, it's not the case that growth has been--that the sprawl is some kind of accidental result of the Growth Policy. It's going to places that are zoned for what's exactly been planned for it, and if things aren't going into the centers and they're going to other parts of the County, our Master Plans say, "Bring it here." Every building that's built and every housing unit that's built in a place that we consider not the brightest place to do this stuff sits in the Master Plans. And there's no concurrent plan by the Planning Board to say let's reduce densities in places where we really don't want it and bring densities here. There is no downward, or no balancing, or no rebalancing of what the future of Montgomery County is like under this Growth Policy. It just simply provides some additional incentives in one place, but it doesn't change the fact that outer locations of Montgomery County, the land is cheaper. And so if we really wanted to have a Smart Growth Policy, then part of that Smart Growth Policy would be a stronger look at how we balance things in the County by changing the Master Plans in the County. Similarly, on the transportation front, we can do a lot more than what's envisioned in this Master Plan. There are other areas that have gone a lot farther than Montgomery County has gone in terms of parking restrictions. There are other areas of the country that have gone a lot farther than we're proposing to go in terms of driving people into transit. And we're not willing to go there. And so this is--you know, this becomes the definition of smart growth simply by saying if I allow bigger and taller buildings and density in one place, this becomes smart growth. I think at the end of the day --and I think Roger made this point in a previous discussion --but the bulk of our County residents are actually going to live not in these areas. You're talking about 10,000 housing units in White Flint, was it 5,000 or 6,000 housing units in West Gaithersburg. That number of units is dwarfed by the number of people who already live in what we call suburban sprawl, and they have to get to work. And none of us--at least I don't believe at this point-- are going to be proposing taking the suburban areas of the County and carving out high-density office uses in them so people don't have to commute. So the reality is no matter what you do at White Flint and what you do at Gaithersburg West, the majority of people are going to live somewhere else, and they've got to be able to get around. And to the extent that we can deal with transit, that is great, but at the end of the day, grid-locking the roads, I thought, was something that everybody on this Council thought was undesirable. I mean, I recall some rhetoric about, you know, no gridlock, ending gridlock. So I get confused when we get a proposal from the Planning Board that basically calls for gridlock. And, you know, when you think about a road like Wisconsin Avenue, it'd be one thing if White Flint or, you know, Wisconsin Avenue was a single destination, and you had a real grid of streets like you have in a real city, and you could disperse the traffic over this real grid, but you don't have that in Montgomery County. And to the extent that you make

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it impossible to move on Rockville Pike, it's not just the problem of people going in and out of these new urban centers. It's the problem of all the other 80% or 90% of County residents who have to make these trips not because they want to, but because they have no choice because there's no transit going into places where they go, because all the jobs are located along the corridor. And that seems to be our plan. It may not be a bad plan, to locate the bulk of the jobs between 355 and 270, but if that's the case, that road has to serve a function. It can't become a parking lot. And we've got to figure out how we get enough people into transit so that we can lessen the burden on the road, and your--this plan does not do that. And we've got to be sure we set standards that don't let these places go into collapse. I agree with George, and I think I agree with everybody that if we were to say that we should concentrate what development we have in what we would consider smart growth locations. I will be the last person to suggest we should blow things out to the edges of the County. But there's--beyond saying that we should do things in smart growth locations, it doesn't mean that we shouldn't look at how much capacity there is in smart growth locations and how much capacity there is getting into smart growth locations to make sure these places are viable. I'm not Gen Y. I may be the only senior on the Council at this point. Some people are--you know, some people are catching up with me. But I happen to like all the urban amenities. I don't view the urban amenities as something that Gen Y members have, you know, suddenly discovered. I mean, these are things that a lot of us like. So I don't think that's a, you know, a peculiarity of Gen Y. So I think there's a lot to be offered in the urban forum. This is a question of balance, and it's a question of how we achieve the balance. And I just don't think in some ways this policy goes far enough, and in some ways it ignores the role that--the role that an Adequate Public Facilities Ordinance is to have to serve everybody in Montgomery County and not just a spot here and a spot there.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Elrich. Councilmember Navarro.

COUNCILMEMBER NAVARRO:
I'm so excited about the opportunity to have these conversations. Can't wait. And as I'm sitting here reflecting, I mean, a couple of things come to mind. I view this--and obviously, this is my first one in this role, but I view it as an opportunity, and I'm very clear that it's not going to be perfect, and it's not going to be perfect, and it's not going to solve all the problems because we are trying to manage something that is ongoing and is shifting every single day. So, I mean, I hope that as we go through this conversation, especially with my colleagues here, that we don't, A, try to simplify this process or these issues and frame it in a way that it is so simplistic that it's almost insulting, but that we honestly come to this conversation with the best intentions to address something that is so challenging.

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And as we were looking at these slides, and I'm, you know, thinking, my God, I mean, look at these demographic changes. I mean, if the Latino community has grown 50%, as you were pointing there, have we done everything we can to understand also how this particular population or community feels about where we're going? I think--and I just point that out because I think that part of our responsibility is to be honest about the fact that this is kind of an uncharted territory. Montgomery County is going through a transformation that I think has plenty of opportunities and it's really wonderful, but it's also going to take some, I guess, humility as we go through addressing these issues. So I am looking forward to the conversation, and I hope, as I said before, that if anything, we recognize that, you know, yes, building around Metro is really important. Is it a perfect fix right away? Do we have everything in place in order to claim victory? Probably not. I would agree that it would be wonderful to take a more comprehensive look at the County in terms of where the capacity is and how different Master Plans do interact, et cetera, because I don't think we can afford not to anymore. We have to look at every single opportunity in terms of capacity and in terms of, you know, facilities and in terms of how have certain communities changed around some of these opportunity areas--Metro areas, et cetera. And so that's going to take a lot of bold conversations, and it's going to take a lot of honesty, I think, in recognizing that the challenges are there, it won't be perfect, but I think we're going in a decent direction. The other thing that jumps out at me is this notion that at least--Montgomery County is great because it has that mix of the sort of suburbs and, you know, established residential areas, rural areas--I mean, we just talked about Sandy Spring--and at the same time, these urban cores. I mean, it's wonderful. It's like there's something for everybody right here. And hopefully, then, we will seize the opportunity to put away the hostility and the simplification and begin to engage in a productive conversation for the sake of those of us who are here and for the sake of those who are going to be sticking around for a long time. So, thank you. And one last thing--I mean, one example of how we try really hard through policy to address some things that are out of our control--I mean, even with the school overcrowding issue, you know. When I was sitting at the Board of Education, it used to always, always jump out at me that, you know, some of the overcrowding that sometimes we worry about in certain areas of the County in our schools occurred in areas where there had not been any new residential development in a long time. And so, even though we try to propose all of these different policies and address it in certain ways, sometimes we're missing the boat because there are other issues outside of our control that are affecting some of this overcrowding, et cetera, as well. So, hopefully, the public will be patient and understand that this is, I think, an issue that will continue to shift, and that we are going to do our best to address some of these components and continue to do it every other year, every month, every day, et cetera. So, thank you.

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COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Navarro. Councilmember Leventhal.

COUNCILMEMBER LEVENTHAL:
Again I want to ask Rollin if I could please have his slides so that I can circulate them on the Internet. I think, as you see from my colleagues' rhetoric, it's a very difficult task to explain to the public why it is in the public's interest to concentrate jobs and housing in the Metro Station Policy area because we have politicians who will accuse the Planning Board and other politicians of creating gridlock. This is the beginning of the political campaign of 2010. We've heard it right here. Of course, we don't put cars on the road. Our constituents decide where to live. Our constituents decide where to work. Those who build the apartments build them because there is demand for them. Those who make investment decisions make them because they believe they will be profitable. We followed a long-range policy of concentrating jobs and housing at Metro hubs, concentrating transportation in transportation corridors, protecting half the County as Ag Reserve or parks, and inside the development envelope, trying to preserve a suburban area in part of the County, and welcoming and recognizing that other parts are urbanizing. That's been the policy of this County for many decades. It continues to be the policy today. We have a nationally recognized Planning Board chairman, expert on urban planning issues. We have a nationally recognized planning director, who we did a national search for. We have the members of the Planning Board, who my colleagues voted for. I actually respect them and appreciate them. I didn't vote for them. Commissioner Alfandre, Commissioner Harley--I like them both very much. I think they're excellent. They've both recommended a policy to us, but some of our --at least one of our colleagues is attacking it right out of the box and saying that this policy is making gridlock, creating gridlock. Maybe it's creating dandruff. Maybe it's creating all kinds of things we don't like. Maybe it's creating swine flu. Maybe it's creating crabgrass. We can make any accusation we want if it benefits us politically, as we prepare for the election campaign that's about to come. It started here today. But this policy does not make gridlock. We are a high-traffic area like Chicago, like Tampa, like Atlanta. This is the Washington, DC, area. There will be traffic. The question is, do we want the traffic to be commuting further and further distances. If we say, no, we're going to put a ceiling or a moratorium on the jobs and housing that we anticipate are going to come into Montgomery County, they will still come to the region. So do we want the jobs and the housing in Prince William County? Do we want them in Spotsylvania County? Do we want them in Frederick County? Do we want them in Howard County? Do we want them in Carroll County? And still driving on our roads and still generating gridlock here? That's the debate we're going to have, and that's the debate which we're obviously beginning as we head into the election season. I've been through this before. I recognize it. I know what it sounds like, and it started here this morning.

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COUNCIL PRESIDENT ANDREWS:
OK. Councilmember Trachtenberg has her light on.

COUNCILMEMBER TRACHTENBERG:
Thank you, President Andrews. And on a different note, I, too, look forward to this debate over the next few days, few weeks, and I think that the description offered by Councilmember Navarro in terms of this being a work in progress is very much on point. Obviously, ultimately what we come up with in terms of our decisions--they're not final. This is a policy that evolves over time, and we've got to strike a balance because clearly one of the things we all recognize is as a community, we continue to evolve, and we look a lot different than we did 10 years ago, and I might say we're going to look a lot different in 10 years down the road. But in my mind, the policy discussion that we're embarking on is really about resources for the community, and that really means money--money for the infrastructure for those that we serve, whether we're talking about roads, whether we're talking about schools. And I guess one of the things that I'm hoping we'll have robust conversation on is really how does this policy impact on neighborhoods. And in my mind, specifically, two of the Master Plans that are before us, both in Gaithersburg West and in White Flint, because clearly revenue that's generated supports the investments that need to be made. And I understand even if we were to do nothing, we still have some very basic, fundamental challenges around those investments that do need to be made. So, two things to keep in mind, and this is specifically a request for the Planning staff that's with us today and will be with us the next few times we meet and talk about this. I'd actually like to have some sense of how many projects would be impacted upon by any of the modifications to PAMR that are being--that are being made. I mean, I think that--I'm sure my colleagues are going to be asking for the same thing, but I wanted to put that right out front as being one of the things that I want to hear about. I also want to have a conversation, clearly, about the CIP and relationship to schools and if there are any projects in the queue that would be affected if a moratoria stayed in place until next May, because that's something that my office has been contacted on directly a few times now, and I think down the road--again, in future conversations--I'd like it addressed. But I want to go back to the fact that I'd like the conversation here not just to be about development of community and moving into the future, but how do we really set up a plan, again, that's flexible, but one that gives us a sense of comfort around the investments that need to be made, because really, at the end of the day, it comes down to money--the revenue that gets generated for the residents here in Montgomery County.

COUNCIL PRESIDENT ANDREWS:

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OK. Thank you, Councilmember Trachtenberg. In just a couple of minutes, I'm going to turn to Mr. Knapp and have him lead us through the recommendations of the PHED Committee, beginning with the public school capacity test. Councilmember Elrich.

COUNCILMEMBER ELRICH:
I don't know why George is all exercised about election campaigns. I'm not doing this as part of an election campaign. As a member of the PHED Committee and a member of this Council, I have to make a finding about adequate public facilities. That's not an election campaign. That's deciding what level of school overcrowding or what level of school capacity is acceptable and what level of congestion we're willing to accept on our roads. This Council, two years ago, changed the capacity test for schools. No one said that was an election campaign and that was, you know, the start of a political battle. We just decided that a better number for school capacity made more sense, did a better job of protecting the educational interests of our children, and the majority of the Council voted to do that. We set a ceiling 4 years--two years ago on how low we thought the average arterial speed should be, and it wasn't unique to Montgomery County. It's standards that were pretty common around the country. We set a Level of Service D. We said on a 35-mile-an-hour road, things shouldn't go slower than 11-13 miles an hour, something in that range. And again, we didn't tread into unusual, strange territory, and it wasn't a political campaign. It was a matter of deciding what's an adequate public facility, and I hope that the discussion that we have on this Growth Policy focuses on talking about adequate public facilities and making sure we have them and not trying to morph the discussion into something else. I mean, I appreciate that you're not on this committee, and I don't know everything that you do in your committee, and I don't expect you to know everything we do in our committee, but it may surprise you to know that all 3 of us on the committee do not support the PAMR test. And not only that, that the development community doesn't support the PAMR test, and anybody on the development community out there in the audience would probably nod their head and say, "We do not support the PAMR test." And we're in agreement on this. It's a terrible test. It doesn't do what it should do. It doesn't give them any certainty. And the proposal I put on there as an alternative would not have locked the County into moratorium or anything else. In fact, it was drawn from something done in another large county, and I think some--at least one of the other Councilmembers has taken a look at it and finds there may be some merit in it, and one of the consulting firms, a traffic engineering firm that's working for the developers in White Flint, has looked at it and said there's some merit in it. So it's not like we're off trying to set the County in moratorium. The truth is, we're trying to find what gives everybody a reasonable level of certainty and provides a reasonable level of adequate public services. And that's what we're trying to do right now, and that's all I'm trying to do right now.

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COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Elrich. OK. I'm going to now turn to the chair of the PHED Committee to take us through the recommendations, beginning with the public school capacity test. This is on page one of the-- today's packet.

COUNCILMEMBER KNAPP:
I will do much of it with the able assistance of our deputy staff director, Dr. Orlin.

GLENN ORLIN:
Go ahead?

COUNCILMEMBER KNAPP:
Go right ahead. We're going to start with schools and jump in.

GLENN ORLIN:
Just a couple of real prefatory remarks. First of all, Mr. Faden can't be with us today. He's out ill, but he's probably watching us on TV and enjoying himself immensely.

COUNCIL PRESIDENT ANDREWS:
Get well soon, Mr. Faden.

GLENN ORLIN:
Secondly, in terms of documents, there are several. There's the packet for today. There are two addenda. One is called Addendum, and the other one is, I guess, Addendum Number 2, which actually I put on the table in front of you this morning--both memos from the County Executive. And again, we'll talk about those when we get to the points in the discussion. And the other documents--of course, the Growth Policy itself. If you don't have them with you, you might want to Twitter or Buzz your staff to bring them down, because we will be referring to the--certainly the main report during the course of the discussion. There's also a technical appendix which we probably won't, but if you can grab both, that would be probably useful, too. And at this point, actually, Chris Bell from the school system ought to come down because he's the chief staff person for MCPS on these kinds of issues. OK, with that--oh, one more prefatory comment. Mr. Berliner, the comments you made about what's the purpose of the Growth Policy and changing the name and all that--there is a bill that's been produced. It's circulating, I think, for sponsors among the Council. It will be introduced next-- next Tuesday. There's no Legislative session today. And that will be the forum for discussing what should the scope of the Growth Policy be, what should be its name, when should it be done. So that will be on the table for you--again, introduction next week. Public hearing, probably late in November, and discussion

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to ensue. OK. With that, starting on page one, the public school capacity test--just as a reminder, the current test is as follows:
that if a cluster 5 years from now will be over capacity in terms of program capacity by 20% or more either at the elementary, middle, or high school level--any of those levels--then that cluster is in moratorium. And what that means is that no further residential subdivisions can be approved except for senior housing, which, of course, doesn't generate students anyway. If a cluster is over 105% of capacity--5% more than capacity 5 years from now--at any of the 3 levels but under 120%--under 20% over capacity --then development still can go forward if they pay what's called a School Facilities Payment, or SFP, which is actually designated--the rates are designated in the law, and they're currently at $19,515 for elementary school generated, $25,411 for middle school students, and 28,501 per high school student. The first issue actually has to do with what does it mean to be 120? And the practice up till now has been that the school system, working with the Planning Board, has come up with the enrollment forecast and then compared to the program capacity in the cluster. And if the--they figure out what that ratio is and then round it to the nearest percent, and then if that percent-- rounded percent--is over 20%, 120%, then it's in moratorium. If it's over 105%, it's subject to a school facility payment. The thing I want to point out is that the rounding makes a difference. For example, in the northwest cluster, the current enrollment forecast is 4,178 students. Its program capacity is 3,478. So it's actually at 120.13%. And so, by rounding, it goes to 120%, and then you say, well, is it over 120 or not? You say, no, it's not over 120. And I brought this up as an issue, and the PHED Committee agrees, that we really should not be rounding these numbers --that if it's mathematically over 120%, then it should go in moratorium. If it's mathematically over the school facility payment threshold, it should be in that area. And what this means is--and the PHED Committee agrees with it unanimously--and what this means is that you need to find that the Northwest Cluster is now a fourth cluster that would be in moratorium. There currently are 3-- Bethesda/Chevy Chase, Seneca Valley, and Clarksburg. The first two for elementary school capacity, Clarksburg for middle school. And now Northwest would also be in moratorium, should be found as being in moratorium for elementary school capacity. So that's the first point.

COUNCILMEMBER ERVIN:
Can we ask questions?

GLENN ORLIN:
However you want.

COUNCILMEMBER KNAPP:
OK. It's a worksession, so...

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COUNCIL PRESIDENT ANDREWS:
Go ahead, Councilmember.

COUNCILMEMBER ERVIN:
I just have a quick comment about what you just read, Glenn. I don't have any problem, I don't think, with the--with your overall--the direction that you're going in, especially since these 4 clusters will be in moratorium. My problem here is that this policy is not consistent. We keep setting the rules and making exceptions. So at what point are we going to fix that? Are we going to have a policy saying this is what we'll do for all clusters in moratoria in the future? I mean, how are we going to address--so I'm just trying to figure out what direction we're going, because I did have a couple conversations with the members of the Board of Education who were very concerned about the policy implications here.

GLENN ORLIN:
Are you--maybe you're talking about the next issue, which is the--

COUNCILMEMBER ERVIN:
Maybe I skipped ahead. I'm sorry. I'm always skipping ahead. I'm not even listening to you. Sorry.

GLENN ORLIN:
Oh, no!

COUNCILMEMBER ERVIN:
I'm just being truthful. We're not all--

GLENN ORLIN:
We're about to get to that. This is strictly a finding that we should be rounding the fractions. So unless there's any other questions on that, I'll go on to the next one? Which is the more complicated.

COUNCIL PRESIDENT ANDREWS:
OK. Go ahead.

GLENN ORLIN:
OK, the next point is the moratorium threshold itself. The Planning Board recommends continuing the 120% threshold for moratorium for the school test, and the Board of Education agrees, as well as the Executive and the MCC PTAs and civic federations and

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a host of other individual PTAs and civic organizations in the County. The Chamber of Commerce and the Building Industry Association recommend it be set at 35% over capacity, 135%, which is what it had been before the Council changed it two years ago. However, the PHED Committee unanimously agrees that this is the proper level to identify as something that is enough of a problem that development, residential development should not be allowed to proceed through subdivision until the problem is fixed. In that vein, the Council or the PHED Committee also recommended--in fact, it was introduced this morning--a way of dealing directly with these moratoria, which is to recognize the fact--and it is a fact--that for the last 20 years, which is all the time I've been around it, and probably a lot longer, that when there is this kind of problem in the school system in terms of a projected overcapacity at schools in the 5-year or 4-year period, whatever is used, that the school system responds with recommending specific projects, and the Council always approves them. Always. Maybe not quite on the same schedule, but certainly within the schedule needed to meet the problem. And so what has been introduced this morning are 4 PDFs for these 4 clusters, which would set aside money in the '09 - '14 CIP to pay for improvements for specific number of classrooms at the level that's necessary to meet the moratoria in these clusters. What it does not do is--first of all, because the money is toward the back end of the CIP. It doesn't appropriate any money because there's no reason to appropriate. There's no money that would be spent on it in the first--in FY10. But secondly, it doesn't specify the specific schools, because that's something the School Board itself feels very protective about in terms of its wanting to be the one that makes the decision as to what to put before the Council as which specific schools should be addressed. And so that's what the PHED Committee is recommending, and it's--again, the 4 PDFs have been introduced. It brings us to appendix 2, which is the memo we got from the County Executive yesterday where he's recommending-- appendix 2.
UNKNOWN SPEAKER?????:
Addendum 2.

GLENN ORLIN:
Oh, sorry. Addendum 2. Sorry. Addendum two, which is the County Executive's memo that he circulated late yesterday to us. He's recommending that the Council not go in this direction, that it's essentially carving out part of the CIP before you're looking at the whole CIP. And there may be other parts of the CIP--not just schools, but public safety, transportation, other areas that might have use for this Capital Reserve. And it's not being done as part of a holistic look at things. And he's recommending instead that the Council approve what the Planning Board recommended on grandfathering, which would allow subdivisions that have been applied for--not approved, applied for--12 months prior to the finding of moratorium that they be grandfathered through. In other words, they don't have to be subject to the moratoria. The response is this. The school system staff-- Bruce said

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this at actually couple of the meetings of the PHED Committee--and that the superintendent will be recommending specific projects in the next CIP. In fact, it's going to be released tomorrow, so you'll know tomorrow, for sure. And actually, many of us know today because many of us have had previews of this. But we will know officially tomorrow that in fact there will be projects that will be in each of these clusters that will address the moratorium issue. So the real question is, do you want to keep the moratorium in place for another--between now and next July, or do you end the moratoria basically in the next month or so by putting these PDFs out there.

COUNCIL PRESIDENT ANDREWS:
OK. I'll stop you right there for a second. There are a number of comments on this, but that's a good summary of what it would do. Councilmember Elrich, then Council Vice President Berliner, then Councilmember Leventhal.

COUNCILMEMBER ELRICH:
This was one of the most difficult discussions we had on the committee, I think, in trying to figure out the balance, and, Valerie, you asked a really good question, because how does this fit with future plans? Do these projects simply jump the queue automatically? And I think the response--at least from my perspective, my response is, there's nothing automatic about this. They may or may not. They may get the report that says these clusters are out of balance. They may or may not submit a PDF. I mean, the School Board itself could decide that, "Yeah, these are out of balance, but given our limited resources, we're not going to address them in this timeframe." Or they could decide to give them the limited resources these can fit in. So it doesn't require that anything we do automatically solve the moratorium problem or busts the queue. So that becomes a decision first level there. The second level, I guess, would be the Exec makes his recommendations, and I can guess he can lop capital projects out of there, too, if he doesn't think there's sufficient capacity. Do we always get exactly what the School Board--do you always get exactly what you recommend? OK. So somebody will--I just wanted to check on that, because my recollection was that you don't get exactly what you want.

GLENN ORLIN:
They have always gotten what they want on school capacity projects within the timeframe.

COUNCIL PRESIDENT ANDREWS:
Their batting average would definitely get them in the Hall of Fame.

COUNCILMEMBER ELRICH:

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But then, since I think--you know, school capacity projects are pretty important. You might say that the citizens are batting 100% for addressing school capacity issues. So it's not--you know, I think everybody wins, to the extent we can do that. But this was not meant to either be an automatic queue-jumper or to assure that every time there's a moratorium, that it gets addressed. And I think that's a concern I've heard, as well, from the PTAs. They've been waiting--many of them waiting long, long, long for expansions, modernizations, and everything else, that they don't understand why these projects can come in front of every other project. So this was really tough. So as long as it's not automatic, I think this is an OK thing to do. It gives them flexibility.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Elrich.

COUNCILMEMBER ELRICH:
I have a question for Glenn, though.

COUNCIL PRESIDENT ANDREWS:
OK. Go ahead.

COUNCILMEMBER ELRICH:
Which gets to the question, I think, that the Executive raised. I mean, we've done a few CIPs. I mean, I've done a few CIPs now. And I'm looking at these numbers in the odd years, and I keep thinking, when we say 300, 300, 320, 320, 320, that we've programmed, in the out years, 320. And when I look down the list of projects, they seem to eat up 320. In fact, one of the things we tried to change on, I think it was the Public Safety Committee, was taking projects that had zero and plugging in real numbers so that in fact we used up money and you weren't able to larder up a list of capital projects with no money. So if we filled up our project list, and we filled up, say, 320 in an out year--say year 4--how is there now money in year 4?

GLENN ORLIN:
Well, there isn't. If you look at page 3, the table there shows what the Bond Reserve is in each of the remaining 5 years of the current CIP, Fiscal Years '10-'14. Whenever the Council approves a CIP, it doesn't fill up the whole 320 or 325. It leaves some left because in the early years, there's always suppplementals that come forward--project increases in cost or--something comes up, and you need to have a little flex, just like you do in the Operating Budget. You have an Operating Budget reserve. As you go further out in time, back further in the CIP--in this case, current CIP, years '12, '13, and '14--those reserves get much bigger, and what those are there for is to recognize the fact that there are a lot

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of projects that are in facility planning, whether it's transportation or police or fire--schools--which we know are going to come forward for--as full-blown projects, and we need to be able to protect the capacity for them. And that's why this particular proposal fits into that, because part of that reason for why the big numbers are in the later years is because we know there are going to be school projects that have come forward, and this proposal basically recognizes that and carves out a piece of that for schools. That's really what it does.

COUNCILMEMBER ELRICH:
Well, when we were vexing over--you know, we delayed those two high schools, and that caused a lot of consternation in the community. Could we have looked at this list and said, "Rather than keeping this reserve, we actually want to..." Because I don't remember having that discussion where anybody said, "You know, instead of keeping this reserve, you could take this and you could build a high school or you could do a bunch of other school projects earlier." Because I think all of us would assume--if somebody had said there was this much money sitting out there, I'm not sure we wouldn't have said, "Let's do some of these school projects that have been sitting in line."

GLENN ORLIN:
Well, we looked at this several times, as both an MFP Committee and at the full Council, both at Spending Affordability and at the end, at reconciliation. And we say that one of the things we want to do is make sure that the--there is a normal reserve in each of these years--normal being small in the first couple of years, growing to larger amounts in the later years, because of what is gonna be coming, including school projects.

COUNCILMEMBER ELRICH:
Maybe the discussions at the MFP Committee were different than they had at the Council, but I'll just say, from where I sit --I see Valerie shaking her head. I mean, my recollection is, nobody said we're not going to spend what we've got available to us because we're maintaining a reserve. We were told there was no room to fit in--the high school. We were told we weren't able to fit in some of these--am I correct, Valerie?

GLENN ORLIN:
Well, some of the years--what happens is a high school project has 3 or 4 years of big money in it, and the first year or two of it may be in an early year of a CIP, where in fact there really literally isn't room. And so--and you can't just suddenly decide, "Oh, here's 4 years of funding on a high school. Let's take the first two years and lump it into the last two years.

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COUNCILMEMBER ELRICH:
Yeah, but the high school is the big one. I mean, there are other school projects. I'm just saying that my perception of how this has been presented is, we're doing our CIP. We're not holding out a bunch of money for reserve. In fact, we're not doing projects that we'd like to do because we're told there is no money. Now there's money and if--

GLENN ORLIN:
There's no more money than there ever has been. In fact, the reserve now is actually smaller than it has been in the past.

COUNCILMEMBER ELRICH:
I agree. You cannot perform magic, and you have not made money appear. But I think you've altered my understanding of where the money is.

GLENN ORLIN:
OK. We'll talk more about it as we--for the next CIP. No, really. It's a good discussion to have. And we'll concentrate on this in January when we do spending affordability again.

COUNCILMEMBER ELRICH:
OK.

COUNCIL VICE PRESIDENT BERLINER:
I think I am next, and then Councilmember Leventhal after me. So, I do understand that my colleague supports this, notwithstanding his questions with respect to--he's vexed. He's vexed. My colleague is often vexed. Yes. So as I appreciate it, tomorrow we will hear from our superintendent, his recommendation that all 4 of these clusters be addressed--the overcrowding be addressed --that Dr. Orlin has said, and you have confirmed, that this Council has never not adopted that recommendation. You are batting 100%, as I understand it, with respect to recommendations of that nature.

GLENN ORLIN:
It's--the Council has always approved capacity that's recommended by the board, but not necessarily on the same schedule.

COUNCIL VICE PRESIDENT BERLINER:
OK. Thank you. We have, according to Dr. Orlin, the room to do this in the CIP without bumping other projects.

GLENN ORLIN:

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Right.

COUNCIL VICE PRESIDENT BERLINER:
We have 4 school systems that are--excuse me, 4 clusters; I apologize--that are experiencing unacceptable, intolerable levels of overcrowding. The 120% actually doesn't do it justice, because some of our elementary schools in those clusters are experiencing something on the order of 165% overcrowding. So we have schools that are so overcrowded, it is an embarrassment, and what we are saying is, we are going to take care of those schools. We're going to take care of those kids. We're going to take care of the parents who have said to us, "In Montgomery County, this should not happen." So from my perspective, the moratorium is nothing more than, if you will, the canary in the bird cage, which is saying we have a problem here. So the notion that we choose to address that problem, I think, is totally appropriate--that this is the worst of the problems when you get overcrowding of that nature. So I think that this recommendation from our committee is an appropriate one, and the only question I had is on a going-forward basis, more akin to the concerns that my colleagues have expressed with respect to this, is I had urged or given consider--asked staff and the committee to give consideration to the possibility of a trigger mechanism, so that when we reach, if you will, 115% of capacity, that there be an official finding by the board or otherwise that would go to our school system so that as soon as we see we are approximating this level of overcrowding, that we give the school system time to respond to it outside of an emergency situation. Does that--if that happens today, I need to understand the consequences from the school system's perspective of such a...

PAM DUNN:
Hi. Pam Dunn, Park and Planning. One thing to note is that at the last Growth Policy, you approved a school queue, which was that as development applications were completed, I would enter them against the remaining capacity of any school cluster so that we could track whether--kind of what you're saying; whether new development was going to go into an area and it was going to perpetuate a school cluster to enter a school facility payment mode or a moratorium midcycle. And then we would want to bring that attention, obviously, to the Planning Board, the school system, as well, and to you all. But in the case of 3 of these 4 clusters, the school queue itself did not predict any of these changes. That's because, as you've already heard today, that a lot of change in enrollment that does occur within these clusters is happening for reasons having to do with the turnover in the current housing stock. So on the Planning Board side of it, we didn't predict that we would have these problems. The person that might--Bruce might be able to talk about the fact that when they do their enrollment figures in the fall, he may get better numbers that show him that there could be an issue going on. But I think even in the case with the

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school system, there was some surprise in that the economy perpetuating kids to move from private into public, people now taking advantage of full-day kindergarten programs that they hadn't in the past-- I mean, there were a lot of things occurring. So, in fact, you could say at 115 we should--we should make people aware of what's happening. I think that's fine, but I think that in some of these cases, there are going to be some jumps, and they're not always going to be predictable.

COUNCIL VICE PRESIDENT BERLINER:
I appreciate that. And would you care to respond, as well?

BRUCE CRISPELL:
Yeah. I would just add that the enrollment forecast, as you probably know, is done every fall when we see the most current enrollment, and it isn't the kind of thing that you could sort of continuously update the forecast. Enrollment during the year doesn't change that much at any one school, so what Pam is talking about--monitoring subdivision approvals in terms of triggering moratorium midyear--is helpful for that on the new development side, but the kind of shifts that we have that are significant, really you don't even know they're going to happen till you come to fall enrollment and the school is open, and there the kids are. Like we did this year--we came in over projection. Last year, we were over projection. And that was the surprise in the last 2 years.

COUNCIL VICE PRESIDENT BERLINER:
I appreciate that there are--and this situation today probably is an example, although there are circumstances that are unrelated to development, which has been part of the conversation we've heard from our development community, which is, this is happening not because we're building a lot. It is happening because of change in demographics. It is happening because of the change in the economy, and particularly the private school enrollment, so that there are pieces. But I still believe that to the extent to which you do conclude that on a development basis that we're reaching, if you will, 115% in certain clusters, that it would be nice for you to, one, flag that in all the ways possible to make sure that we see this coming before it actually occurs. Thank you.

COUNCIL PRESIDENT ANDREWS:
Thank you, Council Vice President Berliner. Councilmember Leventhal.

COUNCILMEMBER LEVENTHAL:
OK. I didn't have the benefit of the PHED Committee's discussion on this, and so there are some real fundamental things that I would like to have explained to me, and I apologize if my colleagues are ahead of me. I am a little slow. So, Bruce, are these the--

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OK, now, with respect to these CIP amendments that are suggested at circle 15, circle 16, and circle 17, circle 18--BCC Cluster elementary school solution, Clarksburg Cluster middle school solution, Northwest Cluster elementary school solution, Seneca Valley Cluster elementary school solution--are these the most crowded elementary schools in Montgomery County?

BRUCE CRISPELL:
The Clarksburg solution is for middle school, first of all, so that that's not--

COUNCILMEMBER LEVENTHAL:
OK. Is that the most crowded middle school in Montgomery County?

BRUCE CRISPELL:
It's projected to be, and it's a 5-year test, so that's when the test expects. The BCC Cluster is definitely the most over-utilized cluster of elementary schools. When you add them all up, which the test does, cluster-wide, and then--I mean, our overcrowded schools go right with the Growth Policy threshold. If it's over 120%, it's among our most overcrowded clusters. In some clusters--

COUNCILMEMBER LEVENTHAL:
Could I just stop you on that? Because I want to clarify that. Are you saying--I'm going to -- it's a simple question. Are these 4--do these 4 proposed CIP amendments address the most critical overcrowding situations in our school system?

BRUCE CRISPELL:
At a cluster level. There are specific schools that are in other parts of the County that may be very overcrowded, but when you look at the whole cluster and what's planned there, it doesn't exceed the 120%. Like right now--well, in a 5-year forecast. Right now, there's lots of schools that are very overcrowded, like Oakland Terrace, but in 2 or 3 years, we're opening another school there, so it gets addressed. All these--this test relates to a 5-year forecast in the future. So you may be familiar with a lot of schools that are currently overcrowded, but there's a capital project in the plan already that's going to take that deficit away by the time the test is run.

COUNCILMEMBER LEVENTHAL:
OK. If I'm understanding you correctly, then, that means that there is a congruence-- appropriately; we would hope there is a congruence-- between the schools test and the sort of ranking of the most critical problems of overcrowding in the school system--that the schools test does--that, in fact, Mr. Berliner's description would be correct, that it is the

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canary, that there isn't any--there aren't any other clusters with problems as aggravated as here.

BRUCE CRISPELL:
Right. That's absolutely true. Right.

COUNCILMEMBER LEVENTHAL:
Well, that's an important point. OK, next question. Now, are we--my question is actually for Chairman Hanson. I apologize. If I could just get Chairman Hanson's attention. Are we--is this sort of an abstract discussion because the moratorium has occurred, or, when the County Executive talks about grandfathering, do we have specific subdivisions that are held up that are just waiting to go? I was under the impression that construction was pretty slow in the economy right now. Are we--are we beating back developers with a stick saying, "No, you're in moratorium, you can't have this now. Wait your turn." Or is it sort of abstract-- just if and when it becomes time to build.

GLENN ORLIN:
There's actually a chart on--if I could answer --on page 5 of the packet. Not circle 5, but page 5.

COUNCILMEMBER LEVENTHAL:
Right.

GLENN ORLIN:
There is a chart, when you get to grandfathering, that shows currently in BCC there are 2 developments which are affected, one in Clarksburg, one in Northwest, and actually, there isn't any right now in Seneca Valley.

COUNCILMEMBER LEVENTHAL:
OK. Well, this is helpful. I'm just trying to get clear on these basic issues. Royce, did you want to comment?

ROYCE HANSON:
Just very briefly, 2 things. One is that what both we and the school system are doing is projecting the extent to which there will or will not be overcrowding. And so a school may today be overcrowded, and we catch that, or, given what's in the pipeline, it may become overcrowded, and therefore there is early warning in that respect. Now, as far as the grandfathering issue is concerned, what we had recommended was simply that if an applicant in one of these clusters that has been identified as either being or likely to be

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overcrowded, or over the threshold, and to go into moratorium, had filed a completed application within 12 months of the time that the area is placed in moratorium, that they should be permitted to go ahead. And our rationale on that was simply that by that time, having innocently submitted an application at a time before a moratorium was declared, that --and having invested a good bit in getting the application that far, that it--it was not unreasonable to--to let them proceed. Again, anybody who is at that stage, the application has been filed but not acted upon. They are 4-5 years away from putting houses on the ground and having kids show up in school. So our thinking was that there was enough time for the Council to act in that period, and moreover, that the--that the amount of, or the number of, schoolchildren that, at least at this point, are generated is 34 for all 4 clusters.

COUNCILMEMBER LEVENTHAL:
For all 4 clusters?

ROYCE HANSON:
Right.

COUNCILMEMBER LEVENTHAL:
Wow. OK. So basically, you're endorsing both approaches. You're saying that a grandfathering approach doesn't cause a major impact--34 kids scattered across 4 clusters-- and you don't have any objection to the school system identifying these additional classrooms in these clusters, because they may be the clusters of highest need. So what you're all saying is that we should do both. So why, then--is anyone here representing the Executive? Why does the Executive--if the school system is going to come forward and say, "We need these additional classrooms in the cluster." and they're not going to appear on the ground until 2014 anyway, and Oakland Terrace is going to be addressed before that, so we aren't in fact jumping the queue. I'm listening carefully. Correct me if I'm saying anything wrong. And I just--just to the chair of the Education Committee, who had been having a side conversation with me, I just want to request that you follow along here, because Oakland Terrace is going to be addressed in the next couple of years. These classroom improvements wouldn't come online until 2014. If the developments go ahead, you're talking about adding a total of 34 children. The approach, then, if I'm understanding this correctly, would be, yes, do all these things. Go ahead and add the classrooms, and go ahead and allow those projects that had already been applied for. But what, then, is the County Executive's objection? What's he objecting to? Is there anyone here to speak for him?

COUNCIL PRESIDENT ANDREWS:
It doesn't look like it.

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COUNCILMEMBER LEVENTHAL:
He's saying, "Please don't do this. Please don't approve these CIP amendments," but the school system, if Mr. Berliner is correct, is going to request these CIP amendments tomorrow. What is the County Executive's objection? He is not here to tell us.

COUNCIL VICE PRESIDENT BERLINER:
And, Mr. Leventhal, if I could, it may be--

COUNCIL PRESIDENT ANDREWS:
Let's not--let's not guess. We do--we do have--we have a memorandum from him, so we have his explanation that way.

COUNCIL VICE PRESIDENT BERLINER:
Maybe staff could enlighten us, because I was under the impression that if we did what the PHED Committee is recommending, with respect to the PDFs as well as authorizing you "out of cycle" to take into account what the Council has done with respect to a CIP, that we won't need to do the grandfather.

GLENN ORLIN:
That's exactly right.

COUNCIL VICE PRESIDENT BERLINER:
So the grandfathering would be mooted if, in fact, we do two things--one, that we program in the CIP, and two, authorize legislation as appropriate through the Growth Policy, the Planning Board, to take into account out-of-cycle CIP amendments if they, in fact, address issues that would have otherwise created a moratorium.

COUNCILMEMBER LEVENTHAL:
What would--OK, I hear that, and I understand it, and I see basically, the County--again, he's not here, or his representative is not here, but basically his point is the CIP ought to be dealt with in regular order. He's going to send it over in February, and we ought to deal with it then, and we ought not take up amendments in October, so that seems to be his major point. He wants to consider the whole CIP all at once, which is what we do every other year. And what would be necessary to effect--I'm asking Royce, but maybe he's not the right one to ask--what would be necessary to effect the grandfathering? Does that require an amendment of some kind? Do we have to--

GLENN ORLIN:

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It would be a Growth Policy provision.

ROYCE HANSON:
That's right. It would be just a Growth Policy amendment.

COUNCILMEMBER LEVENTHAL:
And if we did that, then, the two developments in the BCC Cluster and the one each in Clarksburg and Northwest would have November, December, January, February, four earlier months of certainty that they could proceed, rather than waiting until the CIP came out, and then until the CIP were adopted. So they'd be 4 months earlier in their...

GLENN ORLIN:
7 or 8 months earlier, because anything the Council does in terms of the CIP, it still doesn't go in effect in the Growth Policy until the board makes a finding in July. So it's not until end of June, early July, when the board makes its finding as to whether CIP projects, whether it's transportation or schools, then get assessed against the respective tests. So it's between now and July.

COUNCIL PRESIDENT ANDREWS:
Hang on. Mr. Chairman.

COUNCILMEMBER KNAPP:
If I could ask to just clarify a point, because part of this is a bit of a circular argument. The question is kind of, where does the process start? And to some degree, it doesn't start with the Planning Board. If we've done our job right, it should kind of end with the Planning Board, and they should kind of put the stamp of approval on everything that we've done, because the forecasting derives from what the school system does in October. And from the forecast that the school system generates in October, it then determines what the school capacity requirements will be and then makes sure that those modifications are put forward in the CIP. As we've all commented, generally there's a pretty good success rate of those capacity projects then being funded. So as that works through the process, once the Council-- assuming that the Council approves all of the capacity projects that the Board of Education has recommended, once we approve the final budget and CIP in May, it should address any findings that the Planning Board would then make in July, because it's going to be driven off of your numbers. This year, as I understand it, there was an error that took place--

GLENN ORLIN:
I'll explain what happened.

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COUNCILMEMBER KNAPP:
There was something that put that out of sync. If we actually follow the cycle as it's generally been presented, that works, and so the grandfathering kind of goes away.

GLENN ORLIN:
If I could explain what happened and then how we could make sure it doesn't happen again, because actually, nobody actually made a mistake here. What happened was that the--a year ago, the school system-- the superintendent put out a new recommended CIP, which had forecasts in it, and the School Board included projects in the recommended CIP, the requested CIP, which addressed a lot of the capacity issues, but not all of them because, as Pam was mentioning, there were some major changes, particularly in the BCC Cluster and a couple of others, as well, which were not anticipated. The School Board cannot turn on a dime and say, "Oh, there is a problem. We need to recommend a specific school in the next CIP," because it, like every other agency, has to go through a facility planning process. It takes a year or two to actually figure out, all right, how are we going to deal with this problem? Which school does it get added to? Do we do a boundary change? A lot of back-and-forth with the PTAs. And so what happened was while the School Board did recommend a CIP, a month after, the board came out--the superintendent came out with this enrollment forecast. It didn't address all these issues. If there was an error, it was an error in our highlighting for you that in fact this was happening. But there wasn't anything anybody could really do about it, is my point. Now, the way this could happen in the future so this midyear cycle wouldn't have to happen again, is this:
tomorrow we're going to get a new enrollment forecast for the next CIP. The School Board is going to make its recommended projects. As we know already, the School Board's recommended projects are going to address these 4, but in fact, there may be another cluster that's forecast to go into moratorium as of July because of--maybe that cluster now is going to not have an elementary school ready to go to meet that enrollment forecast, because it's going out a year further. In fact, we think there actually is one that's going to happen. That can then be discussed right in the process of your developing the CIP--at committee, then the full Council--as to whether or not you want to do a solution PDF for that cluster. And that will be--the Executive's concern about this not being taken up when you're taking up the full CIP will be met, because in fact it will be taken up. And so we probably, if we do it this way, we'll never have to do this again. And the last thing I want to say about this is that--and I'm glad Mr. Berliner raised the point--there's actually two parts to this proposal. One are the 4 PDFs, but one is an amendment to the Growth Policy. It's shown on the bottom of page 3 and the top of page 4, which would allow the Planning Board to make a midyear assessment of the school test. Right now, it's only allowed to

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look at it in the June/July timeframe, and this would allow them to then, after the Council approves these PDFs-- hopefully you would, from my standpoint--then they could then turn around a week or 2 later and say they made the finding that yes, now capacity has been programmed, it does meet the--brings the areas below 120%, and they're no longer in moratorium.

COUNCILMEMBER LEVENTHAL:
Could I reclaim my time, Mr. President?

COUNCIL PRESIDENT ANDREWS:
Go ahead.

COUNCILMEMBER LEVENTHAL:
I appreciate it. I'm just trying to get clear in my mind, and I had the floor. Explain to me what "programmed but not appropriated" means. Are we actually going to build these additional classrooms, or are we just going to say we might build them?

GLENN ORLIN:
You look at the PDF--I'm sorry. I forgot which page it was on already. Here we go. For example, the BCC Cluster solution on circle 15. What you see is funds that have been set aside for this purpose--the purpose being adding 20 classrooms in the BCC cluster--or for the BCC Cluster at the elementary school level. It doesn't say what the schools are, but look--Mr. Leventhal, look where the dollar amounts are...

COUNCILMEMBER LEVENTHAL:
In the out years.

GLENN ORLIN:
...during Fiscal Years '12, '13, '14 and beyond. That fits within the 5-year period, but because it's not in Fiscal Year '10, there's no reason to appropriate money.

COUNCILMEMBER LEVENTHAL:
OK. That answers that question. Next question.

COUNCIL VICE PRESIDENT BERLINER:
Could I get clarification on that point? Isn't there also a question as to whether or not we can appropriate these dollars, as opposed to set them aside? My understanding was that this also goes to the board's authority versus our authority, so we can, if you will, set these

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dollars aside for this purpose. But the notion was having done so, they would then come forward with a request.

GLENN ORLIN:
It's been a long time--and for this one, I wish Mr. Faden were here, but there's been a longtime difference of opinion between our staff and the School Board's attorneys as to where the authorities lie. The School Board acknowledges the Council can approve a PDF that the School Board has not recommended, but the School Board would say that we cannot appropriate money that they have not requested. We're not sure about that, but we've decided never to try to have that fight. What's the point?

COUNCIL VICE PRESIDENT BERLINER:
And this does not-- this does not have that fight.

GLENN ORLIN:
And this does not breach that issue. That's exactly right.

COUNCILMEMBER LEVENTHAL:
OK. I just have 2 more questions. Bruce, are we talking--or maybe we don't know the answer --about a complete modernization of schools, or are these additional classrooms, what Mike Stueben used to call the little darlings? Are these just add-ons to existing schools that are different than what we would ordinarily think of as the cube, a complete modernization?

BRUCE CRISPELL:
These are 20 generic classrooms, as Glenn said. The actual request is going to be an addition at Westbrook, an addition at Somerset. The modernization of Rock Creek Forest moves into the test period. So those are where the capacity is actually going to--

COUNCILMEMBER LEVENTHAL:
So it's a little bit of all of it.

BRUCE CRISPELL:
That's what we're going to really ask for. Glenn has got a generic amount of money here that will contribute to that. It actually won't cover all the costs of that, but it covers enough to move the cluster below the threshold.

COUNCILMEMBER LEVENTHAL:

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OK. And then, last question. Would approving these 1, 2, 3, 4 CIP amendments only take care of the four projects that we were talking about grandfathering, or would it lift the moratorium in all 4 clusters and allow additional projects to apply?

BRUCE CRISPELL:
Lift the moratorium completely.

PAM DUNN:
Yeah. It would lift the moratorium.

BRUCE CRISPELL:
It lifts the mora--it brings the level below 120%, but something Pam mentioned earlier is important. Two years ago, when you approved the school test changes, you approved another change, which allows development to be approved only up to that threshold. So if these PDFs are approved, in most cases, it brings it a little bit below 120%, but it would still only allow development to be approved up to that 120% level. So if you're--example: if you're at 119% and a subdivision came in that generates 20 kids, and let's say 10 kids brings it to 120, that only half of that subdivision could be approved within the next 6 months. So it's like the old policy review. It's a ceiling. It's a ceiling.

COUNCILMEMBER LEVENTHAL:
Well, again, sort of getting back to the big picture discussion, we're adding 34 kids. We're only talking about 4 projects, and we're not going to get a whole lot more even if we add this capacity. We are not seeing explosive growth here. You're not talking about adding enormous numbers of units, not even in Clarksburg, which has been identified as, you know, the next major growth area. We are not growing very rapidly here in the County. Obviously, if you listen to the number of units you're talking about bringing online and the number of projects that might be approved, and then even if you lift the moratorium, you know, you wouldn't get very much more capacity even if you lift the moratorium. So let's be practical and realistic about how much growth we're actually looking at, not only because of the economic climate, but because of this schools test. We're not talking about bringing online an explosive number of new units.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Leventhal. Councilmember Ervin. You're set. OK. Councilmember Elrich.

COUNCILMEMBER ELRICH:
So as part of this, we will enable the Planning Board to make a midyear decision.

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GLENN ORLIN:
Yeah, and in just this year. That was the amendment the committee made. In other words, there's Growth Policy resolution changes on the bottom of page 3 and 4 which say that the midcycle thing would only be now.

COUNCILMEMBER ELRICH:
And are we to take these PDFs as School Board requests at this point, or your proposals?

GLENN ORLIN:
No, they're not. They're proposals from staff and now from the PHED Committee.

COUNCILMEMBER ELRICH:
What would it take to get it sanctified on the other end so that these are actual things that are planned on doing?

BRUCE CRISPELL:
The CIP that comes out tomorrow basically accomplishes that, and that's the way the board, I think, would want to operate-- through the normal CIP process.

COUNCILMEMBER ELRICH:
Then this convoluted process--this will just be one time, and then--

GLENN ORLIN:
Well, the midyear thing will be one time, but it may be that, for example, in the next CIP, there might be a Solution PDF for a cluster which is--

COUNCILMEMBER ELRICH:
Right.

GLENN ORLIN:
Right.

COUNCILMEMBER ELRICH:
But I don't consider--I mean, that then falls into the budget process and then it deals with the Executive's issue that you're dealing with. What we're doing here is we're going to make a midyear decision to go into out-year reserves which, his argument is, those reserves--and you made it in the beginning. You said things go over, things, you know--other projects come on you want to do. This decision to use those out-year reserves will,

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in fact, limit flexibility potentially on other things. And we don't know whether it will or won't. Construction costs could be down, and they could stay down and we'd be just perfectly fine, or other things could happen where we wouldn't be fine. So, you can't say for sure whether it has no impact, a lot of impact, or a little impact on the out years. Right?

GLENN ORLIN:
Right, but... This is the thing that-- I have to say this about the Executive's letter. We do supplementals and CIP amendments all the time.

COUNCILMEMBER LEVENTHAL:
Right.

GLENN ORLIN:
And, I mean, there are recommendations that come over from the Executive for things that come up.

COUNCILMEMBER LEVENTHAL:
He's about to send one over on the drug treatment--on the addiction services facility.

GLENN ORLIN:
The School Board comes over with a supplement or a CIP memo because of cost increase on a particular project. It happens. That's why there's a reserve.

COUNCILMEMBER ELRICH:
But I'm not arguing with you.

GLENN ORLIN:
I know you're not. I'm reacting to this.

COUNCILMEMBER ELRICH:
But there is some--there's a little difference, because the request, for example, for the drug treatment facility is going to be a here-and-now request. It's almost the very thing they want to retain flexibility for, which is those things which come up in the here and now and you want to go ahead and do this because it's decided. And so now what we're going to do is, we're going to take away some of the flexibility for here-and-now decisions to be made in the out years. And I'm not saying it's a bad thing, and I'll support this. I'm just saying I think that's what their concern is, that they won't--you know, potentially you couldn't make this decision about a drug treatment facility in the future because we could whittle down all the reserves. We haven't done that, but we could whittle down all the

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reserves. The other thing I'd say is just a generic comment about the older part of the County and why it's not new development that's really causing the big problem. I don't know. I mean, I don't know if people remember going through Takoma Park and the Blair Cluster's expansion issues, but there was a time when the proposal was to shut Takoma Middle School and leave Blair with only, I think it was, Eastern Middle School. And we now have 3 middle schools over there busting at the seams. And the most difficult thing for the School Board or the school system, I think, to manage--even more difficult than future projections on new development--has been recycling of neighborhoods. And this is in large part the problem in Bethesda and elsewhere in the older part of the County. It's in part a self-inflicted wound, because the landscape of the County is full of buildings that were school buildings that we closed down that were built to serve those neighborhoods when those neighborhoods were filled. Like when I was a kid, when we moved in in the sixties, those schools were built to fill-- based on the filling of those neighborhoods with families. And when those families went-- well, didn't go away, but when the kids left and you're left with two adults and the school enrollment's declined, we made decisions--the Council made decisions to shut schools. And so, you once had capacity that would have handled what's happened in the older part of the County, and we got rid of that capacity, and now we're trying to restore capacity that actually that was once built there and meant to stay there. So we wouldn't be in this bind. And I only say that because I think as things go to the future, we need to be more cognizant of what happens when you have a County asset that's meant to serve a base population and then we shed that asset, thinking we don't need in the moment, and then try to reclaim that asset 10 years later or 15 years later. It becomes extraordinarily difficult. So we need, I think, to take a long-term view as these things come up, not to get rid of things which serve populations, even if the population goes through a trough, I mean, it's sort of like the discussion about the Gen Y stuff. I mean, Gen Y'ers don't get to be Gen Y forever. You know? None of us get to be that forever. So at some point, they actually become adults and they have kids and they need houses, and they're not always going to stay in small, compact, one-bedroom apartments. So you got to take the long view of how things cycle, and I think that's probably the thing we've done least accurately in the County to date.

COUNCIL PRESIDENT ANDREWS:
OK. All right. I want to move discussion along because I think this is going to be a 9-0 agreement on this issue. And we've got a few more that I hope to get to before we adjourn for the morning. Councilmember Floreen.

COUNCILMEMBER FLOREEN:
Thank you. I just wanted to offer an observation here. The effort here is really, I think, to focus on adequacy to the extent we can predict it in the long term, long range CIP

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program. That's what this effort is here today, and I think the challenge for this past year was the timing of these determinations. We talked a lot about that in committee. I will note Mr. Crispell does a terrific job and deals--and I just wanted to let my colleagues know, if you haven't followed it yet, we'll take it up later when we get to the end of the Transportation conversation. Mr. Crispell conducts an entirely independent test for school capacity than is conducted for transportation capacity. And bless him, we've got a problem--we have an equation, we have a problem, and we have a solution, and I think that's what this initiative is all about--finding solutions for adequacy. And so I just wanted to bring this back to that point because this is not so much about solving moratoriums as addressing needed capacity issues in various parts of the County as we move on..

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Floreen. Councilmember Knapp.

COUNCILMEMBER KNAPP:
Just quick, to conclude. The difference, I think, with what we've done here in this issue is it does address our reserve, but unlike most issues that I think that we would actually fund through a supplemental process, this is something that we would have funded ultimately in the CIP anyway because we fund capacity issues in schools. And so, it may use some capacity in the short term, but over the long term, we would have spent those dollars anyway, whereas a new project coming from the outside on something that we weren't already focused on could, as Mr. Elrich identified, take down our reserves further. But this one really is something we would have funded. We just are doing this one out of cycle. So I just wanted to clarify that, because we would have gotten to this one anyway.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Councilmember Knapp --Chairman Knapp. All right. As I said at the beginning of the worksession, we're just going through the issues right now. We're not actually taking votes. We're seeing if there are issues that need further attention, getting a sense of where there's concern. So let's now move on to Item 3 on page 4, which is--that's setting the threshold, the 105-110 issue.

GLENN ORLIN:
This is actually the only issue on the school test that the committee was divided on. The Planning Board and the Board of Education recommend raising the threshold for setting the school facility payment from 105% to 110%. The--all the--basically, MCCPTA, Civic Federation, town of Chevy Chase, County Executive all do not--and others--also do not recommend raising the threshold. The PHED Committee's recommendation, Council staff's as well--2-1 the PHED Committee recommends raising the threshold 110%. My

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rationale for recommending it is basically what the School Board had said, which is that they really, from a--and Bruce can clarify this - but they really do not look at--they do look at individual schools when they run over capacity, but generically, if it's not over 110%, they really don't look to add capacity projects at that level because of the competition for funds for even more overcrowded schools than that or modernizations of the things they need. And so if that's the case, what's the justification for an exaction at that level? Councilmember Elrich would retain 105% threshold because it does mean that more thresholds--in this case, more clusters--in this case, 3 additional clusters--3 clusters would not fall out of the school facility payment range--Walter Johnson, Paint Branch, and Quince Orchard. I think it was reported that Whitman would also fall out, but Whitman is--it's one of these rounding things. It's actually over 110%, so it would not fall out. But that's the issue here.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you. Let me raise a concern about this, because what I heard Mr. Crispell say was that you look at--when you add all the schools up that were in the clusters that we are just addressing with the previous issue on the overcrowding in Clarksburg, Seneca Valley, Northwest, and BCC, you're looking at the cluster average. And here you can have a situation, since there are 5 elementary schools in most clusters, by my count. Sometimes there are 4, sometimes there are 6, but an average of 5. You can have a situation where you have School A at 98%, School B at 98%, School C at 116%, School D at 116%, and School E at 117%, and you are at 109% average. You're no longer collecting school facilities payment under this change, even though you have a majority of the elementary schools in the cluster that are significantly overcrowded. So why is that a good thing?

BRUCE CRISPELL:
I think it's, again, it's just for the purpose of the Growth Policy approach, looking at the cluster. We may well request an addition at that last school you mentioned, but should, in general, facility payments be required in a cluster where there isn't more than one capital project, maybe, in that case. But when we look at clusters that are between 105 and 110%, there could be several cases where each school may be a little bit over. This is more the example I would give. Let's say it's elementary seats, maybe 25 over here and 50 over there, 70 over there. We don't even request a capital project for an addition unless it's a minimum of 4 rooms at an elementary school. So when you have a lot of slight over-enrollment but not enough to pass that threshold where it's cost effective and we're sure the forecast isn't going to come back down again, then we question whether it's fair to the developer or whoever to make a payment when we really don't think we're going to build any capital project there. If enrollment goes up higher, then maybe they would pass the 110 threshold. That would be a much stronger case for us that somewhere in that cluster,

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we need a capital project. But between 105 and 110, I think we'd run into many cases where it's not enough of a deficit for us to cost-effectively even request a 4-room addition at a school.

COUNCIL PRESIDENT ANDREWS:
But if you're doing it--it's done by an average, though. I mean, this is a cluster average, not individual schools.

BRUCE CRISPELL:
It's not really an average. It's the total enrollment projected for the fifth year divided by the total capacity. So, it's an aggregation, more, I would say. It's not what the average school is. It's what the complete cluster capacity is compared to the complete cluster enrollment.

COUNCIL PRESIDENT ANDREWS:
Well, it strikes me as a change that could reduce the amount of money that would be collected for the purpose of addressing school overcrowding, and I can certainly foresee situations where you have a wide difference within the cluster in terms of the level of crowding in the schools. And I think it's particularly problematic with the elementary schools because you have 4, 5, or 6 in clusters, where you have maybe 2 middle schools at most and, of course, just one high school.

BRUCE CRISPELL:
Well, it's a judgment call, and I think it was just the sense that when we look at some of our clusters, where we don't see additions being programmable and we're charging a facility payment, we just questioned whether that was fair to the developer to make those payments without a capital project following. The other comment I would make--

COUNCIL PRESIDENT ANDREWS:
Let me push you on that. Would you normally be--if you have these schools that are less than 120 but they're up 115 or 116, that's a significant amount of overcrowding. Wouldn't it be fair in that case to be collecting?

BRUCE CRISPELL:
Oh, yeah. Over 110%, we do feel is fair. So it's between 110 and 120, the recommendation is for the facility payment to kick in then.

COUNCIL PRESIDENT ANDREWS:
But it wouldn't kick in in the situation I gave, because the average is under 110 even though you've got the majority of the schools that are well over it.

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BRUCE CRISPELL:
That's the nature of the school test. It's a cluster aggregation test. It's not an individual, school-by-school test. And that's the way the whole methodology works.

COUNCIL PRESIDENT ANDREWS:
Which is a good argument for having a lower threshold, then. Since you're averaging the problem, it's better to have a lower threshold than you would perhaps for an individual--I think that it's better to be safe than sorry here. That's how I would say I would address this. Well, that's my view. Let me turn to Councilmember Elrich and then Councilmember Knapp.

COUNCILMEMBER ELRICH:
I guess I kind of look at it similar to Phil. In the scenario-- I mean, there's a wide range of capacity in the schools, and if I were doing this, if this were my choice, I'd set it at 100% and say when you've gone over 100, we should start collecting money. And the reason why is one scenario, you could have a school at 95%. You could have 3 elementary schools at 100%, and one elementary school at 150% and not be collecting any money. And the fact--because it would be 109% average. And the fact that you let a school get--and "let" is not meant to be an intentional, evil word--but the fact that a school got to 150% would indicate to me, as someone who actually taught in school, that that school really needs some additional capacity. And the fact that it got to 150% and you didn't change boundaries to balance that 150 over the 4 other schools tells me that the school board is not likely to change boundaries, and if you look at the list of schools that have capacities of 140, I think, to 175 or 180 now --I think there's at least one school up around 180. It tells me that it hasn't-- you haven't balanced those schools out by shifting kids around. So if I was in a cluster with a school at 150, and you say, "I'm below 110, I don't need any money," I'm looking at the school with 150 and thinking you do need an addition on that school. And the fact that the cluster is at 110 doesn't mean that that school, that one school, isn't in trouble, and so my reaction is, you know, collect the money and put it into that facility. Maybe it gets--maybe by doing that, we avoid schools creeping up to 120. I mean, the more we did this at the early stages--think of it as preventive medicine. I mean, the more capacity we threw in before we got to 110 and we started programming some of these really overcrowded schools, the less the problem we're going to have--the less number of schools that may ever get to 120 and really throw us into this bigger bind. So I see it as preventive medicine, do it early, relieve the schools, focus on the schools that have the highest numbers, and don't forget that the 110 is a cluster-wide average. It really doesn't tell you what's happening at the individual schools in the cluster. The only caveat I'd say, and I don't know if we're able to do this--if I could look at a school area cluster and

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there was no development proposed-- and there are some parts of the County, I imagine, or some areas where nothing is really going to happen, then you wouldn't need to worry about this. You could say nothing is going to happen here, so it's sitting at 110 or 109, but, you know, there's nothing new happening. I think there'd be less urgency to it. But if we can't do that, if we can't find a rationale for why this is going to go this far and no further, then I think erring on the side of 105 would give us more flexibility and help the school system meet its funding needs.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Elrich. Chairman Knapp. We are going to break in just a couple of minutes. We may need to come back. We may not finish up the school items before the break, but I want to stay on schedule. Go ahead, Chairman Knapp.

COUNCILMEMBER KNAPP:
Sure. I'll be brief. I just wanted to address, kind of, some concepts that have been raised that... What we're trying to do here is actually address solving the problem. There is no one on this Council who thinks that overcrowded schools is a good thing. This is merely a test as to determine when a facility payment is made, and what the school system has said is that they didn't think it made sense or that it was fair to collect one in a place where they weren't necessarily going to do projects. We just spent the last hour determining that capacity projects get funded, and so we're going to get capacity projects funded. So whether or not we say it's 105 or 110 does not determine whether or not we're going to fund overcrowded schools. We've already said that we fund --it's a 100% batting average, so we already do that. This is just a matter of a question of whether or not, on the margin, when do you collect the impact fee associated with that, at 105 or 110, not whether or not people do or don't like crowded schools.

COUNCIL PRESIDENT ANDREWS:
Yes. No, we are all committed to addressing overcrowded schools. The issue here is when you collect the school facilities payment from the developer, whether it's at 105 threshold, 110 threshold for the cluster. And that is in addition to the impact tax--school impact tax. Thank you, Chairman Knapp. Council Vice President Berliner.

COUNCIL VICE PRESIDENT BERLINER:
I'm going to end up supporting the 105%, as well. I do think it--we shouldn't change this policy at this moment in time. I would share with my colleagues that one of the clusters that would be affected if we were to change this policy would be the Walter Johnson Cluster, which is already feeling incredible stress as a function of the things that we're contemplating doing in White Flint and the notion that we would combine the things that

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we're contemplating in White Flint with changing this-- moving it up from 105 to 110% I think would certainly create a great deal of consternation in communities that I represent, but I am comfortable at 105% to begin with and feel like we should stay there.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Council Vice President Berliner. We're going to finish up now the morning session. I want to--we will come back at 1:30 for the public hearing and then move right into the afternoon worksession on Growth Policy, finish up the school issues at worksession, and go into the transportation for the rest of the afternoon. We have that until 5:00, so we should make a lot of progress. We'll see. Maybe--we don't have to go to 5:00. We'll see. We can. We can go to 5:00.

GLENN ORLIN:
Can I just add that I really hope we're able to go through the entire packet today--

COUNCIL PRESIDENT ANDREWS:
That's the goal.

GLENN ORLIN:
Yeah, because we-- the next week would be-- you may need some follow-up, but it needs to be a voting session, because we do need a week to do the resolution.

COUNCIL PRESIDENT ANDREWS:
Right. The intention-- the intention is to get through all the issues today, identify any need for additional information, come back and vote on the 3rd, and then have the final resolution on the 10th. I want to announce that the chair of the MFP Committee has arranged with the cable administrator to have a PEG Network-sponsored luncheon that all Councilmembers are invited to, which is at 12:30 in the fifth-floor conference room today. Lunch is available. It says with a--comes with a video presentation. Councilmembers are encouraged to attend. And PEG partners would like to hear from Councilmembers on their vision for the future of the PEG Network. So that is going to be upstairs in the fifth-floor conference room at 12:30, and we'll see everybody else back here at 1:30 for the public hearing and Growth Policy discussion continued after that. Thank you all.

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TRANSCRIPT

October 27, 2009

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember Michael Knapp
Councilmember Nancy Navarro
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember George Leventhal
Councilmember Duchy Trachtenberg

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COUNCIL PRESIDENT ANDREWS:
We're gonna get started with our afternoon Council session, and I'm gonna start with an announcement that I read last week that regards the tax credit program that has been extended until Monday, November 2, so this is a program--the state of Maryland has a program that gives a credit against a homeowner's property tax bill if the property taxes exceed a fixed percentage of the household income. So, in other words, it sets a limit on the amount of property taxes any homeowner must pay based on his or her income. Montgomery County offers two supplemental tax credit programs, and individuals can apply for all 3 programs with one application. And the tax credit programs available are the Maryland Homeowners Property Tax Credit Program, the Montgomery County Supplemental Property Tax Credit, and the Montgomery County Senior Property Tax Credit for homeowners over the age of 70. The original deadline was September 1, but that was extended to Monday, November 2, next Monday. To get an application, you should call the Maryland State Department of Assessments and Taxation at 1-800-944-7403. That's the Maryland State Department of Assessments and Taxation at 1-800-944-7403. We're now going to begin our afternoon session with a public hearing, and then we'll move back into the discussion of the growth policy for the worksession that will finish up on the school issues and hope conclude by the end of the day the discussion, at least the first go-through, on the transportation issues also. Regarding the public hearing, this is a special appropriation to the county government's FY10 operating budget. The Office of the Sheriff for $86,752 for the American Recovery and Reinvestment Act funding for Violence Against Women Formula STOP Grant Program. And action is scheduled following the hearing. We are going to--it does require 6 votes for this measure, so we're gonna have to wait to have that vote until we have at least one more councilmember here, so I will just talk about the measure briefly, and hope that in the next couple minutes, we'll have one more person here. But it is item 7 in the packet, and this is a special appropriation that will be awarded under the American Recovery and Reinvestment Act, and these funds would be used to hire one client assistance specialist, a victim assistance position in the sheriff's office. The position will work in the Family Justice Center, which is the county's new one-stop center for victims of domestic violence-- that is in Rockville-- and will be responsible for managing protective orders, acting as liaison between victims and law enforcement, and coordinating services for clients at the Family Justice Center. According to the Office of the Sheriff, the Family Justice Center has already served more than 600 people since its opening in May. This grant would fund the victim assistance position for an 18-month term. The incumbent will be bilingual and assist with intake to determine the various needs clients have. The special appropriation did not go before the public safety committee. I felt that that was unnecessary given that there was no county match and that's a very straightforward, small item in terms of the cost, but very important in terms of what it can do to help people in our county. And Council staff who, in this case,

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is Susan Farag, recommends approval. So, with that, that is before us, and I'll ask--I've indicated what the public hearing is about. We have no speakers for the public hearing, so the public hearing is closed, and then we can now take up the measure. I'll turn to Councilmember Trachtenberg for comment and maybe a motion.

COUNCILMEMBER TRACHTENBERG:
Mm-hmm. Yes. I want to obviously speak in support of the appropriation. Before I make the motion, I want to acknowledge the excellent efforts of the staff over at the Justice Center. As the Council President indicated, in the few months that the center has been opened, roughly 600 clients have been seen, and they have come from 39 countries. It is my understanding that the position is a client assistance specialist position and that there will be some bilingual capabilities of the employee. And again, given that we have a diverse community that we're serving, and indeed, 39 countries have been represented in those 600 families served, it would seem that this would be a very commonsense addition to the staffing, and at this time I will make a motion that we go ahead and support the appropriation of the $86,752.

COUNCIL PRESIDENT ANDREWS:
OK. Very good. Moved by Councilmember Trachtenberg. Is there a second?

COUNCILMEMBER NAVARRO:
Seconded.

COUNCIL PRESIDENT ANDREWS:
Seconded by Councilmember Navarro. And Councilmember Navarro has a comment.

COUNCILMEMBER NAVARRO:
I also want to speak in support of this appropriation. I just had a question. When we say "bilingual capacity," have we determined which language we're hoping for?

COUNCIL PRESIDENT ANDREWS:
I believe--I would--I recall that the language is Spanish. We can confirm that, but I'm 99--it is. I see Joanne????? nodding her head. It is Spanish.

COUNCILMEMBER NAVARRO:
OK. Thank you.

COUNCIL PRESIDENT ANDREWS:

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Very good. Thank you. All right. I do not see any other comments or questions on the motion, so all those in favor of the special appropriation to the county government's FY10 operating budget to the Office of the Sheriff for $86,752. Source of funds is a federal grant for funding a victim assistance specialist at the Family Justice Center, please raise your hand. And that is Councilmember Navarro, Councilmember Elrich, Councilmember Trachtenberg, Councilmember Floreen, myself, Councilmember Knapp, Councilmember Ervin, Councilmember Leventhal. That is approved 8-0. Thank you, everybody. We're now going to return to our worksession on the 2009-2011 growth policy, and we'll come right back to where we left off, which was page 4. 4 and 5. OK. Page 4 and 5 of the first--of the packet. And I don't know if there are any other comments on item 3. I think we've laid the issues out there, so there may not be, and if there are not, then we can go on to item 4, which is the grandfathering of development applications on page 5. I'll turn to the chair of the PHED committee, Councilmember Knapp.

COUNCILMEMBER KNAPP:
Well, we can just pick where we left off. Mr. Orlin, we actually talked a lot about this one, but it's just a matter now of walking through the piece, so...

GLENN ORLIN:
Right. Again, the planning board had recommended to grandfather those developments which were in an area that had been designated for a school moratorium. All those developments that had been applied for 12 months before. The PHED committee, because it was introducing the solution PDFs and make the other change to the growth policy, felt that this was no longer necessary, so it recommended not doing it.

COUNCIL PRESIDENT ANDREWS:
OK. Let me mention that we do have representatives from the executive branch with us, and I think it would be a good idea at this time to have everybody who's at the front table introduce themselves for people watching, listening in, so let's just go across the table there.

GARY ERENRICH:
Gary Ere~~rnich~~nrich from the Department of Transportation.

ARTHUR HOLMES, JR.:
Art Holmes, Department of Transportation.

GARY STITH:
Gary Stith, Department of General Services.

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DAN HARDY:
Dan Hardy with the planning board staff.

ROYCE HANSON:
Royce Hanson, planning board.

ROLLIN STANLEY:
Rollin Stanley, planning director.

PAM DUNN:
Pam Dunn, planning board staff.

~~CHRIS ?????:~~ BRUCE CHRISPELL
~~Chris ?????,~~BRUCE CHRISPELL, Montgomery County Schools.

COUNCIL PRESIDENT ANDREWS:
Thank you, everybody. OK. All right. I don't see any comments or questions on item 4, so on to number 5, then.

GLENN ORLIN:
Item 5, the planning board had recommended allowing transfer of school capacity from a subdivision which has already been approved and has students attached-- potential students attached, paper students, and if that development were not going forward, it would allow it to basically transfer or sell the development rights to another subdivision in the same cluster that might need those--need that capacity. Logically, that would only happen in areas which were a moratorium or under a school facilities payment. The PHED committee unanimously believed that we shouldn't be allowing that because it's better to have paper kids than real kids in terms of overcapacity, overcrowding the schools.

UNKNOWN SPEAKER?????:
The final item--

GLENN ORLIN:
[indistinct] questions about that?

COUNCIL PRESIDENT ANDREWS:
Nope.

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GLENN ORLIN:
The final item under schools is actually a suggestion that came from the school system, and even if you went forward with it, you couldn't do it as part of the growth policy, anyway. It's really an amendment to the impact tax law. The superintendent and the board are recommending that the school facility payments, which now are to be used only for the cluster for which the payment was made, basically, his argument was to use that really anywhere in the county. School projects that added capacity. In short, the PHED committee unanimously did not think that was a good idea.

COUNCIL PRESIDENT ANDREWS:
OK. I don't see any comments or questions, so...

GLENN ORLIN:
The reason--the reason why--I'm sorry, Mr. Knapp.

COUNCILMEMBER KNAPP:
No, go ahead.

GLENN ORLIN:
No, the reason why is because like the development approval payment in the past and other--and other payments like this, this is a-- an exaction to get past a moratorium or a-- or overcongested problem in a specific area and then basically use that money for anything that might be elsewhere in the county. There wasn't the policy link to go forward with this.

COUNCIL PRESIDENT ANDREWS:
Right. OK.

COUNCILMEMBER KNAPP:
That concludes the school pieces unless people have questions.

COUNCIL PRESIDENT ANDREWS:
That does. Any questions at this point? Any requests for more information on any of the school issues that we've covered? OK. I don't see any, so...

COUNCILMEMBER KNAPP:
I will turn to Dr. Orlin as we move over to the PAMR, Policy Area Mobility Review. I just want to say that we'd started a couple of different conversations with the committee on this topic. I think as everyone is aware, the county executive had sent over a memo

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indicating that they were going to enlist a contractor to come up with a series of recommendations to look at PAMR more broadly. I think I talked to everyone on the Council prior to the committee's efforts, just trying to get a sense of if people thought that was a good idea, and I think generally, everyone indicated that to take a comprehensive look at PAMR would be great. Everyone was generally supportive of that. We had a conversation within the committee indicating that that's not just--that the executive branch would actually include the Planning Board, would include the Council folks, to make sure that that is as comprehensive a view as possible, to work with civic representatives, business representatives, everyone so we have all of the stakeholders at the table or at least the issue's raised so that what comes back to the Council at some point in the future will be as comprehensive and as thoroughly vetted a set of proposals or recommendations as we could hope to get. Not that that's necessarily gonna make the issue any simple, but at least we will hopefully have a greater consensus as to the direction in which we're heading. As Mr. Elrich indicated in his remarks this morning, the one thing that the committee was united in as it related to the PAMR issue was its unanimous-- agreement that it should not occur, that no one liked PAMR for different reasons, and for--and so as a result, what came out of the committee is not necessarily unanimous in its recommendation except that no one likes PAMR. So, the context in which we had our discussion was that at some point in the coming months, and it was too early to be able to say when that would be, that a recommendation would be coming back from this contractor with feedback from all of the various stakeholders, that the Council would then look at this. And so what we've tried to do is come up with recognizing that to be the case. We had a window in between within which we're just trying to fill the stopgap, if you will. And so that was the context within which the committee discussion took place, because everyone agreed we needed a better proposal. And so that's kind of where we are, and so with that, I will turn to Dr. Orlin to walk us through all of the various elements, and I expect this will be a fairly animated discussion this afternoon as we walk through the pieces.

COUNCIL PRESIDENT ANDREWS:
That's great, and I expect-- and we have all afternoon, which is a good thing. Or not, depending on how it goes. But we have 3 hours set aside this afternoon for this discussion, and I don't know how long it'll take but...

COUNCILMEMBER KNAPP:
You know, the downside of not having to-- like, in the U.S. Senate, where you can filibuster but you have to stand the entire time, we can continue to talk. We can sit and filibuster, and that's not necessarily a very good thing, but with any luck, we won't necessarily take all 3 hours.

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COUNCIL PRESIDENT ANDREWS:
You may be right. But before we do that, I want to turn to Council Vice President Berliner, who has a comment.

COUNCIL VICE PRESIDENT BERLINER:
I certainly am among those that believe that PAMR is imperfect at best, but I want to remind my colleagues that we started down this path in part because this Council concluded that it was better to have a policy area test than to not have one. The previous Council had eliminated a policy area test, and the county executive, among others, felt strongly that we needed a policy area test. And there was only one policy area test that came back to us, and it was PAMR. And my colleagues and I worked very hard two years ago to try and do the best we could to make that test as good as we knew how to make it, recognizing that it was a very complicated test. I continue to be among those who believe we must have a policy area test. And until we get a policy area test that is better than that which we have before us, we need to retain this one. Not this one in its precise contours, but this one as I hope my colleagues, a majority of my colleagues will agree, this one that can be improved. I worked for more than 4 months with planning staff and with development community to address many of the legitimate concerns that had been raised with respect to PAMR, and the recommendations, I believe, of staff and of our planning board with respect to modifications to PAMR that are before us, I do think will make a difference, I do think will improve an imperfect tool. And insofar as we do not know when we will get what we will get, and if we are in agreement with what we get when we get it, I do not think it would serve us well not to take this opportunity to make improvements to an imperfect instrument. So, that's my fundamental view, and then when we get into some of the details, I'll share some of the work that we've done over the course of the past 4 months that I do think will make a positive difference in this tool that I think is an important tool for us until we find a better one. So, thank you, Council--and thank you, Council President. If I could, I was out of the room when the Council voted on the special appropriation, and I just--had I been here, I would certainly have supported this very controversial item.

COUNCIL PRESIDENT ANDREWS:
And you're referring to the special appropriation, the staff, the victim assistance, which I know you support. So, for the Family Justice Center...

COUNCIL VICE PRESIDENT BERLINER:
OK. Yes. Thank you.

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COUNCIL PRESIDENT ANDREWS:
We'll note that in the minutes. OK. Thank you, Council Vice President. Councilmember Elrich.

COUNCILMEMBER ELRICH:
I think because the bulk of my colleagues are in agreement that PAMR ought to be ditched, I'm not gonna spend a lot of time going into why PAMR ought to be ditched. But I do--I agree with Roger that we do need to replace it with some form of policy area review. I'm less comfortable tinkering with something that makes no sense, because at the end of the day, if you tinker with something that makes no sense, it still makes no sense. None of the tinkering that's been proposed goes to the fundamental problems with the PAMR test. And I'll say that, you know, like you, I've had extensive discussions with both the civic community and the development community about the PAMR test and is there a more logical way to proceed. And I'm convinced from my reading of alternatives that are out there in the universe that there are other things that the county can do. There are tests we can have that are clear, transparent, that anybody can understand, that you can look at and you know what is required of you, you know to what standards it's been set, and would be a vast improvement over what we have in place. So, I think there are reasons for doing this sooner than later. All the tinkering that we're doing, or that's been proposed, only helps basically the most favored projects, but it leaves in place for anybody else--and "anybody else" means a bunch of developers who may not escape the sloping line--it leaves in place the same inscrutable, impossible test that exists today, and that is a fundamental problem. And I think that this Council ought to sooner than later take up whatever comes back from the executive. I, frankly, don't think this should be either contentious at the end of the day or political at the end of the day, because there are out there fairly objective and normalized standards that are used around the country that I think most of us would agree, when we looked at them, actually make sense and can be applied here, and which do not throw the county into moratorium. In fact, the proposal that I put forward, which I understand why Mr. Orlin doesn't think we should do it today, but, you know, comes from King County. When I looked at, you know, the surface numbers in there, it would not throw the county into moratorium. It wouldn't throw key areas into moratorium. You know, that never was and never should be the purpose of a test. Tests shouldn't be designed either to make sure that nothing goes into moratorium, and they shouldn't be designed to make sure everything goes into moratorium. They should be designed to make sure that we can bring infrastructure online and we can stage development, which is what the APFO's about, anyway. We should be sure that we can stage development in a way that we can match-- match it to the infrastructure that we need to come forward. And that's all I'm trying to get to in the form of a test. I think the sooner that we kick this thing aside, the better, and I really do think that we can do this in

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a non-contentious, constructive way, because I think even people as divergent as Nancy and myself probably agree on the general principles of where we need to go and how we need--at how we need to look at management. And I think that speaks volumes to the potential here to actually come up with something which, frankly, if we can do that, ought to cease to be a political football that's kicked around every two years, and a good test shouldn't be changed every two years. A good test ought to sit in place because all of us realize that it measures something valid and leads to valid conclusions, and we don't feel we have to tinker with it every time, you know, after every election and then two years later. And so, I'm actually optimistic that there's a more constructive way forward than having a battle over this. I am very concerned about the Level of Service that's been proposed in this test, and--I mean, for two reasons, and the first reason is that it sets a Level of Service of F, not E, as the bottom of the scale. I've been, you know, I've got the page from the highway capacity manual here, and the highway capacity manual says 33% of free-flow speed is E. Less than 33% of free-flow speed is F. And 25% of free-flow speed being--last time I checked, less than 33% of free-flow speed is definitely "F." And so I don't think the Council ought to be saying that it's acceptable to go into the "F" range as an acceptable test for Montgomery County. I don't think that passes the sniff test for what's an adequate public facility. I'd also point out that none of the policy areas in this county are below the 40% line. So it's not like you need to go to that level to achieve a solution to this problem. So, I was vexed by this, and I talked to--I've had extensive conversations with Evan Goldman from Federal Realty, and I was like, "Why do you guys need to get out from under this test? I mean, you surely can't be planning on bringing traffic speeds on Rockville Pike down to 4 miles an hour. You can't be serious." And they in fact said they're not serious. That's not the relief they need. Their complaint is about the mitigation that's required in this test, and what this test does is slide the line over, by dropping the line to 25% and going straight across on the chart, it changes the curve. When you change the curve, you take a whole bunch of areas that currently require mitigation, you take them out of mitigation. When you take an area out of mitigation, and by the way, this wasn't mitigation that would put anybody in a moratorium, because these were not 100% mitigation areas, these are areas just that require partial mitigation, but Evan, as other developers have said, they cannot figure out how to achieve even the partial mitigation. And so they want out from the test, not because they want to go to this outrageously low speed that we could wind up enacting, but because they can't figure out under the current test how to pass the test. And if people who are saying we will do 50% mode share and agree to caps on parking and build a mass transit system down the center of Rockville Pike can't figure out how to get out from under the test, then the test is a real fundamental problem. So I think we ought to be thinking about what are the issues that are raised particularly by the Federal Realty case, because it's kind of a poster child, and figure out how do you deal with those sets of issues so that the test itself doesn't

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become an obstacle, not because you failed it, because you can't figure out how to get over this hump. And I think we ought to look very carefully at that. And I think that we might want to consider whether you need at least two different standards in the county, one for transit areas, TOD developments, and and the other one for the rest of the county. It's one thing to set a Level of Service, even of E, in Bethesda and up the Pike. It's another thing to set that Level of Service all throughout the county. So, if it was my druthers, I would take a pass and leave this until we get the report back from the County Executive. But short of that, I'd urge the Council to adopt some version of 5, but also spend the next two weeks trying to figure out how can we make a rational test or a rational standard, that somebody is willing to do all the things that Federal Realty's willing to do, that they can actually get through the test and still protect the community. They've assured me they don't need that bar in order to get where they need to go.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Elrich. I don't see any of the lights at the moment, so let's walk through, then, the issues sequentially starting on page 8. Dr. Orlin moved seats.

GLENN ORLIN:
I'm over here now.

COUNCIL PRESIDENT ANDREWS:
You did. You're right.

COUNCILMEMBER KNAPP:
He wants to play with technology for the second half of the day.

GLENN ORLIN:
Rather than going through all of the text here, what I thought I'd do is go through several different slides of the different charts and trace them to the options and explain how they're different, and that way we'll cover the same material. In your packets, these charts start on circle 65, and Councilmembers probably could read them better than trying to read off the screen, because the screen's just too small in this case, unfortunately. Circle 65 represents the current PAMR test. Just describing how this chart works again, the Y axis, the north-south axis on the chart, on all of these charts, is the measure of relative arterial mobility, which is the congested speed on arterials in an area relative to the free-flow speed. So, it's in percentages dropping below 100%, and on this particular version of the chart, you'll see these little red lines. These are the demarcations between Levels of Service. On the X axis, or east-west axis, you have relative transit mobility, which is the overall transit speed relative to the overall speed using arterials. There's a lot of

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arguments over how this is measured, but nevertheless, this is how it's been measured the last couple of years. And it also is divided up into Level of Service increments. The general way to interpret this chart is the closer you are to the lower left-hand corner of the chart, the more horrible it is. This is Manhattan on the subway strike down here, on the lower left. If you're near the upper right corner, it's nirvana. There's no problem at all. And so the closer you are, in lower left, bad, upper right, good. And on all these--all these charts you'll see two sets of lines or stair steps. In the current test, the red line is the demarcation between what is a partial mitigation and full mitigation. What do we mean by that? If you're below this stair step, below this red line, that means that if a developer comes in and wants to build in policy area which falls on this red line, then he has to mitigate 100% of his trips. If he's gonna generate 1,000 trips, he has to find some way of either adding capacity for 1,000--or mobility improvements to take care of that 1,000 trips, or he has to find a way of reducing 1,000 trips or some combination of the two. The black line above it is the demarcation between no mitigation and partial mitigation. If you're above the black line, in other words, under PAMR, you need not do anything. You pass the test automatically. And one of the advantages the planning board mentioned two years ago and again recently in terms of having a test like PAMR is that a developer can come in right away and see where he stands rather than having to go through a lengthy, essentially traffic study, not just for local area review but also for policy review. If you're between the black line and the red line on this chart or subsequent charts, then you're in this partial mitigation. You have to take care of at least some of the trips, some of the travel that you're generating with your development, but not all of it. And the degree to which you have to take care of it depends on how close you are either to the black line or to the red line. Closer to the black line, it's a small percentage. Closer to the red line, it's a large percentage. Finally, the triangles, little dots on this map represent essentially the values of arterial mobility and transit mobility for each policy area. And they're all abbreviated because there's no-- you can't possibly spell them out and have the chart at all be readable. So, for example, in the upper right, you'll see CLV. That's not critical lane volume, but it's actually Cloverleaf. And in the lower left down here, you'll see GBG. That's Gaithersburg City. But every policy area is on here one way or the other. And the final thing you should recognize before I go any further is that if you're in a Metro station policy area, you take on the same characteristics, the same requirements, as the parent policy area that you're in, the larger area that you're in. So, for example, Bethesda CBD and Friendship Heights are Metro station policy areas, but they're within the BCC, Bethesda-Chevy Chase policy area, so where you see BCC on the chart is--whatever the requirements are for BCC is required for Bethesda-Chevy-- Bethesda CBD and Friendship Heights. Same thing is true for White Flint--at least right now-- for White Flint, Grosvenor, and Twinbrook accepts the same requirements as North Bethesda. Where you see Derwood, it applies not just to Derwood but also to Shady Grove. When you see

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Kensington and Wheaton, it applies also to Wheaton CBD and Glenmont. When you see Silver Spring-Takoma Park, it also applies to Silver Spring CBD. On all of these charts, the triangles don't move. They're on the same place on every chart. What changes is the lines, and the lines are the policy that you're setting. What's above the line and what's below the line depends upon how much it will tell you or tell the world that is interested in developing. Do you have to mitigate it all? Do you have to mitigate partially? If so, how much? Or do you have to mitigate all of it? So, again, this chart shows option one, which is the current test. The other thing you should recognize about the current test is that the range of partial mitigation between the black line and the red line is between 5% and 45%. If it's really close to the red line, it's 45%. If it's just over the line, it's 100%. Option two, which is also represented by this chart, is the same as option one, except it takes a notion--one of the notions that came out of the discussions that Mr. Berliner held with stakeholders of the thought that well, maybe the range really ought to be between not 5% and 45% but between 10% and 90%. If below the red line is 100% and above the black line is 0%, the thought is--and actually, this is the recommendation that Council staff made two years ago--is that it ought to be a range that goes all the way up to close to 100% rather than stopping short at 45. So that's--option 2 is the same as option 1 except for that. The results for all the options we're gonna talk about, except Mr. Berliner's, which I'll point out towards the end, is on page 10. So, if you go to page 10 right now, what you'll see is in the first column is option one, and you'll see for some policy areas, it'll say "none" and this means no mitigation is required. These are all policy areas that are above that black line. If it's 100%, it means it's full mitigation, it's-- policy areas the are below the red line. And if it's something in between none and 100%, it means it's in the partial mitigation area between the black line and the red line, again, depending on how close you are to one or the other. Then option two, you see the results there. Now, the next chart...this shows options 3 and 4. Option 3 was what is recommended in the final draft growth policy that came from the Planning Board in July. And what it does is actually adds two steps. It's still step function for the red line, but it adds a step at the upper right-hand--upper left-hand corner, trying to represent what the situation would be if the transit mobility were very, very low and the highway mobility were very, very high. Level of Service--this is also on circle 66, by the way. Level of Service A for arterial and Level of Service F for transit mobility. But there's actually nothing up in that area. See, no triangles. The controversy is really about the lower right-hand corner step that's being added here, which would say that for Level of Service B for transit, which is out here, if a policy area, if one of these triangles were to fall into this area--none of them are now, but if one of these days, one of them did, then it would only have to meet partial mitigation because the Level of Service for transit would be B, but it also means that the Level of Service for arterial would be E, and this is the point Mr. Elrich was talking about. It also could conceivably mean no mitigation, because if you were--if you see where my pointer's at on the screen, the--if you

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were even above the black line but still within B for transit and below this extension of this red line, you might even have no mitigation in that particular case. Option 3 also has the 5 to 45 range.

COUNCIL PRESIDENT ANDREWS:
Dr. Orlin, just a second. Isn't-- doesn't that triangle include-- looks like it's not just Level E. It looks like it includes part of Level F.

GLENN ORLIN:
No. Level F actually starts at--.25 is the border between F and E.

COUNCIL PRESIDENT ANDREWS:
.25?

GLENN ORLIN:
Yeah. So, the bottom red line there is .25, which is the distinction between E and F.

COUNCILMEMBER ELRICH:
What's that based on?

GLENN ORLIN:
It's based on the-- well, we'll let the planning staff talk about that, if you want to. But can I just quickly--do you mind if I just go through the charts?

COUNCILMEMBER ELRICH:
Well, you can. I'm just curious as to where this borderline came from.

COUNCIL PRESIDENT ANDREWS:
Well, go ahead.

DAN HARDY:
For the record--Dan Hardy. This does come from the highway capacity manual, and there are 4 different types of urban streets described in the page. I believe you're looking at the--that I can recognize at this distance but not actually read--and generally, the highest type of street is basically an urban expressway. The lowest type of street is, like, a local street. 2 and 3, I believe, are the streets that basically have a 40% demarcator between the Level Surface D and Level Surface E thresholds. And they do, they vary a little bit among the different classes, because what you are looking at on your most local street compared to your urban expressway. Highway capacity manual says there's a little bit of difference.

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Our job is to take the national guidance and to say what's appropriate for Montgomery County.

COUNCILMEMBER ELRICH:
So, how do you get that from this shape? I mean, I'm looking at--

UNKNOWN SPEAKER?????:
[Indistinct]

COUNCILMEMBER ELRICH:
So--so Class Road 3 is a range of speeds between 30 and 35 miles an hour, roughly. Actually, 30 and 33, but who's counting? And free-flow speed is, you know, is 90%, roughly, of that, and the values of Level Service E are 33% of the low number. If you took 50, 17 is roughly 33% of 50. And the 22 is about the same for 55, I guess. However--whatever you multiply by .6 and do whatever magic you do. And then it says anything below 17, which is 1/3 of 50, is Level of Service F. 17 miles an hour is 10 point whatever, 4, 10 point--10.4 miles an hour, 10.2 miles an hour. I'm not thinking--not worried about the details. But it's around 10. And if you do 1/4 of free-flow speed on a 35-mile-an-hour road with 90-- 90--90% free-flow of 32, you're at 8. So, basically, you're talking about a Level of Service F. Seems to me if you were gonna draw your line, you should've drawn your line at 33. It's a tad esoteric, but it does affect the curve.

DAN HARDY:
I think it would be good for us to go back and find the writing we did about this in 2007, where we went through this in great detail, established all of the rules and regulations, which my recollection was in the miles per hour, which shouldn't make a difference, and then come back and answer the question.

COUNCILMEMBER ELRICH:
I'll be happy to share with you when you do that. I've got from Alameda, California, the same federal highway capacity manual. Lower than the speed limit of 10 is Level of Service F, and Washington State service manual based on the highway capacity manual, lower than a speed limit--lower than a free-flow speed of 10 is--I mean, lower than a speed of 10 is Level of Service F. Pretty much anywhere you go in the country you'll find that lower than a speed of 10 is Level of Service F.

COUNCIL PRESIDENT ANDREWS:
So, what I hear Mr. Hardy saying is Mr. Hardy's gonna go...

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ROYCE HANSON:
Mr. Hardy will look at that. The one other thing that I would offer for your consideration here is the other dimension, that for a policy area to fall into this final triangle here...we're into this--on the last step--that the Level of Service for roadway, however calculated, the E-- but it would also have to have a B-level of transit service. It didn't have a B-level of transit service. Then you got more [indistinct]?????

COUNCILMEMBER ELRICH:
But I think Glenn correctly pointed out in committee that the purpose of the last step, since it's not occupied, is really to extend the curve. I mean, you know, since--it's just like if nothing's going below 40, you could've left 40 as the floor, but you've got this curve where a bunch of projects require--are required to do mitigation. The lower you set it, whether you go to 33 or to 25, the result of the curve is the lower the lower the floor, the more policy areas drop out of requiring mitigation. Even if--even if there's no difference in--

ROYCE HANSON:
Let me make just a slight correction to the history, if I could, and that is that when we proposed this last year, or two years ago, the simple idea was that as transit service improved, road service could decline, and that they should be symmetrical in that if road service is B, you could tolerate E in transit service, and vice versa. So, the graph was drawn first. And then the calculation was made of what the Level of service was for roads and transit for each policy area, and they are where they are. The effort was not to put some of them in one box or another. It was simply to say this is where they are.

COUNCILMEMBER ELRICH:
I'm just saying that's the effect of changing. Nothing goes into the bad box, but it alters the curve and it alters what requires mitigation. Though none of the objective circumstances...

ROYCE HANSON:
Of course it alters the curve, and again, historically, we had recommended this particular configuration of the service levels, and the Council altered the curve to say, "We don't ever want anything ever anytime to go below D."

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Elrich. Council Vice President Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Dr. Orlin, I didn't know if you wanted to finish, but we are on--would you like to finish? I just wanted to respond on this point, because it does go to the fundamentals, which is why I

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do think that this last block does have significance, and I do appreciate, Dr. Hanson, the concept. I do appreciate the symmetry. I do appreciate that if we had B, that E might be acceptable. I have put before my colleagues an alternative that you've had an opportunity to-- yeah, excuse me. If we had-- if we had Transit Service B, that we could allow our roads, theoretically, perhaps, to get to E. My fundamental objection to this, and we've had conversations, and I know you respectfully disagree, is that we don't have B anywhere in the county. You're not projecting that we'll have E anywhere, but we don't have B anywhere in the county. We don't have Transit Level B. To draw a line that assumes B for purposes of that then determines the amount of mitigation that will be allowed throughout the county. Because we are assuming Transit Level B I think actually creates a disincentive for us getting to B. I think it creates a disincentive for your alternative review mechanism, because you'll have less mitigation and therefore less desire to use the alternative review, in my judgment. So, I am not opposed to the notion of allowing our roads, perhaps, to go to Level E, where we have B. OK? And if our policy was where we achieve B, either through rapid transit, through our Metro, in those areas would we say to ourselves, "OK, we might be able to tolerate E." But we don't have B anywhere and we're drawing a line as though we did, and the consequences of drawing that line in this manner will mean less dollars invested in mitigation, less dollars invested in transit. So, that's been my fundamental struggle with this, and I know that you think I'm wrong, and I have great respect for you.

ROYCE HANSON:
Not wrong but just mistaken. The--

COUNCIL VICE PRESIDENT BERLINER:
That's better than misguided. That's...

ROYCE HANSON:
If for instance, you have Level of Service E on arterial service and you don't have B, you don't move the policy area over to the right, you move it down, and you're in 100% mitigation.

COUNCIL VICE PRESIDENT BERLINER:
And Dr. Hanson, I believe you're focusing on that last block. I'm not focusing on the last block. I am focusing on the shape of the line, which, if we have the shape of the line as you've proposed as opposed to the shape of the line that my colleague and I believe is more appropriate, the shape of the line results in, as you said, there are certain areas, Bethesda, for example, Chevy Chase. Under your line, assuming a B-E axis, there's no mitigation required there.

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ROYCE HANSON:
That's right.

COUNCIL VICE PRESIDENT BERLINER:
In my line, without assuming a B-E, in fact, there is mitigation required. So it has real-world effects far beyond that last little cubicle.

ROYCE HANSON:
Mr. Berliner, early in my career, I was an expert on gerrymandering. Where you draw lines makes a big difference, I agree.

COUNCIL VICE PRESIDENT BERLINER:
It does. How you draw the lines makes a big difference.

ROYCE HANSON:
And whether you draw the lines from a principled perspective or whether you draw the lines where you want them, for outcomes. And that's-- that's all I'll say.

COUNCIL VICE PRESIDENT BERLINER:
OK. And, well, I'll say more on it, because quite frankly, I resent the implication that I am drawing the lines to get a result. I am drawing the line because I categorically reject the notion of premising our line on a hypothetical level of transit that we have not achieved and we should achieve, and that we should strive for. So, that to me is a principle, not a result. It does have real-world results, and those are results that I'm comfortable with. But it isn't because it's lacking a principle to guide me.

COUNCIL PRESIDENT ANDREWS:
So, you're--you are also, like the chairman, taking a deontological approach. OK.

COUNCIL VICE PRESIDENT BERLINER:
That's good. I turn it back over to Dr. Orlin.

COUNCIL PRESIDENT ANDREWS:
OK.

GLENN ORLIN:
This is option 3. Option--again, option 3, the partial mitigation, ranges from 5% to 45%. Option 4 is the same shape. The curve is option 3 except it has the 10% to 90% mitigation

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range. OK, and just to highlight this before I go on to option 5, the difference that folks were talking about, for those--those who are following at home. If you look at this chart and look at the black line over on the right-hand side and look where the triangles are above it, and then go back and look at this one, you'll see that many of those triangles are below the black line. That's-- that's the issue that was just talked about. OK, going on to option 5. Option 5 takes the-- keeps the black line where it is, but it introduces a new notion that also came out of the discussions from stakeholder groups that Mr. Berliner worked with. Again, remember we've been using a stair step function for the red line, the demarcation between partial and full mitigation. But remembering that, it's how close you are to the lower left that counts. You could get some anomalies. And this is really hard to read in this small scale, but North Potomac, for example--I'll just have to go back a couple slides. North Potomac sits inside the step, just below this step and to the left of this riser, if you will, which means it's gonna have to mitigate at 100%. But arguably, it's no further away, or it's no closer to the lower left, than Potomac, which is far worse or worse in terms of arterial mobility, better in terms of transit mobility than North Potomac. But it's just about as far away, but it only has a 45% mitigation. So the thought is, rather than have the red line be a stair step, have the red line be like the black line--a diagonal which, in this case, would link the bottoms of these points, and that's what option 5 is.

COUNCILMEMBER ELRICH:
What are the mitigation levels associated with--did we talk--I mean--

GLENN ORLIN:
If you look in, again, page 10, you see the mitigation levels there for option 5, and again, you can compare them to option one, which is the current test, or to option 3, which is what the board had recommended initially. I say that because the--I know the Chairman and staff changed their mind based on seeing option 6, which we'll talk about in a minute. And the other options as well. Some of them are-- some of them make no difference at all. Cloverleaf, Damascus, there's no mitigation either way. Germantown West, no mitigation either way. But Aspen Hill was 40% instead of 20%. Again, I'm comparing to the current test. 60% versus 30% in BCC, 10% doesn't change in Clarksburg. It'll be 10% either way. Again, I don't want to go through all these numbers. Lots of them here.

COUNCILMEMBER ELRICH:
But some go up and some go down.

GLENN ORLIN:
Actually, compared to option one, yeah, most of them go up. There are a few that go down marginally. The two that go down that I see, Fair and White Oak and Germantown

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East, go from 100% down to 90%. And North Potomac, yes. North Potomac goes down a lot. Goes down from 100% to 40%, the example I just gave you. And then the others go either the same or go up. And then compared to 3, they're--again, some cases it's the same, some cases it's higher, much more higher than 3, because 3 was lower than one. So, you know, it's hard to characterize all these things. That's option 5, and that's actually the alternative that Mr. Elrich is supporting. Mr. Berliner, I'll get back to yours in a minute. But Mr. Berliner's is a variation of option 5. Actually, I'll just mention Mr. Berliner's right now, because when you look in his chart and we'll--I'll show you the numbers in a minute. Mr. Berliner's proposal is a variation of option 5, which essentially, if you look at those numbers on page 10 and look at option 5 versus 1, if the percentage goes up by more than 10%, he would cap it at 10%. So Aspen Hill, for example, under option 1, it's 20%. Under option 5, it's 40. He would say, well, we shouldn't have a change that's more than--10% more than what we had two years ago.

COUNCIL VICE PRESIDENT BERLINER:
Dr. Orlin, if I could, if I could just direct my colleagues to circle 71, there's a chart there that includes all of the options before us, including my own, that I think might be easier for us.

GLENN ORLIN:
That's--you're right. That's probably a better chart, because I've had to take--it was too many columns. I couldn't put them all. I took out the columns that no one's really talking about, so, yes, so, you're right. Good suggestion.

COUNCIL PRESIDENT ANDREWS:
Circle 71 in the packet is what we should be looking at right now.

GLENN ORLIN:
Look at circle 71. Those are the same numbers for 1, 3, 5, 6, and 6 modified, and it also includes 5 modified, which is Mr. Berliner's. OK. Then--that was option 5. Option 6, which is what I'm recommending, would take all these concepts into play. It would keep the black line where it is. It would take the red line so that it connected the lower parts of the stair steps with the lower part of the stair steps from option 3. So it does take into account going to Level of Service B for--if you get to Level of Service B for transit, you would go to Level of Service E for arterial, and that does affect the black line slope, just as option 3 did, but it also says that the--the red line should follow the bottom parts of those stair steps. It also takes into account the 10% to 90% range, not the 5% to 45% for mitigation range in between those two lines, and that's what option 6 is. Option 6 modified is what the PHED committee recommends, which is the same as option 6 except rather than

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saying it's the 10% to 90% range, if a percentage out of that calculation was more than 50%, it would be capped at 50%. And you'll see that in the bold print on option 6 modified. Well, it's not--it's in the bold print on page 10, and it's just to the right of option 5 modified in circle 71. And finally, there was an option 7, which I'll just mention briefly, which actually raises the black line further to the up and left. Essentially basically says that the borderline between partial and full--and no mitigation would be tighter than what it is now. And that makes a difference in terms of the degree of partial mitigation. But there's no one that we know of who supports that. These are all-- you appreciate all these alternatives were prepared before many people took positions, so, that's how the charts work.

COUNCIL PRESIDENT ANDREWS:
Thank you very much. I'll--we do have executive branch representatives here, so I'll ask them if they have any comments on this item.

ARTHUR HOLMES, JR.:
I hate to say this, and I've said it in the PHED--I'm really kind of at a loss going through this.

COUNCILMEMBER KNAPP:
You're not alone at all.

ARTHUR HOLMES, JR.:
That is one of the reasons why we had said we'd like to have an alternative transportation test just to make it simpler. And I don't meant to in any way say that that's not an accurate test or that someone hasn't put a lot of thought into it. It's just that I have not been able--to someone to tell me, and I could go back to it again and do the same thing. Some of my people may be able to, but they're at the minimum.

GLENN ORLIN:
I can summarize the executive--you have a memo...

COUNCIL PRESIDENT ANDREWS:
We do have a memo...

GLENN ORLIN:
...which does describe the executive's position. Basically, he's not recommending going forward with the PHED committee recommendation. He thinks we should stay basically with option--well, he doesn't say option one but he says don't make any changes. And at

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the proper time, if you want me to respond to his points, I will, but that's what he's recommending.

COUNCIL PRESIDENT ANDREWS:
OK, so, all right.

GARY ERENRICH:
I was just gonna say that the kind of changes you're talking about, if we're successful in coming to you shortly next year with a new transportation test, then we're just talking about a relatively short interim period, and to make a lot of changes would really add a lot of perhaps unnecessary confusion. Have to recalculate and--so, but we would just like to see the--keep things the way they are until we can come up with a new test.

COUNCIL PRESIDENT ANDREWS:
OK. Well, that's a very clear position, and I hear you. OK. All right. Thank you, Dr. Orlin, for the presentation. Councilmember Elrich, I have a light on. Do you have a comment? Nope. OK. All right. Not yet. OK. I don't see any other comments at the moment, so that lays out the options and...

COUNCILMEMBER KNAPP:
We can walk through the issues.

COUNCIL PRESIDENT ANDREWS:
We have--the schedule again is that we're gonna come back next week and vote, and then on the 10th we'll have final resolution for approval. So, there is a week, basically, for people to work on any alternatives they wish to have considered by the Council for action-- preliminary action next Tuesday. OK. Chairman Knapp.

COUNCILMEMBER KNAPP:
Well, at this point--so, that kind of addresses PAMR. Hold on.

UNKNOWN SPEAKER?????:
[Indistinct]

COUNCILMEMBER KNAPP:
Yeah, just waiting to see...Glenn's getting his exercise running from one place to the other. We're on the bottom of page 11. The transportation mitigation payment.

COUNCIL PRESIDENT ANDREWS:

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OK, top of page 11, I think.

COUNCILMEMBER KNAPP:
Yeah.

COUNCIL PRESIDENT ANDREWS:
Yeah. OK. [Indistinct]?????

GLENN ORLIN:
Thank you. Yes. Top of page 11. The planning board a year ago established what's called a transportation mitigation payment, which was, initially at least, set up for developments that produced fewer than 30~~?????~~ trips. And the problem is that for small developments, it's very, very difficult to come up with a--what many people would think was a meaningful transportation improvement to mitigate a problem. And to essentially get by all of that, they said really what they should do, and what developers can do in that situation, they don't have to, is to pay $11,000 per trip in the peak. And this would go to a fund which would pay for--once enough of this money was aggregated-- to projects that were more meaningful in terms of providing mobility. The committee--there is disagreement about this in terms of the community as to how big the payment should be. The Building Industry Association believes it's too high. It notes that some of the use of the facilities would be by through traffic. It says that there's also county facilities which don't have to go through PAMR which generate traffic. And they are having to help cover for that, et cetera. I think my recommendation, and the majority of the PHED committee agreed with the $11,000 figure was a fine figure--because basically the argument's that through traffic is not taken care of or not accommodated. Through traffic's really not a major-- in fact, it's a minuscule proportion of county roads. Most through traffic--well over 99% of it--is on state highways. I-270, Beltway, U.S. 29, Maryland 355, other roads like that. Also, the public facilities that we create--the new fire houses, the new schools--a lot of that is because of growth anyway, and so it makes sense that the new development would help to help pay for that as well. So, those arguments, I don't think, really pass muster. So, Councilmembers Elrich and Floreen agree with the transportation mitigation payment being at least $11,000 per peak period trip. And the reason why it says "at least" is the idea is that this figure would be inflated periodically based on inflation. Mr. Knapp, however, does feel that that particular figure is too high. There's one more point on this that's important that--two more points, actually. One is that this traffic mitigation payment would not only be used for de minimis situations but also in situations where development is larger than de minimis but for one reason or another, there really isn't an adequate--a particular facility that really can conceivably be built by that developer for any one of a number of reasons. Dan could probably list 3 or 4 of them that have actually happened. In that case, the planning board

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could accept from the developer--it wouldn't be the planning board keeping the money, but condition on the developer--$11,000 per peak period trip even for a larger development than that. The final point we make is that we really think that this $11,000 figure, this payment itself, needs to be in the law. It's not something that's in the law now. It's a procedure the planning board has established. All previous examples of things like this are in the law. The school facilities payment, for example. The rate there is in the law. Pay and go. The expedited development excise tax that was approved in the late nineties is in the law. The development approval payment, which is, again, very similar to this that was done in the early to mid-nineties is in the law. So, we felt very strongly that we needed to have a follow-up bill to incorporate this payment and whatever conditions are on it, where the money gets paid to, how the money is to be used, et cetera, needs to be enshrined in the county code.

COUNCIL PRESIDENT ANDREWS:
OK. Council Vice President Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Dr. Orlin, I know it's often awkward to get these packets to go sequentially, but when I look at page 14 at the top, I do think it is worth bringing that issue up now, because as we're talking about the $11,000 payment, that one of the recommendations of, I believe, Park and Planning staff as well as the work group that I convened is that there would be a certain crediting mechanism that's not in place today against that $11,000. That is a significant modification and goes, if you will, halfway to Mr. Knapp's view because there are certain improvements that previously have literally not counted towards this payment. And now the suggestion is to do so.

GLENN ORLIN:
If you'd like me to talk about that, I will.

COUNCIL VICE PRESIDENT BERLINER:
Yeah, I do. I do think that it's relevant to the--

GLENN ORLIN:
And I apologize. This is an item that the PHED committee has not reviewed. It's something I neglected to bring forward and was reminded of it after the worksession. It was something that came out of these discussions. In a few words, what it is is that if you have to make a local area review improvement--widen an intersection, add turn lanes, which actually improves mobility--that amount or that cost should be creditable against PAMR as well, and there is a letter supporting that from Dr. Hanson on Circle 78. Again,

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there is no committee recommendation on this. But maybe Dr. Hanson or Mr. Hardy would like to speak some more about it if they want.

DAN HARDY:
I think this is a good idea that basically is picking up on the fact that it was not included originally because the goal of PAMR is to provide link capacity or transit capacity to do a better PAMR score, if you will. However, by policy, we have for a long time said that, for instance, non-auto facilities like sidewalks, we will give credit to both LATR and PAMR for the same improvement. And so, in the case where there is an LATR problem and that's mitigated by providing infrastructure or capacity to solve that problem, we think it is equally appropriate to allow the cost of that LATR improvement to be applied toward meeting the PAMR test. And one thing, too, that the introduction of a value like $11,000 a trip gives us a medium to make that exchange.

COUNCIL PRESIDENT ANDREWS:
Thank you. Council Vice President Berliner. Councilmember Floreen.

COUNCILMEMBER FLOREEN:
Thank you. Just want to make a couple comments about this payment issue. Remember, there already is a transportation impact tax associated with all projects, so this is another layer on top of this. My challenge with all of this is, how do we get to a solution? We identify a problem, and how do we get to an understandable, clearcut and measurable solution? At least with this there's a number. That's an improvement. That's the best I can say. I would urge County Executive staff to take a look at the King County set of rules. Mr. Elrich has directed me to take a look at that, and I find it very interesting. They have a list of projects that money is to be associated with. It's clear. It's a message to everybody about what the problem is that we're solving for. And the school situation, which we talked about earlier today--we have an equation. We've had our disagreements about them. At least you understand the equation, and then you identify how you address the resulting problem. We have yet to reach that stage on the transportation side. And I will note, we have a PDF of-- what is it--$26 million for schools. That's a great thing. You will notice there's no PDF associated with the transportation side. I am hopeful that the County Executive will provide that as part of his capital budget recommendations to us. We will be meeting further with staff on what should be in there to address these issues. But I just want to remind everyone, this is not just about tests. This is about solutions. How do we build infrastructure? Where are our needs, and how are we focusing our conversation to get us to that problem-solving point? And so, I just want you to be aware--I'd like to know where this money's going to go. Should it be collected? At least on the school side, we do know, to a certain degree. And this is a fundamental issue with the the transportation test

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analysis here that I hope that the County Executive will make a priority in his work. Actually, I suspect we have a whole plan for you that you could look at adopting. But it would involve some changes in how we do business. We are layering on here instead of focusing on solving the problem. I think this is about adequate public facilities. And it's our job as government to provide. That's what this conversation needs to be oriented towards. And so, this is a start. At least it's clear. That's the best that can be said at this point.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Floreen. And sort of in that same vein, in terms of what's the real-world approach or what are the actual numbers, it's probably in the packet somewhere, but it would help me if you could just describe briefly and then direct me, if it's in the packet, what is Level of Service A in terms of speeds, and so on--B, C, D, E, F? What is the current definition for that that you're using? Can you just list that quickly?

DAN HARDY:
The basis for these speeds is the highway capacity manual. We're actually having somebody go pull the information from 2007 when we established the broad range of speeds in the highway capacity manual and came up with one set of criteria for Montgomery County to adopt. By and large, the idea is that if you are at Level of Service A, you have virtually no delay. You're unimpeded in the travel you want to make. If you are at Level of Service E, you are running as efficiently as the system can carry people and goods, but that every individual in that system experiences some amount of delay. Hence, the E grade indicates there is some discomfort, but you're still not at the gridlock point of the system.

COUNCIL PRESIDENT ANDREWS:
I understand the relative relationship and that A is free flowing and F is bad and failing. But I think it would be helpful for a range-- what are the range of speeds that are currently considered acceptable within those different categories?

DAN HARDY:
It really depends upon the free flow speed of the facility you're looking at. So, in each case, the relationship is expressed as the ratio between the speed at which you would travel in free-flow conditions. In other words, there's no other traffic on the road, but there are still signal delays and the speed at which you're traveling during the peak period of travel, which we are measuring as the PM peak period. Basically maybe the easiest one to define, because it's focused the most attention, is the Level of Service D boundary, where the worst you can be and still get a Level of Service D grade is when you're traveling at 40% of the free-flow speed. And a way of looking at that is if you were able to

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go 40 miles an hour when you were at free-flow conditions, 40% of that speed would be 16 miles an hour, which, again, as you recall from the video, tends to be sometimes spent at or near and sometimes above that speed limit and then sometimes waiting for traffic lights to change.

COUNCIL PRESIDENT ANDREWS:
So, the example you just gave me is that Level E would be 40% of free-flow speed. That's D?

DAN HARDY:
The worst of D would be at 40%.

COUNCIL PRESIDENT ANDREWS:
Worst of D. OK. I would appreciate it if you could put this on one page for me and at least give some illustrative examples like that. OK. I've been handed a sheet by Councilmember Elrich which does this. All right. Good.

GARY ERENRICH:
I might want to add, if you don't mind-- We're talking about different... calculations. One is a single facility, and then you could use a sheet like this, and you could look at what's free-flow speed and what is the actual speed and make that calculation. What's being done at the policy area level is every link in the network in the policy area. It's not just Rockville Pike in the AM or PM peak. When you are at 8 miles an hour on the average, you're 8 miles an hour for every average, for every direction, for every link, not just that one facility. It's a weighted average, so obviously it does reflect the importance of a facility like Rockville Pike. So when you're at 8 or 10 miles an hour, that means Nicholson. That means local roads, county roads are all going at that speed. It's an average. So, this sheet is good for a facility. And when you calculate it for a policy area, you're dealing with the peak direction and the offpeak direction. And so, really, a low Level of Service here is really a very congested one overall.

COUNCIL PRESIDENT ANDREWS:
Right. And the reason I'm asking the question is because I am sure what's on the minds of most commuters out there is what's my experience going to be in driving through? How fast am I going to be going? How slow am I going to be going depending on the Level of Service that's produced? And that's what people care about is, in a sense of their commuting, is how long is it gonna take? If I'm going 7 or 8 miles an hour, that's gonna feel very slow. Most people aren't gonna be happy with that, so...

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DAN HARDY:
We didn't bring copies of it with us, but it occurs to me that when we presented the latest highway mobility report to the T&E committee, I believe, back in the June timeframe, we looked at--there was basically 5 corridors that we've been focused on in terms of both monitoring and recommending improvements for. And I recall that the best of those was operating at Level of Service C and the worst was operating at E. Again, you may recall the video that showed Rockville Pike is one of the corridors we've been focusing on. And you saw exactly what Gary pointed out, is that in the Bethesda area going past BRAC, that translates to an F, I think, in anybody's book. And when you look at a longer range and link the Bethesda area and the North Bethesda area together, you end up with an average in the E range on that one sample.

ROYCE HANSON:
And just remember that in an average for an area, all roads are not running at the average. That's a mathematical impossibility.

COUNCIL PRESIDENT ANDREWS:
Sure. Sure. I get that, but people get--whether they're moving slow or faster or somewhere in between. One of their primary concerns is not to move slow a lot of the time. So, thank you. OK. All right, there are no more lights--

GARY STITH:
Could I go back to the $11,000 discussion for just a second? The County Executive has agreed with the recommendation that the $11,000 figure be set as the cost for mitigating each trip. And while it may seem like it's a layering on, it's a result of the fact that you've set up a system where certain areas have to mitigate trips. And the problem is, we've been getting projects and things done by developers that cover the gamut. And some of them are doing things that are literally not costing very much money at all, and others are doing things that are costing a significant amount of money. And this kind of creates an equity and a simpler system to say you know that it needs to be $11,000. There may be ways of applying credits to that, but--which we could discuss. We also agree very strongly that the $11,000 needs to be included in the law as the authorization for actually requiring this payment and collecting the payment. And the County Executive is sending over some changes to the impact tax law as has been requested in the last growth policy. And we could incorporate these into that as a possible way of dealing with this issue.

GLENN ORLIN:
The Transportation Mitigation Payment is almost a perfect corollary to the School Facility Payment. Think of it that way. It's a payment that a developer is choosing to make to

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essentially not have to do--in certain circumstances--not have to go through the transportation test, which means the money really needs to be used also in that direct area, but also means it wouldn't be creditable against the impact tax, for example. It's an addition to that. So, it's exactly the same kind of thinking.

GARY STITH:
This may come up in the discussion on the next section, but I also want to point out the Executive feels very strongly that this money, at least in the Alternative Review Procedure, not be dedicated to transit services but be dedicated to transportation improvements. And that way, the Executive and the Council can put the money where we get the most bang for the buck and dedicating a fund just to transit, we don't feel like is-- it creates too much of a limitation on being able to address transportation needs.

GLENN ORLIN:
And in the theme of everything's connected to everything else, we'll talk now about the Alternative Review Procedure. You'll see that it really doesn't relate with things you've talked about already and other things, too.

COUNCIL PRESIDENT ANDREWS:
OK, so, we're on the bottom of page 11.

GLENN ORLIN:
Bottom of page 11. The Planning Board is recommending--it's actually an alternative to PAMR, not to local area review, but to PAMR, the policy test. And it would be limited to developments which meet several characteristics--the bullets on the bottom of page 11 and top of page 12. If a development is within 1/2 mile of a bus or rail line, where the transit service is at least running every 15 minutes in the peak periods; that the development is a mixed-use development with a minimum of 50% residential use; that the development will achieve at least 75% of the density allowed in the Sector Plan or Master Plan; that the development exceeds energy efficiency standards by 17.5% for new buildings and 10.5% for existing renovations or has on-site energy production such that 2.5% of annual building energy costs is offset by renewal production system; and the development would apply at least 25% to increasing affordable housing above levels normally required in that development. If it meets all those criteria, then a developer could choose to go through the alternative procedure, which means that they would be paying what is the equivalent of 3/4 of the traffic mitigation payment--$8,250. Half of that would go for public transit improvements--$5,500. And this is the point that Gary and Gary both just made, which is that the bill actually be expanded to include just transportation improvements, not necessarily public transit only, and that $2,750, 1/3 of that amount, be

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for affordable housing near transit. The board also had a separate comment which recommended that 75% of the impact taxes--different tax-- impact taxes paid by developments using this Alternative Review Procedure be dedicated for public transit improvements, but that's an issue that can only be handled on impact tax loss. We would put that issue aside for now. When the Executive comes over, he can make that recommendation.

ARTHUR HOLMES, JR.:
Well, I think affordable housing is taken care of in other ways. And as we look at these funds for transportation, we ought to, I believe, be very careful about what other things we use it for.

GLENN ORLIN:
I'm sorry. Let me finish the overview.

ARTHUR HOLMES, JR.:
OK, sorry.

GLENN ORLIN:
I was just making this last point about the impact tax coming from the Planning Board. Next paragraph. The Executive does raise a concern about the philosophy, if you will, of this Alternative Review Procedure, which essentially says that we'd be willing to give up a bit on meting out of public facilities in favor of other good public policy goals, namely affordable housing and reducing the carbon footprint. And he notes that there are other--as General Holmes was just mentioning--there are other things the County is doing to improve things in those other areas. And he also believes that the geographic scope of this alternative procedure is too broad. If you look on page 38 of the growth policy--I think Rollin referred to this as the green blobs. You'll see the little orange dots, which are the Metro station policy areas, but the green area would be areas that would be eligible for this Alternative Review Procedure if it met all these other characteristics. The Executive, however, recommended that it should be limited to areas which have transit service that run at least every 10 minutes and basically has also all-day service. Then you have--everyone sort of weighed in on this one. It was a big issue. The civic federation opposed the Alternative Review Procedure. It notes that transit centers have above-average transit service. Any trip mitigation there must result from inadequate road capacity. So, the ARP would not provide congestion relief. The 75% of it would go either to transit or affordable housing and not for road improvements. And he also disagreed with discounting the amount of the Transportation Mitigation Payment by 25%. They think it should be $11,000. The Action Committee for Transit generally supports it--the proposal from the

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Planning Board-- however, it would, similar to the Executive, reduce the geographic scope of the area to places where there is at least 10- minute transit service as well as 20-minute midday service and 30-minute evening service. The concerns that I raised were the same as the Executive in terms of this linkage between what is the purpose of the growth policy and the Adequate Public Facilities Ordinance and that by opening this up to other worthy goals, it diminishes what we're trying to do in Adequate Public Facilities, which is really the primary purpose and, frankly, the only purpose of the growth policy to date for the last 20 years. And there are other levels of government which are not just ours looking at affordable housing and looking at reducing carbon footprint. There's nobody else looking at overcongestion on the roads in Montgomery County. That's your job, the County's job. That's it. No one else is looking at that. So, my recommendations had been to allow the ARP but for any development, not restricted to the ones that met the specific criteria in the bullets, in a Metro station, but limited to just Metro station policy areas and the Germantown Town Center, not to have it go beyond that. Also, that the $82.50-- $8,250--sorry.

COUNCIL PRESIDENT ANDREWS:
No.

GLENN ORLIN:
Yeah, down to $82.50. $8,250 should be spent entirely on transit improvements that serve the Metro station policy area. Again, in the proposal I was making, that it would be limited to Metro station policy area. That's why the improvements would be limited to public transit in that case. And that to the degree development uses trip reduction to achieve the local area review improvements, that should be counted as part of the trips generated for calculating the ARP payment. The PHED committee listened to all these arguments. And where they came out was--it was a 2-1 vote. Councilmembers Knapp and Floreen support the Planning Board's recommendation, except that the geographic scope would be limited to sites within a half mile where bus/rail line has at least 10-minute service. That's the Executive's tighter standard for the green blob areas. Councilmember Elrich does not support the Alternative Review Procedure. Let me point out to you a new set of charts which you would not have seen before. On Circle 72 to 77 are maps--actually not charts but maps-- which is the Planning staff's at least initial estimate as to what these 10-minute areas are. You know, it's a little hard to read. If you look at Circle 73, you will see the hatched areas, the Metro station policy areas:
Silver Spring, Wheaton, Grosvenor, and lower left is Bethesda. The sort of darker shades along East-West Highway and along Capitol View Avenue, Metropolitan Avenue, up Wisconsin Avenue, those are the areas that are within 10 minutes-- their best estimate, at least right now, with areas that have at least 10-minute bus service. And you can continue

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on through the charts, and you'll see the same kind of thing. Circle 74, Bethesda, up Old Georgetown Road, up Wisconsin Avenue. Circle 75 is the White Flint area, what these areas look like. Circle 76, there is a little bit of an area south of Shady Grove which would be in this new transit priority area. And Circle 77 is areas around Germantown. That would be the geographic scope of what the PHED committee's recommendation would come to. I should say that if you do end up deciding on this, the staff needs a little more time to make a little finer maps than this because, frankly, we need to have a map that's detailed enough for regulatory purposes because this would go in the growth policy as part of the resolution. And then Planning staff, when they're reviewing a development application????? will look at the map and figure out are you inside or outside the area? It has to be done pretty precisely.

COUNCIL PRESIDENT ANDREWS:
Thank you, Dr, Orlin. I will ask General Holmes and Gary Stith and the other Gary as well if they have anything they want to comment on in this area.

GARY ERENRICH:
Well, just, again, that we want all the money to go to transportation and not the transit. And also to limit it not to go to housing or any of those other areas that were in the Planning Board's recommendation.

ARTHUR HOLMES, JR.:
They were trying to mitigate transportation. Although some of these others are certainly worthy causes, I think they should be done with other instruments.

COUNCIL PRESIDENT ANDREWS:
Mm-hmm, OK. Thank you. Council Vice President Berliner.

COUNCIL VICE PRESIDENT BERLINER:
So, as I appreciate, when we come back next week we'll probably be breaking this down into several discrete issues, one of which will be the decision as to what should be included within the funding. That is, should public housing be in it or should it all be transit? I certainly share the County Executive's view that it should all be transit. This is--excuse me--it should all be-- Well, some of us believe it should be transit, not transportation. I understand your point of view it should be transportation. At this moment in time, I actually would prefer it to be transit as opposed to--

ARTHUR HOLMES, JR.:
You go wherever...

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COUNCIL VICE PRESIDENT BERLINER:
I think the greatest need is transit at this moment in time, so my preference would be that it go to transit. And I understand the sentiments with respect to the Planning Board's view that we certainly have not finished our work on affordable housing, but I don't think it's a nexus to our Adequate Public Facilities Ordinance as such, and I believe the overwhelming needs are such that we shouldn't dilute this fund in this particular manner.

ROYCE HANSON:
It might help if we explained our thinking on that. One of the reasons for suggesting that part of the mitigation should go to increased housing is not just to deal with the affordable housing issue, but it also addresses the transportation capacity issue. Because particularly in Metro station areas, the trip generation from housing is substantially less than it is for other forms of development and actually facilitates the use of transit and walking and thereby has the effect of providing more efficient use of the road system.

COUNCIL VICE PRESIDENT BERLINER:
Thank you. And I think that is unassailably true. I would say--if I could ask my colleagues to go back to the pages that Dr. Orlin put before us which was on Circle 74-- 73, 74, 75. If you look at even this revised version, I personally am not comfortable with the scope of even this revised version. If you take a look at some of the neighborhoods that would be included within the scope of this that would be avoiding the PAMR test for this alternative, as I appreciate it. And if I'm misreading this chart--I'm looking, for example, in the priority areas in the Bethesda vicinity. And you look at a lot of roads here that my community on Wilson Lane--the notion that a development could take place on Wilson Lane that would not be subject to PAMR-- Am I misreading this chart?

PAM DUNN:
No, you're not misreading the chart.

COUNCIL VICE PRESIDENT BERLINER:
The map?

PAM DUNN:
The policy areas... the developer already would know, right, when they come in that they are in this policy area that has this much PAMR mitigation. What the Alternative Review would say is you're still reliable for 3/4s of the amount of funds you would have paid to mitigate--same trips you're required to under the regular procedure. They're just handled differently. If you read more carefully the Alternative Review Procedure, it does not

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advocate an increase in density for any of these areas. It just says we want to make efficient use of the density that's already existing on the ground there. Especially near Metro station policy areas or areas where we do want development to occur or town centers, we occasionally get development that comes in that's well below what would be an efficient use of the land, maybe at half the density that they are zoned that's been approved in the Master Plan.

COUNCIL VICE PRESIDENT BERLINER:
Yes.

PAM DUNN:
So, it's not going into existing neighborhoods and increasing their density by any stretch. It's just saying let's make efficient use of it, 75% of what you can already do. Let's make sure that you just take advantage of some of that. And the funds that you would have taken for your PAMR mitigation and applied to the things you can now do to satisfy your PAMR trip mitigation, we're gonna take 50% of it. It will go to transit. And 25% will go to affordable housing. And the reason, too, being not just what Dr. Hanson mentioned, that the affordable housing piece and the connection to the use of transit trips, but the fact that sometimes in these areas the rents do go up, and the people that can afford to live there aren't necessarily a variety of the residents of the County. And so, to increase that ability of a variety of people to take advantage of that, we thought it was a good notion. But you're still under the PAMR umbrella, so to speak. It's just a different way to go through that review process.

DAN HARDY:
I'd like to add, if I could, I think we did have some communication concerns on this proposal early on, because it is based on a law from a year ago in California--state law. And it's basically bringing environmental housing, transportation under the umbrella. As Rollin Stanley pointed out earlier in the presentation, in California, the term used is the California Environmental Quality Act exemption. The idea is that this is a way to not have to take the test. That's California's law. Our proposal is that this is an alternative way to satisfy the Policy or Mobility Review. Again, as has been explained, it's still looking at 3/4 of the resources that would have gone into satisfying Policy or Mobility Review still goes to PAMR. And we did put together some examples in the Appendix of the growth policy that show that as you look at development that might come in, even with some increased density allowed in zoning, and a 50% minimum residential component, you can be looking at the efficiencies that will be similar in terms of the amount of dollars generated per vehicle trips generated.

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COUNCIL VICE PRESIDENT BERLINER:
And I thank you for those clarifications. And I do understand the impetus. Did you want to add something?

PAM DUNN:
There's only one thing I wanted to add. I looked at the projects that had come in since the PAMR had been put into place in 2007 and then tried to get a handle on which ones had provided capacity adding mitigation to mitigate their trips and which had done noncapacity adding. And it's somewhat hard to tell because of the way that the data is collected and it goes through development review and looking at the spreadsheets, but on average it's around 65% of the trips that are being mitigated through PAMR are through noncapacity added items. So, developers are choosing the things like handicap ramps and sidewalks, things that do enhance the transit experience but don't necessarily add capacity to the system. So we felt that this Alternative Review Procedure, while hopefully lowering the demand for VMTs, would have as much impact on the system as what we are already getting because we're not getting a lot of capacity-adding trip mitigation right now.

ARTHUR HOLMES, JR.:
Just--when we talk about transportation, we're not just talking about roads. We're talking about the 3 elements. We're talking about transit; we're talking about roads; and we're talking about pedestrian movement. All of those things would be in the consideration, but we wouldn't want to have those things designated in that particular way.

GLENN ORLIN:
I think that if you're going to have the broad area beyond Metro station policy area, then you might want to consider--I'd recommend just keeping it at transit as well. But if it's going to apply to areas outside of Metro station areas, then the broader transportation one seems to make more sense.

COUNCIL VICE PRESIDENT BERLINER:
I am grateful for the Council President allowing us to have this time today to have this kind of conversation because, quite frankly, this is among the better conversations I think we've had with respect to both the premise and the operation of the Alternative Review. I would say that my instinct, as one member of the Council, would still be--and I believe it was Council staff's recommendation--to limit this to the Metro policies areas themselves, Metro station policy areas, which is--I believe we share the view that if there's any place where we want to "encourage development," encourage development to the highest density that we've otherwise provided to encourage a robust residential development, it's there that we want to do that. So I'm a little nervous about the breadth of this, even so. I know that one

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of the characteristics that I believe staff had recommended with respect to Germantown was that it had 5-minute headways on the peak, and that would be consistent with BRT, for example. I'd be willing to go that far so that, again, we put everything in our system that encourages BRT. But I think we need to be careful starting this and then see how it works in our Metro station areas and then determine whether or not we want to broaden it after our experience over the course of the next couple of years with it in the Metro policy areas. That's my own view.

GLENN ORLIN:
The other concern going beyond Metro station policy areas and Germantown Town Center that are mentioned in here, is that bus service comes but can also go. It almost went last year. The Council found a way to be able to keep it, but it's probably gonna come back again. They'll suggest bus service cuts. Because we have a definite budget situation coming up which we maybe can't afford everything we have out there now. And imagine a situation where an area that's in the new green blob area is right on the edge of having 10-minute service, but as part of that route goes from...maybe you have 2 20-minute frequency bus services in the area with effectively 10-minute service. But one of those 20-minute bus services now have to run every 30 minutes. No longer are you in that area, but you've already approved the development based on it. So, are you gonna keep a bus service just to be able to keep the ability for this development to have gone through? I don't think so. If you keep it to those areas where you have essentially a fixed amount of transit--Metro station policy areas--we're not gonna start running Metro less frequently. It's fixed. And the town center service is so established and so rapid that even if it diminished a little bit, it's still express service. It's still very high-quality service. But you really can't say that about these other areas.

GARY STITH:
I would agree with Mr. Orlin, except for the point that this is not allowing any more development than could occur there today. It's exactly the same amount of development.

GLENN ORLIN:
It's staged, though. It's a staging. The Master Plan, sure, but it's in terms of what you're staging.

COUNCIL VICE PRESIDENT BERLINER:
The last point I make at the risk of incurring the wrath of the Chairman, is I do believe there is a relationship between this Alternative Review Process and the level of mitigation that we require generally. That it would seem to me that the Alternative Review Process becomes more desirable, for example, in the Bethesda/Chevy Chase area to the extent to

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which they actually do have a mitigation requirement. Under the axis that is before us in Bethesda/Chevy Chase, there is zero mitigation that is required. So, if we want to create a context where we are trying to encourage the use of this Alternative Review, it seems to me that you want to have on the other hand some dollars that they are otherwise gonna be required to pay if they don't. So, 75% of nothing is still nothing. 75% of mitigation at 40%, which is what the case is in Bethesda/Chevy Chase, is something that people might say to themselves, "OK, let's go to this Alternative Review." So, I do think there is a linkage here as to the amount of mitigation and how we require mitigation and the desirability of this Alternative Review Process.

COUNCIL PRESIDENT ANDREWS:
Thank you, Council Vice President Berliner. Councilmember Elrich.

COUNCILMEMBER ELRICH:
I associate myself with what Roger just said. I think that it's the combination of these 2 things which is really-- makes this exceptionally problematic. We cannot afford to be not collecting resources to deal with the problems that we say we're supposed to be dealing with. We can't simultaneously be upset about our lack of resources and wonder when we're ever gonna fund anything and then walk our way away from funding. I just think that's a serious mistake. I also wonder whether you're actually engaging in some double counting here because you're using different trip generation rate next to the Metro. So, you're already giving a discount in your trip generation rate. So, they're not bearing the same cost that anybody else would bear for the same building anyplace else. Because you're saying, "You're next to a Metro, so I'm gonna give away--you're not gonna have to do these many trips." Then on top of that, then you're discounting it further. I'm OK with the first discount. I'm not OK with the second discount. I think that's why I voted against this because you have given them a credit and saved them money and given them a competitive advantage over anybody else building. Any building 5/8 of a mile away from Metro, you've given them a competitive advantage already. Their costs are gonna be much less. And so now, you're just double dipping.

COUNCIL PRESIDENT ANDREWS:
OK. I don't see any other comments on that, so we're gonna go on to the next item, which is...

GLENN ORLIN:
It's actually Item 5. We did Item 4 a little earlier.

COUNCIL PRESIDENT ANDREWS:

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Yeah.

GLENN ORLIN:
On page 14.

COUNCIL PRESIDENT ANDREWS:
Right. Mm-hmm.

GLENN ORLIN:
Item 5. This is another item that the PHED committee did not talk about, but it stemmed out of the PHED committee discussion, and it's the product of further thinking, so I apologize for that, for thinking. Ms. Floreen had raised in the PHED committee work session the fact that there really isn't an apples-to-apples way that we do the school test in transportation. The transportation test, you look at the demand 5 years from now and compare it to the supply 5 years from now and make a judgment whether things are OK or not. For transportation, it's different. For transportation, we look out to the point where the entire pipeline is built and compare it to what will be out there in 4 years in terms of supply, capacity. Currently, the pipeline is huge, and the Planning Board estimates that residential development, at the rate things are going and have been going for a while, would take 7 years to build out and would take the commercial development that's in the pipeline 14 years to build out. Miss Floreen raised the prospect, "Well, why don't we discount the pipeline?" Basically recognize how much of that pipeline really is gonna happen within 4 years and compare it to 4 years' worth of capacity. In the ensuing discussion, it was pretty clear that there really wasn't a lot of support for that. A lot of it was because it's very difficult to figure out if the plan were, for example, a developer comes in, says he's gonna build a development. And you have to judge, "OK, how much of that development's gonna happen in the next 4 years versus the buildout?" It's very, very difficult to figure that out. So, it was left there without any change. And I thought about it some more. And I thought, well, you can't do anything really about the pipeline part of it, but maybe you can do something about the counting years of supply. You could--it's a policy choice, of course--go out and count more years of transportation capacity to be at least closer in sync with the demand that you're measuring. So, if you're measuring arguably 10 years' worth of demand--7 years of residential and 14 years of commercial--perhaps you could count 6 years' worth rather than 4 years' worth of transportation. The reason why I say 6 is we do have CIPs and CTPs that go out 6 years. You really can't do any longer than that because you really can't be counting projects which are just in planning and there's no construction funding because you have no idea what the schedule for those projects is gonna be. But if a project's funded-- completed within 6 years, you can. So, that's the suggestion here is that you change the counting year to 6 rather than

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keep it at 4. As it turns out, it will have no effect on PAMR or any of the choices you do for PAMR now because there isn't anything that I could find in the CTP or the CIP that adds transportation capacity which is gonna be built in the 5th or 6th years. But it could make a difference in the next CIP, essentially next July when the Planning Board reassesses because we do have a new CIP coming up. And the CTP will be updated. I can think of at least a couple projects which, unless folks change the schedule, will be able to be counted. One is the Georgia Avenue/ Randolph interchange, one is Montrose Parkway East, and there may be others. I just throw that out there as a recommendation for you to think about over the course of the next week.

COUNCIL PRESIDENT ANDREWS:
OK, thank you.

GLENN ORLIN:
Unless there's a discussion of that, go to page 15. I think it will go a little more quickly now, you'll be happy to hear. These are policy area boundaries. Items 1, 2, and 3 are pretty mechanical. Item 1 is whenever we update the growth policy, the Planning Board always revises the boundaries for the Gaithersburg and Rockville policy areas to try to match up with the latest in terms of annexations, and of course, that has an effect on the boundary policy areas in terms of them shrinking a bit. Item 2 was Twinbrook Metro station policy area. You recall back when you did the Twinbrook Sector Plan back last December, you heard the argument that the policy area boundary should match the Sector Plan boundary. There was no disagreement about that, but that really has to be done with a growth policy. It can't be done with a Sector Plan. So, here it is. Same issue number 3. The Germantown Town Center policy area--you just did the employment area Sector Plan. You wanted to expand the policy area boundary there to match the Sector Plan, and this is the time to do that. So, those are 1, 2, and 3. Item 4 is the White Flint policy area. In 2005, there was recommendations from several stakeholders in the area saying that the policy area was too small and ought to be made bigger. I did an analysis at the time which has actually been updated in this report in this packet which looked at all the policy areas--Metro station policy areas--and looked to see how much of those areas were within half a mile of the Metro station as the crow flies. What you find by looking through all these charts-- you can just thumb through them. On the Circles whatever--sorry. Circles, um... 90 through 98, you'll see that all of the other policy areas are basically roughly within half a mile of the Metro station. There are some protuberances beyond a half mile and other places where it's a little bit less than, but that's the case. Then you look at White Flint, and the policy area boundary that--this gets even more confused--the policy area boundary that existed before 2007 is much smaller in comparison to that. That's the policy area on Circle 90, um... Sorry.

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COUNCIL PRESIDENT ANDREWS:
99?

GLENN ORLIN:
90... 99. On Circle 99, you will see that the area in dark black is the policy area that existed before 2007. But you see the half-mile radius goes well beyond that. The thing that I have to explain now, which is complicated and embarrassing-- and the PHED committee knows about this-- is that's when we did the resolution for the growth policy in 2007, the map, which you see on Circle 100, was what was included in the resolution. So, effectively... I believe that's the right one.

GLENN ORLIN:
No, I take that back. Let's go back. If you look at Circle 89, OK? 89. What happened was-- well, it's a long story, but bottom line is that we made a mistake. This map was included in the resolution, and it includes a larger area than what should have been because you didn't discuss changing the boundary 2 years ago. And fortunately, there hasn't been any development that's been approved in this larger area and there's been no impact taxes paid in this larger area. So, thank God, no problem here and we can fix it. But the question really before you from a policy standpoint is do you accept the boundary which is on Circle 99, which is the one prior to 2007, or do you accept the boundary which is on Circle 100, which is the new Sector Plan boundary? So, all that is background. The PHED committee recommends 2-1 that the policy area boundary in Circle 100 be accepted. It's what matches the Sector Plan boundary and is, again, roughly within the half- mile radius like all the others. Mr. Elrich recommends not doing that. The arguments made against it from some of the stakeholders in the area is by enlarging the policy area--obviously, one of the things you're doing is reducing the impact tax because we go from a full rate to a half rate. What it also does is it applies the looser local area reviews standard of 1800 compared to what would otherwise be applied to a couple of intersections, particularly Edson Lane and Rockville Pike and I believe one other along Rockville Pike. Those are the main differences. So, that's the issue before you. Do you change it to the Sector Plan boundary or not? The Executive's position is not to change the boundary until after the Sector Plan is done and then make a decision whether or not to do it then. I would argue that we're not sure how long the the Sector Plan's going to take to get done. We always have, at least in the past, made the policy area boundary the same as the Sector Plan boundary. In fact, it is comparable to the other Metro station policy areas in terms of distance. So, that was the nature of that split.

COUNCIL PRESIDENT ANDREWS:

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OK, thank you, Dr. Orlin. Council Vice President Berliner.

COUNCIL VICE PRESIDENT BERLINER:
I just wanted to get a further explanation as to why my colleagues' point of view and the County Executive's point of view is appropriate in this instance, given the amount of attention we're gonna be spending on--time and energy we're gonna be spending on White Flint, why it is inappropriate to make this modification after we have made the substantive changes that we plan on making to White Flint?

GLENN ORLIN:
The Executive is arguing that.

COUNCIL VICE PRESIDENT BERLINER:
I understand, and I intend to share that point of view. And I'd understood that you had had some sympathy for that point of view as well. Did I misunderstand that?

GLENN ORLIN:
Yeah. I really think it's a separatable issue. I'm not sure what's going to happen with White Flint with the plan in terms of whether it is a carve-out or not. You haven't even started talking about that. One of the recommendations of the PHED committee, by the way, is not to automatically accept in this growth policy that there will be a carve-out--

COUNCIL VICE PRESIDENT BERLINER:
Right.

GLENN ORLIN:
Or that whatever the Sector Plan says will apply here. Instead, what we recommended was that there be a concurrent growth policy amendment which could also include the boundary--

COUNCIL VICE PRESIDENT BERLINER:
Yes.

GLENN ORLIN:
As part of it. You have a good point there that I just made.

COUNCIL VICE PRESIDENT BERLINER:
Thank you. Make another one for me while you're at it.

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GLENN ORLIN:
One's enough. But that was really the point.

COUNCIL PRESIDENT ANDREWS:
Thank you, Council Vice President. There are no other comments at this point on it, so we will come back to that.

GLENN ORLIN:
OK, top of page 17, when we're looking at Germantown, one of the concerns was that Germantown East had a mitigation percentage under the current test of 100% and even under Option 3 it was 90%, while Germantown West and the Town Center had no mitigation, and the thought is, "Gee, how different is Germantown East from Germantown West? They're pretty much the same place." So, one of the things I asked the Planning Board staff to do was to look at what would be the case if there was one policy area for Germantown. And as you might suspect, it averages things out. It does reduce the mitigation percentage for Germantown East, but it also increases it for Germantown West and thereby the Town Center to the point where it would be 30% in all 3 of those areas. The PHED committee did not concur with that, particularly--they didn't concur. So they're recommending keeping Germantown East and West separate.

COUNCILMEMBER KNAPP:
Well, and the reason the committee didn't concur was just because of what the committee's recommendation was with PAMR.

GLENN ORLIN:
Right.

COUNCILMEMBER KNAPP:
Because it addressed the mitigation issue in East in PAMR modification. And so, Dr. Orlin's motivation for actually trying to combine the two, which was to address the mitigation issue in Germantown East, went away. So, if we go back to a different PAMR, it may make sense to come back and readdress this issue.

GLENN ORLIN:
But Mr. Elrich and I didn't agree with the PAMR idea, but he did agree with the rest of the committee on not splitting.

COUNCIL PRESIDENT ANDREWS:
Mm-hmm. OK.

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GLENN ORLIN:
The next--

COUNCIL PRESIDENT ANDREWS:
No other questions.

GLENN ORLIN:
Oh, I'm sorry.

COUNCIL PRESIDENT ANDREWS:
Go ahead.

GLENN ORLIN:
Item 6, the Life Science Center--this is actually-- we only got committee recommendation on this yesterday when we took up the Gaithersburg West plan. But the Planning Board recommends carving out of the R&D policy area a new Life Science Center policy area. If you look at Circle 101 in the packet--if you can go to that quickly... What you see on Circle 101 are some hatched areas and in between traffic zones 218, 219, and 220. 218, 219, and 220 is what the Planning Board is recommending as being a new Life Science Center Policy area and what's remaining of the R&D area would be the hatched area. The effect of creating a new Life Science Center area would be that the critical lane volume standard there would be 1600 rather than 1450, which is what it is in the R&D policy area. It's part of their overall idea for staging for the Gaithersburg West plan. The committee's unanimous recommendation is actually not to do that now at least because the rationale for setting up the new Metro station policy area was the presence of the Corridor Cities Transitway. And the point we made was that the Corridor Cities Transitway isn't here yet and it's not within the number of countable years whether it's 4 or even if you change it to 6, it's not gonna be countable for at least a few years. So, there's not the predicate for doing this now. So, the recommendation there is not to do that in this growth policy. You'll have a separate discussion as to what the land use transportation balance point in the Gaithersburg West plan will be. But that will come up when you take up that plan.

COUNCIL PRESIDENT ANDREWS:
OK.

GLENN ORLIN:
On page 18--we're getting near the end. Adjusting trip generation rates in Metro station policy areas. Someone referred to this earlier. The Planning Board wants to reflect in the

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guidelines that they produce, and it's their responsibility, reducing the trip generation rates for residential development administration policy areas by about 18%, going from 5.6 trips per day down to 4.6 trips per day, which is based on recent studies that have been done. And the PHED committee recognized that this is good information, but this is something that belongs in the guidelines. And while we appreciate getting the heads up on this, this really is not fodder for the growth policy resolutions. It is an important detail, but one of many important details that are in the guidelines.

COUNCIL PRESIDENT ANDREWS:
OK. Hold on just a second, Dr. Orlin.

GLENN ORLIN:
Sorry.

COUNCIL PRESIDENT ANDREWS:
Councilmember Leventhal has a question.

COUNCILMEMBER LEVENTHAL:
Yeah. Trying to keep up. I'm sorry. Going back to the-- this is the item before Item 6, Life Science Center policy area. You read here on page 17 that "no other new policy areas around future transitway stations on the Purple Line or CCT are proposed as part of the growth policy." I just wanted to understand. I was looking at the map of the Metro station policy areas. And it looks like you've got Long Branch as a Metro station policy area.

GLENN ORLIN:
You're an eagle-eyed gentleman, Mr. Leventhal. That's a mistake.

COUNCILMEMBER LEVENTHAL:
OK.

GLENN ORLIN:
And I was going to point it out to staff next time they produced that. That was the same kind of mistake that happened with Westbard.

COUNCILMEMBER LEVENTHAL:
OK.

GLENN ORLIN:
It's gonna come off.

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COUNCILMEMBER LEVENTHAL:
OK.

GLENN ORLIN:
Good catch, though.

COUNCILMEMBER LEVENTHAL:
OK, OK.

UNKNOWN SPEAKER????? It is an urban area.

COUNCIL VICE PRESIDENT BERLINER:
That's what everybody's worried about.

COUNCILMEMBER LEVENTHAL:
There will be a transit station there eventually, but not...

GLENN ORLIN:
It actually is an urban area under the road code, but has nothing to do with growth policy.

COUNCIL PRESIDENT ANDREWS:
Good spot, George "Eagle Eye" Leventhal. All right.

GLENN ORLIN:
OK, transfer trips. This is the same kind of issue we talked about a few hours ago about the school test. The idea here is that the Planning Board is recommending if a development is approved in a policy area and it's a dormant subdivision, sometimes called zombie subdivisions--they're approved but they're not going anywhere and they're probably gonna die pretty soon-- that they could sell or transfer their rights to another development that's not yet been approved as a way of the second development meeting their growth policy requirements on the transportation test. The PHED committee recommends unanimously not allowing this transfer. Again, it would-- essentially, in a lot of areas where we have traffic problems based on counting even just paper traffic, do we really want to have traffic problems with real traffic? So, rather just not do that.

COUNCIL PRESIDENT ANDREWS:
OK.

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GLENN ORLIN:
Top of page 19 of the hospital debate in the upcounty, the Holy Cross Hospital advocated that the hospitals be exempt from the transportation tests. Adventist is recommending that not be the case, that the hospitals be held accountable to it because they were held accountable to it when they went through the process and were approved. And the PHED committee unanimously recommends not exempting hospitals from the tests, at least as part of this growth policy. Basically, they would like to see what happens in the upcounty and have that resolved and then maybe come back in a future year and look at this issue fresh.

COUNCIL PRESIDENT ANDREWS:
OK, keep going.

GLENN ORLIN:
And the last issue we talked about a little bit this morning. It's not even really part of the--it came out of the growth policy discussion, but it really is the subject of the bill that will be introduced next week, which is, again, what should the growth policy be about? What should we call it? How often should you do it and when should you do it? The committee felt that certainly on the schedule, that it should be done every 4 years rather than every 2 years. Their initial thinking is that it would be done in the second year of the Council terms. The next one would be the fall of 2012. Details in terms of what the dates are-- will they be the same dates as they are now, or they could be moved around. But there will probably be a bigger discussion about the scope because one of the Planning Board's issues is limiting this to strictly Adequate Public Facilities, which is what Council staff is recommending and which, I think, at least a majority of the PHED committee is recommending. It is an important discussion, but you'll have a separate forum on that, a public hearing later this November and PHED committee work sessions and Council decision.

COUNCIL PRESIDENT ANDREWS:
Right. OK. Thanks, Dr. Orlin--

GLENN ORLIN:
There's actually one more point--sorry--that didn't get brought up anywhere along here, but I need to highlight it. Actually, the effective date of all of this. The Planning Board had recommended January 1st as the effective date of all these changes, and I think with the possible exception of that growth policy language for the school test, allowing the Planning Board to make an alternative second judgment, that we would concur with that.

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We think with that particular one, it ought to go into effect the day you approve the growth policy.

COUNCIL PRESIDENT ANDREWS:
Mm-hmm. OK. Thank you. Council Vice President Berliner.

COUNCIL VICE PRESIDENT BERLINER:
I don't want to prolong our time here, but we glossed over, I think, pretty quickly 2 concepts that you had advanced that I don't believe my colleagues and I are comfortable at this point in time with, which is the transfer dynamics. I do want to ask you to keep coming to us with, if you will, market mechanisms, that I perceive this to be sort of a cap and trade kind of approach. And I think that there is room for those kinds of market mechanisms to be in place here and that we ought to continue to have you prod us, where appropriate, to look at those kinds of possibilities. I don't think we're comfortable now, but it isn't to say that the underlying concept of moving towards something more akin to a cap and trade which people are gravitating towards because they see it as being the most economically efficient way of allocating resources that you should be deterred from coming back to us with more suggestions in that vein.

ROYCE HANSON:
We'll recharge our prods.

COUNCIL VICE PRESIDENT BERLINER:
Thank you.

COUNCIL PRESIDENT ANDREWS:
OK, thank you, Council Vice President. Councilmember Elrich.

COUNCILMEMBER ELRICH:
A couple things. One is, I probably take a little different view on this last piece than Roger. I would rather move toward shortening the approval periods so that things don't sit as ghosts in the system forever and actually vanish and let the market take its course the other way. The market says this project's not going forward, the market kills the project, and it frees up capacity for somebody else. But I think it's important to free up capacity because it is hard to tell what is real and what is not. You get different scenarios depending on what different people believe is real and what is not. As far as the 4-year policy change goes, I would not support making that decision until we have actually had a larger discussion about what a growth policy should be because I wouldn't want to give

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any sanctity to the current test as if we thought it would be legitimate to keep it around another 4 years.

COUNCIL PRESIDENT ANDREWS:
All right. Thank you, Councilmember Elrich.

ROYCE HANSON:
I was about to take an opportunity to agree with the Councilmember, but I'll only agree with half of it.

COUNCIL PRESIDENT ANDREWS:
All right. We'll have to guess which half. All right. All right, well, we have gotten through the first round. That's good. There are a number of issues that clearly we're gonna come back to and there are some differences on, so we will have a voting session for this next Tuesday and then a resolution on the 10th. Tonight, we have a public hearing with 27 speakers on Zoning Text Amendment 9-8, commercial/residential zones establishment.

COUNCILMEMBER LEVENTHAL:
How many speakers do we have, Mr. President?

COUNCIL PRESIDENT ANDREWS:
27. 27. So, fewer than we had for the White Flint hearings. So, that does it for this afternoon. Thank you all. We'll see some of you tonight.

COUNCILMEMBER ELRICH:
Thank Major League Baseball for not scheduling a game tonight.

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