

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, October 20, 2020

The County Council for Montgomery County, Maryland convened via video conference at 9:05 A.M. on Tuesday, October 20, 2020.

PRESENT

Councilmember Sidney Katz, President
Councilmember Gabe Albornoz
Councilmember Evan Glass
Councilmember Will Jawando
Councilmember Nancy Navarro
Councilmember Craig Rice

Councilmember Hans Riemer

The President in the Chair.

PRESENTATIONS

- A. Proclamation was presented by Mr. Katz recognizing Domestic Violence Awareness Month.
- B. Proclamation was presented by Mr. Albornoz recognizing National Disability Employment Awareness Month.
- C. Video Presentation by Mr. Rice for Councilmember for a Day.

GENERAL BUSINESS

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

Ms. Singleton, Clerk of the Council, announced an addendum to the agenda, deferring action on **Bill 32-20**, Solid Waste (Trash) - Waste Reduction/Source Reduction and Single-Use Straws - Requirements.

(1) The Council is seeking applicants for 11 positions on the County's 11-member Commission on Redistricting. The deadline to apply for consideration is Monday, October 26, 2020, at 5 pm

- 2 - 10/20/2020

(2) B. Acknowledgement -Receipt of Petitions

There were no petitions received this week.

C. **Action** - Approval of Minutes

Approved the minutes of June 23, July 7, 13, 14, 15, and 17, 2020, without objection.

(3) CONSENT CALENDAR

Approved the following consent calendar items listed below. Mr. Jawando made the motion, which carried without objection.

- A. **Introduced** a resolution to approve a Functional Transfer of \$204,591 for Montgomery College's FY20 Operating Budget.
- B. **Introduced** a resolution to amend Development Impact Tax Rates for Transportation and Public School Improvements. A public hearing and action are scheduled for November 10, 2020 at 1:30 P.M.
- C. Adopted **Resolution 19-624**, confirming the County Executive's appointment to the Community Action Board: Erika Conner.
- D. Adopted **Resolution 19-625**, confirming the County Executive's appointment to the Domestic Violence Coordinating Council: Dorne Hill.
- E. Adopted **Resolution 19-626**, confirming the County Executive's appointments to the Early Childhood Coordinating Council: JoAnn Barnes, Mary Manning-Falzarano, Jennifer Arnaiz, Lauren Martino, Charisse Scott.
- F. Adopted **Resolution 19-627**, confirming the County Executive's appointment to the Greater Shady Grove Transportation Management District Advisory Committee: Patrick Reed.
- G. Adopted **Resolution 19-628**, confirming the County Executive's appointments to the Victim Services Advisory Board: Jill Pargament, Neda Bolourian, Quintaria Brunson, Lawrence Center, Amos Hicks III, Drena Reaves-Bey, David Young.
- H. Nominating Committee for the Montgomery College Board of Trustees

This item was removed from the consent calendar and voted on as a separate item.

- 3 - 10/20/2020

- I. Adopted **Resolution 19-629**, confirming the County Executive's appointments to the Board of License Commissioners: W. Gregory Wims.
- J. Acknowledge Receipt The Council acknowledges receipt of the following Inspector General's reports: 1) MPIA Compliance Issues with Police and Other Department Websites, OIG Publication # 21-002; 2) County SharePoint Platform Exposes Sensitive Information of Vulnerable Populations, OIG Publication #21-003; and 3) Lessons Learned from County COVID-19 Grant Programs.
- K. Adopted Resolution 19-630, supplemental appropriation to the County Government's FY21 Operating Budget, Department of Health and Human Services (DDHS) - \$864,029 to Increase Somatic and Mental Health Services at Montgomery County Public Schools (MCPS) Aid.

(4) Appointment to the Board of Appeals:

Adopted **Resolution 19-631**, appointing John Pentecost to a second term on the Board of Appeals. Mr. Riemer made the motion, which carried without objection.

Adopted **Resolution 19-632**, setting the yearly compensation for the Chair of the Board of Appeals at \$22,040; and designating John Pentecost as Chair of the Board of Appeals. Ms. Navarro made the motion, which carried without objection.

(5) **BRIEFING** Process for amending the Master Plan for Historic Preservation

Participating in the discussion was Ms. Ballo, Supervisor for Historic Preservation, Planning Department.

Received an overview of the process for amending the Master Plan for Historic Preservation to designate the Mesrobian House in Chevy Chase as a Master Plan Historic Site, which is the subject of a public hearing later today. The property is already listed on the National Register of Places. Noted that the Council has the final say regarding designation of a property in the Plan.

(3H) **ACTION** - Nominating Committee for the Montgomery College Board of Trustees

Adopted **Resolution 19-633**, appointing Ms. Althea Lloyd-White to the Nominating Committee for the Board of Trustees for Montgomery College.

Ms. Navarro made the motion, which carried without objection.

- 4 - 10/20/2020

(6) COUNCIL SITTING AS BOARD OF HEALTH

A. Update - Novel Coronavirus (COVID-19) and County Public Health Planning

Participating in the discussion were Dr. Gayles, County Health Officer and Chief of Public Health Services, DHHS; and Dr. Stoddard, Director, Office of Emergency Management and Homeland Security (OEMHS).

Dr. Gayles reported that local, state, and national trends are all showing increases in cases, with increases locally in the test positivity rate and new confirmed cases per 100,000 residents. He noted that in August/September, younger people were testing positive, but now increases are showing in the 40-50 and 50-59 age brackets, a concern because older people are more susceptible and more likely to be hospitalized. The percent change in cases (29.7%) reflects a high risk of transmission in the community, with increases in hospitalization and ICU bed utilization. These measures are used to determine how to move forward. They continue to work with the State and cautioned that there may be a need to rescind current provisions and consider capacity limits and size of gatherings if there is a significant sustained increase in the number of new cases. Dr. Gayles said 5,000 people were tested this week. Regarding schools, there were 32 active investigations, with 18 confirmed positive cases or students in contact with high-risk individuals.

Dr. Stoddard reported that they are developing air ventilation and filtration recommendations and received input from industry representatives. Reopening plans from non-public schools are being reviewed, with 22 completed to date. A request has been submitted to the State regarding continuation of the feeding program under the FEMA public assistance program. The late-night alcohol sales program is being closely monitored as at least one criterion for rescinding the program has been met (the three-day case rate), and broader restrictions are being considered if deemed necessary, 220 businesses are currently participating in the program. Early voting election sites are being prepared for opening.

Responding to questions from Councilmembers, Dr. Gayles said the increase in cases among white, non-Hispanic residents was not related to nursing homes, and that sustained testing of nursing home residents and employees is done so that asymptomatic people are quarantined quickly; that family gatherings are a leading source of transmission; and there is general fatigue in adhering to guidelines. The County does not purchase the high-dosage flu vaccine, but drive-through clinics are scheduled to disseminate the regular flu vaccine. Dr. Stoddard said a "Keep Grandma Safe" campaign would be initiated, and that residents can obtain free testing multiple times. Draft HVAC guidelines have been shared with MCPS facilities, but the CDC has not provided any new guidance regarding the reopening of schools.

- 5 - 10/20/2020

Regarding testing in the Wheaton area, Ms. Navarro requested information be added under each community partner's site to reflect who should go there for testing and provide information on other testing locations for symptomatic residents, suggested a public education campaign mirror the efforts of Proyecto Salud, and that the dashboard be updated with County testing sites.

Mr. Albornoz requested guidelines and tips that could be provided to residents regarding Thanksgiving gatherings.

Mr. Riemer requested information on the number of businesses in the latenight alcohol program that have been visited, expressing the view that the County is in violation of its own initiative.

B. Update - Coronavirus Relief Fund (CRF)

Participating in the discussion were Mr. Madaleno, Chief Administrative Officer; Dr. Stoddard; Ms. Barnes, Chief, Children, Youth, and Family Services, and Mr. Hodge, DHHS; Ms. Squires, Food Security Task Force; Mr. Watters, Office of Management and Budget (OMB); and Ms. Michaelson, Council Executive Director.

Ms. Michaelson noted that the Council was briefed last week on the status of the CRF, and that Ms. Navarro suggested that the Council receive weekly updates.

Mr. Madaleno stated that the Council has received 31 special appropriations from the Executive Branch to address needs of residents and businesses impacted by the pandemic; \$133.6 million has been appropriated, primarily through the CRF and through the general fund. As of October 15, 2020, \$75.8 million (56.7%) has been spent or encumbered. He noted that because funding cannot be disappropriated, some funding is being repurposed, and they are working to identify solutions if federal funds cannot be spent prior to the December 31 deadline. A team was formed to handle the documentation process for FEMA reimbursements, and the first \$18.2 million reimbursement request will be submitted October 23, followed by another \$13.8 million in early November, \$20 million in mid-November, and \$18 million by late November. Another \$50 million is anticipated to be submitted to FEMA by the end of December.

Ms. Barnes, discussing the Emergency Assistance Relief Payment (EARP) program, stated that \$5.86 million was spent in the first three phases; the fourth phase began October 5 and includes program expansions to reach more families and an increased benefit to those families within 0 to 75% of the federal poverty level. She noted that residents can apply directly through the County portal or through community partners. She anticipated that 90

- 6 - 10/20/2020

percent of the remaining \$4.1 million would be spent by December 31; 400 applications for assistance have been submitted so far in Phase 4. Steps are being taken to try and minimize the required documentation needed for participation in the EARP program.

Discussed food distribution efforts and received information that more than \$10 million has been spent to date, mostly for direct food purchases for distribution by 105 providers. A \$1.2 million food access grant for culturally appropriate food and a Farm to Food Bank grant program have been established, as well as a community gardening program. The amount of USDA food boxes received has dropped from an initial 26,000 per week to 4,000, and the boxes are being supplemented with bulk produce and shelf-stable foods purchased by the County. Mr. Hodge said they want to take advantage of Manna's food purchasing program so that more food can be purchased. Food costs will be submitted to FEMA in the third traunch reimbursement request on November 23. Noted that there is continued high demand for food in the County.

Mr. Friedson stated that a specific, comprehensive plan is needed on how all funding is going to be used and how unspent funds would be repurposed. He noted that a \$120 million reimbursement request to FEMA is anticipated by December 31 and received information that approximately \$50 million of that is for COVID-related differential pay. He requested the FEMA reimbursement requests and anticipated future requests be provided to Councilmembers, noting that CARES Act funding can't be used after December 31.

Ms. Navarro requested information on the plan and timeline for the rental assistance program, questioned why funds have not been spent given the need in the County, and said the Germantown hub model should be replicated elsewhere in the County to maximize scarce resources.

Mr. Katz requested Executive Branch staff provide numbers associated with COVID spending prior to the weekly briefing, if possible.

The meeting recessed at 12:01 P.M. and reconvened at 1:34 P.M.

(7) **PUBLIC HEARING/ACTION -** Supplemental Appropriation to the County Government's FY21 Operating Budget, Department of Environmental Protection (DEP) - \$372,079 for Naval Support Activity -Bethesda - Military Installation Resiliency Review Grant

The public hearing was conducted and the record closed.

Adopted **Resolution 19-634**, approving the subject supplemental appropriation. Ms. Navarro made the motion, which carried unanimously.

- 7 - 10/20/2020

(8) **PUBLIC HEARING** - Planning Board Draft Amendment for the Mesrobian House: Amendment to the Master Plan for Historic Preservation

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on October 23, 2020. Action is scheduled for November 10, 2020.

(9) **PUBLIC HEARING - Bill 42-20**, Ethics - Public Accountability and Transparency - Amendments

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on October 26, 2020. A Government Operations and Fiscal Policy (GO) Committee worksession is tentatively scheduled for November 23, 2020.

(10) **PUBLIC HEARING** - **Bill 43-20**, Non-merit Employees - Merit System Employees - Severance Pay - Limited

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on October 26, 2020. A GO Committee worksession is tentatively scheduled for November 23, 2020.

(11) **PUBLIC HEARING - Bill 44-20**, Racial Equity and Social Justice - Impact Statement - Advisory Committee - Amendments

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on October 26, 2020. A GO Committee worksession is tentatively scheduled for November 18, 2020.

(12) **PUBLIC HEARING - Expedited Bill 16-19**, Special Capital Improvements Project (CIP) - Gude Landfill Remediation

The public hearing was conducted and the record closed.

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND IN LEGISLATIVE SESSION - Day #30

(13) Call of Bills for Final Reading

A. Expedited Bill 16-19, Special CIP - Gude Landfill Remediation

Enacted draft #1 of **Expedited Bill 16-19**, as introduced.

- 8 - 10/20/2020

Mr. Riemer made the motion and the Expedited Bill was enacted by a roll call vote:

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

B. **Bill 32-20**, Solid Waste (Trash) - Waste Reduction/Source Reduction and Single-Use Straws - Requirements

This item was deferred.

C. <u>Bill 33-20</u>, Solid Waste (Trash) - Food Service Products Packaging Materials - Requirements

Mr. Ortiz, Director, Department of Environmental Protection (DEP) participated in the discussion.

Mr. Hucker, Chair of the Transportation and Environment (T&E) Committee, reviewed the purpose of the bill, as contained in the staff report.

Mr. Hucker made a motion to approve a technical amendment to the bill to replace the word "sealed" with the word "package" in section 48-53 (b)(1) of the bill. The motion was seconded and carried without objection.

Mr. Ortiz said there would be a public outreach campaign before implementation of the bill. Councilmembers spoke to the need to provide assistance to help businesses transition to new packaging materials, to particularly reach out to small businesses, provide a list of comparable products on the County website, and provide information in different languages. Ms. Navarro suggested there should be a ready-made template to be deployed following the enactment of new legislation showing outreach activities and involvement of community partners.

Enacted draft #2 of **Bill 33-20**, as amended and shown at the end of these minutes.

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

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

- 9 - 10/20/2020

(14) **WORKSESSIONS:**

- A. 2020-2024 Subdivision Staging Policy (SSP)
- B. <u>Bill 37-20</u>, Subdivision Preliminary Plan Adequate Public Facilities Amendments
- C. <u>Bill 38-20, Taxation Development Impact Taxes for Transportation and Public School Improvements Amendments</u>
- D. **Expedited Bill 39-20**, Taxation Recordation Tax Amendments

Participating in the discussion were Ms. Beck, OMB; Mr. Sartori, Planning Staff; and Mr. Anderson, Chair, Montgomery County Planning Board; Dr. Orlin, Senior Analyst; and Ms. Dunn, Senior Legislative Analyst.

Today's worksession was focused on Planning Board recommendations that involve school-related changes to the SSP, development impact taxes, and the recordation tax.

Mr. Riemer, Chair of the Planning, Housing, and Economic Development (PHED) Committee, expressed thanks to the Planning Board and Planning Department staff for their work on the SSP. He stated that currently the County is not producing enough new housing, citing the housing moratorium as a reason for the shortage. He expressed the view that it would be better to increase school capacity rather than limit production of new housing, as it has been shown moratoriums do not slow school enrollment.

Ms. Navarro, Chair of the GO Committee, said the Economic Development Platform adopted last year focused on the need to create opportunities for all, including the generation of more housing as a means to increase economic development in the County. This SSP allows for growth to be incentivized to spark opportunity for others, while realizing increased revenue. She indicated that the GO Committee did not have a discussion of the recordation tax, preferring to wait until they had a full understanding of the SSP. Dr. Orlin noted that the law requires the Council to adopt the SSP by November 15 (November 16 this year since November 15 is a Sunday), and that the intent was to adopt the related bills at the same time, but they do not have the same deadline as the SSP. Ms. Dunn stated that the SSP is done every four years to consider if infrastructure is adequate to support new development, with the Council deciding what rules are used to determine what is considered "adequate."

Discussed student generation rates by housing structure, noting that the cost of a student seat is the same throughout the County, and that low-rise garden apartments have higher student generation rates. Supported without objection the GO/PHED Committee's recommendations to retain low- and high-rise multifamily structure types for the calculation of student generation rates; and concurred with the Planning Board's recommendation for use of all single-

- 10 - 10/20/2020

family units (regardless of year built) and multi-family units built since 1990 to calculate student generation rates.

Discussed designation of School Impact Areas and the Planning Board's proposed classification of County neighborhood's as one of three school impact areas: Greenfield - areas with high enrollment growth due largely to high housing growth that is predominantly single-family units; Turnover - areas with low housing growth where enrollment growth is largely due to turnover of existing single-family units, or Infill - areas with high housing growth that is predominantly multifamily units, which generate fewer students on a per unit basis. Concurred with the GO/PHED Committee's recommendation to classify Metro Station Policy Areas and Purple Line Policy Areas as Infill School Impact Areas, without objection.

Discussed Mr. Jawando's motion to have only two School Impact Areas: Turnover and Infill. Councilmembers said more information was needed on the impact of this motion on other parts of the SSP, and if it would cause the impact tax rates to change. Mr. Jawando withdrew his motion pending further discussion. Mr. Rice requested staff to provide information on the financial impact on schools if the Greenfield designation was eliminated. The Council agreed to return to this discussion next week.

Motion to Close

Agreed to meet in closed session to discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans, pursuant to Maryland Provisions Article §3-305(b)(10). Topic was security for civic events. Mr. Riemer made the motion which carried without objection.

The Council adjourned the open session at 4:44 P.M. and reconvened remotely via video conference in closed session from 4:53 P.M. to 6:24 P.M.

The meeting adjourned at 6:24 P.M.

Report of Closed Session of October 20, 2020

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 20, 2020. The Council convened in closed session via video conference at 4:53 P.M. to discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security,

- 11 - 10/20/2020

including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans, pursuant to Maryland Provisions Article §3-305(b)(10). Topic was security for civic events.

The meeting was closed on a motion by Mr. Riemer, which carried without objection. The following persons were present: Councilmembers Katz, Hucker, Albornoz, Friedson, Glass, Jawando, Navarro, Rice and Riemer; Chiefs of Staff Carranza, Kunes, Thorne, Silverman, Mandel-Trupp, Ikheloa, Ledner, Gibson and Nurmi; Ms. Michaelson, Council Executive Director; Mr. Howard, Deputy Director; Mr. Drummer, Senior Legislative Attorney; Ms. Farag, Legislative Analyst; Mr. Madaleno, Chief Administrative Officer; Mr. Tibbitts, Special Assistant to the County Executive; Chief Jones, Montgomery County Police Department; Chief Goldstein and Battalion Chief Richards, Montgomery County Fire and Rescue Service; Sheriff Popkin and Assistant Sheriff Calantonio; Ms. McLaughlin, Election Director, and Ms. Jurgenson, Director, Montgomery County Board of Elections; Dr. Stoddard, Director, Office of Emergency Management and Homeland Security; and Ms. Singleton, Clerk of the Council.

Action: None.

This is a correct copy of Council action.

Approved/Signed by Clerk of the Council

Selena Mendy Singleton, Esq. Clerk of the Council

- 12 - 10/20/2020

3111 No	33-20						
Concerning: Solid Waste (Trash) - Food							
Service Products Packaging Materials -							
Requirements							
-		Draft No. 3					
ntroduced:	July 21, 20	020					
Enacted:	October 20	0, 2020					
Executive:							
Effective: _							
Sunset Date	: None						
¬h		Co					

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN ACT to:

- (1) prohibit the use of [[expanded]] polystyrene food service products by food services businesses;
- (2) require the use of compostable or recyclable food service ware by the County, County contractors or lessees, and food service businesses;
- (3) prohibit the sale of [[expanded]] polystyrene food service products and polystyrene loose fill packaging;
- (4) provide for enforcement; and
- (5) generally amend County law regarding environmentally acceptable food service products and packaging materials.

By amending

Montgomery County Code Chapter 48, Solid Waste (Trash) Sections 48-52, 48-53, and 48-56

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

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

- 13 - 10/20/2020

1 Sec. 1. Sections 48-52, 48-53, and 48-56 of Chapter 48 is amended as follows: 2 48-52. Definitions. 3 In this Article, the following terms have the meanings indicated: 4 ASTM standard means the American Society for Testing and Materials (ASTM) International Standards 5 D6400 or D6868 for biodegradable and compostable plastics. 6 7 Disposable food service ware means containers, bowls, plates, trays, cartons, cups, lids, [straws, forks, 8 spoons, knives, napkins, and other items that are designed for one-time use for beverages, prepared food, 9 or leftovers from means prepared by a food service business. [The term "disposable] Disposable food 10 service ware["] does not include items composed entirely of aluminum. [Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic 11 petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including 12 13 fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-14 blow molding (extruded foam polystyrene).] 15 [Expanded polystyrene food service products means food containers, plates, hot and cold beverage cups, 16 meat and vegetable trays, egg cartons, and other products made of expanded polystyrene and used for 17 selling, providing, or serving food that are: 18 (1) intended by the manufacturer to be used once for eating or drinking; or 19 (2) generally recognized by the public as items to be discarded after one use.] 20 Food service business means a full-service restaurant, limited-service restaurant, fast food restaurant, café, 21 delicatessen, coffee shop, supermarket, grocery store, vending truck or cart, food truck, business or 22 institutional cafeteria, including those operated by or on behalf of County departments and agencies, and /or 23 other business selling or providing food within the County for consumption on or off the premises. 24 Polystyrene means the synthetic aromatic hydrocarbon polymer made from the monomer styrene. 25 Polystyrene products are thermoplastic petrochemical materials that include injection molded, vacuum formed, or extruded solid materials, and blown, expanded, and extruded foams. 26 27 Polystyrene food service products means food containers, plates, hot and cold beverage cups, meat and vegetable trays, egg cartons, and other products made of polystyrene and used for selling, providing, or 28 29 serving food and drink which are: 30 (1) intended by the manufacturer to be used once for eating or drinking; or 31 **(2)** generally recognized by the public as items to be discarded after one use. 32 33 48-53. Prohibition on use of [expanded] polystyrene food service products. 34 A food service business must not sell or provide food in [expanded] polystyrene food service (a) 35 products, regardless of where the food will be consumed. 36 (b) Subsection (a) does not apply to: 37 (1) food or beverages that were filled and [[sealed]] packaged in [expanded] polystyrene 38 containers outside of the County before a food service business received them; or 39 (2)materials used to package raw, uncooked, or butchered meat, fish, poultry, or seafood for 40 off-premises consumption. 41 42 48-56. Prohibition on sale. 43 A person must not sell or offer for sale in the County: 44 [expanded] polystyrene food service products; or 45 (b) polystyrene loose fill packaging. 46 47 Sec. 2. Effective Date. 48 The prohibition on use of polystyrene food service products contained in Section 48-53 and the prohibition

on the sale of polystyrene food service products contained in Section 48-56 take effect 12 months after this Act

1.

2022.

whichever

comes

first.

January

49

50

becomes

law.

on