



## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

**APPROVED**

Tuesday, November 13, 2018

The County Council for Montgomery County, Maryland convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 9:50 A.M. on Tuesday, November 13, 2018.

### PRESENT

Councilmember Hans Riemer, President  
Councilmember Roger Berliner  
Councilmember Nancy Floreen  
Councilmember Sidney Katz

Councilmember Nancy Navarro, Vice President  
Councilmember Marc Elrich  
Councilmember Tom Hucker  
Councilmember George Leventhal  
Councilmember Craig Rice

The President in the Chair.

The invocation was given by Reverend Douglas Bratt, Silver Spring Christian Church.

### PRESENTATIONS

- A. The proclamation was presented by Mr. Riemer recognizing the 40<sup>th</sup> Anniversary of the Commission on People with Disabilities.
- B. The proclamation was presented by Mr. Riemer recognizing the Jewish Social Service Agency for being named best employment program for people with disabilities in the state.

### (1) GENERAL BUSINESS

- A. **Announcements** - Agenda and Calendar Changes

Mr. Riemer announced the delay of Item 10, discussion of Compensation Cost Trends, due to power malfunctions.

- B. **Acknowledgement** - [Receipt of Petitions](#)

Acknowledged receipt of a petition from National Integrated Health Associates opposing Zoning Text Amendment (ZTA) 18-11, Telecommunications Towers - Approval Standards.

C. **Approved** the minutes of October 23, 2018, without objection.

(2) **CONSENT CALENDAR**

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

- A. Adopted **Resolution 18-1278**, approving the sale of economic development bonds for the McLean School.
- B. Adopted **Resolution 18-1279**, approving a Special Appropriation to the County Government's FY19 Operating Budget - Nondepartmental Account - \$95,600 for Legislative Branch Communications Outreach.
- C. Adopted **Resolution 18-1280**, approving an amendment to the FY19-24 Capital Improvements Program (CIP) and Special Appropriation to the County Government's FY19 Capital Budget, Department of Recreation - \$700,000 for Manna Food Center, Inc. and Sunflower Bakery, Inc.; and Resolution to amend Resolution 18-1144, Section G, FY19 Designation of Entities for Non-Competitive Award Status: Manna Food Center, Inc. and Sunflower Bakery, Inc.
- D. Adopted **Resolution 18-1281**, confirming the County Executive appointment to the Alcohol and Other Drug Abuse Advisory Council: Dawinder (Dave) Sidhu.
- E. Adopted **Resolution 18-1282**, confirming the County Executive appointments to the Commission on Children and Youth: Stephanie Clark, Joseph Hooks, Alana Aronin, Cecily Darden-Adams, Eric Rossen, Pamela Taylor, Itamar Fiorino, Victoria Koretsky, Talia Nesin, Ashley Thommana.
- F. Adopted **Resolution 18-1283**, confirming the County Executive appointment to the Commission on Common Ownership Communities: Donald Perper.
- G. Adopted **Resolution 18-1284**, confirming the County Executive appointments to the Firearm Safety Committee: Cherie Aker, Kathleen O'Connor, Anthony Shore, Hans Varmer.
- H. Adopted **Resolution 18-1285**, confirming the County Executive appointment to the Mid-County Citizens Advisory Board: Ursula Wright.

- I. Adopted **Resolution 18-1286**, confirming the County Executive appointments to the Advisory Board for Montgomery Cares Program: Julia Doherty, Yuchi Huang, Peter Lowet, Lynda Honberg, Stephen Gammarino, D. Maria Rice, Wayne Swann.
- J. Adopted **Resolution 18-1287**, confirming the County Executive appointment to the Silver Spring Transportation Management District Advisory Committee: Julie Statland.
- K. Adopted **Resolution 18-1288**, confirming the County Executive appointments to the Wheaton Urban District Advisory Committee: Leah Haygood, Jim Epstein, Mariela Garcia-Colberg, William Jelen.
- L. Adopted **Resolution 18-1289**, confirming the County Executive nominations for Property Tax Assessment Appeals Board - Regular Member: George Smithwick, Theodore Seale, Sara Vazer; Alternate Member: Oscar Munoz, Robert Nelson, Fereidoun (Fred) Samadani.
- M. Adopted **Resolution 18-1290**, amending Resolution 18-1144, Section G, FY19 Designation of Entities for Non-Competitive Award Status: Rebuilding Together Montgomery County, Inc. and Habitat for Humanity Metro Maryland, Inc.
- N. Adopted **Resolution 18-1291**, extending time until June 30, 2019, for Council action on Executive Regulation 05-17, Troubled Properties.
- O. **Introduced** a special appropriation to the FY19 Operation Budget of the Montgomery County Government; Department of Health and Human Services (DHHS); \$92,460 for the African American Health Program. Councilmembers Navarro, Leventhal, Floreen, Katz, Hucker, Berliner and Elrich requested to be added as co-sponsors of the special appropriation. A public hearing/action is tentatively scheduled for November 27, 2018, at 1:30 P.M.
- P. **Introduced** an amendment to the FY 19-24 CIP and Special Appropriation to the FY19 Capital Budget for Montgomery County Government, Department of Police - \$6,550,000 for the Public Safety Communications Center. A Public Safety (PS) Committee worksession was scheduled for November 15, 2018, at 1:30 P.M. A public hearing is tentatively scheduled for November 27, 2018.
- Q. **Introduced** a resolution approving end-of-year transfer for FY18 County Government Operating Budget.

- (3) **WORKSESSION/ACTION** - Amendment to the FY19-24 CIP and Special Appropriation to the FY19 Capital Budget, Maryland-National Capital Park and Planning Commission (MNCPPC), Department of Parks - \$1,000,000 for Small Grant/Donor-Assisted Capital Improvements

Ms. Arthur, Legislative Analyst, reviewed the staff recommendation, as contained in the analyst packet.

**Resolution 18-1292** was adopted, approving the subject amendment and special appropriation.

Mr. Leventhal made the motion, which carried unanimously.

- (4) **WORKSESSION/ACTION** - Amendment to the FY19-24 CIP and Special Appropriation to the FY19 Capital Budget, MNCPPC, Department of Parks - \$116,562 for Acquisition: Local Parks

Ms. Arthur reviewed the staff recommendation, as contained in the analyst packet.

**Resolution 18-1293** was adopted, approving the subject amendment and special appropriation.

Mr. Rice made the motion, which carried unanimously.

- (5) **WORKSESSION/ACTION** - Amendment to the FY19-24 CIP and Special Appropriation to the FY19 Capital Budget, MNCPPC, Department of Parks - \$99,500 for ADA Compliance: Non-Local Parks

Ms. Arthur reviewed the staff recommendation, as contained in the analyst packet.

**Resolution 18-1294** was adopted, approving the subject amendment and special appropriation.

Mr. Rice made the motion, which carried unanimously.

- (6) **WORKSESSION/ACTION** - Amendment to the FY19-24 CIP and Special Appropriation to the FY19 Capital Budget, MNCPPC, Department of Parks - \$180,000 for Minor New Construction - Non-Local Parks

Ms. Arthur reviewed the staff recommendation, as contained in the analyst packet.

**Resolution 18-1295** was adopted, approving the subject amendment and special appropriation.

Mr. Berliner made the motion, which carried unanimously.

- (7) **WORKSESSION/ACTION - Amendment to the FY19-24 CIP and Special Appropriation to the FY19 Capital Budget, MNCPPC, Parks Department, \$680,000 for Josiah Henson Historic Park**

Ms. Arthur reviewed the staff recommendation, as contained in the analyst packet.

**Resolution 18-1296** was adopted, approving the subject amendment and special appropriation.

Mr. Berliner made the motion, which carried unanimously.

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
IN LEGISLATIVE SESSION - Day #26**

(8) **Introduction of Bills:**

- A. **Bill 36-18 Transportation Management - Transportation Demand Management Plan - Amendments**

Introduced draft #1 of the subject bill, sponsored by the Council President at the request of the County Executive. A public hearing is scheduled for December 4, 2018, at 1:30 P.M.

- B. **Expedited Bill 37-18, Transient Housing - Short Term Rental License - Appeals**

Introduced draft #1 of the subject expedited bill, sponsored by Councilmember Floreen. A public hearing is scheduled for December 4, 2018, at 1:30 P.M.

- C. **Expedited Bill 38-18, Weapons - Urban Area - Boundary**

Introduced draft #2 of the subject expedited bill, sponsored by the Council President at the request of the County Executive. A public hearing is scheduled for December 4, 2018, at 1:30 P.M.

D. **Expedited Bill 39-18, Domestic Violence Council - Membership - Amendments**

Introduced draft #2 of the subject expedited bill, sponsored by Councilmember Katz. A public hearing is scheduled for December 4, 2018, at 1:30 P.M. with action to follow.

Councilmember Navarro requested to be added as a co-sponsor of the expedited bill.

(9)

**Call of Bills for Final Reading:**

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

Mr. Leventhal, Chair, Health and Human Services (HHS) Committee, reviewed the Committee's recommendation, as contained in the analyst packet.

Enacted draft #3 of **Bill 34-18**, as recommended by the HHS committee and contained at the end of these minutes.

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

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

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

Participating in the discussion were Mr. Espinosa, Director, Department of Finance; and Ms. Mihill, Legislative Attorney.

Mr. Berliner, Chair, Transportation, Infrastructure, Energy and Environment (T&E) Committee, reviewed the Committee's recommendation, as contained in the analyst packet.

Discussed the County Executive's opposition to Mr. Berliner's amendment without the "clawback" provision, as covered in the memorandum from the County Executive on ©29.

Enacted draft #3 of **Bill 33-18**, as recommended by the T&E Committee and contained at the end of these minutes.

The T&E Committee made the motion and the bill was enacted by a roll call vote:

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

The Council recessed at 10:43 A.M. and reconvened at 1:12 P.M.

(10) **DISCUSSION - Compensation Cost Trends**

This item was postponed to November 15, 2018.

**SALUTE** to County Executive Ike Leggett

Councilmembers recounted personal memories of working with Mr. Leggett over the years and expressed appreciation for his leadership and service to the people of Montgomery County.

Mr. Riemer presented a proclamation to Mr. Leggett in recognition of his many years of service to the County as a member of the Council and as County Executive.

(11) **BRIEFING - Pedestrian and traffic safety along State highways**

Participating in the discussion were Mr. Slater, State Highway Administration (SHA); Captain Didone, Traffic Division Director, Department of Police; Mr. Roshdieh, Director, and Mr. Conklin, Department of Transportation (DOT); and Ms. Daphnis, Chair, Pedestrian, Bicycle, and Traffic Safety Advisory Committee.

Received a briefing from Mr. Slater on SHA's updated approaches to pedestrian safety including HAWK pedestrian signals, strategies to reduce vehicular speed, national and local statistics on pedestrian crashes, risk factors, and improvement projects to Georgia Avenue (Route 97) in Wheaton and Aspen Hill. He agreed to follow up with Councilmembers regarding specific intersections in the County.

Ms. Navarro asserted that a streamlined, coordinated method to address pedestrian safety issues must be developed as soon as possible to help prevent future accidents.

Mr. Rice suggested that when designing intersections, the routes of children walking to school be considered and an analysis of intersections on those

routes is needed to develop a standardized model for all school areas in the County. He also stated that a sidewalk is needed along Clopper Road because many people walk in the road.

Mr. Elrich, noting that speed is a major factor in crash survivability for pedestrians, suggested legislators be asked to lower the speed limit on roads in Central Business Districts (CBDs) currently designated as 30 miles per hour (mph) to 25 mph.

Mr. Katz suggested SHA consider installing bollards near bus stops as a traffic-calming measure and installing fencing in road medians to prevent jaywalking. He further stated that additional lighting at Falls Road near 270 is needed as the intersection can be confusing to drivers.

### **Motion to Close**

The Council adjourned the open session at 3:31 P.M. and reconvened in closed session from 3:35 P.M. to 4:25 P.M. in the Patuxent River Conference Room. Mr. Katz made the motion, which carried. Mr. Berliner, Mr. Elrich and Ms. Floreen were temporarily absent.

### **Report of Closed Session of November 13, 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, November 13, 2018. The Council convened in closed session at 3:35 P.M. in the Patuxent River Conference Room for the purpose of consulting with counsel to obtain legal advice, and to consult about pending or potential litigation, pursuant to Maryland Code, General Provisions Article, §3-305 (b)(7) and (8). Topic was retaining outside counsel.

The meeting was closed on a motion by Mr. Katz, which carried without objection. The following persons were present: Councilmembers Leventhal, Katz, Navarro, Rice and Riemer; Confidential Aides Jablow, Mandel-Trupp, Gibson, Goldstein, Kunes, Silverman, and Tibbitts; Mr. Harris, Aide to Councilmember Leventhal; Mr. Heyboer, Aide to Councilmember Riemer; Ms. Flores, Aide to Councilmember Navarro; Mr. Zyontz, Senior Legislative Analyst; Ms. Michaelson, Council Executive Director; Mr. Drummer, Senior Legislative Attorney; Mr. Hansen, County Attorney, Mr. Royalty and Mr. Markovs, County Attorney's Office; Ms. Nurmi, Office of the County Executive; Mr. Catalano and Mr. Gotting, Deller and Heckman LLP; Ms. Limarzi, Clerk; and Ms. Brown, Deputy Clerk.



**Action:** None taken.

This is a correct copy of Council action.

*Approved/Signed by the Clerk*

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Megan Davey Limarzi, Esq.  
Clerk of the Council

Bill No. 34-18  
 Concerning: Human Rights and Civil Liberties – County Minimum Wage – Definitions - Employer  
 Revised: 09/14/2018 Draft No. 3  
 Introduced: October 2, 2018  
 Enacted: November 13, 2018  
 Executive: \_\_\_\_\_  
 Effective: July 1, 2019  
 Sunset Date: None  
 Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Riemer  
 Co-Sponsors: Councilmembers Huckler and Leventhal

**AN ACT** to:

- (1) modify the definition of an employer required to pay the County minimum wage; and
- (2) generally amend the laws governing the minimum wage

By amending

Montgomery County Code  
 Chapter 27, Human Rights and Civil Liberties  
 Article XI. County Minimum Wage  
 Section 27-67

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec 1. Section 27-67 is amended as follows:**

2 **27-67. Findings and definitions.**

3   \*                         \*                         \*

4           (b) *Definitions.* As used in this Article:

5           *Director* means the Executive Director of the Office of Human Rights and includes the  
6           Executive Director's designee.

7           *Employ* means to engage a person to work for compensation.

8           *Employee* means any person permitted or instructed to work or be present by an employer  
9           in the County and who is an employee subject to the minimum wage requirements of the  
10          Federal Act or the State Act.

11          *Employer* means any person, individual, proprietorship, partnership, joint venture,  
12          corporation, limited liability company, trust, association, or other entity operating and  
13          doing business in the County that employs [2] 1 or more persons in the County in  
14          addition to the owners. Employer includes the County government, but does not include  
15          the United States, any State, or any other local government.

16          *Federal Act* means the federal Fair Labor Standards Act of 1938, as amended.

17          *State Act* means the Maryland Wage and Hour Law, as amended.

18          *Wage* means all compensation that is due to an employee for employment.

19          **Sec. 2. Effective Date.**

20          This Act takes effect on July 1, 2019.

Bill No. 33-18  
 Concerning: Environmental  
Sustainability – Commercial Property  
Assessed Clean Energy Program –  
Property Tax Surcharge  
 Revised: 11/8/2018 Draft No. 3  
 Introduced: October 2, 2018  
 Enacted: November 13, 2018  
 Executive: \_\_\_\_\_  
 Effective: \_\_\_\_\_  
 Sunset Date: None  
 Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Berliner  
 Co-Sponsors: Councilmembers Katz and Elrich, Council President Riemer,  
 Councilmember Hucker, Council Vice-President Navarro, and Councilmember Rice

**AN ACT to:**

- (1) require the County to add the property tax surcharge to the property tax bill within a certain timeframe; and
- (2) generally amend County laws related to the Commercial Property Assessed Clean Energy Program and environmental sustainability.

By amending

Montgomery County Code  
 Chapter 18A, Environmental Sustainability  
 Section 18A-36

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1 **Sec. 1. Section 18A-36 is amended as follows:**

2 **18A-35. Eligibility.**

3 In order to be eligible for this Program, the following criteria must be met:

4 (a) *Eligibility.*

5 \* \* \*

6 (3) The property owner must submit the following to the private lender or the  
7 County designated lender at the time of application for funding:

8 (A) express written consent of any holder of an existing mortgage or  
9 deed of trust on a qualified property; ~~[[and]]~~

10 (B) verification that there are no delinquent fees, taxes, water or sewer  
11 charges or other special assessments on the qualified property~~[[.]]~~;

12 and

13 (C) confirmation that the proposed improvements will be properly  
14 permitted and permanently affixed to the qualified property and  
15 comply with all applicable State and federal statutes and  
16 regulations, as determined by the appropriate regulatory authority.

17 \* \* \*

18 (b) *Property assessed clean energy surcharge.*

19 (1) The property owner of qualified property must agree to repay the amount  
20 financed through a surcharge levied on the County’s real property tax bill  
21 for the qualified property.

22 (2) A surcharge ~~[[may]]~~ must be imposed under a written agreement between  
23 the County designated lender or private lender and the County. The  
24 surcharge will be recorded in land records of the County, at the expense of  
25 the owner, within 30 days of the execution of a clean energy loan financing  
26 agreement.

27 (3) As a condition for entering into an agreement under the Program, the  
28 County designated lender or private lender must provide the County  
29 designated program manager and the Department a copy of the loan  
30 documents and documents that verify:

31 (A) the property owner’s ability to repay the Property Assessed Clean  
32 Energy loan in a manner substantially similar to that required for a  
33 mortgage loan;

34 (B) there are no delinquent taxes, special assessments, or water or  
35 sewer charges on the qualified property;

36 (C) there are no delinquent assessments on the qualified property under  
37 the Program;

38 (D) ~~[[the property owner has obtained all necessary permits;~~

39 (E) the improvement is permanently affixed to the qualified property  
40 and complies with all applicable State and federal statutes and  
41 regulations, as determined by the appropriate regulatory authority;

42 (F)]] existing mortgage or deed of trust lender consent;

43 ~~[[G)]] (E)~~ appraised value of the qualified property as certified in the  
44 appraisal report submitted by a Certified General Real Estate  
45 Appraiser if the eligibility requirement in 18A-35(a)(4) is based on  
46 the appraised value of the qualified property;

47 (H)] (F) loan to value documentation; and  
 48 [(I)] (G) any other financial or program document that the Director  
 49 deems necessary.

50 \* \* \*

51 **18A-36. Payment of surcharge; lien.**

- 52 (a) The County must collect the amount financed through a surcharge on the property  
 53 owner’s real property tax bill and forward payments received by the County to the  
 54 County designated program manager or, if there is no County designated program  
 55 manager, to the lender no later than 30 days after the payment due dates for real  
 56 property taxes. Payment due dates for semi-annual real property taxes are  
 57 September 30 for the first installment and December 31 for the second installment,  
 58 and for annual real property taxes the payment due date is September 30.
- 59 (b) After receiving written notice from the County designated program manager of the  
 60 execution of a clean energy loan financing agreement, the County must add the  
 61 surcharge to the property tax bill [[on July 1 of the year immediately following  
 62 execution of the clean energy loan financing agreement]].
- 63 (c) If the property owner sells the qualified property, the buyer must continue to pay  
 64 the surcharge levied on the annual property tax bill.
- 65 [(c)] (d) The surcharge and any accrued interest or penalty constitutes a first lien on the  
 66 real property to which the surcharge applies until paid. An unpaid surcharge will  
 67 be, until paid, a lien on the qualified property on which it is imposed from the date  
 68 it becomes payable. The surcharge will accrue interest and penalty and will be  
 69 treated and collected like all other County property taxes. Any delinquency will be  
 70 collected through the County Tax Sale process. The provisions of Title 14, Subtitle  
 71 8 of the Tax – Property Article of the Maryland Code that apply to a tax lien will  
 72 also apply to the lien created under this law. Any delinquent surcharge collected  
 73 through the County Tax Sale process must be forwarded to the County designated  
 74 program manager or, if there is no County designated program manager, to the  
 75 lender no later than 30 days after the payment was received.

