

**COUNTY COUNCIL
OF
HOWARD COUNTY, MARYLAND**

2019 Legislative Session

Legislative Day No. 9

July 1, 2019

HOWARD COUNTY TO WIT:

The Chairperson called the legislative session to order at **7:02** p.m.

Chairperson Christiana Mercer Rigby, Vice Chairperson Opel Jones, Council Member Deb Jung, Council Member Liz Walsh, and Council Member David Yungmann were present.

Jessica Feldmark, Administrator to the County Council; Craig Glendenning, Senior Legislative Analyst; Michelle Harrod, Deputy County Auditor; Gary Kuc, County Solicitor; John Gwynn, Assistant County Solicitor; Jennifer Sager, Legislative Coordinator; Jeff Meyers, Legislative Analyst; and Kel Berg, Administrative Support were also present.

APPROVE JOURNAL AND MINUTES

The Chairperson moved to approve the Journal for Legislative Day No. 8, June 3, 2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve the journal passed.

The Chairperson moved to approve the minutes for the Monthly Meeting – June 10, 2019, the Closed Minutes of the Closed Session – June 10, 2019 and the Legislative Work Session – June 21, 2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve the minutes passed.

The Chairperson moved to approve the minutes for the Conversation with the League of Women Voters – June 17, 2019, the Legislative Public Hearing – June 17, 2019 and the Joint Meeting with the Board of Education – June 24, 2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion was: Yea: Council Members Jones, Jung, Mercer Rigby and Yungmann. Abstain: Council Member Walsh.

The motion to approve the minutes passed.

The Chairperson moved to approve the minutes for the Issues Briefing – June 10, 2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion was: Yea: Council Members Jung, Walsh and Mercer Rigby. Abstain: Council Members Jones and Yungmann.

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 101-2019 - A RESOLUTION confirming the appointment of Jennifer Anthony to the Howard County Commission for Veterans and Military Families. *(No expiration date)*

Council Resolution 102-2019 - A RESOLUTION confirming the appointment of Candace Ball to the Adult Public Guardianship Review Board. *(No expiration date)*

Council Resolution 103-2019 - A RESOLUTION confirming the reappointment of Michael Blum to the Howard County Commission for Veterans and Military Families. *(No expiration date)*

Council Resolution 104-2019 - A RESOLUTION confirming the reappointment of Athena A. Verghis to the Environmental Sustainability Board. *(No expiration date)*

Council Resolution 105-2019 - A RESOLUTION confirming the reappointment of Maurice Zeitler to the Housing Commission. *(No expiration date)*

Council Resolution 106-2019 - A RESOLUTION confirming the reappointment of Judy Zhou to the Commission for Women. *(No expiration date)*

General

Council Bill 34-2019 - AN ACT pursuant to Section 612 of the Howard County Charter, approving a Capital Equipment Lease Agreement for financing the acquisition of smart water meters; authorizing the Executive to make changes to the Agreement, under certain conditions; authorizing the County Executive to execute the Agreement; and generally relating to the Agreement. *(Expires 9/19/19; 10/14/19 if extended; or 11/18/19 if extended twice.)*

SAO1-FY2020 - AN ACT transferring \$150,240 from the Grant Fund, Contingency Reserve to the Department of Community Resources and Services for a grant to conduct the Federal Decennial Census. *(Expires 9/19/19; 10/14/19 if extended; or 11/18/19 if extended twice.)*

SAO2-FY2020 - AN ACT transferring \$750,000 from the Grant Fund, Contingency Reserve to the Department of Public Works for a Clean Water Commerce Act Grant. *(Expires 9/19/19; 10/14/19 if extended; or 11/18/19 if extended twice.)*

Council Resolution 107-2019 - A RESOLUTION amending the Howard County Board of Education Operating Budget for Fiscal Year 2020, as adopted by Council Resolution No. 68-2019, to add an additional \$2,000,000 appropriation in the General Fund through use of an additional \$2,000,000 in school fund balance under Other Funding; to make a technical amendment of reallocating \$5,106,703 in State funding based on Senate Bill 1030 (Kirwan funding) from Grants under Restricted Funds to the General Fund; and to make categorical transfers to align with anticipated funding and expenses; and generally relating to the Board of Education Operating Budget for Fiscal Year 2020. *(No expiration date)*

Council Resolution 108-2019 - A RESOLUTION calling on the Maryland State Department of Education to contract for a performance audit of the Howard County Public School System and specifying the issues requested to be studied. *(No expiration date)*

Council Bill 35-2019 - AN ACT adopting the National Fire Protection Association 1, Fire Code, 2018 Edition as the Howard County Fire Prevention Code, which sets certain fire safety requirements for structures in order to protect life and property; making certain local amendments to the Fire Code; amending certain definitions in the Fire Code; and generally relating to fire safety requirements and fire prevention in Howard County. *(Expires 9/19/19; 10/14/19 if extended; or 11/18/19 if extended twice.)*

Council Bill 36-2019 - AN ACT providing that the optional lot size method for computing open space requirements applicable to R-20, infill subdivisions, or resubdivisions creating fewer than ten lots applies only if certain sufficient open space can provide stormwater management and flood control protection within the Tiber Hudson Branch and the Plumtree Branch Watersheds; and generally relating to the Subdivision and Land Development Regulations. *(Expires 9/19/19; 10/14/19 if extended; or 11/18/19 if extended twice.)*

Council Resolution 109-2019 - A RESOLUTION authorizing the County Purchasing Agent to waive the formal competitive bidding requirements of Title 4, Subtitle 1 of the Howard County Code so that the County may enter into an agreement with 20006 Delaware Inc., a Delaware corporation, successor in interest to TSG Developments (Maryland) LLC, a Delaware limited liability company, formerly known as MI Developments (Maryland) Inc., to construct certain stormwater improvements along Davis Avenue. *(No expiration date)*

Council Resolution 110-2019 - A RESOLUTION pursuant to Section 4.201 of the Howard County Code declaring that a portion of land containing 0.031 acres owned by Howard County, Maryland is no longer needed by the County for public purposes; authorizing the County Executive to convey the property to the adjacent property owner, the State of Maryland; waiving the advertising and bidding requirements of Section 4.201 of the Howard County Code; and providing that the County Executive is not bound to convey the property if he finds that the land may have a further public use. *(No expiration date)*

Council Bill 37-2019 - Introduced by Christiana Mercer Rigby and Co-sponsored by Opel Jones - AN ACT amending the Howard County Code to clarify that in calculating the number of required communal spaces for Electric Vehicle Charging Stations, that the final calculated number shall be rounded up to the nearest even number; and generally relating to Electric Vehicle Charging Stations. *(Expires 9/19/19; 10/14/19 if extended; or 11/18/19 if extended twice.)*

Council Bill 38-2019 – Introduced by Liz Walsh - AN ACT to prohibit certain waivers in the Patapsco Lower North Branch Watershed; to prohibit certain disturbance of land in the Ellicott City Floodplain; to prohibit specified activities in certain buffers; to provide certain open space requirements in the Patapsco Lower North Branch Watershed; to eliminate certain fees-in-lieu; to prohibit residential infill under specified circumstances; to prohibit the issuance of certain variances in the Patapsco Lower North Branch Watershed; adding certain requirements related to forest conservation plans; to limit forest cover clearing in the Patapsco Lower North Branch Watershed; to specify the afforestation level in certain cases; to alter requirements and procedures to control the adverse impacts associated with stormwater; and generally relating to subdivision and land development regulations. *(Expires 9/19/19; 10/14/19 if extended; or 11/18/19 if extended twice.)*

FINAL CONSIDERATION

The Chairperson moved to allow the reading of short titles for bills and resolutions for final approval. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to allow the reading of short titles for bills and resolutions for final approval passed.

Consent Agenda

Council Resolution 90-2019 – A RESOLUTION recommending to the Governor of Maryland that James Caldwell be appointed to the Patuxent River Commission. *(No expiration date)*

Council Resolution 91-2019 – A RESOLUTION confirming the appointment of Julie Cleveland to the Local Behavioral Health Advisory Board. *(No expiration date)*

Council Resolution 92-2019 – A RESOLUTION confirming the appointment of Phillip Dodge to the Board of Library Trustees. *(No expiration date)*

Council Resolution 93-2019 – A RESOLUTION confirming the appointment of Emily Greenberger to the Board of Health. *(No expiration date)*

Council Resolution 94-2019 – A RESOLUTION confirming the appointment of Abbie Diane Martin to the Martin Luther King, Jr. Holiday Commission. *(No expiration date)*

The Chairperson moved to approve Council Resolutions 90-, 91-, 92-, 93- and 94-2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion to approve Council Resolutions 90-, 91-, 92-, 93- and 94-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve Council Resolutions 90-, 91-, 92-, 93- and 94-2019 passed.

Appointments

Council Resolution 95-2019 – A RESOLUTION confirming the appointment of John Way to the Local Behavioral Health Advisory Board. *(No expiration date)*

The Chairperson moved to table Council Resolution 95-2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion to table Council Resolution 95-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to table Council Resolution 95-2019 passed.

General

Council Resolution 96-2019 – A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and Enterprise Community Homes Housing, LLC, a limited liability corporation of the State of Maryland, for rental housing properties to be known as Community Homes. *(No expiration date)*

The Chairperson moved to approve Council Resolution 96-2019. The motion was seconded by Mr. Jones.

The Chairperson moved to approve Amendment 1. The motion was seconded by Mr. Jones.

Amendment No. 1

(This amendment corrects a term of the Agreement.)

The roll call vote called by the Administrator on the motion to approve Amendment 1 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve Amendment 1 passed.

The roll call vote called by the Administrator on the motion to approve Council Resolution 96-2019 as amended was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve Council Resolution 96-2019 as amended passed.

Council Resolution 97-2019 – A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and Robinson Overlook Limited Partnership, a limited partnership of the State of Maryland, for a rental housing development to be known as Robinson Overlook, and finding that the Development meets the requirements of certain Special Affordable Housing Opportunities. *(No expiration date)*

The Chairperson moved to approve Council Resolution 97-2019. The motion was seconded by Mr. Jones.

Council Member Jung moved to table Council Resolution 97-2019. The motion was seconded by Ms. Walsh.

The roll call vote called by the Administrator on the motion to table Council Resolution 97-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to table Council Resolution 97-2019 passed.

Council Resolution 98-2019 – A RESOLUTION adopting the Housing Unit Allocation Chart for Fiscal Year 2020 pursuant to the Adequate Public Facilities Act of Howard County. *(No expiration date)*

The Chairperson moved to approve Council Resolution 98-2019. The motion was seconded by Mr. Jones.

Council Member Walsh moved to table Council Resolution 98-2019. The motion was seconded by Ms. Mercer Rigby.

Council Member Walsh withdrew her motion to table Council Resolution 98-2019. The withdrawal passed by unanimous consent.

Council Member Walsh moved to table Council Resolution 98-2019. The motion was seconded by Ms. Mercer Rigby.

The roll call vote called by the Administrator on the motion to table Council Resolution 98-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to table Council Resolution 98-2019 passed.

Council Resolution 99-2019 – A RESOLUTION adopting the School Capacity Chart, pursuant to the Adequate Public Facilities Act of Howard County, to designate the elementary school regions, elementary schools, middle schools, and high schools constrained for new residential development during each of the following years as based on the definition of program capacity as defined by Howard County Public School System policy. *(No expiration date)*

The Chairperson moved to approve Council Resolution 99-2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion to approve Council Resolution 99-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve Council Resolution 99-2019 passed.

Council Resolution 100-2019 – Introduced by: Christiana Mercer Rigby - A RESOLUTION amending the Howard County Council Rules of Procedure to alter the time to sign up to testify at a public hearing. *(No expiration date)*

The Chairperson moved to approve Council Resolution 100-2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion to approve Council Resolution 100-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby and Yungmann. Nay: Council Member Walsh.

The motion to approve Council Resolution 100-2019 passed.

Council Bill 30-2019 (ZRA186) – Introduced by: The Chairperson at the request of Jay Zomnath, LLC - AN ACT altering the maximum floor area requirements for a hotel in a CAC (Corridor Activity Center) District in developments on parcels less than 20 acres in size; and generally relating to Howard County Zoning Regulations. *(Expires 8/12/19; 9/16/19 if extended; or 10/21/19 if extended twice.)*

The Chairperson moved to approve Council Bill 30-2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion to approve Council Bill 30-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve Council Bill 30-2019 passed.

Council Bill 31-2019 (ZRA187) – Introduced by: The Chairperson at the request of Paul Goldenberg - AN ACT amending the Howard County Zoning Regulations to require AgeRestricted Adult Housing Conditional Uses with densities that exceed the base zoning district to have frontage on and direct access to a collector or arterial road; and generally relating to Age-Restricted Adult Housing Conditional Uses. *(Expires 8/12/19; 9/16/19 if extended; or 10/21/19 if extended twice.)*

The Chairperson moved to approve Council Bill 31-2019. The motion was seconded by Mr. Jones.

Council Member Yungmann moved to approve Amendment 1. The motion was seconded by Mr. Jones.

Amendment No. 1

(This amendment adds Age-Restricted Adult Housing as a Conditional Use in the RC and RR zoning districts.)

Council Member Yungmann moved to approve Amendment 1 to Amendment 1. The motion was seconded by Mr. Jones.

Amendment No. 1 to Amendment 1

(This amendment removes the option of having Multi-plexes as a Conditional Use in the RC and RR zoning districts.)

The roll call vote called by the Administrator on the motion to approve Amendment 1 to Amendment 1 was: Yea: Council Members Jones, Mercer Rigby and Yungmann. Nay: Council Members Jung and Walsh.

The motion to approve Amendment 1 to Amendment 1 passed.

The roll call vote called by the Administrator on the motion to approve Amendment 1 as amended was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve Amendment 1 as amended passed.

The roll call vote called by the Administrator on the motion to approve Council Bill 31-2019 as amended was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve Council Bill 31-2019 as amended passed.

Council Bill 32-2019 – Introduced by: Deb Jung - AN ACT requiring that Department of Planning and Zoning designees appear at quasi-judicial Planning Board hearings under oath, under certain circumstances; and generally relating to the Department of Planning and Zoning. *(Expires 8/12/19; 9/16/19 if extended; or 10/21/19 if extended twice.)*

Council Member Jung moved to approve Council Bill 32-2019. The motion was seconded by Ms. Walsh.

Council Member Jones moved to approve Amendment 1. The motion was seconded by Mr. Yungmann.

Amendment No. 1

(This amendment removes the cross-examination provision and specifies who may ask questions of DPZ staff.)

The roll call vote called by the Administrator on the motion to approve Amendment 1 was: Yea: Council Members Jones, Mercer Rigby and Yungmann. Nay: Council Members Jung and Walsh.

The motion to approve Amendment 1 passed.

The roll call vote called by the Administrator on the motion to approve Council Bill 32-2019 as amended was: Yea: Council Members Walsh and Yungmann. Nay: Council Members Jones, Jung and Mercer Rigby.

The motion to approve Council Bill 32-2019 as amended failed.

Council Bill 33-2019 – Introduced by: Deb Jung - AN ACT amending the Howard County Code by specifying who may appeal Planning Board decisions; and generally relating to Planning Board decisions. *(Expires 8/12/19; 9/16/19 if extended; or 10/21/19 if extended twice.)*

Council Member Jung moved to approve Council Bill 33-2019. The motion was seconded by Ms. Walsh.

Council Member Jung moved to approve Amendment 1. The motion was seconded by Ms. Walsh.

Amendment No. 1

(This amendment redefines who has standing to appeal Planning Board decisions and actions.)

The roll call vote called by the Administrator on the motion to approve Amendment 1 was: Yea: Council Members Jung, Walsh and Yungmann. Nay: Council Members Jones and Mercer Rigby.

The motion to approve Amendment 1 passed.

The roll call vote called by the Administrator on the motion to approve Council Bill 33-2019 as amended was: Yea: Council Members Jung and Walsh. Nay: Council Members Jones, Mercer Rigby and Yungmann.

The motion to approve Council Bill 33-2019 as amended failed.

The Chairperson moved to remove Council Resolution 54-2019 from the table. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion to remove Council Resolution 54-2019 from the table was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to remove Council Resolution 54-2019 from the table passed.

Council Resolution 54-2019 - A RESOLUTION confirming the appointment of Audra Nixon to the Board of Health. (tabled 6/3/19) (*No expiration date*)

The Chairperson moved to approve Council Resolution 54-2019. The motion was seconded by Mr. Jones.

The roll call vote called by the Administrator on the motion to approve Council Resolution 54-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to approve Council Resolution 54-2019 passed.

Council Member Walsh moved to remove Council Bill 17-2019 from the table. The motion was seconded by Ms. Mercer Rigby.

The roll call vote called by the Administrator on the motion to remove Council Bill 17-2019 from the table was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to remove Council Bill 17-2019 from the table passed.

Council Bill 17-2019 – Introduced by: Liz Walsh - AN ACT altering the number of consecutive years a project or phase of a project must be retested each time the County Council adopts new annual housing unit allocations and school capacity charts under the school capacity test of the Adequate Public Facilities Act of Howard County; and generally relating to the testing of residential subdivisions and site development plans for adequate public school facilities. (*Expires 6/10/19; 7/15/19 if extended; or 8/19/19 if extended twice.*)

Council Member Walsh moved to extend the life of Council Bill 17-2019. The motion was seconded by Ms. Mercer Rigby.

The roll call vote called by the Administrator on the motion to extend the life of Council Bill 17-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to extend the life of Council Bill 17-2019 passed.

Council Member Walsh moved to table Council Bill 17-2019. The motion was seconded by Ms. Mercer Rigby.

The roll call vote called by the Administrator on the motion to table Council Bill 17-2019 was: Yea: Council Members Jones, Jung, Mercer Rigby, Walsh and Yungmann.

The motion to table Council Bill 17-2019 passed.

Adjourned: **8:30** p.m.

Tabled

Council Resolution 95-2019 – A RESOLUTION confirming the appointment of John Way to the Local Behavioral Health Advisory Board. (tabled 7/1/19) (*No expiration date*)

Council Resolution 97-2019 – A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and Robinson Overlook Limited Partnership, a limited partnership of the State of Maryland, for a rental housing development to be known as Robinson Overlook, and finding that the Development meets the requirements of certain Special Affordable Housing Opportunities. (tabled 7/1/19) (*No expiration date*)

Council Resolution 98-2019 – A RESOLUTION adopting the Housing Unit Allocation Chart for Fiscal Year 2020 pursuant to the Adequate Public Facilities Act of Howard County. (tabled 7/1/19) *(No expiration date)*

Council Bill 17-2019 – Introduced by: Liz Walsh - AN ACT altering the number of consecutive years a project or phase of a project must be retested each time the County Council adopts new annual housing unit allocations and school capacity charts under the school capacity test of the Adequate Public Facilities Act of Howard County; and generally relating to the testing of residential subdivisions and site development plans for adequate public school facilities. (tabled 5/6/19) *(Expires 6/10/19; 7/15/19 if extended; or 8/19/19 if extended twice.)*

Council Resolution 89-2019 - Introduced by: The Chairperson at the request of the County Executive at the request of Dorsey Overlook, LLLP. - AN ACT declaring that a portion of Old Maryland Route 108, containing approximately 1.087 acres, is no longer needed for a public purpose and authorizing the County Executive to waive the advertising and bidding requirements of Section 4.201 of the Howard County Code in order to convey the County's property interest to the developer of the adjacent property, Dorsey Overlook, LLLP. (tabled 6/3/19) *(No expiration date)*