

MEMORANDUM: November 16, 2016

To: Nancy Floreen, President, Montgomery County Council

From: Isiah Leggett, County Executive

Bill 41-16, Community Zoning and Land Use Resource Officer

Thank you for considering my views on Bill 41-16, Community Zoning and Land Use Resource Officer. When I was on the Council, I initially proposed a fully functioning Office of People's Counsel. As originally drafted, the office was intended to function as a legal resource, employing an experienced attorney who would represent residents in land use proceedings to promote full and fair presentation of issues and to assure sound land use decisions. As envisioned in the original legislation, the OPC would be empowered to:

- Participate in proceedings before the County Council, Board of Appeals, Planning Board, and Hearing Examiner and court appeals.
- Obtain highly qualified experts to provide technical assistance and expert testimony;
- Represent residents before Park and Planning, Council and Board of Appeals as an advocate and as an expert witness.
- File complaints alleging failure to comply with a special exception grant; seek modification or revocation of special exceptions when such action is necessary.

However, the then County Executive and some Councilmembers did not support such a strong legislative mandate for the proposed People's Counsel, and as a compromise, what was ultimately adopted was essentially what the proposed Community Zoning and Land Use Resource Officer would now do, which I believe is inadequate. I had always envisioned revisiting and strengthening the powers of the OPC. When I became the County Executive, and the County and nation were plunged into extraordinary financial circumstances that still reverberate today, I held off out of fiscal prudence.

As introduced, Bill 41-16 would replace provisions for a People's Counsel with provisions for a Community Zoning and Land Use Resource Officer who would provide an independent source of information to educate residents on how, when, and where they may participate in the public approval process for sketch plans, subdivisions, site plans, conditional use applications, and variances. That is essentially what the People's Counsel did after we compromised the original bill in order to ensure passage. Since introduction, I have been informed that the sponsor will offer an amendment that would retain the provisions for the Office of People's Counsel while retaining the Resource Office provisions. Under Bill 41-16, the primary function of the Community Zoning and Land Use Resource Officer would be to 1) meet with community members to inform them of critical decision points in the process; 2) educate community members individually or in group meetings on how to develop effective testimony before decision making bodies; and 3) answer questions concerning zoning and land use from community members or community organizations. Bill 41-16 would prohibit the Resource Officer from being a direct participant in any proceeding in the development process.

While I believe that Bill 41-16 is well intentioned, I also believe it lacks the robust mandate of a true People's Counsel. A true and fully functional Office of People's Counsel could easily provide the service envisioned for the Resource Officer and fully represent residents before appropriate bodies considering land use decisions. To that extent, the legislation would create a potentially unnecessary and duplicative

entity. Therefore, I do not support the legislation. I believe that the majority of our residents are either well versed in how to participate in the public processes that are available to them at Park and Planning, Council and the Board of Appeals or are able to access the widely available, comprehensive information on how to do so. I remain committed to adopting a full-fledged People's Counsel that can fully represent our residents, as well as perform the function of a resource officer when the County's financial outlook is more certain, and at that time I would recommend amendments to the current language to strengthen the role of the Office of People's Counsel.

Finally, I urge the Council to postpone action on this bill until it has an opportunity to consider the FY18 budget. Revenue projections and the outlook for FY18 are still challenging. Additionally, the Council has adopted or is considering adopting initiatives that increase expenditures (e.g., \$8 million for road resurfacing) or decrease revenue (the property tax credit in Bill 42-16). These types of actions, taken out of the context of the full fiscal picture, decrease our flexibility and make it more challenging to act on other County priorities.