



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, January 18, 2022

The County Council for Montgomery County, Maryland convened via video conference at 9:03 A.M. on Tuesday, January 18, 2022.

PRESENT

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

The President in the Chair.

PRESENTATIONS

- B. Proclamation was presented by Council President Alborno and the full Council recognizing County Attorney Marc Hansen for his years of service to Montgomery County.
- A. Proclamation was presented by Mr. Jawando recognizing the Anniversary of Roe v. Wade.

GENERAL BUSINESS

- A. Announcements - Ms. Singleton, Clerk of the Council, announced that public hearings on the FY23 Capital Budget and FY23-28 Capital Improvements Program (CIP) will be held on Tuesday, February 8, 2022, at 1:30 P.M. and 7:30 P.M., and on Wednesday, February 9, 2022, at 1:30 P.M.
- (1) B. **Acknowledgement** – [Receipt of Petitions](#)
No petitions were received this week.

C. **Action** – Approval of Minutes

Approved the minutes of November 29, 30 and December 6, 2021, without objection.

(2) **COUNCIL SITTING AS BOARD OF HEALTH**

A. [Updates from County Government and Montgomery County Public Schools \(MCPS\) - Novel Coronavirus \(COVID-19\) and Health Planning](#)

Mr. Albornoz announced that the Education and Culture (E&C) Committee is meeting tomorrow for further discussion with MCPS representatives on details for in-person and virtual learning.

Participating in the discussion were Dr. McKnight, Interim Superintendent of Schools; Ms. Wolff, President, Board of Education; Ms. Williams MCPS; Mr. D’Andrea, Chief of Staff, Office of the Superintendent; and Dr. Bridgers, Acting County Health Officer, Department of Health and Human Services (DHHS).

Received an update from MCPS staff on actions taken to address the challenges created by the pandemic faced by students and staff and acknowledged the need to adjust strategies in response to changing conditions. Noted MCPS’ commitment to keeping schools open for in-person learning if it can be done safely, but that no specific thresholds are in place to indicate when a school would automatically shift to all virtual learning. There is a collaborative process with stakeholders and DHHS in place to make those decisions with multiple factors considered before shifting to virtual learning, including staff and student absences, unfilled substitute teacher positions, unserved bus routes, and Covid case rate among students and staff

Dr. McKnight said later today, an announcement would be made concerning 11 schools that would transfer to virtual learning for 10 calendar days beginning January 20, 2022. She requested that responsibility for all contact tracing be shifted to other County agencies and/or DHHS, and requested 190,000 rapid test kits be provided to MCPS every other week.

Mr. Rice noted that the County has asked for waivers from the State to allow MCPS to be more flexible in terms of mitigating risk to allow students to stay in-person learning and that State and Federal governments have not provided metrics as to when a school should close due to a Covid outbreak. Mr. Hucker requested clarification as to why MCPS could not move to an opt-out rather than opt-in program for rapid testing of students and expressed the hope that this would be allowed in the future, especially if the County, rather than the State, provides the tests; and why MCPS is not

requiring a negative Covid test to attend school as is being done in some area jurisdictions.

Mr. Jawando said a letter will be sent to the Governor requesting MCPS be allowed to do in-school Covid testing and to adopt an opt-out testing policy, and suggested teachers be allowed to conduct virtual instruction from their homes.

Mr. Friedson stressed the need for better communication and that MCPS' dashboard must be updated regularly, and requested staff provide the County Executive's formal response to MCPS' request to shift contact tracing and to receive rapid test kits. Noted that rapid tests would be provided to substitute teachers, and that DHHS would discuss revised guidelines with MCPS.

Mr. Glass received confirmation from Dr. McKnight that MCPS has the capability to provide a hybrid model of learning and can provide a virtual format to students if needed.

Mr. Katz said it must be confirmed that DHHS has available personnel to perform contact tracing for MCPS, and that rapid test kits will be available in the number required.

B. **Public Hearing** - [Resolution to adopt a Board of Health Regulation to prevent the spread of COVID-19 in the County - Vaccination Requirements to Enter Bars, Restaurants, Recreation Centers, and Other Covered Establishments](#)

The public hearing was conducted. An additional public hearing is scheduled for January 25, 2022.

C. **Worksession** - [Resolution to adopt a Board of Health Regulation to prevent the spread of COVID-19 in the County - Vaccination Requirements to Enter Bars, Restaurants, Recreation Centers, and Other Covered Establishments](#)

Participating in the discussion were Ms. Wellons, Legislative Attorney; Dr. Bridgers, Acting Chief Public Health Officer; Dr. Stoddard, Assistant Chief Administrative Officer; Mr. Thompson, Restaurant Association of Maryland; Ms. Vasquez, Hispanic Chamber of Commerce; Ms. Redicker, Silver Spring Chamber of Commerce; Ms. Coren, Greater Bethesda Chamber of Commerce; Ms. Jeffries, President and CEO, Strathmore; and Ms. Rohrer, Maryland Hotel and Lodging Association.

Received comments from business representatives on the impact of the proposed resolution on businesses including staffing concerns and the potential loss of business; and on implementation requirements, steps needed to confirm vaccination status of patrons, exemption requirements, training and signage requirements, and other potential negative consequences. Noted that some restaurants and private organizations already require patrons to provide proof of vaccination or a negative Covid test.

Mr. Jawando requested information be provided for next week on any businesses and hotels that require patrons to provide proof of vaccination, and what could be done to help smaller venues offset costs associated with complying with the regulation. Noted that the Filmore requires proof of vaccination or a negative Covid test.

Dr. Stoddard stated the purpose of the regulation is to reduce transmission of the virus and to encourage residents to get vaccinated, that the wearing of masks and vaccination are risk reduction tools, and that data shows a reduction in the ability to contract and transmit the virus among people vaccinated and boosted relative to unvaccinated individuals.

Mr. Friedson expressed concern about the limited outreach to businesses and requested Executive Branch staff provide information on what businesses were invited to participate in the Town Hall conducted in September, and on what outreach was conducted concerning the proposed regulation. He noted conflicting information regarding whether MCPS and the Board of Education can enforce a vaccine mandate for students and requested a definitive answer be provided from legal staff. He also requested staff provide information on the regulation's implementation period, sunset date, associated metrics, and what level of vaccination in the County the regulation hopes to achieve with implementation of a vaccine passport.

Ms. Navarro received confirmation that Executive Branch staff considered measures other than implementation of a vaccine passport requirement, which was considered the least harmful, to help increase the vaccination rate in the County. She suggested completion of a racial equity and social equity analysis would be helpful in determining efficacy of the proposed regulation.

Mr. Albornoz said the Council would continue discussion of this proposal on January 25.

(3) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

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

- A. **Received and Released** - The Office of Legislative Oversight (OLO) Report 2022-1, *Economic Indicators for Montgomery County and Surrounding Jurisdictions, January 2022 Update*.
- B. **Acknowledged Receipt** -The Council acknowledges receipt of the following Inspector General publications: 1) A Review of the New Home Builder and New Home Seller Program: Office of Consumer Protection, OIG Publication #22-010; and 2) Montgomery County Fire and Rescue Service (MCFRS) Alleged Abuse of Overtime for COVID-19 Testing, Memorandum of Investigation OIG Complaint C-22-121,
- C. Adopted **Resolution 19-1130**, extending time until December 31, 2022 for Council consideration of **Expedited Bill 39-20**, Taxation - Recordation Tax - Amendments.
- D. Adopted **Resolution 19-1131**, confirming the County Executive's appointments to the Committee Against on Hate/Violence: Maria Herrera, Lisa Taylor.
- E. Adopted **Resolution 19-1132**, confirming the County Executive's appointment to the Domestic Violence Coordinating Council: Lynne Harris.
- F. Adopted **Resolution 19-1133**, confirming the County Executive's appointment to the Commission on People with Disabilities: Angela Luskey.
- G. Adopted **Resolution 19-1134**, confirming the County Executive's appointment to the Revenue Authority: Lionel Bernard.
- H. Adopted **Resolution 19-1135**, resolution to Approve franchise to Cellco d/b/a Verizon Wireless, to use the public right-of-way.
- I. **Introduced** a supplemental appropriation to the FY22 Operating Budget, Montgomery County Government, Department of Transportation, Transit Services, \$8,631,001. A public hearing is scheduled for February 1, 2022, at 1:30 P.M.

The Council recessed at 1:05 P.M. and reconvened at 1:45 P.M.

- (5) **PUBLIC HEARING - Rules of Procedure for Conditional Uses and Waives for Certain Telecommunications Towers and Objections to Applications for Waivers for Certain Telecommunications Towers before the Office of Zoning and Administrative Hearings (OZAH)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on January 21, 2022. A worksession and action are scheduled on January 25, 2022.

- (6) **PUBLIC HEARING - Additions to the OZAH's Fee Schedule**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on January 21, 2022. A worksession and action are scheduled on January 25, 2022.

- (7) **PUBLIC HEARING - Zoning Text Amendment (ZTA) 21-10 - Accessory Structures - Use Standards**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on January 25, 2022. A worksession will be scheduled at a later date.

- (8) **PUBLIC HEARING - ZTA 21-11 - Sandy Spring-Ashton Rural Village Overlay Zone**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on January 25, 2022. A worksession will be scheduled at a later date.

- (9) **PUBLIC HEARING - Sectional Map Amendment (SMA) H-144 to implement the zoning recommendations of the Approved and Adopted Ashton Village Center Sector Plan**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on January 21, 2022. A worksession will be scheduled at a later date.

- (10) **PUBLIC HEARING - Bill 48-21, General Provision - County Symbols - County Tree - Established**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on January 21, 2022. A worksession will be scheduled at a later date.

- (11) **PUBLIC HEARING/ACTION** - [Special Appropriation to the County Government's FY22 Operating Budget, Office of Emergency Management and Homeland Security - \\$586,500 for Metropolitan Washington Council of Government Funding \(Source of Funds: MWCOG Grant Funds\)](#)

The public hearing was conducted and the record closed.

Adopted **Resolution 19-1136**, approving the subject special appropriation. Mr. Katz made the motion, which carried without objection.

- (12) **PUBLIC HEARING/ACTION** - [Resolution Supporting the Establishment of an Additional Early Voting Center in Montgomery County](#)

The public hearing was conducted and the record closed.

Adopted **Resolution 19-1137**, supporting the Establishment of an Additional Early Voting Center in Montgomery County. Mr. Riemer made the motion, which carried without objection.

- (13) **DISTRICT COUNCIL SESSION**

A. Announcement - President Albornoz announced that [The Council will hold a public hearing on the Planning Board Draft Amendment to the Master Plan for Historic Preservation for the Potomac Overlook Historic District on March 1, 2022 at 1:30 P.M.](#)

B. **Worksession/Action** - [Resolution to approve Executive Regulation 15-20, Public Space Usage in Work Zones](#)

Ms. Ndou, Legislative Attorney, explained that this resolution will ensure that public walkways and sidewalks will provide the standards for the Department of Permitting Services to issue permits to allow limited closure of these walkways during construction, as a matter of public health. The regulation also creates a tracking mechanism to ensure that the right-of-way is open to the public as soon as possible.

Adopted **Resolution 19-1138**, approving Executive Regulation 15-20, Public Space Usage in Work Zones, as submitted by the County Executive.

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

C. **Worksession/Action - [ZTA 21-06, Exemptions - Density Transfer and Historic Resources](#)**

Mr. Anderson, Chair, Montgomery County Planning Board, participated in the discussion.

Mr. Riemer, Chair of the Planning, Housing, and Economic Development (PHED) Committee, and Ms. Ndou reviewed the purpose of the ZTA and the Committee's recommendation, as contained in the staff report.

Enacted **Ordinance 19-25**, approving draft #2 of the subject ZTA.

The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

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

D. **Worksession/Action - [ZTA 21-07, Density and Height Allocation - Development with Moderately Priced Dwelling Units](#)**

Mr. Riemer and Ms. Ndou, Legislative Attorney, reviewed the purpose of the ZTA and the Committee's recommendation, as contained in the staff report.

Mr. Hucker added that this regulation will help the County meet established goals to provide affordable and accessible housing.

Enacted **Ordinance 19-26**, approving draft #3 of the subject ZTA.

The PHED Committee made the motion and the Ordinance was enacted by a roll call vote:

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

(14) **UPDATE - [Crime Statistics and Violent Crime Trends](#)**

Participating in the discussion were Chief Jones, Assistant Chief Parker-Logan, Assistant Chief Patil Montgomery County Police Department (MCPD); and Ms. Farag, Legislative Analyst.

Received a briefing from MCPD staff on crime trends and police efforts to curb violent crimes. Discussion topics included crime rates and trends, hate crimes; youth intervention, suppression and mental health resources; manufactured “ghost” guns; school resource officers; witness cooperation in solving homicides; gang activity; police recruitment efforts and salary increases; engagement with community stakeholders and business; and efforts to address night-life activities. In response to questions from Mr. Glass, Chief Jones noted that MCPD plans to expand public safety resources in the Silver Spring Business District to deter and prevent crime. Additionally, Chief Jones addressed staff overtime issues and “burn out” by shifting resources to better cover police activities in the Fourth District.

Mr. Friedson requested a summary of police and executive branch activity and efforts to address the Silver Spring Business District crime concerns based on the Town Hall held with stakeholders.

Mr. Jones shared the desire to be able to stand up a central operations center when a significant event occurs. Chief Jones noted that MCPD is exploring options and resources needed for this, including a possible pilot this summer.

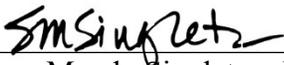
The Council recessed at 4:26 P.M. and reconvened via video conference at 7:51 P.M.

(15) **PUBLIC HEARING - Expedited Bill 49-21, Police Accountability Board - Administrative Charging Committee - Established**

The public hearing was conducted. Additional material for the Council’s consideration should be submitted by the close of business on January 25, 2022. A Public Safety (PS) worksession is tentatively scheduled for January 19, 2022.

The meeting adjourned at 9:11 P.M

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council