



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, March 24, 2020

The County Council for Montgomery County, Maryland convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 12:31 P.M. on Tuesday, March 24, 2020.

PRESENT

Councilmember Sidney Katz, President	Councilmember Tom Hucker, Vice President (<i>remotely</i>)
Councilmember Gabe Alborno	Councilmember Andrew Friedson
Councilmember Evan Glass (<i>remotely</i>)	Councilmember Will Jawando
Councilmember Nancy Navarro (<i>remotely</i>)	Councilmember Craig Rice (<i>remotely</i>)
Councilmember Hans Riemer	

The President in the Chair.

CALL TO ORDER

Mr. Katz commented that having a number of Councilmembers participate remotely is not the way the Council normally conducts business but is necessary in order to comply with Governor Hogan's Executive Order that gatherings have less than 10 people. He also noted that the COVID-19 health crisis is an extraordinarily difficult and uncertain time for County residents and that the Council will be focusing on public health and economic issues.

COUNCIL SITTING AS BOARD OF HEALTH

(.5) **Update - [Novel Coronavirus \(COVID-19\) and County Public Health Planning](#)**

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

Dr. Gayles gave an update on changes that have occurred since the last briefing, as well as the impact of the COVID-19 pandemic in the County, steps being taken to help stop the spread of the virus, and how to meet the needs of the community. There are currently 107 reported cases and one death in the County. He reviewed testing prioritization, increased testing capacity, and the availability of the rapid test, planned mobile test sites, and the importance of staying at home and social distancing. Work is being done on a surge plan, the anticipated impact to hospitals, including the needed addition of more hospital beds.

Dr. Stoddard reported on resource acquisitions, including procuring more cleaning supplies and personal protective equipment (PPE), encouraging telework and teleservices, volunteer donations, ramped up efforts to provide information in different languages to ensure all populations are informed (noted that MC311 is fairly well staffed at this point), and addressing the needs of homeless shelters.

(1) **CONSENT CALENDAR**

Unanimously supported Mr. Albornoz's motion to Suspend the Rules so action could take place on Item S, extending the appointment of Dr. Brunetto as Acting Chief of Aging and Disability Services.

Due to a dropped connection of a Councilmember participating remotely, the Council took a short recess at 2:33 P.M. and resumed the session at 2:37 P.M.

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

- A. **Introduced** a resolution to authorize grant application for Annual Transportation Plan grant.
- B. **Introduced** a resolution approving and certifying the Agency Safety Plan for Montgomery County Department of Transportation (DOT), Division of Transit Services.
- C. **Introduced** a resolution approving a franchise agreement: Smart City Media, LLC (SCM).
- D. **Introduced** a resolution authorizing the issuance of special obligation refunding bonds financed by Alcohol Beverages Services revenues.
- E. **Introduced** a supplemental appropriation to the FY20 Operating Budget, Montgomery County Public Schools (MCPS) - \$3,424,109 for the Title1 - Part A Grant. A public hearing and action are tentatively scheduled for April 14, 2020.

- F. **Received and Released** the Office of Legislative Oversight (OLO) Report 2020-6, Case Studies: Growing the Restaurant and Retail Sector in Montgomery County. A Planning, Housing, and Economic Development (PHED) Committee worksession will be scheduled at a later date.
- G. **Received and Released** OLO Memorandum Report 2020-7, Autism-Friendly and Sensory-Friendly: Expanding Community Access.
- H. Adopted **Resolution 19-378**, approving an amendment to Resolution 16-1152 related to refunding General Obligation Bonds.
- I. Adopted **Resolution 19-379**, confirming the County Executive's appointments to the Workforce Development Board: Benjamin Wu, Barbara Ebel, Ahmed Ali, Melissa Boone, Sophia Parker, Michelle Bell Smith, Lesley MacDonald, Mark Drury, Jennifer Hester, Mahesh Kalva, Donald Carroll Moragne, Diego Uriburu, Shane Rock.
- J. Adopted **Resolution 19-380**, confirming the County Executive's appointments to the Early Childhood Coordinating Council: Joan Glick, Charlene Muhammad, Rebecca Smith.
- K. Adopted **Resolution 19-381**, confirming the County Executive's appointment to the Board of Investment Trustees and Consolidated Retiree Health Benefits Trust Board of Directors: Michael J. Coveyou.
- L. Adopted **Resolution 19-382**, confirming the County Executive's appointment to the Friendship Heights Transportation Management District Advisory Committee: Iftin Thompson.
- M. Adopted **Resolution 19-383**, confirming the County Executive's appointments to the Revenue Authority: David Freishtat, Eric Goldberg.
- N. Adopted **Resolution 19-384**, confirming the County Executive's appointment to the Silver Spring Transportation Management District Advisory Committee: Iftin Thompson.
- O. Adopted **Resolution 19-385**, confirming the County Executive's appointments to the Workforce Development Board: Mary Lang, Beth Lash, John Cain, Ryan Gandy, Omar Lazo, Jeffrey Guido.
- P. Adopted **Resolution 19-386**, resolution to Designate the Montgomery County Collaboration Council for Children, Youth, and Families as the County's Local Management Board for Children, Youth, and Families.

- Q. **Introduced** a supplemental appropriation to the FY20 Capital Budget and amendment to the FY19-24 Capital Improvements Program (CIP), DHHS - \$1,140,000 for Men's Emergency Homeless Shelter Addition. A public hearing is scheduled for April 14, 2020, at 1:30 P.M.
- R. **Introduced** a supplemental appropriation to the FY20 Capital Budget and amendment to the FY19-24 CIP, DOT - \$2,100,000 for Bridge Renovation. A public hearing is scheduled for April 14, 2020, at 1:30 P.M.
- S. **Introduced/Suspended Rules/Adopted Resolution 19-387**, a resolution to amend Resolution 19-339, extending until April 30, 2020, the appointment of the Acting Chief of Aging and Disability Services at DHHS: Dr. Odile Brunetto.
- T. **Introduced** a special appropriation to County Government's FY20 Operating Budget, DHHS, Support for COVID-19 Response - Feeding Our Families - \$260,000 for Manna Food Center; and Amendment to Resolution 19-128, Section G, Non-Competitive Contract Award: Manna Food Center sponsored by Councilmember Rice, and co-sponsored by Councilmembers Katz, Riemer, Albornoz, Jawando, Glass, and Navarro. A public hearing and action are scheduled for March 31, 2020.
- U. **Introduced** a special appropriation to County Government's FY20 Operating Budget, Conference and Visitors Bureau Non-Departmental Account (NDA), Support for COVID-19 Response - \$250,000 for Hotel or Motel Rooms for Medical and Front-Line Staff; and Amendment to Resolution 19-128, Section G, Non-Competitive Contract Award: Conference and Visitor's Bureau of Montgomery County, Maryland, Inc., sponsored by Councilmember Riemer, and co-sponsored by Councilmembers Albornoz, Navarro, Friedson, Glass, Jawando, and Rice. A public hearing and action are scheduled for March 31, 2020. Mr. Katz requested to be added as a cosponsor.
- V. **Introduced** a special appropriation to the County Government's FY20 Operating Budget, Department of Finance, Economic Development Fund (EDF) - \$20,000,000 for Public Health Emergency Grant Program. A public hearing and action are scheduled for March 31, 2020. Mr. Katz requested to be added as a cosponsor.
- W. **Introduced** a special appropriation to the County Government's FY20 Operating Budget, DHHS - \$5,000,000 for Support for COVID-19 Response. A public hearing and action are scheduled for March 31, 2020. Mr. Katz requested to be added as a cosponsor.

- (1.6) **INTRODUCTION/SUSPENSION OF RULES/ACTION** - [Resolution to adopt Options for the Approval of and Appropriation for the FY21 Operating Budget](#), sponsored by Councilmember Navarro, and co-sponsored by Councilmembers Alborno, Friedson, Riemer, Rice, and Vice President Hucker.

Introduced the subject resolution.

Approved the motion, without objection, by Ms. Navarro to suspend the Rules of Procedure to allow for immediate action of the subject resolution.

Approved the motion by Ms. Navarro to move the subject resolution for review.

Ms. Navarro reviewed the subject staff report and noted that the resolution would direct Council staff to develop viable options to streamline the budget process for FY21 so the Council may adopt an aggregate operating budget for departments and agencies that reflects a continuation of the service provided at the same level as FY20 and that has flexibility for possible future appropriations. Because the COVID-19 health crisis has created significant damage to the County's economy, there is a need to reserve funds to help residents and local businesses that have been adversely affected.

Adopted **Resolution 19-388**, approving the resolution to adopt Options for the Approval of and Appropriation for the FY21 Operating Budget.

Ms. Navarro made the motion and the resolution was adopted unanimously.

- (1.5) **INTRODUCTION/SUSPENSION OF RULES/ACTION** - [Resolution to support the Community Reinvestment Act \(CRA\)](#) sponsored by Councilmember Jawando, and co-sponsored by Council President Katz, Council Vice President Hucker, and Councilmembers Alborno, Friedson, Glass, and Navarro. Mr. Rice requested to be added as a co-sponsor.

Introduced the subject resolution.

Approved the motion, without objection, by Mr. Jawando to suspend the Rules of Procedure to allow for immediate action of the subject resolution.

Approved the motion by Mr. Jawando to move the subject resolution for review.

Mr. Jawando reviewed the subject staff report, noting that the CRA is a landmark civil rights law enacted in 1977 to end the practice of "redlining" neighborhoods by financial institutions.

Adopted **Resolution 19-389**, approving the resolution to support the CRA.

Mr. Jawando made the motion and the resolution was adopted unanimously.

- (2) **ACTION** - Supplemental appropriation to the County Government's FY20 Operating Budget, Department of Police - \$1,436,172 for School Safety FY20 School Resource Officer Grant

This item has been deferred to a future date.

- (5) **PUBLIC HEARING/ACTION** - Supplemental appropriation to the County Government's FY20 Operating Budget, Department of Finance - \$3,500,000 for the EDF

The public hearing was held and the record closed.

Mr. Friedson reviewed the purpose of the subject supplemental appropriation, as contained in the staff report. Legislative Analyst Smith participated in the discussion.

Approved, without objection, Mr. Friedson's motion to amend the source of funds as follows: \$2.0 million from Undesignated Reserves and \$1.5 Million from the EDF.

Mr. Riemer expressed concern about the level of costs imposed by WSSC Water associated with Smart Growth development in the County.

Adopted **Resolution 19-390**, approving the subject supplemental appropriation, as amended.

Mr. Friedson made the motion, which carried unanimously.

- (6) **PUBLIC HEARING/ACTION** - Supplemental appropriation to the County Government's FY20 Operating Budget, Department of Health and Human Services (DHHS) - \$358,331 to increase somatic and Mental Health Services at MCPS

The public hearing was held and the record closed.

Adopted Resolution 19-391, approving the subject supplemental appropriation.

Mr. Rice made the motion, which carried unanimously.

- (7) **PUBLIC HEARING/ACTION** - Supplemental appropriation to the County Government's FY20 Operating Budget, DHHS - \$300,000 for Kresge Foundation Integrating Health and Human Services: System for Equitable and Thriving Communities

The public hearing was held and the record closed.

Adopted **Resolution 19-392**, approving the subject supplemental appropriation.

Mr. Albornoz made the motion, which carried unanimously.

- (8) **PUBLIC HEARING/ACTION** - Supplemental appropriation to the County Government's FY20 Operating Budget, Montgomery County Fire and Rescue Service (MCFRS) - \$1,962,542 for Senator Amiss Fire, Rescue and Ambulance Fund

The public hearing was held and the record closed.

Adopted **Resolution 19-393**, approving the subject supplemental appropriation.

Mr. Riemer made the motion, which carried unanimously.

- (9) **PUBLIC HEARING/ACTION** - Supplemental appropriation to MCPS's FY20 Capital Budget and amendment to the FY19-24 Capital Improvements Program (CIP) - \$367,850 for the HVAC Replacement Project

The public hearing was held and the record closed.

Adopted **Resolution 19-394**, approving the subject supplemental appropriation.

Mr. Rice made the motion, which carried unanimously.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #10**

- (3) **Introduction of Bills**

- A. **Bill 14-20**, Human Rights and Civil Liberties - Discriminatory Employment Practices - Workplace Harassment

Introduced draft #3 of **Bill 14-20**, sponsored by Councilmembers Jawando and Navarro. A public hearing will be scheduled for a future date.

Councilmembers Glass, Albornoz, Huckler, Katz, Riemer, and Rice requested to be added as co-sponsors.

B. **Expedited Bill 16-20, EDF - Public Health Emergency Grant Program - Established**

Introduced draft #6 of **Expedited Bill 16-20**, sponsored by the County Council. A public hearing and action are scheduled for March 31, 2020, at 1:30 P.M.

(4) **Call of Bills for Final Reading**

A. **Bill 38-19, Streets and Roads - Permit to Obstruct Public Rights-of-Way - Amendments**

Mr. Huckler, Chair of the Transportation and Environment (T&E) Committee, reviewed the Committee's recommendation, as contained in the staff report.

Enacted draft #5 of **Bill 38-19**, 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, Huckler, Katz.

The meeting adjourned at 4:37 P.M.

This is a correct copy of Council action.

Approved/Signed by Clerk of the Council

Selena Mendy Singleton, Esq.
Clerk of the Council

Bill No. 38-19
 Concerning: Streets and Roads – Permit to
Obstruct Public Rights-of-Way -
Amendments
 Revised: 03/17/2020 Draft No. 6
 Introduced: December 3, 2019
 Enacted: March 24, 2020
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

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

AN ACT to:

- (1) require the Executive to adopt certain regulations regarding permits to close curb lanes, sidewalks, or shared use paths in the public rights-of-way;
- (2) limit the circumstances in which the Department of Permitting Services may grant a permit to close a curb lane, sidewalk, or shared use path in a public right-of-way;
- (3) require the Director of Permitting Services to publish certain information regarding permits to close public rights-of-way; and
- (4) generally amend the law regarding permits to obstruct public rights-of-way.

By amending

Montgomery County Code
 Chapter 49, Streets and Roads
 [[Section]] Sections 49-11 and 49-12

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. ~~[[Section]] Sections 49-11 ~~[[is]] and 49-12 are amended as follows:~~~~

49-11. Permit to obstruct public rights-of-way.

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

Public includes pedestrians, bicyclists, and transit users.

Safe alternative path means an alternate walkway or shared use path that:

- (A) is on the same side of the street as a temporary closure; and
- (B) provides safe access and passage to pedestrians.

~~[[1]]~~ Temporary closure~~[[. Temporary closure]]~~ means a temporary obstruction, blockage, or occupation of a right-of-way ~~[[to:~~

- (A) reconstruct or repair a sidewalk, shared use path, driveway, curb, or other structure;
- (B) install, repair, locate, or replace underground utilities or infrastructure under a sidewalk or shared use path;
- (C) construct or reconstruct an abutting structure; or
- (D) otherwise install a temporary, removable obstruction or occupation of the right-of-way]] under a permit issued by the Director of Permitting Services under this Section.

~~[[2]]~~ Safe alternative path. Safe alternative path means an alternate walkway or shared use path that:

- (A) is on the same side of the street as a temporary closure; and
- (B) provides safe access and passage to pedestrians.]]

~~[[a]]~~ (b) ~~[[Unless this Section prohibits the issuance of a permit] Notwithstanding Section 49-10, and subject to subsections (c) and (d) of this Section,~~ the Director of Permitting Services may issue a permit to:

- (1) [reconstruct or repair a sidewalk, shared use path, driveway, curb, or other structure;
- (2) install, repair, locate, or replace underground utilities or infrastructure under a sidewalk or shared use path; or
- (3) install a temporary, removable obstruction or occupation of a right-of-way;
- (4) close a curb lane, sidewalk, or shared use path in conjunction with the construction or reconstruction of an abutting structure] ~~[[create a temporary closure that complies with subsection (c); or]]~~
reconstruct or repair a sidewalk, shared use path, driveway, curb, or other structure;
- (2) install, repair, locate, or replace underground utilities or infrastructure under a sidewalk or shared use path;
- (3) install a removable obstruction or occupation of a right-of-way;
- (4) close a curb lane, sidewalk, or shared use path in conjunction with the construction or reconstruction of an abutting structure; or

~~[[5]]~~ ~~[[2]]~~ (5) install permanent, nonstandard structures in the right-of-way that were approved by the Planning Board, the City of Rockville, or the City of Gaithersburg in a site plan as a site element of streetscape. Streetscape includes street furnishings, fixtures and elements in connection with public use of the right-of-way but does not include enclosed structures or vaults or improvements for private use. The permit applicant must execute a declaration of covenants that runs with the land on which the project associated with the streetscape is being developed to perpetually maintain the permitted streetscape in a good and safe condition; return the right-of way to its condition before the permitted streetscape was installed if the nonstandard permitted streetscape is removed; and indemnify the County from any cost or liability associated with the construction, maintenance, use or removal of the nonstandard permitted streetscape.

~~[[b]]~~ (c) Permits for temporary obstructions. ~~[[The]]~~ If a permit under subsection (b)(1) involves a temporary closure located in a Central Business District planning policy area, a Bicycle-Pedestrian Priority Area, an area within ½ mile of a Purple Line Station, or an area within ½ mile of a Bus Rapid Transit Station Area, ~~the~~ Director ~~[[must not] may~~ issue ~~[[a]] the~~ permit ~~[[for]]~~ [reconstruction or repair of a sidewalk or shared use path for more than 6 months, or to close a curb lane, sidewalk, or shared use path for work on an abutting structure, utilities, or infrastructure for more than 15 days, unless a safe alternate walkway or shared use path is provided on the same side of the street] ~~[[a temporary closure under subsection (b)(1)]] only if:~~

- (1) [in a Metro Station Policy Area, Town Center Policy Area, or other area expressly identified in a Council resolution] the permit has conditions necessary to:
 - (A) minimize inconvenience to the public;
 - (B) limit the duration of the temporary closure to the minimum time period necessary; and
 - (C) assure public safety in the work area;
 - (2) [within 20 feet of a bus stop or mass transit station entrance; or] the Director of Transportation approves a temporary traffic control plan under subsection (g);
 - (3) [on a road:
 - (A) designated as a major or arterial highway;
 - (B) of 4 lanes or more; or
 - (C) designated as a business district street.] the area subject to the temporary closure is not used for vehicle parking [[or storage of construction materials]];
 - (4) the permittee has any franchise required under Section 49-20; and
 - (5) the duration of the [[permit]] temporary closure complies with subsection (d).

[The Director may allow a covered walkway to serve as an alternate walkway.]
- [(c)] (d) [The Director may issue a permit to rebuild or repair a sidewalk or shared use path for more than 6 months, or to close a curb lane, sidewalk, or shared use path for work on abutting structures, utilities, or infrastructure for more than 15 days, without requiring that a safe alternate sidewalk or shared use path be provided on the same side of the street,] Time limits for temporary closures without safe alternative paths. Except as provided in subsections (e) and (f):
- (1) a temporary closure to reconstruct or repair a sidewalk or shared use path must not exceed 6 months without the provision of a safe alternative path; and
 - (2) any other temporary closure must not exceed 15 days without the provision of a safe alternative path.
- (e) Extensions – in general. The Director may extend a time period under subsection (d), for a time period designated by the Director, if the Director finds that:
- (1) (A) based on a certification submitted by a professional engineer, construction of [such a sidewalk or shared use] a safe alternative path is not possible; or

[(2)] (B) the street is closed[.]; and
 - (2) the extension meets minimum requirements established under Method (2) regulations, including requirements that the permit must:
 - (A) limit the temporary closure to the minimum time necessary;
 - (B) be subject to regular review by the Director to determine whether the temporary closure without a safe alternative path remains necessary; and
 - (C) if the Director determines that the temporary closure without a safe alternative path is no longer necessary, require the permittee immediately to:
 - (i) provide a safe alternative path; or
 - (ii) terminate the temporary closure.
- [(d)] (f) Short extensions for hardship.
- (1) The Director may grant one extension of a time period under subsection (d), for no more than 15 days, [of a permit to close a roadway lane, sidewalk, or shared use path for work on abutting structures, utilities, or infrastructure without requiring that a safe alternate walkway or shared use path be provided on the same side of the street] on a showing of extreme hardship.
 - (2) The Executive must adopt regulations under Method (2) to specify the standards a permittee must meet to demonstrate extreme hardship.
- [(e)] The Director must not issue or extend in duration or area any permit to close a sidewalk or shared use path to use the area for vehicle parking or storage of construction materials.
- (f) The Director must include conditions in each permit to assure public safety in the work area.]
- (g) [Before the Director issues a permit under this Section to close a sidewalk, curb lane, or shared use path, the Director of Transportation must approve a] Temporary traffic control plan. A temporary traffic control plan under subsection (c) must meet standards established by the Executive under Method (2) regulations, including that[.];

- (1) [A] a professional engineer must certify for the applicant that the plan minimizes inconvenience to the public, provides necessary warnings, and includes safe and reasonable pedestrian alternatives in accordance with accepted engineering standards[.]; and
 - (2) [The] the permit and the traffic control plan must require signage during construction to inform pedestrians about the duration of the obstruction, the permit number, and the County contact telephone number to call.
- (h) [A permittee must have a valid franchise, as defined in Section 49-20, before the permittee installs, repairs, or maintains any utility or infrastructure in the public right-of- way.] Public access to permit information. The Director of Permitting Services must publish on the Department’s website a copy of each application received and permit granted under this section.

* * *

49-12. Exemptions from Sections 49-10 and 49-11.

- (a) Subject to paragraphs (1) and (2), Sections 49-10 and 49-11 do not apply to, and no permit under those Sections is required of, any municipality, special taxing district or government agency authorized by law to construct streets, roads, sewers, or drainage facilities in the County. However[.];
- (1) Sections 49-10 and 49-11 apply to any road that is located in a municipality and owned or maintained by the County[.]; and
- (2) if the County owns or maintains a right-of-way, Section 49-11 applies to any temporary closure of the right-of-way in connection with construction or reconstruction on abutting property owned by the County.

* * *

Sec. 2. Transition. The requirements of this Act must not apply to a permit application submitted to the County prior to the effective date of the Act. The requirements of this Act must apply to a permit application submitted to the County on or after the effective date of the Act.

