AGENDA ITEM 4A
March 13, 2018

Introduction

MEMORANDUM

March 9, 2018

TO: County Council

FROM: Amanda Mihill, Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 8-18, Streets and Roads – Storm Drainage Right-of-Way - Abandonments

Expedited Bill 8-18, Streets and Roads – Storm Drainage Right-of-Way - Abandonments, sponsored by Lead Sponsor Council President at the request of the County Executive, is scheduled to be introduced on March 13, 2018. A public hearing is tentatively scheduled for April 3, at 1:30 p.m.

Bill 8-18 would allow the County Executive to abandon a right-of-way that is used exclusively for storm drainage.

This packet contains:	Circle #
Expedited Bill 8-18	1
Legislative Request Report	4
Memo from County Executive	5
Fiscal and Economic Impact statement	6

F:\LAW\BILLS\1808 Storm Drain Rights Of Way\Intro Memo.Docx

Expedited Bill No. 8-18
Concerning: Streets and Roads – Storm Drainage Right-of-Way – Abandonments
Revised: 3/1/2018 Draft No. 1
Introduced: March 13, 2018
Expires: September 13, 2019
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

(1) allow the County Executive to abandon a right-of-way that is used exclusively for storm drainage;

(2) generally amend County law related to streets and roads and right-of-way-abandonments.

By amending

Montgomery County Code
Chapter 49, Streets and Roads
Section 49-62

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 49-62 is amended as follows:

49-62. Abandonment authority; scope of Article; procedures.

(a) *Authority.* The County Council, by adopting a resolution, may close to public use or abandon the County's right to use any right-of-way. As used in this Article, *right-of-way* means any road, street, alley, crosswalk, pedestrian walkway, shared use path, water main, sanitary sewer, storm sewer, or storm drainage right-of-way used at any time by the public, including use by pedestrians and bicyclists. This Article applies to all rights-of-way except as provided in subsection (j) and State road rights-of-way, and may apply to a State road right-of-way if the appropriate State agency expressly consents. Before the Council adopts a resolution under this Article, the procedures in this Article must be followed.

* * *

(j) *Storm drainage rights-of-way.*

(1) In this subsection, *County Executive* means the County Executive or the Executive's designee.

(2) The procedures in this subsection are the exclusive means to abandon all or a portion of a platted or recorded public storm drainage right-of-way that is not used for any other public purpose.

(3) The County Executive may grant a partial or total abandonment of the existing storm drainage right-of-way if the Executive:

(A) receives a written request, accompanied with a survey delineating the area sought to be abandoned;

(B) investigates any potential impacts that the requested abandonment may have upon the existing storm drain facility; and

(C) finds that:

(i) the area requested to be abandoned is no longer necessary for current or anticipated public use in the foreseeable future; and

(ii) abandoning the portion of the right-of-way will not adversely impact the County's ability to access and/or maintain any portion of the storm drain facility located within the right-of-way.

(4) Before granting a partial or total abandonment of a storm drainage right-of-way under this subsection, the County Executive may require the owner of the land that is presently encumbered by the storm drainage right-of-way, or the proposed owner if the County holds fee-title to the storm drainage right-of-way, to execute a maintenance and liability agreement. If the Executive requires a maintenance and liability agreement, the agreement must:

(A) be on a form acceptable to the Executive; and

(B) hold the County harmless for any damages to private property located in the area proposed to be abandoned that arises out of the presence, maintenance of, or other work related to the existing storm drain facility

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

LEGISLATIVE REQUEST REPORT

Expedited Bill 8-18

Streets and Roads – Storm Drainage Right-of-Way - Abandonments

DESCRIPTION: The bill provides an exemption to the abandonment procedures mandated by the current law that would permit the County Executive or a designee to abandon a right-of-way without need for Council approval when that right-of-way is used exclusively for storm drainage and is not necessary to remain in the public use.

PROBLEM: Currently, an applicant must go through a formal abandonment proceeding for all types of right-of-way, including rights-of-way used exclusively for storm drainage. The County Executive feels that this process is unnecessarily cumbersome and expensive with respect to right-of-way that is used exclusively for storm drainage that is not necessary for public use, and that Council review should not be a condition precedent to abandonment. Requiring Council approval for this limited type of abandonment has impeded the redevelopment of properties because it requires, among other things, (1) notice to the public and various agencies, (2) a hearing conducted by the County Executive, (3) a report transmitted to Council, and (4) a Council hearing and approval. While this process is useful for abandoning certain types of right-of-way (such as roads), the public interest is not nearly as great in the abandonment of right-of-way that is used exclusively for storm-drainage. For this reason, the process should be streamlined to allow for abandonment of right-of-way that is used exclusively for storm-drainage.

GOALS AND OBJECTIVES: To streamline and simplify the abandonment of unnecessary storm drain easements.

COORDINATION: Departments of Transportation and Permitting Services

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: N/A

SOURCE OF INFORMATION: Department of Transportation, Division of Transportation Engineering

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

February 21, 2018

TO: Hans Riemer, Council President

FROM: Isiah Leggett, County Executive

SUBJECT: Proposed Amendment to County Code Chapter 49

I request that you introduce the attached Chapter 49 Amendment. The intent of this proposed amendment is to allow an exception to current law that would permit the County Executive or a designee to abandon right-of-way that is used exclusively for storm drainage.

Section 49-62 details the procedures that must be followed before the Council can adopt a resolution of abandonment under this Article. These procedures outline an extensive process by which right-of-way can be abandoned. Storm drain easements are included within the definition of right-of-way under section 49-62 and therefore are currently subject to the abandonment process.

Under this proposed amendment, an exception would be created to allow the County Executive or a designee to abandon all or a portion of a storm drain easement that is not used for any other public purpose. Under this exception, the County Executive or a designee would be required to investigate the request for an abandonment to determine whether there are any potential impacts to the existing storm drain system resulting from such an abandonment. A partial or total abandonment of an existing storm drain easement can only be granted when that easement is no longer necessary for current or anticipated public use and the abandonment will not adversely impact the County's ability to access and/or maintain any portion of the storm drain facility that is located within the easement.

IL/ew

Fiscal Impact Statement
Bill XX-17 - Abandonment Authority, Amendments to County Code Chapter 49

1. **Legislative Summary**

   This bill would allow an exception to current law that would permit the County Executive or a designee to abandon right-of-way that is used exclusively for storm drainage under certain conditions.

2. **An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

   Not applicable

3. **Revenue and expenditure estimates covering at least the next 6 fiscal years.**

   Not applicable

4. **An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

   Not applicable

5. **An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

   Not applicable

6. **Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

   Not applicable

7. **An estimate of the staff time needed to implement the bill.**

   This proposed amendment would simplify the process for this type of abandonment and therefore would not impact staff time required.

8. **An explanation of how the addition of new staff responsibilities would affect other duties.**

   No additional staff required

9. **An estimate of costs when an additional appropriation is needed.**

   Not applicable

10. **A description of any variable that could affect revenue and cost estimates.**

    Not applicable

11. **Ranges of revenue or expenditures that are uncertain or difficult to project.**

    None

12. **If a bill is likely to have no fiscal impact, why that is the case.**

    This proposed amendment would simplify the existing process for the abandonment of right-of-way that is used solely for storm drainage. In that it is to modify the existing process, no fiscal impact is expected.

13. **Other fiscal impacts or comments.**

    None

14. **The following contributed to and concurred with this analysis:**

    Brady Goldsmith, Office of Management of Budget

    Eric Willis, Department of Transportation

    Emil Wolanin, Department of Transportation

Jennifer A. Hughes, Director
Office of Management and Budget

2/15/18
Date

Economic Impact Statement
Bill XX-17 - Abandonment Authority, Amendments to County Code Chapter 49

Background

This bill would allow an exception to current law that would permit the County Executive or a designee to abandon right-of-way that is used exclusively for storm drainage under certain conditions.

1. **The sources of information, assumptions, and methodologies used.**

   This legislation does not have an economic impact since it has no effect on revenue or expenditures, or economic conditions.

2. **A description of any variable that could affect the economic impact estimates.**

   Not applicable

3. **The Bill's positive or negative effect, if any on employment, spending, savings, investment, income, and property values in the County.**

   The bill could potentially result in certain properties having increased property values due to portions of the subject property no longer being burdened with a storm drain easement.

4. **If a Bill is likely to have no economic impact, why is that the case?**

   See response to question #1.

5. **The following contributed to and concurred with this analysis:**

   David Platt, Finance

   Eric Willis, Department of Transportation

   Emil Wolanin, Department of Transportation

Alexandre A. Espinosa, Director
Department of Finance

2/14/18
Date