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Finding our Voice

Perspectives from the CM Board of Directors

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Trees Matter – The Back Story Behind the Recently Passed Tree Legislation

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Two pieces of landmark tree legislation passed the County Council on July 23rd. One covers street trees in the public Right of Way and the other addresses tree loss on small lots. Both bills are considered a victory for the environmental and civic communities who worked diligently over many months. They did so in response to Montgomery County citizens, who have been distressed for many years by the loss of large trees in their neighborhoods and along roadsides. As concern has grown, there have been several attempts to get legislation enacted. These two bills are the first to have reached a Council vote.

Since the 9-0 vote on 'Bill 35-12 -Urban Tree Canopy' there have been many media stories and a fair amount of misinformation generated. This is not unexpected when something we aren't used to seeing legislated -- in this case individual trees. Suddenly trees are within a web of new regulation. The new tree laws will apply primarily to infill builders who fought to weaken the legislation or stop it altogether. Bill 35-12 will cost slightly more money to replace trees on individual lots where builders cut them down, and will apply on lots that initially have no trees at all. The goal of the tree bill is to grow canopy for future generations, especially where it is removed or in parts of the county where canopy cover is most sparse.

But let's look at the back story, especially for the Urban Canopy Bill (35-12). Far from suffering a defeat, the builders are both architects and recipients of a hard fought compromise. The bill first introduced by the County Executive looked different than what was finally passed. During the five Transportation, Infrastructure, Energy and Environment (T&E) Committee work sessions, the initial bill morphed into two planting options offered by the Department of Environmental Protection (DEP) after a small group of developers pushed back with an alternative that addressed their objections to what they perceived as a costly fee structure.

DEP took elements of the builders' original proposal but offered two enhanced replanting options. Option 1 called for two shade trees and two small ornamental trees to be planted on site. Option 2 tripled the number of shade trees required and eliminated the ornamental tree requirement; this will result in a much more robust canopy than Option 1. The unanimous T&E Committee recommendation was for Option 2. What ultimately came before the full Council for a vote already reflected a compromise that addressed building community concerns. The Council voted for Option 2 by 5-4. Once Option 2 prevailed, the full Council passed the legislation unanimously. Who wants to be seen as not favoring trees?

Will this save existing trees on redeveloped sites? No, the Bill does not specifically do so. What did we gain from this long, difficult experience? We legislated trees, which hasn't been done before. Montgomery County has a 20-year-old Forest Conservation Law (FCL). We know the FCL has worked to preserve and/or create forest throughout the County. But the FCL only applies to lots 40,000 square feet or more. As population increases and the County becomes more urban, available large lots decrease in number. Tree canopy in urban settings is on the decline throughout the country.

What does legislating for our tree canopy mean? - It elevates trees to a position of value. In the past 20 years, science and technology has allowed us to quantify what our natural resources provide to the planet and everything that lives on it. Twenty years ago we didn't know as much about the complex network of living organisms in our streams, or if they were 'fishable and swimmable' as Maryland law requires. We didn't know how crucial trees and forest buffers are to water quality, not just adjacent to streams but upland as well. Now we know, because we have a County Water Quality Monitoring Program that has shown that most of the streams in Montgomery County are degraded by runoff from impervious surfaces and sediment erosion from development. These streams feed our rivers and the Chesapeake Bay. They are the source of our drinking water supply.

Science and technology gives us a new window on decisions we've made and the impacts of these decisions. Like the development planned -- but not yet executed -- in Ten Mile Creek. Like trees, Ten Mile Creek needs our attention and protection. And the tree legislation that was just passed? We consider it a good start toward ensuring a green, life giving canopy in every neighborhood.

Let's reflect on how trees, the land and our waters work together to create the healthy environment we all need. There is more we can do to help protect our natural resources in the coming months.

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