



Howard County Council

George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043-4392

COUNCILMEMBERS

- Liz Walsh, Chair
District 1
- Opel Jones, Vice Chair
District 2
- Deb Jung
District 4
- Christiana Rigby
District 3
- David Yungmann
District 5

Work Session Minutes - Approved

Monday, October 25, 2021

Hybrid – In Person and Virtually via Webex

Video Streamed on <https://cc.howardcountymd.gov/Online-Tools/Watch-Us>

1:00 p.m.

Chair Walsh called the meeting to order at 1:04pm

Attendees:

Councilmembers – Chair Liz Walsh; Vice-chair Opel Jones; Deb Jung; Christiana Rigby; and David Yungmann

Staff Present: Michelle Harrod, Council Administrator; Theo Wimberly, Administrative Manager; Margery Sayers, Executive Assistant; Gary Kuc, County Solicitor; Amanda Mihill, Assistant County Solicitor; Craig Glendenning, County Auditor

SOLAR PAYMENT IN LIEU OF TAXES AGREEMENTS

Council Resolution 140-2021 - A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and SunEast Friendship Solar LLC and MHGH&S, LLC for the generation of electricity on property located at 13300 Frederick Road, West Friendship. *(No expiration date)*

Council Resolution 141-2021 - A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and SunEast Friendship ANEM Solar LLC and MHGH&S, LLC for the generation of electricity on property located at 13300 Frederick Road in West Friendship, Maryland. *(No expiration date)*

Council Resolution 142-2021 - A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and Terrapin Branch Solar, LLC, and 2800 Nixon's Farm Lane, LLC, for the generation of electricity on property owned by 2800 Nixon's Farm Lane, LLC located at 2800 Nixon's Farm Lane, West Friendship, Maryland. *(No expiration date)*

Council Resolution 143-2021 - A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and Community Power Group, LLC and Jack Coogan Fyock Jr. for the generation of electricity on property located on Ten Oaks Road, Glenelg, Maryland. *(No expiration date)*

Josh Feldmark and representatives from the solar companies provided information to the Council about the need for a PILOT agreement. Discussion included the Administrations focus on renewable energy; changes in the SDAT assessment of Personal Property Tax on solar arrays; the solar companies need for the PILOT; and solar companies projected benefit from the installation of solar. Craig Glendenning provided the Council with an overview of financial information received from the solar companies. There was general discussion about soil conservation; agricultural preservation; and renewable energy.

The Council requested the following information:

- The SDAT / Attorney General decision to assess solar arrays under Personal Property Tax.
- Other jurisdictions precedent for solar PILOT agreements.
- Where in the recommendation from Solar Task Force regarding PILOT agreements.
- Documentation that Manufacturing Equipment is 100% exempt in Howard County from Personal Property Tax.
- County goals related to renewal energy and how solar support these goal.
- Does the Administration has a policy where they are treating uniformly farms according to the following and what is the priority of these considerations:
 - Whether the farm is owner operated or not;
 - Entity receiving the PILOT is nonprofit or not;
 - End user percentage are Howard County residents or business;
 - Property already benefits from Ag Preservation; and
 - The soil quality of the land used for solar.

From the solar companies

- Recipients of the solar energy including the percentage in Howard County.
- Bore testing and soil evaluation analysis which supports the location decision for solar arrays.
- Information from the EPA referenced in the Work Session.

FOREST CONSERVATION

Council Bill 64-2021 - AN ACT prohibiting the cutting or clearing of certain specimen trees; providing that a property owner may proceed under certain conditions and upon the submission and approval of certain applications; providing for the contents of certain applications; providing for the criteria to use in the review of certain applications;

providing for certain exemptions; requiring certain compliance; providing certain penalties for noncompliance; requiring surety for forest retention; defining certain terms; and generally related to forest conservation and the preservation of natural cover in Howard County. (*Expires 11/17/21; 12/22/21 if extended; or 1/26/22 if extended twice.*)

Council Bill 66-2021 – Introduced by Liz Walsh - AN ACT removing exemptions from the Forest Conservation Plan requirements for certain Planned Unit Developments and Planned Business Parks; and generally relating to forest conservation in the County. (*Expires 11/17/21; 12/22/21 if extended; or 1/26/22 if extended twice.*)

There was general discussion about Council Bill 66-2021 including consideration for exempting HCPSS from forest conservation; the impact of removal of that exemption; amendments to exempt certain homeowner associations; and the intent of Council Bill 64 and 66-2021. Question discussed, is the intent to close the loop hole in forest conservation; protect larger trees; or prevent clearing of lots?

HEARING EXAMINER

Council Bill 77-2021 - Introduced by Deb Jung and Christiana Rigby - AN ACT to provide for a hearing examiner to hear certain matters in the jurisdiction of the Zoning Board; specifying the powers and duties of, and the procedures to be used by, the hearing examiner, including the requirement to issue a certain report; specifying the contents of the report; specifying the duties of the Zoning Board with respect to the actions of the hearing examiner; clarifying when certain mediation occurs; providing for the rights of the parties, including the right to file exceptions, in matters heard by the hearing examiner; and generally relating to Piecemeal map amendments and development plan approvals. (*Expires 12/13/21; 01/17/22 if extended; or 02/21/22 if extended twice.*)

The sponsors of this Bill provided an overview of the intent of Council Bill 77-2021. The Office of Law provided an overview of the authority of the Council for allowing this legislation. There was general discussion about suggested amendments by the public; and the process for the Hearing Examiner as fact finding resource. Both Hearing Examiners provided feedback about their experience in other jurisdictions; proposed process; and suggestion to review the procedures, County Code and Charter.

APFO - PAYMENT IN LIEU OF TAXES AGREEMENTS

Council Resolution 144-2021 - A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and Roslyn Rise Four, LLC for property located at 10351 Twin Rivers Road, which will comprise a mixed-income, rental housing development to be known as one-half of Roslyn Rise Apartments, and finding that the Development meets the requirements of certain Special Affordable Housing Opportunities pursuant to the Adequate Public Facilities Act and may

proceed subject to all other provisions of the Act despite being located in an area that is closed for development due to the projected enrollment in the school capacity chart. *(No expiration date)*

Council Resolution 145-2021 - A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between the Howard County, Maryland and Roslyn Rise Nine, LLC for property located at 10401 Twin Rivers Road, which will comprise a mixed-income, rental housing development to be known as one-half of Roslyn Rise Apartments, and finding that the Development meets the requirements of certain Special Affordable Housing Opportunities pursuant to the Adequate Public Facilities Act and may proceed subject to all other provisions of the Act despite being located in an area that is closed for development due to the projected enrollment in the school capacity chart. *(No expiration date)*

Members of HCPSS and Board of Education responded to Council questions about Bryant Woods Elementary School capacity; school projections; and school renovations / construction. There was general discussion about boundary review; earlier dialogue with HCPSS in the development process; age of enrollment projections and APFO requirements as noted in the Code.

The Council requested the following information from HCPSS:

- Did the polygons redistricted (21-32, 11-32, and 1-32) produce the expected enrollment numbers expected?
- Details on the number of students opting for virtual education.

BOARD OF EDUCATION – Interagency Commission Request for School Construction – (30 minutes)

Council Resolution 154-2021 - A RESOLUTION pursuant to Title 5, Subtitle 3 of the Education Article of the Annotated Code of Maryland, approving the Howard County Board of Education’s Capital Budget Request for Fiscal Year 2023 and Capital Improvement Program Request for Fiscal Years 2024-2028 for the purpose of submission to the Interagency Commission on School Construction. *(No expiration date)*

Representatives from HCPSS responded to Council questions about the purpose of the IAC request; the difference between the Capital Improvement Plan and the Feasibility Study; and evaluation of school facilities. Representatives from the Board of Education provided the Council with information about the decisions made in establishing the IAC request and Capital Improvement Plan. There was general discussion about priorities of projects including renovations, construction and systemic improvements.

Chair Walsh adjourned the meeting at 5:00 pm.

Attendees

PILOT agreement and APFO - CR144/CR145
Kelly Cimino
Jackie Eng - Housing Affordability Coalition
Brian McLaughlin - Enterprise Community Development
Theresa Ballinger- HC Autism Society
Daniel Kelliher - Community Homes Housing Inc
Tom Wall
Jess Neubelt - Enterprise
Mackenzie Kisiel (Enterprise)
Tom Coale, Enterprise Counsel
Elizabeth Lopez (Wilde Lake Board)
Jeff Bronow
Matt Engel (Enterprise)
Shelynda Brown (Enterprise)
Tim Rogers
Solar PILOT agreement - CR140/CR141/CR142/CR143
Josh Feldmark
John Miller - Chaberton Energy (CR140 & CR141)
Stefano Ratti - Chaberton Energy (CR140 & CR141)
Michael Borkowski - Community Power Group (CR143)
Rachel Boots - Community Power Group (CR143)
Robert Wallace - Power52 (CR142)
Forest Conservation legislation - CB64/CB66
Josh Feldmark
Amy Gowan
Brian Shepter
John McCoy - Columbia Association Watershed Manager
Brenda Luber
Susan Overstreet
Daniel Lubeley - HCPSS
Hearing Examiner - CB77
David Moore - Office of Law
Ashley Aguilar - Board Administrator
Joyce Nichols - Hearing Examiner
Katherine Taylor - Hearing Examiner
Board of Education - CR154
Antonio Watts
Vicky Cutroneo
Jen Mallo