

**COUNTY COUNCIL
OF
HOWARD COUNTY, MARYLAND**

2009 Legislative Session

**Legislative Day No. 3
March 2, 2009**

HOWARD COUNTY TO WIT:

The Chairman called the session to order at 7:29 p.m.

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

Stephen LeGendre, Administrator to the County Council; Margaret Ann Nolan, County Solicitor; and Jim Vannoy, Office of Law; were also present.

APPROVE JOURNAL

The Chairperson moved to table the journal for Legislative Day No. 2, February 2, 2009. Her motion was seconded by Ms. Terrasa.

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

The motion to table the journal passed.

APPROVE MINUTES

The Chairperson moved to approve the minutes for the Public Hearing – February 18, 2009 and the Legislative Work Session – February 23, 2009. Her motion was seconded by Ms. Terrasa.

The roll call vote called by the Chairperson to approve the minutes was: Yea: Council Members Ball, Sigaty and Terrasa and Watson; Abstain: Council Member Fox.

The motion to approve the minutes passed.

The Chairperson moved to table the minutes of a closed meeting held on February 23, 2009. The motion was seconded by Ms. Terrasa.

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

The motion to table the minutes for the closed meeting 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. 8-2009 – Confirming the appointment of A. John Rezaiyan to the Human Rights Commission

A RESOLUTION confirming the appointment of A. John Rezaiyan to the Human Rights Commission.

Council Resolution No. 9-2009 – Confirming the appointment of Joshua D. Sullivan to the Human Rights Commission

A RESOLUTION confirming the appointment of Joshua D. Sullivan to the Human Rights Commission.

Council Resolution No. 10-2009 – Confirming the reappointment of James H. Eacker to the Howard County Agricultural Land Preservation Board

A RESOLUTION confirming the reappointment of James H. Eacker to the Howard County Agricultural Land Preservation Board.

Financial

Supplementary Budget & Appropriation Ordinance No. 8-Fiscal 2009 - Transferring up to \$1,500,000 from the General Fund, Contingency Reserve to the Department of Public Works for unanticipated expenses for snow removal

AN ACT transferring up to \$1,500,000 from the General Fund, Contingency Reserve to the Department of Public Works for unanticipated expenses for snow removal.

General

Council Bill No. 9-2009 (ZRA-101) – Introduced by The Chair at the request of Peralynna Properties, Inc. - Amending the Howard County Zoning Regulations to establish a new Boutique Hotel Conditional Use in the R-12 Zoning District; and generally relating to the Boutique Hotel Conditional Use

AN ACT amending the Howard County Zoning Regulations to establish a new Boutique Hotel Conditional Use in the R-12 Zoning District; and generally relating to the Boutique Hotel Conditional Use.

The Chairperson moved to reject Council Bill No. 9-2009 (ZRA-101) on introduction. The motion was seconded by Ms. Terrasa.

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

The motion to reject Council Bill No. 9-2009 (ZRA-101) passed.

Council Bill No. 10-2009 (ZRA-105) – Introduced by The Chair at the request of The Concerned Citizens of Western Howard County, Inc. - Amending the Howard County Zoning Regulations to add additional requirements to the B-1 (Business: Local) and B-2 (Business: General) regulations for uses on properties located in the No Planned Service area of the Howard County Master Plan for Water and Sewer; and generally relating to the B-1 and B-2 zoning districts

AN ACT amending the Howard County Zoning Regulations to add additional requirements to the B-1 (Business: Local) and B-2 (Business: General) regulations for uses on properties located in the No Planned Service Area of the Howard County Master Plan for Water and Sewer; and generally relating to the B-1 and B-2 zoning districts.

Council Bill No. 11-2009 (ZRA-108) – Introduced by The Chair at the request of Brantly Development Group - Amending the Howard County Zoning Regulation's definition of Age-restricted Adult Housing to allow an exception of up to 20 percent of the units within age-restricted adult housing developments to be unrestricted in terms of age occupancy requirements except for the existing restriction applicable to children under 18 years of age; to delete an existing exception relating to surviving household members 50 years or older; and generally relating to age-restricted adult housing

AN ACT amending the Howard County Zoning Regulation's definition of Age-restricted Adult Housing to allow an exception of up to 20 percent of the units within age-restricted adult housing developments to be unrestricted in terms of age occupancy requirements except for the existing restriction applicable to children under 18 years of age; to delete an existing exception relating to surviving household members 50 years or older; and generally relating to age-restricted adult housing.

Council Bill No. 12-2009 (ZRA-109) – Introduced by The Chair at the request of SK King George, LLC - Amending the Howard County Zoning Regulations to establish a new provision whereby approved Conditional Uses would be completely exempt from the potential to become void and would not have to obtain extensions for projects for which plans are being processed with Howard County; and generally relating to Conditional Uses

AN ACT amending the Howard County Zoning Regulations to establish a new provision whereby approved Conditional Uses would be completely exempt from the potential to become void and would not have to obtain extensions for projects for which plans are being processed with Howard County; and generally relating to Conditional Uses.

Council Bill No. 13-2009 (ZRA-111) – Introduced by The Chair at the request of Land Design & Development - Amending the Howard County Zoning Regulations to amend the Density Exchange for Neighborhood Preservation Parcels to allow development rights to be received as a bonus density for Conditional Use Age-restricted Adult Housing developments; and generally relating to the Density Exchange for Neighborhood Preservation program and Age-restricted Adult Housing

AN ACT amending the Howard County Zoning Regulations to amend the Density Exchange for Neighborhood Preservation Parcels to allow development rights to be received as a bonus density for Conditional Use Age-restricted Adult Housing developments; and generally relating to the Density Exchange for Neighborhood Preservation program and Age-restricted Adult Housing.

Council Member Watson moved to reject Council Bill No. 13-2009 (ZRA-111) on introduction. The motion was seconded by Ms. Terrasa.

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

The motion to reject Council Bill No. 13-2009 (ZRA-111) passed.

Council Bill No. 14-2009 – Adding certain definitions; describing the accrued benefit of certain reemployed employees in job classes represented by the American Federation of State, County and Municipal Employees (“AFSCME”) Local 3085; requiring certain contributions from AFSCME Local 3085 employees after a certain date; setting forth the retirement income for certain AFSCME Local 3085 employees; reordering certain provisions; making certain technical corrections; and generally related to the County’s retirement plans for employees of AFSCME Local 3085

AN ACT adding certain definitions; describing the accrued benefit of certain reemployed employees in job classes represented by the American Federation of State, County and Municipal Employees (“AFSCME”) Local 3085; requiring certain contributions from AFSCME Local 3085 employees after a certain date; setting forth the retirement income for certain AFSCME Local 3085 employees; reordering certain provisions; making certain technical corrections; and generally related to the County’s retirement plans for employees of AFSCME Local 3085.

Council Bill No. 15-2009 – Pursuant to Section 612 of the Howard County Charter, approving a multi-year agreement between Howard County, Maryland and Energy Systems Group where Energy Systems Group will develop and implement a comprehensive energy efficiency guaranteed savings program at certain County facilities that shall include the construction and installation of certain equipment, and certain management tasks and the program will result in certain cost savings which may be used to finance the construction and installation of certain equipment

AN ACT pursuant to Section 612 of the Howard County Charter, approving a multi-year agreement between Howard County, Maryland and Energy Systems Group where Energy Systems Group will develop and implement a comprehensive energy efficiency guaranteed savings program at certain County facilities that shall include the construction and installation of certain equipment, and certain management tasks and the program will result in certain cost savings which may be used to finance the construction and installation of certain equipment.

Council Bill No. 16-2009 – Pursuant to Section 612 of the Howard County Charter, approving a multi-year agreement between Howard County, Maryland and Grant Capital Management, Inc., where Grant Capital Management will finance the acquisition of certain equipment required under an energy performance contract.

AN ACT pursuant to Section 612 of the Howard County Charter, approving a multi-year agreement between Howard County, Maryland and Grant Capital Management, Inc., where Grant Capital Management will finance the acquisition of certain equipment required under an energy performance contract.

Council Bill No. 17-2009 (ZRA-112) – Amending the Howard County Zoning Regulations to allow fences of a certain height along certain lot lines that adjoin public street rights-of-way; to set forth certain setbacks for certain fences and walls that are a certain height; to prohibit certain arrangements for certain fences and walls; and generally related to the Howard County Zoning Regulations.

AN ACT amending the Howard County Zoning Regulations to allow fences of a certain height along certain lot lines that adjoin public street rights-of-way; to set forth certain setbacks for certain fences and walls that are a certain height; to prohibit certain arrangements for certain fences and walls; and generally related to the Howard County Zoning Regulations.

Council Bill No. 18-2009 – To legalize the 2008 Edition of the Howard County Code, as approved by Margaret Ann Nolan, County Solicitor, and published by Municipal Code Corporation; to provide for the Code's periodic supplement; and to declare that the Code shall be the evidence of the public local laws of Howard County.

AN ACT to legalize the 2008 Edition of the Howard County Code, as approved by Margaret Ann Nolan, County Solicitor, and published by Municipal Code Corporation; to provide for the Code's periodic supplement; and to declare that the Code shall be the evidence of the public local laws of Howard County.

Council Resolution No. 11-2009 - Approving an amendment to the Howard County Master Plan for Water and Sewerage, consisting of tables and maps incorporating various revisions, including the:

1. Revision of the priority designations assigned in the Master Plan to certain County capital projects;
2. Revision of the priority designations assigned in the Master Plan to certain private development projects; and
3. Update of the water and sewer facilities maps to reflect changes in the Metropolitan District.

A RESOLUTION approving an amendment to the Howard County Master Plan for Water and Sewerage, consisting of tables and maps incorporating various revisions, including the:

1. Revision of the priority designations assigned in the Master Plan to certain County capital projects;
2. Revision of the priority designations assigned in the Master Plan to certain private development projects; and
3. Update of the water and sewer facilities maps to reflect changes in the Metropolitan District.

FINAL CONSIDERATION

Appointments

Council Resolution No. 6-2009 – Confirming the reappointment of Susan Fillmore to the Board of Directors of the Howard County Mental Health Authority

The Chairperson moved to adopt Council Resolution No. 6-2009. The motion was seconded by Ms. Terrasa.

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

Council Resolution No. 6-2009 passed.

Financial

Supplementary Budget & Appropriation Ordinance No. 7-Fiscal 2009 – Transferring \$18,294 from the Grants Fund, Contingency Reserve to the Sheriff's Office in order to purchase and install Mobile Data Computers

The Chairperson moved to adopt Supplementary Budget & Appropriation Ordinance No. 7-Fiscal 2009. The motion was seconded by Ms. Terrasa.

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

Supplementary Budget & Appropriation Ordinance No. 7-Fiscal 2009 passed.

Transfer of Appropriation Ordinance No. 2-Fiscal 2009 – Transferring \$3,262,000 to capital project N3960, Robinson Property Nature Center, from various capital projects in the Capital Budget for Fiscal Year 2009

The Chairperson moved to adopt Transfer of Appropriation Ordinance No. 2-Fiscal FY2009. The motion was seconded by Ms. Terrasa.

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

Transfer of Appropriation Ordinance No. 2-Fiscal FY2009 passed.

General

Council Bill No. 7-2009 - To authorize and empower Howard County, Maryland, to borrow up to \$2,180,000 on its full faith and credit, and issue and sell its bonds therefor, to be used to pay costs of Capital Project No. N-3960 (Robinson Property Nature Center) and costs of issuance of such bonds; authorizing and empowering the County to issue bond anticipation notes or to enter into installment purchase agreements for payment of portions of such costs; and to levy taxes upon the assessable property within the County sufficient, together with other available funds, to pay the debt service on such obligations; and providing for and determining various matters in connection therewith

The Chairperson moved to adopt Council Bill No. 7-2009. The motion was seconded by Ms. Terrasa.

The roll call vote called by the Chairperson on the bill was: Yea: Council Members Sigaty, Ball, Fox, Terrasa and Watson.
Council Bill No. 7-2009 passed.

Council Bill No. 5-2009 (ZRA-106) – Introduced by The Chair at the request of James R. Buch and Robert M. Buch - Amending the Howard County Zoning Regulations' CAC zoning district to add a provision to permit apartment and single-family attached uses within a Route 1 Corridor development project of less than two acres, if the property is contiguous to a CAC development which has received an approved sketch plan or site development plan, under certain circumstance; and generally relating to the CAC zoning district
(Tabled 02/02/09)

The Chairperson moved to remove Council Bill No. 5-2009 from the table. The motion was seconded by Ms. Terrasa.

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

The motion to remove Council Bill No. 5-2009 from the table passed.

The Chairperson moved to adopt Council Bill No. 5-2009. The motion was seconded by Ms. Terrasa.

The Chairperson moved to adopt Amendment No. 1 to Council Bill No. 5-2009 as follows: *(This amendment would add additional criteria to the proposed legislation that would apply specifically to CAC properties that are less than 2 gross acres in area).*

On the title page, in line 3 of the title, after the comma, strike the remainder of the line. On the same page, in line 4 of the title, strike “development which has received an approved sketch plan or site development plan,”. On the same page, in line 5 of the title, strike “circumstance” and substitute “conditions”.

On page 1, strike lines 1 – 5, in their entirety, and substitute:
“Section 1. Be it enacted by the County Council of Howard County, Maryland, that Subsection A “Purpose” of Section 127.5 “CAC (Corridor Activity Center) District” is being reenacted without changes; and Number 17, of Subsection B “Uses Permitted as a Matter of Right”, Number 1, of Subsection D “Bulk Regulations”, and Letter A, of Number 3 “Requirements for Residential Uses”, of Subsection E “Requirements for CAC Development”, of Section 127.5 “CAC (Corridor Activity Center) District” of the Howard County Zoning Regulations are hereby amended to read as follows:”.

On page 1, strike lines 29 – 32, in their entirety, and substitute:

“17. Dwellings, apartment and single-family attached, only within a Route 1 Corridor development project with at least 2 gross acres of CAC-zoned land OR LESS THAN 2 GROSS ACRES IF: (1) THE SUBJECT PROPERTY IS CONTIGUOUS ALONG AT LEAST 75% OF ITS PERIMETER TO A CAC DEVELOPMENT THAT HAS RECEIVED FINAL APPROVAL OF A SKETCH PLAN OR SITE DEVELOPMENT PLAN; (2) NO ADDITIONAL CAC-ZONED LAND DIRECTLY ADJOINS THE SUBJECT PROPERTY; AND (3) THE DEVELOPMENT OF THE SUBJECT PROPERTY SHALL BE COMPATIBLE WITH THE LAND USE, SITE PLANNING AND ARCHITECTURAL CHARACTER OF THE CONTIGUOUS CAC DEVELOPMENT.

D. Bulk Regulations

(Also see Section 128.A, Supplementary Regulations)

1. Residential density: [[, maximum.....25 units per net acre]]

A. FOR CAC DEVELOPMENTS OF AT LEAST 2 GROSS ACRES.....25 UNITS PER NET ACRE

B. FOR CAC DEVELOPMENTS OF LESS THAN 2 GROSS ACRES.....15 UNITS PER NET ACRE

E. Requirements for CAC Development

3. Requirements for Residential Uses

- a. Residences are permitted only within Route 1 Corridor development projects encompassing at least two gross acres of CAC-zoned land[[.]] OR LESS THAN TWO (2) GROSS ACRES IF: (1) THE SUBJECT PROPERTY IS CONTIGUOUS ALONG AT LEAST 75% OF ITS PERIMETER TO A CAC DEVELOPMENT THAT HAS RECEIVED FINAL APPROVAL OF A SKETCH PLAN OR SITE DEVELOPMENT PLAN; (2) NO ADDITIONAL CAC-ZONED LAND DIRECTLY ADJOINS THE SUBJECT PROPERTY; AND (3) THE DEVELOPMENT OF THE SUBJECT PROPERTY SHALL BE COMPATIBLE WITH THE LAND USE, SITE PLANNING AND ARCHITECTURAL CHARACTER OF THE CONTIGUOUS CAC DEVELOPMENT.”.

The motion was seconded by Ms. Terrasa.

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

Amendment No. 1 to Council Bill No. 5-2009 passed.

The roll call vote called by the Chairperson on the bill as amended was: Yea: Council Members Sigaty, Ball, and Fox; Nay: Council Members Terrasa and Watson.

Council Bill No. 5-2009 passed as amended.

Council Bill No. 6-2009 (ZRA-107) – Introduced by The Chair at the request of Robert and Maxine Walker - Amending the Howard County Zoning Regulations’ Limited Outdoor Social Assemblies conditional use to alter the road access requirement for Limited Outdoor Social Assemblies; and generally relating to the Limited Outdoor Social Assemblies conditional use (*Tabled 02/02/09*)

The Chairperson moved to remove Council Bill No. 6-2009 from the table. The motion was seconded by Ms. Terrasa.

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

The motion to remove Council Bill No. 6-2009 from the table passed.

The Chairperson moved to adopt Council Bill No. 6-2009. The motion was seconded by Ms. Terrasa.

The Chairperson moved to adopt Amendment No. 1 to Council Bill No. 6-2009 as follows: *(This amendment would specify that the Hearing Authority has the authority to ensure that the conditional use operator is responsible for any shared driveway damage or deterioration of the shared driveway caused by an approved conditional use).*

On page 1, in line 25, after the period, insert :
“THE HEARING AUTHORITY SHALL PRESCRIBE APPROPRIATE CONDITIONS AND SAFEGUARDS TO ENSURE THE CONDITIONAL USE OPERATOR'S RESPONSIBILITY FOR REPAIR OF ANY DAMAGE OR DETERIORATION OF THE SHARED DRIVEWAY CAUSED BY THE CONDITIONAL USE, INCLUDING REQUIREMENTS FOR SURFACING OF ACCESS DRIVEWAYS.”

The motion was seconded by Ms. Terrasa.

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

Amendment No. 1 to Council Bill No. 6-2009 passed.

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

Council Bill No. 6-2009 passed as amended.

Council Bill No. 8-2009 – Introduced by Courtney Watson, Councilperson/Co-sponsored by Greg Fox, Councilperson - Amending the Howard County Code to allow an additional revision during 2009 of the phasing schedule for a residential development, under certain conditions; to allow unphased projects to become phased projects in 2009; and providing that this Act shall be null and void after a certain date; and generally relating to phased residential developments

The Chairperson moved to adopt Council Bill No. 8-2009. The motion was seconded by Ms. Terrasa.

The Chairperson moved to adopt Amendment No. 1 to Council Bill No. 8-2009 as follows: *(This amendment would clarify that the proposed additional rephasing would apply to projects which currently have allocations and that the time period for rephasing would be extended through June 30, 2010).*

On the title page, in line 1 of the title, strike “during 2009” and substitute, “THROUGH JUNE 30, 2010”. On the same page, in line 3 of the title, strike “in 2009” and substitute, “THROUGH JUNE 30, 2010”.

On page 2, in line 6, strike “2009” and substitute “ADDITIONAL”.

On page 2, in line 8, after “PROJECT”, insert “HAVING ALLOCATIONS”. On the same line, strike “IN 2009” and substitute “THROUGH JUNE 30, 2010”.

On page 2, in line 10, after “PLAN”, insert “THAT HAS ALLOCATIONS AND”.

On page 2, in line 12, strike “IN 2009” and substitute “THROUGH JUNE 30, 2010”.

On page 3, in line 4, strike “December 31, 2009. On January 1, 2010” and substitute “June 30, 2010. On July 1, 2010”.

The motion was seconded by Ms. Terrasa.

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

Amendment No. 1 to Council Bill No. 8-2009 passed.

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

Council Bill No. 8-2009 passed as amended.

Council Resolution No. 7-2009 - Supporting an application to be submitted by Howard County for funding in the amount of \$4,373,214 from the Maryland Neighborhood Conservation Initiative Program and authorizing the County Executive to execute certain documents required for the application

The Chairperson moved to adopt Council Resolution No. 7-2009. The motion was seconded by Ms. Terrasa.

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

Council Resolution No. 7-2009 passed.

ADJOURNMENT

The Chairperson adjourned the legislative session at 7:56 p.m.

TABLED LEGISLATION

Council Resolution No. 131-2008 – Confirming the appointment of Christina Diaz-Malone to the Board to Promote Self-Sufficiency (*Tabled 01/05/09*)

CLOSED MEETINGS

The County Council met in closed session at 6:30 p.m. on February 23, 2009 as provided in the Annotated Code of Maryland, State Government Article, Section §10-508(a)(7) to consult with the County Solicitor to obtain legal advice. Council Members Ball, Fox, Sigaty, Terrasa and Watson were present. Stephen LeGendre, Administrator to the County Council; Margaret Ann Nolan, County Solicitor; Lou Ruzzi, Assistant County Solicitor; and Jim Vannoy, Assistant County Solicitor, were also present.

The Chairperson motioned to close the session. Her motion was seconded by Mr. Fox. The roll call vote called on the motion was: Yea: Council Members Ball, Fox, Sigaty, Terrasa and Watson. The motion to conduct the closed meeting passed. The closed meeting was adjourned at 7:30 p.m..

The County Council met in closed session at 8:06 p.m. on March 2, 2009 as provided in the Annotated Code of Maryland, State Government Article, Section §10-508(a)(7) to consult with the County Solicitor to obtain legal advice. Council Members Ball, Fox, Sigaty, Terrasa and Watson were present. Stephen LeGendre, Administrator to the County Council; Margaret Ann Nolan, County Solicitor; and Jim Vannoy, Assistant County Solicitor, were also present.

The Chairperson motioned to close the session. Her motion was seconded by Ms. Sigaty. The roll call vote called on the motion was: Yea: Council Members Ball, Fox, Sigaty, Terrasa and Watson. The motion to conduct the closed meeting passed. The closed meeting was adjourned at 8:27 p.m..