The County Council for Montgomery County, Maryland convened via video conference at 9:03 A.M. on Tuesday, December 8, 2020.

PRESENT

Councilmember Tom Hucker, President
Councilmember Andrew Friedson
Councilmember Will Jawando
Councilmember Nancy Navarro

Councilmember Gabe Albornoz, Vice President
Councilmember Evan Glass
Councilmember Sidney Katz
Councilmember Craig Rice

Councilmember Hans Riemer

The President in the Chair.

Mr. Hucker held a moment of silence in remembrance of U.S. Senator Paul Sarbanes, who passed away yesterday.

PRESENTATIONS

A. Proclamation was presented by Mr. Glass Celebrating the 20th Anniversary of Action in Montgomery Arts.

C. Proclamation was presented by Mr. Hucker and County Executive Elrich recognizing Human Rights Day.

B. Proclamation was presented by Ms. Navarro Honoring BlackRock Center for the Arts.

D. Proclamation was presented by Mr. Albornoz recognizing National Influenza Vaccination Week.
GENERAL BUSINESS

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

Ms. Singleton, Clerk of the Council, announced an addendum to the agenda, adding introduction of proposed amendments to the Ten-Year Comprehensive Water Supply and Sewerage Systems Plan: Six Category Change Requests; action on an amendment to the FY21 Operating Budget Resolution 19-472, Section G, FY21 Designation of Entities for Non-Competitive Contract Award: Just Neighbors Ministry, Inc.; introduction of Zoning Text Amendment (ZTA) 20-08, Residential Care Facility: Continuing Care Retirement Community; correcting the title of the Special Appropriation to the County Government’s FY21 Operating Budget, Community Engagement Cluster, Support for COVID-19 Response - $1,250,000 for Winterization of Streeters; noting that action on Expedited Bill 48-20, Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week - Effective Date would be held during the afternoon Legislative Session’s Call of Bills for Final Reading; adding introduction, public hearing, and action on a Special Appropriation to the County Government’s FY21 Operating Budget - $9,934,156 for Federal Coronavirus Relief Fund Non-departmental Account (NDA) and Amendment to Resolution 19-498, Special Appropriation to the County Government’s FY20 Operating Budget Federal Coronavirus Relief Fund NDA; adding introduction, public hearing, and action on a Special Appropriation to the County Government’s FY21 Operating Budget, COVID-19 Human Services and Community Assistance NDA, COVID-19 Response - $12,803,250 for Montgomery County Food Security Fund, and Amendment to the FY21 Operating Budget Resolution 19-472, Section G, Designation of Entities for Non-Competitive Contract Award Status: Germantown Cultural Arts Center, Seneca Creek Church, Hughes United Methodist, Bethel World Outreach, Clifton Park Baptist, Kingdom Fellowship, Oak Chapel United Methodist, and Interfaith Works, Inc.; introduction, public hearing, and action on a Special Appropriation to the County Government’s FY21 Operating Budget, COVID-19 Human Services and Community Assistance NDA - $4,620,997 for Por Nuestra Salud y Bienestar (For Our Health and Wellbeing); introduction, public hearing, and action on a Special Appropriation to the County Government’s FY21 Operating Budget, COVID-19 Human Services and Community Assistance NDA - $3,341,444 for African American Health Program Executive Committee Targeted COVID Response and Amendment to the FY21 Operating Budget Resolution 19-472, Section G, Designation of Entities for Non-Competitive Contract Award Status: The National Center for Children and Families, Inc.; and changing the time for this evening’s interviews for the Commission on Redistricting to 6:30 P.M.
(1) B. Acknowledgement - There were no petitions received this week.

C. Action - Approval the Closed Session Minutes of October 20, 2020, without objection.

(2) CONSENT CALENDAR

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

A. Received end-of-Year Report of the Council’s Audit Committee.

B. Received and Released the Office of Legislative Oversight (OLO) Report 2020-11, Telehealth Equity.

C. Received and Released OLO Report 2020-12, Youth Workforce and the Impact of COVID-19.

D. Adopted Resolution 19-677, resolution to approve the Office of Legislative Oversight’s FY21 Workplan Program Supplement.

E. Adopted Resolution 19-678, approving the end-of-year transfer for FY20 County Government Operating Budget.

F. Adopted Resolution 19-679, confirming the County Executive’s appointments to the Commission on Landlord-Tenant Affairs: DeShawna Fisher, Charles Marschke, Donald Weinstein.

G. Adopted Resolution 19-680, confirming the County Executive’s appointments to the Silver Spring Citizens Advisory Committee: Jeremy Dickey, Patricia Germann, Lysette House, Kenneth Lemberg, Daniel Moijueh, Vanesa Pinto, John Seelke, Lene Tsegaye.

H. Adopted Resolution 19-681, confirming the County Executive’s appointment to the Taxicab Services Commission: Christopher Conklin.

I. Adopted Resolution 19-682, approving Disposition of a certain portion of the Oaks Landfill, located at 6010 Riggs Road, Gaithersburg.

J. Adopted Resolution 19-683, approving a special appropriation to the County Government’s FY21 Operating Budget Department of Health and Human Services (DHHS) - $312,455 for Children, Youth, and Family Services - Therapeutic Recreation Services for School-Age Youth.

L. Adopted Resolution 19-685, approving Ride On Title VI Policies, Title VI Implementation Plan 2021-2023, and Title VI Compliance Monitoring Report.

M. Adopted Resolution 19-686, approving a supplemental appropriation to the County Government’s FY21 Capital Budget and Amendment to the FY21-26 Capital Improvements Program, DHHS - $1,000,000 for Emergency Homeless Shelter (No. P602103).

N. Introduced a special appropriation to the County Government’s FY21 Operating Budget - $2,500,000 for Conference Center NDA. A public hearing is tentatively scheduled for January 12, 2021, at 1:30 P.M.

O. Adopted Resolution 19-687, resolution to approve the disposition of 4010 Randolph Road (Parcel 1) and Bushey Drive (Parcel 2), Silver Spring.

P. Introduced a special appropriation to the County Government’s FY21 Operating Budget - $801,912.50 for Board of Elections Center for Tech and Civic Life. A public hearing and action are scheduled for later in the meeting.

Q. Introduced proposed Amendments to the Ten-Year Comprehensive Water Supply and Sewerage Systems Plan: Six Category Change Requests. A public hearing is tentatively scheduled for January 12, 2021, at 1:30 P.M.


(3) DISTRICT COUNCIL SESSION

A. Worksession/Action - Sectional Map Amendment (SMA) H-137, a comprehensive rezoning application to implement the zoning recommendations contained in the Approved and Adopted Forest Glen/Montgomery Hills Sector Plan
Ms. Dunn, Senior Legislative Analyst, stated that the public hearing was held and no issues were raised on the SMA.

Adopted Resolution 19-689, approving SMA H-137.

Mr. Riemer made the motion and the Resolution was adopted by a roll call vote:


B. **Introduction** - Subdivision Regulation Amendment (SRA) 20-02 Subdivision Ordinance - Revisions, Clarifications, and Corrections

Introduced draft #1 of SRA 20-02, sponsored by the Council President at the request of the Planning Board. A public hearing is scheduled for February 9, 2021, at 1:30 P.M.

C. **Introduction** - Zoning Text Amendment (ZTA) 20-07, R-60 Zone - Uses and Standards

Introduced draft #4 of SRA 20-07, sponsored by Mr. Jawando. A public hearing is scheduled for February 9, 2021, at 1:30 P.M.

D. **Introduction** - Zoning Text Amendment (ZTA) 20-08, concerning: Residential Care Facility: Continuing Care Retirement Community

Introduced draft #1 of SRA 20-08, sponsored by the Council President at the request of the Planning Board. A public hearing is scheduled for January 19, 2021, at 1:30 P.M.

(4) **COUNTY FISCAL UPDATE**

Participating in the discussion were Mr. Howard, Council Deputy Director; Mr. Smith, Legislative Analyst; Mr. Madaleno, Chief Administrative Officer; Mr. Coveyou, Director, and Mr. Platt, Chief Economist, Department of Finance; Ms. Bryant, Acting Director, and Mr. Mullins, Office of Management and Budget (OMB).

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, made opening remarks indicating that decisions made by the Council in previous years put the County in a better position to weather the current fiscal situation better than other jurisdictions, and that the Council worked diligently to
reach the 10 percent reserves goal. She noted that the Council quickly shifted to adopt a continuity of services budget to allow funds to be allocated to address pandemic-related expenses and said hopefully, there will be a conversation with the County Executive to see if there are contingency plans going forward if difficult budget decisions must be made.

Mr. Howard said typically, the fiscal update focuses on revised revenue estimates which coincides with the November income tax distribution. Given the unique situation this year due to the pandemic, the update also includes County expenditure estimates based on actual FY21 first quarter expenditures. Today’s discussion is a high-level overview and a follow-up session will be scheduled in January.

Mr. Smith reminded the Council that the fiscal update is a point-in-time picture of the County’s fiscal situation, but there are several unknowns including actual reimbursements from the Federal Emergency Management Agency (FEMA) for COVID-related expenditures, and a better accounting is needed of the CARES Act funding offsets for FY21 expenditures. Finance staff estimates that tax-supported revenues will be $100.6 million less than approved in the FY21 budget, property tax revenue has increased slightly, and income tax revenues will be $57.5 million less when compared to the FY21 approved budget. Staff estimates reduced revenue from the transfer and recordation tax, hotel/motel tax, and energy tax. $100.3 million in FEMA reimbursements are assumed in the fiscal update but are not yet realized.

Mr. Madaleno reviewed the many known and unknown factors involved in the plan that affect the fiscal update, noting that the scope of the national relief bill is not known.

Mr. Coveyou said the estimates are based on the vaccine becoming available later than it appears it will be, which is good news and could have a profound fiscal effect. He noted drops in income tax revenue and property transfers that were down earlier in the pandemic but rebounded somewhat, but cautioned that it is unknown what will happened if we are in the second wave of the pandemic. He expressed the view that commercial property appeals will occur later this year, but the impact on commercial property tax revenue won’t be known until still later in the year. Mr. Coveyou gave a PowerPoint presentation with more detailed information, which is included in the staff report.

Ms. Bryant said taking care of the County’s most vulnerable residents is a priority and critical services will continue to be delivered, but that it is costly. She indicated the need to move forward cautiously regarding the savings plan and development of the FY22 operating budget to protect the County’s Triple-A bond rating, citing the many variable and unknowns, including the level of FEMA reimbursement for COVID-related expenses.
Mr. Friedson commented on the need to be extremely fiscally prudent and noted Mr. Mullin’s assumption that only 35% of differential pay expenses will be reimbursed by FEMA. He requested a status report from the Costs Efficiency Workgroup, which meets weekly.

Mr. Riemer expressed the view that action must be taken immediately to help local small businesses weather the pandemic and to provide critical services to residents.

Mr. Rice commented on rising housing prices and low housing inventory in the County, and noted Mr. Platt’s comment that economic conditions are pricing some people out of the housing market.

Mr. Glass expressed support for keeping the safety net as strong as possible to provide critical services to residents when considering future savings plans.

Mr. Jawando expressed the view that reserve funds should be tapped now to focus on maintaining services for the County’s neediest residents and to address racial inequality. He questioned how additional revenue would be raised to meet the increased need in the County and suggested a progressive income tax should be considered.

Mr. Katz requested information on how many people receiving unemployment benefits are having taxes withheld, and whether the revenue impact of the wealthiest families moving out of the County can be determined.

(5) 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; Dr. Stoddard, Director, Office of Emergency Management and Homeland Security (OEMHS); and Dr. Crowel, Director, DHHS.

Dr. Gayles reported on elevated case counts, the State and County positivity rates of 7.6% and 6.0% respectively, and noted there were 79 fatalities in November with hospitalization rates holding steady. Lag times for testing results are due to increased demand and staff is being increased to reduce turnaround times. Regarding vaccine distribution, Dr. Gayles said 150,000 doses of the Pfizer vaccine are allocated to the State to be distributed by hospitals and pharmacies to long-term care facilities, and noted that the supply is limited. The release date for the
Moderna vaccine, if approved, is likely to be a few days before Christmas. He said priority determinations are based on guidance from the State.

Dr. Stoddard reviewed enforcement activities, noting that one citation and one warning were issued, and that re-visits were conducted at some businesses to verify compliance. Hospitals are addressing their surge capabilities and the State is trying to recruit healthcare volunteers to assist. 48 nursing homes currently have positive cases. Executive Branch staff is looking at the possibility of additional restrictions in light of the increased positivity rate.

Dr. Gayles said up to 20% of cases are in the 0 to 19 age group and that to open schools safely, the level of community transmission of the virus must be reduced. Restaurants in the County are currently limited to operate at 25% capacity to try and control transmission. Dr. Stoddard said they must follow State guidelines regarding dissemination of the vaccine, but where the County has deference, they would focus on front-facing employees, such as grocery store clerks. They are looking at what County activities can stop so that staff can be redirected to help with the COVID response. Dr. Gayles said the first priority group includes hospital workers and nursing home residents and staff. Currently, teachers are included in the second group. Dr. Crowel commented on the need to educate the public and to work with community partners to reach highly impacted communities.

Mr. Friedson requested the plan for vaccine distribution be provided in writing so Councilmembers have the opportunity to provide feedback. Dr. Gayles said an immunization team is in place and he would provide key contact information to the Council.

B. Update - Coronavirus Relief Fund

Participating in the discussion were Ms. Michaelson, Council Executive Director; and Mr. Madaleno.

Ms. Michaelson noted that later this afternoon, the Council will consider a special appropriation to reallocate funds that are not used.

Mr. Madaleno said DHHS reported that the Eviction Prevention program has received enough applications to encumber the full $20 million allocation. He stated that a $31.2 million reimbursement request was submitted to FEMA, primarily for first responder personnel costs; another $21.3 million request primarily for operating expenses will be submitted later this week. He said County personnel have been moved around as needed to help meet staffing needs, but cautioned that school health staff,
who are DHHS employees, will need to return to their schools when schools begin to reopen.

Mr. Friedson expressed concern that based on information provided by Executive Branch staff, most funds in the CRF would need to be used toward differential pay, based on the estimate that only 35% would be eligible for FEMA reimbursement. Mr. Madaleno said FEMA has not provided a preliminary response regarding the County’s request for differential pay reimbursement. Mr. Friedson requested FEMA submissions be provided to the Council for review. He cautioned that the Council needs that information to make prudent fiscal decisions.

Ms. Navarro urged staff to step back and consider lessons learned to reassess gaps in meeting critical needs, as there will be growing need in the County in 2021.

Mr. Rice commented that the National Association of Counties (NACo) has asked for a deadline extension for the expenditure of CRF funds, and that steps should be taken to ensure any additional funding received is spent within the designated timeframe.

Mr. Riemer expressed the view that the County Executive should have sought Council input and approval before agreeing to the provision of differential pay to County employees, saying that more could be spent to help with costs associated with helping local businesses, housing, and other critical needs in the County.

The meeting recessed at 1:15 P.M. and reconvened at 1:50 P.M.

(6) **PUBLIC HEARING - Bill 45-20, Police - Community Policing - Data**

The public hearing was conducted. Mr. Riemer was temporarily absent. Additional material for the Council’s consideration should be submitted by the close of business on January 15, 2021.

(7) **PUBLIC HEARING/ACTION - Special Appropriation to the County Government’s FY21 Operating Budget, Community Engagement Cluster, Support for COVID-19 Response - $1,250,000 for Winterization for Streeteries**

The public hearing was conducted and the record closed.

Supported, without objection, Mr. Friedson’s motion to amend the resolution for the subject special appropriation by adding the below language:
7. This appropriation provides funding to support streeteries that use part of a County right of way or that involve the County[s] or municipality within the County partnership to assemble the outdoor eating space.

11. The Council amended the resolution prior to action by 1) changing the source of funds from a Federal Grant to General Fund Reserves; and 2) clarifying that municipality partnership also qualifies in paragraph 7.

Adopted Resolution 19-690, approving the subject special appropriation, as amended. Mr. Friedson made the motion, which carried unanimously.

(8) PUBLIC HEARING - Expedited Bill 48-20, Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week - Effective Date

The public hearing was conducted and the record closed. Action will take place during the Legislative Session’s Call of Bills for Final Reading later in the afternoon.

(9) PUBLIC HEARING - Resolution to Establish Utilization Premium Payment Rates for Public School Improvements

The public hearing was conducted and the record closed. Action will take place later in the afternoon.

(10) PUBLIC HEARING/ACTION - Special Appropriation to the County Government’s FY21 Operating Budget, DHHS - $225,095 for COVID Response to Organizations Serving People with Intellectual and Developmental Disabilities

The public hearing was conducted and the record closed.

Adopted Resolution 19-691, approving the subject special appropriation. Mr. Rice made the motion, which carried unanimously.

(10.5) PUBLIC HEARING/ACTION - Special Appropriation to the County Government’s FY21 Operating Budget - $801,912.50 for Board of Elections Center for Tech and Civic Life

The public hearing was conducted and the record closed.

Adopted Resolution 19-692, approving the subject special appropriation. Ms. Navarro made the motion, which carried unanimously.
(10.6) **INTRODUCTION/PUBLIC HEARING/ACTION** - Special Appropriation to the FY21 Operating Budget, Montgomery County Government Federal Coronavirus Relief Fund NDA, $9,934,156 and Amendment to Resolution 19-498 Special Appropriation to the Fiscal Year 2020 Operating Budget Montgomery County Government Federal Coronavirus Relief Fund NDA

Introduced the subject special appropriation and amendment to Resolution 19-498.

The public hearing was conducted and the record closed.

Discussed grave concerns, when the needs of the community are so great, regarding the $9.9 million in unspent federal CARES funding and the impending December 30 deadline. Mr. Friedson stated that he was extremely troubled by the fact that the Council was previously told that CARES funding would not be used for hazard pay differential and now the Council is being told that that is not the case. Dr. Crowel, Director, DHHS; Ms. Mora, Senior Manager, Latino Health Initiative; and Ms. Michaelson, Council Executive Director, took part in the discussion.

Approved, unanimously, the motion by Mr. Katz to suspend the Rules of Procedure to allow for immediate action.

Adopted Resolution 19-693, approving the subject special appropriation and amendment to Resolution 19-498. Mr. Rice made the motion, which carried by a vote of 8 to 1 (Mr. Friedson was opposed).

(10.7) **INTRODUCTION/PUBLIC HEARING/ACTION** - Special Appropriation to the County Government’s FY21 Operating Budget, COVID-19 Human Services and Community Assistance NDA, COVID-19 Response - $12,803,250 for Montgomery County Food Security Fund and Amendment to the FY21 Operating Budget Resolution 19-472, Section G, Designation of Entities for Non-Competitive Contract Award Status

Introduced the subject special appropriation and amendment to Resolution 19-472.

The public hearing was conducted and the record closed.

Discussed the appropriation request to continue the County’s response to food security efforts for County residents through the end of the fiscal year (January to June 2021). Dr. Crowel; Ms. Squires, OEMHS; Mr. Hodge, DHHS; Ms. Bruskin, Montgomery County Food Council; and Mr. Mia, Council Legislative Analyst, participated in the discussion.
Mr. Jawando requested information on long-term sustainability models for Community Hubs.

Mr. Friedson requested that if the amount of the assistance exceeds $12.8 million, based on offsetting of other resources, federal or private sector funding, that the Executive Branch formally notify the Council.

Approved, unanimously, the motion by Mr. Rice to suspend the Rules of Procedure to allow for immediate action.

Adopted Resolution 19-694, approving the subject special appropriation and amendment to Resolution 19-472. Mr. Rice made the motion, which carried unanimously.

(10.8) INTRODUCTION/PUBLIC HEARING/ACTION - Special Appropriation to the County Government’s FY21 Operating Budget, COVID-19 Human Services and Community Assistance NDA - $4,620,997 Por Nuestra Salud y Bienestar (For Our Health and Wellbeing)

Introduced the subject special appropriation.

The public hearing was conducted and the record closed.

Approved, unanimously, the motion by Ms. Navarro to suspend the Rules of Procedure to allow for immediate action.

Adopted Resolution 19-695, approving the subject special appropriation.

Mr. Katz made the motion, which carried unanimously.


Introduced the subject special appropriation and amendment to Resolution 19-472.

The public hearing was conducted and the record closed.

Approved, unanimously, the motion by Mr. Rice to suspend the Rules of Procedure to allow for immediate action.
 Adopted **Resolution 19-696**, approving the subject special appropriation and amendment to Resolution 19-472. Mr. Rice made the motion, which carried unanimously.

**COUNTY COUNCIL**
**FOR MONTGOMERY COUNTY, MARYLAND**
**IN LEGISLATIVE SESSION - Day #38**

(11) **Introduction of Bills**

A. **Bill 49-20. Human Rights and Civil Liberties - Discrimination in Rental Housing - Fair Criminal History and Credit Screenings (“Housing Justice Act”)**

Introduced draft #6 of the subject bill, sponsored by Councilmembers Glass and Katz; and co-sponsored by Councilmembers Jawando, Rice, Navarro and Riemer. A public hearing is scheduled for January 12, 2021, at 1:30 P.M.

B. **Expedited Bill 50-20, Landlord-Tenant Relations - Fire Safety - Removal of Mercury Service Regulators**

Introduced draft #3 of the subject expedited bill, sponsored by Council President Hucker. Councilmembers Riemer, Albornoz, Navarro, Katz, Rice, and Jawando requested to be added as co-sponsors. A public hearing is scheduled for January 12, 2021, at 1:30 P.M.

C. **Bill 51-20, Landlord-Tenant Relations - Window Guards**

Introduced draft #3 of the subject bill, sponsored by Council President Hucker. Councilmembers Albornoz, Navarro, Rice, Riemer, Katz, and Jawando requested to be added as co-sponsors. A public hearing is scheduled for January 12, 2021, at 1:30 P.M.

D. **Bill 52-20, Landlord-Tenant Relations - Protection Against Rent Gouging Near Transit**

Introduced draft #3 of the subject bill, sponsored by Councilmember Jawando. A public hearing was originally scheduled for January 12, 2021, at 1:30 P.M., but the date was later changed to February 11, 2021, at 7:30 P.M.
Call of Bills for Final Reading:


Mr. Hucker, Chair of the Transportation and Environment (T&E) Committee, reviewed the Committee’s recommendations, as contained in the staff report.

Enacted draft #3 of **Bill 33-20**, as shown at the end of these minutes.

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


B. **Bill 42-20, Ethics - Public Accountability and Transparency - Amendments**

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, reviewed the Committee’s recommendations, as contained in the staff report. Mr. Friedson, lead sponsor of the bill, summarized highlights of the bill.

Enacted draft #7 of **Bill 42-20**, as shown at the end of these minutes.

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


C. **Bill 43-20, Non-merit Employees - Merit System Employees - Severance Pay - Limited**

Ms. Navarro, Chair of the GO Committee, reviewed the Committee’s recommendations, as contained in the staff report. Mr. Friedson, lead sponsor of the bill, noted that the bill is companion legislation to **Bill 42-20**. Mr. Drummer, Senior Legislative Attorney, participated in the review.

Enacted draft #3 of **Bill 43-20**, as shown at the end of these minutes.

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

(8) **Expedited Bill 48-20, Human Rights and Civil Liberties - Building Maintenance Worker - Minimum Work Week - Effective Date**

Mr. Riemer, the sponsor of the original legislation, **Bill 12-19**, reviewed the purpose of Expedited Bill 48-20.

Enacted draft #1 of **Expedited Bill 48-20**, as introduced.

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


(13) **MISCELLANEOUS BUSINESS**

A. **Consideration of County Executive’s Veto of Bill 38-20, Taxation - Development Impact Taxes for Transportation and Public School Improvements - Amendments**

Mr. Riemer, Chair of the Planning, Housing and Economic Development (PHED) Committee, commented on **Bill 38-20**, which the Council enacted on November 16, 2020. Councilmembers remarked on the hard work that had been done over the past year to reach a compromise on various parts of the legislation and to ultimately unanimously pass a bill that would make a significant impact on the viability of building new and affordable housing on Metro station property.

Supported, unanimously, Mr. Riemer’s motion to override the County Executive’s veto and re-enact **Bill 38-20**.

The Executive’s veto of **Bill 38-20** was overridden by a roll call vote:


Mr. Hucker requested that Mr. Drummer work on a new expedited bill to be introduced in January 2021 that would amend the March 9, 2021, effective date of **Bill 38-20** to February 26, 2021, in order to keep the original effective date.
(14) **ACTION** - Resolution to Establish Utilization Premium Payment Rates for Public School Improvements

Dr. Orlin, Senior Analyst, reviewed the purpose of the subject resolution.

Adopted Resolution 19-697, to establish Utilization Premium Payment rates for public school improvements. Mr. Rice made the motion, which carried unanimously.

The Council recessed at 4:57 P.M. and reconvened at 6:32 P.M.

(15) **INTERVIEWS** - Commission on Redistricting

Interviewed the first panel of applicants for the Commission on Redistricting consisting of George Gluck, Matthew Murguia, Robert Nelson, Sam Statland, David Stein, and Eric Smith.

Interviewed the second panel consisting of Laura Ard, Ting Mei Chau, Arthur Edmunds, Sheldon Fishman, Natalie Rosser, and Michelle Whittaker.

The meeting adjourned at 9:05 P.M.

This is a correct copy of Council action.

Approved/Signed by Clerk of the Council

[Signature]

Selena Mendy Singleton, Esq.
Clerk of the Council
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

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Sections 48-52, 48-53, and 48-56 of Chapter 48 is amended as follows:

48-52. Definitions.

In this Article, the following terms have the meanings indicated:

ASTM standard means the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for biodegradable and compostable plastics.

Disposable food service ware means containers, bowls, plates, trays, cartons, cups, lids, [straws, forks, spoons, knives, napkins,] and other items that are designed for one-time use for beverages, prepared food, or leftovers from means prepared by a food service business. [The term “disposable] Disposable food service ware[“] does not include items composed entirely of aluminum.

Expanded polystyrene means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

Expanded polystyrene food service products means food containers, plates, hot and cold beverage cups, meat and vegetable trays, egg cartons, and other products made of expanded polystyrene and used for selling, providing, or serving food that are:

(1) intended by the manufacturer to be used once for eating or drinking; or
(2) generally recognized by the public as items to be discarded after one use.

Food service business means a full-service restaurant, limited-service restaurant, fast food restaurant, café, delicatessen, coffee shop, supermarket, grocery store, vending truck or cart, food truck, business or institutional cafeteria, including those operated by or on behalf of County departments and agencies, and/or other business selling or providing food within the County for consumption on or off the premises.

Polystyrene means the synthetic aromatic hydrocarbon polymer made from the monomer styrene.

Polystyrene products are thermoplastic petrochemical materials that include injection molded, vacuum formed, or extruded solid materials, and blown, expanded, and extruded foams.

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 serving food and drink which are:

(1) intended by the manufacturer to be used once for eating or drinking; or
(2) generally recognized by the public as items to be discarded after one use.


(a) A food service business must not sell or provide food in [expanded] polystyrene food service products, regardless of where the food will be consumed.

(b) Subsection (a) does not apply to:

(1) food or beverages that were filled and [sealed] packaged in [expanded] polystyrene containers outside of the County before a food service business received them; or
(2) materials used to package raw, uncooked, or butchered meat, fish, poultry, or seafood for off-premises consumption.

48-56. Prohibition on sale.

A person must not sell or offer for sale in the County:

(a) [expanded] polystyrene food service products; or
(b) polystyrene loose fill packaging.

Sec. 2. Effective Date.

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 becomes law, or on January 1, 2022, whichever comes first.
Bill No. 42-20
Concerning: Ethics — Public Accountability and Transparency — Amendments
Revised: 11/23/2020 Draft No. 7
Introduced: September 29, 2020
Enacted: December 8, 2020
Effective: 
Sunset Date: None
Ch. , Laws of Mont. Co. 

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Friedson
Co-Sponsors: Councilmember Rice, Council President Katz, Councilmembers Glass and Navarro, and Council Vice President Hucker

AN ACT to:

(1) require the Executive to disclose employment contracts with non-merit appointees and non-merit employees to the Council;
(2) include the sale or promotion of certain intellectual property by a public employee as other employment;
(3) regulate the participation of a public employee who has received compensation from an individual or organization in a [[procurement]] matter with that individual or organization;
(4) require a public employee to disclose certain sources of earned income in a financial disclosure statement;
(5) prohibit the Chief Administrative Officer from engaging in other employment; and
(6) generally amend the laws governing public accountability and trust.

By amending
Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-102

Chapter 19A, Ethics
Sections 19A-4, 19A-11, 19A-12, and 19A-19

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Underlining
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Double underlining
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Heading or defined term.
Added to existing law by original bill.
Deleted from existing law by original bill.
Added by amendment.
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:
Sec. 1. Sections 1A-102, 19A-4, 19A-11, 19A-12, and 19A-19, are amended as follows:

1A-102. Process for appointing and confirming officials.
(a) Chief Administrative Officer, County Attorney, heads of departments and principal offices, and other non-merit positions in the Executive Branch:
(1) The County Executive may appoint a new Chief Administrative Officer, County Attorney, head of a department or principal office, or other position in the Executive Branch designated by law as a non-merit position at any time.
[a.] (A) If the Council confirms a new Chief Administrative Officer, head of a department or principal office, or person to any other position in the Executive Branch designated by law as a non-merit position, the new official automatically assumes the position from anyone who holds that position on an acting or permanent basis.
[b.] (B) The County Attorney has the right to have a public hearing before the Council prior to being dismissed by the County Executive. After this right has been satisfied, if the Council confirms a new County Attorney, the new County Attorney automatically assumes the position from anyone who holds that position on an acting or permanent basis.
(2) [a.] (A) If the position of Chief Administrative Officer, head of a department or principal office, or any other position in the Executive Branch designated by law as a non-merit position, is vacant, the County Executive must appoint someone to fill the vacancy.
[b.] (B) The County Executive should submit the appointment to the Council within 90 days after the vacancy occurs.
(3) [a.] (A) Within 60 days, the Council should vote on confirmation of an appointment.
[b.] (B) The affirmative votes of a majority of councilmembers in office are necessary to confirm an appointment.
(4) If the Council votes on an appointment, does not confirm it, and does not reconsider the vote, the County Executive must make a new appointment. The County Executive should make the new appointment within 90 days after the deadline for reconsidering the vote.
(5) If the Council does not act on confirmation of an appointment within 60 days, the Council may no longer vote on that appointment. Within 90 days after the end of the sixty-day period, the County Executive should either:
[a.] (A) Resubmit the appointment; or
[b.] (B) Submit a new appointment.
(6) The Executive must disclose to the Council:
(A) any proposed employment contract with a person appointed to a non-merit position subject to confirmation by the Council at the time of appointment; and
(B) any current employment contract with an employee serving in a non-merit position subject to confirmation by the Council.

(g) Employment or employ means engaging in an activity for compensation, including the active sale or promotion for sale of intellectual property produced by the public employee, such as books, newspaper, magazine, or journal articles, videos, crafts, and artwork.

(a) Prohibitions. Unless permitted by a waiver, a public employee must not participate in:
(1) any matter that affects, in a manner distinct from its effect on the public generally, any:
(A) property in which the public employee holds an economic interest;
(B) business in which the public employee has an economic interest; or
(C) property or business in which a relative has an economic interest, if the public employee knows about the relative's interest;
(2) any matter if the public employee knows or reasonably should know that any party to the matter is:
any business in which the public employee has an economic interest or is an
officer, director, trustee, partner, or employee;
(B) any business in which a relative has an economic interest, if the public employee
knows about the interest;
(C) any business with which the public employee has an active application, is
negotiating, or has any arrangement for prospective employment;
(D) any business that is considering an application from, negotiating with, or has an
arrangement with a relative about prospective employment, if the public
employee knows about the application, negotiations, or the arrangement;
(E) any business or individual that is a party to an existing contract with the public
employee or a relative, if the contract could reasonably result in a conflict
between private interests and official duties;
(F) any business that is engaged in a transaction with a County agency if:
   (i) another business owns a direct interest in the business;
   (ii) the public employee or a relative has a direct interest in the other
        business; and
   (iii) the public employee reasonably should know of both direct interests;
(G) any business that is subject to regulation by the agency with which the public
employee is affiliated if:
   (i) another business owns a direct interest in the business;
   (ii) the public employee or a relative has a direct interest in the other
        business; and
   (iii) the public employee reasonably should know of both direct interests;
(H) any creditor or debtor of the public employee or a relative if the creditor or
debtor can directly and substantially affect an economic interest of the public
employee or relative;
(I) any business or individual that in the previous 12 months employed the
employee or an immediate family member of the employee; or
(J) any business in which the employee or an immediate family member of the
employee was an officer, director, trustee, or partner in the previous 12 months;
or
(3) any case, contract, or other specific matter affecting a party for whom, in the prior year,
the public employee was required to register to engage in lobbying activity under this
Chapter[I; or]
(4) any part of a procurement process, formally or informally, with an individual or
organization seeking to do business with the County that compensated the public
employee in the previous 12 months for services performed for the organization or
individual;[1]
(d) Procurement disclosure. A public employee who participates in a procurement process with an
individual or organization seeking to do business with the County that compensated the public
employee for services performed more than 12 months before the participation began must
disclose the prior relationship to the Procurement Director. The Procurement Director must
include a statement of this disclosure in the procurement file.

19A-12. Restrictions on other employment and business ownership.

(b) Specific restrictions. Unless the Commission grants a waiver under subsection 19A-8(b), a public
employee must not:
(1) be employed by, or own more than one percent of, any business that:
   (A) is regulated by the County agency with which the public employee is affiliated;
   or
   (B) negotiates or contracts with the County agency with which the public employee
       is affiliated; or
hold any employment relationship that could reasonably be expected to impair the impartiality and independence of judgment of the public employee.

(c) **Exceptions.**

(1) Subsections (a) and (b) do not apply to:

(A) a public employee who is appointed to a regulatory or licensing body under a statutory provision that persons subject to the jurisdiction of the body may be represented in appointments to it;

(B) a public employee whose government duties are ministerial, if the employment does not create a conflict of interest;

(C) a member of a board, commission, or similar body in regard to employment held when the member was appointed if the employment was publicly disclosed before appointment to the appointing authority, and to the County Council when confirmation is required. The appointing authority must forward a record of the disclosure to the Commission, which must keep a record of the disclosure on file; or

(D) an elected public employee in regard to employment held at the time of election, if the employment is disclosed to the County Board of Elections before the election. The Commission must file the disclosure received from the County Director of Elections with the financial disclosure record of the elected public employee.

(2) If expressly authorized by regulation, subparagraph (b)(1)(A) and paragraph (b)(2) do not prohibit a police officer from working outside employment for an organization solely because that organization is located in the County or in the district where the officer is assigned.

(d) **Prohibition against unapproved employment.** Unless the Commission permits it or subsections (a) and (b) do not apply, a person must not knowingly employ a public employee.

(e) **Prohibition against contingent compensation.** A public employee must not assist or represent a party for contingent compensation in a matter before or involving a County agency except as expressly authorized by regulation. A public employee may assist or represent a party for contingent compensation in any matter for which contingent fees are authorized by law.

(f) **Chief Administrative Officer.** A public employee must not engage in other employment while serving as the Chief Administrative Officer.


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(a) Each financial disclosure statement filed under Section 19A-17(a) must disclose the following:

* * *

(8) **Sources of earned income.**

(A) The statement must list the name and address of:

(i) each employer of the filer, other than the County Government;

(ii) each employer of a member of the filer’s immediate family; [and]

(iii) each business entity of which the filer or a member of the filer’s immediate family was a sole or partial owner and from which the filer or member of the filer’s immediate family received earned income at any time during the reporting period; and

(iv) for an elected official or a non-merit County employee, the source of all fees received from one individual or organization totaling more than $1,000 for services provided by the filer while employed by the County during the reporting period. A filer does not need to include any information with respect to any person for whom services were provided by any firm or association of which the filer was a member, partner, or employee unless the filer was directly involved in providing those services.

(B) The filer need not disclose a minor child’s employment or business ownership if the agency with which the filer is affiliated does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child.
(C) Unless the source of a fee greater than $1,000 is a restricted donor, a filer
subject to subparagraph (A)(iv) does not need to disclose the identity of a
source of a fee for services if the source and the filer have a confidential
relationship which creates a privilege against testifying under State law. The
filer must identify a restricted donor source who has a confidential relationship
with the filer confidentially as prescribed by the Commission.

Sec. 2. Name.
This Act must be known as the Public Accountability and County Transparency (PACT) Act.
The County Council for Montgomery County, Maryland approves the following Act:

AN ACT to:

(1) prohibit severance pay for a County employee unless authorized by law;
(2) prohibit severance pay for certain employees who violate the Ethics Law;
(3) provide for certain exceptions; and
(4) generally amend the law governing severance pay for County employees.

By amending

Montgomery County Code
Chapter 1A, Structure of County Government
Section 1A-104

Chapter 33, Personnel and Human Resources
Section 33-140

By adding

Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-26

**Boldface**

Heading or defined term.

*Underlining*

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:
Sec. 1. Sections 1A-104 and 33-140 are amended and Section 33-26 is added as follows:

1A-104. Heads of departments and principal offices; other positions designated as non-merit.

* * *

(e) Salaries. The Executive must design a compensation system to attract and retain highly competent senior leaders as heads of departments and principal offices, and other non-merit employees in the Executive Branch. Each of these employees must be paid a salary within a salary schedule proposed by the Executive and approved by the Council in the Operating Budget of the Montgomery County Government. The salary schedule may contain a provision permitting the Executive to exceed the salary schedule established for a position for an individual employee, subject to Council approval, if the Executive finds that it is necessary to attract or retain a senior leader for a specific position. The Council must establish a salary schedule for non-merit positions in the Legislative Branch as part of the Operating Budget of the Montgomery County Government.

(f) Severance pay. The Executive or a Councilmember must not authorize any payment of money or paid administrative leave to a non-merit employee in the Executive Branch or in the Legislative Branch upon separation from County employment unless the payment is expressly authorized by law. The Executive or a Councilmember must not enter into an employment agreement with a non-merit employee that provides for any type of severance pay for an employee who is terminated with or without cause. This subsection must not be interpreted to prohibit:

1. the payout of unused leave at termination of employment;
2. a discontinued retirement pension authorized under Section 33-45(d) or Section 33-45(e);
3. severance pay under Sections 33-139 and 33-140.

33-140. Plan administration.

(a) The County Executive must establish a severance pay plan in Executive Regulations under method
(b) The plan must:
1. prohibit severance pay for an employee who admits to or is found to have violated the Ethics Law in the 12 months prior to separation from County employment; and
2. qualify as a severance pay plan under Section 457 of the Internal Revenue Code.

* * *


The Executive must not authorize any payment of money or paid administrative leave to a merit employee upon separation from County employment unless the payment is expressly authorized by law. This Section must not be interpreted to prohibit:

(a) the payout of unused leave at termination of employment;
(b) a discontinued retirement pension authorized under Section 33-45(d); or
(c) severance pay under Sections 33-139 and 33-140.

Sec. 2. Transition.

The amendments in Section 1 must apply to any County employee who separates from County employment on or after the date this Act takes effect.