
PRESENT

Councilmember Hans Riemer, President  Councilmember Nancy Navarro, Vice President  
Councilmember Roger Berliner  Councilmember Marc Elrich  
Councilmember Nancy Floreen  Councilmember Tom Hucker  
Councilmember Sidney Katz  Councilmember George Leventhal  
Councilmember Craig Rice

The President in the Chair.

The Council held a moment of silence.

PRESENTATIONS

A. The proclamation was presented by Mr. Katz recognizing Montgomery County Interagency Cyber Security Month Program.

(1) GENERAL BUSINESS

A. Announcements - Agenda and Calendar Changes

Ms. Limarzi, Clerk of the Council, announced that the Council is seeking applicants for the Board of Appeals. This position can only be filled by a Republican, a voter who is unaffiliated with a party, or a voter who is a member of another party officially recognized by the Board of Elections. The application deadline is October 10, 2018 at 5 P.M.
(2) B. **Acknowledgement - Receipt of Petitions**

Acknowledged receipt of petitions from residents of the Highland View community of Silver Spring supporting additional police presence, security cameras and flood lighting in neighborhood and Highland View Elementary School; from residents of Montgomery County supporting the expansion of Ride On Bus #4 service between the Silver Spring Metro and Kensington for the National Park Seminary community; and from “Neighbors for Informed Community Engagement” supporting repaving of Greentree Road from Seven Locks Road to the maintenance facility of Bethesda Country Club.

C. **Approved** the minutes of September 11 and 18, 2018.

(3) **CONSENT CALENDAR**

Approved the following consent calendar items listed below. Mr. Rice made the motion, which carried unanimously.

A. **Received and Released** Office of Legislative Oversight (OLO) Report 2018-10: Evictions in Montgomery County. A PHED/PS Committee worksession is tentatively scheduled for November 15, 2018.

B. **Adopted Resolution 18-1243**, Executive Regulation 8-18, Adoption Schedule of Fees for Fire Safety Code Permits;  
   *(Ms. Floreen voted in the negative on this item.)*

C. **Adopted Resolution 18-1244**, confirming the County Executive’s appointments to the Alcohol and other Drug Abuse Advisory Council: Tami Mark, Kabir Singh, Evelyn Saim-Lobos, Margaret Mattson, Andrew Darby, Cynthia Wright;

D. **Adopted Resolution 18-1245**, confirming the County Executive’s appointment to the Bethesda Urban Partnership, Inc. Board of Directors: Deborah Michaels;

E. **Adopted Resolution 18-1246**, confirming the County Executive’s appointments to the Citizens Review Panel for Children: Deanna McCray-James, Stacey McNeely, Sarah Stanton, Lawrence Washington;

F. **Adopted Resolution 18-1247**, confirming the County Executive’s appointment to the Domestic Violence Coordinating Council: Ingrid Gonzalez;
G. Adopted Resolution 18-1248, confirming the County Executive’s appointments to the Early Childhood Coordinating Council: Mary Manning-Falzarano, Robin Chernoff, Carrie Meyer, Liran Laor;

H. Adopted Resolution 18-1249, confirming the County Executive’s appointment to the Friendship Heights Transportation Management District Advisory Committee: Elizabeth Demetra Harris;

I. Adopted Resolution 18-1250, confirming the County Executive’s appointments to the Mid-County Citizens Advisory Board: Mensanvi (Mensah) Richard Adjogah, Lynda Brooks, Michael Gelman, Adam Lustig, Donald Mewha, Crystal Myers, Susanna Parker, Peter Wilson;

J. Adopted Resolution 18-1251, confirming the County Executive’s appointments to the Silver Spring Transportation Management District Advisory Committee: G. Michael Price, Christopher Kabatt, Harriett Quinn, James Perry;

K. Adopted Resolution 18-1252, confirming the County Executive’s appointments to the Silver Spring Urban District Advisory Committee: Thomas Kaufman, Juanita Stewart, Gus LeGrand, Michael Larson;

L. Adopted Resolution 18-1253, confirming the County Executive’s appointments to the Victim Services Advisory Board: Kecia Lopes, Iraina Briganty, Leah Schwartz, Beth Shuman, Robin Stimson, April Marrone;

M. Adopted Resolution 18-1254, confirming the County Executive’s appointments to the Water Quality Advisory Group: Crystal Calarusse, Michael Carmel, Michael McAvey, Pamela Rathbone, Monika Shepard;

N. Adopted Resolution 18-1255, approving categorical transfers of $1,600,000 for the Montgomery County Public School’s (MCPS) FY18 Operating Budget, and categorical transfers of $750,000 for FY18 Grant Funds in the Provision for Future Supported Projects;

O. Introduced a resolution to approve Declaration of No Further Need: Disposition of land adjacent to 5920 Massachusetts Avenue in Bethesda. A public hearing is tentatively scheduled for October 23, 2018 at 1:30 pm.

P. Introduced a resolution to approve a Memorandum of Understanding with the City of Gaithersburg regarding transportation improvements eligible for funding with Development Impact Tax for Transportation Improvements revenue collected in Gaithersburg. A Transportation, Infrastructure, Energy and Environment (T&E) Committee worksession is tentatively scheduled for October 11, 2018.
(4) **Introduction of Bills:**

A. **Bill 33-18**, Environmental Sustainability - Commercial Property Assessed Clean Energy Program - Property Tax Surcharge

Introduced draft #2 of **Bill 33-18**, sponsored by Councilmembers Berliner, Katz and Elrich. A public hearing is scheduled for October 23, 2018, at 1:30 P.M.

Councilmembers Riemer, Hucker, Navarro and Rice requested to be added as co-sponsors of the bill.

B. **Bill 34-18**, Human Rights and Civil Liberties - County Minimum Wage - Definitions - Employer

Introduced draft #2 of **Bill 34-18**, sponsored by Councilmembers Riemer and Hucker. A public hearing is scheduled for October 23, 2018, at 1:30 P.M.

C. **Bill 35-18**, Health and Sanitation - Smoking - Outdoor Serving Areas

Introduced draft #1 of **Bill 35-18**, sponsored by Councilmembers Katz, Riemer, Elrich and Rice. A public hearing is scheduled for October 23, 2018, at 1:30 P.M.

(4.5) **Miscellaneous Business:**

A. **Action** - Resolution to extend expiration date until June 30, 2019 for **Bill 10-17**, Recordation Tax - Rates - Amendments


Mr. Rice made the motion, which carried unanimously.
(5) **Call of Bills for Final Reading:**

A. **Bill 6-18, Contracts - Labor Peace Agreements - Displaced Service Workers - Amendments**  
   *GO Committee recommends enactment with amendments.*

   Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, reviewed the Committee’s recommendation, as contained in the analyst packet.

   Mr. Leventhal requested Council staff to provide language for an amendment to the bill that ensures that increases to the contract price would be used toward employee wage increases; and to establish criteria regarding potential adverse consequences for requiring a labor peace agreement in certain contracts.

   Mr. Riemer indicated that action on Bill 6-18 would be postponed to allow time for staff to draft additional language and to address Councilmembers’ concerns. Action is tentatively scheduled for October 16, 2018.

B. **Bill 28-18, Boards, Committees, and Commissions - Amendments**  
   *GO Committee recommends enactment.*

   Ms. Navarro reviewed the recommendation of the GO Committee, as contained in the analyst packet.

   Enacted draft #1 of Bill 28-18, as introduced.

   The GO Committee made the motion and the bill was enacted by a roll call vote:

   **YEAS:** Elrich, Hucker, Rice, Berliner, Leventhal, Floreen, Katz, Navarro Riemer.

C. **Bill 23-18, Fire Safety - Carbon Monoxide Alarm**  
   *PS Committee recommends enactment with amendments.*

   Mr. Rice, Lead Sponsor of the bill, reviewed the purpose of the bill and the recommendation of the Public Safety (PS) Committee, as contained in the analyst packet.

   Enacted draft #4 of Bill 23-18, as shown at the end of these minutes.

   The PS Committee made the motion and the bill was enacted by a roll call vote:

D. **Expedited Bill 27-18**, Taxation- Development Impact Tax for Transportation Improvements - Refunds - Credits - Amendments

*GO Committee recommends enactment.*

Ms. Navarro reviewed the GO Committee’s recommendation, as contained in the analyst packet.

Enacted draft #3 of **Expedited Bill 27-18**, as introduced.

The GO Committee made the motion and the expedited bill was enacted by a roll call vote:


(6) **BOARD OF HEALTH:**

A. **Introduced** a resolution to adopt **Bill 35-18**, Health and Sanitation - Smoking - Outdoor Serving Areas as a Board of Health Regulation. A public hearing is scheduled for October 23, 2018.

(7) **ACTION** - **Resolution to approve 2017-2026 Ten-Year Comprehensive Water Supply and Sewerage Systems Plan**

Mr. Reimer reminded Councilmembers that a straw vote on the T&E Committee and Council staff recommendations related to Water and Sewer Plan criteria for addressing existing and anticipated onsite system failures within special service areas, the last remaining issue, had been taken at the end of the worksession on September 11, 2018. At that time all Councilmembers had been in support of the recommendations, as contained in the analyst packet, except for Mr. Leventhal who was opposed.

Mr. Levchenko, Senior Legislative Analyst, reviewed Council staff recommendations to approve the Plan with the text changes to the Executive’s March 2017 Water and Sewer Plan Update presented in Resolution Attachments A and B; and to revise the years in the title of the Plan, as contained in the analyst packet. Noted that Council staff had worked with Executive staff to finalize the language to implement the policy recommendations preliminarily supported at earlier Council worksessions and to clarify text to address concerns raised in comments from Councilmembers and testimony received from the public.
Adopted Resolution 18-1257, including Council staff recommendations, as contained in the analyst packet, to approve the Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2018-2027.

Mr. Hucker made the motion, which carried by a vote of 8 to 1. Mr. Leventhal was opposed.

(8) DISTRICT COUNCIL SESSION

Ms. Floreen, Chair of the PHED Committee, reviewed the Committee recommendations, as contained in the analyst packet, for the following three Zoning Text Amendments (ZTAs):

A. **ZTA 18-08, Site Plan Amendment - Solar Collection Systems**

   Enacted **Ordinance 18-48**, approving ZTA 18-08. The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

   **YEAS:** Elrich, Hucker, Rice, Berliner, Leventhal, Floreen, Katz, Navarro, Riemer.

B. **ZTA 18-09, Landscape Contractors - Rural Cluster Zone**

   Enacted **Ordinance 18-49**, approving ZTA 18-09. The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

   **YEAS:** Elrich, Hucker, Rice, Berliner, Leventhal, Floreen, Katz, Navarro, Riemer.

C. **ZTA 18-10, Townhouse Living - Accessibility Tax Credit**

   Enacted **Ordinance 18-50**, approving ZTA 18-10. The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

   **YEAS:** Elrich, Hucker, Rice, Berliner, Leventhal, Floreen, Katz, Navarro, Riemer.
D. **ZTA 18-03, Farm Alcohol Production - Standards**

Participating in the discussion were Mr. Criss, Director, Office of Agriculture; Mr. Atticks, Executive Director, Brewers Association of Maryland; and Mr. Zyontz, Senior Legislative Analyst.

Mr. Zyontz reviewed the PHED Committee and Mr. Riemer’s recommendations, as contained in the analyst packet.

Agreed, without objection, to support the motion by Mr. Rice to accept Mr. Riemer’s revised amendment as follows:

**Section [3.2.11]** 3.2.10. Accessory Agricultural Uses

* * *

B.2.a.ix.

Weddings, corporate retreats, and other events accessory to the production of alcohol are allowed:

(a) Except as allowed under subsection (c), the maximum number of participants at any event is 225. There is no limit on the number of events with 100 participants or fewer. The total maximum number of days of events in a calendar year is 50 for events with more than 100 participants.

(b) A written log of all events must be kept by the holder of the alcohol production license. That log must be available for inspection by the Department of Permitting Services.

(c) As a conditional use under 7.3.1., the Hearing Examiner may approve additional days of large public events and events with greater numbers of participants for either normal and customary events or other accessory events.

Agreed, without objection, to support the motion by Mr. Rice to accept Mr. Riemer’s amendment regarding ingredients under 2. Use Standards:

iii. Wineries and cideries must have at least 5 acres of fruit used in alcohol production grown on site or on abutting or confronting property rented by the producer, and:

(a) have at least 20 acres of grapes or other fruit in cultivation on property they own, rent, or control; or

(b) source a majority of their grapes or other fruit from Maryland.

iv. Breweries and distilleries must source a majority of their ingredients, if available at competitive prices, from Regionally-
Grown Products. At least 1.0 acre of ingredients must be grown on site for use in the alcohol production process.

v. A plan with a schedule to increase the use of local Montgomery County agricultural products in the production process must be submitted to the Department of Permitting Services.

Supported Mr. Rice’s motion to accept Mr. Riemer’s amendment on site sizes and Mr. Leventhal’s substitute amendment, which was accepted by the maker of the motion, to grandfather in an existing brewery:

xv. In the AR zone, except for sites where the property owner obtained a Maryland alcohol producer’s license before October 2, 2018, the minimum site area for breweries and distilleries is 25 acres.

Supported, without objection, Mr. Rice’s motion to accept Mr. Riemer’s amendment regarding events as follows:

[[ly]]viii. Events and activities that are normal and customary to the regular operations of a winery, cidery, brewery, and distillery, including membership-related events and traditional festivals related to agriculture or the business of alcohol production, are allowed without a limitation on the number of guests. A maximum of 5 days of events that require an entrance ticket or a cover charge is allowed each calendar year.

Supported Mr. Berliner’s motion to add language regarding setback and Ms. Floreen’s suggested revised language, which was accepted by the maker of the motion, as follows:

Any new building or surface parking area used for Farm Alcohol Production and related events must be located at least 100 feet from an existing dwelling unit on an abutting property.

Enacted Ordinance 18-51, as amended, approving ZTA 18-03. The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:


The Council recessed at 12:43 P.M. and reconvened at 1:48 P.M.
(9) **PUBLIC HEARING/ACTION** - Amendment to the FY19-24 Capital Improvements Program (CIP) - Goldsboro Road Sidewalk and Bikeway

The public hearing was held and the record closed. Mr. Berliner and Ms. Floreen were temporarily absent.

Adopted Resolution 18-1258, approving the CIP amendment for the Goldsboro Road Sidewalk and Bikeway. Mr. Rice made the motion, which carried without objection. Mr. Berliner and Ms. Floreen were temporarily absent. Later in the meeting, Ms. Floreen stated that had she been present, she would have voted in the affirmative.

(10) **PUBLIC HEARING** - Special appropriation to the County Government’s FY19 Operating Budget, Department of Health and Human Services (DHHS) - $70,799 for Behavioral Health and Crisis Services for Adult Drug Court

The public hearing was conducted. Mr. Berliner and Ms. Floreen were temporarily absent. Additional material for the Council’s consideration should be submitted by the close of business on October 10, 2018. A Health and Human Services/Public Safety (HHS/PS) Committee worksession is tentatively scheduled for October 15, 2018.

(11) **PUBLIC HEARING** - FY20 Washington Suburban Sanitary Commission (WSSC) Spending Control Limits

The public hearing was conducted. Mr. Berliner and Ms. Floreen were temporarily absent. Additional material for the Council’s consideration should be submitted by the close of business on October 8, 2018. A T&E Committee worksession is tentatively scheduled for October 11, 2018.

(12) **PUBLIC HEARING** - Amendments to Ten-Year Comprehensive Water Supply and Sewerage Systems Plan: water and sewer category changes

The public hearing was conducted. Mr. Berliner was temporarily absent. Additional material for the Council’s consideration should be submitted by the close of business on October 18, 2018. A T&E Committee worksession is tentatively scheduled for October 23, 2018.

(13) **PUBLIC HEARING** - Supplemental appropriation to the County Government’s FY19 Operating Budget, Circuit Court - $200,000 for Maryland Electronic Courts (MDEC) Data Migration and Testing

The public hearing was conducted. Mr. Berliner was temporarily absent. Additional material for the Council’s consideration should be submitted by the close of business on October 2, 2018. A PS Committee worksession is tentatively scheduled for October 4, 2018.
(14) **PUBLIC HEARING/ACTION** - Expedited Bill 29-18, Bond Authorization

The public hearing was held and the record closed. Mr. Berliner was temporarily absent.

Enacted draft #1 of *Expedited Bill 29-18*, as introduced.

Mr. Rice made the motion and the expedited bill was enacted by a roll call vote:

**YEAS:** Elrich, Hucker, Rice, Leventhal, Floreen, Katz, Navarro, Riemer

**ABSENT:** Berliner (temporarily).

(15) **ACTION** - Resolution to consolidate previously authorized notes for sale and issuance as a single issue

Adopted *Resolution 18-1259*, approving consolidation of previously authorized notes for sale and issuance as a single issue. Mr. Rice made the motion, which carried without objection. Mr. Berliner was temporarily absent.

**Motion to Close**

The Council adjourned the open session at 2:30 P.M., and reconvened in closed session at 2:32 P.M.

**Report of Closed Session of October 2, 2018**

In compliance with Section 3-306(c)(2), General Provisions Article, Maryland Code, the following is a report of the County Council’s closed session of Tuesday, October 2, 2018. The Council convened in closed session at 2:32 P.M. in the 3rd floor Council Conference Room to consider matters that concern the proposal for two businesses or industrial organizations to locate, expand, or remain in the State, pursuant to Maryland Code, General Provisions Article §3-305 (b)(4). Topic is retention and expansion of certain businesses in the County.

The meeting was closed on a motion by Mr. Katz, which carried without objection. Mr. Berliner was temporarily absent. The following persons were present: Councilmembers Leventhal, Floreen, Berliner, Elrich, Katz, Hucker, Navarro, Rice and Riemer; Confidential Aides Vitale, Jablow, Mandel-Trupp, Gibson, Goldstein, Silverman and Wilson; Mr. Smith, Legislative Analyst; Ms. Michaelson, Council Executive Director; Dr. Orlin, Deputy Director; Mr. Drummer, Senior Legislative Attorney; Ms. Nunez, Aide to Councilmember Hucker; Ms. Benjamin and Ms. Metz, Office of the County Executive; Mr. McGinnity, Mr. Hagedoorn and Ms. Boyer, Department of Finance; Ms. Miller and Ms. Benzion, Montgomery County Economic Development Corporation; Ms. Limarzi, Clerk; and Ms. Brown, Deputy Clerk.

**Action:** None.
This is a correct copy of Council action.

Approved/Signed by the Clerk

Megan Davey Limarzi, Esq.
Clerk of the Council
AN ACT to:

(1) require the owners of certain dwelling units to install and maintain a carbon monoxide alarm or detector; and

(2) generally amend County [[fire safety]] laws related to housing and building maintenance standards.

By adding

Montgomery County Code
Section [[22-99]] 26-8A

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*The County Council for Montgomery County, Maryland approves the following Act*
Sec. 1. Section [[22-99]] 26-8A is added as follows:

[[22-99]] 26-8A, Carbon monoxide alarm or detector required.

(a) **Applicability.** The provisions of this Section apply to any occupied single-unit, two-unit, and townhouse unit, as defined in Chapter 59, for which a building permit was issued before January 1, 2008.

(b) **Required.**

1. The owner of each occupied single-unit, two-unit, and townhouse dwelling unit containing a fuel burning appliance or attached garage must install [[a]] carbon monoxide [[alarm in a central location outside of each sleeping area within a dwelling containing a fuel burning appliance]] detection and warning equipment.

2. Carbon monoxide alarms or detectors must be installed as follows:

   (A) outside of each separate dwelling unit sleeping area and in the immediate vicinity of the bedrooms; and
   
   (B) on every occupiable level of a dwelling unit, including basements, excluding attics and crawl spaces.

3. A carbon monoxide alarm or detector must:

   (A) [[comply with Underwriters Laboratories standard 2034]] be located on the wall, ceiling, or other location as specified in the manufacturer’s published instructions that accompany the unit; and
   
   (B) be installed and maintained under NFPA 720 [[and the manufacturer’s instructions]].

[[b]] (c) **Equipment.**

1. **Single station carbon monoxide alarms.**

   (A) A single station carbon monoxide alarm must be battery operated or must receive its primary power from the building wiring system.
   
   (B) A plug-in device may satisfy this requirement if it is securely fastened to the structure and installed as directed by the manufacturer’s installation instructions.
   
   (C) A hard wired or plug-in carbon monoxide alarm must be equipped with battery back-up.

2. **Combination smoke detector/carbon monoxide alarms.**

   (A) A carbon monoxide alarm may be combined with a smoke detector if the device complies with this Section, Section 22-96, and applicable State law.
   
   (B) A combination smoke detector/carbon monoxide alarm must receive its primary power from the building wiring when that wiring is served from a commercial source, and when primary power is interrupted, must receive power from a battery.
   
   (C) A combination smoke detector/carbon monoxide alarm must have permanent wiring. The only disconnecting switch allowed is that which is required for over-current protection. Smoke alarm features of a combination smoke detector/carbon monoxide alarm must be interconnected.

[[c]] (d) **Exceptions.** A dwelling unit that does not itself contain a fuel-burning appliance or have an attached garage, but is located in a building with a fuel-
burning appliance or an attached garage, does not need to be equipped with a carbon monoxide alarm if:

1. the sleeping unit or dwelling unit is located more than one story above or below any story which contains a fuel-burning appliance or attached garage;

2. the sleeping unit or dwelling unit is not connected by ductwork or ventilation shafts to any room containing a fuel-burning appliance or to an attached garage; and

3. the building is equipped with a common area carbon monoxide alarm system, which includes carbon monoxide detectors and audible notification appliances, installed and maintained in a manner that satisfies this Section and NFPA 720.

[(d)] (e) Orders to install; penalty.

1. If the State Fire Marshal or local investigating authority finds that a dwelling unit does not have a carbon monoxide detector as required under this Section, the State Fire Marshal or local investigating authority must order the owner to install a carbon monoxide alarm or detector within 15 days of the date of the order under Section 26-12.

2. Notwithstanding Section [22-22] 26-16, a violation of this Section is a Class C violation.

Sec. 2. Effective Date.

Section [22-99] 26-8A, as added by Section 1 of this Act, takes effect on July 1, 2019.