



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, March 5, 2019

The County Council for Montgomery County, Maryland convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 9:33 A.M. on Tuesday, March 5, 2019.

PRESENT

Councilmember Nancy Navarro, President	Councilmember Sidney Katz, Vice President
Councilmember Gabe Albornoz	Councilmember Andrew Friedson
Councilmember Evan Glass	Councilmember Tom Hucker
Councilmember Will Jawando	Councilmember Craig Rice
Councilmember Hans Riemer	

The President in the Chair.

The invocation was given by Reverend Holly R. Jackson, United Church of Christ of Seneca Valley.

PRESENTATIONS

- A. Proclamation was presented by Mr. Rice recognizing National Nutrition Month.
- B. Proclamation was presented by Mr. Rice recognizing Councilmember for a Day Winner Chloe Appel.
- C. Proclamation was presented by Ms. Navarro recognizing Women's History Month.

GENERAL BUSINESS

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

Ms. Limarzi, Clerk of the Council, announced an addendum to the agenda adding action on a resolution to appoint the Inspector General Nominating Panel, correcting the legislative day number (#6) correcting Bill 3-19, Administration - Executive Branch - Non-Merit Positions as an Expedited bill, and postponing interviews for applicants for the Public Election Fund Committee.

At 7:30 P.M. on March 26, 2019, the Council will hold a public forum on the County's campaign finance program. Persons wishing to speak on the matter may begin signing up on March 7, 2019.

- (1) [The Council is seeking applicants for the Montgomery County Planning Board.](#) The deadline is April 24, 2019, at 5:00 P.M.

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

There were no petitions received this week.

- (2) C. **Approved** the minutes of February 11 and 12, 2019, without objection. Mr. Riemer was temporarily absent.

(3) **CONSENT CALENDAR**

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

- A. [Adopted Resolution 19-51](#), approving Executive Regulation 05-17AM, Troubled Properties.
- B. **Introduced** a special appropriation to Montgomery County Public School's (MCPS) FY19 Operating Budget - \$384,986 for Emergency Impact Aid grant. A public hearing is scheduled for March 19, 2019, at 1:30 P.M.
- C. [Adopted Resolution19-52](#), approving a supplemental appropriation to the FY19 Capital Budget and amendment to the FY19-24 Capital Improvements Program (CIP), Department of Recreation - \$17,016,000 for South County Regional Recreation and Aquatic Center.
- D. [Adopted Resolution19-53](#), appointing the Inspector General Nominating Panel.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #6**

(4) **Introduction of Bills:**

- A. **Bill 4-19, Personnel - Merit System - Requesting Salary History - Prohibited**

Introduced draft #7 of the subject bill, sponsored by Councilmember Glass, and co-sponsored by Council President Navarro, Council Vice-President Katz, and Councilmembers Friedson, Jawando, Rice, Hucker, Riemer and Albornoz. A public hearing is scheduled for March 26, 2019, at 1:30 P.M.

- B. **Bill 5-19, Development Impact Tax for Transportation and Public School Improvements - Exemptions - Amendments**

Introduced draft #3 of the subject bill, sponsored by Councilmember Riemer. A public hearing is scheduled for March 26, 2019, at 1:30 P.M.

Mr. Jawando requested, and Council President Navarro agreed, that the Bill should be reviewed by the joint Planning, Housing and Economic Development (PHED) and Government Operations and Fiscal Policy (GO) Committee.

- C. **Bill 6-19, Landlord-Tenant Relations - Termination of Lease - Tenant Health and Safety**

Introduced draft #2 of the subject bill, sponsored by Councilmember Hucker and co-sponsored by Councilmember Friedson. Councilmembers Navarro, Jawando, Katz, Riemer, Rice, Glass and Albornoz requested to be added as co-sponsors of the bill. A public hearing is scheduled for March 26, 2019, at 1:30 P.M.

- D. **Bill 7-19, Environmental Sustainability - Commercial Property Assessed Clean Energy Program - New Construction**

Introduced draft #2 of the subject bill, sponsored by Councilmember Hucker and co-sponsored by Councilmember Friedson. Councilmembers Navarro, Riemer, Katz, Jawando, Rice, Glass and Albornoz requested to be added as co-sponsors of the bill. A public hearing is scheduled for March 26, 2019, at 1:30 P.M.

(5) **Call of Bills for Final Reading:**

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

Mr. Albornoz, Chair of the Health and Human Services (HHS) Committee, and Mr. Katz, Lead Sponsor of the bill, reviewed the Committee's recommendation, as included in the staff report.

Enacted draft #3 of Bill 35-18, as included at the end of these minutes. The HHS Committee made the motion and the bill was enacted by a roll call vote:

YEAS: Glass, Jawando, Hucker, Riemer, Albornoz, Rice, Friedson, Katz, Navarro.

(6) **BOARD OF HEALTH**

A. **Resolution to adopt Bill 35-18, Health and Sanitation - Smoking - Outdoor Serving Areas, as a Board of Health Regulation**

Resolution 19-54 was adopted, approving **Bill 35-18**, Health and Sanitation - Smoking - Outdoor Serving Areas, as a Board of Health Regulation.

The HHS Committee made the motion, which carried unanimously.

(7) **DISCUSSION - Workforce development continuum**

Participating in the discussion were Dr. Giles, Chief Executive Officer, Mr. Rose, Board Chair, Mr. Ellis, Vice Chair, Ms. Weglein, Treasurer, and Ms. Allen, Boardmember, WorkSource Montgomery (WSM); and Mr. Smith, Legislative Analyst.

Discussed with the panel concerns about WSM's failure to meet Workforce Innovation and Opportunity Act (WIOA) requirements, lack of employer engagement, performance at job centers, re-entry programs for incarcerated individuals, engagement of disconnected youth, summer youth employment programs, and assistance for underemployed and disabled individuals.

Mr. Riemer suggested the tech talent pipeline model continue to be reviewed as a means to ensure future employees meet employers' needs.

Mr. Jawando suggested WSM work with the Attorney General to get a ruling on the use of funds for re-entry programs, noting the need for better integration of services.

Mr. Hucker requested a status update on the Green Jobs Apprenticeship program and suggested WSM reach out to construction trade organizations.

Mr. Katz expressed concern about how incarcerated individuals in the Montgomery County Correctional Facility would continue to receive employment assistance when the American Job Center shifts to a Helping Individuals Reach Employment (HIRE) center, and requested accurate information concerning how many individuals were helped with public-sponsored workforce development programs.

Mr. Rice requested information on why funding for the Latin American Youth Center (LAYC) was previously eliminated and the Center's outcomes, as well as documentation from the Maryland Department of Labor, Licensing and Regulation (DLLR) regarding the changes to the program because of a funding issue.

Mr. Friedson requested information about what metrics are used and current data regarding workforce development outcomes, that WSM's audit report be shared with the Council, and that written confirmation be provided showing that issues raised by the DLLR were resolved.

Agreed to continue discussion in a joint Education & Culture (E&C)/PHED Committee meeting.

The meeting recessed at 12:24 P.M. and reconvened at 1:31 P.M.

(8) **PUBLIC HEARING - Expedited Bill 3-19, Administration - Executive Branch - Non-Merit Positions**

The public hearing was conducted. Mr. Jawando was temporarily absent. Additional material for the Council's consideration should be submitted by the close of business on March 5, 2019. A Government Operations & Fiscal Policy Committee worksession is tentatively scheduled for March 7, 2019.

(9) **INTERVIEWS - Applicants for the Public Election Fund Committee**

The interviews were postponed.

The meeting recessed at 1:52 P.M. and reconvened at 7:30 P.M.

(10) **PUBLIC HEARING - Bill 1-19, Police - Officer Involved Death - Independent Investigation**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on March 20, 2019. A Public Safety (PS) Committee worksession is tentatively scheduled for March 25, 2019.

The meeting adjourned at 8:45 P.M.

This is a correct copy of Council action.

Approved/Signed by the Clerk

Megan Davey Limarzi, Esq.
Clerk of the Council

Bill No. 35-18
 Concerning: Health and Sanitation –
Smoking – Outdoor Serving Areas
 Revised: 3/1/2019 Draft No. 3
 Introduced: October 2, 2018
 Enacted: March 5, 2019
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Katz
 Co-Sponsors: Council President Riemer and Councilmembers Elrich, Rice, and Albornoz

AN ACT to:

- (1) prohibit smoking in certain outdoor serving areas; and
- (2) generally amend County law on smoking.

By amending

Montgomery County Code
 Chapter 24, Health and Sanitation
 Section 24-9

Boldface	<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:

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Sec. 1. Section 24-9 is amended as follows

24-9. Smoking and using electronic cigarettes in public places.

(a) *Definitions.* In this Section, the following words and phrases have the meanings indicated:

* * *

Eating and drinking establishment means an establishment regulated under Chapter 15.

* * *

Outdoor serving area means a patio, deck, porch, or other outdoor seating or serving area, whether partially enclosed or open to the sky, that is permitted for outdoor eating or drinking under the control of an eating and drinking establishment.

* * *

(b) *Smoking and vaping are prohibited in certain public places.* A person must not smoke or use any electronic cigarette in or on any:

- (10) enclosed auditorium, concert or lecture hall; [or]
- (11) property that is owned or leased by the County, including a bus shelter or bus stop area, but excluding any other part of a County right-of-way[.]; or
- (12) outdoor serving area, except [[while actively passing on the way to another destination]] as provided in paragraph (c)(9) or (e).

* * *

(c) *Exceptions.* Smoking or vaping is not prohibited by this Section:

* * *

- (9) On a golf course or in an outdoor seating area associated with a golf course if employees of an eating and drinking establishment do not serve food or drink in the outdoor seating area; and

* * *

(e) *Outdoor serving areas.*

- (1) An eating and drinking establishment may designate a portion of an outdoor serving area that is on a rooftop or balcony where smoking or vaping is allowed.
- (2) This paragraph does not apply in a municipality that prohibits smoking or vaping in an outdoor serving area.

(f) *Posting signs.*

* * *

[[f)]] *(g) Duty to prevent smoking in certain areas.*

* * *

[[g)]] *(h) Optional smoking restrictions.*

* * *

[[h)]] *(i) Limitations.*

* * *

[[i)]] *(j) Other laws still apply.*

* * *

[[j)]] *(k) Regulations.*

* * *

[[k)]] *(l) Enforcement and penalties.*