

**COUNTY COUNCIL
OF
HOWARD COUNTY, MARYLAND**

2010 Legislative Session

**Legislative Day No. 3
March 1, 2010**

HOWARD COUNTY TO WIT:

The Chairman called the legislative session to order at 7:32 p.m..

Courtney Watson, Chairperson; Mary Kay Sigaty, Vice Chairperson; Calvin Ball, Council Member; Greg Fox, Council Member; and Jennifer Terrasa, Council Member, were present.

Stephen LeGendre, Administrator to the County Council; Margaret Ann Nolan, County Solicitor; Paul Johnson, Deputy County Solicitor; James Vannoy, Assistant County Attorney; and Jennifer Sager, Legislative Coordinator, were also present.

APPROVE JOURNAL

The Chairperson moved to approve the journal for Day No. 2, February 1, 2010. The motion was seconded by Ms. Sigaty.

The roll call vote called by the Chairperson on the motion was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.

The motion to approve the journal passed.

APPROVE MINUTES

The Chairperson moved to approve the minutes for the Legislative Public Hearing, February 17, 2010; the Legislative Work Session, February 22, 2010; and the Closed Meeting, February 22, 2010. The motion was seconded by Ms. Sigaty.

The roll call vote called by the Chairperson on the motion was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.

The motion to approve the minutes passed.

INTRODUCTION OF LEGISLATION

The following legislation is introduced by the Chairperson at the request of the County Executive unless otherwise noted:

Appointments

Council Resolution No. 11-2010 – Introduced by: Chair - Appointing John Lederer to the Board of Appeals of Howard County, Maryland, to fill a term ending on December 31, 2014

A RESOLUTION appointing John Lederer to the Board of Appeals of Howard County, Maryland, to fill a term ending on December 31, 2014.

Council Resolution No. 12-2010 – Confirming the appointment of Pamela E. Kumar to the Board of Directors of the Howard County Mental Health Authority

A RESOLUTION confirming the appointment of Pamela E. Kumar to the Board of Directors of the Howard County Mental Health Authority.

Council Resolution No. 13-2010 – Confirming the appointment of Jaykant Parekh to the Equal Business Opportunity Commission

A RESOLUTION confirming the appointment of Jaykant Parekh to the Equal Business Opportunity Commission.

Financial

Supplemental Budget & Appropriation Ordinance No. 13-Fiscal 2010 – Transferring \$130,000 from the General Fund, Contingency Reserve to the Office of Law to cover certain unanticipated salary costs

AN ACT transferring \$130,000 from the General Fund, Contingency Reserve to the Office of Law to cover certain unanticipated salary costs.

Supplemental Budget & Appropriation Ordinance No. 14-Fiscal 2010 - Transferring \$1,370,000 from the General Fund, Contingency Reserve to the Department of Public Works for unanticipated expenses for snow removal

AN ACT transferring \$1,370,000 from the General Fund, Contingency Reserve to the Department of Public Works for unanticipated expenses for snow removal.

General

Council Bill No. 6-2010 (ZRA-120) – Introduced by: The Chair at the request of Cadogan Properties, LLC - Amending the Howard County Zoning Regulations' BR (Business: Rural) Zoning District to allow certain properties in the Marriottsville (Water Only) Service Area of the Howard County Water and Sewerage Master Plan to be eligible for the BR Zoning District; and generally relating to the BR Zoning District

AN ACT amending the Howard County Zoning Regulations' BR (Business: Rural) Zoning District to allow certain properties in the Marriottsville (Water Only) Service Area of the Howard County Water and Sewerage Master Plan to be eligible for the BR Zoning District; and generally relating to the BR Zoning District. (ZRA-120)

Council Bill No. 7-2010 (ZRA-122) – Introduced by: The Chair at the request of Forest Venture II, LLC - Amending the Howard County Zoning Regulations to permit residential dwelling units in the B-1 and B-2 zoning districts to comprise up to a maximum of 50 percent of the floor area of a structure provided the dwelling units are located above the first floor level; and generally relating to residential uses in the B-1 and B-2 zoning districts

AN ACT amending the Howard County Zoning Regulations to permit residential dwelling units in the B-1 and B-2 zoning districts to comprise up to a maximum of 50 percent of the floor area of a structure provided the dwelling units are located above the first floor level; and generally relating to residential uses in the B-1 and B-2 zoning districts. (ZRA-122)

Council Bill No. 8-2010 (ZRA-123) – Introduced by: The Chair at the request of Forest Venture II, LLC - Amending the Howard County Zoning Regulations to allow the Zoning Board to approve variances to the bulk regulations in conjunction with site plan zoning petitions; and generally relating to Zoning Board consideration of site plan zoning petitions

AN ACT amending the Howard County Zoning Regulations to allow the Zoning Board to approve variances to the bulk regulations in conjunction with site plan zoning petitions; and generally relating to Zoning Board consideration of site plan zoning petitions. (ZRA-123)

Council Bill No. 9-2010 – Amending the General Plan 2000 by adjusting the Planned Service Area boundary of the Master Plan for Water and Sewerage to include approximately 221.1 acres of the historic Doughoregan property located south of Frederick Road (Md Route 144) and just west of the Kiwanis-Wallis Park, in Ellicott City, Howard County, Maryland; providing that certain expansions will be null and void unless certain conditions are met; and generally relating to the General Plan 2000

AN ACT amending the General Plan 2000 by adjusting the Planned Service Area boundary of the Master Plan for Water and Sewerage to include approximately 221.1 acres of the historic Doughoregan property located south of Frederick Road (Md Route 144) and just west of the Kiwanis-Wallis Park, in Ellicott City, Howard County, Maryland; providing that certain expansions will be null and void unless certain conditions are met; and generally relating to the General Plan 2000.

Council Bill No. 10-2010 - Amending the General Plan 2000 to adopt the Howard County Water Resources Element in accordance with State law; and generally relating to the General Plan 2000

AN ACT amending the General Plan 2000 to adopt the Howard County Water Resources Element in accordance with State law; and generally relating to the General Plan 2000.

FINAL CONSIDERATION

Council Resolution No. 3-2010 – Confirming the appointment of Guillermo A. Birmingham to the Human Rights Commission (*Tabled 02/01/10*)

The Chairperson moved to remove Council Resolution No. 3-2010 from the table. The motion was seconded by Ms. Sigaty.

The roll call vote called by the Chairperson on the motion was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.

The motion to remove Council Resolution No. 3-2010 from the table passed.

Consent

Council Resolution No. 3-2010 – Confirming the appointment of Guillermo A. Birmingham to the Human Rights Commission (*Tabled 02/01/10*)

Council Resolution No. 6-2010 – Confirming the appointment of Dr. Byung H. Ahn to the Commission on Disability Issues

Council Resolution No. 7-2010 – Confirming the appointment of Stephen M. Rice to the Historic District Commission

Council Resolution No. 8-2010 – Confirming the appointment of Joshua Tzucker to the Planning Board.

The Chairperson moved to adopt the legislation on the consent agenda. The motion was seconded by Ms. Sigaty.

The roll call vote called by the Chairperson on the legislation was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.

Council Resolutions No. 3-2010, No. 6-2010, No. 7-2010 and No. 8-2010 passed.

Financial

Supplementary Budget & Appropriation Ordinance No. 12-Fiscal 2010 – Transferring \$74,375 from the Grants Fund, Contingency Reserve to the Department of Police for the DNA Collection and Analysis Grant.

The Chairperson moved to adopt Supplementary Budget & Appropriation Ordinance No. 12-Fiscal 2010. The motion was seconded by Ms. Sigaty.

The roll call vote called by the Chairperson on the ordinance was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.

Supplementary Budget & Appropriation Ordinance No. 12-Fiscal 2010 passed.

General

Council Bill No. 4-2010 – Authorizing Howard County to enter into Development Rights and Responsibilities Agreements pursuant to the authority granted by Article 66B, Section 13.01 of the Annotated Code of Maryland; establishing procedures and requirements for the consideration and execution of such agreements; making certain provisions regarding petitions filed prior to the effective date of this Act; and generally related to Development Rights and Responsibilities Agreements

The Chairperson moved to adopt Council Bill No. 4-2010. The motion was seconded by Ms. Sigaty.

The Chairperson moved to adopt Amendment No. 1 to Council Bill No. 4-2010 as follows: *(The amendment adds definitions and clarifies procedures for execution and amendment, termination and suspension, and enforcement of agreements.)*

On page 1, make the following changes:

In line 20, strike “GOVERNMENT” and substitute “GOVERNMENTAL”, and after “PERSON” insert “OR LEGAL ENTITY”

After line 22 insert:

“(C) DEVELOPMENT MEANS DEVELOPMENT AS DEFINED IN THE HOWARD COUNT SUBDIVISION AND LAND DEVELOPMENT REGULATIONS.

“(D) PARTIES MEANS THE COUNTY EXECUTIVE ON BEHALF OF THE COUNTY AND THE PETITIONER.”

In line 23, after “PERSON”, insert “OR LEGAL ENTITY”.

At the end of line 24 after the word “REPRESENTATIVE” insert “OR SUCCESSORS IN INTEREST”.

In line 27 after “66B” insert “SECTION 13.01”.

In line 28 insert:

“(I) SUCCESSORS IN INTEREST MEANS, INCLUDING BUT NOT LIMITED TO, A PERSON’S OR LEGAL ENTITY’S AFFILIATES, ALL SUCCESSOR OWNERS OR ASSIGNS, AND ALL PURCHASERS OF EQUITY INTERESTS OR ASSETS.”

Renumber the remaining sections accordingly.

In line 30, strike “AND COUNTY COUNCIL”.

In line 31, after “AGREEMENT.” insert “THE COUNTY EXECUTIVE SHALL EXERCISE THE AUTHORITY OF THE PUBLIC PRINCIPAL GRANTED BY THE STATE CODE TO NEGOTIATE, EXECUTE AND ENFORCE AGREEMENTS, EXCEPT THAT THE COUNTY COUNCIL SHALL ACT AS THE PUBLIC PRINCIPAL FOR PURPOSES OF CONDUCTING THE PUBLIC HEARING ON A PROPOSED AGREEMENT AND

EITHER APPROVING OR REJECTING AN AGREEMENT OR AN AMENDMENT TO AN EXECUTED AGREEMENT. IN THE SUSPENSION OR TERMINATION OF EXECUTED AGREEMENTS THE COUNTY EXECUTIVE AND COUNTY COUNCIL SHALL ACT TOGETHER AS THE PUBLIC PRINCIPAL UNDER STATE CODE AUTHORITY AS PROVIDED HEREIN.”

On page 3 make the following changes:
Strike lines 2 through 3, and substitute:

“(A) THE PETITIONER SHALL PETITION THE COUNTY EXECUTIVE TO NEGOTIATE AND EXECUTE AN AGREEMENT. THE PETITION SHALL INCLUDE KEY ELEMENTS OF THE PROPOSED AGREEMENT. WITHIN 10 DAYS OF SUBMITTING A PETITION TO THE COUNTY EXECUTIVE THE PETITIONER SHALL PROVIDE A COPY OF THE PETITION TO THE COUNTY COUNCIL. THE COUNTY EXECUTIVE SHALL FIRST REVIEW THE PETITION TO DETERMINE WHETHER TO ACCEPT THE PETITION AND INITIATE THE NEGOTIATION PROCESS.”

After line 4, insert:

“(1) A PRE-SUBMISSION COMMUNITY MEETING CONDUCTED USING THE SAME PROCEDURES ESTABLISHED IN SECTION 16.128(B) – (G) OF THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS, UNLESS A PRE-SUBMISSION COMMUNITY MEETING HAS ALREADY BEEN HELD FOR THE SAME DEVELOPMENT PROJECT THAT IS ALL OR PART OF THE PROPERTY THAT IS THE SUBJECT OF THE PROPOSED AGREEMENT.”

In line 5 through 6, strike “A RECOMMENDATION” and substitute “AN ADVISORY DETERMINATION”.

Renumber the remaining sections accordingly.

Strike lines 10 through 14, and substitute
“(C) THE COUNTY COUNCIL MAY APPROVE OR REJECT THE PROPOSED AGREEMENT OR MAY ENCOURAGE THE PARTIES TO SUBMIT A REVISED VERSION.”

In line 16, strike “OF AGREEMENTS.” and substitute “TO EXECUTED AGREEMENTS.”

Strike lines 17 through 21 and substitute:
“AMENDMENTS TO EXECUTED AGREEMENTS SHALL BE GOVERNED BY THE SAME PROCEDURES AS PROVIDED IN SECTION 16.1704 FOR THE CONSIDERATION OF INITIAL AGREEMENTS.”

In line 25 strike “CONSENT.” and substitute “CONSENT, PROVIDED THE COUNTY’S CONSENT SHALL BE EXPRESSED BY A RESOLUTION OF THE COUNTY COUNCIL RECOMMENDED BY THE COUNTY EXECUTIVE.”

In line 26, strike “AND THE COUNTY COUNCIL DETERMINE” and substitute “RECOMMENDS AND THE COUNTY COUNCIL DETERMINES BY RESOLUTION”.

In line 28 strike “EXECUTIVE AND COUNTY COUNCIL”.

On page 4, in line 9, strike “EXECUTIVE AND THE COUNTY COUNCIL DETERMINE” and substitute “DETERMINES”.

Also on page 4, in line 30, strike “*February 1, 2010*” and substitute “*the date of enactment of this Act*”.

On page 5, make the following changes:
In line 1, after “*County*” insert “, *including the Planning Board, in accordance with the provisions of this Act*”.

In line 2, after “*Act;*”, insert “*and*”.
In line 4, strike “*Act; and*” and substitute “*Act.*”.
Strike lines 5 through 7 in their entirety.

The motion was seconded by Ms. Sigaty.

The Chairperson moved to adopt Amendment No. 1 to Amendment No. 1 to Council Bill No. 4-2010 as follows: (*The amendment clarifies when a pre-submission meeting is required.*)

On page 2, in line 28, after “UNLESS” insert “WITHIN 1 ONE YEAR OF THE SCHEDULED MEETING”.

The motion was seconded by Ms. Sigaty.

The roll call vote called by the Chairperson on the amendment to the amendment was:
Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.
Amendment No. 1 to Amendment No. 1 to Council Bill No. 4-2010 passed.

The roll call vote called by the Chairperson on Amendment No. 1 as amended was: Yea:
Council Members Watson, Ball, Fox, Sigaty, and Terrasa.
Amendment No. 1 to Council Bill No. 4-2010 passed as amended.

The roll call vote called by the Chairperson on Council Bill No. 4-2010 as amended was:
Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.
Council Bill No. 4-2010 passed as amended.

Council Bill No. 5-2010 - Adopting the International Building Code, 2009, the International Residential Code, 2009, the International Mechanical Code, 2009, and the International Energy Conservation Code, 2009; providing that such codes collectively comprise the Howard County Building Code; regulating the design, construction, alteration, improvement, or modification of a building, structure, or other related equipment; adopting certain local amendments to the Building Code; adopting penalties for the violation of the Building Code; adopting the 2009 edition of the National Standard Plumbing Code Illustrated and the National Fuel Gas Code (NFPA 54-2009), as the Plumbing and Gasfitting Code for Howard County; regulating the design, construction, alteration, improvement, or modification of plumbing and gasfitting systems; adopting local amendments to the Plumbing and Gasfitting Code; altering the period certain types of plumbing permits remain in effect; making certain technical corrections; and generally relating to building and construction regulations in Howard County

The Chairperson moved to adopt Council Bill No. 5-2010. The motion was seconded by Ms. Sigaty.

The Chairperson moved to allow introduction of Amendment No. 3 to Council Bill No. 5-2010 which was not prefiled. The motion was seconded by Ms. Sigaty.

The roll call vote called by the Chairperson on the motion was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.

The motion to allow introduction of Amendment No. 3 to Council Bill No. 5-2010 passed.

The Chairperson moved to adopt Amendment No. 3 to Council Bill No. 5-2010 as follows: *(This amendment delays the effective date of provisions that change the existing requirements relating to certain stair geometry.)*

Also on the page 63, in line 10, after “**Section 5.**”, insert:

“**And Be It Further Enacted by the County Council of Howard County, Maryland, that, until January 1, 2011, for purposes of Subsection R311.7.4.1 Riser height, the maximum riser height shall be 8 ¼ inches (210 mm) and for purposes of Subsection R311.7.4.2, Tread depth, the minimum tread depth shall be 9 inches (229 mm), both of the International Residential Code, 2009 Edition; and after January 1, 2011, riser height and tread depth shall be those indicated in the International Residential Code, 2009 Edition. Section 6.**”

The motion was seconded by Ms. Sigaty

The roll call vote called by the Chairperson on Amendment No. 3 was: Yea: Council Members Watson, Ball, and Fox; Nay: Council Members Sigaty, and Terrasa:
Amendment No. 3 to Council Bill No. 5-2010 passed.

The Chairperson moved to adopt Amendment No. 2 to Council Bill No. 5-2010 as follows: *(This amendment clarifies that certain effective dates pertain to building permit applications and makes a few technical corrections.)*

On page 14, in line 28, strike “SECTION” and substitute “SUBSECTION”.

On page 33, in lines 7 and 11, in each instance, strike “THIS SUBSECTION” and substitute “COUNTY COUNCIL BILL NO. 5-2010”.

On page 41, after line 31, insert:

“(15A) SUBSECTION R313.2 ONE- AND TWO-FAMILY DWELLINGS AUTOMATIC FIRE SYSTEMS. AFTER “EFFECTIVE” INSERT “FOR ALL BUILDING PERMITS APPLIED FOR ON OR AFTER”.

The motion was seconded by Ms. Sigaty

The roll call vote called by the Chairperson on Amendment No. 2 was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.

Amendment No. 2 to Council Bill No. 5-2010 passed.

The roll call vote called by the Chairperson on Council Bill No. 5-2010 as amended was:
Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.
Council Bill No. 5-2010 passed as amended.

Council Resolution No. 9-2010 – Introduced by Courtney Watson - Supporting the creation of a committee with other jurisdictions to seek certification as a Maryland Heritage Area for the Patapsco Valley Greenway

The Chairperson moved to adopt Council Resolution No. 9-2010. The motion was seconded by Ms. Sigaty.

The Chairperson moved to adopt Amendment No. 1 to Council Resolution No. 9-2010 as follows: *(This amendment corrects a designation.)*

On the title page, in the purpose paragraph, strike “Valley” and substitute “Heritage”.

On page 2, in line 11, after “pursue” insert “Maryland State Heritage”.

Also on page 2, in line 11, strike “Valley” and substitute “Heritage”.

The motion was seconded by Ms. Sigaty

The roll call vote called by the Chairperson on Amendment No. 1 was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.
Amendment No. 1 to Council Resolution No. 9-2010 passed.

The roll call vote called by the Chairperson on Council Resolution No. 9-2010 as amended was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.
Council Resolution No. 9-2010 passed as amended.

Council Resolution No. 10-2010 – Approving a public interest use for telecommunications antennas and associated ground equipment on land owned by James and Ruth Welling; finding that the proposed use is in the public interest; approving an amendment to certain deeds of easement to release the land used for the telecommunications antennas and accessory ground equipment for a public purpose; and providing that the release is contingent on a certain payment to the County

The Chairperson moved to adopt Council Resolution No. 10-2010. The motion was seconded by Ms. Sigaty.

The roll call vote called by the Chairperson on the resolution was: Yea: Council Members Watson, Ball, Fox, Sigaty, and Terrasa.
Council Resolution No. 10-2010 passed.

ADJOURNMENT

The Chairperson adjourned the legislative session at 8:00 p.m..

CLOSED MEETING

In accordance with Section 10-508(a)(7) of the State Government Article, *Annotated Code of Maryland*, the County Council met in closed session on February 22, 2010 at 5:02 pm at the Board of Education, 10910 Route 108, Ellicott City. The purpose of the closed meeting was to obtain legal advice from counsel concerning Council Bill No. 4-2010.

Council Members present: Calvin Ball, Greg Fox, Mary Kay Sigaty, Jennifer Terrasa, and Courtney Watson.

Also present: Margaret Ann Nolan, County Solicitor; Paul Johnson, Deputy County Solicitor, and Steve LeGendre, County Council Administrator.

Council Member Fox moved to close the meeting. The motion was seconded by Ms. Sigaty and passed unanimously.

The Council received legal advice from counsel related to the legislation.

The closed meeting was adjourned at 5:16 p.m.