



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Wednesday, July 29, 2020

The County Council for Montgomery County, Maryland convened via video conference at 1:35 P.M. on Wednesday, July 29, 2020.

PRESENT

Councilmember Sidney Katz, President
Councilmember Gabe Albornoz
Councilmember Evan Glass
Councilmember Nancy Navarro

Councilmember Tom Hucker, Vice President
Councilmember Andrew Friedson
Councilmember Will Jawando
Councilmember Craig Rice
Councilmember Hans Riemer

The President in the Chair.

GENERAL BUSINESS

Announcements - Agenda and Calendar Changes

Ms. Singleton, Clerk of the Council, announced an addendum to the agenda, adding an update on the Novel Coronavirus (COVID-19) and County Public Health Planning; adding introduction of the following bills: **Bill 37-20**, Subdivision - Preliminary Plan - Adequate Public Facilities - Amendments; **Bill 38-20**, Taxation - Development Impact Taxes for Transportation and Public School Improvements - Amendments; and **Bill 39-20**, Taxation - Recordation Tax - Amendments; deleting action on a resolution to adopt a Proposed Amendment to County Charter - Property Tax Limit - Limit on Taxable Value of Owner-Occupied Residential Property; Limit on Tax Rate Increases; and announcing that the public hearing for the 2020-2024 Subdivision Staging Policy and related bills is scheduled for September 15, 2020, at 7:30 P.M.

(.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, Department of Health and Human Services (DHHS); and Dr. Stoddard, Director, Office of Emergency Management and Homeland Security (OEMHS).

Received the latest information from Dr. Gayles that there is no change in County policy with respect to reopening the County, including guidelines for pool facilities. Statewide, there is an uptick in cases, particularly in the Baltimore and Ocean City areas, and there have been documented cases associated with people patronizing restaurants and bars and participating in sports. He noted that the test positivity rate in the Latino community has dropped to 2.5%, and there have been improvements in the top ten most impacted Zip code areas. Testing provisions continue to be expanded, County employees are being trained to provide tests, and the State will continue to cover testing in nursing homes through August. Dr. Gayles said the CDC has ended its deployment in the County, and that its report will be provided to Councilmembers. An internal dashboard of contact tracing efforts is being maintained by CountyStat staff.

Dr. Stoddard commented on the recent fire on Carroll Avenue in Silver Spring that displaced 12 families, noting that Crisis Center and Red Cross staff were on site, COVID testing was offered, and two individuals were transported to a hotel for quarantining. He noted that a four to eight-week supply of personal protective equipment (PPE) was previously provided to nursing homes and other facilities, which should cover them through August. A meeting of the Community Recovery Advisory group was held yesterday to discuss applying a racial equity lens to the recovery process, eviction issues, and equitable distribution of resources. Dr. Stoddard said more inspectors would be assigned to construction sites because many complaints have been received about the observed lack of safety precautions. They are responding to hundreds of complaints each week, particularly related to what is considered a “live performance” with audience. Dr. Stoddard noted that per State guidelines, live performances are prohibited. He has been in discussions with the Board of Elections regarding safety of polling locations for the upcoming election.

Responding to questions from Councilmembers, Dr. Gayles said they are working with local labs to improve turnaround time for COVID test results, developing a plan for the testing of front-line workers, and a model for baseline testing to allow the reopening of schools. He agreed to inform Councilmembers regarding next steps for the reopening of independent

schools. They are working to have the software updated to include an additional gender choice on testing information; and agreed to provide a report of businesses cited for safety violations, and an updated report on positivity rates.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #23**

(1) **Introduction of Bills**

A. **[Bill 35-20, Human Rights and Civil Liberties - Fair Criminal Record Screening Standards - Amendments](#)**

Introduced draft #2 of the subject bill, sponsored by Mr. Jawando. A public hearing is scheduled for September 15, 2020, at 1:30 P.M.

B. **[Expedited Bill 36-20, Forest Conservation - Amendments](#)**

Introduced draft #2 of the subject bill, sponsored by the Council President at the request of the Planning Board. A public hearing is scheduled for September 22, 2020, at 1:30 P.M.

C. **[Bill 37-20, Subdivision - Preliminary Plan - Adequate Public Facilities - Amendments](#)**

Introduced draft #1 of the subject bill, sponsored by the Council President at the request of the Planning Board. A public hearing is scheduled for September 15, 2020, at 7:30 P.M.

D. **[Bill 38-20, Taxation - Development Impact Taxes for Transportation and Public School Improvements - Amendments](#)**

Introduced draft #1 of the subject bill, sponsored by the Council President at the request of the Planning Board. A public hearing is scheduled for September 15, 2020, at 7:30 P.M.

E. [Expedited Bill 39-20, Taxation - Recordation Tax - Amendments](#)

Introduced draft #1 of the subject bill, sponsored by the Council President at the request of the Planning Board. A public hearing is scheduled for September 15, 2020, at 7:30 P.M.

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

A. [Bill 24-20, Administration - Police - Assistant Chiefs of Police](#)

Ms. Mihill, Legislative Attorney, reviewed the purpose of the subject bill and noted that the Public Safety (PS) Committee recommended amending the bill to make it expedited legislation.

Enacted draft #2 of **Expedited Bill 24-20**, as amended and shown at the end of these minutes.

The Public Safety Committee made the motion and the expedited bill was enacted by a roll call vote:

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

B. [Expedited Bill 30-20, Administration - Executive Branch - Chief Digital Officer](#)

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, and Ms. Wellons, Legislative Attorney, reviewed the Committee's recommendation, as contained in the staff report.

Enacted draft #1 of **Expedited Bill 30-20**, as amended and shown at the end of these minutes, and adopted **Resolution 19-585**, approving Executive Regulation 8-20, Position Description for Chief Digital Officer, without objection.

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

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

C. [Bill 25-20, Rental Assistance - Amendments](#)

Mr. Albornoz, Chair of the Health and Human Services (HHS) Committee, reviewed the Committee's recommendation as contained in the staff report.

Enacted draft #3 of **Bill 25-20**, as shown at the end of these minutes.

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

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

D. [Expedited Bill 27-20, Police - Regulations - Use of Force Policy \(continued from 7/21/20\)](#)

Police Chief Jones and Ms. Wellons participated in the discussion.

Supported unanimously Mr. Jawando's motion to amend the definition of "restrained individual" to read: Restrained individual means an individual who is under control and is not actively resisting arrest by use of intentional force that threatens serious bodily injury.

Supported the motion by Mr. Albornoz to amend the bill by replacing the PS Committee's amendment on no-knock entries with the Police Department's amendment, as shown on pages 58-59 of the staff report, and to include additional amendments as suggested by Ms. Wellons, which would add to the list of circumstances for no-knock entry crimes related to child abuse, child pornography, domestic violence and terrorism; ban no knock entries for the sole purpose of preventing the destruction of evidence; add a provision that the minimum standards of the policies adopted by the Police Chief under Section 35-22 must not be subject to collective bargaining; and adding that the Police Chief must issue the policies required under this Act, and the written guidance required under this Act, within six months of the effective date. Mr. Jawando opposed replacing the PS Committee's amendment on no-knock warrants with the Police Department's amendment.

Councilmembers spoke in support of the legislation, stating that it raises the standard for when deadly force can be used, limits the use of no-knock warrants, and will help keep residents safe.

Enacted draft #11 of **Expedited Bill 27-20**, as amended.

The Public Safety Committee made the motion and the Expedited Bill was enacted by a roll call vote:

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

(3) **INTRODUCTION/ACTION** - [Resolution, Qualification of Charter Amendment by Petition, Property Tax Limit - Prohibit Override](#)

Ms. Wellons reviewed the purpose of the resolution, which acknowledges that a petition has qualified to place on the 2020 general election ballot a question of whether to amend Section 305 of the Charter.

Approved Mr. Rice's motion to suspend the rules to allow immediate action, without objection.

Adopted **Resolution 19-574**, approving the qualification of a petitioned ballot question to amend the County Charter.

Mr. Jawando made the motion, which carried without objection.

(4) **ACTION** - [Resolution, Proposed Charter Amendment - Property Tax Limit - Limit Tax Rate Increases](#)

Ms. Wellons and Mr. Madaleno, Director, Office of Management and Budget (OMB), participated in the discussion.

Mr. Katz read an email he received from County Executive Elrich today asking the Council to focus its attention on the subject resolution and withdraw from consideration his proposed amendment to the County Charter to impose a limit on the taxable value of owner-occupied residential property (Item 5 on the agenda below, which has been deleted), as consensus has been reached with the GO Committee's proposal to stabilize the County's fiscal future needed to move forward during these unprecedented times.

Ms. Navarro reviewed the GO Committee's proposed resolution which would prevent the Council from setting a property tax rate on real property that exceeds the rate of the prior year, unless all current Councilmembers affirmatively vote for the increase.

Mr. Friedson stated that this resolution allows for the opportunity to remove the current flawed policy, which disincentivizes economic development and investment in the County, and replace it with a better policy for residents and businesses that removes an arbitrary revenue cap and replaces it with a simple tax rate.

Councilmembers spoke in support of the GO Committee’s proposal to enhance the County’s ability to grow, and against “the Ficker Amendment,” the proposed Charter amendment approved to be placed on the ballot as shown in Item 3 above.

Adopted **Resolution 19-575**, approving placement of the subject proposed Charter Amendment on the 2020 general election ballot.

The GO Committee made the motion, which carried without objection.

- (5) **ACTION - Resolution to adopt a Proposed Amendment to County Charter - Property Tax Limit - Limit on Taxable Value of Owner-Occupied Residential Property; Limit on Tax Rate Increases**

This item was deleted from the agenda.

- (6) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

Mr. Jawando made the motion, which carried without objection.

- A. Adopted **Resolution 19-576**, Executive Regulation 3-20, Assistant Chief of Police (Civilian).
- B. Adopted **Resolution 19-577**, Executive Regulation 4-20, Assistant Chief of Police (Sworn).

- (7) **DISTRICT COUNCIL SESSION**

A. **Announcement** - The public hearing for the 2020-2024 Subdivision Staging Policy and related bills are scheduled for September 15, 2020, at 7:30 pm.

The meeting adjourned at 5:31 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

Expedited Bill No. 24-20
 Concerning: Administration – Police
– Assistant Chiefs of Police
 Revised: July 23, 2020 Draft No.2
 Introduced: June 16, 2020
 Enacted: _____
 Executive: _____
 Effective: _____
 Sunset Date: None
 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) create a non-merit civilian assistant chief of police position,
- (2) rename the existing non-merit assistant chief of police positions; and
- (3) make other stylistic changes.

By amending

Montgomery County Code
 Chapter 2, Administration
 Section 2-43

Boldface	<i>Heading or a 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:

1 **Sec 1. Section 2-43 is amended as follows:**

2 **Sec. 2-43. Organization and functions.**

3 (a) The Department of Police includes the County police and the Office of
4 County Security, and the Animal Services Division. The Department
5 has the authority, functions and activities prescribed by law.

6 (b) The Department has five non-merit positions: four Assistant Chief of
7 Police (Sworn) positions and one Assistant Chief of Police (Civilian)
8 position. [Four positions of Assistant Chief of Police are non-merit
9 positions].

10 (c) Any reference in this Code or in regulation or other document to
11 “superintendent of police” or “superintendent” means “Executive
12 Director of Police,” or “Chief of Police,” or “Executive Director”

13 **Sec. 2. Expedited effective date.**

14 The Council declares that this legislation is necessary for the immediate
15 protection of the public interest. This Act takes effect on the date on which it
16 becomes _____ law.

Expedited Bill No. 30-20
 Concerning: Administration –
Executive Branch – Chief Digital Officer
 Revised: 07/29/2020 Draft No. 2
 Introduced: July 7, 2020
 Enacted: July 29, 2020
 Executive: _____
 Effective: _____
 Sunset Date: None
 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) transfer the Chief Digital Officer from the Office of the County Executive to the Department of Technology Services; and
- (2) generally amend the law regarding non-merit positions in the Executive Branch.

By amending

Montgomery County Code
 Chapter 2, Administration
 Sections 2-26 and 2-58D

<p>Boldface</p> <p><u>Underlining</u></p> <p>[Single boldface brackets]</p> <p><u>Double underlining</u></p> <p>[[Double boldface brackets]]</p> <p>* * *</p>	<p><i>Heading or a defined term.</i></p> <p><i>Added to existing law by original bill.</i></p> <p><i>Deleted from existing law by original bill.</i></p> <p><i>Added by amendment.</i></p> <p><i>Deleted from existing law or the bill by amendment.</i></p> <p><i>Existing law unaffected by bill.</i></p>
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The County Council for Montgomery County, Maryland, approves the following act:

Bill No. 25-20
 Concerning: Rental Assistance -
Amendments
 Revised: 7/16/2020 Draft No. 3
 Introduced: June 16, 2020
 Enacted: July 29, 2020
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

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

AN ACT to:

- (1) change the age of eligibility for the Rental Assistance Program;
- (2) clarify the definition of a person with a documented disability;
- (3) remove the prohibition of eligibility of County residents without immigration documentation;
- (4) provide that the benefit amount for the Program is established in regulations; and
- (5) generally amend County law regarding the Rental Assistance Program.

By amending

Montgomery County Code
 Chapter 41A, Rental Assistance
 Sections 41A-2, 41A-3, and 41A-5

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:

28 (3) that maintains all licenses and permits as required by Chapter 29.

29 (g) [(h)] (1) *Gross income* means the total household income from all sources,
30 whether or not reported on a federal or state income tax return.

31 (2) *Gross income* does not include losses from business, rental, or
32 capital transactions and certain third-party, educational, and
33 restitution payments specified in regulations.

34 [(i)] *Household* means:

35 (1) two or more persons, whether or not related, who live together in an
36 eligible rental unit;

37 (2) a disabled person; or

38 (3) a person 62 years of age or older.

39 All persons living in an eligible rental unit must be treated as one
40 household for the purposes of determining eligibility.]

41 (h) Person with a documented disability means a person who:

42 (1) receives disability benefits under the Social Security Act or the
43 Railroad Retirement Act, or from a federal, state, or local
44 government disability retirement system; or

45 (2) has a physical, mental, or emotional impairment that substantially
46 limits one or more major life activities of the individual as the
47 Department determines after the individual submits a statement of
48 condition of disability from the individual's physician.

49 [(i)] [(j)] *Recipient* means a person who is receiving benefits on behalf of a
50 household under this Article. A recipient includes a person who reapplies
51 for benefits before the end of that person's eligibility period. Each
52 recipient must be at least 18 years old, a resident of the County, reside at
53 the application rental unit, and be a member of the household.

- 54 (j) [(k)] *Rental unit* means a unit occupied by not more than one household,
 55 which includes:
 56 (1) a detached or attached single family home or townhouse;
 57 (2) an apartment in a multi-family facility;
 58 (3) a condominium or cooperative unit in a multi-family [multifamily]
 59 facility;
 60 (4) a rental mobile home in a licensed mobile home park, or a rented
 61 mobile home pad on which the applicant has placed a mobile home
 62 in a licensed mobile home park; or
 63 (5) a room or group of rooms in an attached or detached single family
 64 home or townhouse, apartment, condominium or cooperative.

65 **41A-3. Eligibility for Rental Assistance Program benefits.**

66 (a) A household is eligible to receive Rental Assistance Program benefits if
 67 the household meets the standards established in regulations. The
 68 standards of eligibility must consider, but are not limited to, the following
 69 elements:

70 * * *

71 [(c) A household is not eligible for benefits under this Article if the applicant
 72 is an undocumented resident. An undocumented resident applicant may
 73 receive benefits if a child for whom the applicant receives Temporary
 74 Cash Assistance benefits resides in the household.]

75 **41A-5. Rental assistance benefits.**

76 * * *

77 (a) [[Benefits under this Article must be paid in accordance with regulation.]]
 78 [The regulation must specify the amount of the benefit, considering the
 79 actual monthly rent paid by a tenant for a rental unit. The regulation may
 80 also consider a maximum allowable rent cost, based on household size and

81 other variables. Maximum benefit amounts may be established for classes
82 of eligible households based on age, household size, and other variables
83 specified by regulation.

84 (1) The percentages must vary based upon the number of individuals in
85 the household.

86 (2) The office of landlord-tenant affairs must at least annually
87 determine the average rental costs for rental units of different sizes
88 in Montgomery County.] [[By Method 3 regulation, the
89 Department must annually set and disseminate a schedule of the
90 benefit amount.]] Benefits under this Article must be paid in
91 accordance with criteria set by Method 2 regulation. However, the
92 specific minimum and maximum benefit that may be paid to an
93 eligible household must be determined annually by Method 3
94 regulation.

95 * * *