



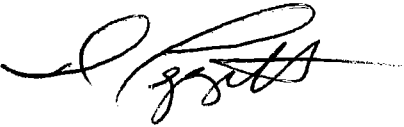
OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

MEMORANDUM

Isiah Leggett
County Executive

June 1, 2018

TO: Hans Riemer, President
County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Veto of Line-Item in CIP Budget for Montgomery County's Clean Water
And Permit Compliance Program

I am in receipt of the Capital Improvements Program for the two-year period beginning this July 1 as approved by the County Council on May 24, 2018. In accordance with the provisions of the County Charter, I am exercising my veto of the line-item appropriation for Montgomery County's Clean Water and Permit Compliance Program. I am vetoing the FY 19 appropriations for Projects P807359 (Misc Stream Valley Improvements), P801300 (SM Retrofit – Roads), and P808726 (SM Retrofit Countywide) on which Council took action as part of its rejection of my proposed Design/Build/Maintain (DBM) approach to future stormwater management projects.

This is the first line-item veto of my nearly 12 years as County Executive. In fact, it is the first such veto since 1993. I do not take this action lightly.

While I appreciate the good judgement and support for needed reform from four Councilmembers, it remains incomprehensible to me how the five members of the Council in the majority, who purportedly have the best interests of our County taxpayers and environment in mind, were able to take an action so clearly against greater efficiencies and effectiveness in an important taxpayer-funded County program.

The County Charter specifies a clear division of responsibilities between the legislative and executive branches. The Council is responsible for passing laws, approving budgets, and exercising oversight of programs. The Executive is responsible for running the County government, including implementing programs in the most efficient and cost effective manner. By taking the action it did, the Council crossed that line in the Charter and attempted to micro-manage the implementation of a County program.

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So the Council majority's action is wrong vis-à-vis the Charter. It is also wrong on the substance. It hurts our environmental efforts. It prevents needed changes. It ensures that County taxpayers will pay more and more in stormwater management fees – and get less and less in return.

As you know, Montgomery County has been the pioneer for Maryland's MS4 program. We have led the region in reducing stormwater pollution from impervious areas such as parking lots, rooftops and buildings. Through the activities undertaken by the Department of Environmental Protection (DEP), as well as many other County agencies that address stormwater management issues, over 5,000 acres or close to 30% of impervious surface have been controlled in the County, over 8,600 trees have been planted producing enough oxygen to help over 4,300 families breathe better, and over 30 miles of streams have been restored creating improved habitats for wildlife and beautifying neighborhoods. I am proud of the accomplishments of the County and the leadership it has provided for other jurisdictions.

Those accomplishments notwithstanding, in 2015, the County failed to meet the requisite number of treated impervious acres under our 2010 MS4 Permit. The current contracting approach relies on separate contracts for design, construction and maintenance, and the work is tasked on a project-by-project basis. This model has led to inefficiencies, delays, and therefore, greater costs. I also felt it was necessary to step back from the repeated increases of the Stormwater Management Charge that have taken place at an average rate of 16 percent per year. This type of increase is not sustainable for a taxpayer funded program.

As I have said before, my proposal for achieving the requirements of the County's MS4 permit was specifically designed to move this vital environmental program forward in a more efficient and cost-effective way while allowing us to hold the line on property tax bills. That is why the CIP I submitted for the MS4 Program did not propose increasing the Stormwater Management Charge for FY19 or FY20 while still allowing us to meet our environmental goals through a different contracting approach.

My new DBM contracting proposal centered on having a large volume of impervious acre restoration with design, construction and maintenance achieved under one contract. This allows for a life-cycle approach for stormwater management facilities and also requires the contractor to share in the risk. This reform is critical for the County's ability to meet its future MS4 permit requirements and achieve its larger environmental and green infrastructure objectives. This was not "privatization." DEP will continue to have control over the projects undertaken, oversight and community engagement.

I regret that you and the Council majority have made this veto necessary. Playing politics with a critical environmental issue, doubling down on a costly and inefficient status quo, and kicking the proverbial can down the road will never be confused with effective governance.