



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, February 1, 2022

The County Council for Montgomery County, Maryland convened via video conference at 9:00 A.M. on Tuesday, February 1, 2022.

PRESENT

Councilmember Gabe Albornoz, 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

- A. Proclamation was presented by Mr. Glass recognizing Transit Equity Day 2022.
- B. Proclamation was presented by Mr. Albornoz and the full Council recognizing Lunar New Year.

GENERAL BUSINESS

A. **Announcement**

Ms. Singleton, Clerk of the Council, announced that public hearings on the FY23 Capital Budget and the Capital Improvements Program would be held on Tuesday, February 8, 2022, at 1:30 P.M. and 7:30 P.M., and 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 December 7, 14, 2021, and January 4, 10, 11, 2022, without objection.

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

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

Participating in the discussion were Dr. Bridgers, Acting Chief Health Officer, Mr. O'Donnell, Program Administrator, Public Health Emergency Preparedness and Response, Department of Health and Human Services (DHHS); Dr. Stoddard, Assistant Chief Administrative Officer; Mr. D'Andrea, Chief of Staff, Office of the Superintendent, and Ms. Dublinske, Coordinator, Student Welfare and Compliance, Montgomery County Public Schools (MCPS).

Dr. Bridgers noted last week's discussion with early childcare providers, adding that the Centers for Disease Control (CDC) updated its guidance over the weekend for childcare providers and that the County's public health team will assess whether to move from a 10-day to a 5-day isolation/quarantine period. Parents are encouraged to discuss vaccination strategies with their pediatricians, and strategies are being developed for the vaccination of the youngest children, when approved. He indicated the County is moving toward an endemic, rather than pandemic, posture in response to COVID. Drive-through testing is available at the Montgomery College Germantown site; masks and rapid test kits are also available.

Mr. O'Donnell reviewed the most recent statistics, noting that the number of cases and positivity rates are trending down, likely due to the lowering transmission rate of the omicron variant. He reminded residents using rapid tests to report positive results on the County's portal. Hospitalizations are decreasing, but still considered at a high level, and that for unvaccinated individuals, there is a four times greater risk for testing positive for and 15 times greater risk for dying from COVID-19. Currently, the CDC reports that 84% of the County's total population has received two doses, and 49% of fully vaccinated population has received a booster; disparities by race/ethnicity continues to reduce. Over two million additional rapid tests have been ordered by the County; 945,841 test kits have distributed; test kits

and masks have been distributed through the libraries, childcare providers, private schools, and community non-profit organizations.

Dr. Stoddard reported that the Gaithersburg company Novavax has submitted a request to the Food and Drug Administration (FDA) for emergency use authorization of its protein-based vaccination, and that the Moderna vaccine has received full FDA approval. To date, 340,000 rapid test kits were distributed to MCPS; efforts are continuing with community partners to serve homebound or disabled residents and communities at higher risk. Residents with mobility issues can contact DHHS' call center at 240-777-2982 for information and to request test kits.

Mr. D'Andrea reported a significant decrease in COVID cases since classes resumed January 5; requests for substitute teachers have also decreased but a high number of requests continue to go unfilled and MCPS is working to increase the number of substitutes available through pay increases and other incentives. For the period January 20-29, 16 schools were in virtual learning; that number reduced to 4 schools for January 31 to February 9. Data is reviewed weekly and any decision to transition to virtual learning will be made by Fridays with virtual days to begin Mondays. For the past week, no school bus routes went unserved. MCPS is working with legal counsel to develop an "opt out" testing program to help keep children safe and in school. Screening of candidates for the MCPS Health Officer position is underway and an appointment is anticipated later this month. Ms. Dublinski stated MCPS' COVID case investigation is no longer the primary responsibility of principals and school administrators as over 120 DHHS and MCPS contractors are supporting schools by providing follow-up on positive test results.

Mr. Rice noted that free transportation to vaccination sites is available from private providers; and requested that the continuing health challenges in communities of color be a topic for future discussion by the Council.

Mr. Friedson noted confusion regarding the definition of a COVID "outbreak" and said that messaging should be very clear as to standards for childcare providers and for schools; particularly anytime the County adopts a standard that is different from the State and/or the CDC.

Ms. Navarro suggested that as cases trend downward, future discussion should focus on steps for an endemic approach to addressing COVID, noting the importance of communication to residents as the County moves to the next stage; and noted the need to increase efforts to reach communities of color with high case rates. Dr. Stoddard commented that even with an endemic response with mitigation measures rolled back as appropriate, the County must still be ready to respond to possible future surges of COVID.

Mr. Hucker requested MCPS provide information on how many school bus routes were combined with other routes or other modifications made to accommodate students.

(3) **ACTION** - [Spending Affordability Guidelines for the FY23 Capital Budget and other assumptions in the recommended CIP](#)

Participating in the discussion were Mr. Smith, Legislative Analyst; and Ms. Beck, Capital Budget Manager, Office of Management and Budget (OMB).

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, and Mr. Smith, reviewed the Committee's recommendations, as contained in the staff report.

Adopted **Resolution 19-1150**, approving spending affordability guidelines for the FY23 Capital Budget and other general CIP assumptions.

The GO Committee made the motion, with carried unanimously.

(4) **CONSENT CALENDAR**

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

- A. **Introduced** a resolution to adopt the Economic Development Strategic Plan. A public hearing is scheduled for February 8, 2022, at 1:30 P.M.
- B. **Introduced** a special appropriation to the County Government's FY2 Operating Budget, Conference Center Non-Departmental Account (NDA) - \$1,920,000 (Source of Funds: General Fund Reserves). A public hearing/action is scheduled for February 8, 2022, at 1:30 P.M.
- C. **Introduced** a supplemental appropriation to the County Government's FY22 Operating Budget, Department of Health and Human Services (DHHS) - Supplemental Nutrition Grant Funding (HDC5), \$432,014 (Source of Funds: Grant Funds). A public hearing/action is scheduled for February 15, 2022, at 1:30 P.M.
- D. **Introduced/Adopted Resolution 19-1151**, amendment to FY22 Operating Budget Resolution 19-872, Section G, FY22 Designation of Entities for Non-Competitive Contract Award Status: Housing Initiative Partnership, Inc. and Legal Aid Bureau, Inc.

- E. Adopted **Resolution 19-1152**, approving an amendment to Abandonment Resolution 18-711: Portion of Rugby Avenue and Alley in the Samuel T. Robertson's Addition to Bethesda Subdivision, Bethesda.
- F. Adopted **Resolution 19-1153**, confirming the County Executive's appointments to the Alcohol and Other Drug Abuse Advisory Panel: Zayn Bandukwalla, Nicholas Borowski, Laura Mitchell, Denyse Dillon, Malliga Iyer, Elizabeth Leek, Hannah Sheklow.
- G. Adopted **Resolution 19-1154**, confirming the County Executive's appointments to the Montgomery Cares Program Advisory Board: Helaine Resnick.

Motion to Close

The Council adjourned the open session at 11:41 A.M. and reconvened remotely via video conference in closed session from 11:45 A.M. to 12:28 P.M. Mr. Riemer made the motion, which carried unanimously.

The Council recessed at 12:28 P.M. and reconvened at 1:30 P.M.

- (5) **PUBLIC HEARING - [Supplemental Appropriation to the FY22 Operating Budget, Montgomery County Government, Department of Transportation, Transit Services, \\$8,631,001](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on February 7, 2022. A Government Operations and Fiscal Policy (GO) Committee worksession will be scheduled at a future date.

- (6) **PUBLIC HEARING - [Bill 1-22, Eating and Drinking Establishments - Healthy Meals for Children](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on February 7, 2022. A Health and Human Services (HHS) Committee worksession will be scheduled at a future date.

(7) **PUBLIC HEARING - [Expedited Bill 2-22, Montgomery County Municipal Revenue Program -Amendments](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on February 7, 2022. A GO Committee worksession will be scheduled at a future date.

(8) **INTERVIEWS - [Board of Appeals](#)**

Conducted interviews for a vacancy on the Board of Appeals with William England, Seth Grimes, and Roberto Pinero.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #4**

(9) **Introduction of Bills:**

A. **[Bill 3-22, Legislative Branch - Climate Assessments - Required](#)**

Introduced draft #3 of **Bill 3-22**, sponsored by Mr. Hucker and Mr. Albornoz. Mr. Friedson, Mr. Glass, Ms. Navarro, Mr. Katz, Mr. Riemer, Mr. Jawando, and Mr. Rice requested to be added as co-sponsors.
A public hearing will be held on March 1, 2022, at 1:30 P.M.

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

A. **Bill 35-21, Prevailing Wage Requirements - Construction Contracts - Amendments**

This item was postponed.

B. **[Bill 44-21, Montgomery County Green Bank - Funding - Fuel-energy tax revenue](#)**

Mr. Hucker, Chair of the Transportation and Energy (T&E) Committee, shared his thanks to the broad array of groups supporting and contributing to this Bill. He noted that this Bill will create hundreds of jobs in the local economy and save residents and business owners millions of dollars in energy bills. Additionally, he noted that the Green Bank's focus on equity will ensure that climate needs are being addressed without displacing any no low-income tenants.

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, applauded the coalition created to support this Bill. She shared her hope that the Green Bank funds will allow the Council to use the funds to leverage more resources and aligns with similar efforts at the Federal level.

Mr. Friedson noted that this Bill is a critical step forward to addressing climate needs and is an example of Montgomery County's leadership in these issues. He also noted the relation of the Bill with equity and social justice issues to climate issues.

Supported without objection Mr. Riemer's motion to amend the bill to prohibit the Green Bank from using the new energy tax revenues for projects that install new or retrofit existing fossil fuel-based energy equipment, and to delay the fossil fuel prohibition until July 1, 2023; and require DEP to submit a report estimating the cost of converting fossil fuel mechanical energy equipment to electric power.

Supported without objection Mr. Albornoz's amendment to the Bill to require the Green Bank to provide a yearly report by December 31 each year. The report must include use of the funds and fund balance to help determine if the 10% energy tax is appropriate, as the Council retains the authority to adjust the tax amount going to the budget of the Green Bank.

Enacted draft #6 of **Bill 44-21**, as amended, as shown at the end of these minutes.

The joint GO/T&E Committee made the motion, and the bill was enacted by a roll call vote:

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

The meeting adjourned at 3:08 P.M.

Report of Closed Session of February 1, 2022

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, February 1, 2022. The Council convened in closed session via video conference at 11:45 A.M. pursuant to discuss public security. Topic was security of public water supply infrastructure.

The following persons were present: Councilmembers Albornoz, Glass, Friedson, Huckler, Jawando, Katz, Riemer, Navarro, and Rice; Chiefs of Staff Gibson,

Ikheloe, Ledner, Mandel-Trupp, Murillo, Nurmi, Silverman, and Thorne; Mr. McNamara, Aide to Councilmember Jawando; Mr. Nardolilli, Executive Director, Ms. Schultz, Director for CO-OP Operations, and Ms. Ahmed, Interstate Commission on the Potomac River Basin (ICPRB); Mr. Caudill, Mr. Beach, Mr. Price, Mr. Hilton, Mr. Halloran, and Mr. Harmer, WSSC Water; Mr. Shofar, Intergovernmental Affairs Manager, Mr. Kamazani, and Mr. Soukup, Montgomery County Department of Environmental Protection (DEP); Ms. Ragain, Principal Water Resources Planner, Metropolitan Washington Council of Governments (MWCOG); Mr. Drummer, Senior Legislative Attorney; Mr. Levchenko, Senior Legislative Analyst, Ms. Michaelson, Council Executive Director; Mr. Howard, Deputy Director; and Ms. Singleton, Clerk of the Council.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council

Bill No. 44-21
 Concerning: Montgomery County Green Bank – Funding – Fuel-energy tax revenue
 Revised: 2-1-2022 Draft No. 6
 Introduced: November 16, 2021
 Enacted: February 1, 2022
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Council President Hucker and Councilmember Friedson
 Co-Sponsors: Councilmembers Riemer, Navarro, and Katz, Council Vice President Alborno, Councilmembers Rice and Jawando

AN ACT to:

- (1) require the Council to annually appropriate 10% of the fuel-energy tax revenue to the County Green Bank;
- (2) establish a dedicated County funding source for the Green Bank; ~~[[and]]~~
- (3) restrict the use of the funds by the Green Bank; and
- (4) generally amend the law governing the Green Bank and the use of the fuel-energy tax revenue.

By amending

Montgomery County Code
 Chapter 18A, Environmental Sustainability
 Section 18A-49 and 18A-50

Chapter 52, Taxation
 Section 52-14

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 18A-49, 18A-50, and 52-14 are amended as follows:

18A-49. Work program; staff; support from County Government.

- (a) The Board of Directors must adopt a work program each year to advance the policy objectives and perform the activities listed in Section 18A-44.
- (b) The Green Bank's work program may include a plan for sponsorship of private investment, marketing, and advocacy initiatives.
- (c) The Board must meet with the Executive and the Council at least semi-annually.
- (d) The Department of Environmental Protection may, if the Board of Directors requests, provide incidental administrative support for the Green Bank, including contracts, grants, or services in kind, subject to appropriation.
- (e) Funding sources for the Green Bank may include:
 - (1) federal[,] or State[, or County] funds provided to it;
 - (2) County funds, including a portion of the fuel-energy tax revenue received by the County;
 - (3) charitable gifts, grants, or contributions and loans from individuals, corporations, university endowments, and philanthropic foundations; and
 - ~~[(3)]~~ (4) earnings and interest derived from financing support activities for clean energy technologies backed by the Green Bank.

The Green Bank may also raise private funds and may accept services from any source consistent with its purpose.

(f) Restrictions on County funding. ~~[[The]]~~ After July 1, 2023, the Green Bank must not use the annual direct appropriations from the County to fund new mechanical energy equipment that uses fossil fuels or the equipment that upgrades the efficiency of existing mechanical energy equipment that uses fossil fuels. The Green Bank must use the annual direct appropriations from the County as follows:

- (1) 20% of the funds must be used to support the Bank's activities in Equity Emphasis Areas in the County as defined by the Metropolitan Washington Council of Governments; and
- (2) 15% of the funds must be used to reduce the cost of energy projects undertaken by property owners by a loan subsidy, interest rate buydown, technical assistance, pre-development, blended capital, or other similar tools.

18A-50. Report

The Board of Directors must report annually by December 31 on the activities and finances of the Green Bank to the Executive and Council. The report must include details about the use and fund balance of County funds.

52-14. Fuel-energy tax.

- (a) (1) A tax is levied and imposed on every person transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in the County.

- (2) The County Council must set the rates for various forms of fuel and energy by a resolution adopted under Section 52-17(c). The Council may, from time to time, revise, amend, increase, or decrease the rates, including setting different rates for fuel or energy delivered for different categories of final consumption, such as residential or agricultural use. Each rate must be based on a weight or other unit of measure regularly used in the conduct of business. The rate for each form of fuel or energy should impose an equal or substantially equal tax on the equivalent energy content of each form of fuel or energy for a particular category of use.
- (3) The tax does not apply to the transmission or distribution of electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in interstate commerce through the County if the tax would exceed the taxing power of the County under the United States Constitution. The tax does not apply to fuel or energy converted to another form of energy that will be subject to a tax under this Section. The tax must not be imposed at more than one point in the transmission, distribution, manufacture, production, or supply system. The rates of tax apply to the quantities measured at the point of delivery for final consumption in the County. For an electric company (as defined in state law), the rates of tax apply to the net consumption that is used to calculate each consumer bill.
- (4) The tax does not apply to energy that is generated from a renewable source located:
 - (A) in the County and either used on the site where it is generated or subject to a net energy metering agreement (as defined in state law) with a public utility; or
 - (B) in the same electric service territory in Maryland as the subscriber using the energy and subject to a virtual net energy metering agreement (as defined in state law) with a public utility.

Renewable source means a “Tier 1 renewable source” as defined in Section 7-701(l) of the Public Utilities Article of the Maryland Code or any successor provision.

* * *

- (i) Any violation of this Section is a class A violation. Each violation is a separate offense. Any conviction does not relieve any person from paying any tax due.
- (j) The Council must appropriate 10% of the revenue received by the County from the fuel-energy tax each year to the nonprofit corporation designated as the Montgomery County Green Bank under Section 18A-46.

Sec. 2. Effective date; report.

The amendments in Section 1 take effect on July 1, 2022. The Director of the Department of Environmental Protection must submit a report to the Council and the Executive on or before May 1, 2023 estimating the cost of converting fossil fuel mechanical energy equipment to electric power.