GO COMMITTEE #1
June 25, 2015

MEMORANDUM

June 23, 2015

TO: County Council

FROM: Stephen B. Farber, Council Administrator
Jacob Sesker, Senior Legislative Analyst

SUBJECT: Resolution to Approve the Tax Supported Fiscal Plan Summary for the FY16-21 Public Services Program

Section 302 of the County Charter states in part: *The County Executive shall submit to the Council, not later than March 15 of each year, comprehensive six-year programs for public services and fiscal policy. The six-year programs shall require a vote of at least five Councilmembers for approval or modification. Final Council approval of the six-year programs shall occur at or about the date of budget approval.*

Background

On June 29, 2010 the Council approved policies on reserve and other fiscal matters in Resolution No. 16-1415. Action clause 5 states: ***The County should adopt a fiscal plan that is structurally balanced, and that limits expenditures and other uses of resources to annually available revenues. The fiscal plan should also separately display reserves at policy levels, including additions to reserves to reach policy level goals.*** On November 29, 2011 the Council strengthened these policies in Resolution No. 17-312, which retained the fiscal plan language and replaced the earlier resolution. See ©5-8.

Pursuant to these policies, on June 29, 2010 the Council approved the Tax Supported Fiscal Plan Summary for the FY11-16 Public Services Program in Resolution No. 16-1416. On June 28, 2011 the Council approved the Tax Supported Fiscal Plan Summary for the FY12-17 Public Services Program in Resolution No. 17-184. On June 26, 2012 the Council approved the Tax Supported Fiscal Plan Summary for the FY13-18 Public Services Program in Resolution No. 17-479. On June 25, 2013 the Council approved the Tax Supported Fiscal Plan Summary for the FY14-19 Public Services Program in Resolution No. 17-800. On June 17, 2014 the Council approved the Tax Supported Fiscal Plan Summary for the FY15-20 Public Services Program in Resolution No. 17-1137.

On June 23 the Council introduced a resolution to approve the Tax Supported Fiscal Plan Summary for the FY16-21 Public Services Program, based on the fiscal decisions it made on May 14 and confirmed on May 21. See the resolution on ©1-4. The Government Operations and Fiscal Policy Committee is scheduled to review the resolution on June 25. The Council is scheduled to act on June 30.

The FY16-21 Tax Supported Fiscal Plan Summary, like all versions of the Fiscal Plan, is a snapshot in time that reflects current fiscal projections and policy assumptions. The one certainty from past experience is that as conditions change, future versions of the plan will change as well. What this version shows – as rows 24 and 32 on ©3 make clear – is that strict adherence to the County's fiscal policies will limit the resources available to allocate to the agencies during the six-year period, particularly in FY17.[1]

Issues

1. Fiscal projections and policy assumptions. Fiscal projections change as local, national, and global economic and financial prospects change. Updated projections will be available for the next two versions of the Fiscal Plan, which are scheduled for December 2015 and March 2016. The policy assumptions for this version are listed in the notes on ©3:

a. FY16 property tax revenue is at the Charter limit using a $692 income tax offset credit, per the Council's action. Property tax revenue at the Charter limit is assumed in FY17-21.

b. The May 2010 fuel/energy tax increase approved for FY11-12 is reduced by 27% in FY15-21. The Council reduced the increase by 10% for FY13, 10% more for FY14, and 7% more for FY15 but made no further reduction for FY16. Of the $114 million in revenue from the May 2010 increase, $83 million remains in FY16. This assumption is reflected in row 5.

c. Reserve contributions are at the policy level and consistent with legal requirements, ramping up to 10% by FY20. See ©4.[2]

[1] The Fiscal Plan is an important guide but not a rigid blueprint, or what former Councilmember and County Executive Neal Potter called a Procrustean bed (named for Procrustes, the highwayman in Greek mythology who forcibly adjusted travelers of different heights to the length of his iron bed). Rather, as Sgt. Martens of Internal Affairs said on *NYPD Blue*, "Everything is a situation." Examples of "situations" in recent years include the sudden and protracted revenue collapse stemming from the Great Recession; last year's change in the structure of the agencies' retiree health programs that reduced previously projected OPEB pre-funding requirements by $82 million; and the U.S. Supreme Court's decision in the *Wynne* case on May 18, 2015.

[2] The FY15 minimum target for reserve as a percentage of Adjusted Governmental Revenues, as established in Resolution No. 17-312 (November 29, 2011), was 7.4%. **See ©5-8.** The FY15 ending reserve is currently projected at 8.5%. The FY16 minimum target reserve is 7.9%. The Council's approved FY16 reserve is **8.2% ($382.7 million)**, a historical high. This number has been adjusted downward from 8.4% ($392.7 million) to reflect the estimated $10 million loss in FY16 income tax revenue resulting from the U.S. Supreme Court's decision in the *Wynne* case on May 18, 2015. **See ©9 for details on this decision.** The number does not include $8.7 million in other reserves from MCPS, Montgomery College, M-NCPPC, and MCG Special Funds. See rows 50-55 on ©4.

d. PAYGO, debt service, and current revenue for the Capital Improvements Program reflect the Council's Amended FY15-20 CIP.

e. State aid, including MCPS and Montgomery College, is assumed to be flat in FY17-21 because while some increases may occur, the amounts are unknown at this time.

2. Resources available to allocate to the agencies. Rows 24 and 32 show that based on current fiscal projections and policy assumptions, overall resources available to allocate to the agencies in FY17-21 will change by **-2.1%**, +4.3.%, +3.9%, +3.3%, and +3.0%, respectively. The change in agency resources in the approved budget for FY16 is +1.9%. The changes for FY13-15 were +5.0%, +3.7%, and +3.8%, respectively, following severely constrained budgets in FY10-12 caused by the Great Recession.

3. Focus on FY17. The projected overall 2.1% decline in agency resources for FY17, as noted above, reflects current fiscal projections and policy assumptions. Because of State Maintenance of Effort (MOE) requirements for MCPS and Montgomery College, the decline for the other two tax supported agencies, MCG and M-NCPPC, would be much more than 2.1%. Note that agency **increase** requests in FY17 may in fact total 4.0% or more.

The projected 2.1% decline in agency resources for FY17, compared to FY16, warrants close attention, but it also needs to be assessed in context. Over the next nine months, as the Fiscal Plan is updated with new data on revenues and expenditures, projections that lead to the 2.1% decline may well be adjusted – up or down. Consider the following:

• In June 2013 the approved FY14-19 Fiscal Plan projected a 5.0% decline in agency resources for FY15 (to $3.555 billion). The December 2013 Fiscal Plan update projected a smaller decline of 0.9% (to $3.710 billion). Actual agency resources in the Council's FY15 approved budget in May 2014 were up 3.8% (to $3.885 billion). Thus agency resources for FY15 were $330 million above the projection made one year earlier.

• In June 2014 the approved FY15-20 Fiscal Plan projected a 1.2% decline in agency resources for FY16 (to $3.838 billion). The December 2014 Fiscal Plan update projected a larger decline of 6.1% (to $3.647 billion). Actual agency resources in the Council's FY16 approved budget in May 2015 were up 1.9% (to $3.958 billion). Thus agency resources for FY16 are $120 million above the projection made one year ago (and $311 million above the projection made six months ago).

The fiscal measures required to make changes of this kind are outlined in annual tables prepared by OMB on how the projected budget gap was closed. For the tables outlining how the gaps for FY15 and FY16 were closed, see ©10-11.

The actual and potential fiscal pressures for FY17 are unmistakable and include the following:

• The negative impact of the *Wynne* decision on County income tax revenue (currently estimated at $55 million in FY17, and again in FY18) on top of the FY16 impact (currently estimated at $10 million). See ©9 for further details. These reductions from the March 2015 projection are reflected in the Fiscal Plan on row 2 of ©3. Another factor of concern – not reflected on row 2 – is that County income tax revenue distributions for FY15 to date are $21.4 million below the March 2015 projection

- The impact in FY17 of the many constrained FY16 funding decisions that were required by the tight budget, which increased agency resources by just 1.9%.

- The likelihood of continued constraint in the State budget.

- Full-scale bargaining with all three County unions starting in the fall.

- Possible funding requirements for transit and other initiatives.

Even before the *Wynne* decision on May 18, the County Executive has repeatedly discussed the possibility of a significant tax increase related to some of these pressures.[3] The Council and the Executive now need to examine this prospect jointly. Issues include:

- The purpose and size of any tax increase.

- The impact of a tax increase on the County economy and County residents at a time when recovery from the Great Recession is incomplete.

- What steps to control expenditures, in both FY16 and FY17, could reduce the need for, or the size of, a tax increase.

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[3] For example, at his FY16 budget press conference on March 16, the Executive said: "We've used up all of our options to not do it this year....Given all the things that are queued up, it's almost unavoidable down the line that we'll have a tax increase. We may have to go back and revisit that this year."

Resolution No.:	
Introduced:	June 23, 2015
Adopted:	

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Government Operations and Fiscal Policy Committee

SUBJECT: Approval of the County's Tax Supported Fiscal Plan Summary for the FY16-21 Public Services Program

Background

1. Section 302 of the County Charter states in part: *The County Executive shall submit to the Council, not later than March 15 of each year, comprehensive six-year programs for public services and fiscal policy. The six-year programs shall require a vote of at least five Councilmembers for approval or modification. Final Council approval of the six-year programs shall occur at or about the date of budget approval.*

2. Over the last two decades the Council's Government Operations and Fiscal Policy Committee (known until December 2010 as the Management and Fiscal Policy Committee) has collaborated with the Office of Management and Budget and the Department of Finance to develop and refine County fiscal projections. The result has been continuous improvement in how best to display such factors as economic and demographic assumptions, individual agency funds, major known commitments, illustrative expenditure pressures, gaps between projected revenues and expenditures, and productivity improvements. This work has also increased the County's ability to harmonize the fiscal planning methodologies of the four tax supported agencies. Each version of the fiscal projections, or six-year fiscal plan, is a snapshot in time that reflects the best estimate of future revenues and expenditures as of that moment, as well as a specific set of fiscal policy assumptions.

3. On June 29, 2010 the Council approved policies on reserve and other fiscal matters in Resolution No. 16-1415. Action clause 5 states: *The County should adopt a fiscal plan that is structurally balanced, and that limits expenditures and other uses of resources to annually available revenues. The fiscal plan should also separately display reserves at policy levels, including additions to reserves to reach policy level goals.* On November 29, 2011 the Council strengthened these policies in Resolution No. 17-312, which retained the fiscal plan language and replaced the earlier resolution.

4. Pursuant to these policies, on June 29, 2010 the Council approved the Tax Supported Fiscal Plan Summary for the FY11-16 Public Services Program in Resolution No. 16-1416. On June 28, 2011 the Council approved the Tax Supported Fiscal Plan Summary for the FY12-17 Public Services Program in Resolution No. 17-184. On June 26, 2012 the Council approved the Tax Supported Fiscal Plan Summary for the FY13-18 Public Services Program in Resolution No. 17-479. On June 25, 2013 the Council approved the Tax Supported Fiscal Plan Summary for the FY14-19 Public Services Program in Resolution No. 17-800. On June 17, 2014 the Council approved the Tax Supported Fiscal Plan Summary for the FY15-20 Public Services Program in Resolution No. 17-1137.

5. On June 23, 2015 the Council introduced a resolution on the Tax Supported Fiscal Plan Summary for the FY16-21 Public Services Program. On June 25, 2015 the Government Operations and Fiscal Policy Committee reviewed the Fiscal Plan Summary.

Action

The County Council for Montgomery County, Maryland approves the Tax Supported Fiscal Plan Summary for the FY16-21 Public Services Program, as outlined on the attached pages. This summary reflects:

(1) current information on projected revenues and non-agency expenditures for the six-year period, which must be updated as conditions change. To keep abreast of changed conditions the Council regularly reviews reports on economic indicators, revenue estimates, and other fiscal data.

(2) the policy on expanded County reserves established in Resolution No. 17-312 and the amendments to the Revenue Stabilization Fund law in Bill 36-10, which the Council approved on June 29, 2010.

(3) other specific fiscal assumptions listed in the summary.

This is a correct copy of Council action.

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Linda Lauer, Clerk of the Council

County Council Approved FY16-21 Public Services Program

Tax Supported Fiscal Plan Summary

($ In Millions)

		App. FY15	Est FY15	% Chg. FY15-16	App. FY16	% Chg. FY16-17	Projected FY17	% Chg. FY17-18	Projected FY18	% Chg. FY18-19	Projected FY19	% Chg. FY19-20	Projected FY20	% Chg. FY20-21	Projected FY21
		5-22-14		App/App	5-21-15										
	Total Revenues														
1	Property Tax	1,538.9	1,534.6	2.8%	1,582.8	2.6%	1,624.2	2.8%	1,670.2	3.0%	1,720.1	3.3%	1,777.2	3.0%	1,831.0
2	Income Tax	1,340.6	1,333.1	6.9%	1,433.4	2.5%	1,469.7	6.1%	1,558.7	7.0%	1,667.6	3.9%	1,732.6	3.6%	1,794.1
3	Transfer/Recordation Tax	160.7	141.6	-4.3%	153.8	14.2%	175.6	6.1%	186.4	6.4%	198.3	3.2%	204.6	4.9%	214.6
4	Other Taxes	277.7	275.8	0.9%	280.3	1.2%	283.7	1.3%	287.3	1.0%	290.3	0.9%	293.0	1.2%	296.5
5	Other Revenues	956.3	971.4	3.5%	990.1	-0.6%	984.1	0.5%	989.2	0.6%	994.8	0.6%	1,000.9	0.7%	1,008.3
6	**Total Revenues**	**4,274.3**	**4,256.4**	**3.9%**	**4,440.3**	2.2%	**4,537.4**	**3.4%**	**4,691.9**	**3.8%**	**4,871.1**	**2.8%**	**5,008.3**	**2.7%**	**5,144.5**
7															
8	**Net Transfers In (Out)**	**43.3**	**44.3**	**-42.6%**	**24.9**	**-13.9%**	**21.4**	**2.3%**	**21.9**	**2.5%**	**22.5**	**2.8%**	**23.1**	**3.1%**	**23.8**
9	**Total Revenues and Transfers Available**	**4,317.6**	**4,300.7**	**3.4%**	**4,465.2**	2.1%	**4,558.8**	**3.4%**	**4,713.8**	**3.8%**	**4,893.6**	**2.8%**	**5,031.4**	**2.7%**	**5,168.3**
10															
11	**Non-Operating Budget Use of Revenues**														
12	Debt Service	344.1	339.0	2.9%	354.0	12.8%	399.4	2.6%	409.7	4.0%	426.0	4.0%	443.2	3.6%	459.3
13	PAYGO	30.0	30.0	13.5%	34.0	0.0%	34.0	0.0%	34.0	0.0%	34.0	0.0%	34.0	0.0%	34.0
14	CIP Current Revenue	49.4	54.9	16.6%	57.7	21.2%	69.9	2.0%	71.3	11.2%	79.3	-1.5%	78.1	0.0%	78.1
15	Change in Montgomery College Reserves	-7.6	-2.8	6.2%	-7.1	100.0%	0.0	n/a	0.0	n/a	0.0	n/a	0.0	n/a	0.0
16	Change in MNCPPC Reserves	-4.6	-5.0	33.0%	-3.1	102.9%	0.1	36.6%	0.1	6.3%	0.1	14.7%	0.2	-4.0%	0.1
17	Change in MCPS Reserves	-38.2	-6.2	13.1%	-33.2	100.0%	0.0	n/a	0.0	n/a	0.0	n/a	0.0	n/a	0.0
18	Change in MCG Special Fund Reserves	1.6	-3.8	-579.0%	-7.5	102.5%	0.2	-62.3%	0.0	43.1%	0.0	16.9%	0.1	-27.7%	0.0
19	Contribution to General Fund Undesignated Reserves	-92.2	-131.9	76.1%	-22.0	223.6%	27.2	-82.3%	4.8	43.1%	6.9	16.9%	6.1	-27.7%	5.8
20	Contribution to Revenue Stabilization Reserves	22.6	22.7	6.9%	24.2	4.7%	25.3	5.3%	26.7	5.6%	28.2	-47.3%	14.9	-39.2%	9.0
21	Retiree Health Insurance Pre-Funding	127.8	127.8	-15.2%	108.5	1.3%	109.9	-2.9%	106.7	-3.6%	102.7	-3.1%	99.5	-3.2%	96.3
22	Set Aside for other uses (supplemental appropriations)	0.1	0.0	1500.0%	2.0	900.0%	20.0	0.0%	20.0	0.0%	20.0	0.0%	20.0	0.0%	20.0
23	**Total Other Uses of Resources**	433.1	424.7	17.2%	507.5	35.2%	686.0	-1.9%	673.3	3.6%	697.3	0.1%	698.0	0.7%	702.7
24	**Available to Allocate to Agencies (Total Revenues+Net Transfers-Total Other Uses)**	**3,884.5**	**3,876.0**	**1.9%**	**3,957.8**	-2.1%	**3,872.9**	**4.3%**	**4,040.5**	**3.9%**	**4,196.4**	**3.3%**	**4,333.5**	**3.0%**	**4,465.6**
25															
26	**Agency Uses**														
27															
28	Montgomery County Public Schools (MCPS)	2,138.1	2,106.1	1.8%	2,176.5										
29	Montgomery College (MC)	244.5	238.3	3.1%	252.2										
30	MNCPPC (w/o Debt Service)	111.9	111.9	3.2%	115.6										
31	MCG	1,390.0	1,421.7	1.7%	1,413.4										
32	**Agency Uses**	**3,884.5**	**3,876.0**	**1.9%**	**3,957.8**	-2.1%	**3,872.9**	**4.3%**	**4,040.5**	**3.9%**	**4,196.4**	**3.3%**	**4,333.5**	**3.0%**	**4,465.6**
33	**Total Uses**	**4,317.6**	**4,300.7**	**3.4%**	**4,465.2**	2.1%	**4,558.8**	**3.4%**	**4,713.8**	**3.8%**	**4,893.6**	**2.8%**	**5,031.4**	**2.7%**	**5,168.3**
34	**(Gap)/Available**	**0.0**	**0.0**		**0.0**		**0.0**		**0.0**		**0.0**		**0.0**		**0.0**

Assumptions:

1. Property taxes are at the Charter Limit with a $692 credit. The Charter Limit is assumed in FY17-21.
2. May 2010 fuel/enerty tax revenue is reduded by 27 percent in FY15-21.
3. Total reserves are projected to be 10 percent by FY20 consistent with the County's adopted fiscal policy.
4. PAYGO, debt service, and current revenue reflect the Amended FY15-20 Capital Improvements Program.
5. State Aid, including MCPS and Montgomery College, is not projected to increase in FY17-21.

County Council Approved FY16-21 Public Services Program

Tax Supported Fiscal Plan Summary

($ in Millions)

		App. FY15	Est FY15	% Chg. FY15-16	App. FY16	% Chg. FY16-17	Projected FY17	% Chg. FY17-18	Projected FY18	% Chg. FY18-19	Projected FY19	% Chg. FY19-20	Projected FY20	% Chg. FY20-21	Projected FY21
35	**Beginning Reserves**														
36	**Unrestricted General Fund**	241.5	281.8	-38.0%	149.8	-14.7%	127.8	21.3%	155.0	3.1%	159.8	4.3%	166.7	4.8%	174.8
37	**Revenue Stabilization Fund**	207.2	208.0	11.3%	230.7	10.5%	254.9	9.9%	280.2	9.5%	306.9	9.2%	335.1	4.4%	349.9
38	**Total Reserves**	448.7	489.8	-15.2%	380.5	0.6%	382.7	13.7%	435.2	7.2%	466.7	7.5%	501.8	4.6%	524.7
39															
40	**Additions to Reserves**														
41	**Unrestricted General Fund**	-92.2	-131.9	76.1%	-22.0	223.6%	27.2	-82.3%	4.8	43.1%	6.9	16.9%	8.1	-27.7%	5.8
42	**Revenue Stabilization Fund**	22.6	22.7	6.9%	24.2	4.7%	25.3	5.3%	26.7	5.6%	28.2	-47.3%	14.9	-39.2%	9.0
43	**Total Change in Reserves**	-69.6	-109.2	103.1%	2.2	2334.3%	52.6	-40.1%	31.5	11.4%	35.1	-34.7%	22.9	-35.2%	14.8
44															
45	**Ending Reserves**														
46	**Unrestricted General Fund**	149.3	149.8	-14.4%	127.8	21.3%	155.0	3.1%	159.8	4.3%	166.7	4.8%	174.8	3.3%	180.6
47	**Revenue Stabilization Fund**	229.8	230.7	10.9%	254.9	9.9%	280.2	9.5%	306.9	9.2%	335.1	4.4%	349.9	2.6%	358.9
48	**Total Reserves**	379.1	380.5	0.9%	382.7	13.7%	435.2	7.2%	466.7	7.5%	501.8	4.6%	524.7	2.6%	539.5
49	**Reserves as a % of Adjusted Governmental Revenues**	8.4%	8.5%		8.2%		9.1%		9.5%		9.8%		10.0%		10.0%
50	**Other Reserves**														
51	**Montgomery College**	4.6	10.6	-23.2%	3.5	0.0%	3.5	0.0%	3.5	0.0%	3.5	0.0%	3.5	0.0%	3.5
52	**M-NCPPC**	4.1	7.3	3.3%	4.3	2.1%	4.3	2.8%	4.5	3.0%	4.6	3.3%	4.7	3.1%	4.9
53	**MCPS**	0.1	33.2	-100.0%	0.0	n/a	0.0	n/a	0.0	n/a	0.0	n/a	0.0	n/a	0.0
54	**MCG Special Funds**	0.6	8.4	42.4%	0.9	21.3%	1.1	3.1%	1.1	4.3%	1.1	4.8%	1.2	3.3%	1.2
55	**MCG + Agency Reserves as a % of Adjusted Govt Revenues**	8.6%	9.8%		8.4%		9.3%		9.7%		10.0%		10.2%		10.2%
56	**Retiree Health Insurance Pre-Funding**														
57	Montgomery County Public Schools (MCPS)	85.5	85.5		61.7		63.1		61.3		59.0		56.7		54.4
58	Montgomery College (MC)	2.0	2.0		1.4		1.5		1.6		1.6		1.5		1.6
59	MNCPPC	1.6	1.8		1.8		1.6		1.8		1.8		1.8		1.8
60	MCG	38.6	38.6		43.5		43.5		42.0		40.4		39.5		38.6
61	**Subtotal Retiree Health Insurance Pre-Funding**	127.8	127.8		106.5		109.9		106.7		102.7		99.5		96.3
62	**Adjusted Governmental Revenues**														
63	**Total Tax Supported Revenues**	4,274.3	4,256.4	3.9%	4,440.3	2.2%	4,537.4	3.4%	4,691.9	3.8%	4,871.1	2.8%	5,008.3	2.7%	5,144.5
64	**Capital Projects Fund**	123.4	123.4	0.2%	123.6	-12.4%	108.2	-7.7%	99.9	-2.2%	97.7	7.7%	105.2	0.0%	105.2
65	**Grants**	116.6	116.6	2.9%	120.1	2.2%	122.7	2.3%	125.6	2.5%	128.7	2.8%	132.3	3.1%	136.5
66	**Total Adjusted Governmental Revenues**	4,514.3	4,496.4	3.6%	4,684.0	1.8%	4,768.3	3.1%	4,917.3	3.7%	5,097.6	2.9%	5,245.9	2.7%	5,386.2

Resolution No: 17-312
Introduced: November 29, 2011
Adopted: November 29, 2011

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Government Operations and Fiscal Policy Committee

SUBJECT: Reserve and Selected Fiscal Policies

Background

1. Fiscal policy corresponds to the combined practices of government with respect to revenues, expenditures, debt management, and reserves.

2. Fiscal policies provide guidance for good public practice in the planning of expenditures, revenues, and funding arrangements for public services. They provide a framework within which budget, tax, and fee decisions should be made. Fiscal policies provide guidance toward a balance between program expenditure requirements and available sources of revenue to fund them.

3. As a best practice, governments must maintain adequate levels of fund balance to mitigate current and future risks (e.g., revenue shortfalls and unanticipated expenditures) and to ensure stable tax rates. Fund balance levels are a crucial consideration, too, in long-term financial planning. Credit rating agencies monitor levels of fund balance and unrestricted fund balance in a government's general fund to evaluate a government's continued creditworthiness.

4. In FY10, the County experienced an unprecedented $265 million decline in income tax revenues, and weathered extraordinary expenditure requirements associated with the H1N1 flu virus and successive and historic winter blizzards. The costs of these events totaled in excess of $60 million, only a portion of which was budgeted and planned for.

5. In a memorandum dated April 22, 2010, the County Executive recommended that the County Council restore reserves first to the current 6% policy level for FY11 and also revise and strengthen policy levels in order to more appropriately position the County to weather economic cycles in the future, and to achieve structural balance in future budgets.

6. The County's financial adviser recommended that the County strengthen its policy on reserves and other fiscal policies to ensure budget flexibility and structural stability, and provided specific recommendations, which are reflected below.

7. On June 29, 2010 the Council approved Resolution No. 16-1415, *Reserve and Selected Fiscal Policies.* This Resolution established a goal of achieving the Charter §310 maximum for the reserve in the General Fund of 5% of General Fund revenues in the preceding fiscal year, and of building up and maintaining the sum of Unrestricted General Fund Balance and Revenue Stabilization Fund Balance to 10% of Adjusted Governmental Revenues (AGR), as defined in the Revenue Stabilization Fund law.

8. The County's reserve policy should be further clarified and strengthened. This resolution replaces the reserve policy established in Resolution No. 16-1415.

Action

The County Council for Montgomery County, Maryland approves the following policies regarding reserve and selected fiscal matters:

1. *Structurally Balanced Budget*

   Montgomery County must have a goal of a structurally balanced budget. Budgeted expenditures should not exceed projected recurring revenues plus recurring net transfers in minus the mandatory contribution to the required reserve for that fiscal year. Recurring revenues should fund recurring expenses. No deficit may be planned or incurred.

2. *Use of One-Time Revenues*

   One-time revenues and revenues in excess of projections must be applied first to restoring reserves to policy levels or as required by law. If the County determines that reserves have been fully funded, then one-time revenues should be applied to non-recurring expenditures that are one-time in nature, PAYGO for the CIP in excess of the County's targeted goal, or unfunded liabilities. Priority consideration should be given to unfunded liabilities for retiree health benefits (OPEB) and pension benefits prefunding.

3. *PAYGO*

   The County should allocate to the CIP each fiscal year as PAYGO at least 10% of the amount of general obligation bonds planned for issue that year.

4. *Fiscal Plan*

   The County should adopt a fiscal plan that is structurally balanced, and that limits expenditures and other uses of resources to annually available revenues. The fiscal plan should also separately display reserves at policy levels, including additions to reserves to reach policy level goals.

5. *County Government Reserve*

(a) **County Government Reserve.** The County Government Reserve has three components. The components of the budgeted reserve at the end of the next fiscal year are:

(i) **Reserve in the General Fund.** The County's goal is that this reserve will be the maximum permitted by §310 of the Charter, which is 5% of revenues in the General Fund in the previous fiscal year;

(ii) **Reserve in the Revenue Stabilization Fund (RSF).** This budgeted reserve at the end of the next fiscal year is the reserve at the beginning of the year, plus interest on the fund balance, plus a mandatory transfer from the General Fund, as defined in the Revenue Stabilization Fund law, plus a discretionary transfer if the Council approves one. The actual amount of the mandatory transfer is calculated in accordance with §20-68 of the Montgomery County Code; and

(iii) **Reserve in the other tax supported funds in County Government.** The budgeted reserve at the end of the next fiscal year for the following funds – Fire, Mass Transit, Recreation, Urban District, Noise Abatement, Economic Development, and Debt Service – and any other tax supported County Government fund established after adoption of this resolution, should be the minimum reserve possible (as close as possible to zero, but not negative), since the Council sets the property tax rate to the nearest one tenth of 1¢.

(b) **Calculation of budgeted reserve as a percent of Adjusted Governmental Revenues.** The target reserve as a percent of Adjusted Governmental Revenues is the sum of the reserves in the General Fund and the Revenue Stabilization Fund divided by Adjusted Governmental Revenues, as defined in the Revenue Stabilization Fund law. The reserves in the other tax supported funds in County Government are not included in this calculation.

(c) **Budgeted reserve as a percent of Adjusted Governmental Revenues.** To reach the County's goal of 10% of AGR in 2020, the annual minimum target goals are:

FY13	6.4%
FY14	6.9%
FY15	7.4%
FY16	7.9%
FY17	8.4%
FY18	8.9%
FY19	9.4%
FY20 and after	10.0%

The Council may make a discretionary transfer each year from the General Fund to the Revenue Stabilization Fund, if necessary, to reach the target goal for each year. The 10% goal for FY20 and after must be reflected in the Revenue Stabilization Fund law.

6. *Reserves in other agencies*

The reserves for the Montgomery County Public Schools (MCPS), the Maryland-National Capital Park and Planning Commission (M-NCPPC), and Montgomery College (MC) are not included in the target reserves for County Government. The County's reserve policies for these agencies are:

(a) **MCPS.** The Council should not budget any reserve for the MCPS Current Fund.

(b) **M-NCPPC.** The reserve in the Park Fund should be approximately 4.0% of budgeted resources. The reserve in the Administration Fund should be approximately 3.0% of budgeted resources. The reserve in the Advance Land Acquisition Debt Service Fund should be the minimum reserve possible, since the Council sets the property tax rate to the nearest one tenth of 1¢.

(c) **Montgomery College.** The reserve in the Current Fund should be 3.0% - 5.0% of budgeted resources minus the annual contribution from the County. The target reserve in the Emergency Plant Maintenance and Repair Fund – as stated in Resolution No. 11-2292, approved by the Council on October 16, 1990 – "may accumulate up to $1,000,000 in unappropriated fund balance, such goal to be attained over a period of years, as fiscal conditions permit."

7. *Reports to Council*

The Executive must report to the Council:

(a) the prior year reserve and the current year reserve projection as part of the annual November/December fiscal plan update;
(b) current and projected reserve balance in the Executive's annual Recommended Operating Budget;
(c) any material changes expected to have a permanent impact on ending reserve fund balance; and
(d) current and projected reserve balances in any proposed mid-year savings plan.

This is a correct copy of Council action.

Linda M Lauer

Linda M. Lauer, Clerk of the Council

Information on the Wynne Case

The Wynne case *(Maryland State Comptroller of the Treasury v. Brian Wynne, et ux.)* stems from the Maryland tax code provision that allows a credit for income taxes paid to other states with respect to the state income tax, but not the county income tax. The Maryland Court of Appeals ruled on January 28, 2013 that "failure to allow a credit with respect to the county income tax for out-of-state income taxes paid to other states on 'pass-through' income earned in those states discriminates against interstate commerce and violates the Commerce Clause of the federal Constitution."[1] The Court stayed enforcement of its ruling pending resolution of the State's petition to the U.S. Supreme Court.

The Supreme Court granted *certiorari*. On May 18, 2015 the Court, by a vote of five to four, affirmed the Court of Appeals decision holding that Maryland's personal income tax scheme violates the Commerce Clause.[2]

Two actions taken by the Legislature are relevant. Last year, in the 2014 Budget Reconciliation and Financing Act (BRFA), the Legislature lowered the 13% statutory interest rate that would have applied to required refunds from past years to the average prime rate during FY15, or about 3%. Language in the 2015 BRFA provides that once the Comptroller has validated claims for refunds, payments for these refunds (plus interest) would initially be made from the State's Local Reserve Account (for county income tax revenue). Counties could then reimburse the Account directly, or the Comptroller could withhold the amount owed from the State's quarterly income tax distributions to counties in nine equal installments, starting in June 2016. This schedule would affect one distribution in FY16 and four each in FY17 and FY18. Note that income tax distributions for municipalities will also be affected.

The fiscal impact on County income tax revenue will not be clear until the Comptroller validates claims for refunds filed by County taxpayers and other potential legal issues are resolved. The estimates reflected in the Council's FY16-21 Fiscal Plan (June 2015) are for the following reductions in the March 2015 projection of County income tax revenue: $10 million in FY16, $55 million in FY17 and again in FY18, and $25 million in FY19-21. The numbers may be adjusted when further information from the Comptroller is available.

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[1] See http://mdcourts.gov/opinions/coa/2013/107a11.pdf for the Court of Appeals decision. Brian and Karen Wynne filed suit after the Comptroller ruled that they could not deduct from their Howard County tax bill the $84,550 they paid in income taxes to other states in 2006. The income stemmed from the Wynnes' ownership share in Maxim Healthcare Services, Inc., a Columbia company that does business nationwide.

[2] See http://www.scotusblog.com/case-files/cases/comptroller-v-wynne/ for a detailed history of the case. Also see http://www.scotusblog.com/2015/05/opinion-analysis-marylands-personal-income-tax-violates-the-commerce-clause/ for an analysis of the decision.

How the FY15 Gap Was Closed
$ in Millions
(Negative numbers increase the gap; positive numbers close the gap)

		$ millions
1	Gap as of December 2013	(166.131)
2		
3	Major resource changes since December:	
4	February revenue update	16.910
5	Fines, licenses, fees, and other misc. revenues	11.234
6	FY13 year-end closeout	40.202
7	FY14 spending -- supplemental appropriations	(2.687)
8	FY14 spending -- updated year-end estimate	(8.730)
9		
10	FY15 Agency Budget Requests:	
11	Montgomery County Public Schools	10.696
12	Montgomery College	(6.370)
13	MNCPPC	(4.711)
14	County Government	(1.042)
15		
16	Revised Gap	(110.629)
17		
18	Recommended Measures to Close the Gap	
19		
20	Change in available resources:	
21	Net Transfers	3.037
22		
23	Change in Agency Budget Requests:	
24	MCPS Local Contribution -- $26 million increase	25.731
25	College Local Contribution -- $11 million increase	7.854
26	5.2% operating budget increase for MNCPPC	2.455
27		
28	Change in Non-Agency spending:	
29	Retiree health insurance pre-funding	34.194
30	CIP PAYGO to 10% policy level	8.050
31	CIP Current Revenue	16.473
32	Debt service expenditures	12.250
33	Change to reserves	0.585
34		
35	Gap on March 17, 2014	0.000

The MCPS request was $51.7 million above Maintenance of Effort (MOE). The County Executive's recommended budget increases local funding by $26 million, which is $25.7 million less than the Board's request.

Montgomery College's request was $18.9 million above MOE. The County Executive's recommended budget increases local funding by $11 million, which is $7.9 million less than the Board's request.

MNCPPC requested an 8.5% increase to its operating budget.

How the FY16 Gap Was Closed
$ in Millions
(Negative numbers increase the gap; positive numbers close the gap)

		$ millions
1	Gap as of December 2014	(237.905)
2		
3	Major resource changes since December:	
4	February tax revenue update	(17.773)
5	Assumption on pending Wynne local income tax decision	109.450
6	Fines, licenses, fees, and other misc. revenues	35.475
7	FY14 year-end closeout	52.813
8	FY15 spending – supplemental appropriations	(2.501)
9	FY15 spending – updated year-end estimate	(4.797)
10	Change to reserves	(1.074)
11		
12	FY16 Agency Budget Requests:	
13	Montgomery County Public Schools	(77.466)
14	Montgomery College	(8.978)
15	MNCPPC	(6.802)
16	County Government	(15.729)
17		
18	Revised Gap	(175.288)
19		
20	Recommended Measures to Close the Gap	
21		
22	Change in Available Resources:	
23	Net Transfers	(12.482)
24	Parking District property tax shift	12.016
25		
26	Change in Agency Budget Requests:	
27	MCPS Local Contribution – $30.8 million increase	84.769
28	College Local Contribution – $3 million increase	12.075
29	1.5% operating budget increase for MNCPPC	4.800
30		
31	Change in Non-Agency spending:	
32	Retiree health insurance pre-funding	14.910
33	CIP Current Revenue	8.455
34	Debt service	30.795
35	Set Aside	20.000
36	Change to reserves	(0.050)
37		
38	Gap on March 16, 2015	0.000

The MCPS request was $84.769 million above Maintenance of Effort (MOE). The County Executive's recommended budget funds MCPS at the MOE level, which is an increase of $30.777 million, or 2.1 percent, in the local contribution from FY15.

Montgomery College's request was $15.075 million above MOE, or 12.8 percent. The County Executive's recommended budget increases local funding by $3 million, an increase of 2.6 percent from FY15.

MNCPPC requested a 5.5 percent increase to its operating budget.