



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, October 5, 2021

The County Council for Montgomery County, Maryland convened via video conference at 9:05 A.M. on Tuesday, October 5, 2021.

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.

PRESENTATIONS

- A. Proclamation was presented by Mr. Katz and County Executive Elrich recognizing Domestic Violence Awareness Month.
- B. Proclamation was presented by Mr. Hucker recognizing Energy Action Month.

GENERAL BUSINESS

- A. Agenda and Calendar Changes
There were no agenda or calendar changes.
- (1) B. **Acknowledgement** – [Receipt of Petitions](#)
No petitions were received this week.
- C. **Action** – Approval of Minutes
Approved the minutes of July 27 and August 5, 2021; and the closed session minutes of September 21, 2021, without objection. Mr. Friedson, Mr. Jawando and Mr. Riemer were temporarily absent.

(2) **ACTION** -[Spending Affordability Guidelines for the FY23 Capital Budget and the FY23-28 Capital Improvements Program](#)

Ms. Beck, Capital Budget Manager, Office of Management and Budget (OMB), participated in the discussion.

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, reviewed the recommendations of the Committee as contained in the staff report.

Adopted **Resolution 19-999**, approving the Spending Affordability Guidelines for the FY23 Capital Budget and the FY23-28 Capital Improvements Program (CIP).

The GO Committee made the motion, which carried unanimously.

(3) **BRIEFING:** [COVID Rental Assistance and Eviction Prevention](#)

Participating in the discussion were Dr. Crowel, Director, Ms. Harris, Chief, and Ms. Branda, Deputy Chief, Services to End and Prevent Homelessness, and Ms. Eslaquit, Department of Health and Human Services (DHHS); Sheriff Popkin and Chief Deputy Uy, Sheriff's Office; Mr. Nigam, Director, and Mr. Demarais, Deputy Director, Department of Housing and Community Affairs (DHCA); and Mr. Riedel, Supervising Attorney, CASA.

Received a briefing from the panel on the status of the County's rent relief efforts, including implementation challenges, the application process, landlord participation, available funding and outreach efforts; and on eviction statistics and the availability of legal assistance and other support services. Informed that the 254 evictions carried out in FY21 were deemed "emergency evictions" by the Court.

Mr. Jawando requested information on the number of self-evictions versus physical evictions.

Mr. Rice requested information on the number of people evicted that are re-housed in the County or are now homeless.

(4) **INTERVIEWS:** [County Executive appointments for Assistant Chief Administrative Officer, Sonia Mora and Yaakov \(Jake\) Weismann](#)

Interviewed Ms. Sonia Mora and Mr. Yaakov Weissman, the County Executive's appointees as Assistant Chief Administrative Officers. Council action is scheduled for October 12, 2021.

(5) **CONSENT CALENDAR**

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

- B. **Introduced** FY22 Capital Budget and Amendments to the FY21-26 Capital Improvements Program (CIP) - Transfer of Funds for the Charles W. Woodward High School Reopening Project.
- C. **Introduced** FY22 Supplemental Appropriations and Amendments to the FY 21-26 Capital Improvements Program Transfer of Funds - Capital Projects.
- D. **Introduced** a supplemental appropriation to the County Government's FY22 Operating Budget, Department of Health and Human Services (DHHS) ; University of Maryland, Office of Research Administration, Short-Term Housing Assistance for Human Trafficking Survivors: A Path to Permanent Housing - \$300,000 (Source of Funds: University of Maryland Grant). A public hearing is scheduled for October 19, 2021, at 1:30 P.M.
- E. Adopted **Resolution 19-1000**, authorizing the issuance of taxable limited obligation certificates to finance the Affordable Housing Acquisition and Preservation Project.
- F. Adopted **Resolution 19-1001**, confirming the County Executive's appointment to the Charter Review Commission: Galina Teverovsky.
- G. Adopted **Resolution 19-1002**, confirming the County Executive's appointments to the UpCounty Citizens Advisory Board: Christel Bivens, Amanda Franklin, Mary Hoel, Revonne Johnson, Paul Klee, Christopher O'Brien, Arlene Proebsting.
- H. Adopted **Resolution 19-1003**, confirming the County Executive's appointments to the Workforce Development Board: Sharon Strauss, Helen Nixon.
- I. **Introduced** a supplemental appropriation to the County Government's FY22 Operating Budget, Department of Transportation (DOT) - \$720,300 for COVID-19 Research Demonstration Grant (Source of Funds: \$450,000 Federal: COVID-19 Research Demonstration Grant; \$270,300 Mass Transit Fund). A public hearing is scheduled for October 19, 2021, at 1:30 P.M.

- J. **Introduced** a resolution to amend FY22 Transportation Fees, Charges, and Fares based on Fare Equity Study. A public hearing is scheduled for October 19, 2021, at 1:30 P.M.

(5.5) **DISTRICT COUNCIL SESSION**

- A. **Introduction** - Zoning Text Amendment (ZTA) 21-07, Density and Height Allocation - Development with Moderately Priced Dwelling Units

Introduced draft #1 of ZTA 21-07, sponsored by Mr. Huckler and Mr. Riemer and co-sponsored by Mr. Rice. A public hearing is scheduled for November 9, 2021, at 1:30 P.M.

The Council recessed at 12:41 P.M. and reconvened at 1:33 P.M.

- (6) **PUBLIC HEARING/ACTION** - Resolution to Approve Lease of Property at Sligo Creek Golf Course to Renovacion Media Group Corp.

The public hearing was conducted and the record closed.

Adopted **Resolution 19-1004**, approving the lease of property at Sligo Creek Golf Course to Renovacion Media Group Corp.

Mr. Jawando made the motion, which carried without objection. Mr. Glass was temporarily absent. Later in the meeting, Mr. Glass indicated that had he been present, he would have voted in the affirmative.

- (7) **PUBLIC HEARING/ACTION** - Supplemental Appropriation to Montgomery College's FY22 Operating Budget - \$17,082,886 for the Federal, State, and Private Contract Fund

The public hearing was conducted and the record closed.

Mr. Rice made the motion, which carried without objection. Mr. Glass was temporarily absent. Later in the meeting, Mr. Glass indicated that had he been present, he would have voted in the affirmative.

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

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

A. [Bill 19-21, Finance - Reports on Settlements Agreements](#)

Ms. Navarro reviewed the purpose of the Bill and the GO Committee's recommendation, as contained in the staff report.

Enacted draft #4 of **Bill 19-21**, as shown at the end of these minutes.

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

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

B. [Expedited Bill 30-21, Landlord-Tenant Relations - Restrictions During Emergencies - Extended Limitations Against Rent Increases and Late Fees](#)

Participating in the discussion were Ms. Wellons, Legislative Attorney, and Mr. Nigam, Director, DHCA. Mr. Riemer disclosed that he owns two rental apartments.

Mr. Riemer, Chair of the Planning, Housing, and Economic Development (PHED) Committee, reviewed the recommendations of the Committee, as contained in the staff report. The expedited bill would extend the prohibition against raising rents above the guidelines until August 15, 2022, and prohibit charging late fees only for those renters who demonstrate economic hardship due to the COVID-19 pandemic.

Discussed Mr. Friedson's motion to amend the bill to add two new subsections to limit rent increases to 0% between November 15, 2021, and August 15, 2022, for renters who attest that they suffered an economic hardship as a direct or indirect result of the COVID-19 pandemic; to require periodic reports by landlords; and to amend subsection (f) to require education and outreach and publication of notices in multiple languages.

Approved Mr. Albornoz's motion to table discussion of the expedited bill to obtain additional language and fiscal analysis of the proposed legislation. Mr. Riemer, Mr. Jawando and Mr. Glass were opposed. Noted that the County's current rent stabilization program under the COVID-19 Renter Relief Act is scheduled to expire on November 15, 2021.

C. [Expedited Bill 31-21, Property Tax Credits - Energy Conservation Devices and Energy Efficient Buildings - Amendments](#)

Mr. Hucker, Chair of the Transportation and Environment (T&E) Committee, reviewed the recommendation the joint GO/T&E Committee as contained in the staff report.

Enacted draft #2 of **Expedited Bill 31-21**, as shown at the end of these minutes.

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

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

The meeting adjourned at 3:08 P.M.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council

Bill No. 19-21
 Concerning: Finance – Reports on Settlement Agreements
 Revised: 9/27/2021 Draft No. 4
 Introduced: May 18, 2021
 Enacted: October 5, 2021
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Jawando
 Co-Sponsors: Council President Hucker, Councilmembers Glass, Reimer, Rice and Navarro

AN ACT to:

- (1) require the County Attorney to periodically report to the County Executive and County Council regarding certain settlement agreements entered into by the County;
- (2) require the County Attorney to publish each report on the County website;
- (3) prohibit certain clause in a settlement agreement;
- (4) require the County Attorney to collect demographic information from parties;
- (5) amend the jurisdictional amount for settlement of claims by the County Attorney; and
- (6) generally amend the law regarding the settlement of claims by or against the County.

By amending

Montgomery County Code
 Chapter 20, Finance
 Section 20-2

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

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>

1 **Sec. 1. Section 20-2 is amended as follows:**

2 **20-2. Settlement of claims by [county attorney] County Attorney; annual reports required.**

3 (a) Definitions. In this Section, the following terms have the meanings indicated.

4 Civil Rights claim means an assertion by a claimant that the County or County employee injured the
5 claimant by a violation of federal, state, or local civil rights statute.

6 Parties means a person who settles a claim or a person who allegedly committed the misconduct.

7 Self-Insurance Fund means insurance coverage, including a legal defense, provided to the County
8 and its officials, employees, and agents under Section 20-37.

9 Self- Insurance Fund Lawsuit means a claim or legal proceeding that is covered under the Self
10 Insurance Fund that alleges a violation of:

11 (1) federal or state constitutional rights;

12 (2) civil rights claims; or

13 (3) common law tort claims.

14 [[a)] (b) On behalf of the [county] County, the [county attorney] County Attorney is [hereby]
15 authorized to [effect a settlement of] settle all claims by or against the [county] County and all
16 court cases to which the [county] County is a party where the amount of the claim or the amount
17 involved in the suit is:

18 (1) not more than [five] ~~thirty~~ thousand dollars [(\$5,000.00)] (~~\$30,000.00~~); or

19 (2) the maximum jurisdictional amount set for civil cases in District Court of Maryland under
20 State law, whichever is greater; and

21 (3) when in the [county attorney's] County Attorney's judgment it is proper and advisable to do
22 so.

23 [[b)] (c) The [county attorney] County Attorney is further authorized to [effect] settle, with the
24 approval of the [county executive] County Executive, [a settlement of] all other claims by or
25 against the [county] County and all other court cases to which the [county] County is a party,
26 when in the [county attorney's] County Attorney's judgment and that of the [county executive]
27 County Executive it is advisable and proper to do so. In court cases in which the members of the
28 [county council] County Council are parties in their capacity as such, the [county attorney] County
29 Attorney is hereby authorized to [effect settlement] settle the cases on their behalf upon the
30 approval of the [council] Council, except in cases where each [member of the council]
31 Councilmember may be personally liable or responsible, in which cases settlement [shall] must be
32 made only on behalf of each [member] Councilmember approving such settlement.

33 [[c)] (d) The authority granted by this section [shall] must apply to all future and past settlements.

34 (e) Annual Report. By October 1 of each year, the County Attorney must submit to the
35 County Executive and the County Council, and must publish on the County website, a written
36 report that summarizes the settlement of each Self-Insurance Fund Lawsuit during the prior fiscal
37 year.

- 38 (f) *Contents of the report.* For each settlement, the report must identify:
- 39 (1) the claimant or claimants;
- 40 (2) the dollar amount, or other consideration, under the settlement;
- 41 (3) the nature of the claim; [[and]]
- 42 (4) the County departments or offices involved in the claim[[.]];
- 43 (5) demographic information voluntarily provided by the parties; and
- 44 (6) the applicable legal authority or reason if any information relating to the settlement is
- 45 excluded because disclosure may be in violation of federal or state law.
- 46 (g) *Non-disclosure clause in settlement agreements – prohibited.* The County must not agree to a non-
- 47 disclosure in a settlement agreement that would prevent public disclosure of the settlement
- 48 agreement. This subsection does not apply to information that is prohibited from disclosure under
- 49 federal or state law.
- 50 (h) *Collection of Demographic Information.* The County Attorney must, at the conclusion of a
- 51 settlement agreement, provide a demographic sheet for parties to voluntarily disclose demographic
- 52 information. The demographic sheet must, at a minimum, collect the following data:
- 53 (1) race;
- 54 (2) ethnicity;
- 55 (3) gender identity;
- 56 (4) age;
- 57 (5) sexual orientation;
- 58 (6) religion; and
- 59 (7) any other demographic information voluntarily provided by the parties.
- 60 (i) *Opt-out.* A party of a settlement agreement may choose to opt out and decline providing
- 61 demographic information by signing an attestation statement provided by the County Attorney.

Enacted Expedited Bill No. 31-21
 Concerning: Property Tax Credits –
Energy Conservation Devices and
Energy Efficient Buildings –
Amendments
 Revised: 10/5/2021 Draft No. 2
 Introduced: July 20, 2021
 Enacted: October 5, 2021
 Executive: _____
 Effective: _____
 Sunset Date: See Sec. 2
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

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

AN EXPEDITED ACT to:

- (1) define and clarify terms related to property tax credits for energy conservation devices and energy-efficient buildings;
- (2) ~~[[repeal]]~~ clarify a sunset clause affecting property tax credits for energy-efficient buildings;
- (3) provide for certain application timelines related to property tax credits; and
- (4) generally amend the law regarding property tax credits.

By amending

Montgomery County Code
 Chapter 52, Taxation
 Sections 52-103A and 52-103B

By repealing

Chapter 28, Laws of Montgomery County 2020
 Section 2

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

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>

Sec. 1. Sections 52-103A and 52-103B are amended as follows:

52-103A. Property tax credit — energy conservation devices for existing energy-efficient buildings

(a) *Intent.* The intent of this Section is to:

* * *

(5) implement [a tax credit] tax credits under [Section] Sections 9-203 and 9-242(a) of the Tax-Property Article of the Maryland Code, as amended.

(b) *Definitions.* In this Section the following words have the meanings indicated:

* * *

Director means the Director of the Department of Finance or the Director’s designee.

Energy conservation device means any equipment, device, or material that reduces the demand for conventional fuels or increases the efficiency of these fuels, but is not a standard household appliance, including:

- (1) insulation in any wall, roof, floor, foundation, or heating and cooling distribution system;
- (2) a storm window or door, multi-glazed window or door, heat-absorbing or heat-reflective glazed and coated window and door system, or additional glazing, reduction in glass area, and other window and door system modification that reduces energy consumption;
- (3) an automated energy control system;
- (4) a heating, ventilating, or air-conditioning and distribution system modification or replacement;
- (5) caulking, weather-stripping, and air sealing;
- (6) replacement or modification of a lighting fixture to reduce the energy use of the lighting system;
- (7) an energy recovery system;
- (8) a day lighting system;
- (9) a measure that reduces the usage of water or increases the efficiency of water usage; or
- (10) any other installation or modification of equipment, device, or other material intended to decrease energy consumption.

Energy-efficient building means a non-[]residential or multi-family residential building that: (1) has or will have at least 10,000 square feet of gross floor area; (2) has received a Certificate of Occupancy from the Department of Permitting Services; (3) has achieved at least a minimum 50 percent occupancy rate for at least 12 consecutive months; and (4) has demonstrated energy improvements consistent with the requirements of this Section.

Equity Emphasis Area means an area identified as an equity emphasis area by National Capital Region Transportation Planning Board.

* * *

(d) *Application.* An application by the owner of an energy-efficient building for a tax credit must be in the form prescribed by the Director and include:

38 (1) a description and installation date of the energy conservation device installed in the
39 building;

40 * * *

41 (e) *Energy Reduction Tax Credit authorized under Section 9-203 of the Tax-Property Article of the*
42 *Maryland Code.*

43 (1) An energy-efficient building may receive an Energy Reduction Tax Credit for achieving
44 energy use reductions under this subsection and, if that credit is granted, may receive;

45 (A) an additional Building Sustainability Tax Credit under subsection (f); and

46 (B) an expanded credit under subsection (g) for buildings located in Equity
47 Emphasis Areas.

48 * * *

49 (3) Baseline and Improved ENERGY STAR Score 12-month time periods must not;

50 (A) overlap;

51 (B) include the energy conservation device installation period; or [and];

52 (C) be more than 6 calendar years apart.

53 * * *

54 (f) *Building Sustainability Tax Credit authorized under Section 9-242(a) of the Tax-Property Article*
55 *of the Maryland Code.*

56 * * *

57 (g) Expanded credit for buildings in Equity Emphasis Areas.

58 (1) The owner of an energy-efficient building located within an Equity Emphasis Area at the
59 time of application may qualify for an expanded credit under this subsection.

60 (2) The owner must apply for a credit under this subsection simultaneously with an
61 application for the Energy Reduction Tax Credit.

62 (3) The amount of the tax credit under this subsection must be added to the Energy
63 Reduction Tax Credit for each year that the Energy Reduction Tax Credit is granted.

64 (4) The amount of the tax credit under this subsection must be equal to 10% of the annual
65 property tax owed on the building.

66 ~~[(g)]~~ (h) *Total Maximum Credit.* The maximum credit that an energy-
67 efficient building may be granted in any year must not exceed 100% of the building's
68 annual County property tax liability.

69 ~~[(h)]~~ (i) *Annual limits.* In any fiscal year, the Director must not award
70 more than \$5 million in total tax credits granted to all buildings under this Section.

71 ~~[(i)]~~ (j) *Reapplications.*

72 * * *

73 ~~[(j)]~~ (k) *Credit Review.*

74 * * *

75 ~~[(k)]~~ (l) Regulations. The County Executive may issue regulations under method (2) to
76 administer the Energy Reduction Tax Credit and the Building Sustainability Tax Credit.

77 **52-103B. Property tax credit — newly constructed energy-efficient buildings**

78 * * *

79 (c) Definitions. In this Section the following words have the meanings indicated:

80 * * *

81 *BREEAM* means the Building Research Establishment Environmental Assessment Method rating
82 system administered by BRE Global.

83 *Building Code requirement* means any code, standard, zoning ordinance, or other requirement
84 related to commercial and multi-family building construction and permitting processes that applies
85 to a newly constructed energy-efficient building.

86 *Equity Emphasis Area* means an area identified as an equity emphasis area by National Capital
87 Region Transportation Planning Board.

88 * * *

89 (e) Application.

90 (1) An application by the owner of a newly constructed energy-efficient building for a tax
91 credit must be in the form prescribed by the Director and must include:

92 (A) a certification from the Department of Permitting Services within the past year
93 indicating the percentage performance above current Building Code
94 requirements at time of application demonstrated by the newly constructed
95 energy-efficient building for the New Building Energy Reduction Tax Credit;
96 and

97 (B) if the New Building Sustainability Tax Credit is sought after receiving the New
98 Building Energy Reduction Tax Credit, verified documentation by the newly
99 constructed energy-efficient building demonstrating qualification for the New
100 Building Sustainability Tax Credit within [the past year for the New Building
101 Sustainability Tax Credit] two years after obtaining a use and occupancy permit.

102 * * *

103 (f) *New Building Energy Reduction Tax Credit.*

104 (1) A newly constructed energy-efficient building may receive [an] a New Building Energy
105 Reduction Tax Credit for achieving energy use reductions as outlined in this subsection
106 and, if that credit is granted, may receive an additional New Building Sustainability Tax
107 Credit as described in subsection (g).

108 (2) To be eligible for the New Building Energy Reduction Tax Credit, a newly constructed
109 energy-efficient building owned by the applicant must achieve a minimum 10 percent
110 increase in energy performance above the current applicable [Building and Zoning Code]

111 building code requirements at time of application using an energy modeling software
112 approved by the Department of Permitting Services.

113 (3) For the New Building Energy Reduction Tax Credit, the percentage of the annual County
114 property tax credit awarded for 4 years is calculated by rounding a newly constructed
115 energy-efficient building’s performance above [Building Code and Zoning Code]
116 building code requirements to the nearest whole number and multiplying it by the
117 multiplier below:

118 * * *

119 (g) *New Building Sustainability Tax Credit.* The owner of a newly constructed energy-efficient
120 building seeking the New Building [Energy] Sustainability Tax Credit must apply for that tax
121 credit [simultaneously with] after receiving the New Building Energy Reduction Tax Credit.

122 * * *

123 (2) To be approved for the New Building Sustainability Tax Credit, an energy-efficient
124 building must [also] first be approved for the New Building Energy Reduction Tax
125 Credit.

126 (h) Expanded credit for buildings in Equity Emphasis Areas.

127 (1) The owner of a newly constructed energy-efficient building located within an Equity
128 Emphasis Area at the time of application may qualify for an expanded credit under this
129 subsection.

130 (2) The owner must apply for a credit under this subsection simultaneously with an
131 application for the New Building Energy Reduction Tax Credit.

132 (3) The amount of the tax credit under this subsection must be added to the New Building
133 Energy Reduction Tax Credit for each year that the New Building Energy Reduction Tax
134 Credit is granted.

135 (4) The amount of the tax credit under this subsection must be equal to 10% of the annual
136 property tax owed on the building.

137 [(h)] (i) *Total Maximum Credit.* The maximum credit under this Section that an energy-efficient
138 building may be granted in any fiscal year must not exceed 100% of the building’s annual
139 property tax liability.

140 [(i)] (i) *Credit Review.*

141 * * *

142 [(j)] (k) *Regulations.* The County Executive may issue regulations under method (2) to
143 administer the New Building Energy Reduction Tax Credit and the New Building Sustainability Tax Credit.

144 **Sec. 2. Section 2 of Chapter 28 of the Laws of Montgomery County 2020 is [[repealed]] amended as**
145 **follows:**

146 **[Sec. 2. Sunset Clause.** Section 52-103 of the County Code must sunset, and must and have no further
147 force and effect, on January 1, 2025.] **Sec. 2. Sunset Clause.** Section 52-103 of the County Code must sunset, and
148 must and have no further force and effect, on January 1, 2033.

149 **Sec. 3. Expedited Effective Date.** The Council declares that this legislation is necessary for the immediate
150 protection of the public interest. This Act takes effect on the date that it becomes law.