



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, July 20, 2021

The County Council for Montgomery County, Maryland convened via video conference at 9:32 A.M. on Tuesday, July 20, 2021.

PRESENT

Councilmember Tom Hucker, President	Councilmember Gabe Albornoz, Vice President
Councilmember Andrew Friedson	Councilmember Evan Glass
Councilmember Will Jawando	Councilmember Sidney Katz
Councilmember Nancy Navarro	Councilmember Craig Rice
Councilmember Hans Riemer	

The President in the Chair.

GENERAL BUSINESS

A. **Announcements** - Agenda and Calendar Changes

Ms. Singleton, Clerk of the Council, announced an addendum to the agenda, deleting the briefing from the Board of Investment Trustees on Environmental, Social and Governance (ESG) issues; correcting the source of funds for the special appropriations to the County Government's FY22 Operating Budget, COVID-19 Human Services and Community Assistance Non-Departmental Account (NDA) - \$2,946,776 for Por Nuestra Salud y Bienestar (For Our Health and Wellbeing) (Source of Funds: [General Fund Reserves] Federal Grant (American Rescue Plan Act)); and the \$1,701,809 for African American Health Program COVID Response (Source of Funds: [General Fund Reserves] Federal Grant (American Rescue Plan Act)); adding for introduction a special appropriation to the County Government's FY22 Operating Budget, Department of Health and Human Services (DHHS) - \$2,903,172; Department of Recreation - \$300,000; Community Engagement Cluster - \$330,000; and Montgomery County Public Schools (MCPS) - \$1,585,633 for Newcomers Enhancements and Assistance (Source of Funds: General Fund Reserves); and adding for introduction the following special

appropriations to the FY22 Operating Budget, DHHS - \$816,067 for Community Services Block Grant (CARES) (Source of Funds: Community Services Block Grant Supplemental (CARES)); \$970,360 for FY22 American Rescue Plan Funding Increase for Head Start Programs (Source of Funds: Head Start American Rescue Plan Act); and \$1,150,000 for Asian American Health Initiative COVID Response (Source of Funds: Federal Grant (American Rescue Plan Act)); correcting the title for introduction of **Bill 32-21, Personnel - Employee Settlement Agreements with No-Rehire Clause - Prohibited**; and adding a proposed closed session to consult with counsel to obtain legal advice pursuant to Maryland Code, General Provisions Article §3-305(b)(7), and to consult with staff, consultants, or other individuals about pending or potential litigation pursuant to Maryland Code, General Provisions Article §3-305(b)(8). Topic is FOP vs. Montgomery County.

(1) B. **Acknowledgement – [Receipt of Petitions](#)**

Acknowledged receipt of a petition from residents of Montgomery County opposing Zoning Text Amendment (ZTA) 19-07, Telecommunications Towers - Limited Use

C. **Action – Approval of Minutes**

Approved the minutes of May 11, 2021, and the closed session minutes of June 15, 2021, without objection. Mr. Jawando was temporarily absent.

(2) **BRIEFING: [Board of Investment Trustees - Environmental, Social, Governance \(ESG\) Issues](#)**

This item was deleted from the agenda.

(3) **DISTRICT COUNCIL SESSION**

A. **Introduction - [Zoning Text Amendment \(ZTA\) 21-04, Overlay Zone Germantown-Churchill Village](#)**

Introduced draft #1 of ZTA 21-04, sponsored by the Council President at the request of the Planning Board. A public hearing is scheduled for September 14, 2021, at 1:30 P.M.

B. **Worksession** - [Subdivision Regulation Amendment \(SRA\) 21-01, Exemptions - Alcohol Production and Agritourism](#)

Mr. Riemer, Chair of the Planning, Housing, and Economic Development (PHED) Committee, and Ms. Ndou, Legislative Attorney, reviewed the purpose of the SRA and the recommendation of the PHED Committee.

Approved unanimously Mr. Rice's motion to amend the SRA to allow exemptions anywhere farm alcohol production, agritourism, or accessory agricultural education exists in the County, not just in the Agricultural Reserve Zone.

Action on SRA 21-01 is scheduled for July 27, 2021.

C. **Worksession** - [ZTA 21-01, Sign Ordinance - Bus Shelter Advertising](#)

Mr. Riemer and Ms. Ndou the purpose of the ZTA and reviewed the recommendation of the PHED Committee, as contained in the staff report.

Action on ZTA 21-01 is scheduled for July 27, 2021.

D. **Action** - [Hearing Examiner's report and recommendation - Local Map Amendment H-140; an Amendment to the Zoning Ordinance Map to rezone 3.29 acres of property located at 8860 Piney Branch Road, Silver Spring, Maryland requesting rezoning from the R-H \(Multiple Unit - High Rise Residential\) to the CRTF \(Commercial Residential Town Floating Zone\) - 1.6, C-0, R-1.6, H-140 Zone](#)

Hearing Examiner Baumgardner presented his report and recommendation on Local Map Amendment (LMA) H-140, as contained in the staff report.

Adopted **Resolution 19-945**, approving LMA H-140.

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

E. **Worksession** - [ZTA 19-07, Telecommunications Towers - Limited Use](#)

Mr. Riemer indicated that today's discussion is to consider amendments proposed by Councilmembers, with final action on the ZTA scheduled for July 27, 2021. Ms. Ndou reviewed the proposed amendments, as contained in the staff report.

Supported without objection Mr. Rice's motion to amend the height provisions in the ZTA as follows:

- (a) for streetlights, the height of the pole that is being replaced:
 - (1) plus 6 feet when abutting a right-of-way with a paved section width of 65 feet or less, or up to 25 feet where the height of the pole being replaced is less than 20 feet tall, whichever is greater; or
 - (2) plus 15 feet when abutting a right-of-way with a paved section width greater than 65 feet.

Supported without objection Mr. Rice’s motion to amend the height of replacement poles in commercial areas as follows:

- (a) In the Commercial/Residential, Industrial, and Employment zones for streetlights, the height of the pole that is being replaced or the height of the tallest streetlight pole within 50 feet, whichever is greater:
 - (1) plus 6 feet when abutting a right-of-way with a paved section width of 65 feet or less; or
 - (2) plus 15 feet when abutting a right-of-way with a paved section width greater than 65 feet.

Supported without objection Mr. Rice’s motion to amend the ZTA to clarify that this section applies to replacement towers as follows:

[ii] iv. A replacement [[The]] tower must be located:...

Supported without objection Mr. Friedson’s motion to add language to the ZTA to encourage “preferential placement” of towers as follows:

- (f) Whenever it is legally and technically feasible, the replacement poles should replace preexisting poles that are located closest to intersections, closest to property lines between dwellings, along the non-front-facing side of residential properties, or abutting properties used for a non-residential purpose. In addition, the replacement towers must be at least 5 feet from the area between two parallel lines extending from the sides of a residential front door. If the applicant cannot meet the foregoing standards, the applicant must include in their application an affidavit proving that either permission from the pole owner cannot be obtained or service cannot be provided using a pole at an alternate location.

The Council tabled consideration of an amendment proposed by Councilmembers Riemer and Rice to remove the requirement to obtain a recommendation from the Tower Committee before applying for a permit with the Department of Permitting Services from the ZTA.

Defeated the motion by Mr. Katz to adopt a tiered approach to setbacks based on the type of road, to be in closer alignment with existing regulations in Howard and Baltimore Counties. Mr. Hucker and Mr. Katz voted in the affirmative.

A motion by Mr. Katz to adopt a tiered approach to setbacks based on the speed limit of the road failed for lack of a second.

Action on ZTA 19-07 is scheduled for July 27, 2021.

(4) **CONSENT CALENDAR**

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

- A. **Introduced** a resolution approving the Office of Legislative Oversight's (OLO) FY 22 Work Program.
- B. **Introduced** a resolution approving the FY22 schedule of revenue estimates and appropriations.
- C. **Introduced** a resolution to designate WorkSource Montgomery as the County's Workforce Development Organization.
- D. **Introduced** a special appropriation to the County Government's FY22 Operating Budget, Department of Health and Human Services (DHHS) - \$2,665,260 for COVID-19 Response: Maryland Department of Housing and Community Development, Neighborhood Revitalization for the Emergency Housing Program, (Source of Funds: Grant Funds). A public hearing and action are scheduled for July 27, 2021, at 1:30 P.M.
- E. **Introduced** a special appropriation to the County Government's FY22 Operating Budget, COVID-19 Human Services and Community Assistance Non-Departmental Account (NDA) - \$2,946,776 for Por Nuestra Salud y Bienestar (For Our Health and Wellbeing) (Source of Funds: Federal Grant (American Rescue Plan Act)). A public hearing and action are scheduled for July 27, 2021, at 1:30 P.M.
- F. **Introduced** a special appropriation to the County Government's FY22 Operating Budget, COVID-19 Human Services and Community Assistance Non-Departmental Account (NDA) - \$1,701,809 for African American Health Program COVID Response (Source of Funds: Federal Grant (American Rescue Plan Act)) and Resolution to amend the County Government's FY22 Operating Budget Resolution 19-872, Section G, Designation of Entities for Non-Competitive Contract Award Status: The National Center for Children and Families, Inc. A public hearing and action are scheduled for July 27, 2021, at 1:30 P.M.

- G. **Approved** the appointment of special counsel to provide legal advice and representation to Montgomery County in connection with cyber security attacks: Mullen Coughlin LLC.
- H. Adopted **Resolution 19-946**, resolution to approve Completing the Capital Trails Network and Capital Trails Coalition Top 40 Priority Projects.
- I. Adopted **Resolution 19-947**, supporting of Medicare for All.
Mr. Friedson abstained from voting on this item.
- J. Adopted **Resolution 19-948**, confirming the County Executive's appointment to the Fire and Emergency Services: Jane Callen.
- K. Adopted **Resolution 19-949**, approving Executive Regulation 2-21, Procedures for Administration of the Public Elections Fund.
- L. **Introduced** a resolution approving Washington Suburban Sanitary Commission's (WSSC Water) June 1, 2021 Debt Refunding Plan.
- M. **Introduced** a special appropriation to the County Government's FY22 Operating Budget, DHHS - \$2,903,172; Department of Recreation - \$300,000; Community Engagement Cluster - \$330,000; and Montgomery County Public Schools (MCPS) - \$1,585,633 for Newcomers Enhancements and Assistance (Source of Funds: General Fund Reserves). A public hearing and action are scheduled for July 27, 2021, at 1:30 P.M.
- N. **Introduced** a special appropriation to the County Government's FY22 Operating Budget, DHHS - \$816,067 for Community Services Block Grant (CARES) (Source of Funds: Community Services Block Grant Supplemental (CARES)). A public hearing and action are scheduled for July 27, 2021, at 1:30 P.M.
- O. **Introduced** a special appropriation to the County Government's FY22 Operating Budget DHHS - \$970,360 for FY22 American Rescue Plan Funding Increase for Head Start Programs (Source of Funds: Head Start American Rescue Plan). A public hearing and action are scheduled for July 27, 2021, at 1:30 P.M.
- P. **Introduced** a special appropriation to the County Government's FY22 Operating Budget, DHHS - \$1,150,000 for Asian American Health Initiative COVID Response (Source of Funds: Federal Grant (American Rescue Plan Act)). A public hearing and action are scheduled for July 27, 2021, at 1:30 P.M.

The Council recessed at 10:41 A.M. and reconvened at 1:34 P.M.

(5) **PUBLIC HEARING - [Bill 16-21, Environmental Sustainability - Building Energy Use Benchmarking and Performance Standards - Amendments](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on July 27, 2021. A Transportation and Environment (T&E) Committee worksession will be scheduled at a later date.

(6) **PUBLIC HEARING - [Bill 26-21, Taxation - Payments in Lieu of Taxes - Affordable Housing - Amendments](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on July 27, 2021. A Government Operations and Fiscal Policy (GO) Committee worksession will be scheduled at a later date.

(7) **PUBLIC HEARING - [Expedited Bill 29-21, Contracts and Procurement - Minority Owned Businesses - Sunset Date - Amendments](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on July 27, 2021. A GO Committee worksession will be scheduled at a later date.

(8) **PUBLIC HEARING - [ZTA 21-02, Independent Living Facility for Seniors or Persons with Disabilities - Residential Zone Standards](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on July 21, 2021. A Planning, Housing, and Economic Development (PHED) Committee worksession is tentatively scheduled for July 28, 2021.

(9) **PUBLIC HEARING - [ZTA 21-03, Charitable, Philanthropic Institution - Kitchens](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on July 21, 2021. A PHED Committee worksession is tentatively scheduled for July 28, 2021.

(10) **PUBLIC HEARING/ACTION - [Special Appropriation to the County Government's FY22 Operating Budget, Office of the County Attorney - \\$700,000 for Minority, Female, and Disabled-Owned Business Program - Disparity Study](#)**

The public hearing was conducted and the record closed.

Adopted **Resolution 19-950**, approving the subject special appropriation.

Ms. Navarro made the motion, which carried unanimously.

(11) **INTERVIEWS - [Public Election Fund Committee Candidates](#)**

Interviewed William Ewing, Lionel Lisson, Myriam Paul, and Jaclyn Sackstein, candidates for the Public Election Fund Committee.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #19**

(13) **Introduction of Bills:**

SS

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

Introduced draft #1 of **Expedited Bill 31-21**, sponsored by the Council President at the request of the County Executive. A public hearing is scheduled for September 14, 2021, at 1:30 P.M.

B. **[Bill 32-21 - Personnel - Employee Settlement Agreements with No-Rehire Clause - Prohibited](#)**

Introduced draft #2 of **Bill 32-21**, sponsored by Councilmember Hucker. A public hearing is scheduled for September 14, 2021, at 1:30 P.M.

Motion to Close

The Council adjourned the open session at 2:47 P.M. and reconvened remotely via video conference in closed session from 2:51 P.M. to 3:38 P.M. Mr. Katz made the motion, which carried unanimously.

Report of Closed Session of July 20, 2021

In compliance with Section 3-306(c)(2), General Provisions Article, Maryland Code, the following is a report of the County Council's closed session of Tuesday, July 20, 2021. The Council convened in closed session via video conference at 2:51 P.M. to consult with counsel to obtain legal advice pursuant to

Maryland Code, General Provisions Article §3-305(b)(7); and to consult with staff, consultants, or other individuals about pending or potential litigation pursuant to Maryland Code, General Provisions Article §3-305(b)(8). The topic was Fraternal Order of Police (FOP) vs. Montgomery County.

The meeting was closed on a motion by Mr. Katz, which carried without objection.

The following persons were present: Councilmembers Huckler, Albornoz, Friedson, Glass, Jawando, Katz, Navarro, Rice and Riemer; Chiefs of Staff Kunes, Carranza, Gibson, Ikheola, Thorne, Mandel-Trupp, Ledner, Silverman, and Nurmi; Ms. Michaelson, Council Executive Director; Mr. Howard, Deputy Director; Mr. Drummer, Senior Legislative Attorney; Ms. Wellons, Legislative Attorney; Ms. Rubin, Senior Legislative Analyst; Ms. Farag, Legislative Analyst; Mr. Hartman, Director of Strategic Partnerships; Mr. Hansen, County Attorney; Ms. Kinch, Office of the County Attorney; Mr. Jones, Office of Labor and Employee Relations; and Ms. Singleton, Clerk of the Council.

Action: None.

The meeting adjourned at 3:38 P.M.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council