

COUNCIL COMING ATTRACTIONS



August 2, 2016

911 System Interruption, Charter Amendments, Parental Leave, and Zoning Changes



Council Coming Attractions is a summary of some of the issues before the Council. All Council staff reports and additional information on each item scheduled for Council or Committee review can be viewed at: <http://www.montgomerycountymd.gov/council/packet/index.html>.

Also the Council meeting schedule may change from time to time. The current Council agenda can always be viewed at:

http://www.montgomerycountymd.gov/council/resources/files/agenda/col/current_agenda.pdf.

-  The Council Session is scheduled to begin at 10:15 a.m. with an interview of County Executive appointment, Amanda Harris, Service Area Chief of Special Needs Housing, DHHS.
-  General business is scheduled to begin at 10:30 a.m.

Council Highlights

911 System Interruption

The Council is scheduled to hold a briefing on the 911 system interruption that occurred on July 10 shortly after 11 p.m. The staff report will be available on Aug. 1.

The County's 911 system experienced an interruption in service at the County's Alternate Emergency Communications Center (AECC) located in Rockville. Residents who called 911 and 301-279-8000 received a busy signal instead of a standard call taker response during the service interruption that lasted approximately two hours (11:10 p.m. to 1:09 a.m.).

- During the service interruption, Fire & Rescue units responded to two medical emergency calls that involved fatalities—a 91-year-old woman from Olney and a 40-year-old man from Twinbrook.

- The AECC was activated for more than three weeks before the service interruption to enable hardware changes at the Emergency Communications Center (ECC) located in Gaithersburg. Using the AECC is standard operating procedure whenever an alternate location is necessary.
- During the two hours of interrupted service, alternative plans to receive and dispatch emergency calls were put into operation.
- Notification to the public was made through public safety social media and the County's Alert Montgomery system. The public was advised to make emergency calls to their local police and fire stations, with information provided as to the numbers to call.
- Early on in the investigation to determine the cause of the service interruption, it was reported that an internal equipment failure of an air conditioning system in the IT room at AECC caused the 911 system to shut down to prevent overheating. Additional system issues have been identified at AECC. An auditor's report is expected this fall.

Zoning Text Amendment 16-09, Commercial/Residential Zones – Location Signs

The Council is scheduled to introduce ZTA 16-09. Council President Floreen is the lead sponsor. A public hearing is scheduled for Sept. 20 at 1:30 p.m. The staff report can be viewed at: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125058. ZTA 16-09 would allow a location sign (a wall sign at least 26 feet from the ground) in Commercial/Residential Zones on each face of a building.

- Currently a building in a Commercial/Residential Zone may have one location sign for the building. In addition to being at least 26 feet above ground level and 10 feet from the corner of a building, a location sign must be located over an entrance to the building and may not be within 10 feet of the top of a building.
- ZTA 16-09 would give building owners the ability to place a sign on each building face for the major tenants in their buildings.
- Council President Floreen believes that this will provide an enticement for major tenants to rent space in County buildings.

Zoning Text Amendment 16-10, Transferable Development Rights Overlay Zone – Optional Method Standards

The Council is scheduled to introduce ZTA 16-10. Council President Floreen is the lead sponsor. A public hearing is scheduled for Sept. 20 at 1:30 p.m. The staff report can be viewed at: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125060. ZTA 16-10 would amend the optional method requirements for the Transferable Development Right (TDR) Overlay Zone by reducing the required common open space area.

- The 2014 Zoning Ordinance Rewrite redefined common open space to exclude private green space without appropriately adjusting the amount of space required for common open space. The Council corrected this problem, for the most part, by approving ZTA 15-09 on Dec. 1, 2015. That ZTA did not make the same adjustment to the TDR Overlay zone that it did to other zones. This amendment would correct that oversight.

Zoning Text Amendment 16-11, Rural and Residential Zones – Road Setbacks

The Council is scheduled to introduce ZTA 16-11. The PHED Committee is the lead sponsor. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125062.

- ZTA 16-11 would eliminate the zoning incentive for private roads by revising the requirements for setbacks from the road in rural and residential zones. Currently the setback required from a private road is much less than the setback required for a public road.
- ZTA 16-11 would make the required setback for public and private roads equal, if the reduced setback is approved through the site plan approval process.



Zoning Text Amendment 16-12, Building Permits

The Council is scheduled to introduce ZTA 16-12. The PHED Committee is the lead sponsor. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125064 .

ZTA 16-12 would delete building code requirements in the Zoning Code. The Subdivision Rewrite effort (Subdivision Regulation Amendment (SRA) 16-01) recognized building permit application regulations outside of the Code's building permit chapter (Chapter 8). The PHED Committee was persuaded that all building permit provisions should be in the building permit chapter of the Code.



Zoning Text Amendment 16-13, Conditional Use – Screening

The Council is scheduled to introduce ZTA 16-13. Council President Floreen is the lead sponsor, at the request of the Office of Zoning and Administrative Hearings. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125066 .

ZTA 16-13 would exempt single-family detached houses from most of the detailed screening standards for conditional uses, except for compatibility. The Hearing Examiner found that the detailed screening standards are never actually applied to applications for a conditional use with a detached house. In the opinion of the Hearing Examiner, it is misleading to the public to have statutory standards that are never appropriate to apply in a class of cases.

- The Planning Department routinely recommends common sense compatibility standards in applications concerning detached houses through the use of waivers or alternative compliance.



Zoning Text Amendment 16-14, Special Exception - Amendments

The Council is scheduled to introduce ZTA 16-14. Council President Floreen is the lead sponsor. A public hearing is scheduled for Sept. 20 at 1:30 p.m. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125068 .

ZTA 16-14 would clarify that a special exception approved under the prior Zoning Code may be expanded under the procedures and substantive provisions of the prior Zoning Code.

- The Hearing Examiner and the Board of Appeals are in need of a clarification of the Zoning Code's grandfathering provision. In the Hearing Examiner's opinion, all special exception expansions above 10 percent of the gross floor area or 30,000 square feet of floor area, require the development to proceed under the new Zoning Code (to the extent of the expansion above the grandfathered limits).
- The Board of Appeals believes that it must decide such expansions under the old Zoning Code unless the applicant chooses to proceed under the new Zoning Code.
- ZTA 16-14 would codify the Board of Appeal's understanding of the current Zoning Code and allow special exception expansions (submitted or approved before October 30, 2014) to proceed under the old Zoning Code.



Resolution to Revise Office of Zoning and Administrative Hearings' Filing Fee Schedule

The Council is scheduled to introduce a resolution to revise the filing fee schedule for the Office of Zoning and Administrative Hearings (OZAH). The lead sponsor is Council President Floreen at the request of OZAH. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125070 .

- The Hearing Examiner proposed a comprehensive fee schedule for conditional use applications for a cemetery; an office; a helistop; a mining/excavation operation; a self-storage facility; and a landfill/incinerator or a transfer station. Although these conditional uses are allowed by the Zoning Code, the fees for these applications were not listed in Council's previous resolutions that approved fees. There are no proposed changes to any other application fee.

-  **Bill 31-16, Taxation – Urban Agricultural Tax Credit – Established**
 The Council is scheduled to introduce Bill 31-16. Councilmember Hucker is the lead sponsor. A public hearing is scheduled for Sept. 20 at 1:30 p.m. The staff report can be viewed at: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125072.
 Bill 31-16 would establish an urban agricultural tax credit against real property tax; define an urban agricultural property and an urban agricultural purpose; and establish eligibility for an urban agricultural tax credit. A property owner must conduct at least two urban agricultural purposes on the property to be eligible for the credit, and the term of the credit would be five years. The credit would equal the property tax otherwise due on the property.

 - The bill would define an urban agricultural purpose as:
 - ✓ crop production activities, including the use of mulch or cover crops to ensure maximum productivity and minimize runoff and weed production;
 - ✓ environmental mitigation activities, including stormwater abatement and groundwater protection;
 - ✓ community development activities, including recreational activities, food donations, and food preparation and canning classes;
 - ✓ economic development activities, including employment and training opportunities, and direct sales to restaurants and institutions; and
 - ✓ temporary produce stands used for the sale of produce raised on the premises.

-  **Bill 32-16, Human Rights and Civil Liberties – Earned Sick and Safe Leave – Use of Earned Sick and Safe Leave – Parental Leave**
 The Council is scheduled to introduce Bill 32-16. Councilmember Hucker is the lead sponsor. Council Vice President Berliner and Councilmembers Katz and Navarro are cosponsors. A public hearing is scheduled for Sept. 20 at 1:30 p.m. The staff report can be viewed at: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125074.
 Bill 32-16 would add related purposes for which the use of sick and safe leave will be permitted. The bill would permit the use of sick and safe leave: for the birth of a child, or for the placement of a child with the employee for adoption or foster care; and to care for a newborn, newly adopted, or newly placed child within one year of birth, adoption or placement.

-  **Bill 33-16, Eating and Drinking Establishments – Food Allergen Awareness Training**
 The Council is scheduled to introduce Bill 33-16. Councilmember Riemer is the lead sponsor. A public hearing is scheduled for Sept. 20 at 1:30 p.m. The staff report can be viewed at: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125076.
 Bill 33-16 would require certain employees of eating and drinking establishments to complete a food allergen awareness training course and pass a test. The bill also would require the Department of Health and Human Services to provide a list of approved online and in person food allergen awareness training courses.
 A companion Board of Health regulation will be considered by the Council simultaneously with Bill 33-16.

-  **Expedited Bill 34-16, Streets and Roads – Design**
 The Council is scheduled to introduce Expedited Bill 34-16. The PHED Committee is the lead sponsor. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at: http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125080.
 Bill 34-16 would define certain terms in Chapter 49, establish a permit requirement for closing a private road, clarify provisions for permanent structures approved in a site plan and establish road design criteria. These changes are needed because of revisions proposed in Subdivision Regulation Amendment (SRA) 16-01 and provides better coordination with Planning Board approvals.

 Expedited Bill 35-16, Building Permits – Amendments

The Council is scheduled to introduce Expedited Bill 35-16. The PHED Committee is the lead sponsor. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at: http://montgomerycountymd.granicus.com/Viewer.php?view_id=136&event_id=4564&meta_id=125082.

Bill 35-16 is tied to the approval of Subdivision Regulation Amendment (SRA) 16-01 and Zoning Text Amendment (ZTA) 16-12. SRA 16-01 includes provisions for ownership units (previously called ownership lots). These ownership units may result in fire code violations, when there is a use certificate or a building on the parent lot. Bill 35-16 would require a permit when this situation occurs to avoid violations.

- SAR 16-01 will remove building permit provision in the Subdivision Code. Bill 35-16 will include the building permit provision deleted from that code.
- Bill 35-16 would also include the building permit provisions currently in Chapter 59, which will be deleted from Chapter 59 by ZTA 16-12.
- The intent of these amendments is to consolidate building permit provisions to one chapter of the County Code.

 Expedited Bill 36-16, Employee's Retirement System – Disability Retirement – Redetermination of Eligibility – Amendments

The Council is scheduled to introduce Expedited Bill 36-16. Council President Floreen is the lead sponsor, at the request of the County Executive. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/Viewer.php?view_id=136&event_id=4564&meta_id=125084.

Bill 36-16 would permit the County to non-competitively re-appoint a former County employee to the same position or a position of comparable status in the same Department if the individual's disability retirement benefits are discontinued due to a medical reexamination. The Bill would also permit the former disability retiree to become a member of the retirement plan in which the individual was enrolled when the individual left County service if the individual was vested at the time the individual left County service. These new provisions would only apply to a member who became disabled on or before July 1, 2016.

- The County Code requires the periodic medical reexamination of a disability retiree. The CAO is authorized to reduce or discontinue disability retirement benefits if the retiree is no longer medically qualified.
- Although a disabled retiree whose benefits are discontinued due to a medical reexamination can apply for an open County position, there is currently no provision permitting the CAO to non-competitively appoint the person to a merit position.

 Bill 37-16, Taxation – Development Impact Tax- – Transportation and Public School Improvements - Amendments

The Council is scheduled to introduce Bill 37-16. Council President Floreen is the lead sponsor, at the request of the Planning Board. A public hearing is scheduled for Sept. 13 at 7:30 p.m. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/Viewer.php?view_id=136&event_id=4564&meta_id=125086.

The County Code requires the Planning Board to submit a recommended Subdivision Staging Policy (SSP) to the Council that must include guidelines for the administration of laws and regulations which affect the adequacy and timing of public facilities needed to support growth and development.

- The Planning Board submitted a recommended 2016 SSP on July 27, 2016. The Planning Board recommended changes to the County law concerning the development impact tax for transportation and public school projects. Bill 37-16 would implement the Planning Board's recommended amendments to the impact tax laws. The Bill would:
 - ✓ modify the method of calculating the transportation and public school impact tax;
 - ✓ create new transportation tax districts associated with policy area categories;

- ✓ adjust the transportation impact tax for residential uses based on non-auto driver mode share (NADMS) associated with each tax district;
- ✓ adjust the transportation impact tax for non-residential uses based on vehicle miles of travel (VMT) associated with each tax district;
- ✓ authorize an adjustment to the transportation impact tax for providing parking below the minimum required under Chapter 59; and
- ✓ modify the public school impact tax payable for property located in a former enterprise zone.

 **Bill 26-16, Environmental Sustainability – Montgomery County Green Bank – Amendments**
The Council is scheduled to vote on Bill 26-16. The T&E Committee recommends enactment. Council President Floreen is the lead sponsor, at the request of the County Executive. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/Viewer.php?view_id=136&event_id=4564&meta_id=125088.

Bill 26-16 would clarify the effect of Green Bank designation on certain activities that may continue or mature after the designation expires. The bill would also revise the recommended composition of the Board of Directors.

- The Council enacted Bill 18-15 on June 30, 2015. The lead sponsor of the bill was Council Vice President Berliner. Bill 18-15 required the Executive to convene a Green Bank Work Group tasked with providing recommendations on implementing the legislation, including proposed legislative amendments, in a report to be submitted to the Executive and Council by June 30, 2016.

 **Expedited Bill 30-16, Streets and Roads – Amendments**

The Council is scheduled to vote on Bill 30-16. The T&E Committee recommends enactment. The lead sponsor is Council President Floreen, at the request of the County Executive. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/Viewer.php?view_id=136&event_id=4564&meta_id=125090.

Bill 30-16 would clarify that a person may not exercise control over or otherwise occupy the public right-of-way and define certain terms in Chapter 49, Streets and Roads.

- The County Code prohibits obstructions in the public right-of-way by persons who create the obstructions. This needs to be clarified to apply the prohibition on all structures, regardless of who creates them.
- The definitions of “road” and “sidewalk” is too narrow. Chapter 49 also would be clarified to explain that a sidewalk and other pedestrian paths are part of the road right-of-way.

 **Resolution to adopt Bill 33-16, Eating and Drinking Establishments – Food Allergen Awareness Training as a Board of Health Regulation**

The Council is scheduled to introduce a resolution to adopt Bill 33-16 as a Board of Health Regulation. Councilmember Riemer is the lead sponsor. A public hearing is scheduled for Sept. 20 at 1:30 p.m. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/Viewer.php?view_id=136&event_id=4564&meta_id=125078.

Bill 33-16, which will be introduced on Aug. 2, would require certain employees of eating and drinking establishments to complete a food allergen awareness training course and pass a test. The bill also would require the Department of Health and Human Services to provide a list of approved online and in person food allergen awareness training courses.

 **Proposed Charter Amendments**

The Council is scheduled to take action on the following resolutions: (1) to place proposed amendment to County Charter on November ballot and approve ballot language; and (2) to certify qualification of Charter Amendment petitions for November ballot. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/Viewer.php?view_id=136&event_id=4564&meta_id=125092.

At the July 19 worksession, Council directed staff to prepare a resolution to place three proposed amendments on the November ballot, including conditional ballot language for the proposed Charter amendments. As in past years, Council staff recommends that this resolution conditionally approve the ballot language for the only Charter amendment (that we know of) for which petitions are still being circulated, as well as the amendment that would clarify certain language in that proposed amendment. If this petition does not obtain sufficient signatures, this part of the resolution would not take effect.

- The amendments to be placed on the ballot are:
 - ✓ a Charter amendment recommended by the Charter Review Commission in its 2016 report, which would allow the Council to provide by law that a vacancy in the office of County Executive would be filled by a special election;
 - ✓ the only Charter amendment (that we know of) for which petitions are still being circulated – Robin Ficker’s petition to prohibit Councilmembers and the County Executive from serving more than three consecutive terms of office; and
 - ✓ a Charter amendment that would clarify the meaning of “partial service of a full term.”
- A second resolution is also included for Council action, which qualifies the amendment to the County Charter proposed by petition to appear on the ballot. It includes a finding that the proposed amendment will have met all requirements of State law, and thus qualify for inclusion on the 2016 general election ballot, *if* the County Board of Elections finds that a sufficient number of valid petition signatures have been submitted, and the petition otherwise appears to have satisfied all requirements of law.
- Including this potential amendment in the first resolution, and adopting the second resolution, will let the Council avoid a session, tentatively scheduled for August 9, to approve ballot language for petitioned amendments. *In that case, the August 9 session will only be necessary if any other petition with sufficient signatures is filed by the State law deadline of August 8.*



Special appropriation to the County Government’s FY17 Operating Budget, Office of County Executive – \$75,000 for Strategic Plan to Achieve Food Security

The Council is scheduled to have a public hearing and vote on this special appropriation. The HHS Committee recommends approval. This special appropriation will be funded by General Fund reserves. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125108 .

On July 12, the Council enacted Bill 19-16, Health and Sanitation Strategic Plan to Achieve Food Security. Council Vice President Berliner was the lead sponsor. All other Councilmembers were cosponsors. The HHS and GO Committees recommend approval of \$75,000 to provide consultant assistance to complete a Strategic Plan to Achieve Food Security as required by law. The County’s Chief Innovation Officer will lead this planning effort, which must be completed by Dec. 1, 2016.



Supplemental appropriation to the County Government’s FY17 Operating Budget, DHHS, \$163,609, and Circuit Court – \$29,952, to establish a Mental Health Court

The Council is scheduled to have a public hearing and vote on this supplemental appropriation, which would be funded by General Fund undesignated reserves. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125110 .

The Executive has recommended a supplemental appropriation to HHS and the Circuit Court to implement a Mental Health Court in the County. The HHS and PS Committees have jointly discussed the ongoing planning and the proposal for a Mental Health Court during budget worksessions.

- The HHS and PS Committee chairs agree that there is no need for a joint committee meeting to review this supplemental. An update to the joint HHS/PS Committee on the

implementation of the Mental Health Court has tentatively been scheduled for Oct. 10 at 9:30 a.m.

- The Office of Problem Solving Courts is providing \$97,000 in grant funding to the District Court that will cover costs associated with court coordination and other services.

 Supplemental appropriation to the County Government's FY17 Operating Budget, DHHS - \$300,000 for Positive Youth Development Program and Resolution to amend Resolution 18-506, Section G for the FY17 Designation of Entities for Non-Competitive Award Status: Identity Inc. and Latin American Youth Center

The Council is scheduled to have a public hearing and vote on this supplemental appropriation and amendment to the non-competitive grants list. The joint PS/HHS Committee recommendation will be available on Aug. 1. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125112 .

- Identity, Inc. would receive \$100,000 to hire an additional case manager, enhance literacy and GED instruction for at-risk youth and establish relocation resources for youth in imminent danger of gang violence.
- The Latin American Youth Center, Inc. (LAYC) would receive \$200,000 to enhance Conservation Corps programming and Parents as Leaders programming and fund operational expenditures related to GED instruction, case management, post-secondary access, internships, and leadership opportunities. LAYC will match this amount through private fundraising.
- This funding would be allocated from the General Fund's undesignated reserves and is consistent with the fund balance policy for tax supported reserves.

 Resolution Concerning City of Gaithersburg Annexation Petition: Johnson Property at 12201, 12251, 12301 and 12311 Darnestown Road

The Council is scheduled to vote on this annexation petition. The PHED Committee recommends approval. The staff report can be viewed at:

http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=136&event_id=4564&meta_id=125116 .

The property that is the subject of this annexation is owned by the Johnson Family Enterprises, LLC and Three Amigos Real Estate, LLC, which is located at 12201, 12251, 12301, and 12311 Darnestown Road (MD Route 28) and along a portion of the Quince Orchard Road (MD Route 124) right-of-way in Gaithersburg. The subject property is within the Quince Orchard District of the 2010 Great Seneca Science Corridor Master Plan. It consists of approximately 23.45 acres on four separate and adjoining parcels plus a portion of the abutting right-of-way of Quince Orchard Road (MD 124).