

BALTIMORE COUNTY COUNCIL MINUTES
LEGISLATIVE SESSION 2010, LEGISLATIVE DAY NO. 10
May 27, 2010 10:00 A.M.

A. The meeting was called to order by Chairman Olszewski at 10:05 A.M. The Chairman asked the audience to rise for a moment of silent meditation and the Pledge of Allegiance to the Flag. There were approximately 100 persons in attendance and the following Councilmembers were present:

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|---------------------|------------------|
| S.G. SAMUEL MOXLEY | FIRST DISTRICT |
| KEVIN KAMENETZ | SECOND DISTRICT |
| T. BRYAN MCINTIRE | THIRD DISTRICT |
| KENNETH N. OLIVER | FOURTH DISTRICT |
| VINCENT J. GARDINA | FIFTH DISTRICT |
| JOSEPH BARTENFELDER | SIXTH DISTRICT |
| JOHN OLSZEWSKI, SR. | SEVENTH DISTRICT |

B. APPROVAL OF JOURNAL

Upon motion by Councilman Moxley, seconded by Councilman Oliver, the reading of the Journal Entries for the meeting of May 3, 2010 was waived and accepted unanimously.

C. ENROLLMENT OF BILLS

The Chairman stated that the following bills were passed by the County Council and signed by the County Executive. He certified and delivered to the Secretary, Bills 17-10, 18-10, 19-10 and 20-10.

D. PRESENTATION OF BUDGET

Chairman Olszewski read the Baltimore County Budget Message for Fiscal Year 2010-2011.

E. CALL OF BILLS FOR FINAL READING AND VOTE

Bill 21-10, CEB - Housing Choice Voucher Program, was called. Bob Bromley appeared. There being no discussion, this bill passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 22-10, CEB - FFY07 HSGP UASI, was called. Jim Korn appeared. There being no discussion, this bill passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 23-10, CEB - FFY08 HSGP UASI, was called. Jim Korn remained. There being no discussion, this bill passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 24-10, CEB - FFY09 HSGP SHSP, was called. Jim Korn remained. There being no discussion, this bill passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 25-10, Stormwater Management Act of 2010, was called. Jonas Jacobson appeared. Councilman Gardina questioned Mr. Jacobson. Councilman Moxley then moved to amend this bill with the following amendments:

1. On page 14, in line 28, strike “CHARGES” and substitute “DISCHARGES”.
2. On page 20, in lines 11 and 12, strike “URBAN-RURAL DEMARCATION LINE” and substitute “PRIORITY FUNDING AREA”.
3. On page 20, strike “IF” on line 23 through “PHASES” on page 21, line 3 and substitute:

“(1) STORMWATER MANAGEMENT QUANTITATIVE AND QUALITATIVE CONTROL WAIVERS MAY BE GRANTED FOR PHASED DEVELOPMENT PROJECTS IF A SYSTEM DESIGNED TO MEET THE 2000 REGULATORY REQUIREMENTS AND THE REQUIREMENTS OF THIS TITLE IN EFFECT ON MAY 4, 2009 FOR MULTIPLE PHASES HAS BEEN CONSTRUCTED BY MAY 4, 2010.

(2) IF THE 2009 REGULATORY REQUIREMENTS CANNOT BE MET FOR FUTURE PHASES CONSTRUCTED AFTER MAY 4, 2010, ALL REASONABLE EFFORTS TO INCORPORATE ESD IN FUTURE PHASES MUST BE DEMONSTRATED”

4. On page 25, in line 20, after “(3)”, insert:
(I) “APPROVAL” MEANS A DOCUMENTED ACTION BY THE DEPARTMENT FOLLOWING A REVIEW TO DETERMINE AND ACKNOWLEDGE THE SUFFICIENCY OF SUBMITTED MATERIAL TO MEET THE REQUIREMENTS OF A SPECIFIED STAGE IN THE DEVELOPMENT REVIEW PROCESS.

(II) "APPROVAL" DOES NOT MEAN AN ACKNOWLEDGMENT BY THE DEPARTMENT THAT SUBMITTED MATERIAL HAS BEEN RECEIVED FOR REVIEW.

(4) (I) "FINAL PROJECT APPROVAL" MEANS APPROVAL OF THE FINAL STORMWATER MANAGEMENT PLAN AND EROSION AND SEDIMENT CONTROL PLAN REQUIRED TO CONSTRUCT A PROJECT'S STORMWATER MANAGEMENT FACILITIES.

(II) "FINAL PROJECT APPROVAL" INCLUDES SECURING BONDING OR FINANCING FOR FINAL DEVELOPMENT PLANS IF EITHER IS REQUIRED AS A PREREQUISITE FOR APPROVAL.

(5)";

also in line 3, after "PRELIMINARY", insert "PROJECT".

5. On page 26, strike from "WAIVER," on line 3 through "DISTRICT" on line 5 and substitute "WAIVER"; strike from "MEETS" in line 5 through "OR" in line 6 and substitute "RECEIVED PRELIMINARY PROJECT APPROVAL"; strike from the colon in line 6 through "APPROVAL" in line 16; and in line 18, strike "STORMWATER MANAGEMENT" and substitute "PROJECT".

Councilman Oliver seconded the motion and these amendments passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski

Nay - None

Thereafter, upon motion by Councilman Kamenetz, seconded by Councilman Oliver, Bill 25-10, as amended, passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski

Nay - None

Bill 26-10, This Bill was withdrawn prior to the meeting.

Bill 27-10, The Annual Budget and Appropriation Ordinance, was called. Mr. Peddicord stated that the various appropriations shown on the annual budget and appropriation ordinance are amended by deletions and substitutions as shown on said ordinance.

Therefore, Bill 27-10, as amended, passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski

Nay - None

Bill 28-10, Property Tax Rate, was called. There being no discussion, this bill passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski

Nay - None

Bill 29-10, Personnel Law of Baltimore County, was called. There being no discussion, this bill passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 30-10, Employees Retirement System, was called. Mr. Peddicord explained the amendments. Councilman McIntire questioned Councilman Gardina. Councilmembers Olszewski and Bartenfelder questioned Mr. Homan. Mr. Homan then commented. Councilman Oliver questioned Mr. Beverungen. Councilman Moxley then moved to amend this bill with the following amendments:

1. On page 2, two lines up from the bottom of the purpose paragraph, after “plan;”, insert “conforming the retirement system with provisions of federal law concerning interest in assets of the plan, rollover and distribution rules, limitations on benefits, assignability of benefits, and forfeiture of benefits;”; in the first function paragraph, insert the following in the correct locations “5-1-202,” “5-1-236,” “5-1-255,” and “5-1-257,”; in the second function paragraph, strike “Section” and substitute “Sections” and after “5-1-220.1”, insert “and 5-1-232”; and in the third function paragraph, strike “Section” and substitute “Sections” and after “5-1-225” insert “and 5-1-232”.

2. On page 3, in line 2, strike “Section” and substitute “Sections”; in the same line, after “5-1-225”, insert “and 5-1-232”; in line 4, strike “is” and substitute “are”; and in lines 5 through 8, insert the following in the correct locations “5-1-202,” “5-1-236,” “5-1-255,” and “5-1-257,”.

3. On page 25, after line 10, insert:

“§ 5-1-202.

(A) A retirement system is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this title for employees. The Retirement System so created shall be established as of January 1, 1945. It shall be known as the “Employees' Retirement System of Baltimore County,” and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held in trust for the purpose for which received.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, NO PART OF THE CORPUS OR INCOME OF THE FUNDS OF THE RETIREMENT SYSTEM SHALL BE USED FOR, OR DIVERTED TO, PURPOSES OTHER THAN FOR THE EXCLUSIVE BENEFIT OF MEMBERS AND OTHER PERSONS ENTITLED TO BENEFITS UNDER THE RETIREMENT SYSTEM AND PAYING EXPENSES OF THE RETIREMENT SYSTEM NOT OTHERWISE PAID BY THE EMPLOYER, BEFORE THE SATISFACTION OF ALL LIABILITIES WITH RESPECT TO THEM. NO PERSON SHALL HAVE ANY INTEREST IN OR RIGHT IN, OR TO, ANY PART OF THE ASSETS HELD UNDER THE RETIREMENT SYSTEM, EXCEPT AS AND TO THE EXTENT EXPRESSLY PROVIDED IN THIS TITLE.

§ 5-1-236.

(A) Notwithstanding anything to the contrary in this subtitle, the [following] limitations on benefits shall apply[:] AS PROVIDED IN THIS SECTION.

(B) For years beginning after 1988, the earnable compensation, for purposes of computing benefits may not exceed the maximum dollar limitation specified in § 401(a)(17) of the Internal Revenue Code AS ADJUSTED FROM TIME TO TIME BY THE SECRETARY OF THE TREASURY IN ACCORDANCE WITH § 401(A)(17)(B) OF THE INTERNAL REVENUE CODE; provided however for a member who first established membership before July 1, 1996, the compensation for computing benefits shall be determined in accordance with § 13212(d)(3) of the Omnibus BUDGET Reconciliation Act of 1993.

[(2)] (C)(1)(I)1. In addition to other limitations set forth in this subtitle, THE AGGREGATE ANNUAL BENEFIT TO WHICH A MEMBER IS ENTITLED UNDER THIS SUBTITLE AND SUBTITLE 3 OF THIS TITLE MAY NOT, IN ANY CALENDAR YEAR, WHICH SHALL BE THE "LIMITATION YEAR," EXCEED the [retirement system shall comply with the] applicable [contribution and benefit] limitations [imposed by] OF § 415 of the Internal Revenue Code AND THE REGULATIONS ADOPTED UNDER § 415 OF THE INTERNAL REVENUE CODE.

2. AS APPLICABLE, THE BOARD OF TRUSTEES SHALL DETERMINE AN AMORTIZATION SCHEDULE FOR THE BENEFIT PAID UNDER SUBTITLE 3 OF THIS TITLE FOR THE PURPOSES OF THIS SUBSECTION.

(II) IF THE BENEFIT PAYABLE UNDER THIS SUBTITLE AND SUBTITLE 3 OF THIS TITLE WOULD, BUT FOR SUBPARAGRAPH (I) OF THIS PARAGRAPH, EXCEED THE LIMITATIONS OF § 415 OF THE INTERNAL REVENUE CODE BY REASON OF A BENEFIT PAYABLE UNDER ANOTHER DEFINED BENEFIT PLAN AGGREGATED WITH THE RETIREMENT PLAN UNDER § 414(F) OF THE INTERNAL REVENUE CODE, THE BENEFIT UNDER THE RETIREMENT SYSTEM SHALL BE REDUCED ONLY AFTER ALL REDUCTIONS HAVE BEEN MADE UNDER THE OTHER PLAN.

(III) AS OF JANUARY 1 OF EACH CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2009, THE DOLLAR LIMITATION AS DETERMINED BY THE COMMISSIONER OF INTERNAL REVENUE FOR THAT CALENDAR YEAR SHALL BECOME EFFECTIVE AS THE MAXIMUM PERMISSIBLE DOLLAR AMOUNT OF BENEFIT PAYABLE UNDER THE RETIREMENT SYSTEM DURING THAT CALENDAR YEAR.

(2)(I) THE COMPENSATION TO BE USED FOR PURPOSES OF APPLYING THE APPLICABLE LIMITATIONS UNDER § 415 OF THE INTERNAL REVENUE CODE WITH RESPECT TO ANY MEMBER SHALL MEAN COMPENSATION FROM THE EMPLOYER AND ALL AFFILIATED EMPLOYERS REQUIRED TO BE AGGREGATED WITH THE EMPLOYER UNDER § 414(F) OF THE INTERNAL REVENUE CODE AS DEFINED IN U.S. TREASURY DEPARTMENT REGULATION § 1.415(C)-2(D)(4) (I.E., INFORMATION TO REQUIRED TO BE REPORTED UNDER §§ 6041, 6051 AND 6052 ("W-2 PAY") OF THE INTERNAL REVENUE CODE PLUS AMOUNTS THAT WOULD BE INCLUDED IN WAGES BUT FOR AN ELECTION UNDER § 125(A), § 132(F)(4), § 402(E)(3), § 402(H)(1)(B), § 402(K), § 403(B), OR § 457(B) OF THE INTERNAL REVENUE CODE).

(II) FOR LIMITATION YEARS BEGINNING ON OR AFTER JULY

1, 2007, THE PRECEDING DEFINITION OF COMPENSATION SHALL BE MODIFIED AS REQUIRED UNDER THE PROVISIONS OF U.S. TREASURY DEPARTMENT REGULATION § 1.415(C)-2(E) AND SHALL INCLUDE ALL AMOUNTS PERMITTED TO BE RECOGNIZED UNDER THE PROVISIONS OF U.S. TREASURY DEPARTMENT REGULATION § 1.415(C)-2(E)(3).

(III) COMPENSATION MAY NOT EXCEED THE LIMITATION ON COMPENSATION UNDER § 401(A)(17) OF THE INTERNAL REVENUE CODE.

[(3)] (D) A beneficiary of a service retirement benefit under this subtitle who returns to active service with the county may receive the service retirement benefit during the time in which the beneficiary remains in the active service if the beneficiary is employed by the board of education as a school bus driver.

[(4)] (E) [(i)] (1) Subject to [subparagraphs (ii) and (iii) of this paragraph] PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, a retired county police officer who is a beneficiary of a service retirement benefit under this subtitle who returns to active service with the county as a uniformed security officer to provide security for county owned, rented, occupied or leased buildings and properties may receive the service retirement benefit during the time in which the beneficiary remains in the active service of the county.

[(ii)] (2) A beneficiary who returns to active service with the county under this paragraph shall at all times be a special police officer in good standing as defined in Title 3, Subtitle 3 of the Public Safety Article of the Annotated Code of Maryland.

[(iii)] (3) A beneficiary who returns to active service with the county under this paragraph may not credit any uniformed security officer active service time to an existing service retirement benefit and may not claim an additional service retirement benefit for this active service time.

§ 5-1-255.

(A) EXCEPT AS PROVIDED IN THIS SECTION, [The] THE right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, or any other right accrued or accruing to any person under the provisions of this subtitle, and the moneys in the various funds created by this subtitle, shall not be subject to execution, garnishment, attachment, or any other process whatsoever and shall be unassignable [except as in this subtitle specifically provided].

(B) A BENEFIT UNDER THIS TITLE SHALL BE PAYABLE:

(1) IN ACCORDANCE WITH THE PROVISIONS OF ANY JUDGMENT, DECREE, OR ORDER THAT:

(I) CREATES FOR, OR ASSIGNS TO, A SPOUSE, FORMER SPOUSE, CHILD, OR OTHER DEPENDANT OF A MEMBER THE RIGHT TO RECEIVE ALL OR A PORTION OF THE MEMBER'S BENEFITS UNDER THE RETIREMENT SYSTEM FOR THE PURPOSE OF PROVIDING CHILD SUPPORT, ALIMONY PAYMENTS, OR MARITAL PROPERTY RIGHTS TO THAT SPOUSE, FORMER SPOUSE, CHILD, OR DEPENDANT;

(II) IS ISSUED IN ACCORDANCE WITH A STATE DOMESTIC

RELATIONS LAW;

(III) DOES NOT REQUIRE THE RETIREMENT SYSTEM TO PROVIDE ANY TYPE OF BENEFIT OR ANY OPTION NOT OTHERWISE PROVIDED UNDER THE RETIREMENT SYSTEM; AND

(IV) OTHERWISE MEETS THE REQUIREMENTS OF § 206(D) OF ERISA, AS AMENDED, AS A “QUALIFIED DOMESTIC RELATIONS ORDER” AS DETERMINED BY THE BOARD OF TRUSTEES;

(2) AS REQUIRED BECAUSE OF ENFORCEMENT OF A FEDERAL TAX LEVY MADE IN ACCORDANCE WITH § 6331 OF THE INTERNAL REVENUE CODE OR THE COLLECTION BY THE UNITED STATES ON A JUDGMENT RESULTING FROM AN UNPAID TAX ASSESSMENT; OR

(3) AS OTHERWISE PROVIDED IN THIS SUBTITLE.

§ 5-1-257.

Not less than one hundred twenty (120) days prior to the end of each fiscal year, the Board of Trustees shall certify to the county the amounts which will become due and payable during the year next following to the Retirement System. The amounts thus ascertained shall be included in the budget and when appropriated shall be immediately transferred to the Retirement System by the Director of Budget and Finance. ANY AMOUNTS FORFEITED BY A MEMBER WHO TERMINATES EMPLOYMENT BEFORE EARNING A RIGHT TO A BENEFIT UNDER THE RETIREMENT SYSTEM SHALL BE USED TO REDUCE THE CONTRIBUTIONS OTHERWISE PAYABLE BY THE COUNTY TO RETIREMENT SYSTEM AND MAY NOT BE USED TO INCREASE BENEFITS PAYABLE UNDER THE RETIREMENT SYSTEM.”

4. On page 27, in line 18, strike “Section” and substitute “Sections”, after “5-1-220.1”, insert “and 5-1-232”; and strike “is” and substitute “are”.

5. On page 30, after line 8, insert:

“§ 5-1-232.

(A)(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DIRECT ROLLOVER” MEANS A PAYMENT BY THE RETIREMENT SYSTEM TO THE ELIGIBLE RETIREMENT PLAN SPECIFIED BY THE DISTRIBUTE.

(3) “DISTRIBUTE” MEANS A MEMBER OR FORMER MEMBER, THE SURVIVING SPOUSE OF A MEMBER OR FORMER MEMBER, OR THE FORMER SPOUSE OF A MEMBER OR FORMER MEMBER, WHICH FORMER SPOUSE IS AN ALTERNATE PAYEE UNDER A QUALIFIED DOMESTIC RELATIONS ORDER AS DEFINED IN § 414(P) OF THE INTERNAL REVENUE CODE WITH RESPECT TO THE INTEREST OF THE PAYEE.

(4) "ELIGIBLE RETIREMENT PLAN" MEANS ANY OF THE FOLLOWING TYPES OF PLANS THAT ACCEPT THE DISTRIBUTEES' ELIGIBLE ROLLOVER DISTRIBUTION:

(I) A QUALIFIED PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE;

(II) AN ANNUITY PLAN DESCRIBED IN § 403(A) OF THE INTERNAL REVENUE CODE;

(III) AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN § 408(A) OR § 408(B) OF THE INTERNAL REVENUE CODE;

(IV) EFFECTIVE JANUARY 1, 2002, AN ANNUITY CONTRACT DESCRIBED IN § 403(B) OF THE INTERNAL REVENUE CODE;

(V) EFFECTIVE JANUARY 1, 2002, AN ELIGIBLE PLAN UNDER § 457(B) OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A STATE, POLITICAL SUBDIVISION OF A STATE, OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE AND THAT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS TRANSFERRED INTO SUCH PLAN FROM THE RETIREMENT SYSTEM; AND

(VI) EFFECTIVE JANUARY 1, 2008, A ROTH IRA DESCRIBED IN § 408A OF THE INTERNAL REVENUE CODE.

(5)(I) "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS ANY DISTRIBUTION OF ALL OR ANY PORTION OF THE BALANCE TO THE CREDIT OF THE DISTRIBUTEES.

(II) "ELIGIBLE ROLLOVER DISTRIBUTION" DOES NOT INCLUDE:

1. ANY DISTRIBUTION THAT IS ONE OF A SERIES OF SUBSTANTIALLY EQUAL PERIODIC PAYMENTS (NOT LESS FREQUENTLY THAN ANNUALLY) MADE FOR THE LIFE OR LIFE EXPECTANCY OF THE DISTRIBUTEES OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF THE DISTRIBUTEES AND THE DISTRIBUTEES' DESIGNATED BENEFICIARY, OR FOR A SPECIFIED PERIOD OF TEN (10) YEARS OR MORE;

2. ANY DISTRIBUTION TO THE EXTENT THAT SUCH DISTRIBUTION IS REQUIRED UNDER § 401(A)(9) OF THE INTERNAL REVENUE CODE;

3. AFTER TAX AMOUNTS, UNLESS SUCH AMOUNT IS ROLLED OVER OR TRANSFERRED (I.E., DIRECTLY ROLLED) TO AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN § 408(A) OR § 408(B) OF THE INTERNAL REVENUE CODE, TRANSFERRED TO A DEFINED CONTRIBUTION PLAN QUALIFIED UNDER § 401(A) OF THE INTERNAL REVENUE CODE OR, EFFECTIVE FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 2007, TO ANY QUALIFIED PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE OR TO AN ANNUITY PLAN DESCRIBED IN § 403(B) OF THE INTERNAL REVENUE CODE, PROVIDED ANY SUCH PLAN DESCRIBED IN THIS ITEM AGREES TO SEPARATELY ACCOUNT FOR SUCH AFTER-TAX AMOUNT AND EARNINGS THEREON; AND

4. EFFECTIVE ON AND AFTER JANUARY 1, 2002, ANY IN-SERVICE WITHDRAWAL THAT IS MADE ON ACCOUNT OF HARDSHIP.

(B) EFFECTIVE FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1,

1993, AND NOTWITHSTANDING ANY PROVISION OF THIS TITLE TO THE CONTRARY THAT WOULD OTHERWISE LIMIT A DISTRIBUTEES ELECTION UNDER THIS TITLE, A DISTRIBUTE MAY ELECT, AT THE TIME AND IN THE MANNER PRESCRIBED BY THE BOARD OF TRUSTEES, TO HAVE ANY PORTION OF AN ELIGIBLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT PLAN SPECIFIED BY THE DISTRIBUTE IN A DIRECT ROLLOVER.

(C) NOTWITHSTANDING ANY PROVISION OF THIS TITLE TO THE CONTRARY, EFFECTIVE JANUARY 1, 2010, A NON-SPOUSE BENEFICIARY OF A DECEASED MEMBER MAY ELECT, AT THE TIME AND IN THE MANNER PRESCRIBED BY THE BOARD OF TRUSTEES, TO DIRECTLY ROLL OVER ANY PORTION OF A DISTRIBUTION THAT WOULD CONSTITUTE AN ELIGIBLE ROLLOVER DISTRIBUTION IF IT WERE MADE TO A MEMBER, SURVIVING SPOUSE, OR ALTERNATE PAYEE, PROVIDED SUCH DIRECT ROLLOVER IS MADE TO AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN § 408(A) OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN § 408(B) OF THE INTERNAL REVENUE CODE, OR A ROTH IRA DESCRIBED IN § 408A OF THE INTERNAL REVENUE CODE THAT IS ESTABLISHED ON BEHALF OF THE NON-SPOUSE BENEFICIARY AND THAT WILL BE TREATED AS AN INHERITED IRA IN ACCORDANCE WITH THE PROVISIONS OF § 408(D)(3)(C) OF THE INTERNAL REVENUE CODE.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, ALL DISTRIBUTIONS FROM THE RETIREMENT SYSTEM SHALL BE MADE IN ACCORDANCE WITH BOARD OF TRUSTEES' GOOD FAITH INTERPRETATION OF THE PROVISIONS OF § 409(A) OF THE INTERNAL REVENUE CODE AND SUCH GOOD FAITH INTERPRETATION SHALL OVERRIDE ANY PROVISION OF THIS TITLE THAT IS INCONSISTENT WITH SUCH INTERPRETATION."

Councilman Kamenetz seconded the motion and these amendments passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Councilman Moxley then moved to amend this Bill with the following amendments:

1. On page 1, in the fifth line of the purpose paragraph, after "Group 4 members;"; insert "altering the mandatory retirement age for Group 4 members;"; 3 lines up from the bottom of the purpose paragraph, after the first "altering", insert "and clarifying"; and in the same line, strike the second "altering" and substitute "clarifying that certain sheriffs deputies and certain correctional officers on a certain Pay Schedule may participate in the DROP; clarifying".

2. On page 2, in the second line up from the bottom of the purpose paragraph, after “plan”; insert “clarifying certain law regrading ‘county agencies;’”; in the same line, strike “a” and “term” and insert “terms” after “certain”; in the first function paragraph, in the first line, strike “(ii) and (iii)”; after “5-1-216(b), (c),” strike “and (g)” and substitute “(g), and (h),”; in the same line, after “5-1-217(b)”, insert “and (c)”; in the second function paragraph, strike “Section” and substitute “Sections 5-1-201(m), 5-1-203(10) and”; in the third function paragraph, strike “Section” and substitute “Sections 5-1-203(5)(iv) and”; and after the third function paragraph, insert:

“BY renumbering
Section 5-1-201(m) through (x)
Subtitle 2. Retirement System
Title 1. Employees Retirement System
Baltimore County Code, 2003
to be
Section 5-1-201(n) through (y)

BY renumbering
Section 5-1-203(5)(v) through (xi)
Subtitle 2. Retirement System
Title 1. Employees Retirement System
Baltimore County Code, 2003
to be
Section 5-1-203(5)(iv) through (x)”

3. On page 3, in line 2, strike “Section” and substitute “Sections 5-1-203(5)(iv) and”; in line 4, strike “is” and substitute “are”; in line 6, strike “(ii) and (iii)”; also in line 6, after “5-1-216(c)”, insert “and (h)”; and also in line 6, after “5-1-217(b)”, insert “and (c)”.

4. On page 4, in line 22, after “(7)”, insert:

“(i) The provisions set forth in this paragraph shall only apply to a special employment category, namely, to appointed department heads, the Labor Commissioner of the county, all elected officials of the county, OFFICERS AND EMPLOYEES OF A “COUNTY AGENCY” AS DEFINED IN PARAGRAPH (5) OF THIS SECTION and those other employees of the county occupying nonmerit appointed positions in either the Office of the County Executive, the Office of the County Administrative Officer, the Office of the County Attorney, the Office of the State's Attorney, the Office of the County Auditor, Secretary to the County Council, the Office of People's Counsel, the Zoning and Deputy Zoning Commissioners, or certain employees of the Circuit Court; and these special provisions shall be applicable notwithstanding anything to the contrary in this subtitle.”

5. On page 7, in line 19, after “1995”, insert “WITH A MINIMUM OF TWENTY (20) YEARS OF CREDITABLE SERVICE”.

6. On page 8, in line 2, insert an open-bracket after “attained”; in line 3, insert a close-bracket after “or”; in line 5, after “1995”, insert “WITH LESS THAN TWENTY (20) YEARS OF CREDITABLE SERVICE”; and after line 20, insert:

“(h) Any member in the service who has attained the age of [sixty (60)] SIXTY-FIVE (65), if a member of Group 4, shall be retired forthwith or on the first day of the next calendar month. Notwithstanding the foregoing, on written request of the employer to the Board of Trustees stating that such employee is mentally or physically capable of carrying out the member’s duties and request being approved by the Board of Trustees, the employee may be continued in service for a period of one (1) year, and for successive periods of one (1) year each as the result of each such request and approval.”.

7. On page 10, in line 12, after “1999”, insert “WITH LESS THAN TWENTY YEARS OF CREDITABLE SERVICE”.

8. On page 11, after line 17, insert:

(c) Any member in the service who has attained the age of [sixty (60)] SIXTY-FIVE (65) shall be retired forthwith or on the first day of the next calendar month. Notwithstanding the foregoing, on written request of the employer to the Board of Trustees stating that such employee is mentally or physically capable of carrying out the member’s duties and request being approved by the Board of Trustees, the employee may be continued in service for a period of one (1) year, and for successive periods of one (1) year each as the result of each such request and approval.

9. On page 19, in lines 7 and 9, respectively, strike “RETIRED” and substitute “RETIRES”.

10. On page 20, in line 10, insert an open-bracket before “on”; in line 11, insert a close-bracket after “granted”; and in line 17, place brackets around “(b)” and insert “(C)”.

11. On page 27, in line 18, strike “Section” and substitute “Sections 5-1-201(m), 5-1-203(10), 5-1-306, and”; strike “is” and substitute “are”; and after line 20, insert:

“§ 5-1-201.

(M) “EXEMPT MEMBER” MEANS A MEMBER AS DEFINED IN §5-1-203(7) OF THIS SUBTITLE.

§5-1-203.

(10) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE RATE OF CONTRIBUTION OF EMPLOYEES WHO BEGAN SERVICE BEFORE JULY 1, 2007 SHALL INCREASE AS FOLLOWS:

(I) BEGINNING JULY 1, 2010, THE RATE OF CONTRIBUTION SHALL INCREASE OVER THE RATE THAT THE EMPLOYEE WOULD PAY UNDER THE EXISTING LAW BY THE FOLLOWING AMOUNTS:

1. GROUP 3 MEMBERS (OTHER THAN APPOINTED DEPARTMENT HEADS), BY 0.5%; AND

2. GROUP 4 MEMBERS AND APPOINTED DEPARTMENT HEADS, BY 1%; AND

(II) BEGINNING JULY 1, 2011, THE RATE OF CONTRIBUTION SHALL INCREASE OVER THE RATE THAT THE EMPLOYEE WOULD PAY UNDER THE EXISTING LAW BY THE FOLLOWING AMOUNTS:

1. GROUP 3 MEMBERS (OTHER THAN APPOINTED DEPARTMENT HEADS), BY AN ADDITIONAL 0.5%; AND

2. GROUP 4 MEMBERS AND APPOINTED DEPARTMENT HEADS, BY AN ADDITIONAL 0.5%.

§5-1-306.

A GROUP 3 OR GROUP 4 MEMBER WHO BEGAN SERVICE BEFORE JULY 1, 2007 MAY RETIRE AND RETURN TO ACTIVE SERVICE WITH THE COUNTY, IF APPROVED BY THE COUNTY ADMINISTRATIVE OFFICER, PROVIDED THAT HE RETURNS TO A PREVIOUSLY EXISTING POSITION THAT IS DIFFERENT THAN THAT HELD AT THE TIME OF RETIREMENT. IF APPROVED, THE MEMBER MAY DEFER THE RECEIPT OF HIS ACCRUED BENEFIT AND CONTRIBUTE THAT AMOUNT TO A DEFERRAL ACCOUNT ESTABLISHED FOR THAT PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE MEMBER MAY ALSO PARTICIPATE IN THE SYSTEM ON TERMS APPROVED BY THE COUNTY ADMINISTRATIVE OFFICER. ON SUBSEQUENT RETIREMENT, THE MEMBER SHALL RECEIVE THE PROCEEDS OF THE DEFERRAL ACCOUNT AND ANY SYSTEM BENEFITS TO WHICH HE IS ENTITLED.”

12. On page 31, in line 1, after “in”, insert “§ 5-1-222(a)(2) of the Baltimore County Code, 2003 in Section 2 of this Act and”; after line 10, insert:

“SECTION 10. AND BE IT FURTHER ENACTED, that Section 5-1-201(m) through (x) of Subtitle 2. Retirement System, of Title 1. Employees Retirement System, of the Baltimore County Code, 2003, as amended, is hereby renumbered to be Section 5-1-201(n) through (y).

SECTION 11. AND BE IT FURTHER ENACTED, that Section 5-1-203(5)(v) through (xi) of Subtitle 2. Retirement System, of Title 1. Employees Retirement System, of the Baltimore County Code, 2003, as amended, is hereby renumbered to be Section 5-1-203(5)(iv) through (x)”; and in line 11, strike “10.” and substitute “12.”

Councilman Gardina seconded the motion and these amendments passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski

Nay - None

Councilman Gardina then moved to amend this Bill with the following amendments:

On page 19, in line 8, after "2007" insert ", INCLUDING A MEMBER WHO RETURNS TO SERVICE WITHIN 6 MONTHS AFTER SEPARATION FROM SERVICE"; in line 20, strike "60" and substitute "36"; on page 20, in line 2, strike "48" and substitute "24"; in line 13, strike the brackets and substitute "PERCENT FOR ALL BENEFICIARIES RECEIVING PENSION BENEFITS AS OF JULY 1, 2010 AND" and in the same line, after "percent", insert "FOR ALL OTHER BENEFICIARIES"

Councilman Bartenfelder seconded the motion and these amendments failed by the following roll call vote:

Aye - Gardina

Nay - Moxley, Kamenetz, McIntire, Oliver, Bartenfelder, Olszewski

Thereafter, upon motion by Councilman Moxley, seconded by Councilman Oliver, Bill 30-10, as amended, passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski

Nay - None

Bill 31-10, Agricultural and Rural Land Preservation Borrowing Ordinance, was called. There being no discussion, upon motion by Councilman McIntire, seconded by Councilman Oliver, this bill passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski

Nay - None

Bill 32-10, Community College Borrowing Ordinance, was called. Councilman Oliver moved to amend this bill with the following amendment:

In the purpose paragraph, first and fourth "WHEREAS" clauses and Section 1, strike "in the ensuing fiscal years starting July 1, 2011".

Councilman Moxley seconded the motion and this amendment passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski

Nay - None

Thereafter, upon motion by Councilman Moxley, seconded by Councilman McIntire, Bill 32-10, as amended, passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 33-10, Community & Economic Improvement Project Borrowing Ordinance, was called. There being no discussion, this bill was passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 34-10, Operational Buildings Borrowing Ordinance, was called. Councilman Moxley moved to amend this bill with the following amendment:

In the purpose paragraph, first and fourth “WHEREAS” clauses and Section 1, strike “in the ensuing fiscals years starting July 1, 2011”.

Councilman Oliver seconded the motion and this amendment passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Thereafter, upon motion by Councilman Moxley, seconded by Councilman Oliver, Bill 34-10, as amended, passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 35-10, Parks, Preservation & Greenways Borrowing Ordinance, was called. There being no discussion, this bill was passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 36-10, Public Works Borrowing Ordinance, was called. There being no discussion, this bill was passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 37-10, Refuse Disposal Borrowing Ordinance, was called. There being no discussion, this bill was passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 38-10, Schools Borrowing Ordinance, was called. There being no discussion, this bill was passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Bill 39-10, Waterway Improvement Program Borrowing Ordinance was called. There being no discussion, this bill was passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

F. APPROVAL OF FISCAL MATTERS

The Chairman stated that the Council would now consider Fiscal Matters. Extensive testimony on each item was taken at the Council's work session on May 18, 2010. The witnesses who testified at the work session were available to restate their testimony if needed. If a Councilmember had any questions regarding a particular Fiscal Matter, that item would be discussed as a separate matter. Chairman Olszewski then called upon the Secretary to read the cover letters for Fiscal Matters 1 through 3.

1. Contract of Sale - The Towson Presbyterian Church - Joint Acquisition w/State of MD - Program Open Space

A contract of sale with the Towson Presbyterian Church, for a joint acquisition with the State of Maryland, for the Department of Natural Resources, of a conservation easement permitting recreation and parks uses, consistent with the intent and requirements of program open space.

2. Contract - Occupational Health Centers of the Southwest, P.A. - d/b/a Concentra Medical Centers- Pre-employment Exams, etc.

A contract with Occupational Health Centers of the Southwest, P.A. d/b/a Concentra Medical Centers, to provide pre-employment and other physical examinations not related to treatment of work injuries, including SARA physicals and pre-employment and random drug screenings.

3. Addendum to Contract - EA Engineering, Science & Technology, Inc. - Program Management Services/Sewer Consent Decree

An addendum to the contract with EA Engineering, Science & Technology, Inc., to increase the upset limit.

There being no discussion, upon motion by Councilman Oliver, seconded by Councilman Moxley, Fiscal Matters 1 through 3 were unanimously approved.

G. MISCELLANEOUS BUSINESS

1. Correspondence - - Non-Competitive Awards

At the direction of the Chairman, the Secretary read the correspondence from the Office of Budget and Finance listing the non-competitive awards made during March, 2010.

2. Res. 32-10 - Adoption of Rosewood Institutional Educational Center Plan

At the direction of the Chairman, the Secretary read this resolution to adopt the Rosewood Institutional Educational Center Plan as part of the Baltimore County Master Plan 2010. Councilman Kamenetz commented then moved to amend this Resolution with the following amendment:

On page 19 of the Rosewood Institutional Educational Center Plan, in the last sentence under the paragraph titled “the Associated Jewish Charities”, after “Shoshana S. Cardin School”, strike the word “would” and substitute “may”

Councilman Moxley seconded the motion and this amendment passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Thereafter, upon motion by Councilman Kamenetz seconded by Councilman Moxley, Resolution 32-10, as amended, passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

3. Res. 33-10 - Amendment to PUD Review - Nottingham Ridge

At the direction of the Chairman, the Secretary read this resolution to approve an amendment to a previously approved Resolution permitting the review of a Planned Unit Development in accordance with County law. Councilman Gardina commented and was questioned by Councilmembers McIntire and Bartenfelder. Councilman Gardina then moved to amend this Resolution with the following amendments:

On page 2, in the first WHEREAS clause, strike the last three lines and substitute the following:

“EAc1 shall have a minimum of 9 points, WEc1 shall have a minimum of 2 points and WEc3 shall have a minimum of 2 points and SSc6 shall have a minimum of 1 point; and”

Councilman Moxley seconded the motion and these amendments passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

Thereafter, upon motion by Councilman Gardina seconded by Councilman Moxley, Resolution 32-10, as amended, passed by the following roll call vote:

Aye - Moxley, Kamenetz, McIntire, Oliver, Gardina, Bartenfelder, Olszewski
Nay - None

4. Res. 35-10 - Priority List for Rural Legacy Applications

At the direction of the Chairman, the Secretary read this resolution to rank five Rural Legacy Area Plan applications submitted to the Maryland Department of Natural Resources for consideration and approval by the Maryland Rural Legacy Board for funding in fiscal year 2011. These plans include the Baltimore County Coastal, Gunpowder River, Long Green Valley Area, Manor Area and Piney Run Area. There being no discussion, upon motion by Councilman Moxley, seconded by Councilman McIntire, this resolution was unanimously approved.

5. Res. 36-10 - Accept gift from Emergency Number Systems Board - 911 System

_____ At the direction of the Chairman, the Secretary read this resolution to authorize the County to accept a gift of money from the State of Maryland Department of Public Safety and Correctional Services, Emergency Number Systems Board, for the Baltimore County Emergency Communication Center (9-1-1 Center) to purchase a new 9-1-1 telephone system and workstations for the Back-Up 9-1-1 Center. There being no discussion, upon motion by Councilman Moxley, seconded by Councilman Oliver, this resolution was unanimously approved.


6. Res. 37-10 - Non-Local Funding - CCBC

_____ At the direction of the Chairman, the Secretary read this resolution concerning the Community College of Baltimore County and the authorization for expenditures of non-local funds. Melissa L. Hopp appeared. There being no discussion, upon motion by Councilman Moxley, seconded by Councilman McIntire, this resolution was unanimously approved.

7. Res. 38-10 - Review of PUD - Consolidated Equities Corporation

_____ This Resolution was introduction only.

There being no further business to come before the Council at this time, upon motion by Councilman Moxley, seconded by Councilman McIntire, the meeting adjourned at 10:55 A.M.



Thomas J. Peddicord, Jr.