

MEMORANDUM

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney
GO Glenn Orlin, Deputy Staff Director

SUBJECT: **Public Hearing:** Expedited Bill 3-10, Streets and roads – Sidewalks – Public hearing requirement

Expedited Bill 3-10, Streets and roads – Sidewalks – Public hearing requirement, sponsored by Council President Floreen, Councilmember Leventhal, Councilmember Berliner, and Council Vice President Ervin, was introduced on January 19, 2010. A Transportation, Infrastructure, Energy and Environment (T&E) Committee worksession is tentatively scheduled for February 11 at 2:00 p.m.

Bill 3-10 would waive the required public hearing under certain circumstances before certain sidewalks or shared use paths are approved. Its purpose is to expedite the administrative approval process to allow quicker construction of sidewalks and hiker-biker paths that are noncontroversial, have substantial community support, would be placed entirely in the public right-of-way, and don't require a detailed engineering design.

The Transportation, Infrastructure, Energy, and Environment Committee considered this issue on December 7 and directed Council staff to draft this bill.

This packet contains:

Expedited Bill 3-10
Legislative Request Report

Circle #

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Expedited Bill No. 3-10
Concerning: Streets and roads -
Sidewalks - Public hearing
requirement
Revised: January 7, 2010 Draft No. 2
Introduced: January 19, 2010
Expires: July 19, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Floreen, Councilmembers Leventhal and Berliner, and Council Vice
President Ervin

AN EXPEDITED ACT to:

- (1) waive the required public hearing under certain circumstances before certain sidewalks or shared use paths are approved; and
- (2) generally amend the law governing sidewalk and shared use path approval and construction.

By amending

Montgomery County Code
Chapter 49, Streets and Roads
Sections 49-53 and 49-54

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

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

Sec. 1. Sections 49-53 and 49-54 are amended as follows:

49-53. Public hearing; notice.

* * *

(d) A public hearing need not be held under this Section before a sidewalk or shared use path is constructed if:

(1) the sidewalk or path can be constructed entirely in one or more existing public rights-of-way without a detailed engineering design;

(2) (A) a civic association, homeowner's association, or other organization, which includes a substantial number of property owners who would be benefited by construction of the sidewalk or path, has filed a notice of its support for the sidewalk or path with the Executive or a designee; or

(B) if no such organization has filed a notice of support, a petition signed by a substantial number of property owners who would be benefited by construction of the sidewalk or path has been filed with the Executive or a designee; and

(3) the Executive finds that significant issues have not arisen that would require a public hearing to be held.

49-54. Authorization of construction; recommendation of assessments to Council.

(a) If, after the hearing, [provided for in] if any, required by Section 49-53 is held, the County Executive finds that the public interest requires all or part of any road construction project under consideration to be carried out, the Executive must authorize the road to be built as required in this Chapter.

(b) As soon as practicable after the Executive authorizes the road under this

Section, and after the hearing, if required, is held under Section 49-53, the County Executive must forward to the County Council a written report recommending any proposed assessments based on the estimated cost of building the road. The report must describe the work to be done and state, with particularity, what portion of the cost of the construction, if any, should be paid by the adjacent properties and what portion, if any, of the cost should be paid by the County under this Chapter.

* * *

Sec. 2. Expedited Effective Date.

The Council declares that this Act is necessary for the immediate protection of the public interest. This Act takes effect on the date when it becomes law.

Approved:

Nancy Floreen, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 3-10

Streets and roads – Sidewalks – Public hearing requirement

DESCRIPTION:	Expedited Bill 3-10 would waive the required administrative public hearing for sidewalks and hiker-biker paths that are noncontroversial, have substantial community support, would be placed entirely in the public right-of-way, and don't require a detailed engineering design.
PROBLEM:	The administrative approval process for smaller, simpler sidewalks and hiker-biker paths is unnecessarily long.
GOALS AND OBJECTIVES:	To waive the administrative public hearing before certain sidewalks and shared use paths are approved.
COORDINATION:	Department of Transportation
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Michael Faden, Senior Legislative Attorney, 240-777-7905 Glenn Orlin, Deputy Staff Director, 240-777-7936
APPLICATION WITHIN MUNICIPALITIES:	Applies only to County-built sidewalks and shared use paths.
PENALTIES:	Not applicable