



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, December 8, 2020

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 Streeteries; 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 Mojueh, 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.

- K. Adopted **Resolution 19-684**, approving a special appropriation to the County Government's FY21 Operating Budget - Department of Recreation, \$406,000 for Youth Development - After School Youth Support and Engagement Hubs; and Amendment to FY21 Operating Budget Resolution Section G, FY21 Designation of Entities for Non-Competitive Contract Award Status: Montgomery Collaboration Council for Children, Youth, and Families.
- 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.
- R. Adopted **Resolution 19-688**, amendment to FY21 Operating Budget Resolution 19-472, Section G, FY21 Designation of Entities for Non-Competitive Contract Award: Just Neighbors Ministry, Inc.

(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:

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

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 happen 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.

- (10.9) **INTRODUCTION/PUBLIC HEARING/ACTION** -Special Appropriation to the County Government's FY21 Operating Budget, COVID-19 Human Services and Community Assistance NDA, \$3,341,444 African American Health Program Executive Committee Targeted COVID Response, and Resolution to Amend the FY21 Operating Budget for the Montgomery County Government, Resolution 19-472, Section G, Designation of Entities for Non-Competitive Contract Award Status: The National Center for Children and Families, Inc.

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.

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

A. [Bill 32-20, Solid Waste \(Trash\) Waste Reduction/Source Reduction and Single-Use Straws - Requirements](#)

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:

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

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:

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

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:

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

(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:

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

(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:

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

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

Selena Mendy Singleton, Esq.
Clerk of the Council

Bill No. 33-20
 Concerning: Solid Waste (Trash) - Food Service Products Packaging Materials - Requirements
 Revised: 10/20/2020 Draft No. 3
 Introduced: July 21, 2020
 Enacted: October 20, 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) 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

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:

1 **Sec. 1. Sections 48-52, 48-53, and 48-56 of Chapter 48 is amended as follows:**

2 **48-52. Definitions.**

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

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

6 * * *
7 *Disposable food service ware* means containers, bowls, plates, trays, cartons, cups, lids, [straws, forks,
8 spoons, knives, napkins,] and other items that are designed for one-time use for beverages, prepared food,
9 or leftovers from means prepared by a food service business. [The term “*disposable*” *Disposable food*
10 *service ware*”] does not include items composed entirely of aluminum.

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

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

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

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

24 *Polystyrene* means the synthetic aromatic hydrocarbon polymer made from the monomer styrene.
25 *Polystyrene products* are thermoplastic petrochemical materials that include injection molded, vacuum
26 formed, or extruded solid materials, and blown, expanded, and extruded foams.

27 *Polystyrene food service products* means food containers, plates, hot and cold beverage cups, meat and
28 vegetable trays, egg cartons, and other products made of polystyrene and used for selling, providing, or
29 serving food and drink which are:

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

32 * * *
33 **48-53. Prohibition on use of [expanded] polystyrene food service products.**

- 34 (a) A food service business must not sell or provide food in [expanded] polystyrene food service
35 products, regardless of where the food will be consumed.
- 36 (b) Subsection (a) does not apply to:
 - 37 (1) food or beverages that were filled and [[sealed]] packaged in [expanded] polystyrene
38 containers outside of the County before a food service business received them; or
 - 39 (2) materials used to package raw, uncooked, or butchered meat, fish, poultry, or seafood for
40 off-premises consumption.

41 * * *
42 **48-56. Prohibition on sale.**

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

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

46 * * *
47 **Sec. 2. Effective Date.**

48 The prohibition on use of polystyrene food service products contained in Section 48-53 and the prohibition
49 on the sale of polystyrene food service products contained in Section 48-56 take effect 12 months after this Act
50 becomes law, or on January 1, 2022, whichever comes first.

CORRECTED COPY

Clerk's Note: Moved the "or" on line 110 to the end of line 116 on page 6.

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
 Executive: _____
 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

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:

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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.

* * *

19A-4. Definitions.

* * *

(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.

* * *

19A-11. Participation of public employees.

(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:

- 56 (A) any business in which the public employee has an economic interest or is an
- 57 officer, director, trustee, partner, or employee;
- 58 (B) any business in which a relative has an economic interest, if the public employee
- 59 knows about the interest;
- 60 (C) any business with which the public employee has an active application, is
- 61 negotiating, or has any arrangement for prospective employment;
- 62 (D) any business that is considering an application from, negotiating with, or has an
- 63 arrangement with a relative about prospective employment, if the public
- 64 employee knows about the application, negotiations, or the arrangement;
- 65 (E) any business or individual that is a party to an existing contract with the public
- 66 employee or a relative, if the contract could reasonably result in a conflict
- 67 between private interests and official duties;
- 68 (F) any business that is engaged in a transaction with a County agency if:
- 69 (i) another business owns a direct interest in the business;
- 70 (ii) the public employee or a relative has a direct interest in the other
- 71 business; and
- 72 (iii) the public employee reasonably should know of both direct interests;
- 73 (G) any business that is subject to regulation by the agency with which the public
- 74 employee is affiliated if:
- 75 (i) another business owns a direct interest in the busin **Corrected Page**
- 76 (ii) the public employee or a relative has a direct interest in the other
- 77 business; and
- 78 (iii) the public employee reasonably should know of both direct interests;
- 79 **[[or]]**
- 80 (H) any creditor or debtor of the public employee or a relative if the creditor or
- 81 debtor can directly and substantially affect an economic interest of the public
- 82 employee or relative[.]; **[[or]]**
- 83 (I) any business or individual that in the previous 12 months employed the
- 84 employee or an immediate family member of the employee; or
- 85 (J) any business in which the employee or an immediate family member of the
- 86 employee was an officer, director, trustee, or partner in the previous 12 months;
- 87 or

- 88 (3) any case, contract, or other specific matter affecting a party for whom, in the prior year,
- 89 the public employee was required to register to engage in lobbying activity under this
- 90 Chapter[.] **[[; or**
- 91 **(4) any part of a procurement process, formally or informally, with an individual or**
- 92 **organization seeking to do business with the County that compensated the public**
- 93 **employee in the previous 12 months for services performed for the organization or**
- 94 **individual]].**

95 * * *

96 (d) Procurement disclosure. A public employee who participates in a procurement process with an

97 individual or organization seeking to do business with the County that compensated the public

98 employee for services performed more than 12 months before the participation began must

99 disclose the prior relationship to the Procurement Director. The Procurement Director must

100 include a statement of this disclosure in the procurement file.

101 * * *

102 **19A-12. Restrictions on other employment and business ownership.**

- 103 * * *
- 104 (b) *Specific restrictions.* Unless the Commission grants a waiver under subsection 19A-8(b), a public
 - 105 employee must not:
 - 106 (1) be employed by, or own more than one percent of, any business that:
 - 107 (A) is regulated by the County agency with which the public employee is affiliated;
 - 108 or
 - 109 (B) negotiates or contracts with the County agency with which the public employee
 - 110 is affiliated; or

- 111 (2) hold any employment relationship that could reasonably be expected to impair the
- 112 impartiality and independence of judgment of the public employee.
- 113 (c) *Exceptions.*
- 114 (1) Subsections (a) and (b) do not apply to:
- 115 (A) a public employee who is appointed to a regulatory or licensing body under a
- 116 statutory provision that persons subject to the jurisdiction of the body may be
- 117 represented in appointments to it;
- 118 (B) a public employee whose government duties are ministerial, if the employment
- 119 does not create a conflict of interest;
- 120 (C) a member of a board, commission, or similar body in regard to employment held
- 121 when the member was appointed if the employment was publicly disclosed
- 122 before appointment to the appointing authority, and to the County Council when
- 123 confirmation is required. The appointing authority must forward a record of the
- 124 disclosure to the Commission, which must keep a record of the disclosure on
- 125 file; or
- 126 (D) an elected public employee in regard to employment held at the time of election,
- 127 if the employment is disclosed to the County Board of Elections before the
- 128 election. The Commission must file the disclosure received from the County
- 129 Director of Elections with the financial disclosure record of the elected public
- 130 employee.
- 131 (2) If expressly authorized by regulation, subparagraph (b)(1)(A) and paragraph (b)(2) do not
- 132 prohibit a police officer from working outside employment for an organization solely
- 133 because that organization is located in the County or in the district where the officer is
- 134 assigned.
- 135 (d) *Prohibition against unapproved employment.* Unless the Commission permits it or subsections (a)
- 136 and (b) do not apply, a person must not knowingly employ a public employee.
- 137 (e) *Prohibition against contingent compensation.* A public employee must not assist or represent a
- 138 party for contingent compensation in a matter before or involving a County agency except in a
- 139 judicial or quasi-judicial proceeding. However, a public employee may assist or represent a party
- 140 for contingent compensation in any matter for which contingent fees are authorized by law.
- 141 (f) Chief Administrative Officer. A public employee must not engage in other employment while
- 142 serving as the Chief Administrative Officer.

143 **19A-19. Content of financial disclosure statement.**

- 144 * * *
- 145 (a) Each financial disclosure statement filed under Section 19A-17(a) must disclose the following:
- 146 * * *
- 147 (8) *Sources of earned income.*
- 148 (A) The statement must list the name and address of:
- 149 (i) each employer of the filer, other than the County Government;
- 150 (ii) each employer of a member of the filer’s immediate family; [and]
- 151 (iii) each business entity of which the filer or a member of the filer’s
- 152 immediate family was a sole or partial owner and from which the filer
- 153 or member of the filer’s immediate family received earned income at
- 154 any time during the reporting period; and
- 155 (iv) for an elected official or a non-merit County employee, the source of
- 156 [[each fee greater]] all fees received from one individual or
- 157 organization totaling more than \$1,000 for services provided by the
- 158 filer while employed by the County during the reporting period. A filer
- 159 does not need to include any information with respect to any person for
- 160 whom services were provided by any firm or association of which the
- 161 filer was a member, partner, or employee unless the filer was directly
- 162 involved in providing those services.
- 163 (B) The filer need not disclose a minor child’s employment or business ownership if
- 164 the agency with which the filer is affiliated does not regulate, exercise authority
- 165 over, or contract with the place of employment or business entity of the minor
- 166 child.

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(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.

Bill No. 43-20
 Concerning: Non-merit Employees – Merit System Employees – Severance Pay - Limited
 Revised: 11/23/2020 Draft No. 3
 Introduced: September 29, 2020
 Enacted: December 8, 2020
 Executive: _____
 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) 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	<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:

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

2 **1A-104. Heads of departments and principal offices; other positions designated as non-merit.**

3 * * *
4 (e) *Salaries.* The Executive must design a compensation system to attract and retain highly
5 competent senior leaders as heads of departments and principal offices, and other non-merit
6 employees in the Executive Branch. Each of these employees must be paid a salary within a
7 salary schedule proposed by the Executive and approved by the Council in the Operating Budget
8 of the Montgomery County Government. The salary schedule may contain a provision permitting
9 the Executive to exceed the salary schedule established for a position for an individual employee,
10 subject to Council approval, if the Executive finds that it is necessary to attract or retain a senior
11 leader for a specific position. The Council must establish a salary schedule for non-merit
12 positions in the Legislative Branch as part of the Operating Budget of the Montgomery County
13 Government.

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

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

24 **33-140. Plan administration.**

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

30 * * *

31 **33-26. Severance pay limits.**

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

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

38 **Sec. 2. Transition.**

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

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