TRANSCRIPT

November 17, 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. And welcome to the official session of the County Council. We're just in this room temporarily until we move over to the hearing room for the rest of the meeting. I want to welcome the representatives from Project Youth ArtReach who are here with us, as well as from the Correctional Facility. And I'd ask Rob Green and Sabeth Jackson and Claire Schwadron of the Project Youth ArtReach and Jennifer Zuckerman of MCCF to join me over here. And just gather behind me in front of the mural. The County Council is very pleased to accept this mural that was done by the offenders at the Correctional Facility in Clarksburg. And I understand that this was a project that took about 2 months to, uh--yeah, come on. It took about 2 months. This is Rob Green, the Warden of the Clarksburg Jail. Does a fabulous job. And he's joined by Jennifer Zuckerman, who is a case manager, case worker at the facility, right? Close enough?

JENNIFER ZUCKERMAN:
Close.

COUNCIL PRESIDENT ANDREWS:
Close enough. OK. All right. And then Sabeth Jackson and Claire Schwadron of Project Youth ArtReach. And I'm going to actually read what we have here. This is such a good description, I don't want to not describe it in some detail. So, I will read it. And it says, "This mural was created by youthful offenders at Montgomery County Correctional Facility between June 11th and August 13, 2009 through Project Youth ArtReach. A core group of 8 male inmates work weekly with lead artist David Amoroso and a total of 23 inmate participants. The image is a tribute to men in the building trades who build, repair, and restore our communities:
carpenters, painters, pavers, landscapers, and the like. While it acknowledged that women also participate in these trades, the inmates saw the mural as an extension of themselves and therefore only men are represented in this particular mural. The mural artists included African-American, white, and Latino inmates under the age of 25, both English and Spanish speakers, many of whom had experienced working in construction. The participants learned basic art techniques-- drawing, sketching, composition, and design, spatial reasoning, selecting and blending colors, and painting. The workshops emphasize teamwork, problem solving, and task completion. The participants learned new skills and exhibited good work habits throughout the project. The mural was painted during multiple afternoon sessions inside one of the jail's multipurpose rooms using acrylic paint on 4 aluminum composite boards each 4' wide and 6' high." You can see the finished product behind us, which is a beautiful mural that really livens up this rather otherwise monotone room. "The imagery was a shared vision. Inmates first made sketches while discussing what should be illustrated before making final selections. They decided on white T-shirts, for example, so as to create a simpler composition. The skin tone colors were mixed by a

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blending of all skin tones. The play of scale, with the men large and the objects small, were used to highlight the significant contributions of labor. Within the mural, one can see a school, home, religious house, office building, a red-and-white awning representing retail establishments--" recognizing our mixed-use policy. "3 standing books symbolizing libraries, and a gazebo in the park with landscaped grounds. The dove was chosen by the group to signify a peaceful community. Funding for this Project Youth ArtReach Program came from the Montgomery County Council's Community Grant Program and the Harry and Jeannette Weinberg Foundation." We thank them. "Project Youth ArtReach promotes positive youth development by providing juvenile offenders in detention corrections and probation settings with arts programs taught by master artists to enhance youths' cognitive, linguistic, social, and civic advancement. As youth engage with a diverse group of professional artists, they acquire skills in visual, literary, and performing arts by exploring themes of respect and values from other cultures. Youth learn lessons in tolerance, problem solving, and conflict resolution. Project Youth ArtReach is a program of Class Art--" I'm sorry. "Class Acts Arts, Incorporated, based in Silver Spring." And I want to thank the representatives from Project Youth ArtReach. And I'd like to ask if you'd like to say something.

ROB GREEN:
Go right ahead, Claire.

COUNCIL PRESIDENT ANDREWS:
Just sort of lean in there a little bit.

CLAIRE SCHWADRON:
Thank you. Well, we're really thrilled and pleased to be able to donate this mural back to all of you and in a way of thanking you for your support over the years for Project Youth ArtReach. We've been in the jail for about 5 years, providing programs. Much of our money is raised privately, but this has been a huge boost to us to have a community grant from the County Council. And I want you to know we're very proud and so were, and are, the inmates who participate in our programs. David Amoroso could not be here today. He teaches job training out in Virginia, and he just didn't feel that he could leave that today to come here, but he wanted to convey how proud these guys were of this project and how they stuck with it. And the focus and attention they give to our programs when we're in there is really phenomenal. A lot of these guys have been written off as people who cannot commit to something, they can't stay on task, they can't stay focused. And what we find is that when we bring in our arts programs and the artist is very committed and trained and professional about how he's gonna teach them, that they're gonna learn something and open up their minds to a different way of seeing things--for example, I was explaining that some of them had trouble with the concept of the trees and the houses being smaller

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than the men. And David explained to them that this is a way that you can use art. You have this flexibility to convey an idea. And they embraced that, and they had a lot of ideas for him and went back and forth. And as they worked, they made decisions together. So, these guys worked as a team, often with people that they might not acknowledge in the street. And they were all very proud--and we're working on a mural now. And likewise, those guys are quite proud. And they've been asking, "Where's this one gonna go?" So, every time we work with a group, it's been successful--be it mural arts, literary arts, performing arts. And we're very thankful to be able to do this work and really appreciate your support. And I'm really happy that this is where this ended up. It seems like the perfect fit. So, thank you.

COUNCIL PRESIDENT ANDREWS:
Thank you. We're very happy it's here, too.

ROB GREEN:
If I may, Claire is a wonderful partner, as is this County Council. You have supported us from the beginning when we decided to build this jail in Clarksburg. And we didn't cut corners. You gave us in Corrections the opportunity to have just a wonderful facility to make a difference. These are not add-on programs. If we're gonna change people's lives--and we're dealing with about 12 million people that are gonna come through the doors of America's jails and prison systems this year--we got to look at different ways to make a difference. I've been doing this for 25 years. When I started in Corrections, I didn't have arts programs. I didn't have things-- education wasn't that prevalent. We have come a long way. And we're not gonna change what's happening in our communities with crime by locking up people, throwing away the key. These are not add-ons. When you can bring 25 kids into a jail that otherwise--into an environment to start working on this mural--that didn't like each other but didn't know why they didn't like each other and put them around this type of media that allowed them to start working through issues, we create opportunity for learning that you can't pay for, that you can't put a price tag on. And Claire has been a partner that delivers in Class Act Arts. They bring a lot more than than mural programs--cultural learning experiences, drumming programs, things where people are learning about their heritage that they never had the opportunity to do so. It's the right way to run a correctional system. It's the right way to do things, and without your support we couldn't do it. So, we greatly appreciate it in giving us the opportunity to make a difference. This is just the outcome of a lot of other things that happened in 2 months.

COUNCIL PRESIDENT ANDREWS:
Thank you, Rob. Great job.

COUNCILMEMBER ERVIN:

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Can I just--I just want to quickly say something about Class Acts Arts and Claire herself in terms of what she's been able to do with these young people. When I first saw the work that could come out of the jail--it was at Northwood High School. And there was another extraordinary mural that these young people painted, that's hanging up in Northwood High School. And these were throwaway people. They're young people who probably didn't graduate from high school that probably struggled all the way through school and probably had all this talent inside them that required someone to be able to bring it out. When I first saw the mural last week, it took my breath away. And I just wish that they could come and be here to see it. One day, they will. So I hope that we'll be able to bring the artists to come to the Council and talk a little bit about the work that they've done. So, we can't thank you enough for all that you do every single day.

CLAIRE SCHWADRON:
I would also like to say, if you don't mind, Rob, we would be happy to have any of you visit our programs up there while they're taking place.

ROB GREEN:
Absolutely.

CLAIRE SCHWADRON:
And I will forward a copy of our schedule so you can--

COUNCIL PRESIDENT ANDREWS:
That's great. Thank you. And we do look forward to having them have the opportunity to come see it here at some point in the future. And there will be a video made of this that they will be able to have so they can see the ceremony and see the appreciation for their work. So, thank you very much. Very good.

UNIDENTIFIED:
If we could get one shot with the 9 Councilmembers.

COUNCIL PRESIDENT ANDREWS:
Sure.

COUNCILMEMBER TRACHTENBERG:
I'm gonna stand up front here. I get to stand up front.

COUNCIL PRESIDENT ANDREWS:
Good morning, everybody, and welcome to a session of the County Council. We have a packed agenda this morning, so we're gonna move right along. I want to recognize that

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Monsignor Ralph Kuehner of the St. Francis Assisi Catholic Church will give us -- deliver the Invocation, but I want to first congratulate Father Kuehner on his receiving the Neal Potter Path of Achievement Award that was given a couple weeks ago at the Strathmore Mansion, recognizing his outstanding contributions to the community throughout his entire lifetime. And thank you for your leadership on living wage, on affordable housing, and so many other social justice issues. And we're glad to have you here, and please join me in standing, everybody, for the Invocation.

MONSIGNOR RALPH KUEHNER:
God of Everlasting Love, we ask your blessings today on the members of the Council of Montgomery County. You've inspired them to pursue the good of all according to your law. Enlighten them to enact laws in the spirit of wisdom and justice. May they draw from the fountain of your guiding counsel and please you in their work. Give them a deep respect, above all, for the poor and needy of our community, the victims of discrimination, and the homeless. Our prayer this morning is that the members of the County Council will understand what must be done to promote true justice in our community for every person and have the courage to do what is necessary. May the loving God of us all be with you. Amen.

COUNCIL PRESIDENT ANDREWS:
Thank you, Father Kuehner. Father Kuehner was the founder of Victory Housing, which help -- which renovated the Victory Forest Apartments in Kensington and also has engaged in numerous other projects in the area. So, thank you for your critical role in starting that and continuing to help it grow. And thank you for joining us this morning, Father. We're now going to go on to general business, announcement of Agenda and Calendar Changes. Miss Lauer?

LINDA LAUER:
Good morning. We have an addition to the Legislative Session to introduce Expedited Bill 44-09, Buildings, Energy Efficiency Deferral, sponsored by the Council President at the request of the Executive. It will go to hearing next Tuesday, November 24th at 1:30. We did receive one petition this week from residents supporting a pedestrian bridge for the new Silver Spring library. That's all.

COUNCIL PRESIDENT ANDREWS:
Thank you. I've got just 2 announcements to make. One is that the Council will have a Town Hall meeting tomorrow night. I want to remind people about that. That will be at 8:00, with a reception beforehand at 7:30 at Tilden Middle School, not too far from here. And we encourage people to attend and ask the Council any questions they have about any matters that come before us. So, look forward to seeing people tomorrow night at

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Tilden Middle School. That's the 18th. And also I want to announce that the public hearing that will be held on the proposed Board of Health measure that would require disclosure for crisis pregnancy clinics-- it will be an evening public hearing, given the interest in the issue. So, that will be the same day, December 1st, at 7:30 right here at the Council. Now we're going to go on to an acknowledgment of--I'm sorry. Did we do--We did the petition. Sorry. Now on to action. Approval of the minutes of November 3, 2009.

COUNCIL VICE PRESIDENT BERLINER:
Moved.

COUNCIL PRESIDENT ANDREWS:
Moved by Council Vice President Berliner. Seconded by Councilmember Navarro. Any comments on those minutes? Seeing none, all those in favor of the approval of minutes of November 3, 2009, please raise your hand. That's unanimous. Approved 9-0. We now move on to the Consent Calendar. Is there a motion? Moved by Councilmember Knapp. Seconded by Council Vice President Berliner. Any comments? Councilmember Knapp.

COUNCILMEMBER KNAPP:
Mr. President, just a quick comment on the introduction of the Resolution to Approve Montgomery County Emergency Operations Plan. The Council President joined me 2 weeks ago at the Emergency Preparedness Council for the region, an activity sponsored by the Council of Governments in the aftermath of 9/11, to try and ensure that our region is coordinating emergency activities amongst itself so that if there is an issue that we are responding as a region, not just as an individual local jurisdiction. And we had well over 100 of the region's emergency management professionals and decisionmakers participate in a series of exercises. And one of the things that became clear is, especially from a policy and decisionmaking process, how much goes on that many of us aren't necessarily aware of. And at some point, the Council President and I discussed potentially having C.O.G. or the Emergency Preparedness group come in and just give an overview as to what happens when there is a major incident in the region so we can understand how the region supports each other and what the pieces are in place and how are decisions made, whether it's a hurricane or a larger event, some terrorist--whatever it happens to be--what happens next and just try and give us that overview. And so, sometime in the coming months, we will try to set that up. And it just reminded me of that.

COUNCIL PRESIDENT ANDREWS:
Yes.

COUNCILMEMBER KNAPP:

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And I think the emergency operations and continuity is important for us to understand locally, but also how that works with everybody else when there is an issue that needs to be addressed.

COUNCIL PRESIDENT ANDREWS:
Good point. Thank you, Councilmember Knapp for mentioning that. And we look forward to setting that up in the not-too-distant future. Any other comments? I just wanted to note that Item E of the Consent Calendar is a Waiver for Extended Absence for Board of Appeals member Walter Booth, who will be recovering from surgery. And we want to wish him a speedy recovery from his pending surgery. So, we wish him well. I don't see any other comments on the Consent Calendar. So, we're ready then to vote on the Consent Calendar. All those in favor of the Consent Calendar, please raise your hand. That is unanimous, 9-0. Thank you all. We'll now move on to District Council Session Item 3, which is "A"-- Introduction: Zoning Text Amendment 09-11, Residential Zones, Agricultural Vending, sponsored by Council Vice President Berliner. And Council Vice President Berliner has a comment about it, I believe. And our action would be to set a resolution. The resolution is to establish a public hearing for January 12, 2010 at 1:30 P.M.

COUNCIL VICE PRESIDENT BERLINER:
Thank you, Council President. One of the themes of our session today is our County's commitment to healthy eating. Later this morning, I suspect, we will be passing landmark legislation which will ensure that our consumers of fast foods, in particular, understand the calories that they are consuming and to help them make judgments with respect to that. The bill that I'm introducing today is really to ensure that we have fresh produce available to our community and our local farmer's markets are not unduly, if you will, pushed out of the county. We have, for good reasons, zoning laws in our county today that say we should not have commercial establishments immediately adjacent to our residential communities or in the midst of our residential communities because our residential communities want to be residential. But these farmer's markets are such that residential communities actually are very grateful to have them in their midst, and therefore they are a plus for our community. So, they are good food, healthy food, a plus for the community, create a sense of community. In the case of many farmer's markets, they share their proceeds with nonprofits like our churches and synagogues and our YMCAs, so that they actually help give dollars back to the community. So, they are absolutely a plus, and this legislation is simply designed to ensure that where they are not intrusive in our residential communities that we allow them to continue. And I think it's a positive step forward. I know Councilmember Leventhal has been a strong proponent of farmer's markets and should be listed as a co-sponsor, as should Councilmember Trachtenberg, again, whose bills we'll be taking up shortly with respect to good healthy eating habits. So, I thank my colleagues for--

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COUNCIL PRESIDENT ANDREWS:
Would you like to make a motion for a public hearing?

COUNCIL VICE PRESIDENT BERLINER:
I'd like to make a motion for a public hearing and to make sure that my colleagues are added as co-sponsors.

COUNCIL PRESIDENT ANDREWS:
Very good. OK. So the motion will be to establish a public hearing for January 12, 2010 at 1:30. Is there a second?

COUNCILMEMBER TRACHTENBERG:
Seconded.

COUNCIL PRESIDENT ANDREWS:
Seconded by Councilmember Trachtenberg. OK. And Councilmember Leventhal, you want to make a comment?

COUNCILMEMBER LEVENTHAL:
I do, thanks. We had some complaints from Mr. Berliner's constituents, who are also my constituents, that a popular farmer's market in Bethesda in a residential zone was being, um...roughly treated by the County. And it is the County's policy to support the formation of these farm markets everywhere we can. In fact, the demand for farm produce is so great at the farm markets across the County, that Montgomery County farmers are not able to supply enough agricultural products to meet the demand for the farm markets. So, we have, through our Department of Economic Development and Jeremy Criss, who's responsible for agricultural promotion, established relationships with farmers throughout the region-- Pennsylvania, West Virginia, other counties in Maryland, and Virginia and Delaware--to serve the growing demand for farm markets. And this is a movement that I think all of my colleagues really welcome. It builds community. It provides an opportunity for people to walk around and greet each other in local neighborhoods on the weekends and obviously provides access to fresh food, and it provides a market for our Montgomery County farmers and also for farmers throughout the region. So we've had meetings in the HHS Committee to indicate to our Health Department that we, of course, want to enforce all of our health laws, but we also want to be encouraging and relatively gentle in helping producers of goods for farm markets and vendors at farm markets to be able to serve the public. And the ZTA that Mr. Berliner is introducing--and I do appreciate being listed as a co-sponsor; our offices have been in contact about this--is consistent with this movement

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to encourage as much local produce as possible and to encourage farm markets in as many communities as possible.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Leventhal. I don't see any other comments, so we're ready to vote on the motion to establish the public hearing for January 12th at 1:30. All those in favor, please raise your hand. And that is unanimous. So, that is set. Next item is introduction of Zoning Text Amendment 09-12, Rural Service Zone, Development Standard, sponsored by Councilmember Knapp. And the action would be to establish a public hearing for January 12th, also at 1:30. Councilmember Knapp, do you want to make a motion?

COUNCILMEMBER KNAPP:
So moved.

COUNCIL PRESIDENT ANDREWS:
Moved by Councilmember Knapp. Seconded by Council Vice President Berliner. I don't see any comments. So, all those in favor of establishing a public hearing on Zoning Text Amendment 09-12 for January 12th at 1:30, please raise your hand. And that's unanimous, 9-0. OK, thank you. Now move on to Item 5, which is action on Council recommendations regarding toll charges for the Intercounty Connector. These are toll charges proposed by the Maryland Transportation Authority. And I'll turn to the Chair of the T&E Committee, Councilmember Floreen, for the Committee's recommendations.

COUNCILMEMBER FLOREEN:
Thank you very much, Mr. Council President. I'm gonna pass out Mr. Orlin's statement of the Committee's recommendation so you can take a look at it. We had a good conversation on this subject yesterday with members of the Maryland Transportation Authority. I'll note. Let's see, we have Dennis Simpson, who is Deputy Director in the Capital Planning Division, with us today, and David Chapin, the Senior Policy Analyst. And of course, the face of the ICC, the lovely Miss Melinda Peters. If you take a look at Agenda Item 5, you'll see the analysis with respect to the toll charges as well as a copy of all the public testimony that was provided to the state on this subject. It's no big surprise to--well, we all knew that there were gonna be tolls associated with the ICC, but our collective feeling at the Committee level was that we should recommend to the state that they create a range of tolls that is lower than shown and that the tolls should be phased in, rather than implementing the full toll once the first segment of the ICC opens up. We also recommend that the state offer a discount pass for volume users of the ICC, just as is the case with other toll facilities in Maryland. And on a more technical note, we recommend that the state set the tolls so that a vehicle getting on or off at either Georgia Avenue or

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Layhill Road will pay the same toll so as to not encourage through traffic through Long Mead Crossing. And I just say that the background for these recommendations are that we appreciate the challenges that the ICC construction has caused for the community. And it is a unique operation in the state of Maryland, where basically County residents are gonna be asked to bear the full cost, largely, of paying off the bonds assoc-- making a significant contribution to paying off the bonds for the ICC. The Maryland Transportation Authority basically collects revenue from all the toll facilities in the state of Maryland. And with those revenues, a sense of responsibility for the Capital Improvements associated with all the different facilities that are subject to a toll in the state of Maryland. So, it is a big pot of money that they have and a big obligation that they assumed in terms of financial responsibility. And regrettably, until there is real--and this is not the fault of the Maryland Transportation Authority--but regrettably, until there is a coherent, long-term plan for funding transportation infrastructure, tolls are gonna be the solution that more often than not are going to be looked at for addressing infrastructure for financing objectives. So, that is the Committee's recommendation. It's a little different from what's before us. Just as the I-270 issue, we like to think a little bit out of the box in order to address the needs of Montgomery County residents. And we think that these recommendations respect the unique character of the toll facility, will do a lot to encourage residents to use the ICC, and to make sure that its fundamental objective--which was to remove through traffic from local roads--will be achieved. So, that is the Committee's recommendation.

COUNCIL PRESIDENT ANDREWS:
Thank you.

COUNCILMEMBER FLOREEN:
And, as I said, you have it in front of you.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Floreen. There are a number of lights. I wanted to make a couple of comments, then I'll turn to my colleagues. 4 years ago, I stood with the late Councilmember Marilyn Praisner and then Delegate Adrian Mendel to criticize what were then the baseline tolls-- mid-range baseline tolls in the Environmental Impact Study of the ICC. The mid-range tolls at that point were about $7.00 for a round-trip, rush-hour journey on the ICC from Gaithersburg to Laurel, which makes--those tolls, in comparison, were much lower than what have been proposed now. So, we're seeing tolls proposed now that are, for the peak hours, 25% to 75% higher than the tolls that were the mid-range tolls in the EIS, the final Environmental Impact Statement. And the non-peak hour tolls that were proposed by the Maryland Transportation Authority, 33% to 100% higher. So, the tolls we're seeing being proposed are tolls that weren't anticipated in the Environmental Impact

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Statement that was issued just a few years ago. These level of tolls weren't anticipated until 2030 under that statement. So, I am extremely concerned that these tolls that are proposed are so high that they will drive a substantial number of commuters off the highway and... greatly interfere and cause the ICC not to be able to have the ridership, have the use that it would need in order to take a substantial amount of traffic off the local roads, which is its primary purpose. So, I think we have to remember what the goal is here now, and that's to ensure that the ICC is used sufficiently now that it's being built in order to achieve that purpose. Everyone knows that my view was that it should not have been built at all, but now that it is being built, I want it to be used. And I want all people to have access to it as well. And it's a public highway. It's not a private road. So there is, in my view, an obligation to make it reasonably affordable to all people. I want to ask--and I agree with the Committee recommendation. Clearly, the tolls should be lower, and the other recommendations as well about volume of users and trying to avoid the cut-through traffic that you get if you have the different tolls for Georgia Avenue and Layhill Road. So, I agree with all those recommendations. I want to ask if the state has considered the option either of having one lane on the ICC that is not tolled at all, that is a free lane, which in effect is what the Council preliminarily recommended for I-270 to have lanes that are untolled and new lanes that are tolled. So, that's one question I have. And the other is whether you've looked at having a variation of that, which is differentiated pricing, differentiated lanes so that at the same time of the day you have different toll levels for different lanes in order to assure that at least one lane on the ICC was inexpensive and affordable to people making modest incomes. To give an example, if the high range of this tolls were adopted--the 35 cents for the peak hour round trip tolls--you would have $3,000 a year cost to people using that to commute on a daily basis from Gaithersburg to Laurel. That's 6% of the salary of $50,000. So, that's a huge impact on people at that income level. Even the lower range of the toll--20 cents, 25 cents-- still $8.80 round trip, still in the $2,300, $2,400 range for someone using it every day to commute from Gaithersburg to Laurel rush hour. So, those tolls will deter use, and so let me ask our representatives from the state if they either looked at the possibility of having a lane that is free on the ICC or one that is substantially less expensive than some of the other lanes on the highway.

DENNIS SIMPSON:
Good morning. I'm Dennis Simpson, Acting Director of Capital Planning for the Transportation Authority. I'll try to answer your questions. First one--the option of free lanes. No, we have not considered the option of free lanes on the facility. It is a toll facility, and our trust agreement requires us to charge tolls on the facility as part of our trust agreement with our bondholders. We also have not looked at a different price on the various lanes. The reality is, the way the Interchange operates, all vehicles have to enter the freeway from the same ramps. And we can't offer different pricing when they're accessing the facility from the same location, from the same ramps.

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COUNCIL PRESIDENT ANDREWS:
But in terms of what you have above the highway as people--wouldn't there be a way, in terms of technology, to track the different lanes?

DENNIS SIMPSON:
Yes, we are tracking the traffic in each lane. So, we are capturing what vehicles are in what lane with the technology that is being implemented.

COUNCIL PRESIDENT ANDREWS:
Mm-hmm. So, would it be possible, then, to have differentiated pricing on different lanes?

DENNIS SIMPSON:
It's physically possible. It just doesn't make sense from a tolling perspective to do that.

COUNCIL PRESIDENT ANDREWS:
Mm-hmm. Be a little more-- elaborate a little bit.

DENNIS SIMPSON:
It just doesn't make sen--it doesn't do-- If all the vehicles getting on the roadway are getting on from the same ramp, if I charge a different price in an individual lane, that's not necessarily going to give anyone better access to the roadway across the 3 lanes, because they're all getting on and entering from the right.

COUNCIL PRESIDENT ANDREWS:
What you're saying is, there's no way to physically use the electronic tolling to differentiate the different lanes?

DENNIS SIMPSON:
The congestion pricing model that we're using for the facility is looking at 3 lanes as an entirety.

COUNCIL PRESIDENT ANDREWS:
Yes.

DENNIS SIMPSON:
And what we're trying to do is--

COUNCIL PRESIDENT ANDREWS:
Not able to switch it out.

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DENNIS SIMPSON:
And what we're trying to do is have the volume of traffic across all 3 lanes not be higher than a certain amount to assure that people have a reliable trip on the ICC.

COUNCIL PRESIDENT ANDREWS:
Mm-hmm. OK.

DENNIS SIMPSON:
That's the intent of the tolling model that we're trying to use here.

COUNCIL PRESIDENT ANDREWS:
What has your Toll Sensitivity Analysis shown in terms of the sensitivity, elasticity of demand based on the toll prices?

DENNIS SIMPSON:
There are some curves that were in the packet that went to the Transportation Environment Committee...

GLENN ORLIN:
It's in your packet today. It's on Circle 9.

DENNIS SIMPSON:
That show the revenue trends--and I also have some additional curves that were in the full Traffic and Revenue Report, which I can share with you today that show the transactions. One of the members yesterday asked this question, so I can share it with you. Let me give you just examples based on the analysis that we've done. Based on a 30-cent toll, the number of average weekday transactions would be around 40,000 vehicles. With a 20-cent toll, that number would go up to about 45,000 vehicles, and the slope of that curve is about like that. So, it's about 5,000 vehicles every 5 cents, essentially--or every 10 cents, I should say, and it continues. So, if you went to 10 cents, you can get to about 55,000 vehicles--

COUNCIL PRESIDENT ANDREWS:
Mm-hmm.

DENNIS SIMPSON:
on an average weekday.

COUNCIL PRESIDENT ANDREWS:

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OK. All right.

DENNIS SIMPSON:
But I'm willing to share those curves with you so you can see the slope of the curve and how it functions--

COUNCIL PRESIDENT ANDREWS:
Yeah, we have some of this, at least, in our packet. I don't know if we have all the Toll Sensitivity Analysis that was done or not, but there clearly is. I recall that in the Environmental Impact Statement, the Toll Sensitivity Analysis at the time showed a 10% to 15% decline in use for tolls between--that were $4.50 versus $6.00, roughly. So, that people are sensitive to the price, and the tolls proposed are substantially higher than were proposed and analyzed, at least at that time. And I think--we received a letter yesterday. I think Councilmember Floreen received a letter from the Chair of the Planning Board Royce Hanson.

COUNCILMEMBER FLOREEN:
We've got a--yes--

COUNCIL PRESIDENT ANDREWS:
I think it's in the Addendum of the packet that--

GLENN ORLIN:
It's in the regular packet today. It's on Circles 15 and 16.

COUNCIL PRESIDENT ANDREWS:
Good. OK. And one of his major points...I think that's the supplement. One of his major points was that the decision on this should not be revenue-driven. It should be based on the actual impact it has on use of the ICC. And while he acknowledged that one of the goals is to not have the ICC become congested, he also strongly urged that the decision not be made with a goal of maximizing revenue since that was never the purpose of the highway. The purpose of the highway has always been, in the stated arguments, to reduce traffic. And that is the purpose. That's why we build roads is to relieve congestion and provide access. So, I hope that the state will take the recommendations that have been made by the Committee and that I expect will be made by the Council, which I think would likely be very similar, if not the same. And the testimony that was presented to the Maryland State Transportation Authority at the different public hearings--I attended the one at Shady Grove Middle School. And I think the Transportation Authority members heard over and over that the impact of the proposed tolls would be to drive down use and prevent people from being able to use the highway that their taxes helped pay to build. So

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I hope that you will take that message back to your colleagues. And I will now turn to my colleagues. Council Vice President Berliner, then Councilmember Leventhal, then Councilmember Knapp.

COUNCIL VICE PRESIDENT BERLINER:
Mr. Simpson, I believe you were referring to the question I had posed to you during our session yesterday with respect to the impact of the tolls on number of vehicles on the road. I would be grateful to see that document.

DENNIS SIMPSON:
Absolutely.

COUNCIL VICE PRESIDENT BERLINER:
And as I understand your explanation today, a 30-cent toll produces 40,000 vehicles per day, on average. And a 10-cent toll would produce 55,000 vehicles per day, on average. A rather significant difference. So, to the extent to which my colleagues and I are seeking to ensure that this road is, in fact--its primary value is to make sure that the traffic in our neighborhoods is relieved and that people use the ICC as opposed to cutting through neighborhoods, our goal would be to ensure that the tolls attract as many drivers as possible. I assume you find that understandable. All right. You also said yesterday during our conversation that your goal in setting these tolls was to achieve a steady flow of traffic on the ICC. And you used terms that I know my colleague Councilmember Elrich is very familiar with, which is that you wanted to ensure levels of traffic at "C" to "D" levels. Is that correct?

DENNIS SIMPSON:
That's correct.

COUNCIL VICE PRESIDENT BERLINER:
So, have you assessed how much traffic you can encourage on this road during peak time that would be at "D"? What's the variability here?

DENNIS SIMPSON:
Yes, I think I did mention this yesterday, but I'll restate it for the full Council. The threshold number that we're working with in terms of when we'll be adjusting tolls to adjust for traffic congestion is about 5,000 vehicles per hour on the 3-lane section of the highway.

COUNCIL VICE PRESIDENT BERLINER:
And under your toll methodology, how much are you anticipating during peak?

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DENNIS SIMPSON:
I don't have that here with me today.

COUNCIL VICE PRESIDENT BERLINER:
OK. So, my question really is to what extent can you modify your tolls and still achieve your objectives? So, you've got it at between 25 and 35 cents.

DENNIS SIMPSON:
Correct.

COUNCIL VICE PRESIDENT BERLINER:
If it was between 15 and 25 cents, would you achieve your objectives, or would we have too much congestion?

DENNIS SIMPSON:
A year of opening, we would not achieve those 5,000 vehicles in the peak hour with the tolls as currently proposed--the range.

COUNCIL VICE PRESIDENT BERLINER:
You would not. What would you achieve at that time?

DENNIS SIMPSON:
It's less than the 5,000. I don't know what the number is off--

COUNCIL VICE PRESIDENT BERLINER:
It's less than the 5,000.

DENNIS SIMPSON:
Yes.

COUNCIL VICE PRESIDENT BERLINER:
I'm struggling a little to make sure I understand, because if, in fact, we have lower tolls, I would assume we would have greater throughput. Correct? So, will you have 5,000 vehicles? Will you have more than 5,000 vehicles during--I'm sorry. Dr. Orlin, do you want to help me understand this?

GLENN ORLIN:
Sure. This is just a rule of thumb. OK? On a road like the ICC, the peak hour of traffic is roughly about 10% of the daily travel total. So, if one of the scenarios that Dennis mentioned, I think, was 55,000 users a day, it's actually 55,000 transactions a day.

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DENNIS SIMPSON:
That's correct.

GLENN ORLIN:
That's the whole road. So, actually, on any section of road, it might be less than that, because not everybody is driving the whole length of the road, of course. For the time being, let's say it's 55,000 a day. Then 10% of that is 5,500, but then, of course, that's split between the 2 directions and might be a 60-40 split. So maybe 60% of that 5,500 is what's going in the peak direction at peak hour. Even that's probably a high estimate, particularly for the first few years. So, it's well under the 5,000.

COUNCIL VICE PRESIDENT BERLINER:
I guess my bottom-line question--maybe you can get back to us at some point; I think the recommendations of the Council are gonna be clear here, and I certainly support my Committee's recommendations in this regard--is to understand where, if you will, the tipping point is. That is, where do you not achieve the level of throughput that you're seeking to ensure a steady flow, but not "congestion"? You want people to be able to use this road in a way in which it is actually a plus, not a minus. We don't want it to turn into another Beltway experience. So I understand that. But what I don't understand is how much you can change your tolls and still achieve that objective. OK? So, I would be grateful if you could get back to us with respect to that. Thank you, sir.

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

COUNCILMEMBER LEVENTHAL:
Thank you, Mr. President. I also support the T&E Committee's recommendation. I think the tolls appear too high. I do generally think that asking the users of a road to pay a significant share of the cost of the road is good policy. I wouldn't object, and I do not object, to the concept of tolls on this road or any other road. I think, generally, highway travel is subsidized by all taxpayers. And to put more of the burden on the users of this specific road, I think, is all right. But at the same time, we do want to see use of the road. We have invested in its construction. And if the cost of using it becomes a barrier to using it and then we have this gigantic new highway and we haven't taken the traffic off the neighborhood roads that we promised, that's a problem. I also have a problem with equity, as we discussed in Committee the other day. The assertion was made that the value of time is a determinant, and if people place a high value on their time, then they'll be willing to pay the toll. But the value of time is the same whether you're rich or poor, and there's a significant equity issue involved. Poor people need to get to work, and lower-income

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people need to get to work also and place a high value on their time, but they don't have the resources that higher-income people have. So, to say that it's a simple measurement of the value that you place on your time doesn't take into account the fact that different people have different resources to be able to pay to maximize their time. And that's not a question. That's just my little, um... whatever you--little speech. But I do have a question, and that has to do--and this came up in Committee. And I am hearing quite a few complaints from residents of the Georgia Avenue corridor about the size of the direction finder signs and the informational signs that are going to be placed on Georgia Avenue. I know this came up in Committee, but I wanted to take the opportunity to get this on record. Can we please not have signs on Georgia Avenue and on the ICC exit on Georgia Avenue that approximate the size of the signs on 495 and 270? I think as much as Georgia Avenue is a major arterial, it is also a residential area, and the scope and size of the lights and signage are causing quite a bit of heartburn among my constituents.

LINDA PETERS:
Hi. Melinda Peters with State Highway Administration. Thank you very much for bringing up that topic. And we heard the concerns of the community loud and clear in our meeting with them last week. And we are working this week on looking at the issues. The fact is, there are messages that have to be communicated. It is a toll road, so there is certain information that does need to be provided. But we are working hard to look at ways to better incorporate that signing into the context of the community that surrounds where the signs will be located. And we hope this week to work through that issue and then come back to the communities--likely would be after Thanksgiving, with the holiday next week, and provide more information so that they can be involved in the final product that we're developing. But we are trying to work within the confines of traffic requirements, signing requirements and providing adequate information and notification to people about the roadway. But we clearly understand the concerns. And it actually is not just in the Georgia Avenue corridor. We are looking at all of the more local roadways that do cross the ICC to see what can be done to make sure we address the concern.

COUNCILMEMBER LEVENTHAL:
Good, Melinda. I appreciate having this exchange, and I'd appreciate if you could keep me and other Councilmembers informed about whatever you communicate to the neighbors, because they're talking to us as well.

LINDA PETERS:
Absolutely. Thank you.

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

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COUNCILMEMBER KNAPP:
Thank you, --don't go away. I want to thank Mr. Leventhal for raising that issue because I was gonna raise that as well. I'd heard a number of things from a meeting you had last week. Just to follow up on that. When do you expect kind of the timing of those decisions to be made, and how do you expect to communicate that back to people?

LINDA PETERS:
Melinda Peters again. We do hope in the next several weeks to make some final decisions. We want the communities to be involved in that coordination. The fact is, we have--Contract "A," the first segment of the ICC, will open next fall.

COUNCIL PRESIDENT ANDREWS:
Right.

LINDA PETERS:
We need to be constructing those signs over the winter and into next spring. We have some traffic shifts that are going to be happening with the Shady Grove Road area with 370 in the next several weeks, and there are certain signs that are starting construction in the December timeframe. So, we are looking to make decisions and resolve these issues quickly so that we can then move forward. But in the next several weeks, I think the challenge we have with the holiday next week is it's likely gonna be following the holiday that we can get back with these communities and have them be involved in where we are.

COUNCILMEMBER KNAPP:
OK. No, thank you very much for that, because it's important for people, I think, to know that they have to pay attention now. And I just didn't want something to be made -- a decision to be made, and all of a sudden it is what it is and it's too late to do anything about it. So, I thank you for your willingness to work with everybody to get to what hopefully will be a reasonable solution. I don't know that everyone's gonna be thrilled, but it's at least getting the right thing in the right place. Thank you. I just wanted to thank the Committee for their efforts on this. I think that the recommendations that they made were important, and I think that the Chair laid out a very telling point. I think that to have users pay for the roads upon which they travel, I think, is fine. But the reality is, we don't have a way right now to really pay for transportation in the state of Maryland. And we're struggling, quite honestly, even at the federal level. And until we can get folks to step up and take on the recommendations that I think the Council and the County Executive had indicated last year or some alternate mechanism, whether it's a gas tax or something else that will generate a regular set of revenue, and for those revenues to actually stay in our Transportation Trust Fund so they can be used for construction of transportation projects,

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we're gonna be doing things like this. And so, I appreciate the balance. I think the Committee tried to get out there of recognizing how do we maximize utilization while at the same time recognizes how we're gonna pay for transportation. I know that's the challenge that you folks are facing as well, and so I expect that this isn't a dialogue that we'll have once but something that will happen over the course of time as we actually see what behaviors and practices will be and how we reconcile those things, because I don't think it's maximizing revenue for the sake of maximizing revenue. I believe it's actually trying to pay for the road because we don't have real good ways to pay for roads right now or other transportation projects either. So, I thank you for your willingness to have that dialogue, and I thank the Committee for their efforts in getting what I think is a reasonable recommendation.

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

COUNCILMEMBER ELRICH:
I'm sure you all know that I'm no great fan of this road. I think the debate will be with us as the worst road in Maryland and the worst road in the country at the end of the day, but I'm concerned about the tolls. But I'm also concerned about what the--we're talking about the impact on people here, but I'm interested in what the other impact is if we reduce the toll rates. I mean, I'm assuming you're not raising money via the tolls to pay for other projects in the state of Maryland. This is basically... this is to pay for--you need to raise this amount of money to cover the bonds that have been floated for the facility.

DAVID CHAPIN:
David Chapin, Senior Policy Analyst with the Transportation Authority. The Authority is issuing approximately 1.2 billion in toll revenue-backed bonds for the project. And these revenues that we're looking to collect from tolls on the ICC would probably not be sufficient to repay those bonds plus our operating costs for the ICC. So, in fact, our toll revenues from our system-wide pool would be used to supplement those.

COUNCILMEMBER ELRICH:
So, tolls paid for the Bay Bridge and for any other facility in Maryland are gonna be, in part, siphoned off to pay for the ICC?

DAVID CHAPIN:
We have a pooled revenue base and pooled expenses, and all of the revenues go into that common pool, and they pay for the projects in total.

COUNCILMEMBER ELRICH:

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I get that, but the basis is that the contribution of the ICC tolls to paying for the ICC expenses is less than the ICC expenses. So, if you were to--

DAVID CHAPIN:
Based on current expectations, yes.

COUNCILMEMBER ELRICH:
If you were to reduce the tolls, and you don't generate enough revenues from the higher ridership to match the toll revenue, then you would, in fact, have to pull money out of the pool and again--

DAVID CHAPIN:
To a greater extent.

COUNCILMEMBER ELRICH:
Or raise tolls at other facilities.

DAVID CHAPIN:
That's correct.

COUNCILMEMBER ELRICH:
One or the other.

DAVID CHAPIN:
That's correct.

COUNCILMEMBER ELRICH:
So, this is not something where it can simply be fixed because we think the tolls are too bad. We need to be clear that this will either undermine the ability of the state to use that toll pool for other projects in the state, or they will have to raise tolls on other facilities in the state. This is not simply a matter of the state's trying to raise money, we don't like how much money they're raising, so we're gonna ask you to raise-- this will have consequences if you adopt a lower toll rate.

DAVID CHAPIN:
Yes.

COUNCILMEMBER ELRICH:
OK. I think it's important for everybody to understand that, because this will play out in a broader scenario. And do you have adequate--there's been a lot of discussion about the

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Bay Bridge and the ability to meet the needs of funding for the Bay Bridge's maintenance. Where does that sit right now? What does your analysis say about your revenue stream for the Bay Bridge and where you all stand?

DAVID CHAPIN:
We have a number of facilities that are quite old, some going up to 70 years old. They do require a lot of system preservation work. We're dedicating a fair amount of our revenues to that purpose, and we'll continue to do that.

COUNCILMEMBER ELRICH:
OK. I think the point about the transportation solution is really a subset of a larger solution. I don't think anybody goes to transportation just because they can go to transportation. I think the reality is there's a general shortfall in revenues at the state level, and it comes out of transportation. But the solution is gonna require a solution to the broader problem of state funding. There's not gonna be a transportation solution. There has to be a way to figure out how to deal with the rest of the budget because transportation's not the only thing that we're not getting adequate funds for. And it's gonna be hard to pick that apart from everything else that we need to do here. So, I wish the state could adopt a transportation solution. I don't believe that's possible absent a broader approach to the budget. And that's, again, not your fault. I mean, you just have to raise the money and maintain the facilities, but I think it's part of the broader problem.

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

COUNCILMEMBER ERVIN:
Thank you very much. I want to go back to the question about whether the rates that the state is proposing for the toll roads are so out of whack that they don't match what's happening in other parts of the country. And I see on page 3 that there is a chart there that pretty much indicates that we're inside the -- you know --.between the 27 and the 99 cents. I'm trying to ascertain from the folks from the state whether or not it's true that we're not like an outlier here. We sort of fit in the box. Is that correct? My colleagues are pointing out here that low-income residents are going to be unduly impacted by the cost of the toll. I'm not quite sure if I'm on that page. So, if you could explain the chart on page 3, I would appreciate it.

DENNIS SIMPSON:
The chart on page 3 is an excerpt from some materials that we had provided as part of the public hearing materials and Mr. Orlin has put into his package that we shared with both the full Council and the T&E Committee, and they are a sample of tolls around the

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country, some here locally in the Virginia and Delaware area that have similar cost per mile ranges, similar to the ranges that we are proposing for the Intercounty Connector.

COUNCILMEMBER ERVIN:
So, for the roads in our region, do you have any information that you can share about whether or not the numbers of cars on those toll roads are somehow diminished because of the pricing? I think it's a really important conversation for us to be having. I, for one, do not think the pricing is out of range. This is what people pay when they drive on Virginia toll roads and other toll roads throughout the region and in the country. And so I'm just trying to get a good understanding--I'm not on the T&E Committee--about what the conversation was in Committee about how far out of range the ICC tolls actually are.

GLENN ORLIN:
ICC tolls as proposed are in the range of facilities -- toll facilities that have been built in the last few years. They are much higher than what tolls are on most toll roads around the country--

COUNCILMEMBER ERVIN:
Because they're old.

GLENN ORLIN:
Because they're old. They were built in the fifties and sixties when debt service was very low and the costs were very low. And so, the debt service may have been paid off already.

COUNCILMEMBER ERVIN:
Right. Well, I want to compare apples to apples, not apples to oranges. And so, if we're comparing apples to apples on roads that have been built within the last 4 or 5 years, are we in the range?

GLENN ORLIN:
The answer is yes.

COUNCILMEMBER ERVIN:
The answer is yes.

GLENN ORLIN:
And the state is also looking at adding H-O-T lanes on I-95 north of Baltimore on the County Expressway. And they have not set tolls yet for that, but it's likely to be similar--be comparable to this.

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COUNCILMEMBER ERVIN:
OK, well, I think it's--

GLENN ORLIN:
And following up that same comment Mr. Elrich pointed out, that's probably not gonna support itself either. So, the overall fund of the Transportation Authority is gonna help to help pay for that for a while as well.

COUNCILMEMBER ERVIN:
Right.

GLENN ORLIN:
The idea is that eventually--and eventually could be decades-- the projects do develop enough money to be able to pay off its operating expenses and even its debt service, and then it becomes a source of revenue for the next generation of toll roads. That's traditionally how it's been done in many states. Other states take a much more conservative approach, where as soon as the bonds are paid off, the tolls come off and it's a free road. So, there are 2 different points of view on that.

COUNCILMEMBER ERVIN:
OK, and the other interesting item here is mention of the gas tax and what the impact on imposing a gas tax is gonna be on low-income folks who drive. So, that's gonna be another conversation when we get to it, but let's not just focus on this one toll road and say, "Oh, my goodness. People who are low-income aren't gonna be able to drive on this road," when we have members of the Council and other folks around the state wanting to propose a pretty hefty gas tax, which is gonna have, I think, a pretty significant impact on those people that we're talking about here.

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

COUNCILMEMBER FLOREEN:
Thank you. Well, there you have it. Those are the trade-offs associated with transportation funding. And that's why we are looking at significant costs for the ICC. I think the Committee's recommendation, I think, tries to find a middle ground through all of this. And we understand the range of cost involved. We understand the concept of user fees. We're not thrilled about the fact that this is the way it's going, but we accept that. And particularly in the beginning, I think we hope that the state will ease Montgomery County residents into this situation. So, you have the Committee's recommendation before you, Mr. President.

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COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Floreen. I'm just gonna make a final comment, then we're gonna--what I'll suggest is that we, in fact, have a vote on the recommendations, and then I'll ask Dr. Orlin to draft a letter that incorporates the recommendations that we would then seek to have the County Executive sign with the Council and send to the state. A final word. I just want to refer to the transcripts that were provided to give you a sense of the testimony. I read--this was at the same hearing that I was at. Miss Barnes?????, who was quoted as saying she is extremely upset to hear of the exorbitant tolls and "if the per mile rates I've heard about are implemented, I'll be forced to continue my trip on my regular route." And Miss Sharon Hicks said, "I'm a retired person. I wouldn't be using it during rush hour, but I think the fees are exorbitant. I would never use that road at the rates you're charging now." So, the proof will be in the pudding, but I suggest that if the toll rates that are proposed are implemented, the ICC will fail to achieve its goal of taking substantial traffic off the local roads. With that, we have the recommendations of the T&E Committee before us. I sense support for the principles that are in the recommendations that the tolls should be lower, phased in, rather than implementing the full toll once the first segment opens, that a discount pass for volume users--as is the case with other toll facilities in Maryland--should be provided, and that the toll should be set so that a vehicle getting on or off at either Georgia Avenue or Layhill Road will pay the same so as not to encourage through traffic in Long Mead Crossing. Unless there are any objections to those principles, I will take that as consensus that these are the principles and specifics regarding the tolls that we want to recommend to the state for their consideration. And we appreciate their asking us what we think, and we hope that they will give serious weight to these recommendations. And we will then reach out to the County Executive and see if we can send a letter together on this, which I anticipate we would be able to do.

GLENN ORLIN:
He's actually already sent a letter about 5 weeks ago.

COUNCIL PRESIDENT ANDREWS:
He did? We could send another one, send a joint one. The County Executive did send a letter-- it's true--in October, objecting to the high level of the tolls. It's reinforcing this.

COUNCILMEMBER FLOREEN:
I might add, we were provided with a copy of the response yesterday, which was pretty much "Thank you for sharing."

COUNCIL PRESIDENT ANDREWS:

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Better to be thanked than not thanked. All right, and with that, I will thank--so, without objection, the T&E Committee's recommendations are approved, and I thank the representatives from the state for joining us this morning. Thank you. Thank you, Councilmember Floreen. All right, we're now gonna move right along into the next item, which is a briefing on the Health Impact Assessment for major road projects. We have with us 2 experts on Health Impact Analysis Assessments, and they are Dr. Aaron Wernham, who is the Director of the Health Impact Project at the Pew Charitable Trusts, and Dr. Keshia Pollack, who is an Assistant Professor at the Johns Hopkins School of Public Health. In the packet that we have for the session today, their resumes are attached, and Drs. Wernham and Pollack are gonna speak to the purpose of Health Impact Assessments and the scope of those that have been conducted elsewhere. We're having this briefing because legislation -- a Board of Health measure has been introduced by 5 members of the Council with our lead sponsor, Councilmember Trachtenberg, to bring this to Montgomery County. I'll ask Councilmember Trachtenberg if she wants to make an opening comment, and then I will ask our panel to introduce themselves and provide us with their presentation. Councilmember Trachtenberg.

COUNCILMEMBER TRACHTENBERG:
Thank you, President Andrews. And I want to just make some very brief remarks--thank both Dr. Wernham and Dr. Pollack for being here this morning and taking time from your busy day to join us. I am excited. I know the sponsors of the measure are also excited that you're both here this morning. I think that what we're hoping to accomplish with this discussion clearly is we can get a better understanding of the value that's added to the planning process around communities, not just roads, but really, quite frankly, land use decisions, ultimately, and even transportation prioritization. I would hope that in the comments this morning, we talk a little bit about screening as a potential first step with the use of a HIA. Another thing I would hope we can focus on would be the issue, of cost and resources that would be required. And I think the third issue that we'd want to look at a little bit would be how to apply the HIA and what are the significant issues and what's the advantage of applying it broadly rather than in a narrow fashion. I know we have some folks here from other departments this morning joining us. As well, from the Department of Health and Human Services, Colleen is here. And she's going to be talking about some of the work that's already begun over at the Department that's specific to our Community Health Improvement Process. And I would share with my colleagues-- co-sponsors have had some conversations with my staff about this. There have been a number of conference calls, sidebar conversations. And one of the things we will be pursuing in the course of the next few weeks is a resolution before this body that will empower HIA work group, so that we can actually get the optimal benefit of using such a process. And I know that the folks in Park and Planning fully support that as well as the other departments. And we hope that both Dr. Wernham and Dr. Pollack join us in that work group effort as well.

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So, thank you, Aaron, and thank you, Keshia, for being here. And I know we all look forward to hearing your remarks this morning, and we'll probably have a lot of questions.

COUNCIL PRESIDENT ANDREWS:
Thank you for being here, and please proceed with your presentation.

AARON WERNHAM:
Thank you very much, and good morning, Council President Andrews and members of the Council. Thanks very much for the invitation to come speak with you. I'm from a newly formed organization known as the Health Impact Project. We're a collaboration of the Robert Wood Johnson Foundation and the Pew Charitable Trusts. And our, really, overall objective is to promote the use of Health Impact Assessment So, shortly after we announced this new collaboration, you all announced your HIA bill, and we were very interested and excited to see that. As a resident of Montgomery County, I'm also--I should mention, a very new resident--I'm excited to live in a place that takes this sort of proactive approach to health. I've had a number of conversations with some of the staff and Councilmembers about this bill, and I want to start with some of the questions that have come up in conversation, and Duchy mentioned some of these as well. I think, really, one of the central questions that's raised not only in this county but everywhere that contemplates Health Impact Assessment requirements is does every project need an HIA, and how do you avoid making this sort of a law just as sort of a meaningless bureaucratic requirement that doesn't add a lot of information but does add time and cost? I think that's a very reasonable question that I'll try to address. The County also actually is already taking a lot of proactive approaches to addressing health in other planning decisions, such as the recently passed Growth Policy. So, where does HIA actually add value to that? What scope of health concerns should be addressed in an HIA? And how does it fit currently within other Health Department activities, such as CHIP, that you'll hear about a little bit after my presentation? And finally, how much does it cost, and how long does a typical HIA take? I'd like to start any conversation about HIA just making sure that I've sort of set the foundation for why we think it's important. The more we study public health, the more we learn that what makes a community a healthy place is really quite a compendium of things. Health care itself, as in medical care, medical insurance, really, actually doesn't appear to determine all that much of the overall rates of disease and illness in a community. Genetics are important. Environmental exposures, depending on how you count environment, are quite important as well. But then, we've always focused on modifiable behaviors, things like smoking and what you eat. But the question is, how do policy decisions affect that? So what if you can't afford fresh produce, or what if subsidies lead to certain types of foods that may be less nutritious being much less expensive to buy than fresh fruits and vegetables, for example? Or what if your school lunch program gives your kids foods that aren't the best for them? And exercise is important, too. We

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recommend it. I'm a physician. I recommend it to all of my patients. But what about if there's nowhere safe in your community to exercise? These are just examples of some of the ways in which public health interacts with policy decisions made in many other sectors. So, this is really a concept that's not new. The World Health Organization talked about this in the 1980s and said that policymakers in all sectors and at all levels need to be aware of the health consequences of their actions. And even more recently--this is a T-shirt from the American Public Health Association from this year's meeting that talks now about an increasingly common cry:
"Health In All Policies," which I think it expresses a concept that's increasingly common in the public health arena. So, there are several formal definitions in use for a Health Impact Assessment. This is a common one. I really like to take a little bit more of a practical approach to describing it. We fundamentally define it as a way to translate complex public health data into information that would be useful to a decisionmaker about potential impacts of their decision and to develop, most importantly, practical solutions that can really be implemented-- so, not pie-in-the-sky solutions, but things that actually work within the economic constraints of the community. Health Impact Assessment is not new. In the U.S., it's been very sporadically practiced. There have been roughly, we think, about 60 HIAs completed. It's probably a higher number than that, because we don't think all of them have been reported. And every time I go to a meeting, I hear about more and more people doing them. Counties and state governments have done them. Independent nonprofits have done them. Even the Federal government has done some. In Canada and Australia and the European Union, there's much more common use of HIA under various--both voluntary and government requirements. And finally, in Industry and Development Finance internationally, there are now requirements for Health Impact Assessments for large development loans. Lots of corporations have internal requirements. Large oil companies, for example, now frequently have requirements to do what are called ESHIAs-- Environmental Social and Health Impact Assessments--for new projects. So, I'm gonna talk a little bit about the HIA Process, really focusing on the key questions that people have raised. I think the first point about Health Impact Assessment is that the first step of a Health Impact Assessment is really determining whether it's actually needed. So, the notion here is that there should be a good relationship between the Health Department and the other departments in local government so that there's a constant conversation about new policy decisions that may be coming up and people are considering whether or not they may be important to health. But it's very important to recognize that HIA is probably not needed for every single policy decision. It should be done where it's going to add value and where it's going to improve health. It should not be done because there's a blanket requirement for it. And there are various screening tools, from fairly robust checklists that attempt to identify a series of factors that would trigger an HIA, to a much more sort of qualitative approach where it's really done at the discretion of the Health Department. In other words, the Health Department is asked and comes up with its own

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decision on whether--do we think there are significant health issues that would be missed if we don't do a Health Impact Assessment? Scoping addresses some of the questions that have come up around the bill as it was written. Health Impact Assessment, really, I think, properly, and in most settings, takes a broad definition of health--doesn't just look at a narrower subset of necessary users. So, for example, it's not limited to asthma or limited to a specific health outcome. It looks at all potential health effects. And it takes a broad approach to understanding how a decision might affect health. And so, really, scoping starts with the question: what are the potentially significant or important health effects of this decision, rather than focus--narrowing down and saying we're going to, for example, as in this bill, address air quality in health. You would really start by surveying the bill and saying, what are the issues that we think are important where there are strong linkages? The assessment phase is really the meat of the work, and it can be qualitative. It can be quantitative. It can be done in a matter of days or weeks. Whoops. Excuse me. Or it can take months. It's really broken down, typically, into 2 steps, which is first understanding the baseline health of the community that's impacted and second, understanding what the impacts of the decision might be. Recommendations is fairly self-explanatory--based on the impacts that we think are most important. We try to come up with a series of steps that could be taken to maximize benefits for health. We think that HIAs should be public, so that's what reporting is about. You should think about, how would this be disseminated to the public? Would they have an opportunity to comment or have input. And then, finally, monitoring and evaluation--often left out of the policy process. We think it's very important. If you've identified health effects that you think are possible from a policy, it's a good idea to then develop some sort of a tracking mechanism so you can see if you were right and, in the ideal case, adjust your management. So how long does it take and how much does it cost? There are several different types of HIAs that are commonly described in the literature in our field, from rapid to comprehensive. It's really a spectrum, practically speaking. A rapid HIA involves generally less public involvement, so less efforts to hold formal public meetings and usually at a fairly simple analysis that can be done through literature review and what is often called a "Desktop HIA." Typically, it would require days to maybe a few weeks of someone's staff time. So, based on that, there really aren't other costs besides the staff time and perhaps meeting expenses if you do have any meetings. Typically, they can be done for less than $10,000. A complete HIA, certainly the most common for larger decisions, involves, typically, some effort to engage the public formally, more in-depth analysis, but typically not new data collection. So you wouldn't be going out and doing surveys. They're going out and collecting air quality information. You'd be relying on existing data and doing a more comprehensive analysis. And we typically think --have seen those taking from weeks to several months. So, a reasonable budget for one, based on the staff time that it would take, is probably in the neighborhood of $25,000 to $150,000. I will say there that one of the major time-consuming pieces of doing an HIA is the baseline health analysis. And I think your Health Department in Montgomery County is

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leagues ahead of many in terms of having a system in place that is already beginning to collect baseline data at a neighborhood level and would be incredibly useful to an HIA and probably would reduce the costs. Give you a couple of quick examples on HIAs that have been done. In San Francisco, there was a new housing development near existing roads, so sort of the reverse situation from what your bill contemplates. The Health Department did an analysis, looked at local air quality hotspots, which are represented in red on this map, along roads, and modeled the likely impact on asthma rates and cardiovascular disease for units that were located closest to those roadways, where people would be spending at least 12 to 15 hours a day in their homes near roadways that have very high air pollution. And the outcome was, basically, the new buildings in those areas were required to include particulate air filtration--a fairly elegant, simple solution to what could have been a fairly costly public health problem. A much bigger project, the Atlanta Beltline. This is a rail and transit corridor that would basically loop the Atlanta area and connect a lot of outlying communities--badly needed transit. It's been a huge project that's been in development for a number of years. A Health Impact Assessment was done recognizing a lot of health benefits of constructing this project and actually made a series of recommendations for ways that the benefits could be maximized for the communities at greatest need. So, where there were communities that really lacked access to good, safe places to walk, open-space parks--those places would have, then, the corridor designed to facilitate access to those things, as an example. One of the very significant outcomes, we think, is that the EPA read the Health Impact Assessment. Administrator Jackson recognized the health benefits of this project and gave a million-dollar grant to the city to speed development of the project. Public health is now formally incorporated as well into the future planning process for the project. There are some other examples. I noted, actually, in the previous discussion the toll road versus gas tax discussion. Oregon is contemplating a series of measures to reduce greenhouse gas emissions through reducing vehicle miles traveled. Both of the measures that you are discussing are ways to reduce vehicle miles traveled, and the Health Impact Assessment compared a series of 12 different policy choices to do that, and in terms of the relative health co-benefits and risks of each of those. I've done a lot of work in Alaska around natural resource development--not too pertinent to your bill. In Baltimore, Maryland, there was a Health Impact Assessment recently by the Planning Department for a proposed new light rail project. And Humboldt County did a Health Impact Assessment to help them facilitate developing their own--their growth plan. So I'll end there, and I'm happy to take questions or just let the other speakers finish first.

COUNCIL PRESIDENT ANDREWS:
Thank you very much, Dr. Wernham. I think we'll take one of the questions now, then go on to the next presenter. Just to make a quick point. You know, for many years, Environmental Impact Analysis has been required, but obviously, not Health Impact

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Assessment, so this, I think, is overdue, and you gave, I think, a very good example of how it can be applied in determining what would likely be the health impact of expanding or building a road that's next to a lot of housing. The solution wasn't not to build the road; the solution was to put in air particulate filters to mitigate or effectively address the additional pollution that would come from having the road so close to the housing. So I think that's an excellent example of how the information that can be gathered from a Health Impact Assessment can be applied to protect the public health, so thank you for that example. Councilmember Elrich has a question, then Councilmember Leventhal, and then we'll go to our next speaker. Councilmember Elrich.

COUNCILMEMBER ELRICH:
I had a couple of questions. One is, how does the baseline analysis help? I'm trying to--I mean, I'm trying to picture this, I'm thinking, you're proposing, you know, let's say a road project, and I want to know what the impact of, you know, the emissions are going to be on the surrounding community. Whether or not I know the baseline, I do know that there is going to be, you know, a certain level of emissions, and they're going to have--they do have health impacts within certain distances, and what might be useful is knowing what the baseline levels of these pollutants are before you make the change, but what's the value of the Health Assessment of the folks? I almost feel like it's an invitation to say, "If they're unhealthy, what difference does this make?"

AARON WERNHAM:
That's a--that's a fair question, and one I've answered a number of times. I think, when we do a baseline assessment, we also cast a somewhat broad net in trying to understand not only what the baseline health status of the affected population is, but as well, what are the baseline conditions that affect health. So just taking a very simple example of asthma, it's useful to know the asthma rates, because if you have a population that has a higher prevalence of asthma than your general state or national baseline, that population is more vulnerable to any given level of air pollution. So that's very useful to know. But it's also useful to know, is the population exposed to higher risk? So I'll take a different example. We now recognize that there's a problem in a lot of urban communities that we now call food deserts, where people can't eat healthy foods because they can't get anywhere near a grocery store without driving sometimes 10 or 15 or 20 miles, and it's really quite a significant problem. If you recognize that as a baseline risk factor in the community, then that allows you to think about, "Well, is this project going to facilitate access, or is it going to impede access to, for example, a grocery store?" So I think the baseline conditions in terms of what drives health and the baseline health status both do have relevance to understanding what the impacts would be.

COUNCILMEMBER ELRICH:

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OK. And my other question was, you talked about engaging the public. And again, I'm thinking of this as a scientific process. I mean, I want to know, you know, basically--say the baseline plus the impacts of whatever it is we're putting in the air. I'm engaging the public to find out what? That they don't like the--because we can probably figure out whether or not they like the project without going--we don't need to engage anybody. They will let us know pretty quickly. So what's--what do you get out of engaging the public?

AARON WERNHAM:
I work a lot in the context of the National Environmental Policy Act and the federal EIS process, and so the comment you just gave as an example would be called not, you know, a non-substantive comment. We basically would respond in an EIS by saying, "Thank you for your comment." It's not a vote. You can tell us whether you're for it or against it, but the Health Impact Assessment is not--it's a voting process. But you do sometimes get very useful information from communities about local conditions that would not necessarily be evident to the people making the policy, and I think that's where public engagement helps. The other way that it helps, though, is that frequently, if you're talking about building a new road in someone's backyard, or a new anything else, a lot of the concerns center around, "What's this going to do to us?" It's--you know, they're scared, they're worried about effects on health and well-being more broadly, and it's a chance to up front understand what those concerns are and then, in the best-case scenario, be able to address them proactively. So I think it's both useful in terms of gathering information that you might not have considered in the analysis sometimes--doesn't mean you have to consider everything that the public says to be valid scientific information, but certainly sometimes you learn things about the community by talking to them--and also, in terms of actually, in some ways, I think facilitating the planning process by really addressing the concerns head-on and early in the process.

COUNCILMEMBER ELRICH:
And I guess lastly, I guess, if--you were talking about appropriate uses of this analysis. So if somebody wanted to come in and add a turning lane to a road, versus add major capacity to the road--in other words, the ability of an entire lane to carry additional traffic--those would be different orders of magnitude.

AARON WERNHAM:
Generally speaking, yes. I mean, it, you know--I think that there's some use to involving--a big part of what I'm advocating is just simply that health should be at the table, because they may actually know that that place where you want to add a turning lane happens to be one of the places where there have been 5 cyclists killed in the last year, and, you know--hopefully not, but that actually there is a real health consideration that needs to be

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factored into that decision. So part of it is really facilitating a relationship between your health people and the other people that do the business of making growth policy.

COUNCILMEMBER ELRICH:
Thank you. That was very helpful.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Elrich. Councilmember Leventhal, chair of the Health and Human Services Committee.

COUNCILMEMBER LEVENTHAL:
Your opening presentation started with the question, "How do we make sure that this is not just simply a bureaucratic requirement that doesn't add value and that doesn't really affect the decisionmaking process?" But I don't feel you answered that question. That's a question that's very much on my mind. I am very interested in the intersection of public health and planning, and I've been in close contact with our director of HHS over the years to try to improve the ability, both of her department and of our Planning Department, to incorporate public health factors into land-use decisions. I think that's a very important question. I do have a real concern, particularly with--especially with state roads that this proposed regulation would mandate precisely what you say--that our Department of Health and Human Services, which has no official role in the road approval process, will spend, you know, hundreds of thousands of dollars on studies that the state, in particular, can happily ignore and has no obligation to consider.

AARON WERNHAM:
So I think--my first answer to the question about how you make sure that it is going to not be applied needlessly and that it is going to add value is simply that you do--that you develop, in the way you that you do Health Impact Assessment and probably the way that the bill is written, a robust screening process, so that you're selectively applying the requirement, not applying the requirement where it won't add value. One of the questions we do ask in screening is, "What's the chance that doing this Health Impact Assessment is going to influence the decision at hand?" So if it's true that, in the case of a state road, doing a Health Impact Assessment at the County level would not influence the process in any way, then I think you could--you could incorporate that into your screening decision. I think that there--I would argue that there are ways in which County input does influence the state planning process, and so it's likely, in certain scenarios, that you could actually have a significant impact. But--but I really think that the core of the--my answer to your question is--is in developing a robust and sensible screening process.

COUNCILMEMBER LEVENTHAL:

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OK. I want to--I just want to be clear for the record. This briefing this morning was not scheduled in consultation with the chairman of the HHS Committee. The date of the HHS Committee consideration of this bill has not been set. So, you know, we're making statements about a bill which is pending in a Committee, but I don't know whether the purpose of this briefing--I haven't been consulted on the purpose of this briefing, so are we in the process of reporting out a bill and bypassing the Committee? The question is directed to the Council President.

COUNCIL PRESIDENT ANDREWS:
Sure.

COUNCILMEMBER LEVENTHAL:
I mean, an assertion has now been made that a pending bill, which was assigned to the Committee which I chair, contains a screening requirement. I've read the bill, and I'm not clear about exactly how that screening requirement works. Neither do I think that this session is the time and place to get into the details of the bill that is pending in this chairman's Committee. And again, this briefing that we're having right now was not scheduled in consultation with the chairman of that Committee, and I haven't had the opportunity to have a real dialogue with Council staff or with the department director, who would have to carry out this bill which is pending in the HHS Committee. So I'm really--you know, I have many questions about how this bill would apply, what the interaction of the state would be, but I was under the impression that that discussion would take place in the Committee which I chair and whose schedule I'm responsible for. Is it the intention of the Council President to bypass the HHS Committee and report out the bill through the full Council process and to take up consideration of the bill here and now before the full Council? I'm not sure what questions I'm supposed to be asking and not asking.

COUNCIL PRESIDENT ANDREWS:
Whatever questions you think are helpful, I would suggest. Councilmember Leventhal, the bill has been introduced, so it's a pending matter before the body--

COUNCILMEMBER LEVENTHAL:
Before the HHS Committee, was the chairman's understanding.

COUNCIL PRESIDENT ANDREWS:
Before the body, and it's been assigned to the HHS Committee, and that's where it is.

COUNCILMEMBER LEVENTHAL:
But are we now in the process of--is this a worksession on the bill? Are we going to report out the bill?

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COUNCIL PRESIDENT ANDREWS:
No. This is--this is--

COUNCILMEMBER LEVENTHAL:
Bypass the HHS Committee?

COUNCIL PRESIDENT ANDREWS:
No. The purpose of the session is to help educate people about what a Health Impact Assessment is because it is still a relatively new concept in the policy framework, and I thought it would be helpful for all of us to learn more about it early in the process. So that's the purpose of this.

COUNCILMEMBER LEVENTHAL:
OK. Well, again, assertions have been made here by our expert witness about what this bill does, and that's not my reading of the bill, but I don't know that this briefing this morning is necessarily intended to focus on the details of the bill. If that were the case, I would have to object, because my understanding is, the bill has actually been referred to the HHS Committee, and a Committee session has not been scheduled yet, so...

COUNCIL PRESIDENT ANDREWS:
Well, I would say it's only natural that references might be made to a measure that's before the body that addresses this issue.

COUNCILMEMBER LEVENTHAL:
It's before my committee, as I understood it, Mr. President.

COUNCIL PRESIDENT ANDREWS:
It's before the Committee, and it is of interest to, you know, everyone who is here today, I assume. So the purpose of this is to bring out information about what a Health Impact Assessment is, principles, things to--things that have worked in places, things that don't work, things to be watchful of. It's very broad. It's not determined to--it's not--this is not a worksession on the bill, but it's not unnatural that some references might be made to what is before the body. So--

COUNCILMEMBER LEVENTHAL:
OK. There's been much concern on a variety of issues about precedents before the Council, and I would just ask the staff, at their leisure, to let me know when was the last time that a bill pending before a committee was scheduled for a worksession in full Council prior to it being considered in Committee. I'm just--

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COUNCIL PRESIDENT ANDREWS:
Well, this is not a worksession on the bill, so--

COUNCILMEMBER LEVENTHAL:
I've been here 7 years, and I haven't seen that happen before, so... There are many bills pending before the Council. I appreciate the Council President's indication that this is a bill of interest to the Council. There are many bills pending before the Council, and that's why we have Committees, so that the committees can consider them first. So I just want to register some concern that we're--that we're now discussing a bill pending in the HHS Committee before the full Council. I haven't--I don't recollect that happening in the past, and it certainly was not scheduled or brought up in consultation with the chairman of the HHS Committee. None of that consultation took place.

COUNCIL PRESIDENT ANDREWS:
What I would say--

COUNCILMEMBER LEVENTHAL:
And today that has not taken place.

COUNCIL PRESIDENT ANDREWS:
What I would suggest is your concern is misplaced to the extent that this is not a worksession about the bill. This is a briefing about the general subject of Health Impact Assessments, which is a fairly new concept, one that I think is helpful for us to have early on in the process, and that's where we are. We're very early on in the process.

COUNCILMEMBER LEVENTHAL:
In general, as I understand Council procedure, that--that would occur in the Committee of jurisdiction. So we could have general briefings on a lot of topics, but generally those occur in consultation with the chair of the Committee. In this case, just to be clear, that hasn't--has yet to occur. No one has approached me about when this may happen or--and to my understanding, the introduction of this bill caught the director of the department somewhat by surprise. So we're--we're pursuing an unusual procedure, in my experience here on the Council. We haven't done it this way before. But perhaps we'll continue to bypass Committees if issues are of interest to the sponsor, the Council President. In my memory, this hasn't occurred before.

COUNCIL PRESIDENT ANDREWS:
The Council has had a number of briefings over the years on subjects that are general, of interest to--to the body, and updates and so on, and this is a briefing about the issue itself.

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So that's where we are, and at this point I want to--I'm going to actually go to our next speaker and then come back to the question. We have a couple more questions, but I want to make sure that we hear from our other speaker, Dr. Pollack, any comments she might like to make, and then I will turn to the chair of the T&E Committee, Councilmember Floreen, and to Councilmember Trachtenberg.

KESHIA POLLACK:
Good morning. Thank you very much for having me here, along with my colleague, Dr. Wernham, to help educate the Council on this issue. I was wondering if I could yield a moment of my time for Dr. Wernham to respond to the comment that was just made. Is that OK, Mr. President?

COUNCIL PRESIDENT ANDREWS:
Yes.

KESHIA POLLACK:
Thank you.

AARON WERNHAM:
Thank you. Chairman Leventhal, I wanted to clarify my comments. I am--I'm actually not stating that I believe this bill, as I've seen it written, contains the type of screening that I'm outlining for you. But I'm saying that any bill, in order to ensure that it adds value to the planning process, should include a robust screening process that--that uses both a logical approach and--and a consistent approach to determining when and where HIA would be applied. Those comments were not in reference to this bill.

COUNCIL PRESIDENT ANDREWS:
Thank you. Dr. Pollack.

KESHIA POLLACK:
So I thank you very much. I don't have slides today, so we'll leave up these beautiful pictures here, and my comments will be brief. My name, again, is Keshia Pollack. I am a faculty member of Johns Hopkins School of Public Health, and I'm in the Department of Health Policy and Management there. I'm an epidemiologist by training, focused a lot on translation of epidemiology to policy, and I also spend time as a health policy advisor for the Maryland General Assembly, for Delegate Dan Morhaim in Baltimore County. My comments today are going to focus specifically on having everyone think about the importance of Health Impact Assessments in terms of broad applications and broad health impacts, particularly when you think about the intersection between transportation and health. I was fortunate to attend a briefing and educational session on the Hill last month

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related to transportation and health where we educated fellow Congressional members and staffers on the importance of this--of these links, and I want to reiterate a couple of things that Dr. Wernham said. First of all, when we think about transportation projects, there are direct impacts on health and indirect impacts on health. We can think about increasing access to goods and services. We can think about walkability, increased access to physical activity. We can think about also safety risks--think about increase in pedestrian injuries or other types of motor vehicle crashes. I'm an injury epidemiologist, and in my research, I focus a lot on looking at the health impacts related to the built environment and injury risks to community members. So my comment--and when we think about doing a Health Impact Assessment, it's important to consider the broad range of impacts--to assemble the data not just focusing on one particular area--and then this particular process will be an effective translational tool in order--helping decisionmakers think about the broad impacts, both positive and negative, on whatever decision that they're making. I also want to just reiterate Dr. Wernham's point in terms of the various phases of an HIA and thinking about the importance of having data. As an epidemiologist, part of what HIA does is rely on baseline data and also do some forecasting out in terms of what are the potential health impacts going to be. I am excited to hear about the work that the Health Department is doing, and a lot of their data collection efforts might actually--or will feed well into the data collection efforts that would need to take place for a Health Impact Assessment here. I know that we're sort of pressed for time, and I definitely want to entertain questions and turn it over to my colleagues, so I'm going to stop there and again just echo how excited I am as a resident of Maryland that you all are taking leadership on this issue and bringing us here to educate all of you about the importance of thinking about this as a policy tool when projects and policies and program decisions are being made. Thank you very much.

COUNCIL PRESIDENT ANDREWS:
Thank you, Dr. Pollack. We do have other panelists who have joined us for being able to respond to questions, and I'm going to have them introduce themselves very quickly so people who are watching know who they are. And if Dr. Ahluwalia would make--like to make a brief comment, she may, as well.

UMA AHLUWALIA:
Good morning, Mr. President and members of the Council. It is--

COUNCIL PRESIDENT ANDREWS:
Director Ahluwalia. Sorry. I think I promoted you.

UMA AHLUWALIA:
Thank you.

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COUNCILMEMBER LEVENTHAL:
It was an honorary doctorate.

COUNCIL PRESIDENT ANDREWS:
Yes. Close enough.

COUNCILMEMBER LEVENTHAL:
From the school of hard knocks.

UMA AHLUWALIA:
I will take it. Thank you. Since the regulations were introduced, we have been in considerable conversations around this issue of Health Impact Assessments, and I've had a couple of different conversations with Dr. Wernham and with Dr. Pollack, as well, and with others, and we have--what we wanted to bring today to the conversation was the efforts that are happening with the Community Health Improvement Process and how that would fit with any future efforts towards an HIA. At the present time, we had a couple of different concerns regarding the proposed regulations that we had communicated to Mrs. Trachtenberg, and her willingness to be flexible on this issue has been very helpful, in part of the conversations, and the insights that Dr. Wernham actually brought to the conversation were also very helpful to us. And the two big concerns that we had were sort of the presupposition in the regulation itself about, sort of, air pollutants. That was the issue to be examined, as opposed to starting broader, as was stated about the baseline around health, which is what the CHIP is attempting to do. And, Mr. Leventhal, you've been co-chair of the CHIP effort and incredibly supportive of the CHIP effort, so we wanted to make sure that the thinking was more broad and more of a continuum-based thinking, as opposed to two different efforts that were being undertaken. And by the same token, we wanted to come and have the conversation about what the baseline data efforts were going to look like and what our partnership with the Planning Department was looking like. So we wanted to bring that piece of the conversation to Council's attention, so that was our role. I wasn't sure, Mr. President, if there were questions that you wanted to have taken first before we launch into our presentation, so I'll pause there for a second.

COUNCIL PRESIDENT ANDREWS:
I think what I'm going to do is this. Since we are very pressed for time, I'm going to ask Councilmembers to look over the handout that we have, that has the slides, to see if they have any questions about it. It does look pretty clear. And in the meantime, while Councilmembers are looking at the handout--which is very well organized, I see--I'm going to ask Councilmember Floreen if she would like to make a comment or ask a question of

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the panelists that we've heard from so far--Dr. Wernham or Dr. Pollack--and--so go ahead and...

COUNCILMEMBER FLOREEN:
Thank you, Mr. President. I guess my--my question at this stage, or my request at this stage--I honestly am not clear on--on precisely what we're focusing on at this point. It sounds as if it's sort of evolving. We do--I'm not sure if our experts here have a lot of familiarity with the Montgomery County planning process or with the regional air quality analysis that goes on. There is a lot of planning that occurs and--at many levels of government within the region. And so I wanted to encourage you, if you're going to continue to participate in this, to familiarize yourselves with the existing processes and issues. You know, depending on how you frame the issue, you can get yourself into a health analysis, you know? We should have more sidewalks. Probably we should have less parking at schools so--so kids don't--teenagers don't drive. They walk or take the bus. They have more athletic activities. I mean, there are lots of ways to frame these issues. If you don't build a road, what is the alternative, and what--how do all these things fit in with the analysis on the work that's being done on the reduction of pollutants in the air, one way or the other, at the Council of Government's level? How are we--how does this fit in with the work on volatile organic compounds? What does--how does this fit in with the fuel economy standards? I mean, there are many moving parts to all of this. Should we have more urban locations where people will--you know, the Smart Growth thing. If you have a more compact community that encourages walking, how does that play into it? Should we focus on our transportation priorities that have, up until this date, focused on the speed of travel through the community rather--to what some of us would suggest is the negative impact on bicyclists or pedestrians. I mean, there are lots of tradeoffs in the way we--we construct policies and have these conversations. So I just offer those comments at this stage of the game. I'm not sure where this whole effort is proceeding, but I want to assure our guests that health issues are always an element of concern, but there are a lot of other policy issues. Should we increase the tolls on the ICC because we'll generate more revenue to pay for more transportation facilities or at the--at some point, more transit? Or should we keep them lower so that people of a lower income can have more easy access to get to the, you know--to have access to jobs? Should we establish policies that make the County more expensive to live in so that travel time is increased, for affordable housing objectives? Or, you know--there are so many ways to think about these things. I get anxious when you focus on a little bit of that without the full context. So I just say--I just raise those points with you while I--clearly this is the beginning of a conversation on this, I gather, and I just wanted our esteemed guests to give some thought to these kinds of tradeoffs in how--how you proceed, just because I'd like us to be able to make the best use of your time. And we have, as you've observed today, vigorous conversations about many things, and all points that folks make are good ones. There's always, you know, a

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tradeoff that must be made in decisionmaking, so I guess I would encourage you, as continued players in this conversation, to help us make sure that we're looking at the right picture as--as we work through these issues. There's really--you know. I--there's just a lot that's going on, and I think it's important--I want to make sure that you're aware of the range of engagement that we can get into here. Thanks.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Councilmember Floreen. It's sometimes said that poetry is distilled thought, and I'm going to ask Miss Smith--Miss Smith--no? And Miss--and Director Ahluwalia to be very poetic in summarizing in just, you know, less than 5 minutes what you would like us to tell us in this presentation.

UMA AHLUWALIA:
Thank you. I'm going to have Colleen's support the presentation I'm going to make, so we'll be really, really quick. If you would just move directly to slide 8, really, the gist of the conversation all the way from slide 1 to slide 8, you all can read to learn more about where we are in our CHIP planning effort. Slide 8 through Slide 14 actually just take you straight to how the CHIP builds the foundation for any future HIA work the County might want to engage in. But it feels a little premature to jump to HIA today, given where we are with our CHIP effort, but we wanted to provide you with the context.

COUNCIL PRESIDENT ANDREWS:
And CHIP stands for Community Health Improvement Process, for those listening. OK.

UMA AHLUWALIA:
Yes. I just want to say that our partnership with the Planning office has been extraordinary in the last 2.5 years. We've been working very, very hard to identify the health and human services indicators that the Planning office will include in their land use planning effort. And actually, Johns Hopkins has been a partner with us in guiding some of the work for us and helping us think through what these indicators might be, and at some point, we're happy to come and have that conversation about what those indicators look like. What we did want to do is, the 6 different activities related to HIA--the screening, the scoping, the assessing, the developing recommendations, reporting, and evaluating that Dr. Wernham pointed to--each of them has a link to the foundational work that we're doing in the CHIP. And that, too, you can read for yourselves. I don't have to necessarily go through those. The important takeaway--the two important takeaways we wanted you to have is that, A, if we do the HIA, and as the work group forms and moves forward or whatever form it takes, that it build upon the work that we're doing on the CHIP for both the Planning office and for HHS. To do anything separately would take away from the focus that we have on the CHIP right now and would dilute a very important foundational piece of work that we're

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doing in the County. That's sort of part one, and then second, that we not--the way the regulation is, and we've had this conversation and I referenced it earlier--it presupposes particulate emissions, and we'd like for there to be a broader approach to determining whether it's food desert, it's particulate emissions, it's something else that the HIA should focus on--which will emerge from the CHIP effort, again--and then we can narrow and start to study specific issues related to specific projects. So with that, I will stop. Colleen, did you want to add anything else to--

COLLEEN SMITH:
No. That sounds good.

UMA AHLUWALIA:
OK.

COUNCIL PRESIDENT ANDREWS:
Wow. Thank you very much. That was an excellent summary, and the slide presentation you have is very comprehensive, and thank you for that. I'm going to--we have--we're going to wrap this up in just a couple of minutes because we do need to move on to our other items for the morning. I'm going to turn to Councilmember Trachtenberg and then Councilmember Elrich.

COUNCILMEMBER TRACHTENBERG:
Thank you, President Andrews. And again, we do, as Councilmember Floreen indicated, a lot of policy development within this body--obviously, always a lot of strong opinions and a lot of strong experiences, as well. And I know that I speak for everyone here when I express gratitude to all of you for being here this morning, and in particular, that goes to both Dr. Wernham and Dr. Pollack. I would certainly agree that, you know, today's session was really an opportunity to provide some education and outreach--you know, not just to colleagues, but to the general public in a transparent manner. And it's in that spirit that I'm--that I'm making these remarks. It would certainly be fair to say that we're talking about a work in progress. I appreciate the HHS director's comments about my flexibility and the fact that I was hopeful, as we continued to talk and educate ourselves, that we'd get to the point where we could establish and define a collaborative effort on an HIA approach, and I am confident that we're going to get there, and I think a work group can help us get there. But I want to acknowledge the participation of lots of people who are participating in conversations privately and hopefully will continue to do so publicly as we go forward with any kind of work on the concept. And I want to acknowledge that there was a letter sent to the Council from Rollin Stanley, our Planning Director, supporting the approach of the HIA and, again, expressing support for the idea of--of moving forward with some type of collaborative project. And, you know, one thing I would say, you know, as somebody who

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heard about this concept 15 years ago within the public health community--for too long, those of us who have worked in the public health community have felt that public health was not adequately in the health equation that is applied around development of community, and I think a lot of important steps have been taken in the last decade. And I would note that the Health Impact Assessment technique is something that's been not only embraced by the public health community, but actually is a policy that is supported by the federal government and by the Centers for Disease Control, in particular. In fact, they are the body that has--the agency that has supported some of the work of the Pew Charitable Trusts Foundation, that Dr. Wernham so ably represents. So I thank you for being here this morning, and I thank my colleagues for patiently listening and asking questions. I have a--I have a suspicion, Aaron, that you'll be receiving a lot of follow-up e-mails and inquiries. And I know that Dr. Pollack had indicated to me last week that you have some graduate students working with you, putting together some lessons learned, some best practices around implementation of other HIA instruments in other--in other parts of the country, so I look forward to all of that, and I just wanted to express my gratitude.

COUNCIL PRESIDENT ANDREWS:
Yes. And thank you, as well, Dr. Wernham and Dr Pollack. And Councilmember Elrich has a comment or question.

COUNCILMEMBER ELRICH:
I just want to say I appreciate the presentation that you all gave us this morning. I got deeply interested in this after looking at the studies that came out of Los Angeles, and then other studies that have popped up more recently, that indicate this is not some trivial little issue of trading off, you know, my backyard, you know, a sound barrier, or anything else. The health impacts that are identified in the studies are significant. They're significant, and they're long term. If you live and are raised in these communities, the likelihood the children are going to suffer long-term physical impairment is entirely likely. And I was very concerned by what I saw, and so I'm very happy to have this presentation. My colleague Miss Floreen is correct that there are tradeoffs, but I can't imagine not wanting to know this element of the tradeoff. So if we--you know, if we get this information and we do assessments and if the news is bad, then we can tell the community, we're trading this off for something else, and then the community can evaluate the value of our tradeoffs. But we're entitled to have this information, and the community is entitled to have this information. And while you're looking at things, I do hope you look at COG's so-called monitoring of the clean air around here, because in the discussion of a road which is approved and is being built, there was a lot of discussion about the inadequacy of the location of the monitors and the data that was collected. So I would be more than happy to have a professional assessment over whether what is done by COG actually meets what

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the health field believes are the best practices that will provide us the most useful information. So thank you for coming, and I look forward to a long discussion about, you know, how we factor this in with everything else we do.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Elrich. Thank you all. Thank you, Miss Dunn????? as well, and we appreciate the expertise that you have brought to us, and I'm sure we'll continue to tap it. Thank you very much. UNKNOWN SPEAKERS:
Thank you.

COUNCIL PRESIDENT ANDREWS:
OK. We are going to move on to Item 7, which is action on the Locally Preferred Alternative for I-270 and the Corridor Cities Transitway Project Planning Study. I'll turn to the chair of the T&E Committee, Councilmember Floreen.

COUNCILMEMBER FLOREEN:
Thank you, Mr. President. I don't know if people brought their packets from last week, but the--I'll just direct your attention to Mr. Orlin's helpful checklist of decisions, and you will see the Committee's recommendations in--in bold there. You will recall that the Committee recommendation was for light rail on the CCT, and that would affect the associated yards and shops, as well, and the Master Plan alignment issue. And on the other side of the paper, you have the Committee's recommendations on I-270. I'll just note, part of the recommendation that we made last week and we discussed--well, we didn't really talk about it much, but we recommended that under the two reversible lane recommendation, we also included recommended language to the state that the non-toll HOT lanes, that we would expect the Level of Service to generally not--the non-HOT lanes to be constructed so that the Level of Service would generally not flow--fall below a Level of Service D. So--

GLENN ORLIN:
That will be in the letter.

COUNCILMEMBER FLOREEN:
And that's what you had in front of us. But that's it, so however you'd like to handle it, Mr. President, is fine.

COUNCIL PRESIDENT ANDREWS:
Thank you. Thank you very much, Chair Floreen. What the intention is, is to, you know, vote on these particular recommendations this morning and then to work with the County Executive to put together a joint letter to the state. So what I'm going to suggest, we start with the 270 recommendations, which are on the back of Glenn's handy one-pager, and

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what we seemed to come to consensus on last week was Alternative 7, with only 2 reversible managed lanes, which is to--in recognition of the traffic projections for 270 that showed that two additional lanes that were reversible would be sufficient to meet the traffic demand at its heaviest peak, which is south in the morning on 270 going in and north on 270 going out in the afternoon and evening--that that appeared to us to make more sense than adding two lanes each way. It would save a lot of money--likely hundreds of millions of dollars--and certainly reduce community and environmental impacts. This is a very important project for the County, for the region, and for our constituents, many of whom do sit on 270 a lot longer than they want to or we want them to, sitting in traffic. And adding two reversible lanes, although this is a long-term project, will indicate that there is a recommendation from this body to the state that this is an important transportation need in this area and that we need to have this amount of widening of I-270 in order to assure that congestion becomes tolerable on the highway. So the recommendation which I'm looking at, which is the top of the back of the page, would recommend two reversible managed lanes. Those are lanes that would be free to carpools, van pools, buses, and would be able to be used by those paying a congestion price toll. So that's the recommendation that was put forward by the Transportation and Environment Committee. We discussed it at some--we discussed it last week, and I'm going to ask if there are--I'm going to ask a show of support for that recommendation. So, Councilmembers in favor of that recommendation, please raise your hand.

COUNCILMEMBER LEVENTHAL:
We're just talking about the reversible lanes?

COUNCIL PRESIDENT ANDREWS:
Talking about the reversible lanes, yes.

COUNCILMEMBER KNAPP:
Item number...

COUNCIL PRESIDENT ANDREWS:
That's Item number 8. It's number 8, on the top of the options for the I-270 option. OK? All right? OK. So that's the 8 of us who are here supportive of that. OK. And that's Councilmember Navarro, Councilmember Elrich, Councilmember Floreen, myself, Council Vice President Berliner, Councilmember Knapp, Councilmember Ervin, Councilmember Leventhal. Do you want to comment on that option? Did you want to comment on that?

COUNCILMEMBER LEVENTHAL:
No. I was raising my hand.

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COUNCIL PRESIDENT ANDREWS:
Very good. Excellent. Good. OK, now--you want to make a comment? OK. Councilmember Elrich.

COUNCILMEMBER ELRICH:
I just--I don't want to oversell what it is we just voted for. The language "this is going to relieve I-270"--I mean, this only goes down, what, to 121? And the parking lot on I-270 is basically, you know, beyond the spur and onto the Beltway, and this leaves a large chunk with absolutely no resolution at this point, and it basically pours more traffic into the funnel, and the state really needs to look at a comprehensive solution because I--you know, again, as I expressed last time, this has the possibility of backing up into the areas that we think we're providing relief for. So I think we shouldn't say that this is going to relieve congestion on I-270. It will provide some upper benefit, but it will not do much on the lower part of the road.

COUNCIL PRESIDENT ANDREWS:
Much remains to be done, but if nothing is done, things will get worse than they already are, which is already bad. Councilmember Trachtenberg, we just indicated support for this. Did you want to indicate support for this?

COUNCILMEMBER TRACHTENBERG:
Yes. I wanted to have my name voting in support of number 8.

COUNCIL PRESIDENT ANDREWS:
OK. All right. Any other comments on the reversible managed lanes? I don't see any. Let's then go on to the second recommendation regarding I-270, and I described it, in that it would be a HOT lane, a high-occupancy toll lane, where carpools, van pools, buses would be free to use. There would remain untolled lanes, and I think that's a very significant point. We're not proposing that all the lanes on I-270 be tolled. We're proposed that the new lanes would have congestion price tolls and would be free to carpools, van pools, buses--motorcycles, I believe, as well. So I'll ask if there are any comments on that recommendation. I don't see any, so all those in favor of that recommendation of the T&E Committee, please raise your hand. And that is unanimous, 9-0. OK. All right. Now we're going to move on to the recommendations regarding the Corridor Cities Transitway, and the first recommendation is regarding the mode of transit--whether--since I know all Councilmembers support the Corridor Cities Transitway, the real options here are bus rapid transit or light rail transit. We had a long discussion last week on this, and I don't know that we need to go into it more, but if there's anybody that would like to speak about the virtues of one or the other, this is the time. Council Vice President Berliner.

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COUNCIL VICE PRESIDENT BERLINER:
Well, I did, with somewhat with less passion than the last time, want to summarize why I have concluded that BRT really is the better option here. I sense that that is probably a minority view among my colleagues, but I wanted to explain as clearly as I could to the larger community and to my colleagues why I do feel that it is the better course. I think that the statistics that our staff has provided and the state has provided have made it clear that the benefits of BRT and light rail are very comparable. So it's not as if one is a more superior service to another. We get comparable benefits from both. The Planning Board has said that even if the dollars were equal, the flexibility provided by BRT alone would justify going forward with BRT. We--no state in the country is contemplating putting forward simultaneously 3 costly light rail proposals to the federal government for funding, and in my view, the odds of our getting federal funding for 3 costly light rail programs are basically nil, so I just don't see that as an option. The... the business community has expressed a great deal of concern with respect to the fixed nature of the assets and that they perceive that light rail represents a more enduring commitment. I think it is clear that as we get more comfortable with what BRT offers, they offer comparable fixed assets and would be an equally enduring commitment on our part to mass transit. And finally, there is the dollars. The dollars aren't insignificant here. One costs about twice as much as the other, and in a context in which the state has no money and in which our County is going to be grappling with incredible fiscal challenges, the dollars do matter. So I ultimately concluded that if we do want a CCT, if we do want it in the near future, that BRT really is our only option. So it's on that basis that I'll be supporting BRT.

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

COUNCILMEMBER ELRICH:
I want to echo what Roger just said. I mean, I supported CCT, and I've always supported the CCT being built up there as soon as possible and going to Clarksburg as soon as possible. I think, you know, Roger succinctly put it as this:
it offers the same fixed facilities as light rail, absolutely the same guideways, the same kind of stations as light rail. It offers the same ridership for us. We get no benefit. The community around West Gaithersburg that has been accused of supporting BRT because they think there's going to be--it offers less development options at the West Gaithersburg area, or whatever we're calling it these days--both systems can easily support the maximum level of development that has been contemplated in that area, so no one should take any comfort that a BRT vote will somehow facilitate less development. Either one of them are easily in the range, in terms of passengers, of what can support the development that's anticipated there. These systems are virtually identical in terms of times of travel, and there is the flexibility issue that I think Roger has brought up that the Planning Board

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has identified and that a lot of people who are interested in BRT in general have identified. And then there is, of course, the matter of cost. This is basically the same system running on rubber wheels instead of steel for half a billion dollars less. And I think it's very difficult for us to make a decision to suggest that somebody spend twice as much money for no gains in ridership, speed, or anything else of value just because of perception that one is a train and the other is going to be buses, and playing on the fear of people that they're going to get a traditional bus service--which, if it were me, I would not want the Council to provide--but we're talking about something which is virtually identical to light rail. I think the money is really dispositive in this case, though, at the end of the day.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Councilmember Elrich. Councilmember Knapp. Then Councilmember Leventhal.

COUNCIL PRESIDENT ANDREWS:
Thank you, Mr. President. I will also be brief. We were all pretty vocal last week in sharing our pros and cons. I would just reiterate a couple of the points I made last week. First of all, perception actually can be reality. That's why billions of dollars are spent each year on products and marketing, so that people have an understanding of what it is that they're buying. And as it relates to the Corridor Cities Transitway, people never thought that there was an option for--other than light rail. The concept of BRT as it relates to people along the alignment--that's always been how it's been discussed, that's always been what people assumed it would be, and we know that that's what people generally want to use. As we look at, really, the value, we're looking to try and increase our economic development along our development corridor on I-270, and we know that light rail is more effective at maximizing economic development than other modes. Doesn't mean that others don't also increase it, but that we know light rail does it better. And so I think it's important--and when you look at cost, yes, light rail is more expensive than BRT, although it is also less costly than virtually any other transit project around. And so it is expensive relative to itself. It is still cheaper than virtually any other transit project being discussed, I've heard nationally, and so I think it's important for us to recognize that it is still a very cost-effective project, whether we pick the light rail option or the BRT. And I think given the fact that we're going to maximize our economic value, it's important for us to continue to focus on light rail as the way to maximize that. Thank you.

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

COUNCILMEMBER LEVENTHAL:

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I hadn't intended to speak to this because I did think there was a good debate last week, but then my colleagues who prefer the BRT option wanted to get their comments on the record, and there will be some press coverage of this discussion today, so I think it's important that both sides of the issue be represented. I had very strong views against BRT on the Purple Line right of way because it was clear to me that those who were the strongest advocates of BRT really wanted to defeat the project--did not want to see transit in the vicinity of Chevy Chase and that they were advocating something that likely wouldn't work in order, basically, to make the project fail, and I--and so, you know, Mr. Berliner talked about the passion. I don't feel passion around the choice of BRT versus LRT on the Corridor Cities Transitway as I did for the Purple Line, and frankly, if the state makes the judgment, based on consultation with the Federal Transit Administration, that bus rapid transit, as has been asserted, is more likely to be accomplished sooner, I think those who are advocating bus rapid transit, including my colleagues and certainly including the Planning Board, really do want to see a Transitway to serve the upper County, and so I don't question the good intentions of those who are making that case, and frankly, if that's the state's judgment, I won't be disappointed. Having said that, given the choice that's before us now, I just simply think light rail is a preferable option, and that's what most of my constituents who have weighed in with me think. I think it is perceived as a more desirable commuting option that most of my constituents are more likely to want to ride and more like to give up their automobiles in favor of it. And that's the plain--that's the long and the short of it. You know, we've been dinged in the "Examiner" for not taking transit ourselves. I would take transit if it took me where I needed to go quickly and efficiently. If we had the Purple Line, I could get on the Red Line at Takoma, switch to the Purple Line in Silver Spring, and then get on the Red Line in Bethesda and take it up to Rockville at about the same length of time, particularly going home, that I spend driving. If we provide more transit options sooner, then more people will get out of their cars because transit will take them where they need to go. So I think more of my constituents would prefer to ride a train. If it is the state's judgment that a bus can be accomplished in the nearer term, I will not be unhappy with that, but I do want to ask Glenn Orlin about the assertion that has been made regarding New Starts versus Small Starts. I was in conversation last night with someone who's known to all of us a very knowledgeable advocate for transit, and it was his understanding that a $450-500 million threshold for the cost of building bus rapid transit on Corridor Cities Transitway would, in fact, be too large to be considered under the Small Starts program.

GLENN ORLIN:
That's correct, but you could build--excuse me. Ahem. You could build a segment of the BRT. Remember, because the $532 million is from Shady Grove to Clarksburg, and the first segment of the BRT or the LRT that's been talked about with the state is only going to go to Metropolitan Grove anyway. So it would only be half of that, or a little bit more than

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half of that, if it went all the way to Metropolitan Grove as a BRT. In fact, if it was just going to go from Shady Grove to the Life Sciences Center area as a first stage, it would be well, well within the Small Starts application. So it really depends upon--

COUNCILMEMBER LEVENTHAL:
That would change all the ridership numbers dramatically. That would be far less ridership than if you went all the way to Clarksburg.

GLENN ORLIN:
Oh, sure. Sure. But it would still--

COUNCILMEMBER LEVENTHAL:
OK. All right. So question answered. And then someday in the distant future, we would still need to apply through the New Starts program to build the balance of the system, if in fact we mean it when--if in fact we mean it when we say we're going to provide transit from Shady Grove to Clarksburg, at some point, we would need to go through the New Starts program.

GLENN ORLIN:
I was going to defer to Gary Erenrich. Gary knows more about this than I do.

COUNCILMEMBER LEVENTHAL:
Because I will say, of the arguments that have been made, the one argument that was made was that if you build bus and you apply through Small Starts rather than New Starts, you're not competing with the other Maryland projects.

GLENN ORLIN:
That's true.

COUNCILMEMBER LEVENTHAL:
I found that a strong argument, but what I'm hearing you say is, it isn't true--that if what we want, which is what we've advertised, is transit from Shady Grove to Clarksburg, you cannot build transit to Shady Grove from Clarksburg in the Small Starts program.

GLENN ORLIN:
Well, I guess the question I have is whether or not we could increment in pieces.

COUNCIL PRESIDENT ANDREWS:
Can the Executive branch representative provide the answer?

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GARY ERENRICH:
Actually, I--I really can't. Gary Erenrich. I wish I could, but generally speaking, you know, what Glenn and Councilmember Leventhal have said is correct.

COUNCILMEMBER LEVENTHAL:
But we're saying two opposite things.

GARY ERENRICH:
No, no, no. It--

COUNCILMEMBER LEVENTHAL:
I'm saying it's green. He's saying it's red.

GARY ERENRICH:
No. It--you could build one segment with a Small Start application, but that's not what our goal is. Our goal is to build the whole system. We want to go to Germantown--

GLENN ORLIN:
Clarksburg. We want to go to Clarksburg.

GARY ERENRICH:
Clarksburg, which means that there would have to be another process to take it from Metropolitan Grove up to Clarksburg.

COUNCILMEMBER LEVENTHAL:
And the whole cost would be--would exceed the Small Start program, and if you were going to complete the entire thing, which is what is--what we desire and what is necessary to get the ridership up to what the projections have been, you would still have to compete in the New Starts program.

GARY ERENRICH:
That's right, and there hasn't been any discussion as to--

COUNCILMEMBER LEVENTHAL:
I thought that was an important point to clarify.

GARY ERENRICH:
There hasn't been any decision on phasing of this project.

UNIDENTIFIED:

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Right.

GARY ERENRICH:
I mean, ideally, we want the whole project. We don't want just to stop it at some earlier location. We want to build the benefit of the whole project, just like we want to build the benefit of the whole Purple Line from New Carrollton all the way to Bethesda. It's a whole project, and that's the way we would like to see it advanced.

GLENN ORLIN:
But the state has said up till now that the first stage would be to Metropolitan Grove. And that doesn't mean--that's not necessarily an absolute positive, but what they've been saying for years is the first stage is, go to Metropolitan Grove, and under BRT, it's a sort of close call as to whether or not that piece might actually even fit in the Small Starts program.

COUNCILMEMBER LEVENTHAL:
Yeah. I mean, the only other thing I would say--and again, I don't think that this is as contentious, certainly, as the disagreement on the Purple Line. I do think there's value, when we can, in having the Council and Executive speak with one voice to the state. I reserve the right to disagree with the Executive. I disagree with him on some issues, I agree with him on many issues, but where we can find--I hesitate to say--common ground with the Executive, I think it's desirable to do it, particularly when, you know, I can--I can weigh the costs and benefits of the two systems fairly equally, and I do think generally my constituents perceive a train as more desirable.

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

COUNCILMEMBER FLOREEN:
Well, in the spirit of reiterating or summarizing what we said last week, all I'm going to say about this one is I think commitment to building the full length of the Transitway is something we all need to be engaged in, and I think the light rail alternative shows--is the only way that we demonstrate real vision and real commitment to the I-270 corridor. So that's where I am.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Floreen. I agree very much with you that we want to ensure that the whole project gets built, from Clarksburg through Germantown, through Gaithersburg, through the Life Sciences area, to the Shady Grove Metro. I think--my own view is it's more likely to get built as bus rapid transit because it would be so much less

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expensive while providing the same benefits. It would be between $328 million and $466 million less for the same route, and that works out to about a million dollars less for every 53 yards. So that's pretty substantial difference in cost, and I will leave it at that. So the main thing is, we need to get the--we need to get the Corridor Cities Transitway built as soon as possible so that we can provide the transit service that our constituents need in these crucial parts of the County. And with that, I don't see any other comments, so I'll ask those who prefer light rail to raise their hand. That's Councilmember Navarro, Councilmember Trachtenberg, Councilmember Floreen, Councilmember Knapp, Councilmember Ervin, Councilmember Leventhal. And those who prefer bus rapid transit would be Councilmember Elrich, myself, and Council Vice President Berliner. So the Council's position is light rail. It's 6-3. And the position is 9-0 for the CCT. We need to get it built. OK. Let's go on to the other recommendations that are part of this. The next issue is the alignment, and there are 3 options that are listed here on the sheet. The Committee recommendation is the recommended Master Planned alignment with the Kentlands, Crown Farm, and Life Sciences shifts, with the relocated DANAC station, and this is the route that's proposed by the Planning Board in the Gaithersburg West Master Plan. The other options listed are the current Master Planned alignment and the Master Planned alignment with shifts for the Kentlands to move it to the west side of Great Seneca Highway and to pick up the shift in the Crown Farm area that is supported by the city of Gaithersburg. Are there any comments about the alignment issue? OK. I'll make a comment, and that is that my recommendation is that the Council stick with the Master Plan alignment or the Master Plan alignment with the modifications to the Kentlands and Crown Farm, which are almost certainly not affected by whatever decision the Council may end up making on the proposed Gaithersburg West Master Plan. I think it would be premature to select the Master Plan alignment as proposed by the Planning Board at this point because the Council has not yet taken up for action the Gaithersburg West Master Plan. So that is my comment. I'll see if there are any other comments that Councilmembers have. Councilmember Leventhal.

COUNCILMEMBER LEVENTHAL:
Well, I don't want to delay this unduly, but it just seems to me, as one who represents every resident of Montgomery County, that within reason, some more stations are better than fewer stations because you are going to serve more communities. And certainly if I lived in the Kentlands, if I were engaged in this dialogue--which we haven't gotten e-mails from the Kentlands--of course I would want a CCT station in my community, and regardless of what we decide about the long-term shape and form of the Life Sciences Cluster, we already have the Universities at Shady Grove. And we already have Shady Grove Hospital, and there's already activity there. So to try to serve areas that are important destinations, it seems to me, is our job.

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COUNCIL PRESIDENT ANDREWS:
OK. All right. Thank you, Councilmember Leventhal. All right. Well, the Committee--we have the Committee recommendation before us, and so I'll ask for those who support the committee recommendation--and I will acknowledge, I think, that the LSC shifts with the relocated DANAC station--I expect that probably under various scenarios that are possible with the Gaithersburg West Master Plan, there are likely to be shifts in the alignment to serve what we already know is there. So I recognize Councilmember Leventhal's point, and I recognize that there is likely to be a shift from the current alignment. I think it would be premature to say exactly what that shift would be at this point. So that's my thinking. But I'll ask for a vote on the Committee recommendation, which is 3, so all those in favor of the Committee recommendation for Master Plan alignment with Kentlands, Crown Farm, and LSC shifts, with the relocated DANAC station, please raise your hand. And that's Councilmember Navarro, Councilmember Elrich--yes?--Councilmember Trachtenberg, Councilmember Floreen, Council Vice President Berliner, Councilmember Knapp, Councilmember Ervin, Councilmember Leventhal. I believe I'm going to vote that we defer on that final recommendation until we deal with the Gaithersburg West Master Plan, but the Council recommendation is for the Master Planned alignment as recommended by the Committee. Our next issue is the location of the yard and shop.

GLENN ORLIN:
You can skip the next one.

COUNCIL PRESIDENT ANDREWS:
We can skip that. We can go now to the fourth one--location. Yeah. OK. There you go.

COUNCILMEMBER FLOREEN:
It's a win-win.

COUNCIL PRESIDENT ANDREWS:
There we go. That would be recommended to be the police impound lot if it's light rail. I don't see any comment on that, so all those in favor of that recommendation if the recommendation is light rail, which the recommendation is, raise your hand. And that is unanimous, so...

GLENN ORLIN:
Let me just add on that one. One of the comments that were made during the earlier discussion is that the follow-up study the state does should take under its--as part of its role is to find a new location for the impound lot, because it's going to have to be moved. It's a function that needs to stay--needs to be in the vicinity. So that's something that would need to be followed up on.

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COUNCIL PRESIDENT ANDREWS:
OK. And I will ask Dr. Orlin to draft a letter incorporating the recommendations that have been made, and we'll then consult with the County Executive and put together a joint letter. Let me just say, these are crucial recommendations, and the larger point I would make is that in the last 8 or 9 months or so, the Council has unanimously recommended support for the Purple Line, light rail on the Purple Line; the Council has unanimously recommended that we recommend reversible lanes on I-270--another major improvement that we hope to see in the not-too-distant future, but it will be years off unless--it will be years off, but it will be more years off if the state and federal governments don't find more revenues for transportation, and we need to encourage them to do that, as we have; and I would add that the Council is again unanimously recommending support for construction of the Corridor Cities Transitway. So 3 major transportation projects that have come before the Council this year that we are making recommendations to the state about, and we will look forward to working with the County Executive and our state representatives and federal representatives to get these built as soon as possible. Thank Councilmember Floreen for her diligent and able chairmanship of the T&E Committee, thank all my colleagues for their comments, and we'll now move on to our next item, which is the Legislative Session. And I think we're going to move very quickly through the first part of this. This is Item 8 on the agenda. The first is introduction of bills, Expedited Bill 41-09, Taxation - Property Tax Credit - Business Incubator, sponsored by the Council President at the request of the County Executive. Public hearing is scheduled for January 12 at 1:30 P.M. Without opposition, that bill is introduced. Next, Item 9, Bill 42-09, Common Ownership Communities - Dispute Resolution, sponsored by the Council President at the request of the County Executive. Public hearing is scheduled for January 12, 2010, at 1:30 P.M. Without opposition, that bill is introduced. Next, Item 10, Bill 43-09, Callithea Farm Stables - Lease Amendment and Extension, sponsored by the Council President at the request of the Maryland-National Capital Park and Planning Commission. A public hearing is scheduled for January 12, 2010 at 1:30. Without opposition, that bill is introduced also. And finally, for introduction of bills, Item 10.1, which is on the addendum--Expedited Bill 44-09, Buildings Energy Efficiency - Deferral, sponsored by the Council President at the request of the County Executive. Also is scheduled to have a public hearing--actually, this public hearing is scheduled for November 24--next week-- at 1:30 P.M. Without opposition, that bill is introduced also. We're now going to move on to call the bills for final reading--Item number 11, Bill 33-09, which is the Inspector General/Attorney bill, which would provide additional options for the Inspector General. I'm going to turn to the Management and Fiscal Policy Committee chair, Councilmember Trachtenberg, for the Committee's recommendation regarding this bill. Councilmember Trachtenberg.

COUNCILMEMBER TRACHTENBERG:

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Thank you, President Andrews. Bill 33-09, which is sponsored by Councilmember Ervin, Council President, Councilmembers Navarro, Floreen, Knapp, and myself, was introduced on September 15. There was a public hearing held on October 6, at which point the County Attorney had provided some ideas on amendments for consideration, and there was a follow-up worksession that was completed on November 2. So, what you have in your packet as a final version of the bill is a bill with a slight amendment again--an amendment that was proposed by the County Attorney but agreed to by the inspector General. Under the current law, the County Attorney provides legal services to the IG and must approve a request from the IG to employ an independent special legal counsel. Bill 33-09 would authorize the IG to employ or retain an independent attorney, but with Council approval, without the approval of the County Attorney when necessary. The bill does not limit the issues for which the IG may employ or retain outside counsel or the time period of any such employment or retainer. I know that Mr. Faden has joined us. If folks would like to hear about the amendment that was agreed to both--by both the sitting IG and the County Attorney.

COUNCIL PRESIDENT ANDREWS:
I don't see any comments on it at this point, Councilmember Trachtenberg, so I did want to ask if the lead sponsor of the measure, Councilmember Ervin, wanted to make any comments.

COUNCILMEMBER ERVIN:
I do. Thank you very much. I first want to thank Council President Andrews and the chair of the MFP Committee, Councilmember Trachtenberg, for doing all that they could to move this expeditiously through to the Council, which I appreciate. Once we pass this bill today, the IG--the OIG will have the--the authority, if we approve as a Council, to hire independent counsel. And as you know, the Inspector General is often required to independently investigate sensitive or controversial issues involving the Executive branch of government, and I think this is a very good step toward making sure that the OIG's office is independent and is able to continue to be the watchdog that it is for the County. So, with that, I was under the impression that we would vote to make this a--

COUNCILMEMBER TRACHTENBERG:
It's expedited.

COUNCILMEMBER ERVIN:
Expedited bill, and so thank you very much.

COUNCIL PRESIDENT ANDREWS:
Thank you.

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COUNCILMEMBER TRACHTENBERG:
And also, there was a unanimous recommendation of the MFP Committee to approve the bill as amended.

COUNCIL PRESIDENT ANDREWS:
Very good. Thank you, Councilmember Trachtenberg. Thank you, Councilmember Ervin, for your sponsorship. And we're now ready. I don't see any questions about it at this point, so we're now ready to vote on this measure. Will the clerk please call the roll on Bill 33-09?

CLERK:
Miss Navarro.

COUNCILMEMBER NAVARRO:
Yes.

CLERK:
Mr. Elrich.

COUNCILMEMBER ELRICH:
No.

CLERK:
Miss Trachtenberg.

COUNCILMEMBER TRACHTENBERG:
Yes.

CLERK:
Miss Floreen.

COUNCILMEMBER FLOREEN:
Yes.

CLERK:
Mr. Leventhal.

COUNCILMEMBER LEVENTHAL:
Yes.

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CLERK:
Miss Ervin.

COUNCILMEMBER ERVIN:
Yes.

CLERK:
Mr. Knapp.

COUNCILMEMBER KNAPP:
Yes.

CLERK:
Mr. Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Yes.

CLERK:
Mr. Andrews.

COUNCIL PRESIDENT ANDREWS:
Yes. The bill is approved, 8-1. Thank you all. We'll now move on to Item 12, which is Expedited Bill 35-09, Police - Drug Enforcement Forfeitures Fund - Amendments. This is a bill that came before the Public Safety and Health and Human Services Committees, and I'll give a quick summary of it, and I'll ask the chair of the HHS Committee. Councilmember Leventhal, if he'd like to make any comments, as well. The Committee is recommending--the joint Committees are recommending, 6-0, to enact the bill with amendments--minor amendments, really, in terms of the clarification of reporting. The thrust of the bill is that the bill would allow funds in the Drug Enforcement Forfeitures Fund to be used not only for drug enforcement, as it is limited now, but also for drug prevention, drug treatment, and Drug Court--all very important programs that the County funds and that are coming under increasing pressure from the state in terms of funding cuts we're concerned about. So it would allow those funds that are in the Drug Enforcement Forfeitures Fund to be used for those purposes as well, and that is the gist of the bill. In terms of the reporting requirement, it was modified to tie it into the Operating Budget, and the language is, I think, self-explanatory there. So I'll turn to first see if Councilmember Leventhal has any comments he wants to add, and then I'll turn to Councilmember Trachtenberg, who's the lead sponsor of the measure, and then Councilmember Knapp.

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COUNCILMEMBER LEVENTHAL:
I do. The joint Committees unanimously recommended this approach. We had an excellent conversation with the Police Department, which emphasized the need to continue funding the Special Investigations Division with these funds, which both Committees understand and support, but our understanding was that there was more than sufficient cash balance each year in the last several years to enable some funds to be used for purposes which we hope will reduce the need for the law enforcement approach. We all know that if we invest more resources up front in addressing some of these substance abuse and behavioral health issues, then we believe--and we hope someday maybe we'll assemble data that will correlate--we can reduce the expenditure later, sadly, when people need to be incarcerated. So we believe in a diversion approach where we can employ it. We believe in a therapeutic approach where we can employ it. This is good legislation, and I commend Councilmember Trachtenberg for introducing it.

COUNCIL PRESIDENT ANDREWS:
Thank you, Chair Leventhal, and I would say it is poetic justice to use funds that are recovered from, you know, ill-gotten gains of drug dealers to help undo the damage that is done by them through drug treatment, drug prevention.

COUNCILMEMBER LEVENTHAL:
Just one more comment also. The hope would be, obviously, that the fewer--that the more you reduce demand for drugs from people with addiction, the safer it will be for our police officers. And I made that point to Chief Manger--the less demand, the less drug violence. Sadly, we have, you know, a lot of police officers now who are in harm's way dealing with the consequences of the illegal drug trade, and we need a whole new approach nationally as well as locally on the demand side that will, in fact, make our police officers safer.

COUNCIL PRESIDENT ANDREWS:
Good point. Thank you, Councilmember Leventhal. Councilmember Trachtenberg.

COUNCILMEMBER TRACHTENBERG:
Thank you, President Andrews. Just briefly, I want to thank Councilmember Elrich, Council President Andrews, Council Vice President Berliner, Councilmember Leventhal, and Councilmember Navarro for their co-sponsorship on this piece of legislation. The issue of using the Forfeitures Fund is an issue that I've heard about for a good 15 years. There has been a lot of discussion in the national drug policy community about how best to use those assets. And so over the years, there has been an evolving practice to actually apply those funds for both treatment and Drug Court programming--a common-sense approach, in my mind, as articulated by both the Council President and Councilmember Leventhal. And it

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would seem to me the passage of this bill would be rather timely, given where we are with money and knowing that oftentimes dollars around treatment and even Drug Court programming are on the line and sometimes on the chopping block, and there might very well be a circumstance in the next few months where we are looking at that. Over the course of the last few weeks, we've been provided eloquent testimony from many people in our community who are in recovery and also from Judge Rupp, who oversees the Drug Court. And I know they are appreciative of this initiative. Again, I am grateful to them for their input. I am grateful to my colleagues who have supported the bill. And I would hope that as we move forward, we continue to recognize that it is indeed the needs of the vulnerable that have to remain as a priority during this upcoming budget season, and expanding this definition, allowing funding for something as significant as treatment, is a must priority, in my mind. And I would remind all of those that are listening and that are here this morning that a large majority of those that are in jail in this County--and really, across this nation--are people who have had drug convictions and who have serious drug problems, in the past or even currently, and a number of the people that actually receive mental-health services--again, in this County and across this country--have what we call a dual diagnosis situation, where they not only have a behavioral health need, but they also have a drug abuse need. So, again, a common-sense approach, and I thank my colleagues very much, and I know I speak for those in recovery when I say that this is an important step for the County to be taking this morning.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Trachtenberg, for your leadership on this. Councilmember Knapp.

COUNCILMEMBER KNAPP:
Thank you, Mr. President. I commend everyone, the sponsors, for this legislation. I think this is a good step forward. It's a good use of funds. The broader issue that I want to make sure we look at as we go forward during our budget process is, we've had this issue, which identified a set of resources which I don't think necessarily many of us were aware existed was in the budget because of the way it was accounted for. We had a situation last year with the school system where there was a rebate type of a situation which called into question was there a need for reappropriation of resources. I think it's important as we go into a year where we're looking for resources any place we can find them to understand where different allocations like this may reside. And so I look to Mr. Farber and our staff to make sure that this is--this broader issue of resources that may not necessarily be kind of in the mainstream of what we're looking for in County General Fund revenue to make sure that we're aware that they're there, what our decisions are, actually, on the expenditures of those funds, and to the extent that those funds could be allocated in other directions may make--could make a lot of difference in some of the other things--

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some of the difficult decisions we're going to be confronting when we get to May of this year.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Knapp. I do not see any other comments, so we're ready to vote on Expedited Bill 35-09. Will the clerk please call the roll?

CLERK:
Miss Navarro.

COUNCILMEMBER NAVARRO:
Yes.

CLERK:
Mr. Elrich.

COUNCILMEMBER ELRICH:
Yes.

CLERK:
Miss Trachtenberg.

COUNCILMEMBER TRACHTENBERG:
Yes.

CLERK:
Miss Floreen.

COUNCILMEMBER FLOREEN:
Yes.

CLERK:
Mr. Leventhal.

COUNCILMEMBER LEVENTHAL:
Yes.

CLERK:
Miss Ervin.

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COUNCILMEMBER ERVIN:
Yes.

CLERK:
Mr. Knapp.

COUNCILMEMBER KNAPP:
Yes.

CLERK:
Mr. Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Yes.

CLERK:
Mr. Andrews.

COUNCIL PRESIDENT ANDREWS:
Yes. Expedited Bill 35-09 is approved, 9-0. Thank you all. And now we're going to move on to the Item 13, which is Bill 19-07, Eating and Drinking Establishments - Nutrition Labeling. The HHS Committee has recommended approval with amendments, and I'll turn to the chair of the Health and Human Services Committee, Councilmember Leventhal.

COUNCILMEMBER LEVENTHAL:
Thank you, Mr. President. The--I'm going to the paperless packet, and I find it just fine over the weekend when I'm--when I don't--when I'm able to read on my computer, but when I'm trying to read on the computer and also participate in a Council meeting, I'm experiencing, Mr. Farber, the paperless packet is suboptimal on Tuesdays. It works for me over the weekend. So Bill 19-07 would require eating and drinking establishments that are part of a chain with at least 20 national locations that offer the same type of menu to post the number of calories on menus and menu boards for any standardized menu item. Bill 19-07 would require establishments to provide the following information in writing on request, but not on the menu or the menu board:
calories, calories from--calories would be on the menu and the menu board, but the following would be available in writing on request:
calories from fat, total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, fiber, and protein. A standardized menu item is defined as a food and drink--food or drink item usually prepared and offered for sale. It would not include temporary menu items, test market items, daily specials, or items that are placed on

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counters for general use, such as condiments. And then for salad bars and buffet lines, the bill would require an establishment to post calorie information for a standard serving size on a food item tag next to the item. Now, there's been quite a bit of conversation over the years with the Maryland Restaurant Association on this and with some of its members. This bill was introduced in 2007, and a few months after its introduction, the economy dipped very sharply, and it was my view as sponsor that we ought to be sensitive to a very dramatic disruption of economic circumstances, which, honestly, although I understand the economy--that small businesses are still struggling, but I do believe that two years into this serious recession, those businesses that are managing to make it have found a new equilibrium, and it was my sense that the timing was better now in response to two factors, the first factor being, I participated in an exercise by the Institute of Medicine through the National Academy of Sciences--I participated in a panel, and then I was a reviewer on the final report of a document entitled "Local Government Practices to Address Youth Obesity," which specifically recommended the imposition of menu labeling requirements as a best practice for state and local governments. And candidly, I felt, having participated in this exercise and being the sponsor of a bill that had been pending but we had not acted upon, I had it in my power to in fact bring about, with hopefully the support of my colleagues, this recommendation of the Institute of Medicine, and I felt that I ought follow through. Secondly, of course, and overhanging this whole conversation, is there has been significant movement, but not final movement, in Congress on a national menu labeling requirement, and what the HHS Committee has done in every way possible is to make the legislation now before the Council identical to the requirements that are contained in the Congressional legislation. And so, if in fact--and I'm hopeful; I think it's good legislation--if in fact Congress does act, then if our bill is in effect next year, Montgomery County restaurants would have nothing different that they would need do. They would already be in compliance through the County's bill with the federal bill that will take approximately 3 years to come on line. Amanda, correct me if I'm misstating this. I'm trying to give a speech and not rifle through my packet here, so... But the point it is that the rulemaking doesn't--let's assume that the bill passes Congress, which is--which we don't know whether it will or whether it won't. It's contained in the House version of health reform. It was initially proposed by Senators Harkin, Carper, and Murkowski, so there's a good chance that it may be included in the Senate version of health reform. All of us, I think, are following with great interest the travails of the federal health reform bill. The possibility exists, even if health reform went down, that this legislation might be extracted and acted upon separately, but I worked on Capitol Hill for 8 years. I can tell you there are no certainties with respect to the legislative process in the U.S. House or U.S. Senate any more than there are certainties with respect to the legislative process here on the County Council. But if in fact this federal bill is enacted, the requirement that we--that is pending before us this morning is identical to the requirement that would be in effect under the Congressional bill. Amanda, do you want to address that?

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AMANDA MIHILL:
That's correct, except in one instance, which is the range of calorie information, which is an issue that's noted in the packet.

COUNCILMEMBER LEVENTHAL:
And we're going to speak--I'm going to go through each of those issues.

AMANDA MIHILL:
Right. But on all other issues, the Committee recommended that it mirror the federal proposal as close as possible.

COUNCILMEMBER LEVENTHAL:
OK. And we're going to go through some of the issues in--in dispute. Now, we've all been approached by the Maryland Restaurant Association saying that we should not do this because legislation is moving in Congress, and we've been assured by the Maryland Restaurant Association that the association, as part of its national association, the National Restaurant Association, strongly supports the legislation in Congress. This is included in communications that also send along skeptical op-eds about the utility of this legislation at all. And my question is, if in fact the Restaurant Association believes this is a good idea 3 years from now, why isn't it a good idea next year? Some of the arguments that have been mounted against this include the suggestion that Montgomery County really doesn't need to do this because our obesity rate is only 16%. 16% of the population in Montgomery County is approximately 150,000 people, and I can assure you that if we vote in favor of this legislation today, as often occurs with legislation that we pass, the beneficiaries will never know that we did it, and we will never be thanked. But if you are struggling with severe dietary problems, if you are at risk for heart disease, if you have diabetes and you are very carefully monitoring your caloric intake every day, the difference between having this information in 2010 versus having this information in 2013 could be critical. The people who will benefit will never thank us. They will never know that we did this, and so often, we find we're acting in what we believe is the public interest even though those who will benefit are not organized and are not sending us e-mails. Among the e-mails that I've received from the restaurants who are opposed to this was one--it was titled "Time to close up shop in Montgomery County." And I hope that this restaurant that wrote to me will continue to thrive and do well in Montgomery County, and I've expressed that in my response. But specifically, what this restaurant said was that, "Montgomery County is impossible to do business. We already have to order different shortening for our food products in Montgomery County because of the crazy County Council." And my question in response--and I haven't gotten an answer--was, "Is it the case, then, that this restaurant is providing shortening including trans fats to its customers

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in other jurisdictions--West Virginia and other parts of Maryland--and is only providing the healthy product in Montgomery County because this County Council acted to ban heart-clogging trans fats, which have no nutritional value and cannot be absorbed and which build up plaque in our arteries?" Because if so, it seems to me that that's an argument--a strong argument--for legislative action, not against. If so, this restaurant only modified the product that it served consumers in the jurisdiction which required the healthy product, and it won't provide the healthy product in those jurisdictions that don't require them to do it. And so, realistically--and of course, the assertion has been made recently in the "Gazette" that the fast-food industry has been responsive. Now, it is true, and I think this is a very important point, that there are elements of the fast-food industry--we've heard from Yum! Brands, which owns Taco Bell, Pizza Hut, and KFC--that are voluntarily moving to list calories on their menus on their own, and good for them, because they believe consumers want this information and they believe it will build goodwill with their customers to provide this information. Good for them. But if they can do it presumably at manageable cost for their franchisees, then certainly other aspects of the food industry can do it, as well, and indeed they are doing it right now in New York City. Almost all of my constituents travel to New York City with some frequency, and you can go into any Taco Bell, TGIF, Johnny Rocket's, Ruby Tuesday, Starbucks--any food establishment that is covered by the New York City requirement and see how these menu board works. And for most of the restaurants in question--for many of them--with the menu board in particular, they exchange a small cellophane strip that contains the calorie information, and with respect to the cost of printing new menus, menus are updated frequently, a couple of times a year, with new menu items and new prices. And so on the next iteration, adding a line of type that states the number of calories in each food item honestly should not be a hardship. I don't minimize the opposition to government mandates from struggling small businesses. I get it. I hear them. But I truly believe that the upside, the benefit to consumers, especially those--maybe it's only 16%, maybe it's only 150,000 people who are struggling with severe dietary concerns, who are at high risk for heart disease, who are struggling with diabetes. I truly believe that the benefit of having this information so that individual consumers can do good dietary planning outweighs what I acknowledge is a cost to businesses that we want to succeed and thrive. We want small business to continue to operate in Montgomery County. I do understand that individual franchisees don't represent big business, that these are hardworking mom-and-pop operations, even though they are parts of chains. I do understand the issue very well, and I've spent significant time on it, but I do believe this is the right thing to do, and I commend it to the full Council for a vote.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Leventhal, Chairman Leventhal, for your sponsorship of this measure, and Councilmember Trachtenberg, co-sponsor. Why don't we go through the packet as we go?

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COUNCILMEMBER LEVENTHAL:
If other Councilmembers want to comment on the general bill, that would be timely, and then there are some issues in--you know, in disagreement, where we probably should go through them one by one.

COUNCIL PRESIDENT ANDREWS:
OK.

COUNCILMEMBER LEVENTHAL:
If there were general comments about the bill, now would be a good time.

COUNCIL PRESIDENT ANDREWS:
OK. All right. Council Vice President Berliner is going to hold off for a little bit. Councilmember Ervin is next, and then so... Actually, Councilmember Ervin, would you--I want to respect that Councilmember Trachtenberg is the co-sponsor, so I'm going to ask her to speak first, then Councilmember Ervin and Councilmember Knapp.

COUNCILMEMBER TRACHTENBERG:
Valerie, is that OK?

COUNCILMEMBER ERVIN:
Fine.

COUNCILMEMBER TRACHTENBERG:
OK. I just actually want to have the time to make some general comments. When the bill was introduced, as George indicated, a few years back, I was his sole co-sponsor, and to me there were significant merits to the legislation. As many of you know, I had passed, a few months before this was introduced, a ban on the use of trans fats in restaurants here in Montgomery County, and in my opinion, the bill that's before us today is just another common-sense approach, a reasonable step after the first that was taken by the Board of Health, the County Council here in Montgomery County. And I also want to acknowledge the interaction on the bill that has occurred between my colleagues and with staff and with the community, but specifically, I want to acknowledge the collegial and inclusive dialogue that has occurred about this regulation. A lot of folks had questions. There were some strong opinions on one side or the other, but I would note that over the weekend, as we approached this vote today, a lot of good effort was made to keep the conversation focused on merits, and it was done in a collegial way, and I want to thank my colleagues for that.

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COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Trachtenberg. Councilmember Ervin.

COUNCILMEMBER ERVIN:
Thank you very much. I wanted to set the record straight for a quick second, and that is, following up on Councilmember Leventhal's points that he just laid out regarding the Restaurant Association. It would appear to me that my conversations with the Restaurant Association had to do with their support of a national standard, as opposed to passing a local bill. And to me, that had some merit. So if the national legislation does not carry the day, we will have a local bill here in Montgomery County that, again, when we're talking about what local small businesses are having to suffer through in this down economy, one of the first things that people stop doing is eating out. And so, if we're going to layer on another set of regulations, I understand what Councilmember Leventhal's bill is about, I don't disagree with where he's going or his approach, and I know the Committee reported out a 3-0 recommendation in favor of Councilmember Leventhal's bill. I'm going to vote for the bill, but I want to say that after reading a New York "Times" article entitled "Calorie Postings Don't Change Habits, Studies Find," that in--this was written on October 6, 2009--that in New York City, a study was done where researchers collected 1,100 receipts two weeks before the calorie posting law took effect and 4 weeks after, and customers were paid $2.00 each to hand over their receipts. So for customers who live in New York City, had ordered--had a mean of 846 calories after the labeling law took effect. Before the labeling law took effect, it was 825 calories. In Newark, customers ordered about 825 calories before and after the legislation was passed. So customers were asked to comment, and many of them said something like this. "When asked if they had checked the calories, customers said, 'It's just cheap, so I buy it. I'm looking for the cheapest meal I can.'" And that seemed to be a theme. And nutrition and public health experts are saying that the findings showed how hard it is to change behavior, although they agree that it's not a reason to abandon calorie posting. I think in terms of public health and the intent of Councilmember Leventhal's legislation--the intent is a good intent, but I hope that we are not overstepping in the event that the Congress does not pass health care reform with this bill in it. I just worry a little bit about being an island in Montgomery County, where if you live in Prince George's County and you have a--you have bought a franchise and you drive into Montgomery County, you have to abide by the law, but you can live anywhere else in the state and operate a chain or a franchise--you can be a franchisee, and you would have a completely different law that covers you. So I'm going to vote for this. I'm hoping that Congress does the right thing and passes health care reform with the bill intact, and so I will be supporting Councilmember Leventhal's legislation.

COUNCIL PRESIDENT ANDREWS:

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OK. Thank you, Councilmember Ervin. I want to say that I very much appreciate Councilmember Leventhal's leadership in this area. Information is power, and this bill will empower consumers to make well-informed decisions about the number of calories in the meals that they're considering and other information that they can get upon request. I would also add, it's not intuitive how many calories are in certain foods. It can be very counterintuitive, and so while it may appear that some meals may have low calories, often they have very high calories because of how they're cooked. And this bill will ensure that consumers at those restaurants that are part of major chains have that information when they make decisions about what to purchase. And as Councilmember Leventhal noted, there are many, many people in our County for whom dietary concerns are very critical to their health, and I commend him for his leadership on this. And I think at this point we should see if there are any particular questions about the provisions of the bill. So are there any Councilmembers who--

COUNCILMEMBER LEVENTHAL:
I'd like to walk through some of the questions in the packet very quickly, because there are some issues that we need to settle. As Amanda Mihill--and thank you, Amanda, for your good work on this legislation. As she pointed out, the issue of a range of caloric possibilities--I'm on the bottom of page 4 of the packet, item 2--is not spelled out in the federal bill, and what the bill as introduced stated is that--it's just a range of calories. If it's blueberry ice cream, it may be one thing, and if it's vanilla ice cream, it may be something different. So for a serving of ice cream, there would be a range of calories. Do we understand that that's the case in New York City?

AMANDA MIHILL:
Yes. It is the case in New York City.

COUNCILMEMBER LEVENTHAL:
So this--so we don't know what the federal legislation would state, but this would mirror the requirement in New York City, and that was the Committee's recommendation.

COUNCIL PRESIDENT ANDREWS:
OK. I don't see any questions about that measure--that part.

COUNCILMEMBER LEVENTHAL:
The next issue, item 3 on page 5 of the packet, is a--is a significant issue in disagreement. Industry has come to us and asked us if we could require instead of, I'm going to say, the entire bucket of chicken, whether we could require the labeling on a per serving basis. And I'll just read what Amanda has written here. "Yum! Brands urged the Council to amend the bill to clarify how information is provided for meals intended to serve more than

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one person. The federal proposal requires that information be posted as usually prepared and offered for sale, which means that if a restaurant serves a bucket of chicken or a whole pizza, for instance, the establishment would be required to post the total number of calories, not calories per serving, for the item." The Committee's recommendation was that Bill 19-07 mirror the federal proposal, although nothing either in the bill or the federal proposal would prohibit the establishment on its own from clarifying the per-serving number of calories in addition to the total number of calories. Let me say that I'm prepared to follow whatever the will of the Council is on this. Of course, as chairman of the Committee, the Committee's recommendation was that we mirror the federal proposal with respect to all the calories in the bucket of chicken. I've been contacted, I know my colleagues have been contacted, by individual franchisees and by the national brand asking that we put a per-serving requirement in. I'm, frankly, happy with either outcome, and I would seek the guidance of the full Council on this point.

COUNCIL PRESIDENT ANDREWS:
All right. I don't see a motion to change it, so the Council is accepting the Committee's recommendation.

COUNCILMEMBER LEVENTHAL:
Is Mr. Berliner preparing to speak? He's clearing his throat. He's getting his rhetorical skills ready.

COUNCIL VICE PRESIDENT BERLINER:
Trying to figure it out.

COUNCILMEMBER LEVENTHAL:
This conversation is making all of us hungry.

COUNCIL PRESIDENT ANDREWS:
Do you have a--

COUNCIL VICE PRESIDENT BERLINER:
On this issue, the question is whether or not we should accommodate the desire of the chairman--I would appreciate hearing from staff, their views with respect to this. I think it's a significant issue. People do typically order by serving size, and therefore it is the serving size--or maybe they don't. So if that's the case, I really--

COUNCILMEMBER LEVENTHAL:
I would just comment that the point has been made--

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COUNCIL VICE PRESIDENT BERLINER:
Hello. Help me here.

COUNCILMEMBER LEVENTHAL:
I made the comment in Committee that nobody eats a whole pizza, and then it was pointed out to me that teenage boys do indeed eat whole pizzas. I have a 14-year-old son, and so--

COUNCIL VICE PRESIDENT BERLINER:
We do not want teenage boys to be the measure by which we do things. I have a teenage boy. This is not a path we want to pursue.

COUNCILMEMBER LEVENTHAL:
Well, no, but it's a very important point, because what we know is the calories in the entire bucket of chicken. What we don't know, really, is what a serving of chicken necessarily is. Having said that, again, if it's the will of the Council to let Yum! Brands win this one, I don't--I truly don't object. Either approach is acceptable to me.

AMANDA MIHILL:
As I understand the purpose behind requiring the entire calorie amount to be posted is, you didn't want to get into the discussion of, if you have an oversized muffin, is that two servings or one serving, and if someone has an oversized muffin, then they can see--if you post the entire amount, you can see how many calories you're consuming. If you play around and say, well, it's two servings or 3 servings, there could be confusion there.

COUNCIL VICE PRESIDENT BERLINER:
Here's a thought that occurs to me in the moment. There are going to be regulations that are going to be required as a result of this. Is this a matter that we could, in some ways, defer to our department to--

COUNCILMEMBER LEVENTHAL:
Well, here's the concern about that, Roger. The--what I'm going to recommend--and again, it's up to the will of the Council, but I really believe that we've had some pretty focused and clear discussion on this over the years.

COUNCIL VICE PRESIDENT BERLINER:
Yes.

COUNCILMEMBER LEVENTHAL:

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And my hope is that we will give the department clear guidance as to the Council's intent, and that we will not leave significant questions for regulation, because if we leave significant questions for the department to recommend--first of all, the issues are as clear now as they will be before the department. And the department is going to ask us for more time, and I would like to see this requirement in effect sooner rather than later. So simply hunting and letting Dr. Tillman figure it out--in my judgment, I'd like to give Dr. Tillman clear guidance either way. And I think there's arguments to be made either for the complete item of food-- the full bucket of chicken-- or for the serving size, and again, I really could go either way, so it's the will of the Council at this point.

COUNCIL VICE PRESIDENT BERLINER:
Does Dr. Tillman have any views that Dr. Tillman would care to share with us with respect to this matter?

COUNCILMEMBER LEVENTHAL:
No views from Dr. Tillman.

COUNCIL VICE PRESIDENT BERLINER:
No views with respect to this. We will not--she won't say whether we do the teenage boy standard or we do the reasonable man standard. OK.

COUNCILMEMBER TRACHTENBERG:
The hungry man.

COUNCIL VICE PRESIDENT BERLINER:
The hungry man standard. OK.

COUNCIL PRESIDENT ANDREWS:
OK. All right. Thank you--

COUNCILMEMBER LEVENTHAL:
I actually would like to request, Amanda, could you just show us the site? We have the federal bill in the packet. I just--if we're--if the basis on which we're going to tell the franchisees and the national brand is that we're trying to comply with the federal legislation, could we just zero right in on that language so we could see it?

AMANDA MIHILL:
It's in two places. If you look on circle 66...

COUNCILMEMBER LEVENTHAL:

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Circle 66.

AMANDA MIHILL:
Line--I'll just--it's lines 10-16.

COUNCILMEMBER LEVENTHAL:
Lines 10-16.

AMANDA MIHILL; It says, "In a nutrient content disclosure statement adjacent to the name of the standard menu item, so as to be clearly associated with the standard menu item," if you go down a couple of sentences, it says, "the number of calories contained in the standard menu item, as usually prepared and offered for sale."

COUNCILMEMBER LEVENTHAL:
Right.

AMANDA MIHILL:
And it's repeated a few lines down.

COUNCIL VICE PRESIDENT BERLINER:
That--why isn't that per serving? Isn't that normally what is--isn't that equivalent to per serving? I apologize.

COUNCILMEMBER LEVENTHAL:
I think, Roger, the answer is what we've heard--that is, your serving may be different than my serving, and my wife's serving may be different from my serving, and my son's serving is way bigger than either of our servings. It isn't--it isn't always easy to determine what a serving is.

COUNCILMEMBER ERVIN:
But there is a standard serving size.

COUNCIL VICE PRESIDENT BERLINER:
On every yogurt, for example--I know that's a...

COUNCILMEMBER ERVIN:
There is.

COUNCIL VICE PRESIDENT BERLINER:

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On every yogurt or every--you say, "How many servings are there?" And there are 6 servings in it.

COUNCILMEMBER LEVENTHAL:
And, in fact, if you go to the soda--this has been an issue of controversy in the nutrition community. If you go to the soda machine right around the corner, it will tell you that a standard bottle of Mountain Dew--I'm speaking to Councilmember Knapp now--is two servings. But we've never seen Mr. Knapp wait--you know, have half the bottle on Tuesday and the following half on Wednesday. He doesn't do that.

COUNCILMEMBER KNAPP:
In fact, Mr. Knapp usually has two bottles.

COUNCIL VICE PRESIDENT BERLINER:
He's the teenage boy model.

COUNCILMEMBER LEVENTHAL:
So the issue of serving size in the FDA nutrition labeling requirements has been a point of contention among nutrition advocates. The argument has been that we are undercounting what a real serving is, and that gets to the muffin issue that Amanda pointed out.

COUNCILMEMBER TRACHTENBERG:
Let's get to a muffin.

COUNCIL PRESIDENT ANDREWS:
OK. All right. So I don't see any motions on this, so the Council is accepting the Committee's recommendation at this point.

COUNCILMEMBER LEVENTHAL:
OK. The next issue before the Council is, should the bill apply to grocery stores and convenience stores? The Committee's recommendation was that grocery stores should be included because the federal legislation--it was unclear, we were not able to interpret it--

AMANDA MIHILL:
Excluded. Grocery stores should be excluded. Convenience stores included.

COUNCILMEMBER LEVENTHAL:
I apologize. I'm sensing the desire of my colleagues to proceed to lunch, and I'm speaking too fast. The Committee's recommendation was that grocery stores should not be included, but that convenience stores should. Of course, we've been contacted by the

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convenience store industry, which would like to be excluded. The restaurant industry would like ready-to-eat meals to be included so that the restaurant industry doesn't suffer from the competition from a deli sandwich or a slice of pizza at the grocery store. We have different aspects of industry petitioning us in different ways on this. Grocery stores obviously would like not to be covered. Convenience stores would like not to be covered. The fast-food industry believes that convenience stores, in particular, are in direct competition with it. So, again, it's the will of the Council. I'd be satisfied with any answer on this question.

COUNCIL PRESIDENT ANDREWS:
OK. All right. Council Vice President Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Well, I guess I've concluded that we should exclude convenience stores from the scope of this bill. My understanding, and staff should correct me if I'm wrong, is no other local legislation includes convenience stores that's currently in effect.

AMANDA MIHILL:
That is currently implemented, but there is one--

COUNCIL VICE PRESIDENT BERLINER:
There is one jurisdiction in the country has included, within the scope of its similar legislation, convenience stores. So one of the reasons why I feel like this--moving forward with this bill at this point in time is appropriate is because our fast-food chains have had the opportunity to adjust to this legislation and have accommodated it in many jurisdictions--California, New York City, major markets. So these people are familiar with it, whereas the convenience store operators, quite frankly, have not been included historically within the scope and may be included within the federal legislation.

AMANDA MIHILL:
They are.

COUNCIL VICE PRESIDENT BERLINER:
And if they are included within the federal legislation, then we would have the federal--then they would be brought in at that time. But to bring them in now, when only one other jurisdiction in the country has included them within the scope, I feel is a bit of an overreach, and I would suggest that we take it out.

COUNCIL PRESIDENT ANDREWS:

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All right. So that's a motion from Council Vice President Berliner. Seconded by Councilmember Ervin. Any discussion on the motion?

COUNCILMEMBER LEVENTHAL:
I have no objection to the motion. I think we've discussed this. Some things are clear. It's clear what a menu is. It's clear what a menu board is. What is less clear is when you have food at a display case. We are going to require caloric labeling, for example, at Dunkin' Donuts or at Starbucks, where food is displayed in display cases. At convenience stores, they're displayed in some different settings. Some things are--have the price and the label on them, some things do not. It is also the case that much of the food that you purchase at grocery and convenience stores is already labeled under the FDA nutrition labeling requirement, so it's only the prepared items that are not labeled, and I don't think there's a, you know, serious public health consequence to waiting 3 years to see how the grocery stores and conveniences stores are covered. So if it's the sense of the Council, I'll be happy to vote for the motion.

COUNCIL PRESIDENT ANDREWS:
OK. I don't see any--I don't hear, see any objection to the motion, so without objection, the amendment is supported by the full Council.

COUNCILMEMBER LEVENTHAL:
OK. Remaining issues--we've been approached by the Mid-Atlantic National Association of Theater Owners to exclude movie theaters. It was Council staff's understanding that movie theaters were included in the federal menu labeling proposal. Could I again, Amanda, ask for the reference in the federal legislation that you believe covers movie theaters?

AMANDA MIHILL:
That's a conversation that I had with CSPI. Nowhere in the bill does it actually--it just says "a retail food establishment," but I have talked with Mr. Murdoch, and he agrees that he's covered under the federal proposal.

COUNCILMEMBER LEVENTHAL:
The representative of the Mid-Atlantic National Association of Theater Owners.

COUNCIL VICE PRESIDENT BERLINER:
And comparable to what we just did with grocery stores and convenience stores, can you tell us what the state of play is in other jurisdictions that have adopted this legislation? Are movies typically included within it?

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AMANDA MIHILL:
I'm hoping that there's representatives from CSPI who can help me out, but I believe that that's correct--that it's not--that movie theaters are not covered in most other labeling requirements, and I don't think they're covered in New York City.

COUNCIL PRESIDENT ANDREWS:
OK. I see that we have a representative--

COUNCILMEMBER LEVENTHAL:
There's a gentleman waving his hand in the back. Are you here from CSPI?

COUNCIL VICE PRESIDENT BERLINER:
Could you come forward and identify yourself and...

COUNCIL PRESIDENT ANDREWS:
There we go. Good afternoon. Please identify yourself for the record.

DOUG MURDOCH:
I'm Doug Murdoch. I am from Mid-Atlantic National Association of Theater Owners.

COUNCILMEMBER LEVENTHAL:
And we'd like to hear from you, Mr. Murdoch, but isn't there someone here from Center for Science in the Public Interest? Could you join us, as well?

COUNCIL PRESIDENT ANDREWS:
OK. Very good.

COUNCILMEMBER LEVENTHAL:
Mr. Murdoch, please proceed.

DOUG MURDOCH:
Sure. The question that was being addressed is whether this is included in the federal, and it is unclear. We're really not sure, and that's part of this ambiguous legislation out there, is that there is a lot of things that are unclear. As you saw in the note that I sent to each of you, it says "certain restaurants." Is a movie theater a certain restaurant? Is a bowling alley a certain restaurant? It really is unclear, and that's where we need to have some kind of designation. The second question you asked is, is there any other places that it has been excluded specifically? And it has. Multnomah County and Portland, Oregon, has done it. Seattle, Washington has done it. It's done in Tennessee now, and it specifically has exempted the movie theater industry.

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COUNCIL PRESIDENT ANDREWS:
OK.

ONA BALKUS:
Ona Balkus from the Center for Science in the Public Interest. The gentleman is right. It has been excluded from some of the other city and state policies. It is in--however, I think very clear in the federal legislation that it is included. The bill includes retail food establishments with 20 or more chains nationwide--outlets--and the vast majority of major movie theater establishments do have 20 or more. I think if you asked any of the sponsors for the federal bill, they would make clear that it is included, and it's--it's clear it's included in the federal bill. It has been taken out of some of the state laws.

COUNCILMEMBER LEVENTHAL:
OK. Well, I just--I don't want the bill to get bogged down in side issues, and if establishments are included in the federal bill, then, in a couple of years, when the federal bill comes on line, they either will or they won't be covered. I don't seek to make any of these points a sticking point that throws the bill into dispute.

COUNCIL VICE PRESIDENT BERLINER:
I would similarly move that we exclude movie theaters.

COUNCILMEMBER ERVIN:
Second.

COUNCIL PRESIDENT ANDREWS:
OK. All right. So it's moved and seconded that movie theaters not be included in this legislation.

COUNCILMEMBER LEVENTHAL:
Now, I have to say--I don't want to get this bogged down, but Mr. Murdoch raised the issue of bowling alleys, and I'm not sure I see the difference between a movie theater and a bowling alley. I know that the meal that is consumed at a bowling alley is more like a full meal than the popcorn that one might consume at a movie theater. I'm actually--it's fine with me if the Council goes with Mr. Berliner's motion. With regret, I appreciate the struggle that the movie industry is facing--the movie theater industry is facing right now--but I'm going to vote against Mr. Berliner's motion. But whatever is the will of the Council is fine with me.

COUNCIL PRESIDENT ANDREWS:

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OK. Councilmember Ervin.

COUNCILMEMBER ERVIN:
I do have a question. I didn't catch your name.

ONA BALKUS:
My name is Ona Balkus.

COUNCILMEMBER ERVIN:
Yes. Well, you said it's clear in the federal legislation. Doesn't sound so clear when you're calling movie theaters and bowling alleys...what--

COUNCILMEMBER LEVENTHAL:
Retail food establishments.

COUNCILMEMBER ERVIN:
Retail food establishments. I don't see a movie theater as a--or a bowling alley as a retail food establishment, so that is very muddy and murky, if you ask me. So that's not clear.

ONA BALKUS:
To be clear, bowling alleys have never been up for debate in city or state legislation from what I'm familiar with.

COUNCILMEMBER LEVENTHAL:
They are covered.

ONA BALKUS:
No. They've never even been debated. They're not covered.

COUNCILMEMBER LEVENTHAL:
They're not covered under menu-labeling requirements?

ONA BALKUS:
No.

COUNCILMEMBER LEVENTHAL:
Even though they are serving food.

ONA BALKUS:

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From what I understand. They do--if I was--I suspect that they don't fall under national chains the way that movie theaters do-- the 20 or more. And I think, also, there just aren't as many of them in the cities and states that have been affected, and they don't fall under the jurisdiction of most menu-labeling policies.

COUNCILMEMBER LEVENTHAL:
I see. Well, in that case, I would vote for Mr. Berliner's motion. It seems if you're going to exclude-- no, I mean, you ought to treat a movie theater and a bowling alley the same way. And if the federal legislation treats them differently, then when we get the federal legislation, they'll be covered by that.

COUNCIL PRESIDENT ANDREWS:
OK. Any other comments on this proposal? Don't see any. OK. Is there--is there any objection to the motion? No? OK. So that also will be amended in that way.

COUNCILMEMBER LEVENTHAL:
OK. And I think each of these questions, then, I hope, will provide the Council with the answer to the final question. We've now provided to our Health Department very clear guidance as to intent. We've made it very clear what is covered and what is not covered. And it is my hope that we could implement this sooner rather than later, and the Committee's recommendation was that it would go into effect at the beginning of the next Fiscal Year, when we frequently have the effective date of laws that we pass here--July 1, 2010. I know that the Executive branch would like more time, and if the Council President wants to entertain the Executive branch to ask for more time, my hope would be that the full Council would stick with the Committee's recommendation that restaurants would need to comply by July 1st of 2010.

COUNCIL PRESIDENT ANDREWS:
OK. All right. We have some comments now. Councilmember Elrich, do you want to comment at this point?

COUNCILMEMBER ELRICH:
You all resolved it.

COUNCIL PRESIDENT ANDREWS:
Very good. OK. Councilmember Knapp is next, then.

COUNCILMEMBER KNAPP:
Are we at the broader--

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COUNCIL PRESIDENT ANDREWS:
We're at the broader--yes.

COUNCILMEMBER KNAPP:
I just wanted to--

COUNCILMEMBER LEVENTHAL:
Actually, we're at the issue of the effective date.

COUNCIL PRESIDENT ANDREWS:
All right. Do you want to comment on the effective date? No? All right. Who is--anybody have a motion or comment regarding the effective date? Council Vice President Berliner. No. OK. All right. Then, Councilmember Knapp, you're on.

COUNCILMEMBER KNAPP:
I want to recognize Mr. Leventhal for his good intentions, and I appreciate his focus on this issue and childhood obesity. And he has outlined a number of reasons people have been for, reasons people have been against--have been against this. I work really hard at trying to be healthy, and with the exception of my appreciation for Mountain Dew, which was called out earlier--probably my least healthy habit. But I think one of the challenges that we have is it's--and I've spent a lot of time thinking about this since I've been here because health and fitness are critically important, and I would love to think that there was a really good way for us to effect it, but it's really hard to legislate focus on this. And so while I appreciate this, I'll be voting against it because I just--I don't--first, I haven't seen any impact of it changing behavior. Some of the issues--I know Mr. Leventhal has raised the dietary restrictions. Quite honestly, if you have severe dietary restrictions, you're not walking into a fast-food restaurant anyway. And just knowing, you know, that health and fitness--I mean, and the attention and the focus that we need to put on that, which I think is important--living a healthy lifestyle--when I walk into those type--into the types of restaurants that will be impacted by this, I generally know what I'm going to get, and I'm not--it's not for a good, healthy meal unless I'm going to get the little apple slices that we have now at McDonald's or some things like that. And so I appreciate it. I think the intentions are truly admirable, and Mr. Leventhal has done a great deal of work over his time on the Council to focus on good health, and I appreciate that. I just don't necessarily know that this gets us the outcome that we hope we'll get and so that's why I'll be voting against it.

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

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COUNCIL VICE PRESIDENT BERLINER:
I, too, struggled with this legislation when it was initially introduced, in part because I was concerned about the scope of it. At that time, I believe, Councilmember Leventhal, it was 10 stores, not 20, as it is in this bill. It included far more items than just calories. So the measure that is before us now is significantly pared back from that which was originally proposed two years ago. So the fundamental question, it seemed to me, was, is this a good thing to do? And when the National Restaurant Association signs on to federal legislation saying this is reasonable, I think the conversation is over. This is reasonable. The National Restaurant Association has said this approach is a good approach. So I don't think there's a debate as to whether or not what we are doing is reasonable. The only debate is, should we do it now as opposed to wait for federal legislation? And as Councilmember Leventhal said, you know, the chances of federal legislation, unfortunately, are a little dicey right now. God willing, we will have national health insurance and health reform, but we don't know that. So to move forward now seems to be a good thing in order to, A, promote this very result, because quite frankly, if I were national legislators, I am moved if a lot of local jurisdictions go forward, because that creates a better context for adopting national legislation. If you assume national legislation is going to pass, that's the harder question. Then you say to yourself, gee, if it's going to pass nationally, why should we do this now locally? And the question is, 2.5, 3 years of the benefits of it. If it is reasonable, which I believe now we can't debate, then is it unreasonable to want these benefits 2.5 to 3 years earlier? Well, what are the costs associated with that? Well, the costs have to be de minimis at this point, in part because these national chains are subject to these, in fact, more onerous regulations in the biggest markets in the country--California, New York City, Seattle. All across the country, we have this in place, and these are only affecting national chains. So these people are used to this, and the actions we've taken today to eliminate convenience stores, grocery stores, bowling alleys, and movie theaters ensures that we are not imposing this burden on people who are not already facing it across the country. So, ultimately, I have concluded that this is reasonable for us to move forward now. It will bring about benefits sooner rather than later. That's assuming, of course, we have national health reform, and if we don't have national health reform, there's no question that this is the right thing to be doing, and that the National Restaurant Association has said it is reasonable. And stop.

COUNCIL PRESIDENT ANDREWS:
Thank you, Council Vice President Berliner. And I do not see any other lights, so I think we're now ready for the vote on Bill 19-07, and I'll ask the clerk to call the roll.

CLERK:
Miss Navarro.

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COUNCILMEMBER NAVARRO:
Yes.

CLERK:
Mr. Elrich.

COUNCILMEMBER ELRICH:
Yes.

CLERK:
Miss Trachtenberg.

COUNCILMEMBER TRACHTENBERG:
Yes.

CLERK:
Miss Floreen.

COUNCILMEMBER FLOREEN:
Yes.

CLERK:
Mr. Leventhal.

COUNCILMEMBER LEVENTHAL:
Yes.

CLERK:
Miss Ervin.

COUNCILMEMBER ERVIN:
Yes.

CLERK:
Mr. Knapp.

COUNCILMEMBER KNAPP:
No.

CLERK:

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Mr. Berliner.

COUNCIL VICE PRESIDENT BERLINER:
Yes.

CLERK:
Mr. Andrews.

COUNCIL PRESIDENT ANDREWS:
Yes. Bill 19-07 is approved, 8-1. We will now move on to...

COUNCIL VICE PRESIDENT BERLINER:
Lunch!

COUNCIL PRESIDENT ANDREWS:
...the final item, which is related to this and which should be very brief because it's just--it's taking action as the Board of Health on the same measure. Item 14 is a resolution to adopt Board of Health regulation requiring certain eating and drinking establishments to post certain nutritional information on menu boards and menus. I'll turn to the HHS Committee. We may need to make some amendments in this as we did, I'm assuming, to conform the two. So--

COUNCILMEMBER LEVENTHAL:
Can we just entertain a general motion to amend this in exactly the same manner as the Council just deliberated with respect to Bill 19-07?

COUNCIL PRESIDENT ANDREWS:
OK. Is there a--

COUNCILMEMBER LEVENTHAL:
And if that's the sense of the Council, can we trust our staff to implement that?

COUNCIL PRESIDENT ANDREWS:
Councilmember Leventhal proposes amending the Board of Health regulation to match what we just passed--Bill 19-07. Seconded by Councilmember Floreen. Let's go ahead and vote on this one. All those in favor of amending the Board of Health regulation in that way, please raise your hand. That is unanimous. OK. So we're now ready, unless there are comments, for a vote on the Board of Health companion regulation to this bill. And this is a majority vote--does not require roll call--so all those in favor of the Board of Health

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measure dealing with menu labeling that is before us in Item 14, please raise your hand. That is unanimous.

COUNCILMEMBER KNAPP:
No.

COUNCIL PRESIDENT ANDREWS:
I'm sorry. I'm sorry. That is 8-1, Councilmember Knapp opposed. OK. That concludes our session for the morning and part of the afternoon, and we'll be back here at 1:45. We're going to come back at 1:45 for the public hearings. We're now going to go upstairs to join our Board of Appeals for a lunch meeting-- sixth-floor conference room. Lunch.

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COUNCIL PRESIDENT ANDREWS:
Good afternoon, everybody, and welcome to the session of the County Council. Thank you for your patience. We had a long session this morning, and so we had to delay the afternoon session for half an hour. Thank you for being patient. We have several public hearings, although not many speakers, so the public hearings will go fairly quickly, and then we have the work on the savings plan to approve, and then the PHED Committee will meet after that. So, we'll begin with the public hearings. This is a public hearing on resolutions to amend the Montgomery County Public Schools' FY09-14 Capital Improvements Program for Bethesda-Chevy Chase Cluster Elementary School Solution; Clarksburg Middle School Solution; Northwest Cluster Elementary School Solution; and Seneca Valley Cluster Elementary School Solution. Persons wishing to submit additional material for the Council's consideration should do so before the close of business on Thursday, November 19, 2009. An Education Committee worksession is tentatively scheduled for Monday, November 23, 2009, at 9:30. There are no speakers for this hearing, so the hearing is closed and as I said, the Education Committee worksession is scheduled for next Monday at 9:30. Next item is a public hearing on a resolution to adopt a Board of Health regulation requiring a health impact assessment for major road projects. Persons wishing to submit additional material for the Council's consideration should do so before the close of business on Wednesday, November 25, 2009. A Health and Human Services Committee worksession will be scheduled at a later date. We have one speaker who signed up for this hearing, and it is Judy Koenick. Yes, you can pick your chair and-- no. No, not that. Not that. Computer has to stay. But nice to see you and remember, please, to push the microphone button on the left side of the panel and introduce yourself at the beginning of your remarks and with 30 seconds to go, you'll see a yellow light flashing. OK.

JUDY KOENICK:
[Indistinct] hopefully we will have a new building sometime before now and....

COUNCIL PRESIDENT ANDREWS:
OK. All right. And you're here on Item 16.

JUDY KOENICK:
Just a minute. Let me get stuff out here. Testimony before the County Council on the requirement that an environmental impact of new road construction seems to me a little too late and just too little. The cat is already out of the bag, the horse has vaulted over the fence, and the cow has escaped the barn. In other words, the ICC is already under construction. Need I ask will this new requirement apply to state-constructed roads? I also find this requirement to be pathetic, since you continue to refuse to take any action against a state agency that habitually pollutes the air we breathe and the water we drink.

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This document from EPA outlines the impact of fine particulate dust on people. For over 20 years, I have raised the issue of the airborne particulate at the Meadowbrook Stables, for which you've all closed your eyes and have chosen to do nothing about it. As you can see, it's fairly dusty from their failure to water as they're required to do, stables, and your refusal to take any action must be interpreted as an endorsement by the Council. For the past 20 years or so--I'm sure that there's a gentleman back there who is glad he's no longer chair of Park and Planning Commission--I have raised the issue of the hundreds of thousands of gallons of mud, silt, and animal feces that is discharged into Rock Creek through 24-inch pipes, and your refusal to take any action must also be interpreted as endorsement by the Council. That would explain why Derick Berlage several years ago refused to eat a fish caught in the creek just below the stables. I guess he felt that that the mud, silt, and animal feces are something that wasn't part of his diet. I was prepared to show you evidence of this, but your system is so primitive, and I found it that it still is primitive, that I would be unable to transfer film from my computer to your screen. I even tried to share the evidence with Nancy Florreen--it's a shame she's not here--to share with the Transportation and Environment Committee, and she was not interested. Perhaps she has a conflict of interest when you take note of her prior employ by Park and Planning Commission. Will this new legislation have any impact in a positive way? I hope so, but I doubt it. This is from EPA. "Particulate pollution, essentially fine particles, contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs and cause serious health problems. Numerous scientific studies have linked particulate pollution exposure to a variety of problems, including increased respiratory symptoms such as irritation of the airway, coughing, and difficulty breathing, for example, decreased lung function, aggravated asthma, development of chronic bronchitis, irregular heartbeat, non-fatal heart attacks, and premature death in people with heart or lung disease. People with heart or lung disease, children, and older adults are the most likely to be affected by particulate pollution exposure. However, even if you are healthy, you may experience temporary symptoms from exposure to elevated levels of particulate pollution. For more information about asthma, go to their EPA site.

COUNCIL PRESIDENT ANDREWS:
Thank you, Ms. Koenick.

JUDY KOENICK:
My question back to you--

COUNCIL PRESIDENT ANDREWS:
Actually, I will be happy to look at something, but we have to--your time is up.

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JUDY KOENICK:
No, I'm not asking you to look at something. My question is, will this apply to state roads? Or can the state come in here, as they've done in the past, and say, in essence, "Screw you all. We're a state and we don't have to comply."

COUNCIL PRESIDENT ANDREWS:
That will be an issue that will be ultimately decided by the Council. You've raised it, and--and we'll consider it. So, thank you for your testimony and if you have written testimony that you want to...

JUDY KOENICK:
You already have it.

COUNCIL PRESIDENT ANDREWS:
Thank you.

JUDY KOENICK:
But it also would be nice if you'd do something about the flying particulate at the stables because you have chosen to endorse.

COUNCIL PRESIDENT ANDREWS:
Thank you. All right. I believe that we have one other speaker for this hearing whose name should have been on the list but wasn't, and that's Mr. Rollin Stanley. Is Mr. Stanley--I saw him--and I apologize for not having you on the list, because I know that's why you're here. So, please join us.

ROLLIN STANLEY:
Thank you very much. Rollin Stanley, Planning Director. I'd just like to offer our commitment to working on this. We think there's a lot of great stuff in here and we'd like to work with the other Committees to advance this and actually expand, hopefully, eventually, as we all work together with Health and the other departments to actually expand it into our land use planning function, because we think that there's a real potential here to use the criteria that we can evolve through a health impact assessment to help us make smarter land use decisions. And dare I say I also think it's something we could fold into the next iteration of the Growth Policy, to actually start thinking more comprehensively about how we advance the cause, because as you've probably heard already, you may have heard this morning, and unfortunately, I was at another event this morning, through our--what we're gonna do in our land use policy in the next 30 years will have a great impact on the environments that our children are growing up in, and we really think it's important, and we're at the cutting edge of this, and I welcome working with the other

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departments and the Committees to advance this as much as we can through the land use planning process.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Mr. Stanley. Nice to see you. And Councilmember Leventhal has a comment or a question.

COUNCILMEMBER LEVENTHAL:
Well, Rollin, it's good to see you, and I have been for quite some time interested and remain very interested in using health factors as a measurement of whether we're providing adequate public facilities, and that's certainly something that I know, as Uma stated this morning, that she wants to include in the health study that's underway, the health improvement program, and I appreciate your indication of willingness to consider that. I think it's a very important question to ask as to whether those resources ought to be vested in the planning department rather than the HHS department, but I certainly think there's a lot of room for better cooperation between the two departments, and I'm certainly eager to have that conversation.

ROLLIN STANLEY:
I absolutely agree with you. I think we're engaged now with the health department on 4 or 5 different fronts, which I think we can just move along hand and foot together, and get us to a better place.

COUNCILMEMBER LEVENTHAL:
I can't help but notice--but mention that a few years ago, I was trying to add resources to add independent health planning capacity, in particular to measure--to give us our own capability to weigh in with the Maryland Hospital Commission with a lot of new hospital proposals, and that was not supported by the Executive Branch or by some Councilmembers at this dais.

COUNCIL PRESIDENT ANDREWS:
All right. Thank you, Councilmember Leventhal. Thank you, Mr. Stanley, Ms. Koenick, and we're now going to move on to our next public hearing, which is on a supplemental appropriation to the county government's FY10 operating budget for the Office of Emergency Management and Homeland Security of $1,752,215 for FY2008 Urban Area Security Initiative Critical Care Hospital Surge Capacities-- Capabilities. Action is scheduled immediately following this hearing. There are no speakers for this hearing, so the hearing is closed. This is Item 17 in the packet, and it went directly to full Council. The source of the funds for this is a federal grant. It is something we have received before and it will provide critical care hospital surge capabilities. So, the measure is before the

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Council, and I will move approval of the supplemental appropriation that is described in Item 14. Is there a second? UNKNOWN SPEAKER:
Seconded.

COUNCIL PRESIDENT ANDREWS:
All right, it's moved and seconded, and then if there's no discussion about it, all those in favor of it, please signal by raising your hand. That would be Councilmember Navarro, Councilmember Elrich, Councilmember Trachtenberg, Councilmember Floreen, myself, Councilmember Ervin, and Councilmember Leventhal. So, it is approved 7-0. Thank you. Our next public hearing is on Expedited bill 40-09, Personnel - Audits - Trust Fund. This bill would require an annual independent audit of each deferred compensation plan and require an annual independent audit of the retiree health benefits trust and generally amend the law concerning audits of county trust funds. Persons wishing to submit additional material for the Council's consideration do so before the close of business on Thursday, November 19, 2009. A Management and Fiscal Policy Committee worksession is tentatively scheduled for Tuesday, November 24, 2009, at 12:15. We have two speakers on the measure, and they are here. Mr. Walter Bader, representing the Montgomery County Union Employees Deferred Compensation Plan, and Gino Renne, representing Local 1994. If you have written testimony, please leave it with us or provide it later, and our first speaker will be Mr. Bader. And please press the button to the left. There you go.

WALTER BADER:
Thank you. Good afternoon. I'm Walter Bader, Chair of the Montgomery County Union Employees Deferred Compensation Plan, and with me is Gino Renne, who is Vice Chair and President of MCGEO Local 1994. The Montgomery County Union Employees Deferred Compensation Plan assumed responsibility for deferred compensation funds in March of 2005. It's governed by a 6-member board of trustees. Each member union, which is MCGEO, the IAFF, and the F.O.P., appoints two trustees. The plan is funded solely through participant contributions and participants are fully vested in their accounts. Currently, participation is voluntary. All contributions are deducted by Montgomery County's payroll and held in trust for the participants. The Hartford serves as our record keeper. All contributions are invested as directed by the participant, and no investment funds actually pass through the board. Board operating funds for plan-qualified expenses are provided through a plan expense reimbursement arrangement with the Hartford and revenue sharing with Fidelity Investments. These are the only monies the board actually handles. Plan-qualified expenses include, really big items such as legal accounting, investment advisor insurance, and due diligence training for the trustees. It has very limited activity and is subject to both internal controls and an annual audit. The board requires an independent audit of the plan for each fiscal year, and our fiscal year, as I'll

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note, is a calendar year. Our financial reports have been provided to the Council staff for all years except 2008, and we will be providing that soon. We've also recently provided Council staff, Mr. Drummer, with confidential letters on financial controls. Our position on the bill is that we have no opposition to the County Council hiring a firm to audit our fund, provided that it will be performed in the same manner that other county accounts and plans are audited and reported and according to the same processes and standards and with the same confidentiality and sensitivity as is afforded the County plans, trustees, officials, and employees. We note for your consideration that our plan's fiscal year is the calendar year, and currently, we are in the fourth quarter of Fiscal Year '09 while the county is midway through its second quarter of Fiscal Year '10. If the law cannot guarantee consistent and equal treatment, then we prefer to continue to retain our own accounting firm to conduct an independent audit according to accepted auditing standards and to continue to provide copies to the County Council. We further ask that the County reimburse the plan for the audit in an amount that would not exceed the cost the County would incur for conducting this audit itself. Thank you.

COUNCIL PRESIDENT ANDREWS:
Thank you, Mr. Bader. And our next speaker will be Mr. Renne.

GINO RENNE:
I'm sure this is gonna come as a surprise to most of you, but I don't have any testimony today. Actually, I'm here supporting Mr. Bader's testimony. Thank you.

COUNCIL PRESIDENT ANDREWS:
Thank you. Very concise and appreciate it. OK. I don't see any questions, comments, so, thank you very much. Public hearing is concluded, and a Management and Fiscal Policy Committee worksession is scheduled for next Tuesday. I think actually it's been moved up to 9:30. So, we'll let-- we'll get that word out again. All right. We are now on to the final item for the Council this afternoon, and that is the introduction and suspension of rules and action on resolution to approve the FY10 budget savings plan. About 2 1/2 weeks ago, 3 weeks ago, the County Executive sent over to the Council his recommended savings plan, approximately $16 million for the County government and approximately just under $10 million forwarded from the-- from MCPS, and the remainder of about $3 million total from Park and Planning and the College. Each of the Council Committees reviewed the recommendations and has made recommendations with very few exceptions approving what the County Executive proposed, and we have with us at the table representatives from the Office of Management and Budget, including the Director, Joseph Beach, and we have our Council Staff Director Steve Farber, who has coordinated the efforts here on this. Mr. Farber, do you want to make any opening comments or Mr. Beach, would you like to make any opening comments on behalf of the County Executive?

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JOE BEACH:
Just very briefly, I wanted to thank the Council for their--and the Committees for their expedited review of the savings plan. As you're aware, the sooner we can have these approved and in place, the better chance we have of realizing the savings.

COUNCIL PRESIDENT ANDREWS:
Excellent. We agree. And Mr. Farber.

STEPHEN FARBER:
Yes. Joining us as well is Alex Espinosa, who coordinates the operating budget.

COUNCIL PRESIDENT ANDREWS:
Good to see you.

STEPHEN FARBER:
We did receive this on October 28, as you indicated, and the Council's Committee has acted very promptly between November 5 and November 12. All of the Committees met. As you indicated, Mr. Andrews, there is strong support in the Committees for virtually all of the recommendations here. The total is $29.5 million. Just over half of that comes from County government. Just under 1/3 of it from MCPS, the balance from Park and Planning and the College. Basically, we've done this for a number of years and last year, for example, the savings plan was in the range of $33 million the same year before. This is slightly less than that. Last year, there were some differences of view between the Council and the Executive about some of the proposals affecting Public Safety and Health and Human Services. That's not the case this year. Most of the recommendations really do not have a substantive impact. They involve greater lapse. They involve delaying the implementation of certain projects and programs. It's interesting that we're able to do that because, of course, especially for County government, Fiscal '10 budget was itself very stringent. Council Office's own budget, for example, was down 5.5% from the year before, Fiscal '09. And so to be able to do additional savings is that much harder than it would otherwise have been. Context for all of this, of course, is that we are facing a very substantial budget gap in the coming year. We met last on this on September 29. We'll be meeting again two weeks from today on December 1 for a further update, but on September 29, the estimated gap was about $364 million. This savings plan would cover about 8% of that gap, so clearly, we will have a long way to go. And what we discussed on September 29 was the fact that even if you, in Fiscal '11, had no COLAs and no step increases, no contribution to pre-funding of retiree health insurance, no PAYGO for the capital program, and you put your reserves at 5% again instead of 6%, even if you did all of those things, we would still be about $80 million short of balancing the budget. Tomorrow, the Board of Public Works will meet in Annapolis. Our understanding is that

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they'll be making further reductions to the state's Fiscal '10 budget in excess of $300 million. Apparently, there'll be no direct impact in terms of local aid, but there will be indirect effects because of cuts to state departments with which we have a close relationship. The Committee recommendations are summarized on page 2 of the packet, and we can hear from the Committee chairs in further summary detail, but basically, the HHS and the MFP Committees recommended no specific changes. The PHED and the Transportation and Environment Committees recommended very small cost shifts. The Public Safety Committee initially recommended one change that has now been rethought by the Committee in view of further information provided by OMB. And then the Education Committee decided that it would take the superintendent's latest estimate of savings in Fiscal '10, which was $200,000 more than the estimate that we had received before from the Executive's transmittal. So, in the event that the Council agrees with all of these actions recommended by the Committees, the Council's savings in this savings plan would actually be $197,300 more than what the Executive recommended on October 28. We do have on Circles 70 to 73 a draft approval resolution, which the Council can consider, and at this point, Mr. Andrews, if you want to hear the specific recommendations from our Committee chairs, we certainly can do that. But I do think we have a pretty straightforward proposition this year in the savings plan.

COUNCIL PRESIDENT ANDREWS:
Thank you, Mr. Farber, very much. Councilmember Knapp has an overview comment, and then I'll ask any of the Committee chairs if they want to make any comments. I'll leave it up to the Committee chairs if they feel they need to, and-- otherwise, I'll see if there are any questions...

COUNCILMEMBER KNAPP:
Thank you, Mr. President. I just had one quick question. Mr. Beach, who kind of alluded to this, and acting quickly so we can realize the savings. We're at the time of year where--it always seems to take longer than I like, but--we're actually gonna see how last year's books ended up. So, we did a savings plan last year in which we had hoped to recognize, and I forget what the total amount was.

STEPHEN FARBER:
$33 million?

COUNCILMEMBER KNAPP:
33. How'd we do? Did we actually get all 33?

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JOE BEACH:
For the county government's share, I know that we actually exceeded that. We can get you some details on that. But, yes, we met and even exceeded the county government's share. I think we have to review the other agencies to make sure that they did. They've been very successful in the past. I don't think we've had any problems with Park and Planning, College, or Schools meeting their targets. But I can only speak right now for the county government.

COUNCILMEMBER KNAPP:
So, we think we actually exceeded what our target was for last year? And do we know by--order of magnitude? 50 cents? 50 million? Someplace in between those two points?

ALEXANDRE ESPINOSA:
We're still in the process of finalizing. We're actually gonna be transmitting the year-end closeout package very soon. It was in the order of several million dollars that we exceeded it.

COUNCILMEMBER KNAPP:
Will that be called out as a specific item within that?

ALEXANDRE ESPINOSA:
You'll be able to see that in the--yeah, in the transmittal of the bill will be some detail attached to it.

COUNCILMEMBER KNAPP:
All right. Thank you.

COUNCIL PRESIDENT ANDREWS:
OK. Thank you, Councilmember Knapp. All right, I'm gonna ask the Committee chairs if any of the Committee chairs want to make any comments about the recommendations of their Committees, and I don't see any. Everyone seems--it's very straightforward. You don't have to. It's--if you feel that there's something you want to bring to our attention, I think that that would be appropriate. So, Councilmember Leventhal has a light on.

COUNCILMEMBER LEVENTHAL:
Yeah. Actually, with regret, the HHS Committee went along with all of the reductions in HHS, so my comment is on a matter in the T&E Committee, if that's in order.

COUNCIL PRESIDENT ANDREWS:
OK. Go ahead.

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COUNCILMEMBER LEVENTHAL:
Yeah. And I'm not gonna disagree with any of the Committee's recommendations, although I did want to clarify, again, with regret--we wish we didn't have to make these cuts. But the effect of the Committee's recommendation regarding the Super Fare Share program would be that we are making the assumption now that it would not proceed in FY11. Is that correct?

COUNCILMEMBER FLOREEN:
Well, we didn't get to that.

COUNCIL PRESIDENT ANDREWS:
Let's see. Why don't you go ahead? Councilmember Floreen.

COUNCILMEMBER FLOREEN:
Well, as you'll recall, we were only addressing this, the proposal before us. So, one might assume that, but our commitment in this was to maintain the existing employer commitments. So, I mean, I think we all collectively anticipate that come this winter/spring, we'll be back in the weeds in all this again.

COUNCILMEMBER LEVENTHAL:
So we would wait and see whether the County Executive proposed to terminate the program and not carry it forward in FY11.

COUNCILMEMBER FLOREEN:
That's right. At least that would be my view at this point. I don't think we were saying anything about next year.

COUNCILMEMBER LEVENTHAL:
We're cutting funding.

COUNCILMEMBER FLOREEN:
We are indeed. It's certainly suggestive, but I think we have to turn to the County Executive on this one.

JOE BEACH:
Certainly no decisions right now about FY11, and at this point in the process, wouldn't want to make any commitments. I'd only point out that there are reductions to the Super Fare Share in FY10, not an elimination of the program.

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COUNCILMEMBER LEVENTHAL:
You mean in what you sent over.

COUNCILMEMBER FLOREEN:
Well, we did, Mr. Leventhal. You'll recall we retained dollars in the Super Fare Share program to support existing employer commitments. So, I don't know the extent to which they flow into next year, into the next fiscal year...

COUNCILMEMBER LEVENTHAL:
I don't understand what's being cut.

COUNCILMEMBER FLOREEN:
We cut the non...

COUNCILMEMBER LEVENTHAL:
County Executive proposed to stop the program in the middle of the fiscal year and the Committee restored funds to carry it through the end of the fiscal year, but it reduced funds--

COUNCILMEMBER FLOREEN:
Only to support existing commitments that have been made to employers. So we did reduce--

COUNCILMEMBER LEVENTHAL:
So those employers who had already signed up. Is that what is was? So it was more money budgeted in case other employers signed up later. Is that what it is?

COUNCILMEMBER FLOREEN:
We reduced--for, let's see, Friendship Heights. We went to-- we reduced it by 55,000, not 91. North Bethesda...

COUNCILMEMBER LEVENTHAL:
I can read the numbers in the packet, too, Madam Chair, but I'm just trying to understand. The effect of that is for those employers who had already signed up, they're funded, but no other employers will be able to sign up for the balance of the fiscal year. Am I describing it correctly?

COUNCILMEMBER FLOREEN:
Correct.

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COUNCILMEMBER LEVENTHAL:
OK, I'm just trying to understand what it is that we did. I have--I'm gonna vote for the Committee's recommendations. I have some reservation about the approach of identifying a large program like road maintenance and saying, well, you know, it's 18 million, it's so large that we can use it fund lots of other things when I probably hear more complaints from constituents about poor road maintenance and the need for, you know, filling potholes and preventing washboard surfaces and that kind of thing than anything else. So, I don't know where--I'm sorry. I'm not looking at the packet right now, but it's about 172,000, I think, total that the T&E Committee restored and took it out of an $18.9 million program, assuming-- well, of course it's an $18.9 million program. It can absorb the hit. And I will vote for it, but I have reservations about making assumptions about core County functions like road maintenance that, because we've got so much money to cover 500 square miles of the County, it's a happy place to go. It's sort of a bottomless pit that we can use to fund any other minor cut that some constituency group may complain about. I don't think we're gonna be able to do that in the spring. I don't think it's gonna be possible in the spring to restore every cut that we get 1 or 2 or 3 or 6 or 12 or 50 e-mails about, so I will go ahead and vote for this, but I really have reservations about it, and I really do think that road maintenance is a core function. I don't think it's just an easy pay-for for anything else that we might want to do in transportation.

COUNCILMEMBER FLOREEN:
I absolutely agree.

COUNCIL PRESIDENT ANDREWS:
Thank you, Councilmember Leventhal, Councilmember Floreen. I don't see any other lights at this point, so I'm going to assume that the Committee chairs are satisfied with the explanation that's in the packet and that-- I don't see any other questions at this point for the Committee chairs regarding the recommendation. So, with that, I think we're ready to move toward action on this and it requires a motion.

COUNCIL VICE PRESIDENT BERLINER:
I so move to suspend the rules of procedure, rule 7C, to allow immediate action on this item.

COUNCIL PRESIDENT ANDREWS:
All right. That's moved by Council Vice President Berliner. Is there a second?

COUNCILMEMBER ERVIN:
Seconded.

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COUNCIL PRESIDENT ANDREWS:
Seconded by Councilmember Ervin. All right. All those in favor of suspending the rules so that action may be taken today on this measure, please raise your hand, and that is Councilmember Navarro, Councilmember Elrich, Councilmember Trachtenberg, Councilmember Floreen, myself, Council Vice President Berliner, Councilmember Ervin, Councilmember Leventhal, and Councilmember Knapp. So, the rules are suspended, 9-0, and we are ready now for action on the resolution to approve the FY10 budget savings plan.

COUNCIL VICE PRESIDENT BERLINER:
Do we need a motion for that? If we need a motion, I so move the budget savings plan.

COUNCIL PRESIDENT ANDREWS:
Moved by Council Vice President Berliner. Seconded by Councilmember Floreen. I don't see any other discussion, so all those in favor of the resolution to approve the FY10 budget savings plan, please raise your hand. And that is unanimous. Adopted 9-0. Thank you and couple other reminders. We will have a town hall meeting tomorrow night at 7:30. That's Wednesday, November 18, at Tilden Middle School. Reception at 7:30, town hall meeting at 8. All are invited. And the public hearing on the Board of Health measure regarding disclosure for crisis pregnancy centers will be on the evening of December 1. December 1 at 7:30 p.m. Councilmember Knapp, do you have a...

COUNCILMEMBER KNAPP:
One issue, without some compelling reason that we can't do so, we're gonna have the PHED Committee back in the conference room as opposed to having it out here. It's been working better, and so I'd like to do it if we can, but by saying that, Linda Lauer someplace is scurrying to let us know whether or not that's available. But that's what we'll do. So, PHED Committee will be in the conference room directly behind us.

COUNCIL PRESIDENT ANDREWS:
Thank you all. Have a good afternoon.

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