



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, March 1, 2022

The County Council for Montgomery County, Maryland convened via video conference at 9:01 A.M. on Tuesday, March 1, 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

- A. Proclamation was presented by Mr. Alborno and County Executive Elrich recognizing Developmental Disability Awareness Month.
- B. Proclamation was presented by Mr. Alborno and County Executive Elrich recognizing National Colorectal Cancer Awareness Month and March 4th, 2022, as Dress in Blue Day.
- C. Proclamation was presented by Ms. Navarro Honoring the Fire Fit, Fire Smart Program as part of Women's History Month.

GENERAL BUSINESS

- A. Announcements – Agenda and Calendar Changes

Ms. Singleton, Clerk of the Council, announced that the Council is seeking applicants for the Montgomery County Planning Board. The deadline to apply is Friday, March 25, 2022, at 5:00 P.M.

(2) B. **Acknowledgement – Receipt of Petitions**

Acknowledged receipt of a petition from residents of Montgomery County supporting removal of Woodside Park properties from the Silver Spring Downtown Sector Plan.

C. **Action – Approval of Minutes**

Approved the minutes of January 24, 25, February 1 and 7, 2022, without objection. Mr. Huckler was temporarily absent.

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

Received information from Dr. Crowel that planning efforts are shifting to focus on a sustained endemic response to COVID and how to manage it for the next six months to two years and foster recovery in the County. He noted that levels of the Omicron variant are dropping but still at pandemic levels and that the County must prepare for possible future surges and address the impact on residents, including mental health issues, economic concerns, food insecurity, and housing instability.

Received information on current statistics from Mr. O'Donnell, noting that currently the County is in the "low" transmission rate category with case rates and hospitalizations trending downward. He reviewed updated Centers for Disease Control and Prevention (CDC) guidance, current vaccination rates, ongoing surveillance strategies, and the demographic impacts of COVID. He noted that rapid test kits and masks are being distributed at libraries and 440,280 test kits have been provided to MCPS.

MCPS staff discussed the decline of cases among students and staff, isolation and quarantine guidelines, outreach efforts focused on populations hesitant to receive the vaccine including after-school clinics; key metrics for future planning including student and staff case rates, community transmission rates, vaccination rates, and the status of any new variants. MCPS is focusing on the mental health needs of students and staff and developing plans for mitigating learning disruptions as a result of the pandemic. Mr. D'Andrea indicated that the Board of Education at its March 8 meeting is expected to rescind the school mask mandate and vote to make the wearing of masks optional and applicable to all schools.

Mr. Alborno commented that there are ongoing difficulties filling the Health Officer position, noting the horrific rhetoric being experienced by those in public positions. As the mask mandate is relaxed, steps must be taken to protect those that choose to continue to wear masks.

Regarding childcare facilities, Dr. Bridgers indicated they are waiting for the State to send updated guidance and encouraged unvaccinated children to wear masks as outbreaks are still occurring at some facilities. Dr. Crowel noted that DHHS would reach out to the childcare community when the new guidance is received.

Mr. Friedson requested the Council be informed when the County's dashboard is updated to reflect the CDC's new guidance.

Mr. Jawando indicated he would forward a study from the Duke University School of Medicine that showed schools with a mask mandate have fared better during the pandemic; and noted the need for strategies to mitigate the possible bullying of children who continue to wear masks, expressing the view that this would be a significant issue.

(4) **ACTION - [Supplemental Appropriation to the County Government's FY22 Operating Budget, Department of Transportation, Transit Services, \\$8,631,001](#)**

Mr. Renne, President, Municipal and County Government Employees Organization (MCGEO), participated in the discussion.

Ms. Navarro, Chair of the Government Operations and Fiscal Policy (GO) Committee, expressed thanks to bus drivers and transit workers for their dedication during this difficult time. She noted that it is now more difficult to recruit and retain transit employees and reviewed the Committee's recommendation in support of increased compensation, as included in the staff report.

Mr. Hucker, Chair of the Transportation and Environment (T&E) Committee, commented that Ride On has had a deficit of drivers for many years and expressed support for increased compensation. He expressed support for maintaining free Ride On bus service, noting that the number of assaults on drivers are reduced as many conflicts with riders are over fares.

Adopted **Resolution 19- 1170**, approving the subject supplemental appropriation, as submitted by the County Executive.

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

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #6**

(5) **Miscellaneous Business:**

A. **Worksession - [Expedited Bill 49-21, Police - Police Accountability Board - Administrative Charging Committee - Established](#)**

Participating in the discussion were Mr. Drummer, Senior Legislative Attorney; Dr. Stoddard, Assistant Chief Administrative Officer; and Chevy Chase Village Police Chief Fitzgerald.

In his opening remarks, Mr. Alborno explained that last year, the State's General Assembly passed legislation requiring every county to establish a Police Accountability Board (PAB) which would assume some of the responsibilities currently held by chiefs of police; the role of the Administrative Charging Committee (ACC) is quasi-judiciary as it hears the cases. The deadline for action set by the State is July 1, 2022; the Council's goal is to complete process by end of March so that the Executive Branch can begin the process of onboarding the PAB members. The Public Safety (PS) Committee has met three times to discuss the expedited bill, but in order to meet the deadline, agreed to bring the discussion to the full Council.

Mr. Alborno noted that 29 individuals representing various organizations, as well as municipalities, provided feedback on this important bill. Currently, there are deliberations at the State level that could impact Montgomery County; Mr. Drummer explained that the Maryland Police Training and Standards Commission is currently considering regulations to implement this law, including the disciplinary matrix, range of penalties for a specific violation, and qualifications for members of and training for ACC members, which may limit some of the County's discretion for certain issues.

Mr. Katz, Chair of the PS Committee, reiterated the Council's tight timeframe to enact the legislation, that municipalities must be involved in the process, and that the PAB must be a fair and impartial board. He received confirmation from Mr. Drummer that no active police would be allowed to serve on the PAB or ACC.

Supported the PS Committee's recommendations to increase the PAB membership to nine voting members with at least one member residing in a municipality covered by the PAB, and to permit the County Executive to appoint one or more non-voting members; to require funding for training of PAB and ACC members from the police and outside organizations; and to authorize the Council to remove a member for failure to complete required training.

Mr. Jawando expressed the view that removal of a member for "violation of law" could be broadly interpreted. Mr. Drummer indicated it is a standard provision in County Code and applies to all boards, committees, and commissions, and that if the language is removed, the State's proposal would likely include a provision to exclude those people with a felony from becoming a PAB member.

Supported without objection Mr. Jawando's motion to remove the language on line 113 of the expedited bill that would allow removal of a member for a violation of law.

Mr. Drummer and Mr. Albornoz noted that there are collective bargaining issues pertaining to the legislation, but given the limited timeframe, the PS Committee agreed these could be addressed in the future.

Supported without objection Mr. Jawando's motion to amend lines 52-59 of the expedited bill regarding minimum qualifications for members to include language that PAB members be able to demonstrate through professional or lived experience the ability to balance effective oversight, perform objective analysis of an investigation report, and practice procedural fairness.

The Council is scheduled to continue discussion of **Expedited Bill 49-21** on March 8, 2022.

(5.5) **INTRODUCTION** - [Supplemental Appropriation to the County Government's FY22 Operating Budget, DHHS - \\$69,691,000 for COVID-19 Emergency Response \(Source of Funds: County General Reserves\)](#)

Introduced the subject supplemental appropriation. A public hearing is scheduled for March 8, 2022, at 1:30 P.M.

(6) **CONSENT CALENDAR**

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

- A. **Introduced** a special appropriation to the County Government's FY22 Operating Budget, Department of Health and Human Services (DHHS) - \$7,821,000 for FEMA Emergency Protective Measures Grant (Source of Funds: State Funds). A public hearing is scheduled for March 8, 2022, at 1:30 P.M.

- C. **Introduced** a supplemental appropriation to the County Government's FY22 Operating Budget, Montgomery County Fire and Rescue Service (MCFRS) - \$13,900,000 for General Personnel and Operating Costs (Source of Funds: Undesignated Reserves Fire Fund Reserves). A public hearing is scheduled for March 15, 2022, at 1:30 P.M.

- D. **Introduced** a supplemental appropriation to the County Government's FY22 Capital Budget and Amendment to the FY21-26 Capital Improvements Program (CIP) - \$602,651 for Montgomery County Public Schools (MCPS) Planned Life Cycle Asset Replacement (Source of Funds: Aging Schools Program). A public hearing is scheduled for March 15, 2022, at 1:30 P.M.

- E. **Introduced** a special appropriation to the County Government's FY22 Operating Budget, DHHS - \$224,956 for Newcomers Enhancements and Assistance (Source of Funds: General Fund: Undesignated Reserves). A public hearing is scheduled for March 8, 2022, at 1:30 P.M.

- F. **Introduced** a special appropriation to the FY22 Operating Budget, Housing Opportunities Commission (HOC) Non-Departmental Account (NDA) - \$3,000,000 (Source of Funds: General Fund Undesignated Reserves). A public hearing is scheduled for March 8, 2022, at 1:30 P.M.

- G. **Introduced** a supplemental appropriation to the County Government's FY22 Capital Budget and Amendment to the FY21-26 Capital Improvements Program, DHHS - \$1,082,000 for Martha B. Gudelsky Child Development Center Sewer Improvements (Source of Funds: Recordation Tax Premium). A public hearing is scheduled for March 22, 2022, at 1:30 P.M.

- H. **Introduced** authorization to approve and certify the Agency Safety Plan for Montgomery County Department of Transportation, Division of Transit Services. Action is scheduled for March 8, 2022.

- I. **Introduced** a supplemental appropriation to the County Government's FY22 Operating Budget, Office of the County Executive - \$45,528 to support the establishment of the Office of Grants Management (Source of Funds: General Fund Undesignated Reserves). A public hearing and action are scheduled for March 15, 2022, at 1:30 P.M.
- J. Adopted **Resolution 19-1171**, approving an amendment to the FY21-26 CIP, Montgomery County Government County Offices and Other Improvements - Dickerson Radio Tower.
- K. Approved the appointment of Olivia Berryhill as special counsel to represent Montgomery County's Department of Health and Human Services, Child Welfare Services, in the Juvenile Court.
- L. Adopted **Resolution 19-1172**, approving a supplemental appropriation to the FY22 Operating Budget, Montgomery County Government, Incubator Programs NDA, \$954,266.
- M. Adopted **Resolution 19-1173**, approving an amendment to the FY21-26 CIP and supplemental appropriation to the County Government's FY22 Capital Budget, Office of the County Executive - \$400,000 for Life Sciences and Technology Centers.
- N. Adopted **Resolution 19-1174**, approving a special appropriation to the FY22 Operating Budget, Payments to Municipalities Non-Departmental Account, \$5,000,000.
- O. Adopted **Resolution 19-1175**, confirming the County Executive's appointments to the Countywide Recreation and Parks Advisory Board: Robera Tasissa, Aravind Banda.

The Council recessed at 12:15 P.M. and reconvened at 12:48 P.M.

Virtual Brown Bag Lunch with Regional Services Center (RSC) Directors

Participating in the discussion were RSC Directors Fosselman, Bandeh, Newman, and Wims; Ms. Kassiri, Deputy Chief Administrative Officer; and Mr. Hartman Espada, Director of Strategic Partnerships.

Received information that Mr. Fosselman and Ms. Finkelstein, Executive Director, Commission for Women, are assisting with the operation of the Mid-County RSC in the absence of Ms. Cardona, its Director.

Received an update from each RSC Director on recent activities and the February 2022 Community Engagement Cluster monthly update.

Mr. Albornoz said that moving forward, RSC quarterly meetings will change to receive one regional update per meeting. He noted that the five RSCs were established to align with the five Council districts and that a shift in regional service areas might be considered in the future.

Councilmembers noted the importance of the Upcounty Citizens Advisory Board (UCAB) meeting held on February 28 to address the death of a Northwest High School student; discussed economic recovery and input from small businesses in the respective regional areas, the holistic approach of the East County RSC to address policy areas previously agreed to by the County Executive and the County Council and the need to identify gaps such as workforce development, pedestrian safety, and connectivity.

Received an update on residents evacuated from the Flower Branch Apartments due to fire, homelessness issues at Marian Fryer Town Plaza, and Garret Park resident concerns on pedestrian access surrounding the former White Flint Mall site.

The Council recessed at 1:40 P.M. and reconvened at 1:46 P.M.

(7) **PUBLIC HEARING - [Potomac Overlook Historic District: An Amendment to the Master Plan for Historic Preservation approved by the Montgomery County Planning Board](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on March 23, 2022. A Planning, Housing and Economic Development (PHED) Committee worksession is tentatively scheduled for March 28, 2022.

(7.5) **PUBLIC HEARING - [Bill 3-22, Legislative Branch - Climate Assessments - Required](#)**

The public hearing was conducted. Additional material for the Council's consideration should be submitted by the close of business on March 8, 2022. A Transportation and Environment (T&E) Committee worksession will be scheduled at a future date.

- (8) **PUBLIC HEARING/ACTION** - [Special Appropriation to the County Government's FY22 Operating Budget, Department of Health and Human Services - \\$5,403,397 for Immunization and Vaccines for Children Grant \(Source of Funds: State Funds\)](#)

The public hearing was conducted and the record closed.

Adopted **Resolution 19-1176**, approving the subject supplemental appropriation.

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

- (9) **DISTRICT COUNCIL SESSION**

- A. **Briefing** - [Planning Board Draft of the Silver Spring and Adjacent Communities Plan](#)

Participating in the discussion were Ms. Dunn, Senior Legislative Analyst; Mr. Anderson, Chair, Montgomery County Planning Board; and Ms. Margolies, Planner, DownCounty Planning, Montgomery County Planning Department.

Received an overview of the Plan, including zoning change recommendations to develop underutilized areas; investment opportunities to create greater density, housing affordability and variety, transportation connectivity, a new Jesup Blair Park, creating a regional destination at the Transit Center, and affordable housing; and the introduction of the Green Loop, a multi-modal neighborhood transportation conduit for safe pedestrian and bicycle transportation that provides tree canopies, cool surfaces and green space within an urban area. To support this, a new pedestrian bridge is proposed in the plan to enhance connections. The Plan also includes mitigation strategies to reduce the impacts of climate change by supporting rooftop farming, commercial kitchens and food processing; repurposing of an underutilized building to be reimaged as a public school; establishing a legacy and minority business registry to support small, diverse business; and new ways to promote the special history of downtown Silver Spring.

Mr. Alborno shared his opinion that there should be a greater focus on the Arts and Humanities community in the Plan, citing several performance venues and business in the area.

Mr. Riemer, Chair of the PHED Committee, supported Mr. Alborno's comments regarding the Arts and Humanities and noted that many of the controversial items that were previously included in the plan have been removed, potentially garnering more support from the community.

Mr. Hucker shared his support for the Plan's commitments to connectivity, accessibility, and mobility, as well as the climate action goals, social justice and equity goals, and Vision Zero goals.

Mr. Friedson shared his interest in exploring the increased building height to increase density, support for the Plan's focus on affordable housing, support for the Arts and Humanities sector, and commercial business growth.

Mr. Glass stated that residents have shared they want Silver Spring to remain a thriving and diverse place and expressed his support for the Plan's pedestrian bridge and plans to reinvigorate Jesup Blair Park.

B. **Briefing** - [Planning Board Draft Amendment to the Master Plan for Historic Preservation: Potomac Overlook Historic District](#)

Participating in the discussion were Ms. Wright, Director, and Ms. Ballo, Supervisor, Historic Preservation Section, Montgomery County Planning Department.

Received information that the Historic District design guidelines have been updated several times over the past years; the draft amendment updates the original design guidelines.

Reviewed the proposed amendment and the public process and outreach taken to seek feedback on the historic designation. Received an overview of the criteria for designation, the historical and architectural significance of the area, contributions of noted early residents of the area, and the design guidelines using the existing framework of the neighborhood. Reviewed the documents that detail the guidelines for residents and noted the Planning Department's evaluation results to support the area's designation as a historic district.

C. **Action** - [Resolution to extend time for Council Action on the Thrive Montgomery 2050 Plan from March 20 to May 19, 2022](#)

Adopted **Resolution 19-1177**, extending the time for Council action on the Thrive Montgomery 2050 Plan from March 20 to May 19, 2022.

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

D. **Worksession - [Thrive 2050](#)**

Participating in the discussion were Ms. Dunn, Ms. Michaelson, Council Executive Director; and Ms. Bonner-Tompkins, Senior Legislative Analyst, Office of Legislative Oversight (OLO).

Discussed proposals from Council and OLO staff to hire a consultant to focus on obtaining feedback from communities of Color and underrepresented communities, create a stakeholder advisory group, and create another chapter of the Plan to include information on the unique history and culture of the County, to be completed by July 1, 2022. Mr. Albornoz stated that Councilmembers will also leverage community partnerships and continue efforts to reach out to their represented communities and seek input from Regional Services Directors. Mr. Jawando indicated that there may be research available from community organizations that can be shared with Council and can be further examined to help influence the Plan.

Mr. Hucker shared support for further work on the Racial Equity and Social Justice (RESJ) impact, more focus on job creation, and proposed that the Request for Proposal (RFP) for the consultant be detailed and focused on someone who is cognizant of land use, housing, and transportation laws and policies.

Mr. Friedson reiterated that the consultant hired should have experience in land use, transportation, and racial equity and social justice issues; and that specific guidelines be included for everyone involved to meet the deadline. He also requested a timeline commitment for milestones to be shared in the next two weeks, as well as an update on the consultant hiring process, stakeholder engagement, and progress on adjusting the Plan.

Mr. Riemer indicated his support for an additional chapter to the Plan regarding historical significance of land use and proposed another chapter related to implementation to better clarify the Plan's goals. He proposed the creation of a taskforce, to continue to search for community consensus regarding attainable housing, which could be part of the implementation process for the Plan.

Ms. Navarro shared her support for changes to the Plan and the Racial Equity and Social Justice framing.

Mr. Jawando stated his support for further work on the RESJ impact, by soliciting additional feedback from the community, and more focus on the attainable housing issue.

Mr. Albornoz requested that staff provide options for new chapters and solicit feedback from Councilmembers regarding racial equity, expand on climate language or determine if a dedicated chapter on climate is needed, and expand on economic development for discussion at a future Council worksession. He also requested that the memo proposing new chapters/additions be sent to all colleagues to expedite the process, and that Councilmembers provide feedback for discussion at a future meeting.

- E. **Announcement** - The public hearing for Zoning Text Amendment (ZTA) 22-01, Antenna on Existing Structure - Use Standards has been rescheduled from March 22, 2022 to July 12, 2022.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #6 (continued)**

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

A. [Bill 1-22, Eating and Drinking Establishments - Healthy Meals for Children](#)

Mr. Rice, Chair of the Education and Culture (E&C) Committee, stated that this Bill will help provide access to healthy options at restaurants for all children, especially given the health disparities in communities of Color. He also cited several studies that indicate the increase in dining out and delivery of food across the United States; the connection between obesity and health issues, especially high in communities of Color. He expressed the hope that this Bill would provide options, not a mandate, for healthy food choices when dining out.

Supported without objection Mr. Rice's motion to amend the Bill to change the implementation date from one year after the Bill becomes law to 18 months.

Defeated Mr. Friedson's motion to only apply the healthy meal requirement to chain restaurants with 20 or more locations in the United States that operate under the same name in all locations. The motion failed 2-7 with Mr. Friedson and Mr. Katz voting in the affirmative.

Defeated Mr. Jawando's motion to the Bill to increase the vegetable serving size from ¼ cup to ½ cup to be consistent with regional jurisdictions. The motion failed 3-6 with Mr. Jawando, Ms. Navarro, and Mr. Hucker voting in the affirmative.

Enacted draft #6 of **Bill 1-22**, as amended and shown at the end of these minutes.

The Health and Human Services (HHS) Committee made the motion and the Bill was enacted by a roll call vote:

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

NAYS: Friedson.

B. [Expedited Bill 2-22, Montgomery County Municipal Revenue Program - Amendments](#)

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

Enacted draft #1 of **Bill 2-22**, as introduced.

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

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

(5) **Miscellaneous Business (continued):**

B. [Bill 35-21, Prevailing Wage Requirements - Construction Contracts - Amendments](#)

Participating in the discussion were Mrs. McCartney-Green, Legislative Attorney and Ms. Michaelson.

Mr. Albornoz summarized the previous Council discussion on **Bill 35-21**, specifically regarding an amendment proposed by Mr. Jawando to apply the prevailing wage requirement to Payments in Lieu of Taxes (PILOTs) and the procedural requirements to continue to move **Bill 35-21** forward. Mr. Albornoz temporarily vacated the responsibilities of the Council President and temporarily assigned them to Mr. Glass in order to make the appropriate motions to continue discussion on the Bill.

Supported without objection Mr. Albornoz's motion to remove **Bill 35-21** from the table.

Mr. Albornoz moved to reconsider the amendment from Mr. Jawando that PILOTs are subject to prevailing wage requirements. As noted by Mrs. McCartney-Green and Ms. Michaelson, the Council's procedures indicated that this motion does not have to be voted on to allow staff more time to provide Councilmembers with fiscal impact information to determine their stance on Mr. Jawando's amendment.

Supported Mr. Albornoz's motion to delay the vote for reconsideration of Mr. Jawando's amendment to no later than March 22, 2022. Mr. Friedson, Mr. Riemer, and Ms. Navarro were opposed.

Mr. Albornoz resumed his role of Council President.

The meeting adjourned at 5:41 P.M.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council