



THE MARYLAND-NATIONAL CAPITAL  
Park and Planning Commission

# COMMISSION MEETING

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**November 16, 2022**  
**10:00 a.m. to 12 noon**

**The Commission will be meeting live and by  
teleconference and will be live-streamed from:**

**Wheaton Headquarters**

*Auditorium*

2425 Reddie Drive

Wheaton, Maryland 20902

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**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
MEETING AGENDA  
Wednesday, November 16, 2022**

		<u>ACTION</u>	
		Motion	Second
1.	<b>Action Item (10:00 am)</b>		
	a) Appointment of Peter A. Shapiro as Chair of the M-NCPPC and Jeff Zyontz as Vice-Chair of the M-NCPPC	(*)	
	b) Liaison Board Appointments:		
	1. Audit Committee Appointment	(+*)	LD
	2. Resolution 22-40 Presley to Employees' Retirement System Board of Trustees	(+*)	LD
	3. Resolution 22-41 Pinero to 115 Trust	(+*)	LD
2.	<b>Approval of Commission Agenda (10:00 a.m.)</b>	(+*)	Page 1
3.	<b>Approval of Commission Minutes (10:05 a.m.)</b>		
	a) Open Session – July 20, 2022	(+*)	Page 3
	b) Closed Session – July 20, 2022	(++*)	
	c) Special Meeting Open Session – September 8, 2022 <i>no regular Commission meeting held August, September, or October 2022</i>	(+*)	Page 13
4.	<b>General Announcements (10:05 a.m.)</b>		
	a) Thanksgiving & Employee Appreciation Day Holidays		
	b) National American Indian Heritage Month (Maryland American Indian Heritage Day Nov 25)		
	c) American Lung Cancer Awareness Month & Pancreatic Cancer Awareness Month		
	d) Great American Smoke Out Nov 17		
	e) Bereaved Siblings Month		
	f) Caregivers Month		
	g) National Adoption Month		
	h) Military Family Appreciation Month		
	i) Upcoming Festival of Lights and Winter Garden of Lights Walk-Through in Prince George's and Montgomery Counties		
	j) Diversity Council Openings for 2023		
5.	<b>Committee Minutes/Board Reports (For Information Only) (10:10 a.m.)</b>		
	a) Executive Committee Meeting – September 7, 2022 Open Session	(+)	Page 15
	b) Executive Committee Meeting – September 7, 2022 Closed Session	(++)	
	c) Executive Committee Meeting – November 2, 2022 Open Session <i>no Executive Committee meeting in October</i>	(+)	LD
	d) Employees' Retirement System Board of Trustees Regular Meeting – July 12, 2022	(+)	Page 23
	e) Employees' Retirement System Board of Trustees Regular Meeting – September 6, 2022	(+)	Page 27
	f) Employees' Retirement System Board of Trustees Regular Meeting – October 4, 2022	(+)	Page 31

*continued*

6. **Action and Presentation Items (10:15 a.m.)**
- a) Diversity Council Strategic Plan for 2023-2025 (Diversity Council) (+\*) Page 37
  - b) Resolution 22-34 Re-Appointment of Michael Strand to the M-NCPPC Merit Board (King) (+\*) Page 45
  - c) Resolution 22-35 Request to Approve Change of Resident Agent for Service of Process (Borden) (+\*) Page 49
  - d) Resolution 22-36 Adoption of the Employees' Retirement System Plan Document Restatement Effective July 1, 2022 (Rose) (+\*) Page 53
  - e) Resolution 22-37 Recommendation to approve an Employer Contribution of \$28,367,491 to the Employees' Retirement System for Fiscal Year 2024 (Rose/Cheiron) (+\*) Page 57
  - f) Recommendation for Appointment of Nuveen as a new Investment Manager for The Employees' Retirement System (Rose) (+\*) Page 81
  - g) CAS Cost Allocation (Kroll) (+\*) Page 83
  - h) 115 Trust Report (Cohen) (+\*) Page 89
  - i) Resolution 22-38 Temporary Extension of Annual/Generic Leave Carryover (Chiang-Smith) (+\*) Page 93
  - j) Resolution 22-39 Resolution to Dissolve the Executive Committee by Modifying Resolution Nos 74-46 and 76-34 (Borden/Vaias) (+\*) Page 97
  - k) Information on MPIA Policy (For Information Only) (+) Page 101
  - l) Information on Extension of Referral and Sign-On Bonuses (Beckham) (For Information Only) (+) Page 157

7. **Officers' Reports (11:45 a.m.)**

Executive Director's Report

- a) Late Evaluation Report, September-October 2022 (For Information Only) (+) Page 159
- b) Budget Transfer Quarterly Report (For Information Only) (+) Page 163
- c) 4<sup>th</sup> Quarter Purchasing Statistics (For Information Only) (+) Page 167

Secretary Treasurer

- d) 4<sup>th</sup> Quarter FY22 and 1<sup>st</sup> Quarter FY23 Investment Reports (For Information Only) (+) Page 181

General Counsel

- e) Litigation Report (For Information Only) (+) Page 191

(+) Attachment

(++) Commissioners Only

(\*) Vote

(H) Handout

(LD) Late Delivery



Commission Meeting  
Open Session Minutes  
July 20, 2022

The Maryland-National Capital Park and Planning Commission met via videoconference with the Chair initiating the meeting at the Wheaton Headquarters Building in Wheaton, Maryland. The meeting was broadcast by the Montgomery County Planning Department.

PRESENT

Montgomery County Commissioners

Casey Anderson, Chair  
Gerald Cichy  
Tina Patterson

Prince George’s County Commissioners

Peter A. Shapiro, Vice Chair  
Dorothy Bailey  
Manuel Geraldo  
A. Shuanise Washington

NOT PRESENT

Carol Rubin  
Partap Verma

William Doerner

Chair Anderson called the meeting to order at 10:03 a.m.

ITEM 1      APPROVAL OF COMMISSION AGENDA  
Executive Director Chiang-Smith added Item 5i to the agenda  
ACTION: Motion of Commissioner Washington to approve the amended agenda  
            Seconded by Commissioner Bailey  
            7 approved the motion

ITEM 2      APPROVAL OF COMMISSION MINUTES  
Open Session – June 15, 2022  
Closed Session – June 15, 2022  
ACTION: Motion of Commissioner Geraldo to approve the minutes  
            Seconded by Commissioner Bailey  
            7 approved the motion to approve open session minutes  
            6 approved the motion to approve closed session minutes  
            Commissioner Patterson abstained from the closed session minutes vote

ITEM 3      GENERAL ANNOUNCEMENTS  
a) Bereaved Parents’ Month  
b) Upcoming Hispanic Heritage Month (September 15 to October 15)

ITEM 4      COMMITTEE MINUTES/BOARD REPORTS (For Information Only)  
a) Executive Committee Meeting, July 6, 2022 Open Session

- b) Executive Committee Meeting, July 6, 2022 Closed Session
- c) Employees' Retirement System Board of Trustees Regular Meeting, June 7, 2022

ITEM 5      ACTION AND PRESENTATION ITEMS

- a) Resolution 22-27 Prince George's County Bond Sale (Cohen)  
No discussion  
ACTION: Motion of Commissioner Washington to adopt Resolution 22-27  
          Seconded by Commissioner Geraldo  
          7 approved the motion
  
- b) Resolution 22-28 Montgomery County Bond Sale (Cohen)  
No discussion  
ACTION: Motion of Commissioner Cichy to adopt Resolution 22-28  
          Seconded by Commissioner Geraldo  
          7 approved the motion
  
- c) Resolution 22-29 Adoption of Adelphi Road-UMGC-MUD Purple Line Station (Punase)  
No discussion  
ACTION: Motion of Commissioner Geraldo to adopt Resolution 22-29  
          Seconded by Commissioner Washington  
          7 approved the motion
  
- d) Resolution 22-30 Adoption of the Bowie-Mitchellville and Vicinity Master Plan (revised) (Lester)  
No discussion  
ACTION: Motion of Commissioner Geraldo to adopt Resolution 22-30  
          Seconded by Commissioner Washington  
          7 approved the motion
  
- e) Resolution 22-31 Disposition of Nees Lane Lot (Coppola)  
No discussion  
ACTION: Motion of Commissioner Cichy to adopt Resolution 22-31  
          Seconded by Commissioner Geraldo  
          7 approved the motion
  
- f) Amendments to Practice 6-40 Sustainability (Beckham)  
Acting CPMO Beckham introduced Policy Analyst Michael Doaks who briefed Commissioners on proposed amendments to Practice 6-40 which establishes the agency's policy on conserving energy and other current industry sustainability standards. Mr. Doaks noted these changes were developed collaboratively with the

M-NCPPC Sustainability Committee and have been reviewed and supported by Department Heads and the Executive Committee.

He reviewed the current and proposed framework for the Practice. The amendments focus on three pillars – Environmental Responsibility, Social Justice, and Economic Vitality. It also creates a framework for the Sustainability Committee to create a regular 5-year Sustainability Plan.

Ms. Aparicio and Ms. Belle of the Sustainability Committee discussed how the amended Practice will frame the new M-NCPPC Sustainability Plan and future plans.

Commissioner Geraldo asked if a 5-year plan is realistic in light of the rapidly changing issues with climate change. Ms. Arapicio said the plans will be built with flexibility and can be modified to reflect developing regulations and science. She added there will be a regular semiannual progress report which will provide an executive summary of progress made on the 5-year plan goals. Modifications to the 5-year goals can be made at that time.

Vice-Chair Shapiro thanked everyone for their hard work and their regular communication. Chair Anderson agreed, saying these amendments are an improvement in both substance and structural design flexibility of the plan

**ACTION:** Motion of Commissioner Cichy to adopt the Policy Amendments  
Seconded by Commissioner Washington  
7 approved the motion

g) Incentives for COVID Boosters for Employees (Chiang-Smith/Beckham)

Acting CPMO Director Beckham reviewed for Commissioners the policy framework incentivizing employees to continue to follow health department guidelines by getting recommended COVID booster shots. The policy team was directed by Department Heads and the Executive Committee to provide a memo, draft Notice, and a guideline document so employees will know what to do if they test positive for COVID. The policy would provide, through the end of the calendar year, Administrative Leave for employees who are afflicted with the virus and either unable to telework or are advised by a physician not to work due to the effects of the virus. Mr. Beckham added the policy is for non-represented employees only. Employees would be required to submit their booster status using a similar mechanism as the vaccination reporting engine used in September 2021. Guidance for FOP and MCGEO Collective Bargaining units will be shared when agreements are reached.

Mr. Beckham reviewed the COVID guidance document, which provided instructions and information on what employees and their respective supervisors should do if an employee tests positive for COVID.

Commissioners and senior staff made several suggestions:

Commissioner Washington asked about the availability of home tests and if providing a positive home test would be acceptable to take advantage of the policy. Chair Anderson suggested adding language reflecting “either directed by a medical provider *or Risk Management/other Commission authority.*” Executive Director Chiang-Smith advised Commission staff should not be evaluating whether an employee can telework or not. Chair Anderson suggested the supervisor/department should be able to coordinate with Risk Management to evaluate whether people should not be working among other staff and whether they can or should be teleworking.

Executive Director Chiang-Smith clarified that Risk Management should not be determining whether the employee is too sick to telework. Chair Anderson agreed.

Chair Anderson said the policy needs to address the separate issues of (1) not spreading COVID, and (2) whether the employee is too sick to work/telework. Acting General Counsel Borden said the policy could use the same process as using Sick Leave – if the employee is too ill to work onsite, but may be able to telework, that is something that can be worked out with the employee’s supervisor. If they are too ill to work, they can request sick leave, and if they need to be out for more than three days, the absence should require a doctor’s note. Acting General Counsel Borden will work with the Policy Office to amend the language.

Director Checkley expressed concern for potential abuse of the policy. Chair Anderson said a doctor’s note or proper documentation (e.g., a positive COVID test) can be required. Executive Director Chiang-Smith said the Policy Office can work with Legal to ensure proper documentation language is included.

ACTION: Motion of Commissioner Washington to adopt the Policy, with discussed amendments

Seconded by Commissioner Geraldo

7 approved the motion

- h) Summary of Open Meetings Act Compliance Board Opinion, 16 OCB 144 (2022) pursuant to Md. Gen. Provisions Code Ann. §3-211(b) (Anderson)

Chair Anderson stated that the M-NCPPC was cited with a violation of the Open Meetings Act (OMA) having to do with proper closing statements and closed session



minutes. The violation noted the reason was that the agency failed to meet certain statutory requirements. He acknowledged that the agency received the Compliance Board's opinion and encouraged Commissioners to read the opinion. He said he believes in the importance of open government, transparency, and compliance with the OMA, but finds the interpretation and application of the alleged violations are incorrect. He said while the agency respects the OMA Board and OMA, we would not be serving the public well by failing to note how the interpretation of the Act in this violation impacts public perception.

For example, the Commission is permitted to conduct business in closed session for bargaining purposes to have confidential discussions of our bargaining position. In 2021, the Commission informed the public every time it engaged in these bargaining discussions through the agenda and the Chair's verbal statement, that they were entering a closed session to discuss collective bargaining. The OMACB cited a violation because the topic did not include the name of the union with which we were bargaining, which Chair Anderson said was needlessly granular. By citing the M-NCPPC with a hyper-technical violation such as this, the Compliance Board undermines trust in government operations because it is not a fair and accurate depiction of how the agency handles the closing of its open meetings.

Chair Anderson provided an additional example regarding the Employees' Retirement System (ERS) violation of the OMA by discussing Administrative matters in a way that was not consistent with the way the OMA Compliance Board's interprets the word "Administrative."

The result of the Compliance Board's interpretation of the topic's exception was to say the ERS can talk about the policies and investment in the retirement in closed session, but cannot discuss personnel issues in closed session. He said this is a perverse interpretation that does not serve the public. Chair Anderson said the agency accepts and embraces accountability by acknowledging error in public, but the OMA Compliance Board should be accountable for the consequences of their interpretation of the law, and if they are off base, they should confront it and recognize they are interpreting the Act in a way that does not serve the public and does not support public confidence in government by giving a false impression that something inappropriate is taking place.

i) Resolution 22-32 Appointment of Debra S. Borden as General Counsel (Gardner)

Chair Anderson and Vice Chair Shapiro expressed consensus to recommend appointing Deborah S. Borden to M-NCPPC General Counsel subject to the negotiation of an employment agreement with her.

ACTION: Motion of Commissioner Washington to adopt Resolution 22-32  
Seconded by Commissioner Geraldo

7 approved the motion

ITEM 6      OFFICERS' REPORTS

Executive Director's Report

a) Late Evaluation Report (May 2022) (For information only)

Secretary-Treasurer's Report

b) 3<sup>rd</sup> Quarter MFD Report (from June) (For information only)

c) FY2021 Single Audit Report (For information only)

General Counsel's Report

d) Litigation Report (For information only)

General Counsel Gardner noted this would be his last Commission meeting and thanked Commissioners for supporting him. He said having the ability to spend time with his family during a difficult time made a tremendous difference, and said the policies the agency has in place make a big difference for its staff. He thanked Commissioner and his colleagues for their sympathy on the passing of his mother and wished to acknowledge how meaningful their words were. He also thanked Debra Borden for her tireless work, and said he would not have considered leave without her support and acumen and is confident he is leaving the agency in good hands.

ITEM 7      CLOSED SESSION

*Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (9) & 15, a closed session is proposed on the following topic. The purpose of closing this meeting is generally to protect and promote the public interest by: (i) preserving privileged and confidential deliberations needed to manage ongoing collective bargaining negotiations and discuss cybersecurity matters.*

Chair Anderson asked for a motion to move to closed session. Commissioner Geraldo moved; Commissioner Washington seconded. The 7 Commissioners voted for the measure and the meeting moved to closed session at 10:56 a.m. The meeting reconvened in a separate virtual meeting platform to discuss Executive Director's collective bargaining update which may encompass discussion for both MCGEO and FOP collective bargaining units, and for the CIO to update Commissioners with cybersecurity matters.

ACTION: Geraldo moved to start closed session  
Washington seconded  
7 approved the motion

The following individuals were present (via videoconference):

Also present (by videoconference):

Asuntha Chiang-Smith, Executive Director

Gavin Cohen, Secretary-Treasurer

Andree Checkley, Director, Prince George's Planning

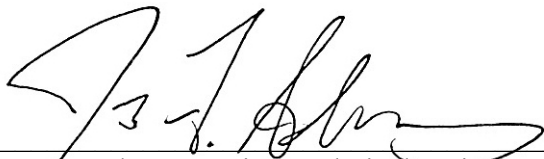
Christian Gabriel, Deputy Director, Prince George's Parks and Recreation for Director Bill Tyler

Adrian Gardner, General Counsel (departed 11:40 am)  
Mike Riley, Director, Montgomery Parks (departed 11:30 am)  
Gwen Wright, Director, Montgomery County Planning

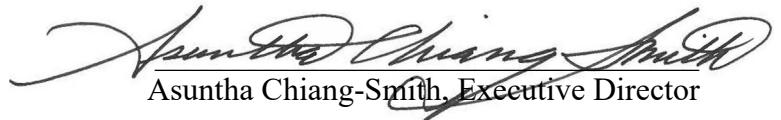
James Adams, Senior Technical Writer, DHRM  
Michael Beckham, Acting Corporate Policy and Management Operations (CPMO) Director  
Debra Borden, Acting General Counsel  
Gary Burnett, Acting Deputy Director, Montgomery Parks  
Mazen Chilet, Chief Information Officer  
Miti Figueredo, Deputy Director, Montgomery Parks  
Cynthia Henderson, Benefits Specialist, CHR  
Suzann King, Deputy Director, Prince George's Planning  
Katie Knaupe, Corporate Budget Manager for Corporate Budget Director John Kroll  
Jennifer McDonald, Benefits Manager, CHR  
William Spencer, Corporate HR Director  
Tanya Stern, Deputy Director, Montgomery Parks

The Executive Director updated Commissioners on collective bargaining negotiations and related matters. Commissioners provided direction and support on how to proceed. The CIO provided reviewed a cybersecurity report with Commissioners.

There being no further business to discuss, Chair Anderson adjourned the meeting from closed session at noon.



James F. Adams, Senior Technical Writer



Asuntha Chiang-Smith, Executive Director



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

**WRITTEN STATEMENT FOR CLOSING A MEETING  
UNDER THE OPEN MEETINGS ACT**

Date: 7/20/2022

Time: 10:56 am

Location: Via Videoconference

Motion to close meeting made by Commissioner Geraldo. Seconded by Commissioner Washington.

Members voting in favor: Anderson, Bailey, Cichy, Geraldo, Patterson, Shapiro, and Washington.  
Commissioners Doerner, Rubin and Verma were absent for the meeting.

Opposed:     N/A     Abstaining:     N/A     Absent: N/A

**STATUTORY AUTHORITY TO CLOSE SESSION, General Provisions Article, §3-305(b)  
(check all that apply):**

- (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;
- (2) To protect the privacy or reputation of individuals concerning a matter not related to public business;
- (3) To consider the acquisition of real property for a public purpose and matters directly related thereto;
- (4) To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- (5) To consider the investment of public funds;
- (6) To consider the marketing of public securities;
- (7) To consult with counsel to obtain legal advice on a legal matter;
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation;
- (9) To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- (10) To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans;
- (11) To prepare, administer, or grade a scholastic, licensing, or qualifying examination;
- (12) To conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- (13) To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
- (14) Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- (15) To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to: (i) security assessments or deployments relating to information resources technology; (ii) network security information, such as information that is related to passwords, personal ID numbers, access codes, encryption, security devices, or vulnerability assessments or that a governmental entity collects or maintains to prevent, detect, or investigate criminal activity; or (iii) deployments or implementation of security personnel, critical infrastructure, or security devices.

**FOR EACH CITATION CHECKED ABOVE, THE REASONS FOR CLOSING AND TOPICS TO BE DISCUSSED:**

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (9) and (15), a closed session is proposed. The purposes for closing this meeting generally are to protect and promote the public interest by: (i) preserving privileged and confidential deliberations needed to manage ongoing collective bargaining negotiations.

The topics to be discussed include a) Cybersecurity Update (Chilet); and b) Collective Bargaining Update (Chiang-Smith)

This statement is made by:

Casey Anderson, Chair, Presiding Officer.

PRINT NAME



7/28/2022

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SIGNATURE & DATE

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Special Meeting of the Commission  
Open Session Minutes  
September 8, 2022

The Maryland-National Capital Park and Planning Commission held a special meeting and met via videoconference with the Chair initiating the meeting at the Wheaton Headquarters Building in Wheaton, Maryland. The meeting was broadcast by the Montgomery County Planning Department.

PRESENT

Montgomery County Commissioners

Casey Anderson, Chair  
Gerald Cichy  
Tina Patterson  
Carol Rubin  
Partap Verma

Prince George's County Commissioners

Peter A. Shapiro, Vice Chair  
William Doerner  
A. Shuanise Washington

NOT PRESENT

Dorothy Bailey  
Manuel Geraldo

Chair Anderson called the meeting to order at 2:05 p.m.

ITEM 1 APPROVAL OF COMMISSION AGENDA

Items 3c and 3d were added to the agenda

ACTION: Motion of Commissioner Rubin to approve the amended agenda

Seconded by Commissioner Washington

8 approved the motion

ITEM 3 ACTION AND PRESENTATION ITEMS

- a) Resolution 22-19 Fiscal Year 2023 Reopener Agreement on Wages with Municipal and County Government Employees' Organization (MCGEO) UFCW, LOCAL 1994 (Chiang-Smith)

Executive Director Chiang-Smith reported the agency concluded a successful wage mediation with MCGEO, which included a 3.5% Merit increase; a 3.5% COLA, effective June 2023.

To offset the delay of the COLA (which non-represented employees received in September 2022), MCGEO represented employees are getting a tierd lump sum payment the first pay period in October of \$2000-2800, inversely scaled to salary to provide the most relief to the lowest-paid employees. There is also a 3.25% longevity increase for represented employees who have 17+ years of service.

Commissioners thanked the executive director for a job well done. Executive Director Chiang-Smith extended that thanks to the bargaining team.

ACTION: Motion of Commissioner Washington to adopt Resolution 22-19  
Seconded by Commissioner Patterson  
8 approved the motion

b) Resolution 22-14C Correction to Resolution 22-14 Adoption of the M-NCPPC's FY2023 Operating and Capital Budgets (Kroll)

No discussion

ACTION: Motion of Commissioner Rubin to adopt Resolution 22-14C  
Seconded by Commissioner Washington  
8 approved the motion

c) Resolution 22-33 Resolution of Appreciation for Adrian R. Gardner (Chiang-Smith)

Executive Director Chiang-Smith shared the resolution for the record, thanking the former General Counsel for his 22 years of service to the agency. Commissioners expressed their appreciation for Mr. Gardner's counsel over the years and wished him well.

ACTION: Motion of Commissioner Cichy to adopt Resolution 22-33  
Seconded by Commissioner Doerner  
8 approved the motion

d) Budget Transfer Request (Kroll)

Corporate Budget Manager Kroll asked for approval to move the remainder of the budgeted salary markers and distribute them back to the respective departments. In addition, Montgomery Parks requests a budget transfer to move the reclass marker and distribute back to the department.

ACTION: Motion of Commissioner Rubin to approve the transfers  
Seconded by Commissioner Washington  
8 approved the motion

There being no further business to discuss, Chair Anderson adjourned the meeting at 2:16 p.m.

  
James F. Adams, Senior Technical Writer

  
Asuntha Chiang-Smith, Executive Director





**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

6611 Kenilworth Avenue • Riverdale, Maryland 20737

**EXECUTIVE COMMITTEE MEETING MINUTES**

**September 7, 2022**

The Maryland-National Capital Park and Planning Commission’s Executive Committee met via teleconference. Present were Chair Casey Anderson, Vice Chair Peter Shapiro, and Executive Director Asuntha Chiang-Smith. Also present were:

Department Heads

- Andree Checkley, Director, Prince George’s County Planning (PGPL)
- Debra Borden, General Counsel
- Gavin Cohen, Secretary-Treasurer
- Mike Riley, Director, Montgomery County Parks (MCPK)
- Steve Carter, Deputy Director, Prince George’s County Parks and Recreation (PGPR), for Director Bill Tyler
- Gwen Wright, Director, Montgomery County Planning (MCPL)

Presenters/Staff

- James Adams, Senior Technical Writer
- Michael Beckham, Corporate Policy Manager
- Mazen Chilet, Chief Information Officer
- Michael Doaks, Policy Analyst, CPMO
- Tracey Harvin, Corporate Policy and Management Operations (CPMO) Director
- John Kroll, Corporate Budget Director
- William Spencer, Corporate Human Resources (CHR) Director

For item 3a only:

- Zubin Adrianvala, Diversity Council
- Ryan Harrison, Diversity Council
- Genevieve Jennai, Diversity Council

Executive Director Chiang-Smith opened the meeting at 10:03 am.

**ITEM 1a – APPROVAL OF EXECUTIVE COMMITTEE AGENDA**

Discussion	Executive Director Chiang-Smith noted changes to the agenda: <ul style="list-style-type: none"> <li>• Cancelled Item 1B September 21 Commission meeting agenda</li> <li>• Added new Item 1B September 8 Special Meeting of the Commission agenda</li> </ul>
ACTION	Agendas passed, with amendments described above. Chair Anderson moved; Vice Chair Shapiro seconded. Approved unanimously.

**ITEM 1b – APPROVAL OF COMMISSION MEETING AGENDA for September 2022**

Discussion	Executive Director Chiang-Smith cancelled the September 21 Commission meeting and added a Special Meeting of the Commission for September 8
ACTION/Follow-up	See item 1a

**ITEM 1c – ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS**

Discussion	
ACTION/Follow-up	See item 1a

<b>ITEM 2 – EXECUTIVE COMMITTEE MEETING MINUTES</b>	
Discussion	July 6, 2022, Open Session July 6, 2022, Closed Session
ACTION	Chair Anderson moved; Vice-Chair Shapiro seconded. Minutes approved unanimously.

<b>ITEM 3 – DISCUSSION/PRESENTATION ITEMS</b>	
Discussion	<p><u>3a. Diversity Council Strategic Plan (Diversity Council)</u></p> <p>Diversity Council Co-Chairs Ryan Harrison and Genevieve Jennai, and Vice-Chair Zubin Adrianvala presented the proposed 2022-24 Diversity Council Strategic Plan, which highlighted changes from the past plan, as included in the packet.</p> <p>The Diversity Council will also work with the M-NCPPC workgroup in gender-neutral forms and policies, along with providing input on increasing inclusion/accessibility in our public facilities.</p> <p>The Executive Committee thanked the Diversity Committee for their work.</p>
ACTION/follow-up	Executive Director Chiang-Smith approved amendments and moved to take the Plan to the Commission for vote; Vice Chair Shapiro seconded. Motion approved unanimously.
Discussion	<p><u>3b. CAS Cost Allocation (Kroll)</u></p> <p>Corporate Budget Director Kroll reviewed the statistics from the memo included in the packet, outlining the cost breakdown between counties on the division of use of the bi-county Financial, Human Resources and Legal services, based on data gathered throughout the year. Corporate Budget Director Kroll said this year there will be a shift of approximately \$10,000 to Prince George’s County from Montgomery County, using FY23 numbers. The Budget office will use this data in the initial development of the CAS Budget or FY24. He asked for Executive Committee support to bring the proposal to the Commission for approval.</p> <p>Chair Anderson noted with new Council members coming in, Corporate Budget Director Kroll might prepare a more detailed brief for incoming elected leaders to avoid the impression that either county is getting more than the other. Vice Chair Shapiro concurred.</p>
ACTION/follow-up	Corporate Budget Director will prepare more slides for the October meeting. Chair Anderson motioned for the cost allocation to move forward to the Commission for approval; Executive Director Chiang-Smith seconded. Approved unanimously.
Discussion	<p><u>3c. International Telework (Chilet/Beckham)</u></p> <p>CIO Chilet provided background for the policy, which reduces the agency’s vulnerabilities to cyberattack by restricting the ability for employees to access the M-NCPPC network while traveling out of the country, since most cyberattacks come from out of the country.</p> <p>Executive Director Chiang-Smith noted there have been more and more exceptions given by departments for employees to use the network while abroad. She asked</p>

departments to be frugal about allowing employees to access the network from out of the country, noting if the employee is on vacation, encourage them to be on vacation and not access the network when travelling abroad. She said IT has examined best practices for other jurisdictions and noted this has become an emerging issue.

Corporate Policy and Archives Manager Beckham introduced changes to Procedures 03-01 Telework Policy. He said Geofencing has been implemented since 2021, the policy does not specifically address international telework. Proposed changes would enable an internationally travelling employee, when authorized by a department head, to access the network only under specific parameters and circumstances:

1. There needs a critical business need for that employee to work internationally. If those needs are met, the following conditions will apply:
  - a. The employee will use an M-NCPPC issued laptop. Use of personal equipment is not permitted, including mobile phones.
  - b. Upon return to the US, the employee will return the laptop/device to IT to test/wipe the device BEFORE accessing or connecting to any agency network.
  - c. Network access will be limited to the Office365 environment. Case by case, DH could authorize other systems.
  - d. The Department Head or the Department's IT Division has the right to restrict network access.
  - e. Remote access to restricted systems (e.g., ERP, ELIX, AOS and LaborSoft) will be denied.
  - f. Remote access for privileged actions on the system will not be provided.
2. The Policy gives additional guidance including:
  - a. Consulting the US State Department's website to learn about safety and security in the destination country
  - b. Refraining from using unknown networks, especially in public places such as airports and cafes.
  - c. Ensuring all removable media devices are scanned with an up-to-date antivirus product before use.
  - d. Refraining from engaging in casual conversations about workplace activities.

Chair Anderson noted some staff have issues securing network access due to mobile plan international roaming charges and asked if it was possible for people to get onto an appropriate roaming plan. CIO Chilet replied each country operates differently, along with each mobile provider, and the variances make it nearly impossible to standardize. Chair Anderson said the agency should assist the employee in determining how to keep the agency from having to spend a lot of money through roaming charges.

Director Checkley noted these rules are not intended for the agency's senior leadership adding that the average merit employee should not need to telework. Chair Anderson agreed most staff do not need access to sensitive data, but some staff may need to be able to respond in an emergency by voice, text or email, and the policy should be able to accommodate that.

Executive Director Chiang-Smith said each department can look how they can make such accommodations. This policy is a preventative measure to keep something bad from happening, adding there needs to be a practice in place so the IT teams are aware if someone is connecting from an odd place. If an employee is travelling on vacation, they shouldn't be teleworking, both from a cybersecurity standpoint, and

	<p>from a work-life balance standpoint. If there is a justified reason for them to have access, employees and supervisors should communicate with IT to let them know that a critical employee will be in a different country on certain dates.</p> <p>Vice-Chair Shapiro said he thinks it is healthy to have a policy in place which has flexibility. He added every major mobile carrier has an international plan, and we should allow an employee, with manager approval, to temporarily sign up for that plan if they need roaming access. He said he thinks this policy has that flexibility built in and that he supports it.</p> <p>Chair Anderson said he supports the policy in general but would like to better delineate the continuum of the definition of teleworking, from someone simply needing access to email, voice and text to answer questions or respond to an emergency, versus an employee who is going to be away for an extended period and is planning to conduct their work program while out of the country. He said there will be far more people in the former situation than the latter.</p>
ACTION/follow-up	<p>The Policy Office with the Executive Director will finalize and issue the updated policy.</p> <p>Executive Director Chiang-Smith said CIO Chilet should bring this to the new CTO meeting to address the Chair’s concerns with roaming plans.</p>
Discussion	<p><u>3d. Investment Reports (June-July 2022) (Cohen) (information item only)</u></p> <p>No discussion</p>
ACTION/Follow-up	

*Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (9), a closed session is proposed to conduct collective bargaining discussions and consider matters that relate to negotiation with the Municipal and County Government Employees Organization.*

Chair Anderson motioned to move the meeting into Closed Session at 10:40 a.m. Vice Chair Shapiro seconded; motion approved unanimously.

Also present were:

Department Heads

- Andree Checkley, Director, Prince George’s County Planning (PGPL)
- Gavin Cohen, Secretary-Treasurer
- Debra Borden, Acting General Counsel
- Mike Riley, Director, Montgomery County Parks (MCPK)
- Steve Carter, Deputy Director, Prince George’s County Parks and Recreation (PGPR) for Director Bill Tyler
- Gwen Wright, Director, Montgomery County Planning (MCPL)

Presenters/Staff

- James Adams, Senior Technical Writer
- Michael Beckham, Corporate Policy Manager
- Mazen Chilet, Chief Information Officer
- Tracey Harvin, Corporate Policy and Management Operations (CPMO) Director
- John Kroll, Corporate Budget Director
- William Spencer, Corporate Human Resource Director

Executive Director Chiang-Smith and Corporate Budget Director Kroll briefed the Executive Committee on budget salary information and negotiation updates as it related to the MCGEO Collective Bargaining Group. The chairs provided input to staff and the Executive Director.

With no further business to discuss, the meeting adjourned from closed session at 10:54 a.m.



James F. Adams, Senior Technical Writer



Asuntha Chiang-Smith, Executive Director



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

**WRITTEN STATEMENT FOR CLOSING A MEETING  
UNDER THE OPEN MEETINGS ACT**

Date: 9/7/2022                      Time: 10:40 a.m.                      Location: Via Teleconference

Motion to close meeting made by: Anderson

Seconded by Shapiro, Members voting in favor: Anderson, Shapiro, Chiang-Smith

Opposed: NA                      Abstaining: NA                      Absent: NA

**STATUTORY AUTHORITY TO CLOSE SESSION, General Provisions Article, §3-305(b)  
(check all that apply):**

- (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;
- (2) To protect the privacy or reputation of individuals concerning a matter not related to public business;
- (3) To consider the acquisition of real property for a public purpose and matters directly related thereto;
- (4) To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- (5) To consider the investment of public funds;
- (6) To consider the marketing of public securities;
- (7) To consult with counsel to obtain legal advice on a legal matter;
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation;
- (9) To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- (10) To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans;
- (11) To prepare, administer, or grade a scholastic, licensing, or qualifying examination;
- (12) To conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- (13) To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
- (14) Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- (15) To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to: (i) security assessments or deployments relating to information resources technology; (ii) network security information, such as information that is related to passwords, personal ID numbers, access codes, encryption, security devices, or vulnerability assessments or that a governmental entity collects or maintains to prevent, detect, or investigate criminal activity; or (iii) deployments or implementation of security personnel, critical infrastructure, or security devices.

**FOR EACH CITATION CHECKED ABOVE, THE REASONS FOR CLOSING AND TOPICS TO BE DISCUSSED:**

A closed session is proposed to promote and protect the public welfare pursuant to Maryland General Provision Section 3-305(b)(9) to consider matters related to collective bargaining negotiations to maintain the confidentiality of the Commission's discussions concerning strategies and positions with regard to ongoing negotiations.

The topics to be discussed include the Commission's position related to ongoing collective bargaining negotiations with the Municipal and County Government Employees' Organization.

This statement is made by Casey Anderson, Chair, Presiding Officer.

**PRINT NAME**



**9/20/2022**

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**SIGNATURE & DATE**

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**EMPLOYEES' RETIREMENT SYSTEM**  
The Maryland-National Capital Park and Planning Commission

**BOARD OF TRUSTEES MEETING MINUTES**

**Tuesday, July 12, 2022; 10:00 a.m.**

**Kenilworth Office Building, Riverdale, MD**

**(Due to COVID-19 Attend via Microsoft Teams)**

Due to COVID-19, the Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually through Microsoft Teams with CHAIRMAN CICHY leading the call on Tuesday, July 12, 2022. The meeting was called to order at 10:00 a.m. by CHAIRMAN CICHY.

**Board Members Present**

Gerald R. Cichy, Board of Trustees Chairman, Montgomery County Commissioner  
Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio *Joined at 10:08 a.m.*  
Gavin Cohen, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio *Left at 12:00 p.m.*  
Pamela F. Gogol, Montgomery County Public Member  
Lisa Blackwell-Brown, MCGEO Represented Trustee  
Sheila Morgan-Johnson, Prince George’s County Public Member  
Theodore J. Russell III, Prince George’s County Open Trustee  
Elaine A. Stookey, Bi-County Open Trustee  
Howard Brown, FOP Represented Trustee *Joined at 10:05 a.m.*

**Board Members Absent**

Peter A. Shapiro, Board of Trustees Vice Chairman, Prince George’s County Commissioner  
Caroline McCarthy, Montgomery County Open Trustee

**ERS Staff Present**

Andrea L. Rose, Administrator  
Alicia C. Stanford, Administrative Specialist  
Sheila Joynes, Accounting Manager  
Ann McCosby, IT Manager – *Cyber Security Training Session only*  
Charles M. Curtis Jr., Accountant – *Cyber Security Training Session only*

**Presentations**

Northern Trust Company – Steve Locke, Chief Information Security Officer  
Northern Trust Company – Ali (Powell) Guttillo, Vice President and Senior Relationship Manager  
Wilshire Advisors, LLC – Bradley A. Baker, Managing Director  
Tracey A. Harvin – M-NCPPC Senior Counsel

**ITEM 1 APPROVAL OF THE JULY 12, 2022, CONSENT AGENDA**

**ACTION:** MS. RUSSELL made a motion, seconded by MS. GOGAL to approve the Consent Agenda of July 12, 2022. The motion PASSED (7-0). Howard Brown and Asuntha Chiang-Smith were not present for this vote. (Motion # 22-37).

**ITEM 2 CHAIRMAN’S ITEMS**

JULY 12, 2022 MINUTES AS APPROVED  
AT THE SEPTEMBER 6, 2022 BOARD OF TRUSTEES MEETING

**ITEM 2.A. Conference & Training Summary Schedule** – Ms. Rose presented the conference & training summary schedule with no comments or inquiry from the Board.

**ITEM 2.B. Welcome Lisa Blackwell-Brown** – Ms. Rose welcomed the new MCGEO represented trustee, Lisa Blackwell-Brown. Ms. Blackwell-Brown currently serves as the Secretary-Treasurer for the UFCCW local 1994 and is the field representative for public safety. She has her undergraduate degree in Political Science from the University of Dayton, and her law degree from Widener University School of Law (J.D). She also graduated from Wayne State University with a LL.M. in Labor and Employment Law.

**ITEM 3 MISCELLANEOUS**

**ITEM 4 MANAGER REPORT/PRESENTATIONS**

**ITEM 4.A. Northern Trust Company – Cyber Security** – Ms. Rose welcomed Steve Locke, Chief Information Security Officer, and Ali Guttillo, Vice President, and Senior Relationship Manager from Northern Trust. The ERS has been working with Northern Trust since 1986. Northern Trust, as the custodian bank, is responsible for safekeeping the ERS’ assets; serving as the official book of records; and processing payments to retirees, beneficiaries, and former members. Northern Trust follows the National Institute of Standards and Technology’s best practices for its cyber security framework. Northern employs a robust global team. Northern Trust’s biggest concern is retaining talent to support the rapid advancement of technology. Mr. Locke discussed the evolving cyber threat landscape and the rise in advanced persistent threats. Mr. Locke confirmed breaches are inevitable; it’s a matter of when and not if. Ninety-nine percent (99%) of threats come through emails. Companies need to do more to protect email and move away from transacting business and sharing information via email.

**ITEM 5 COMMITTEE REPORTS/RECOMMENDATIONS**

**ITEM 5.A. Investment Monitoring Group presentation**

Ms. Rose presented the Investment Monitoring Group (IMG) report of June 21, 2022. During the IMG meeting, Bradley Baker from Wilshire Advisors LLC, presented results of the Bank Loan Manager Search. Wilshire has approximately 70 bank loan managers in its universe. Qualitative and quantitative screens were applied to narrow down the list of candidates to nine (9), including VOYA, the current bank loan manager. In consultation with Mr. Baker, the IMG selected the top three (3) bank loan managers, ARES Management, T. Rowe Price, and Nuveen, which were the best fit with the existing portfolio. The three (3) bank loan managers will present their individual loan strategies at the September 6, 2022 Board of Trustees Meeting.

At the January 4, 2022 Board meeting, former Chairman Elizabeth Hewlett tasked the IMG to work with Wilshire Advisors LLC to consider an official watch list policy and return with a recommendation. The IMG held several working sessions which culminated into a revised Investment Manager Monitoring Policy, including development of a formal Watchlist and incorporation of the Investment Manager Presentation Guidelines. The IMG recommended including the Watchlist into Wilshire’s Quarterly Executive Summary. Enhancements to the Investment Manager Monitoring Policy included adjustments to cover Passive/Index managers and Private Markets Managers, language regarding fiduciary oversight and industry best practices, clarification of responsibilities of the Board, IMG, Investment Consultant, Administrator and Investment Managers, language to prohibit additional funding for investment managers

on watch, language to incorporate a periodic review of the policy, and miscellaneous changes for consistency, transparency and clarification. The IMG recommended the Board approve the revised Investment Manager Monitoring Policy.

**ACTION:** MR. RUSSELL made a motion, seconded by MS. CHIANG-SMITH to approve the revised Investment Manager Monitoring Policy as recommended by the IMG. The motioned PASSED (9-0). (Motion #22-38).

## **ITEM 6 ADMINISTRATOR'S REPORT**

### **ITEM 6.A. Administrator's Report presentation**

Andrea Rose presented the Administrator's Report dated July 1, 2022.

Ms. Rose announced the ERS received GFOA's Award for Excellence in Financial Reporting for the Annual Comprehensive Financial Report (ACFR) for June 30, 2021 and recognized Sheila Joynes, Accounting Manager, Charles Curtis, Accountant, and other members of the ERS' team who contributed to production of the ACFR.

Ms. Rose reported the receipt of an employer contribution on July 1, 2022 in the amount of \$25,682,999 as recommended by Cheiron in the June 30, 2021 Actuarial Valuation. Staff concurred with Wilshire's recommendation to keep the contribution in the cash account given the market values and positioning of the underlying asset classes and strategies. While it's a slightly higher than normal cash position, all asset classes are well within rebalancing ranges and holding a little more cash with so much uncertainty in the market was recommend by Mr. Baker.

Staff renewed the ERS' Fiduciary Liability Insurance policy with a limit of liability of \$7.5 million. The annual premium increased by 12.6% for the period of July 1, 2022-June 30, 2023 largely due to plan assets being valued over \$1 billion pushing ERS into a different rating category. The rating categories are standard in the industry and across all carriers. Chubb confirmed flat rates for next year, if all else remains the same.

Ms. Rose announced that investment manager, Principal Global Investors, LLC declared a withdrawal limit effective July 1, 2022.

Ms. Rose requested the September 6, 2022 Board meeting begin at 9:00 a.m. versus 10:00 a.m. due to the bank loan manager presentations, which can be lengthy. The Board agreed to change the start time of the meeting.

Ms. Rose made a recommendation for wage adjustments consistent with adjustments made by the Commission for non-represented Merit employees as follows: a 3.5% anniversary increase for FY23 for eligible ERS employees; a 0.5% lump sum payment for eligible ERS employees at top of grade; and a 3.5% cost-of-living adjustment effective the first full pay period on or after September 1, 2023.

**ACTION:** CHAIRMAN CICHY made a motion, seconded by MS. CHIANG-SMITH to approve a 3.5% anniversary increase for FY23 for eligible ERS employees; 0.5% lump sum payment for eligible ERS employees at top of grade; 3.5% cost-of-living adjustment, effective the

first pay period on or after September 1, 2023. The motion PASSED (9-0). (Motion #22-39).

**ITEM 6.B. Rhumbline Organizational Update; April 1, 2022**

In a letter dated April 1, 2022, Rhumbline notified the ERS of the retirement of Wayne Owen, Chief Executive Officer and General Partner, effective April 30, 2022. Denise D'Entremont, who was promoted to President at the close of 2019 will be promoted to CEO. Mr. Owen's retirement will result in a change of ownership and constitute an assignment of the investment management agreement. Rhumbline requested the ERS' consent to the assignment.

The Board proceeded to Item 7 Closed Session prior to the Motion.

**ACTION:** MR. RUSSELL made a motion, seconded by MR. COHEN for the recommendation to consent to assignment of the Investment Manager Agreement. The motion PASSED (9-0). (Motion # 22-40).

**ITEM 7 CLOSED SESSION**

At 11:05 a.m. Ms. Rose requested a motion to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) for the investment of public funds and Section 3-305(b)(7) to consult with legal counsel to obtain legal advice on legal matters.

**ACTION:** CHAIRMAN CICHY made a motion, seconded by MR. RUSSELL to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) for the investment of public funds and Section 3-305(b)(7) to consult with legal counsel to obtain legal advice on legal matters. The motion PASSED (9-0). (Motion #22-41)

*Board of Trustees in Closed Session:* Gerald Cichy, Asuntha Chiang-Smith, Gavin Cohen, Pamela Gogol, Lisa Blackwell-Brown, Sheila Morgan-Johnson, Theodore Russell III, Elaine Stookey, and Howard Brown.

During Closed Session, the following action was taken:

The Board discussed the transfer of Rhumbline's ownership and consulted with legal counsel on the Consent to Assignment of the Investment Manager Agreement with Rhumbline.

**ITEM 8 CONSULTANT/MANAGER PRESENTATIONS**

**ITEM 8.A. Wilshire Advisors LLC – Education Session**

Bradley Baker conducted a Bank Loan Manager education course to provide all trustees with a comprehensive update on the bank loan market and search process prior to the September 6, 2022 bank loan manager presentations.

The Board meeting of July 12, 2022, adjourned at 12:16 p.m.

Respectfully,

*Alicia C. Stanford*

Alicia C. Stanford  
Administrative Specialist

*Andrea Rose*

Andrea L. Rose  
Administrator



**EMPLOYEES' RETIREMENT SYSTEM**  
The Maryland-National Capital Park and Planning Commission

**BOARD OF TRUSTEES MEETING MINUTES**

**Tuesday, September 6, 2022; 9:00 a.m.**

**Kenilworth Office Building, Riverdale, MD**

**(Due to COVID-19 Attend via Microsoft Teams)**

Due to COVID-19, the Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually through Microsoft Teams with CHAIRMAN CICHY leading the call on Tuesday, September 6, 2022. The meeting was called to order at 9:00 a.m. by CHAIRMAN CICHY.

**Board Members Present**

Gerald R. Cichy, Board of Trustees Chairman, Montgomery County Commissioner  
Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio  
Gavin Cohen, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio  
Lisa Blackwell-Brown, MCGEO Represented Trustee *Left at 1:30pm*  
Sheila Morgan-Johnson, Prince George’s County Public Member  
Theodore J. Russell III, Prince George’s County Open Trustee  
Elaine A. Stookey, Bi-County Open Trustee  
Howard Brown, FOP Represented Trustee  
Peter A. Shapiro, Board of Trustees Vice Chairman, Prince George’s County Commissioner  
Caroline McCarthy, Montgomery County Open Trustee

**Board Members Absent**

Pamela F. Gogol, Montgomery County Public Member

**ERS Staff Present**

Andrea L. Rose, Administrator  
Alicia C. Stanford, Senior Administrative Specialist  
Sheila Joynes, Accounting Manager

**Presentations**

- *Wilshire Advisors, LLC* – Bradley A. Baker, Managing Director and LouAnn Eisenhut, Assistant Vice President
- *T. Rowe Price* – Paul Massaro, CFA, Portfolio Manager and Adam Rouse, CIMA, Defined Contribution Specialist
- *Nuveen* - Scott Caraher, Head of Senior Loans; Ravi Chintapalli, CFA, Client Portfolio Manager; and Kitty Martin, Institutional Advisory Services
- *ARES Management* (“ARES”) - Samantha Milner, Partner, Portfolio Manager and U.S. Liquid Credit Research; Michael Schechter, Partner, Head of Credit Trading; Julie Greenman, Managing Director, Investor Relations; and Scott McConnell, Managing Director, Global Client Solutions

**Other Attendee(s)**

- Tracey A. Harvin – M-NCPPC Senior Counsel

**ITEM 1 APPROVAL OF THE SEPTEMBER 6, 2022, CONSENT AGENDA**

Andrea Rose noted several minor corrections to the Open Session Minutes of July 12, 2022.

**ACTION:** MR. RUSSELL made a motion, seconded by CHAIRMAN CICHY to approve the Consent Agenda of September 6, 2022 and Minutes of the Open Session of July 12, 2022, as amended. The motion PASSED (10-0). (Motion # 22-43).

**ITEM 2 CHAIRMAN'S ITEMS**

**ITEM 2.A. Conference & Training Summary Schedule** – No comments or inquiry from the Board.

**ITEM 3 MISCELLANEOUS**

**3.A Open Meetings Act Compliance Board Opinion; June 30, 2022** – CHAIRMAN CICHY provided a formal statement in response to a complaint filed about the open meeting practices of the ERS. The Open Meetings Compliance Board did not find the Board's practices to be in violation of the Open Meetings Act but found a violation for not providing copies of the closed session minutes. CHAIRMAN CICHY acknowledged the decision and strongly believes in the importance of open government and compliance with the Open Meetings Act. All Trustees provided written acknowledgement of the Open Meetings Compliance Board Opinion dated June 30, 2022.

**ITEM 4 MANAGER REPORT/PRESENTATIONS**

**ITEM 4.A. Wilshire Advisors LLC** – Presentation by Bradly Baker, Managing Director and LouAnn Eisenhut, Assistant Vice President. Mr. Baker provided a summary of the bank loan search process and the bank loan managers who were selected to present to the Board: T. Rowe Price, Nuveen, and ARES in comparison to the existing bank loan manager, Voya.

**4.B. T. Rowe Price** – Presentation by Paul Massaro, CFA, Portfolio Manager and Adam Rouse, CIMA, Defined Contribution Specialist. T. Rowe Price has been managing bank loan securities since 2002 with over \$14.7 billion in bank loan assets under management as of June 30, 2022. The team averages 23 years of investment experience with an average of 13 years at T. Rowe Price. T. Rowe Price seeks to generate consistent long-term returns with below-market volatility through proprietary fundamental research; investing primarily in BB and B rated loans; adherence to strict risk management practices; and full integration of environmental, social, and governance factors in the investment process. The investment process includes constructing broadly diversified portfolios with conservative exposure guidelines and ongoing portfolio monitoring to keep the portfolio fresh.

**4.C. Nuveen** – Presentation by Scott Caraher, Head of Senior Loans, Ravi Chintapalli, CFA, Client Portfolio Manager, and Kitty Martin, Institutional Advisory Services. Nuveen has been managing leveraged finance for over 25 years with over \$39 billion in assets under management as of March 31, 2022. Each member of the dedicated Nuveen team has at least 15 years of experience. Nuveen's senior loans strategy focuses on actively investing predominately in liquid, first lien senior loans in order to outperform the broader U.S. loan market. Nuveen's strategy includes active management of credit risk, ESG integration, and cross-team leverage, predominantly in U.S. investments. The investment process focuses

on identifying higher relative value in more liquid senior loans which aims to protect investors and capital. Nuveen's credit underwriting process has led to a more selective approach than their peer group, while Nuveen's size and scale results in top allocation when committed to a new issue.

**4.D. ARES Management** – Presentation by Samantha Milner, Partner, Portfolio Manager and U.S. Liquid Credit Research, Michael Schechter, Partner, Head of Credit Trading, Julie Greenman, Managing Director, Investor Relations, and Scott McConnell, Managing Director, Global Client Solutions. ARES has been managing leveraged finance since 1997 with over \$201.9 billion in assets under management in the credit space as of June 30, 2022. ARES has tenured team of approximately 65 partners averaging 24 years of experience. Presenters noted the departure of 23-year tenured portfolio manager, Jason Duko, at the end of 2022. The bank loan strategy executed by ARES is focused on outperforming the benchmark on a risk-adjusted basis through deep fundamental research, a rigorous buy and sell discipline, through underwriting and continuous research.

## **ITEM 5 CLOSED SESSION**

At 12:44 p.m. the Board went into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) for the investment of public funds to discuss the selection of a new bank loan manager.

**ACTION:** MR. COHEN made a motion, seconded by MS. CHIANG-SMITH to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) for the investment of public funds related to discuss selection of a new bank loan manager. The motion PASSED (10-0). (Motion #22-44)

During Closed Session, the following action was taken:

The Board discussed the bank loan manager presentations made by T. Rowe Price, Nuveen, and ARES and consulted with the investment consultant, Wilshire Advisors.

*Board of Trustees in Closed Session:* Gerald Cichy, Peter Shapiro, Caroline McCarthy, Asuntha Chiang-Smith, Gavin Cohen, Lisa Blackwell-Brown, Sheila Morgan-Johnson, Theodore Russell III, Elaine Stookey, and Howard Brown.

Lisa Blackwell-Brown left the meeting.

**ACTION:** MR. SHAPIRO made a motion, seconded by MS. CHIANG-SMITH to invest in the Nuveen Senior Loan Fund, L.P. and to replace Voya, pending legal review of the governing documents. The motion PASSED (9-0). (Motion # 22-46).

## **ITEM 6 ADMINISTRATOR'S REPORT**

### **ITEM 6.A. Administrator's Report presentation**

Andrea Rose presented the Administrator's Report dated August 19, 2022.

Ms. Rose reminded the Board of upcoming committee and Board meeting dates, including an Audit Committee meeting which is tentatively scheduled for the end of September. During August, staff finalized the financial statements and the Annual Comprehensive Financial Report and answered questions and

requests for additional information from the auditors. Staff submitted actuarial data, supplemental reports, and information to Cheiron for the June 30, 2022 actuarial valuation. The results of the actuarial valuation are expected at the Board's November meeting. Lastly, K-1s are being submitted to the auditors, SB & Company, for review. Staff are awaiting a determination of whether additional filing requirements were identified.

The Board meeting of September 6, 2022, adjourned at 1:46 p.m.

Respectfully,

*Alicia C. Stanford*

Alicia C. Stanford  
Administrative Specialist

*Andrea Rose*

Andrea L. Rose  
Administrator





**EMPLOYEES' RETIREMENT SYSTEM**  
The Maryland-National Capital Park and Planning Commission

**BOARD OF TRUSTEES MEETING MINUTES**

**Tuesday, October 4, 2022; 10:00 a.m.**

**Kenilworth Office Building, Riverdale, MD**

**(Due to COVID-19 Attend via Microsoft Teams)**

Due to COVID-19, the Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually through Microsoft Teams with CHAIRMAN CICHY leading the call on Tuesday, October 4, 2022. The meeting was called to order at 10:00 a.m. by CHAIRMAN CICHY.

**Board Members Present**

- Gerald R. Cichy, Board of Trustees Chairman, Montgomery County Commissioner
- Lisa Blackwell-Brown, MCGEO Represented Trustee
- Sheila Morgan-Johnson, Prince George’s County Public Member
- Theodore J. Russell III, Prince George’s County Open Trustee
- Elaine A. Stookey, Bi-County Open Trustee
- Howard Brown, FOP Represented Trustee
- Peter A. Shapiro, Board of Trustees Vice Chairman, Prince George’s County Commissioner
- Pamela F. Gogol, Montgomery County Public Member

**Board Members Absent**

- Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio
- Gavin Cohen, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio
- Caroline McCarthy, Montgomery County Open Trustee

**ERS Staff Present**

- Andrea L. Rose, Administrator
- Alicia C. Stanford, Senior Administrative Specialist
- Sheila Joynes, Accounting Manager

**Presentations**

- *Wilshire Advisors, LLC* – Bradley A. Baker, Managing Director
- *Groom Law Group* – David L. Levine, Principal Legal Counsel

**Other Attendee(s)**

- Ben Rupert – M-NCPPC, Principal Legal Counsel

**ITEM 1 APPROVAL OF THE OCTOBER 4, 2022, CONSENT AGENDA**

**ACTION:** VICE CHAIRMAN SHAPIRO made a motion, seconded by MS. GOGOL to approve the Consent Agenda of October 4, 2022. The motion PASSED (8-0). (Motion # 22-47).

**ITEM 2 CHAIRMAN’S ITEMS**

**ITEM 2.A. Conference & Training Summary Schedule** – No comments or inquiry from the Board.

**ITEM 3 MISCELLANEOUS**

Ms. Rose introduced Ben Rupert, M-NCPPC Principal Counsel, who recently joined the General Counsel's Office and will be serving as internal legal counsel for the ERS. Mr. Rupert discussed his experience as a prosecutor for the Prince George's County Office of Law for three years before moving into private practice. Mr. Rupert has experience advising boards including working as an attorney with the Prince George's County Board of License Commissioners (Liquor Board).

**ITEM 4 MANAGER REPORT/PRESENTATIONS**

**ITEM 4.A. Wilshire Advisors LLC** – Presentation by Bradly Baker, Managing Director

Mr. Baker provided a Quarterly Executive Summary for the quarter ending June 30, 2022 and reported on the fund's performance. The ERS total fund return was -6.2% (net of fees) for the quarter, outperforming the target policy index return of -8.9%. For the one, three, five, and ten-years ended June 30, 2022 the ERS fund return was -1.7%, 6.5%, 6.9%, and 7.5%, respectively compared to the target policy return of -9.1%, 3.9%, 5.1% and 6.2%, respectively. The total market value through June 30, 2022 was \$1.06 billion. While the total fund return was negative for the one-year ending June 30, 2022, the portfolio held up better than the target policy index and the median public fund of -10.9%. The ERS had top quartile returns for the one-year ending June 30, 2022 with less risk than other public funds. The ERS continues to be less risky than 95% of public plans. Mr. Baker explained that sticking with the long-term asset allocation is key to achieving the fund's goals.

In terms of market performance, the U.S. equity market was down -16.8% and the non-U.S. equity market was down -13.5% for the quarter ending June 30, 2022 with all sectors trending downward. Large and small cap performed similarly while growth stocks underperformed value. Rising inflation continues to accelerate in 2022, reaching levels not seen in four decades. Energy is the leading expenditure category in terms of price increases, with surging prices in every other segment of the overall CPI. Shelter, the largest component of the index is up 5.5%. The next largest segment is food with a 10% increase. Elevated consumer prices are expected to continue.

Ms. Rose provided 2 updates from investment managers. 1) Investment manager Principal reported no material property damage due to the hurricane Ian in Florida but did report considerable clean up. Principal will provide an update once a full inspection has been completed. 2) Eaton Vance notified Ms. Rose of a portfolio holding that was downgraded below the minimum rating. Per the investment guidelines, Eaton Vance has 60 days to take corrective action. Eaton Vance plans to sell the security in the next couple of days. The mortgage security was secured by Natick Mall in Massachusetts. S&P downgraded the security based on the mall's lower financial performance since COVID and due to retailer, Neiman Marcus, vacating their space as part of their previous bankruptcy filing. Mall occupancy fell to 90% as of March 2022.

**ITEM 4.B. Recommendation to Approve July 1, 2022 Restatement of Plan** – Presentation by Andrea L. Rose, Administrator and Groom Law Group's Principal Legal Counsel, David L. Levine.

Ms. Rose explained at its June 15, 2022 meeting, the Commission approved resolution No. 22-0 and 22-21, which included negotiated retirement changes with the Fraternal Order of Police (FOP) Lodge 30. A Memorandum of Understanding dated August 22, 2022 included authorization for a supplemental change approved by the FOP and Commission.

Mr. Levine explained there were clarifying changes to clean up Plan references; however, the material changes include a revised sick leave conversion rate for Plans C and D effective April 1, 2023. Ms. Rose clarified that the revised sick leave conversion only applies if a participant completes 25 years of service. The amendments clarify the types of service included in the 25-year threshold.

**ACTION:** MR. RUSSELL made a motion, seconded by VICE CHAIRMAN SHAPIRO to approve the restatement of Plan Document dated July 1, 2022. The motion PASSED (8-0). (Motion # 22-48).

## **ITEM 5 COMMITTEE REPORTS/RECOMMENDATIONS**

### **5.A. Investment Monitoring Group (IMG) Presentation**

Ms. Morgan-Johnson provided an overview of the IMG meeting on September 20, 2022. Investment manager, Eaton Vance, presented investment performance as of June 30, 2022. Eaton Vance requested an expansion to Rule 144A securities to increase the cap of 15% of assets to no limit or at least 30% of assets, in addition to a change to the rating agency for asset backed securities. The IMG requested a written copy of Eaton Vance's formal expansion request and analysis that provides the rationale, impact, and risks associated with this type of change.

Wilshire Advisors provided a comparative investment manager review for core fixed income managers, Eaton Vance, and C.S. Mckee highlighting strategies, performance, and return outlook.

### **5.B Administration & Personnel Oversight Committee Presentation**

Ms. Rose provided an overview of the Administration & Personnel Oversight Committee ("Personnel Committee") meeting on September 20, 2022 on behalf of Personnel Committee Chairman, Gavin Cohen, CPA. The Personnel Committee was asked to review the investment return assumption and determine whether the Board should set an investment return assumption goal. The current investment return assumption rate is 6.7% and the ERS has instituted a practice of reviewing the investment return assumption annually. Actuarial consultants, Cheiron, provided a presentation on the investment return assumption rate, current economic assumptions, the impact of discount rate changes, comparison to other public plans and funding and contribution projections. Wilshire Advisors provided a presentation to help support the actuarial interest rate decision, providing historical investment returns versus the discount rate over 10 years. The Personnel Committee recognized the ERS is well positioned in the top tier in terms of funded ratio and investment return assumption relative to other pension plans. The Personnel Committee explained to the Board that the existing policy of an annual review has worked well and allowed the Board to consider the market environment, investment return assumption trends, changes to long-term return expectations, and impact to the Commission as the plan sponsor. The Personnel Committee recommended the Board annually review and consider a 5-basis point reduction in the investment return assumption without setting an ultimate goal.

**ACTION:** VICE CHAIRMAN SHAPIRO made a motion, seconded by MS. GOGOL to annually review the investment return assumption and consider a 5-basis point reduction without setting an ultimate goal. The motion PASSED (8-0). (Motion # 22-49).

The Personnel Committee reviewed the first draft of the new Governance Manual and is in the process of proposing revisions. As sections of the Governance Manual are completed, those sections will be recommended for Board approval.

## **ITEM 6 ADMINISTRATOR'S REPORT**

### **ITEM 6.A. Administrator's Report presentation**

Ms. Rose presented the Administrator's Report dated September 21, 2022. Ms. Rose reminded the Board of upcoming committee and Board meeting dates. Actuarial consultant, Cheiron, will present the results of the June 30, 2022 actuarial valuation at the November 1, 2022 Board of Trustees meeting. Cheiron noted a larger number of salaries increases, which were higher than expected. ERS staff are working with Commission staff to confirm the accuracy and reason for the results.

The Audit Committee will provide a presentation of the committee meeting at the November 1, 2022 Board of Trustees meeting. The auditors, SB & Company, issued a clean unmodified opinion for the June 30, 2022 financial statements.

### **ITEM 6.B. Recommendation to Approve Affirmation and Amendment to Agreement of Lease**

Ms. Rose worked with Commission Executive-Director, Asuntha Chiang-Smith, and Gavin Cohen, Secretary-Treasurer, on the Affirmation and Amendment to Agreement of Lease which includes a 5-year term extension and flat fee charges for phone, postage and copier. Staff recommended approval of the Affirmation and Amendment to Agreement of Lease.

**ACTION:** MS. STOOKEY made a motion, seconded by MS. GOGOL to approve the Affirmation and Amendment to Agreement of Lease. The motion PASSED (8-0). (Motion # 22-50).

## **ITEM 7 CLOSED SESSION**

At 11:10 a.m. the Board went into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(7) to consult with counsel to obtain legal advice regarding the Open Meetings Act and Opinion of the Open Meetings Act Board.

**ACTION:** MS. GOGOL made a motion, seconded by MR. RUSSELL to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(7) to consult with counsel to obtain legal advice regarding the Open Meetings Act and Opinion of the Open Meetings Act Board. The motion PASSED (8-0). (Motion #22-51).

*Board of Trustees in Closed Session:* Chairman Cichy, Vice Chairman Shapiro, Lisa Blackwell-Brown, Sheila Morgan-Johnson, Theodore Russell III, Elaine Stookey, Pamela Gogol, and Howard Brown.

The Board meeting of October 4, 2022, adjourned at 11:45 a.m.

Respectfully,



Andrea L. Rose

Administrator

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## THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

October 5, 2022

TO: The Maryland-National Capital Park and Planning Commission

VIA: Asuntha Chiang-Smith, Executive Director

FROM: Genevieve Jennai, Diversity Council Co-Chair  
Ryan Harrison, Diversity Council Co-Chair  
Zubin Adrianvala, Diversity Council Member

SUBJECT: 2022-2024 M-NCPPC Diversity Council Strategic Plan

**REQUESTED ACTION:**

The Maryland-National Capital Park and Planning Commission is asked to support and adopt proposed updates to the Diversity Council's 2022-2024 Strategic Plan (Attachment A). The Strategic Plan was last updated in 2019.

The Plan outlines the goals and objectives of the Council over the upcoming three-year period, and the actions, tasks, resources, and timelines regarding those goals. Once adopted by the Commission, the strategies proposed in this Plan will guide the work of the Diversity Council through the year 2024.

The Diversity Council presented updates to the Department Heads in July, and later to the Executive Committee in September of 2022. It was well-received by both audiences.

Unless The Maryland-National Capital Park and Planning Commission has substantive amendments, which require the Council to return for additional discussion, we ask for you to adopt all proposed changes and updates. The Diversity Council will then act accordingly for the Strategic Plan to be implemented immediately.

**SUMMARY OF PROPOSED MAJOR AMENDMENTS:**

*Substantive updates are highlighted in yellow in Attachment A.*

Proposed major changes are summarized below:

- Reflect current members.
- Expand definitions to reflect the Commission's Diversity, Equity, and Inclusion Statement.
- Amend the Charter of Operating Guidelines and Procedures by:
  - Add expanded definitions to reflect the Commission's Diversity, Equity, and Inclusion Statement.
  - Replace "Council Chair" and "Vice Chair" with the Chair to serve in a three-year term to enable continuity in Council leadership. The "Incoming Chair" will carry out the responsibilities of the "Vice Chair", The "Chair will represent the current leadership role, and the "Outgoing Chair" will serve in the following year in an advisory capacity.
  - Add "virtual" to types of meetings the Council members attend each month.
- Establish a standing Committee for Events.





**2022**



# 2022-2024 Diversity Council Strategic Plan

**Presentation by**

**Co-Chairs:**

**Ryan Harrison**

**Genevieve Jennai**

**Vice-Chair:**

**Zubin Adrianvala**

# Current Members

<b>Genevieve Jennai, Co-Chair</b>	<b>Asuntha Chiang-Smith, Executive Director</b>
<b>Ryan Harrison, Co-Chair</b>	<b>William Spencer, Corporate Human Resources Director</b>
<b>Zubin Adrianvala, Vice Chair</b>	<b>Tina Patterson, Commissioner / Special Advisor</b>
<b>Areaya Abebe</b>	<b>Brian Anleu</b>
<b>Yasmin Brown</b>	<b>Prince George's Planning Board (vacant)</b>
<b>Brian Crane</b>	<b>Lisa Dupree</b>
<b>Valeria Espinoza</b>	<b>Hyojung Garland</b>
<b>Latoya Grant</b>	<b>Tanya Johnson</b>
<b>Dayton Lewis</b>	<b>Shibu Philipose</b>
<b>Sharon Simmons</b>	<b>Lourdes Sulc</b>

# M-NCPPC Diversity Council Strategic Plan



2022-2024

# Proposed Updates

- Expanding definitions to reflect the Commission’s Diversity, Equity, and Inclusion Statement.
- Amend the Charter of Operating Guidelines and Procedures by:
  - Adding expanded definitions to reflect the Commission’s Diversity, Equity, and Inclusion Statement.
  - Replacing “Council Chair” and “Vice Chair” with the Chair to serve in a three-year term to enable continuity in Council leadership.
  - The “Incoming Chair” will carry out the responsibilities of the “Vice Chair”, the “Chair will represent the current leadership role, and the “Outgoing Chair” will serve in the following year in an advisory capacity.
  - Adding “virtual” to types of meetings the Council members attend each month.
- Establish a standing Committee for Events.
- Added goal to work with the Agency’s Sustainability Committee on to act as a resource for DEI-related substance

Thank  
You

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## THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

October 25, 2022

TO: The Commission

FROM: Asuntha Chiang-Smith, Executive Director

SUBJECT: Reappointment of Michael Strand to the Merit System Board

The Commission first appointed Mr. Michael Strand to fill a Merit System Board vacancy as a member on November 19, 2008 as part of the Commission's Resolution 11-01. His appointment was for a term of two (2) years effective December 1, 2008 through December 1, 2010. On January 19, 2011, he was re-appointed for a four (4) year term effective December 1, 2010 through December 1, 2014. In December 2014, he was re-appointed for a second four (4) year term effective December 2, 2014 through December 1, 2018. In September 2018, he was appointed to serve for a third four (4) year term effective December 2, 2018 through December 1, 2022. In September 2019, he was appointed to serve in the the position of Vice Chair through the end of his term, December 1, 2022.

In accordance with Chapter 200, Section 22 of the Merit System Rules and Regulations, I am recommending the reappointment of Mr. Michael Strand to a fourth four-year term and serve as Vice Chair of the Merit System Board effective December 2, 2022 through December 1, 2026. All other terms and conditions of his contract remain the same.

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M-NCPPC RESOLUTION No. 22-34  
October 19, 2022

**MERIT SYSTEM BOARD VICE CHAIR REAPPOINTMENT – MICHAEL STRAND**

WHEREAS, pursuant to Section 16-103 of the Land Use Article of the Annotated Code of Maryland (“Land Use Article”) and the Merit System Rules and Regulations, the Maryland-National Capital Park and Planning Commission (the “Commission”) shall have the authority, obligation and responsibility to appoint a Merit System Board to oversee the Merit System;

WHEREAS, on December 1, 2008 the Commission appointed Mr. Michael Strand, as a Member of the Merit System Board for a term of two years effective December 1, 2008 through December 1, 2010;

WHEREAS, on January 19, 2011 the Commission re-appointed Mr. Michael Strand, as a Member of the Merit System Board for a term of four years effective December 2, 2010 through December 1, 2014;

WHEREAS, on December 17, 2014 the Commission re-appointed Mr. Michael Strand, as a Member of the Merit System Board for a term of four years effective December 2, 2014 through December 1, 2018;

WHEREAS, on September 26, 2018 the Commission re-appointed Mr. Michael Strand, as a Member of the Merit System Board for a term of four years effective December 2, 2018 through December 1, 2022;

WHEREAS, on September 18, 2019, the Commission appointed Mr. Michael Strand to the position of Merit System Board Vice Chair for the remainder of his term ending December 1, 2022;

WHEREAS, Mr. Strand has discharged the duties as a Member of the Merit System Board faithfully, and continues to meet the requirements in Section 16-103 of the Land Use Article for membership on the Merit System Board, including substantial knowledge and experience in personnel matters; and,

WHEREAS, Section 16-103 of the Land Use Article allows for the reappointment of Merit System Board Members, at the pleasure of the Commission for a term of four years.

NOW, THEREFORE, BE IT RESOLVED, that the Commission hereby ratifies and memorializes the reappointment of Mr. Michael Strand as Vice Chair of the Merit System Board for an additional four-year term commencing on December 2, 2022 through December 1, 2026; and

BE IT FURTHER RESOLVED, that Mr. Strand’s appointment to the Merit System Board shall be pursuant to the same terms and conditions as his current contract, and/or as authorized by the Commission budget for each fiscal year.

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Maryland-National Capital Park and Planning Commission on the motion of Commissioner X, seconded by Commissioner X, with Commissioners X, X, X, and X and Commissioner X being absent, at its regularly held meeting on November 16, 2022 in Wheaton, Maryland.

Asuntha Chiang-Smith  
Executive Director

APPROVED AS TO LEGAL SUFFICIENCY:

/s Debra S. Borden  
Office of the General Counsel  
September 20, 2022




**Office of the General Counsel**  
**Maryland-National Capital Park and Planning Commission**

*Reply To*

Debra S. Borden  
 General Counsel  
 6611 Kenilworth Avenue, Suite 200  
 Riverdale, Maryland 20737  
 (301) 454-1670 • (301) 454-1674 fax

**MEMORANDUM**

TO: The Maryland-National Capital Park and Planning Commission

FROM: Debra Borden   
 General Counsel

Date: September 1, 2022

SUBJECT: **Request to Approve Change of Resident Agent for Service of Process**

This memorandum is a request for your approval to change the Resident Agent to accept service of process on behalf the Maryland-National Capital Park and Planning Commission (the "Commission"). The Commission is required by state law to designate and appoint a resident agent. It has been the Commission's practice to designate the General Counsel as its Resident Agent. In light of Adrian Gardner's September 1, 2022 retirement, and my appointment as General Counsel, it is necessary to update the Commission's resident agent designation on file with the Maryland State Department of Assessments and Taxation ("SDAT"). SDAT requires an approved and certified resolution appointing the new Resident Agent, along with the attached form signed by the Executive Director.

**Recommendation**

Approve a resolution which designates General Counsel Debra S. Borden to serve as the Resident agent and authorizes the Executive Director to sign the attached form.

\* \* \*

Thank you in advance for your consideration. Please do not hesitate to contact me with any questions or comments.

cc: Asuntha Chiang-Smith,  
 Executive Director

**FORM TO DESIGNATE OR CHANGE A RESIDENT AGENT FOR SERVICE OF PROCESS BY A GOVERNMENT ENTITY**

1. The Local Entity or State Agency The Maryland-National Capital Park and Planning Commission  
(Government Entity)

2. Designates Debra S. Borden  
(Name of Resident Agent)

who is a citizen and resident of the State of Maryland, or a Maryland corporation, as its resident agent for service of process, and the address for the resident agent is:

3. M-NCPPC, 6611 Kenilworth Ave, Suite 200, Riverdale MD 20737  
(Address of Resident Agent)

4. Attached is: [Check One Box]

A copy of the portion of the charter of the local entity which authorizes the person to accept service of process for the local entity; or

A certified copy of a resolution of the local entity's governing body that authorizes the designation where the charter does not designate a person for service; or

A certified copy of a resolution by the governing body of a State agency not represented by Maryland Attorney General that authorizes the designation.

5. I, Asuntha Chiang-Smith, certify  
(Name and Title of an Officer of the Government Entity)

under the penalties of perjury that the contents of this paper are true to the best of my knowledge, information and belief.

\_\_\_\_\_  
Signature of Officer of the Government Entity

\_\_\_\_\_  
Date

I, Debra S. Borden, consent to my designation in this document as resident agent for this entity.

\_\_\_\_\_  
Signature of Resident Agent

Mail to:  
State Department of Assessments and Taxation  
301 West Preston Street, Room 808  
Baltimore, Maryland 21201



## RESOLUTION

M-NCPPC 22-35

WHEREAS, by virtue of Chapter 780 of the Laws of Maryland 1959, as amended from time to time and codified now under the Land Use Article of the Annotated Code of Maryland ("Land Use"), the Maryland-National Capital Park and Planning Commission (the "Commission") is a body corporate and bi-county agency of the State of Maryland; and,

WHEREAS, by virtue of Land Use Article Section 15-102, certain members of the Commission are designated by law to sit as the Montgomery County Planning Board and the Prince George's County Planning Board, respectively; and,

WHEREAS, pursuant to Local Government Article of the Annotated Code of Maryland, at Section 1-1301, the Commission is deemed a "local entity" and required thereunder to appoint a resident agent to accept service of process; and,

WHEREAS, by virtue of Land Use Article Section 15-109, the Commission shall appoint an officer from time to time designated as its General Counsel; and,

WHEREAS, the Commission desires to designate and appoint as its resident agent any person who shall serve from time to time as its General Counsel; and,

WHEREAS, the person currently appointed to serve as the General Counsel is Debra S. Borden, who is a resident of the State of Maryland; and,

WHEREAS, Ms. Borden has assured the Commission of her consent to serve as its resident agent.

NOW, THEREFORE, BE IT RESOLVED, that Maryland-National Capital Park and Planning Commission, whether sitting *in toto*, or as the Montgomery County Planning Board, or as the Prince George's County Planning Board, does hereby appoint the following person as its resident agent:

Debra S. Borden  
General Counsel  
6611 Kenilworth Avenue, Suite 200  
Riverdale, Maryland 20737

BE IT FURTHER RESOLVED, that a copy of this Resolution 22-35 shall be certified by the Executive Director and filed with the Maryland State Department of Assessments and Taxation.

BE IT FURTHER RESOLVED, that the Executive Director shall be, and hereby is, authorized to execute and file such other instruments and further assurances as may be necessary or appropriate to effectuate the purposes hereof.

BE IT FURTHER RESOLVED, that the General Counsel shall be, and hereby is, directed to promptly notify the Executive Director in each instance of receipt of service of legal process.

\* \* \* \* \*

**CERTIFICATE**

This is to certify under the penalties of perjury that the foregoing resolution is a true and correct copy of a resolution adopted by the Maryland-National Capital Park and Planning Commission on motion of Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_, with Commissioners \_\_\_\_\_, and \_\_\_\_\_ voting in favor of the motion, and Commissioner \_\_\_\_\_ being absent, at its meeting held on \_\_\_\_\_, in \_\_\_\_\_, Maryland.

\_\_\_\_\_  
Asuntha Chiang-Smith  
Executive Director  
Maryland-National Capital Park and Planning Commission

I hereby consent to my designation in this document as resident agent for the Maryland-National Capital Park and Planning Commission.

\_\_\_\_\_  
Debra S. Borden

Reviewed and Approved for Legal Sufficiency

*Donna G. Calcote*  
\_\_\_\_\_  
Office of the General Counsel

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# MEMORANDUM

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**EMPLOYEES' RETIREMENT SYSTEM**  
 The Maryland-National Capital Park and Planning Commission  
 6611 Kenilworth Avenue, Suite 100  
 Riverdale, Maryland 20737

(301) 454-1415 - Telephone  
 (301) 454-1413 - Facsimile  
<http://ers.mncppc.org>

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*Andrea L. Rose*  
 Administrator

To: The Commission Date: October 7, 2022

Via: Gerald R. Cichy   
 Chairman, Board of Trustees

From: Andrea L. Rose   
 ERS Administrator

**Subject: Resolution #22-36 - Recommendation for Adoption of Employees' Retirement System Plan Document Restatement Effective July 1, 2022**

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## RECOMMENDATION

On behalf of the Board of Trustees ("Board") of the Maryland-National Capital Park and Planning Commission ("Commission") Employees' Retirement System (ERS), I recommend the Commission approve Resolution #22-36 to adopt a Plan Document Restatement effective July 1, 2022.

## BACKGROUND

At its June 15, 2022 meeting, the Commission approved Resolutions No. 22-20 and 22-21 which included negotiated retirement changes with the Fraternal Order of Police ("FOP") Lodge #30. A Memorandum of Understanding dated August 22, 2022 included authorization for a supplemental change approved by the FOP and Commission.

At its October 4, 2022 meeting, the Board adopted the attached Plan Document Restatement effective July 1, 2022, as recommended by legal counsel.

The Groom Law Group recommended amendments included in the Plan Document Restatement as follows:

- Section B-1.10 (page 47): the definition of a Plan B Participant was clarified to reflect that the right to elect a transfer from Plan A to Plan B is historical, as there are no current active Plan A Participants.
- Section C-1.7(b) (page 68): the definition of a Plan C Participant was clarified to reflect transfers from Plans A, B, or E to Plan C upon a change from a non-public safety position to a police officer.

- Section C-3.1(c) (page 70): the definition of Credited Service was clarified to reflect that transferred service from Plans A, B, or E to Plan C upon a change from a non-public safety position to a police officer is Credited Service under Plan C.
- Section C-3.2 (page 70): language was added to the creditability for accumulated sick leave section to allow for a lower conversion rate of earned and unused sick leave to Credited Service after a Member has completed 25 years of Credited Service.
- Section C-7.1 (page 85): language was added to the employee contributions section to provide for increased employee contributions to Plan C on and after April 1, 2023.
- Section D-1.7(b) (page 88): the definition of a Plan D Participant was clarified to update a cross-reference.
- Section D-3.1(c) (page 90): the definition of Credited Service was clarified to remove a historical cross-reference.
- Section D-3.2 (page 90): language was added to the creditability for accumulated sick leave section to allow for a lower conversion rate of earned and unused sick leave to Credited Service after a Member has completed 25 years of Credited Service.

Linked Attachment (does not appear in packet)

1. Plan Document Restatement effective July 1, 2022:

<https://www.mncppc.org/DocumentCenter/View/21756/6d3-Attachment-1-Plan-Document-July-1-2022-Restatement>

Attachment- Plan Document Restatement Effective July 1, 2022





M-NCPPC RESOLUTION NO. 22-36

ADOPTION OF EMPLOYEES' RETIREMENT SYSTEM PLAN DOCUMENT  
RESTATEMENT EFFECTIVE JULY 1, 2022

WHEREAS, the Maryland-National Capital Park and Planning Commission Employees' Retirement System (ERS) was established effective July 1, 1972 and amended from time to time; and

WHEREAS, the ERS currently consists of five (5) plans, Plans A, B, C, D and E; and

WHEREAS, Section 3 of the Plan Document reserves the right of the Maryland-National Capital Park and Planning Commission ("Commission"), as Plan Sponsor, to amend any or all the provisions of the Plans from time to time, provided that no amendments shall adversely affect benefits that have accrued prior to the effective date of any such amendments; and

WHEREAS, the Commission approved Resolutions No. 22-20 and 22-21 which included negotiated retirement changes with the Fraternal Order of Police ("FOP") Lodge #30. A Memorandum of Understanding dated August 22, 2022 included authorization for a supplemental change approved by the FOP and Commission; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Section B-1.10, to clarify the right to elect a transfer from Plan A to Plan B is historical, as there are no current active Plan A Participants; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Section C-1.7(b) to clarify transfers from Plans A, B, or E to Plan C upon a change from a non-public safety position to a police officer; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Section C-3.1(c) to clarify that transferred service from Plans A, B, or E to Plan C upon a change from a non-public safety position to a police officer is Credited Service under Plan C; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Sections C-3.2 and D-3.2 to add language effective April 1, 2023 to allow for a lower conversion rate of earned and unused sick leave to Credited Service after a Member has completed 25 years of Credited Service; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Section C-7.1 to provide for increased employee contributions of 9.5% of Base Pay to Plan C on or after April 1, 2023; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Sections D-1.7(b) and D-3.1(c) to update a cross reference and remove a historical cross-reference, respectively; and

WHEREAS, the Board of Trustees recommends that the Plan Restatement be effective July 1, 2022.

NOW THEREFORE, BE IT RESOLVED, that the Maryland-National Capital Park and Planning Commission does hereby adopt the attached Plan Restatement effective July 1, 2022.

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of Resolution No. 22-36 adopted by the Maryland-National Capital Park and Planning Commission on motion of \_\_\_\_\_, seconded by \_\_\_\_\_, with \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ in favor of the motion, and \_\_\_\_\_ being absent for the vote at its regular meeting held on Wednesday, November 16, 2022, via video-conference, and broadcast by the \_\_\_\_\_.

\_\_\_\_\_  
Asuntha Chiang-Smith, Executive-Director

*Ben Rupert* 10/12/2022

\_\_\_\_\_  
Reviewed for Legal Sufficiency by  
Benjamin E. Rupert, Esq.

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# MEMORANDUM

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## EMPLOYEES' RETIREMENT SYSTEM

The Maryland-National Capital Park and Planning Commission  
6611 Kenilworth Avenue, Suite 100  
Riverdale, Maryland 20737

(301) 454-1415 - Telephone


(301) 454-1413 - Facsimile


<http://ers.mncppc.org>

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*Andrea L. Rose*  
*Administrator*

TO: The Maryland-National Capital Park & Planning Commission      DATE: November 1, 2022

VIA: Peter A. Shapiro   
Vice Chairman, Board of Trustees

FROM: Andrea L. Rose   
ERS Administrator

Subject: **Resolution #22-37 - Recommendation to Approve an Employer Contribution in the Amount of \$28,367,491 for Fiscal Year 2024**

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### RECOMMENDATION

At its November 1, 2022 meeting, the Employees' Retirement System (ERS) Board of Trustees ("Board") accepted the June 30, 2022 Actuarial Valuation presented by Cheiron. As a result, the Board recommends the Commission approve Resolution #22-37 which adopts an employer contribution in the amount of \$28,367,491 (16.22% of covered payroll) for fiscal year 2024.

### BACKGROUND

In accordance with the ERS' Plan Document, Section 2.3(g), the Board shall recommend to the Commission the contributions to be made by the Commission under the provisions of the ERS.

Each year the ERS has an independent actuarial valuation performed to determine the funding requirements for the ERS. The actuarial valuation is designed to measure the current and future cost of retiree benefits based on employee demographics, assets and liabilities, plan provisions, and actuarial assumptions and methods. The actuary recommends an employer contribution to ensure sufficient assets are available for future benefits.

A pension plan is well funded when it has enough money in reserve to meet all expected future obligations to participants. The ERS' funding objective is to meet long-term benefit promises through employee and employer contributions that remain approximately level as a percent of member payroll. The June 30, 2022 actuarial valuation indicated a funded ratio (based on the actuarial value of assets) of 91.1%, which is down from 92.6% in 2021.

The June 30, 2022 actuarial valuation includes changes to Plan C and D and a change in the investment return assumption from 6.75% to 6.70%, which were approved by the Board earlier this year.

To meet the funding objectives, the recommended employer contribution of \$28,367,491 (16.22% of payroll) is payable July 1, 2023 for fiscal year 2024. The recommended employer contribution increased from \$25,682,999 (14.43% of payroll) as of June 30, 2021. The increase in the employer contribution can be primarily attributed to: 1) a \$20 million loss on liabilities driven by salary increases (for actives) greater than expected and cost-of-living adjustments (for retirees) greater than expected; 2) a change in the investment return assumption from 6.75% to 6.70% which increased liabilities by \$6.9 million; and 3) changes for Plan C and Plan D which increased liabilities by \$0.9 million.

Cheiron's, Janet H. Cranna, FSA, EA, MAAA, Principal Consulting Actuary and Patrick Nelson, FSA, EA, MAAA, Associate Actuary will present the attached presentation at the Commission's November 16, 2022 meeting.

Thank you in advance for your consideration.

#### Attachment

1. Pension Actuarial Valuation as of June 30, 2022

**Signature:**   
Peter Shapiro (Nov 1, 2022 15:33 EDT)  
**Email:** peter.shapiro@mncppc.org

**Signature:** *Andrea Rose*  
**Email:** andrea.rose@mncppc.org



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC RESOLUTION NO. 22-37

RECOMMENDATION TO APPROVE AN EMPLOYER RETIREMENT CONTRIBUTION IN THE AMOUNT OF \$28,367,491 FOR FISCAL YEAR 2024

WHEREAS, The Maryland-National Capital Park and Planning Commission (the "Commission") as Plan Sponsor entered into a Pension Trust Agreement as of July 26, 1972 and amended on June 13, 1979, November 15, 2000, and September 16, 2009 ("the Agreement") with the Employees' Retirement System of the Maryland-National Capital Park and Planning Commission ("ERS" or the "Plan"); and

WHEREAS, the "FIRST" section of the Agreement states that the Board of Trustees shall be responsible for the collection of contributions to the Plan; and

WHEREAS, Section 2.3(g) of the ERS Plan Document states that the Board of Trustees shall recommend to the Commission the contributions to be made by the Commission under the provisions of the Retirement System; and

WHEREAS, the Board of Trustees engaged Cheiron ("the Actuary") to prepare an ERS Actuarial Valuation as of June 30, 2022; and

WHEREAS, the ERS Actuarial Valuation as of June 30, 2022 projected a Fiscal Year 2024 Plan Sponsor contribution in the amount of \$28,367,491.

NOW THEREFORE, BE IT RESOLVED, that the Commission as Plan Sponsor approves a \$28,367,491 payment to the ERS Trust Fund; and

BE IT FURTHER RESOLVED that the Maryland-National Capital Park and Planning Commission does hereby authorize the Executive Director and other officers to take action as may be necessary to implement this resolution.

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of Resolution No. 22-37 adopted by the Maryland-National Capital Park and Planning Commission on motion of \_\_\_\_\_, seconded by \_\_\_\_\_, with \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ in favor of the motion, and \_\_\_\_\_ being absent for the vote at its regular meeting held on Wednesday, November 16, 2022, via video-conference, and broadcast by the \_\_\_\_\_.

\_\_\_\_\_  
Asuntha Chiang-Smith, Executive-Director

*Ben Rupert* 11/01/2022  
\_\_\_\_\_  
Reviewed for Legal Sufficiency by  
Benjamin E. Rupert, Esq.

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Maryland-National Capital Park  
and Planning Commission  
Employees' Retirement System



# Pension Actuarial Valuation as of June 30, 2022

November 16, 2022

Presented by

Janet Cranna, FSA, FCA, EA, MAAA

Patrick Nelson, FSA, CERA, EA, MAAA

Jana Bowers, ASA

# Agenda



- Historical Review and Material Risks
- June 30, 2022 Actuarial Valuation Results
- Projections



# The Actuarial Valuation Process



1. Collect information
  - Member data
  - Plan provisions
  - Asset information

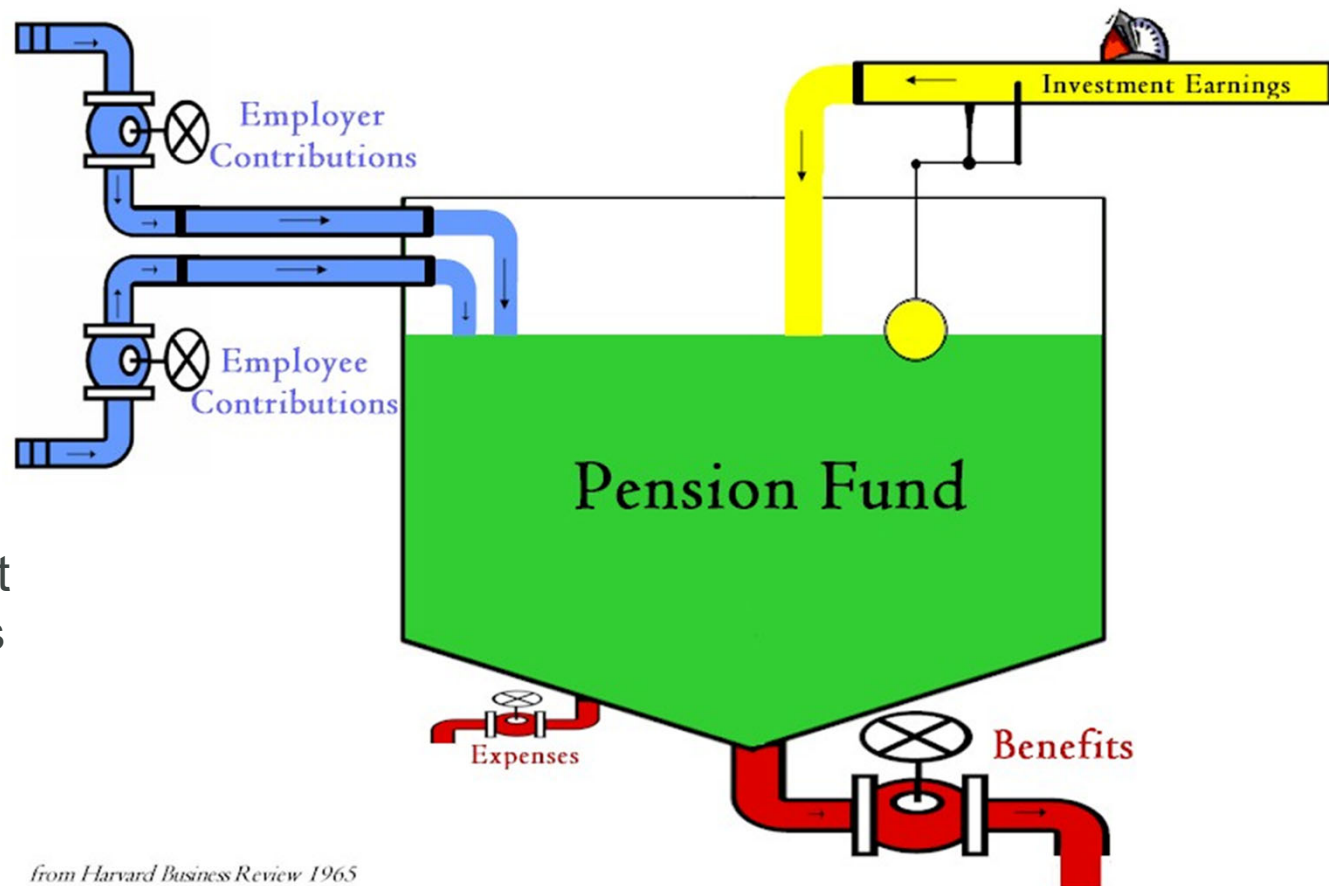
2. Apply assumptions
  - Demographic
  - Economic

3. Project all future benefit payments

4. Determine a present value of the benefits

5. Compare to assets

6. Calculate employer and employee contributions

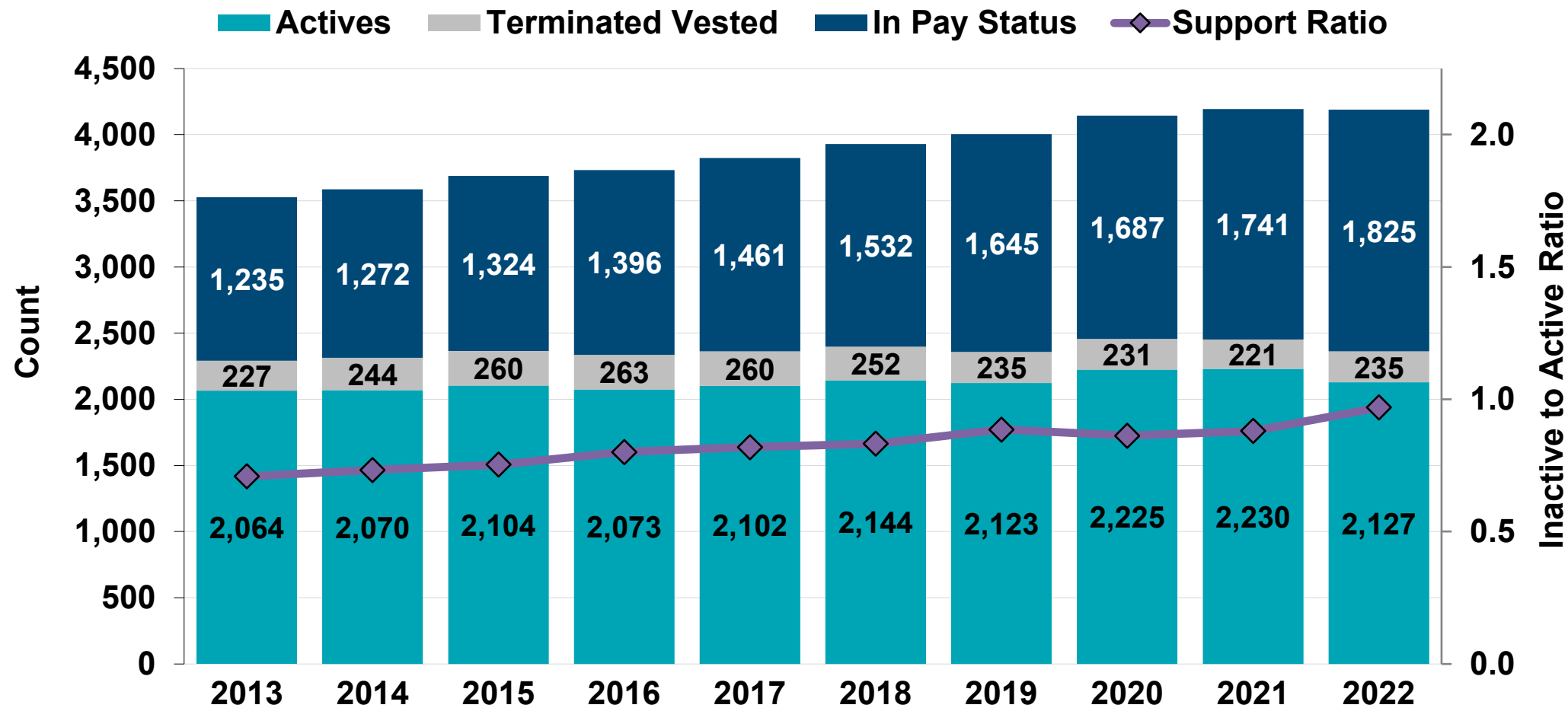


*from Harvard Business Review 1965*



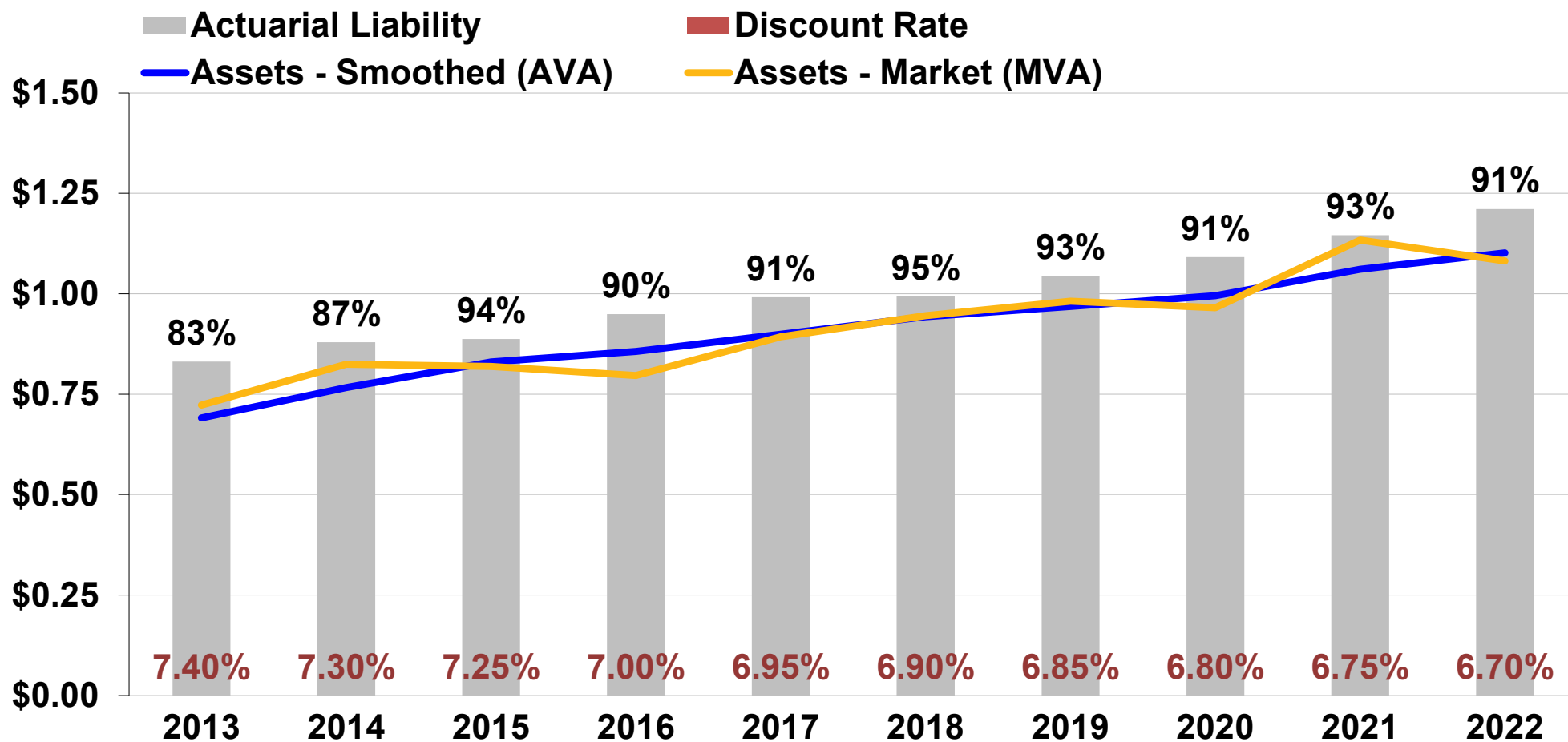
- Material risks identified:
  - **Investment Risk** – the potential for investment returns to be different than expected
  - **Longevity and other Demographic Risk** – the potential for mortality and other demographic experience to be different than expected
  - **Contribution Risk** – the potential that actual contributions will not adequately fund the Plan
  - **Plan Change Risk** – the potential for provisions of the plan to change and impact measurements
  - **Assumption Change Risk** – the potential for the environment to change such that future valuation assumptions are different than the current assumptions

# Membership Trends



Support Ratio is the ratio of the number of inactive members (Retirees and Deferred Vested) per active member.

# Assets and Liabilities

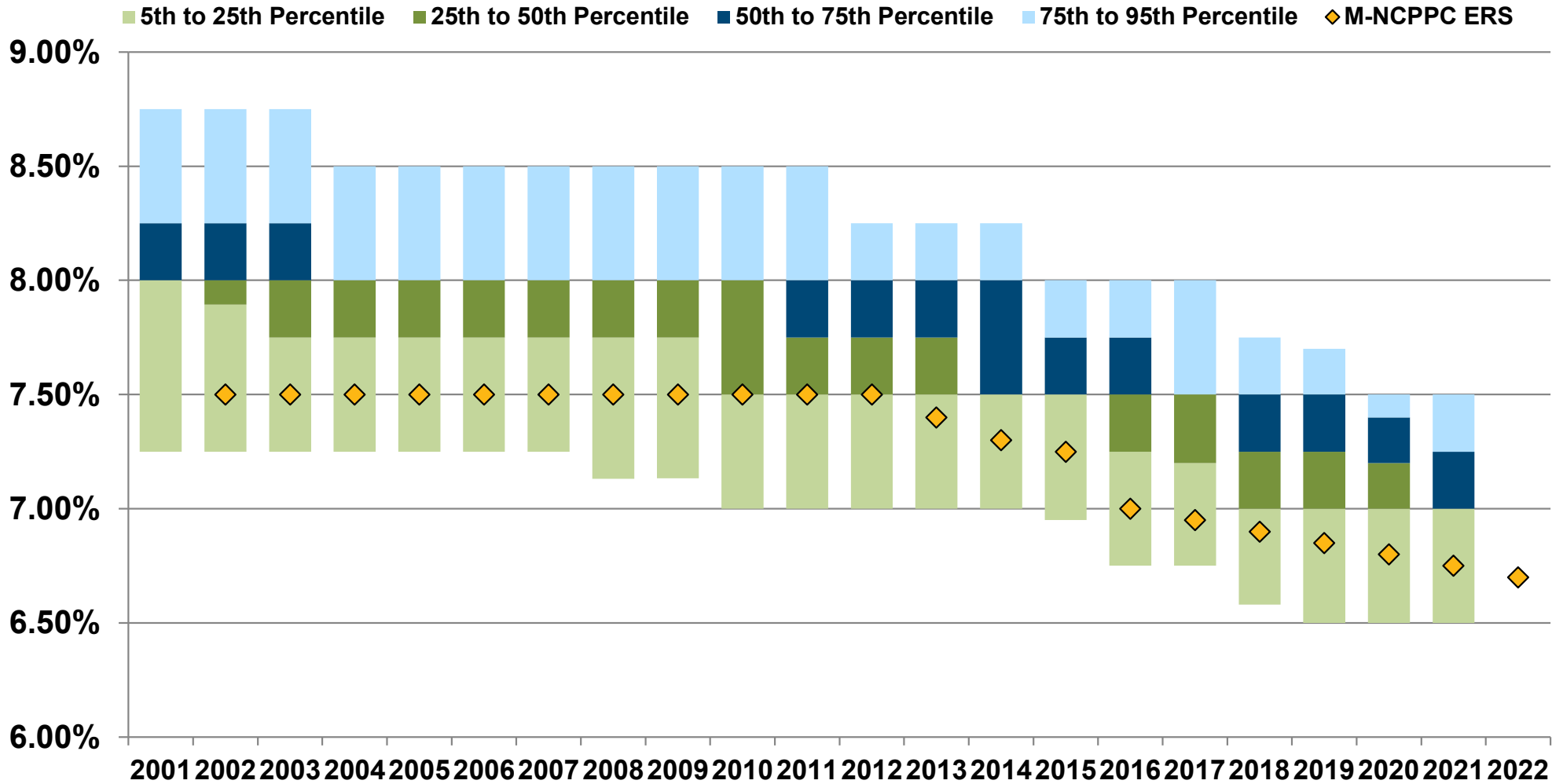


Funded status shown above bars is Actuarial Value of Assets divided by Actuarial Liability.

# Discount Rate



## Discount Rate



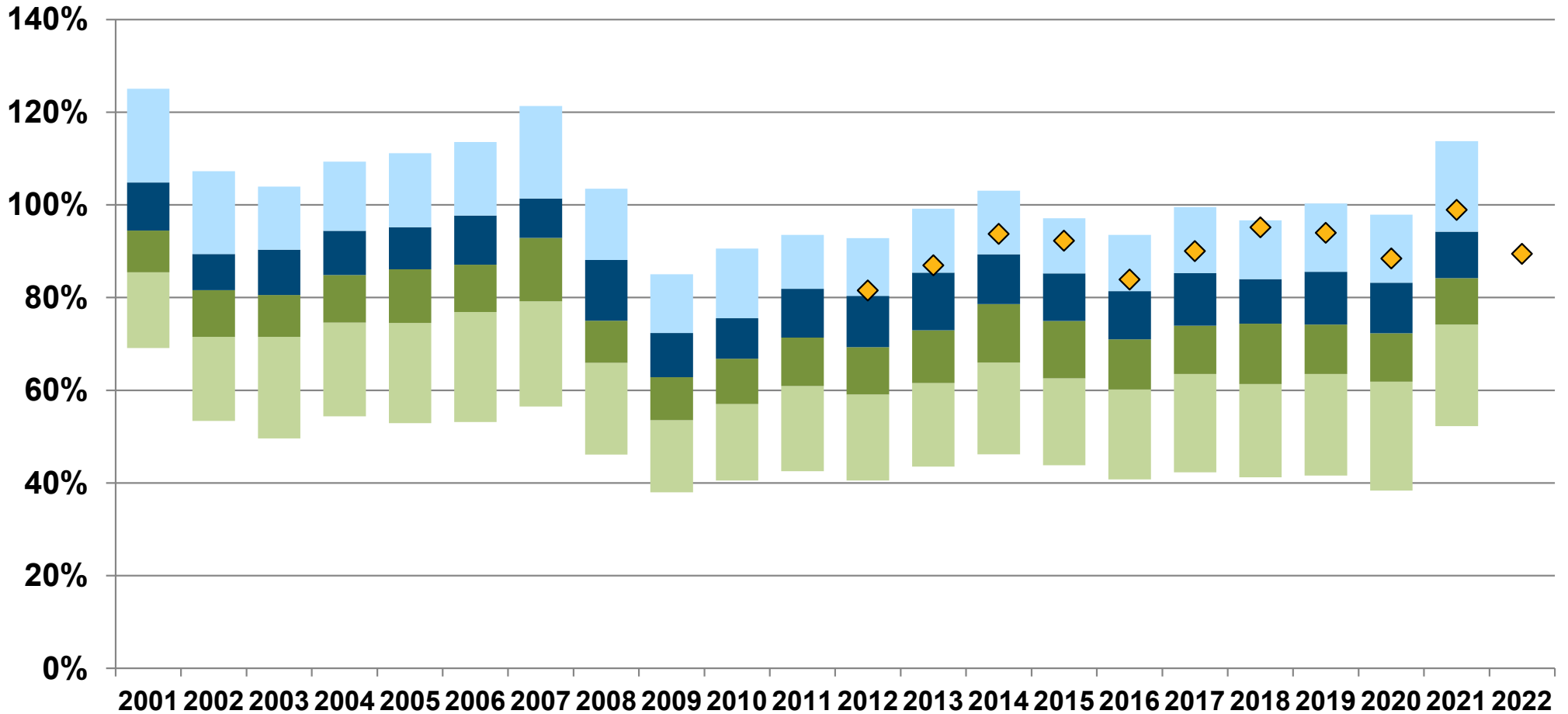
Survey Data from Public Plans Data as of 7/21/2022

# MVA Funded Ratio



## MVA Funded Ratio

■ 5th to 25th Percentile 
 ■ 25th to 50th Percentile 
 ■ 50th to 75th Percentile 
 ■ 75th to 95th Percentile 
 ◆ M-NCPPC ERS



Survey Data from Public Plans Data as of 7/21/2022

# Member Counts



Member Status	As of June 30, 2021	As of June 30, 2022	% Change
Active	2,230	2,127	-4.62%
Terminated Vested	221	235	6.33%
Terminated Non-Vested <sup>1</sup>	499	581	16.43%
Retired, Beneficiaries, and Disabled	<u>1,741</u>	<u>1,825</u>	4.82%
<b>Total</b>	<b>4,691</b>	<b>4,768</b>	<b>1.64%</b>

<sup>1</sup> Members still due a refund of employee contributions

# Assets and Liabilities Comparison



- Market Value of Assets (MVA) returned -1.88% and the Actuarial Value of Assets (AVA) returned 6.99% from June 30, 2021 to June 30, 2022 compared to the assumed rate of 6.75%
  - Actuarial gain on investments was \$2.4 million.
- Actuarial liability loss of \$20.4 million
- Change in the discount rate from 6.75% to 6.70% increased liabilities by \$6.9 million
- Changes for Plan C (sick leave, member contributions) and Plan D (sick leave) increased liabilities by \$0.9 million

Assets and Liabilities	As of June 30, 2021	As of June 30, 2022	% Change
Actuarial Liability (AL)	\$ 1,145,821,510	\$ 1,209,526,280	5.56%
Actuarial Value of Assets (AVA)	\$ 1,060,873,621	\$ 1,101,798,189	3.86%
Unfunded Actuarial Liability (UAL)	\$ 84,947,889	\$ 107,728,091	26.82%
Funded Ratio (AVA / AL)	92.59%	91.09%	-1.50%
Market Value of Assets (MVA)	\$ 1,133,896,632	\$ 1,081,836,291	-4.59%
Funded Ratio (MVA / AL)	98.96%	89.44%	-9.52%

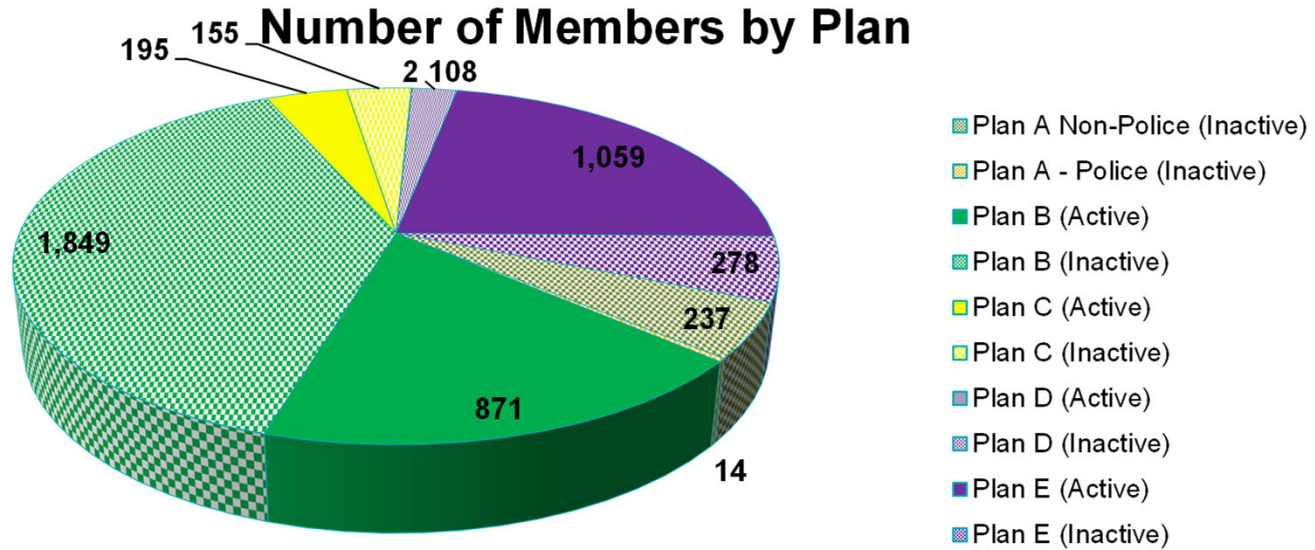
November 16, 2022



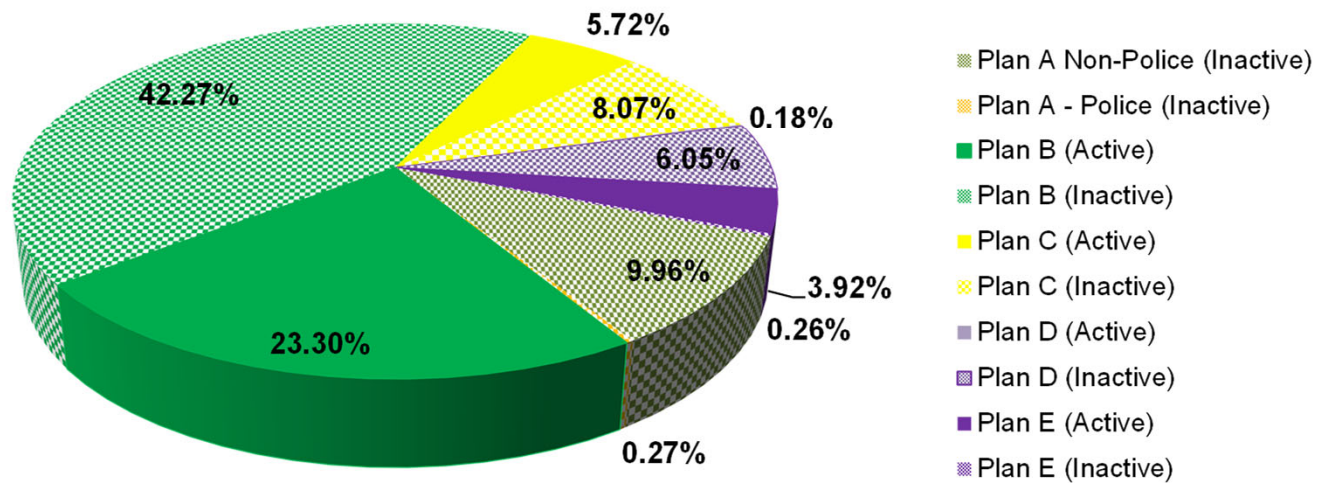
# Membership and Liability By Plan



## Number of Members by Plan



## Actuarial Liability by Plan



# Change in Liabilities



Source	(Gain) / Loss
Liabilities as of June 30, 2021	\$ 1,145,821,510
Change due to:	
Plan Amendments	903,119
Assumption Changes	6,857,124
Actuarial (Gain) / Loss	20,374,414
Benefits Accumulated and Other Sources	<u>35,570,112</u>
Total Liability Increase / (Decrease)	<u>63,704,769</u>
Liabilities as of June 30, 2022	\$ 1,209,526,280

Source	(Gain) / Loss	% of Liability
New members entering System	\$ 771,162	0.1%
Salary increases for prior year greater than expected	13,292,000	1.2%
Salary adjustments for FOP Officers	(1,509,432)	-0.1%
Active member decrements	650,031	0.1%
Inactive mortality	(859,557)	-0.1%
COLA greater than expected	8,677,239	0.8%
Benefit payments different than expected	1,142,464	0.1%
Data updates	(898,868)	-0.1%
Miscellaneous changes	<u>(890,625)</u>	<u>-0.1%</u>
Total Actuarial Liability (Gain) / Loss	\$ 20,374,414	1.9%

November 16, 2022

# Employer Contribution by Plan



	Non-Police Plan A	Police Plan A	Plan B	Plan C	Plan D	Plan E	Total
Active Member Payroll	\$ 0	\$ 0	\$ 78,069,420	\$ 17,620,503	\$ 231,100	\$ 78,978,517	\$ 174,899,540
<b>Normal Costs</b>							
Gross Normal Cost	\$ 0	\$ 0	\$ 7,933,305	\$ 4,256,548	\$ 26,976	\$ 8,895,652	\$ 21,112,481
Estimated Expenses	241,019	6,624	1,586,173	333,483	150,774	100,980	2,419,053
Reduction due to Expected Employee Contributions	<u>0</u>	<u>0</u>	<u>3,045,419</u>	<u>1,582,783</u>	<u>10,223</u>	<u>3,183,025</u>	<u>7,821,450</u>
Net Employer Normal Cost	\$ 241,019	\$ 6,624	\$ 6,474,059	\$ 3,007,248	\$ 167,527	\$ 5,813,607	\$ 15,710,084
--As a % of Payroll	0.00%	0.00%	8.29%	17.07%	72.49%	7.36%	8.98%
<b>Amortization Payment</b>							
--As a % of Payroll	\$ 0	\$ 0	\$ 7,652,539	\$ 1,877,809	\$ 59,761	\$ 1,286,022	\$ 10,876,131
	0.00%	0.00%	9.80%	10.66%	25.86%	1.63%	6.22%
<b>Actuarially Determined Employer Contribution payable at Beginning of Year</b>							
--As a % of Payroll	\$ 241,019	\$ 6,624	\$ 14,126,598	\$ 4,885,057	\$ 227,288	\$ 7,099,629	\$ 26,586,215
	0.00%	0.00%	18.09%	27.72%	98.35%	8.99%	15.20%
<b>Actuarially Determined Employer Contribution payable at End of Year</b>							
--As a % of Payroll	\$ 257,167	\$ 7,068	\$ 15,073,080	\$ 5,212,356	\$ 242,516	\$ 7,575,304	\$ 28,367,491
	0.00%	0.00%	19.31%	29.58%	104.94%	9.59%	16.22%

# Contribution Allocation



	Contribution for FYE June 30, 2024		Contribution as % of Payroll		
Non-Police	\$	22,905,551	\$	157,047,937	14.59%
Park Police		<u>5,461,940</u>		<u>17,851,603</u>	30.60%
<b>Total</b>	\$	28,367,491	\$	174,899,540	16.22%

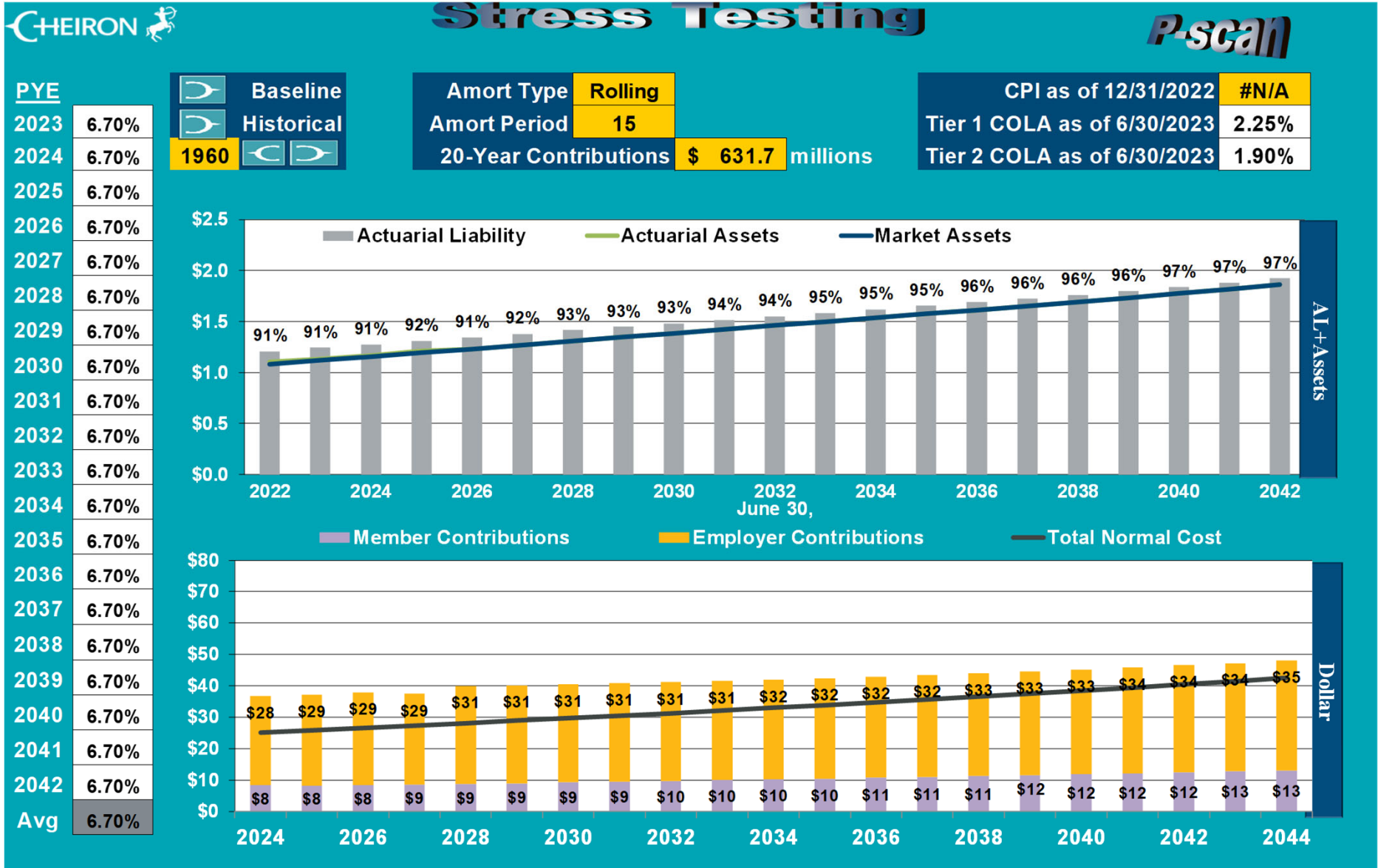
# Contribution Reconciliation



	FYE 2023	Exp Liability Exp Assets	Exp Liability Actual Assets	Baseline Liability Actual Assets	C+D Plan Changes Actual Assets	C+D Salary Adjustments Actual Assets	FYE 2024 Disc Rate Change
AL	\$ 1,145.8	\$ 1,182.9	\$ 1,182.9	\$ 1,203.3	\$ 1,204.2	\$ 1,202.7	\$ 1,209.5
AVA	<u>1,060.9</u>	<u>1,099.4</u>	<u>1,101.8</u>	<u>1,101.8</u>	<u>1,101.8</u>	<u>1,101.8</u>	<u>1,101.8</u>
UAL	\$ 84.9	\$ 83.5	\$ 81.1	\$ 101.5	\$ 102.4	\$ 100.9	\$ 107.7
Payroll	\$ 178.0	\$ 182.5	\$ 182.5	\$ 174.9	\$ 174.9	\$ 174.9	\$ 174.9
Gross NC	\$ 21.1	\$ 21.7	\$ 21.7	\$ 20.5	\$ 20.5	\$ 20.9	\$ 21.1
Est Exp	2.3	2.4	2.4	2.4	2.4	2.4	2.4
EE Cont	<u>7.9</u>	<u>7.6</u>	<u>7.6</u>	<u>7.8</u>	<u>7.8</u>	<u>7.8</u>	<u>7.8</u>
Net NC	\$ 15.5	\$ 16.5	\$ 16.5	\$ 15.1	\$ 15.1	\$ 15.5	\$ 15.7
UAL Amort	\$ 8.6	\$ 8.5	\$ 8.2	\$ 10.3	\$ 10.4	\$ 10.2	\$ 10.9
ADC BOY	\$ 24.1	\$ 25.0	\$ 24.7	\$ 25.4	\$ 25.5	\$ 25.7	\$ 26.6
% of Pay	13.52%	13.70%	13.57%	14.51%	14.59%	14.67%	15.20%
ADC EOY	\$ 25.7	\$ 26.7	\$ 26.4	\$ 27.1	\$ 27.2	\$ 27.4	\$ 28.4
% of Pay	14.43%	14.63%	14.48%	15.49%	15.57%	15.66%	16.22%

\$ in millions

# Projections – 6.70% Annual Return (Baseline)



**1960**

Year	Actuarial Assets (%)	Actuarial Liabilities (%)
2022	91%	91%
2024	91%	91%
2026	92%	91%
2028	93%	92%
2030	93%	93%
2032	94%	94%
2034	95%	95%
2036	96%	96%
2038	96%	96%
2040	97%	97%
2042	97%	97%

Year	Member Contributions	Employer Contributions	Total Normal Cost
2024	\$8	\$28	\$28
2026	\$8	\$29	\$29
2028	\$9	\$31	\$31
2030	\$9	\$31	\$31
2032	\$10	\$31	\$31
2034	\$10	\$32	\$32
2036	\$11	\$32	\$32
2038	\$11	\$33	\$33
2040	\$12	\$33	\$33
2042	\$12	\$34	\$34
2044	\$13	\$35	\$35

# Projected Cash Flows (Baseline)



## 10-Year Projection of Employer Costs (dollars in millions)

Fiscal Year Ending June 30,	Normal Cost	Amortization of UAL	Estimated Expenses	Interest to End of Year	Total Employer Contribution	Prior Year Payroll	Employer Contribution as % of Payroll
2024	\$ 13.29	\$ 10.88	\$ 2.42	\$ 1.78	\$ 28.37	\$ 174.90	16.22%
2025	13.63	10.98	2.49	1.82	28.92	179.27	16.13%
2026	13.98	11.03	2.56	1.85	29.42	183.75	16.01%
2027	14.40	9.95	2.62	1.81	28.78	188.35	15.28%
2028	14.82	11.60	2.69	1.95	31.06	193.06	16.09%
2029	15.25	11.13	2.76	1.95	31.09	197.88	15.71%
2030	15.69	10.67	2.83	1.96	31.15	202.83	15.36%
2031	16.14	10.24	2.90	1.96	31.24	207.90	15.03%
2032	16.60	9.82	2.97	1.97	31.35	213.10	14.71%
2033	17.06	9.42	3.03	1.98	31.50	218.43	14.42%
2034	17.54	9.04	3.10	1.99	31.67	223.89	14.14%

## Assumptions

- Future investment returns of 6.70%
- Total payroll increases 2.50%
- No liability gains or losses

# Projections – 5.20% Annual Return



## Stress Testing

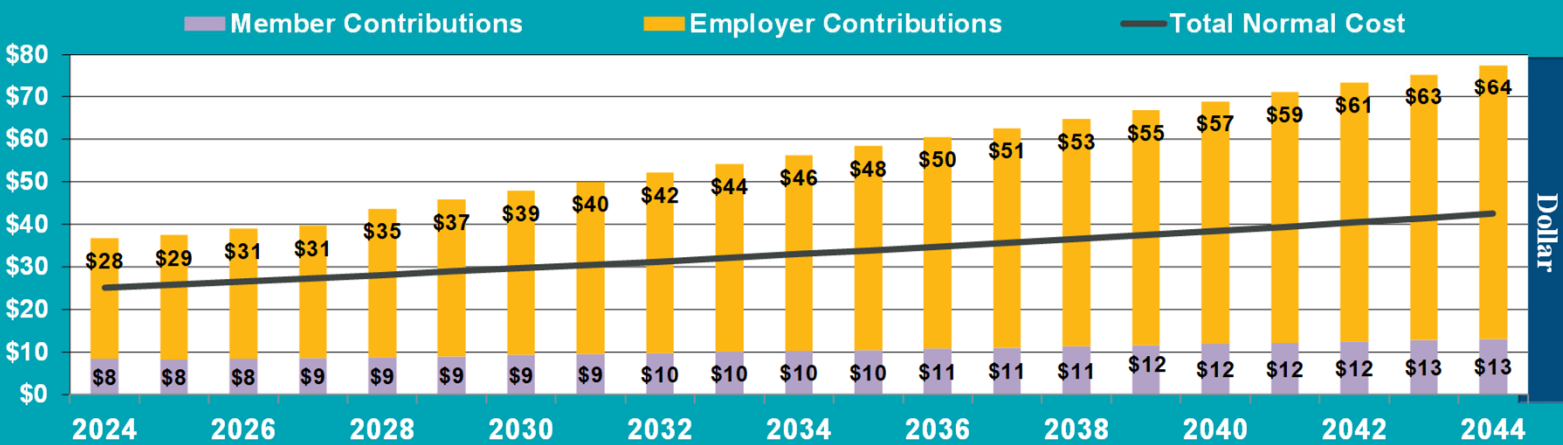
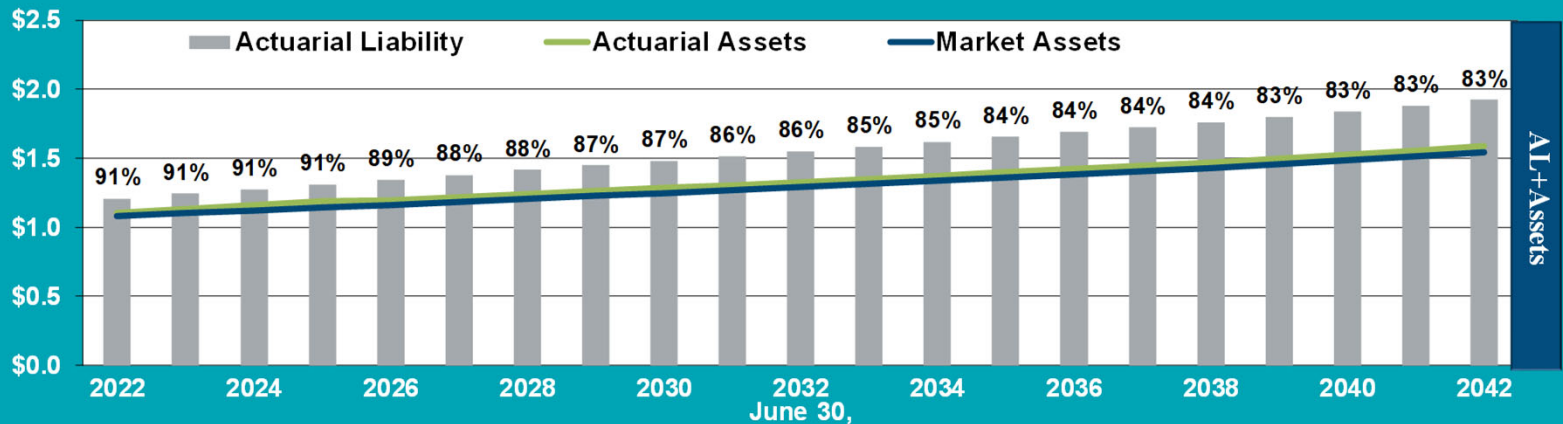
P-scan

PYE	5.20%
2023	5.20%
2024	5.20%
2025	5.20%
2026	5.20%
2027	5.20%
2028	5.20%
2029	5.20%
2030	5.20%
2031	5.20%
2032	5.20%
2033	5.20%
2034	5.20%
2035	5.20%
2036	5.20%
2037	5.20%
2038	5.20%
2039	5.20%
2040	5.20%
2041	5.20%
2042	5.20%
Avg	5.20%

Baseline  
 Historical

Amort Type **Rolling**  
 Amort Period **15**  
 20-Year Contributions **\$ 898.8** millions

CPI as of 12/31/2022 **#N/A**  
 Tier 1 COLA as of 6/30/2023 **2.25%**  
 Tier 2 COLA as of 6/30/2023 **1.90%**





# Projections – Historical Returns



## Stress Testing

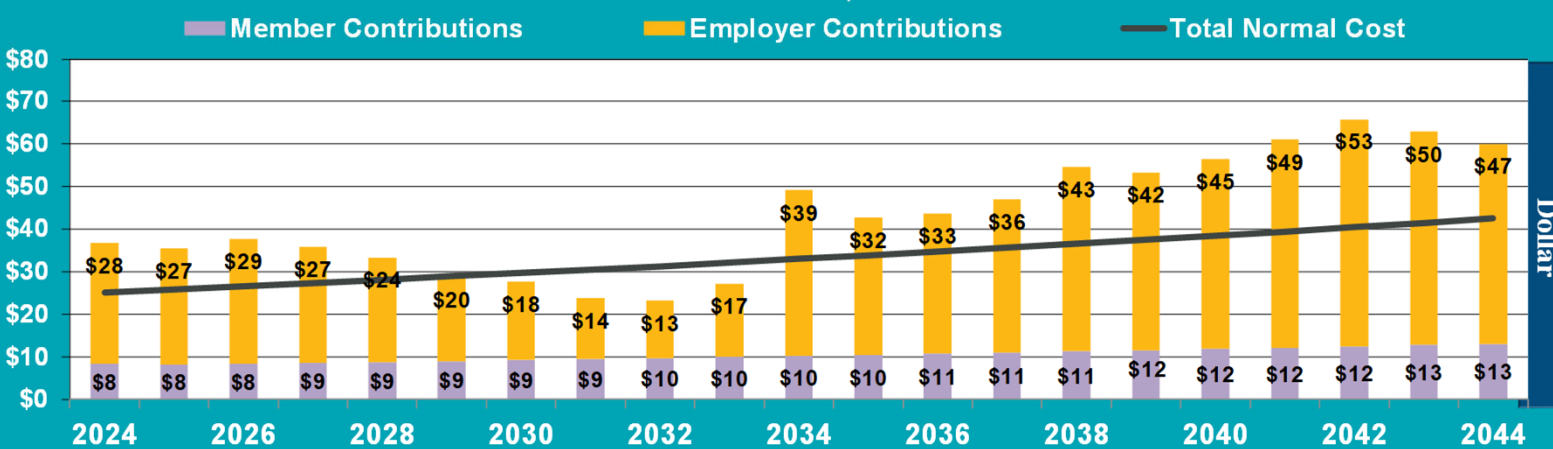
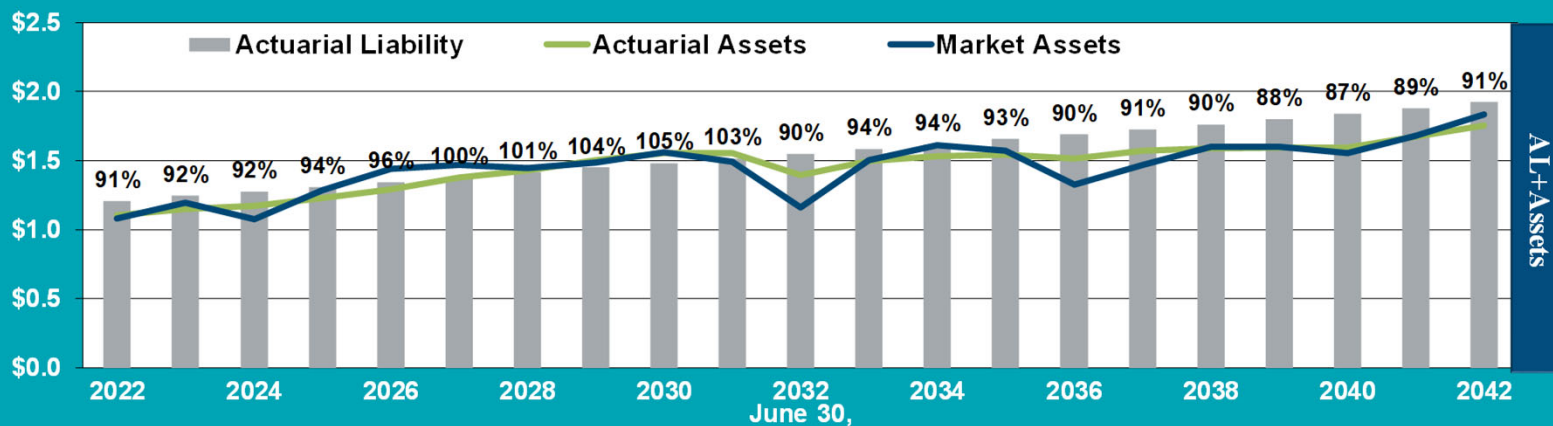
P-scan

PYE	Return
2023	13.73%
2024	-6.71%
2025	23.40%
2026	15.95%
2027	5.42%
2028	1.90%
2029	7.37%
2030	9.64%
2031	0.14%
2032	-17.96%
2033	34.93%
2034	11.23%
2035	1.52%
2036	-12.31%
2037	15.75%
2038	13.09%
2039	4.10%
2040	0.37%
2041	11.89%
2042	13.15%
Avg	6.68%

Baseline  
 Historical  
 1960

Amort Type **Rolling**  
 Amort Period **15**  
 20-Year Contributions **\$ 640.5** millions

CPI as of 12/31/2022 **#N/A**  
 Tier 1 COLA as of 6/30/2023 **2.25%**  
 Tier 2 COLA as of 6/30/2023 **1.90%**



# Required Disclosures



The purpose of this presentation is to present the actuarial valuation results for the Maryland-National Capital Park and Planning Commission Employees' Retirement System (System). This presentation is for the use of the Board and System staff.

In preparing our presentation, we relied on information, some oral and some written, supplied by the System. This information includes, but is not limited to, the plan provisions, employee data, and financial information. We performed an informal examination of the obvious characteristics of the data for reasonableness and consistency in accordance with Actuarial Standard of Practice No. 23.

The actuarial assumptions and methods are outlined in the draft Actuarial Valuation Report as of June 30, 2022. The census data provided to us by the System was as of June 30, 2022.

The assumptions reflect our understanding of the likely future experience of the System, and the assumptions as a whole represent our best estimate for the future experience of the System. The results of this presentation are dependent upon future experience conforming to these assumptions. To the extent that future experience deviates from the actuarial assumptions, the true cost of the System could vary from our results.

Cheiron utilizes and relies upon ProVal, an actuarial valuation software leased from Winklevoss Technologies for the intended purpose of calculating liabilities and projected benefit payments. Projected expected results of future valuations in this presentation were developed using P-scan, our proprietary tool for the intended purpose of developing projections. As part of the review process for this presentation, we have performed a number of tests to verify that the results are reasonable and appropriate. We are not aware of any material inconsistencies, unreasonable output resulting from the aggregation of assumptions, material limitations or known weaknesses that would affect this presentation.

This presentation and its contents have been prepared in accordance with generally recognized and accepted actuarial principles and our understanding of the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board as well as other applicable laws and regulations. Furthermore, as credentialed actuaries, we meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this presentation. This presentation does not address any contractual or legal issues. We are not attorneys, and our firm does not provide any legal services or advice.

This presentation was prepared exclusively for the Maryland-National Capital Park and Planning Commission Employee's Retirement System for the purpose described herein. Other users of this presentation are not intended users as defined in the Actuarial Standards of Practice, and Cheiron assumes no duty or liability to such other users.

Janet Cranna, FSA, FCA, EA, MAAA  
Principal Consulting Actuary

Patrick Nelson, FSA, CERA, EA, MAAA  
Consulting Actuary

Jana Bowers, ASA  
Associate Actuary

November 16, 2022

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# MEMORANDUM

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## EMPLOYEES' RETIREMENT SYSTEM

The Maryland-National Capital Park and Planning Commission  
6611 Kenilworth Avenue, Suite 100  
Riverdale, Maryland 20737

(301) 454-1415 - Telephone


(301) 454-1413 - Facsimile


<http://ers.mnccppc.org>

[ERSBoard@mnccppc.org](mailto:ERSBoard@mnccppc.org)

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To: The Maryland-National Capital Park & Planning Commission Date: November 1, 2022

Via: Peter A. Shapiro   
Vice Chairman, Board of Trustees

From: Andrea L. Rose   
Administrator

Subject: **Recommendation for Appointment of Nuveen as a new Investment Manager for the Employees' Retirement System**

---

### RECOMMENDATION

On behalf of the Board of Trustees (“Board”) of the Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (ERS), I recommend the Commission approve the appointment of Nuveen as a new investment manager for the ERS.

### BACKGROUND AND EVALUATION

In accordance with the Trust Agreement between the Board and the Commission dated July 26, 1972 and last amended September 16, 2009, the Commission approves the appointment of new investment managers to the ERS, upon recommendation from the Board.

At its meeting on September 6, 2022, the Board selected Nuveen’s Senior Loan Fund, L.P. to replace VOYA as the new senior loan manager. The allocation is approximately 5% (\$50 million) of the total fund which was \$1.04 billion as of October 20, 2022.

Nuveen has been managing leveraged finance for over 25 years with over \$39 billion in assets under management as of March 31, 2022. Nuveen’s senior loans strategy focuses on actively investing predominately in liquid, first lien senior loans to outperform the broader U.S. loan market. Senior loans provide diversification and are an attractive opportunity versus core fixed income. Senior loans are similar to high yield bonds, except they are senior and secured in the capital structure offering more safety in the event of a default as these loans are paid out first. The investment process focuses on identifying higher relative value in more liquid senior loans which aims to protect investors and capital.

Wilshire has approximately 70 senior loan managers in its universe. Qualitative and quantitative screens were applied to narrow down the list of candidates to investment managers who were the best fit with the existing portfolio. T. Rowe Price, Nuveen, and Ares Management presented to the Board at its September 6, 2022 meeting. The Board awarded the mandate to Nuveen. The mandate is a 5% dedicated allocation and is subject to successful negotiation of the governing documents.

Signature:   
Peter Shapiro (Nov 1, 2022 15:21 EDT)

Email: peter.shapiro@mnccppc.org

Signature: *Andrea Rose*

Email: andrea.rose@mnccppc.org

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## THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue Riverdale, Maryland 20730

Date: October 19, 2022

To: The Maryland-National Capital Park and Planning Commission

Via: Asuntha Chiang-Smith, Executive Director *ACS*  
 John Kroll, Corporate Budget Director *JKK*

From: Melinda Duong, Corporate Budget Analyst III *MD*

Subject: Bi-county Operations Labor Cost Allocation Analysis for the FY24 Budget

### Recommendation:

It is recommended that the Commission adopt the update to the labor cost percentages used to allocate bi-county operations budgets between Montgomery and Prince George's counties for the FY24 Proposed Budget. The bi-county operations are commonly known as the Central Administrative Services (CAS).

These updated allocations were presented to the Executive Committee on September 7, 2022.

### Background

Developed annually by the Corporate Budget Office, the analysis looked at the six bi-county departments/operations providing services to the departments in the two counties. These six operations include:

- Department of Human Resources and Management (DHRM)
- Finance Department
- Legal Department
- Office of the Chief Information Officer (Corporate IT)
- Inspector General's Office
- Merit System Board

This analysis determines the percentage of time allocated to each county, and hence how much of each budget should be charged to each of the funding sources.

Within the six operations, there are three bi-county functions that are not addressed in this analysis: 1) Group Insurance – labor costs are factored into the rates set for the employer and employee/retiree, and, since FY14, no longer allocated and are charged directly to the operating departments in each county; 2) CIO – Labor costs are allocated by the percentage of subscriptions to the Cloud and included in the CIO Fund budget; 3) Risk Management – in the

past the administrative costs have been allocated 50/50. After analyzing staff time records for the three-year period from FY20 to FY22, even though the allocation is slightly different each year, the annualized allocation for Risk Management remains 50/50.

## Methodology

Fiscal year data is extracted from the timecard system. For those divisions for which cost drivers are not applied, work hours are classified as Montgomery County, Prince George’s County or bi-county, according to the description of the labor codes used. If the labor code does not indicate a specific county for the work/leave hours, the hours are classified as bi-county. Bi-county hours are allocated 50/50 between the two counties.

For Accounts Payable, Treasury/Investments, Payroll and Purchasing units of the Finance Department, and Employee Records and Recruitment units of the Department of Human Resources and Management, the labor cost allocations are done using cost drivers, i.e., work hours are classified and distributed as Montgomery or Prince George’s according to the Cost Driver table below. For Accounts Payable and Payroll the driver is number of payments issued; for Purchasing the driver is total document volume (including PO’s, contracts and purchase card transactions); for Treasury the driver is the number of cash receipts and deposits; for Employee Records the driver is the number of PA2’s processed; for Recruitment the driver is the number of applications.

Whether utilizing the labor hour allocations or the cost drivers, the results are then factored into a three-year moving average to smooth individual year variations.

Two bi-county operations do not utilize either of these methodologies. For the Merit System Board, it is assumed that the decisions they render are applicable to the Commission as a whole. Therefore, their budget is allocated on a 50/50 basis.

CAS Support Services – Historically allocated on a 50/50 basis, beginning with FY15 these expenses are now allocated based upon the three-year labor allocation average of the bi-county departments/units that are supported.

## Results

Cost drivers were updated for FY22 by Finance and DHRM and these results are shown below along with the drivers used for prior periods.

Cost Drivers	FY18		FY19		FY20		FY21		FY22		% shift in Share	
	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC
Accounts Payable	43.50%	56.50%	43.60%	56.40%	43.10%	56.90%	43.70%	56.30%	44.40%	55.60%	0.7%	-0.7%
Payroll	24.80%	75.20%	24.82%	75.18%	25.31%	74.69%	31.78%	68.22%	27.57%	72.43%	-4.2%	4.2%
Purchasing	49.62%	50.38%	48.89%	51.11%	48.56%	51.44%	48.10%	51.90%	48.26%	51.74%	0.2%	-0.2%
Treasury/Investment	20.00%	80.00%	20.00%	80.00%	20.00%	80.00%	20.00%	80.00%	20.00%	80.00%	0.0%	0.0%
Employee Records	15.89%	84.11%	19.78%	80.22%	16.76%	83.24%	15.47%	84.53%	18.91%	81.09%	3.4%	-3.4%
Recruitment	49.70%	50.30%	44.40%	55.60%	43.50%	56.50%	43.60%	56.40%	47.88%	52.12%	4.3%	-4.3%

The unavailability of Kronos from December 2021 through February 2022 does not appear to have skewed the results.

Using the labor hour splits for some divisions, the cost driver calculations for other divisions, and the assumptions noted above under Methodology for Merit Board and Support Services resulted in the allocation percentages shown below.

**ALLOCATION OF CAS BUDGET TO EACH COUNTY FY18 TO FY23**

	FY23		FY24 Proposed		Change from FY23	
	MC	PGC	MC	PGC	MC	PGC
DHRM	40.4%	59.6%	40.7%	59.3%	0.3%	-0.3%
Finance	42.9%	57.1%	42.8%	57.2%	-0.1%	0.1%
Legal	51.8%	48.2%	49.6%	50.4%	-2.2%	2.2%
Office of Inspector General	36.0%	64.0%	42.9%	57.1%	6.9%	-6.9%
Corporate IT	50.0%	50.0%	50.0%	50.0%	0.0%	0.0%
Merit System Board	50.0%	50.0%	50.0%	50.0%	0.0%	0.0%
Support Services	44.2%	55.8%	44.0%	56.0%	-0.2%	0.2%
<b>Total CAS Before Chargebacks</b>	44.8%	55.2%				

Below is an expanded summary showing the budgeted allocations from FY18 through FY23

ALLOCATION OF CAS BUDGET TO EACH COUNTY FY18 TO FY23

	FY18		FY19		FY20		FY21		FY22		FY23		FY24 Proposed		Change from FY23	
	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC
DHRM	42.6%	57.4%	43.0%	57.0%	42.6%	57.4%	41.7%	58.3%	41.1%	58.9%	40.4%	59.6%	40.7%	59.3%	0.3%	-0.3%
Finance	43.6%	56.4%	43.9%	56.1%	44.6%	55.4%	42.4%	57.6%	43.0%	57.0%	42.9%	57.1%	42.8%	57.2%	-0.1%	0.1%
Legal	50.5%	49.5%	49.9%	50.1%	50.4%	49.6%	50.5%	49.5%	50.5%	49.5%	51.8%	48.2%	49.6%	50.4%	-2.2%	2.2%
Office of Inspector General	34.9%	65.1%	34.8%	65.2%	34.8%	65.2%	37.9%	62.1%	41.9%	58.2%	36.0%	64.0%	42.9%	57.1%	6.9%	-6.9%
Corporate IT	0.0%	0.0%	44.4%	55.6%	45.2%	54.8%	49.2%	50.8%	49.6%	50.4%	50.0%	50.0%	50.0%	50.0%	0.0%	0.0%
Merit System Board	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	0.0%	0.0%
Support Services	44.5%	55.5%	44.3%	55.7%	44.8%	55.2%	44.5%	55.5%	44.5%	55.5%	44.2%	55.8%	44.0%	56.0%	-0.2%	0.2%
<b>Total CAS Before Chargebacks</b>	44.4%	55.6%	44.6%	55.4%	44.9%	55.1%	45.1%	54.9%	45.0%	55.0%	44.8%	55.2%	44.0%	56.0%	-0.2%	0.2%



This table provides the divisional labor allocation in detail, including the three-year average which forms the basis for each year's proposed allocation.

**LABOR COST ALLOCATION SUMMARY AND COMPARISON TO FY23 BUDGETED ALLOCATION**

	FY 18			FY 19			FY 20			FY 21			FY 22		
	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total
<b>30 - Dept Human Resources &amp; Mgmt</b>	<b>41.4%</b>	<b>58.6%</b>	<b>100%</b>	<b>41.3%</b>	<b>58.7%</b>	<b>100%</b>	<b>39.9%</b>	<b>60.1%</b>	<b>100%</b>	<b>39.1%</b>	<b>60.9%</b>	<b>100%</b>	<b>43.1%</b>	<b>56.9%</b>	<b>100%</b>
OFFICE OF THE EXEC. DIR.	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%
BUDGET DIVISION	49.5%	54.5%	100%	49.4%	50.6%	100%	50.4%	49.6%	100%	50.2%	49.8%	100%	49.9%	50.1%	100%
CLASSIFICATION COMPENSATION	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%
CORP. POLICY & MGMT SVCS	59.9%	40.1%	100%	49.7%	50.3%	100%	45.0%	55.0%	100%	50.5%	49.5%	100%	46.5%	53.5%	100%
EMPLOYEE LABOR RELATIONS	15.9%	84.1%	100%	19.8%	80.2%	100%	16.8%	83.2%	100%	15.5%	84.5%	100%	18.9%	81.1%	100%
HRIS/EMP. RECORDS	49.7%	50.3%	100%	44.4%	55.6%	100%	43.5%	56.5%	100%	43.6%	56.4%	100%	47.9%	52.1%	100%
RECRUITMENT	<b>53.2%</b>	<b>46.8%</b>	<b>100%</b>	<b>49.1%</b>	<b>50.9%</b>	<b>100%</b>	<b>49.1%</b>	<b>50.9%</b>	<b>100%</b>	<b>49.8%</b>	<b>50.2%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>
<b>31 - Legal</b>	<b>43.3%</b>	<b>56.7%</b>	<b>100%</b>	<b>42.7%</b>	<b>57.3%</b>	<b>100%</b>	<b>42.3%</b>	<b>57.7%</b>	<b>100%</b>	<b>43.2%</b>	<b>56.8%</b>	<b>100%</b>	<b>42.8%</b>	<b>57.2%</b>	<b>100%</b>
ACCOUNTING	51.6%	48.4%	100%	50.3%	49.7%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%
ACCOUNTS PAYABLE	43.5%	56.5%	100%	43.6%	56.4%	100%	43.1%	56.9%	100%	43.7%	56.3%	100%	44.4%	55.6%	100%
ADMINISTRATIVE SERVICES	49.7%	50.3%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%
INVESTMENTS	20.0%	80.0%	100%	20.0%	80.0%	100%	20.0%	80.0%	100%	20.0%	80.0%	100%	20.0%	80.0%	100%
OFFICE OF THE SEC-TREAS.	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%
PAYROLL	24.8%	75.2%	100%	24.8%	75.2%	100%	25.3%	74.7%	100%	31.8%	68.2%	100%	27.6%	72.4%	100%
PURCHASING	49.6%	50.4%	100%	48.9%	51.1%	100%	48.6%	51.4%	100%	48.1%	51.9%	100%	48.3%	51.7%	100%
<b>37 - Corporate IT</b>	<b>48.9%</b>	<b>51.1%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>
<b>40 - Merit System</b>	<b>50.1%</b>	<b>49.9%</b>	<b>100%</b>	<b>50.1%</b>	<b>49.9%</b>	<b>100%</b>	<b>50.1%</b>	<b>49.9%</b>	<b>100%</b>	<b>50.1%</b>	<b>49.9%</b>	<b>100%</b>	<b>50.1%</b>	<b>49.9%</b>	<b>100%</b>
<b>52 - Office of Inspector General</b>	<b>38.0%</b>	<b>62.0%</b>	<b>100%</b>	<b>45.8%</b>	<b>54.2%</b>	<b>100%</b>	<b>41.6%</b>	<b>58.4%</b>	<b>100%</b>	<b>35.3%</b>	<b>64.7%</b>	<b>100%</b>	<b>51.9%</b>	<b>48.1%</b>	<b>100%</b>
<b>Total CAS</b>	<b>45.0%</b>	<b>55.0%</b>	<b>100%</b>	<b>44.5%</b>	<b>55.5%</b>	<b>100%</b>	<b>43.8%</b>	<b>56.2%</b>	<b>100%</b>	<b>43.6%</b>	<b>56.4%</b>	<b>100%</b>	<b>45.6%</b>	<b>54.4%</b>	<b>100%</b>

	FY 18 - FY 20			FY 19 - FY 21			FY 20 - FY 22			FY 23 Budget			3 Year Average vs FY23 Budget		
	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total
<b>30 - Dept Human Resources &amp; Mgmt</b>	<b>40.6%</b>	<b>59.4%</b>	<b>100%</b>	<b>40.1%</b>	<b>59.9%</b>	<b>100%</b>	<b>40.7%</b>	<b>59.3%</b>	<b>100%</b>	<b>40.4%</b>	<b>59.6%</b>	<b>100%</b>	<b>0.3%</b>	<b>-0.3%</b>	<b>0.0%</b>
OFFICE OF THE EXEC. DIR.	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%			
BUDGET DIVISION	49.7%	50.3%	100%	50.0%	50.0%	100%	50.2%	49.8%	100%	50.2%	49.8%	100%			
CLASSIFICATION COMPENSATION	41.5%	58.5%	100%	40.2%	59.8%	100%	42.3%	57.7%	100%	42.3%	57.7%	100%			
CORP. POLICY & MGMT SVCS	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%			
EMPLOYEE LABOR RELATIONS	53.4%	46.6%	100%	48.4%	51.6%	100%	47.3%	52.7%	100%	47.3%	52.7%	100%			
HRIS/EMP. RECORDS	17.0%	83.0%	100%	17.3%	82.7%	100%	17.0%	83.0%	100%	17.0%	83.0%	100%			
RECRUITMENT	45.9%	54.1%	100%	43.8%	56.2%	100%	45.0%	55.0%	100%	45.0%	55.0%	100%			
<b>31 - Legal</b>	<b>50.7%</b>	<b>49.3%</b>	<b>100%</b>	<b>49.3%</b>	<b>50.7%</b>	<b>100%</b>	<b>49.6%</b>	<b>50.4%</b>	<b>100%</b>	<b>51.8%</b>	<b>48.2%</b>	<b>100%</b>	<b>-2.2%</b>	<b>2.2%</b>	<b>0.0%</b>
ACCOUNTING	43.1%	56.9%	100%	42.7%	57.3%	100%	42.8%	57.2%	100%	42.9%	57.1%	100%	<b>-0.1%</b>	<b>0.1%</b>	<b>0.0%</b>
ACCOUNTS PAYABLE	50.6%	49.4%	100%	50.1%	49.9%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%			
ADMINISTRATIVE SERVICES	43.6%	56.4%	100%	43.5%	56.5%	100%	43.7%	56.3%	100%	43.7%	56.3%	100%			
INVESTMENTS	49.9%	50.1%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%			
OFFICE OF THE SEC-TREAS.	20.0%	80.0%	100%	20.0%	80.0%	100%	20.0%	80.0%	100%	20.0%	80.0%	100%			
PAYROLL	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%			
PURCHASING	27.1%	72.9%	100%	27.3%	72.7%	100%	28.2%	71.8%	100%	28.2%	71.8%	100%			
<b>37 - Corporate IT</b>	<b>48.9%</b>	<b>51.1%</b>	<b>100%</b>	<b>48.5%</b>	<b>51.5%</b>	<b>100%</b>	<b>48.3%</b>	<b>51.7%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>
<b>40 - Merit System</b>	<b>49.6%</b>	<b>50.4%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>100%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>
<b>52 - Office of Inspector General</b>	<b>39.7%</b>	<b>60.3%</b>	<b>100%</b>	<b>40.9%</b>	<b>59.1%</b>	<b>100%</b>	<b>42.9%</b>	<b>57.1%</b>	<b>100%</b>	<b>36.0%</b>	<b>64.0%</b>	<b>100%</b>	<b>6.9%</b>	<b>-6.9%</b>	<b>0.0%</b>
<b>Total CAS</b>	<b>44.4%</b>	<b>55.6%</b>	<b>100%</b>	<b>44.0%</b>	<b>56.0%</b>	<b>100%</b>	<b>44.3%</b>	<b>55.7%</b>	<b>100%</b>	<b>44.8%</b>	<b>55.2%</b>	<b>100%</b>	<b>-0.5%</b>	<b>0.5%</b>	<b>0.0%</b>

Notes:

- 1) Highlighted rows represents labor cost allocations are done with cost drivers
- 2) Result include chargeback positions based on time card records

## Multi-Year Change Summary

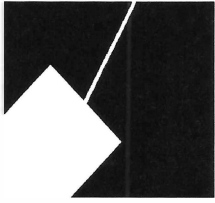
The table below shows the change from year to year, including the proposed change for FY24.

### Change from Prior Year

	FY19		FY20		FY21		FY22		FY23		FY24	
	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC
DHRM	0.4%	-0.4%	-0.4%	0.4%	-0.8%	0.8%	-0.7%	0.7%	-0.7%	0.7%	0.3%	-0.3%
Finance	0.3%	-0.3%	0.7%	-0.7%	-2.2%	2.2%	0.6%	-0.6%	-0.1%	0.1%	-0.1%	0.1%
Legal	-0.6%	0.6%	0.5%	-0.5%	0.1%	-0.1%	0.0%	0.0%	1.3%	-1.3%	-2.2%	2.2%
Office of Inspector General	-0.1%	0.1%	0.0%	0.0%	3.1%	-3.1%	3.9%	-3.9%	-5.9%	5.9%	6.9%	-6.9%
Corporate IT	44.4%	55.6%	0.8%	-0.8%	4.0%	-4.0%	0.4%	-0.4%	0.4%	-0.4%	0.0%	0.0%
Merit System Board	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Support Services	-0.2%	0.2%	0.5%	-0.5%	-0.3%	0.3%	0.0%	0.0%	-0.3%	0.3%	-0.2%	0.2%
<b>Total CAS Before Chargebacks</b>	0.2%	-0.2%	0.4%	-0.4%	0.1%	-0.1%	0.0%	0.0%	-0.2%	0.2%		

## Recommendation

The recommendation is to adopt the results of this year's analysis and direction be given to staff to utilize in developing the FY24 Proposed Budget. Using FY23 budget numbers, this would shift approximately \$9,904 to Prince George's County from Montgomery County.



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**THE MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION**

***Department of Finance, Office of Secretary-Treasurer***

6611 Kenilworth Avenue, Riverdale, Maryland 20737

October 31, 2022

TO: Commissioners

FROM: Gavin Cohen, Secretary-Treasurer   
Gavin Cohen (Nov 1, 2022 15:52 EDT)

SUBJECT: M-NCPPC Post Retirement Benefit (115) Trust Annual Financial Report for the fiscal year ending – June 30, 2022

Per the requirements of the 115 Trust Document, the Annual Financial Report showing the financial status of the Post Retirement Benefit (115) Trust is provided for your information.

The Commission maintains the Post Retirement Benefit (115) Trust as a funding vehicle for retiree health insurance costs. The program continues to meet its obligations to the retirees as well as amortize the unfunded portions of costs from previous obligations.

I will be happy to review the report with you.

Attachment: M-NCPPC Post Retirement Benefit (115) Trust Annual Report at June 30, 2022

**The Maryland-National Capital Park and Planning Commission  
 Other Post Employment Benefits Trust Fund Investments  
 Statement of Plan Net Assets  
 For the Period Ended June 30, 2022**

		<b>Other Post Employment Benefits Fund</b>
<b>ASSETS</b>		
Equity in Pooled Cash and Investments	\$	1,457,476
Cash		59,583
Fixed Income Securities		32,057,859
Real Estate Investments		17,655,036
Mutual Funds		74,578,464
Accrued Income on Investments		147,273
Total Assets		<u>125,955,691</u>
<b>LIABILITIES</b>		
Accounts Payable		152,475
Claims Payable		1,305,001
Total Liabilities		<u>1,457,476</u>
<b>NET POSITION</b>		
Assets Held in Trust for:		
Other Postemployment Benefits		124,498,215
Total Net Position	\$	<u><u>124,498,215</u></u>

**The Maryland-National Capital Park and Planning Commission  
Other Post Employment Benefits Trust Fund Investments  
Statement of Changes in Plan Net Assets  
For the Period Ended June 30, 2022**

	<u>Other Post Employment Benefits Fund</u>
<b>ADDITIONS:</b>	
Contributions:	
Employer	\$ 23,464,306
Plan Members	-
Plan Members for Current Benefits	3,544,517
Private Donations	-
Total Contributions	<u>27,008,823</u>
Contributions from Commission Debt Service Funds	3,054,903
Investment Earnings:	
Interest	1,489,211
Dividends	1,861,387
Net Increase (Decrease) in the Fair Value of Investments	<u>(14,448,905)</u>
Total Investment Earnings	(11,098,308)
Less Investment Advisory and Management Fees	-
Net Income from Investment Activities	<u>(11,098,308)</u>
Securities Lending Activity	
Securities Lending Income	-
Securities Lending Fees	-
Net Income from Securities Lending Activity	<u>-</u>
Net Investment Income	<u>(11,098,308)</u>
Total Additions and Investment Income	<u>18,965,418</u>
<b>DEDUCTIONS:</b>	
Benefits	22,499,768
Refunds of Contributions	-
Administrative expenses	731,958
	<u>23,231,726</u>
	(4,266,308)
Net Position - Beginning	128,764,522
Net Position - Ending	<u>\$ 124,498,215</u>

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

November 16, 2022

To: The Commission

Via: Asuntha Chiang-Smith, Executive Director

From: Tracey Harvin, Corporate Policy and Management Operations Director

Subject: Temporary Extension on Annual/Generic Leave Carryover

**Requested Action**

The Commission is asked to support a temporary extension on annual/generic leave carryover for Merit and Term Contract employees, through the end of the 2023 calendar year.

This proposal was shared with and supported by the Executive Committee at their November 2, 2022 meeting.

With the Commission's adoption of proposed Commission Resolution 22-38 (Attachment A), the extension will be communicated to all non-represented Merit and Term contract employees.

**Background**

In accordance with Section 1464 of the Merit System Rules and Regulations, an employee's annual leave balance which exceeds the calendar year limit is transferred to the employee's sick leave balance. The amount of annual leave an employee is permitted to carry over is dependent upon the employee's date of hire.

For employees hired:

- Prior to July 1, 2013, the maximum annual leave carryover to the next calendar year is 440 hours.
- On or after July 1, 2013, the maximum annual leave carryover to the next calendar year is 325 hours.
- On or after January 1, 2019, the maximum annual leave carryover to the next calendar year is 240 hours.

For Term Contract employees, the maximum generic leave (which functions like annual leave) that can be carried over to the next calendar year is 75 hours. Generic leave in excess of 75 hours is paid out in a lump sum payment (see the agency's Contract Employment Manual Procedures 00-02, Section VI(D)(1)(c)(i)).

### **Prior Extensions**

In December 2020, the agency authorized an automatic extension in the use of excess annual leave pursuant to Section 1464.2 of the Merit System Rules and Regulations, which permitted all employees who have excess annual leave to use it through April 30, 2021. It was automatically applied to all Merit System positions unless the employee opted out.

In April 2021, the agency extended this to the end of the calendar year (until December 31, 2021).

In January 2022, the agency extended the modification of Section 1464.2 of the Merit System Rules and Regulations until December 31, 2022.

### **Recommendation**

Staff recommends the Commission authorize another temporary extension on the carryover of both annual leave for non-represented Merit System employees and generic leave for Term Contract employees until December 31, 2023. While prior extensions have been granted, as of October 1, 2022, there are approximately 794 employees with leave in excess of the carryover limit, totaling a sum of 153,720 hours.

Providing another temporary extension will:

- Recognize employee efforts in response to the COVID-19 pandemic and those who have, as a result, been unable to schedule time off work to use their annual/generic leave.
- Assist employees who need to take leave due to COVID-19 exposure/quarantine.

Staff further recommend providing a similar opt-out option, for these non-represented Merit and Term contract employees to submit an opt-out request by a date to be determined in consultation with the Department of Finance.

The policy for employees represented by the Municipal and County Government Employees Organization/United Food and Commercial Workers, Local 1994 (MCGEO) and for employees represented by the Fraternal Order of Police, Lodge #30 will be communicated as soon as agreements have been reached.

### **Attachment**

**A:** M-NCPPC Resolution 22-38, Fourth Temporary Extension in Annual/Generic Leave Carryover (Merit and Term Contract Employees)





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

**M-NCPPC Resolution 22-38**

**Fourth Temporary Extension in Annual/Generic Leave Carryover  
(Merit and Term Contract Employees)**

WHEREAS, the Coronavirus (“COVID-19”) has presented an unforeseen set of events without any precedent in the agency’s history; and

WHEREAS, the State, including Montgomery and Prince George’s Counties, continues to experience increased COVID-19 positivity numbers associated with the Omicron variant; and

WHEREAS, the M-NCPPC has not declared an emergency closing and its departments continue to operate; and

WHEREAS, the agency recognizes that our Merit System and Term Contract employees and leaders have diligently responded to the unprecedented circumstances caused by the pandemic, often without the ability to utilize their annual/generic leave; and

WHEREAS, annual leave policies are covered in the agency’s personnel regulations, Section 1460 of the Merit System Rules and Regulations (Merit Rules); and

WHEREAS, generic leave policies applicable to Term Contract employees are covered in the agency’s Contract Employment Manual, Procedures 00-02, Section VI(D)(1)(c)(i); and

WHEREAS, the agency recognizes that annual/generic leave provides employees the ability to utilize this category to address COVID-19-related responsibilities; and

WHEREAS, the Merit Rules establish limits on annual leave balances, and requires an automatic transfer of excess annual leave beyond certain limits to sick leave no later than April 30, 2023; and

WHEREAS, the Contract Employment Manual establishes a limit on generic leave balances, and requires automatic payout of excess generic leave beyond a certain limit at the end of the calendar year.

NOW, THEREFORE, BE IT RESOLVED, that the Commission hereby authorizes a temporary modification of: (1) Section 1464.2 of the Merit System Rules and Regulations, and (2) Section VI(D)(1)(c)(i) of Procedures 00-02 of the Contract Employment Manual, by allowing an extension in the carryover of annual/generic leave as follows:

- a. Non-represented Merit System employees, as well as Term Contract employees, may continue to maintain their annual/generic leave balance until December 31, 2023, at which time the excess annual/generic leave balance rollover will be managed consistent with the provisions of the Merit System Rules and Regulations and Contract Employment Manual, as appropriate.
- b. This extension will be automatically applied for excess annual/generic leave as of December 24, 2022, to all non-represented Merit System positions, as well as Term Contract positions, unless written notification is made by an employee to the Corporate Human Resources Office no later than close of business on a date to be determined in consultation with the Department of Finance.

BE IT FURTHER RESOLVED that the Executive Director is authorized to enter into an agreement with the Municipal and County Government Employees Organization/United Food and Commercial Workers, Local 1994 (MCGEO) and Fraternal Order of Police, Lodge #30, respectively, regarding:

- a. The applicability of the extension to those employees represented by MCGEO and FOP, and
- b. The deadline by which written notification must be made to the Corporate Human Resources Office to opt out of the extension.

BE IT FURTHER RESOLVED, that the M-NCPPC does hereby authorize the Secretary-Treasurer to take action as may be necessary to implement this Resolution.

\*\*\*\*\*

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Maryland-National Capital Park and Planning Commission on the motion of Commissioner X, seconded by Commissioner X, with Commissioners X, X, X, and X and Commissioner X being absent, at its regularly held meeting on November 16, 2022 virtually in Riverdale and Wheaton, Maryland.

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Asuntha Chiang-Smith, Executive Director

Reviewed and Approved for Legal Sufficiency:



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Office of the General Counsel



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC No. 22-39

**RESOLUTION TO DISSOLVE THE EXECUTIVE COMMITTEE  
BY MODIFYING RESOLUTION NOS. 74-46 AND 76-34**

WHEREAS, the Maryland-National Capital Park and Planning Commission (the “Commission”) defined the roles and duties of the Commission, the Planning Boards, the Executive Committee, and the Executive Director by adoption of Resolution No. 74-46 on or about December 11, 1974; and

WHEREAS, the Executive Committee consists of three people, the Chair and Vice-Chair of the Commission and the Executive Director; and

WHEREAS, on or about April 14, 1976, the Commission adopted Resolution No. 76-15 further refining the roles and duties of the Executive Committee in an effort to increase the efficiency of processing more than eighty (80) required Commission Practices by June 30, 1977; and

WHEREAS, on or about August 4, 1976, the Commission adopted Resolution No. 76-34, superseding Resolution No. 76-15, and again modifying the roles and duties of the Executive Committee to increase efficiency regarding the adoption of numerous Commission-wide Practices; and

WHEREAS, the Practices of the Commission are now fairly-well established, after several decades of operation, and amendments or modifications thereto can be handled in the normal course of Commission activities, with support from the Office of the Executive Director; and

WHEREAS, the Executive Director has capacity within the Executive Director’s Office to handle the administration of Commission business, and to seek consultation from other officers or Commissioners when needed to modify Practices; and

WHEREAS, with the advancement of technology since the 1970’s, the Commission can operate effectively and efficiently without the need for the Executive Committee; and

WHEREAS, certain duties of the Executive Committee will be assigned to the Executive Director and others will revert back to the Commission.

NOW, THEREFORE BE IT RESOLVED, that:

1. **Resolution No. 74-46 is modified** as follows:
  - a. Paragraph 1.a) is modified to add at the end, “including supervising the activities of the Executive Director,”. This will give the Commission oversight of the Executive Director.
  - b. Paragraph 3, relating to the Executive Committee, is removed in its entirety.
  - c. Paragraph 4.A. is modified to add at the end, “including the preparation of agendas for Commission meetings and supervising the scheduling of business for the Commission.” This will require the Executive Director to perform these duties.
  - d. Throughout the Resolution, wherever there is a reference to the “Executive Committee” that language is removed.
  
2. **Resolution No. 76-34 is modified** as follows:
  - a. Paragraph 1 is removed in its entirety. This relates to the Executive Committee’s duties.
  - b. Paragraph 3 is removed in its entirety. This relates to the Executive Committee’s duties.
  
3. **Commission Practice No. 1-11**, approved on or about July 2, 1976, “Organization and Functions of the Executive Committee,” is **rescinded** in full and of no further force and effect.
  
4. The following **Commission Practices** will be modified to remove the Executive Committee as appropriate:
  - a. Practice No. 1-10, “Organization and Functions of Commission and Planning Boards” to include Addendum I, “Rules of Procedure of the Maryland-National Capital Park and Planning Commission”
  - b. Practice No. 1-20, “Organization and Functions of Department of Administration”
  - c. Practice No. 1-31, “Organization and Functions of Audit Committee and the Office of the Inspector General”
  - d. Practice No. 3-60, “Proposed Amendments to Administrative Practice 3-60, Budget Adjustments (Amendments and Transfers)”
  - e. Practice No. 5-10, “Internal Information System”
  - f. Practice No. 5-20, “Preparation of Commission and Executive Committee Agendas”
  - g. Practice No. 6-10, “M-NCPPC Vehicle Use Program”
  - h. Practice No. 6-40, “M-NCPPC Sustainability Standards.”

BE IT FURTHER RESOLVED that any Practice or Procedure approved by the Executive Committee, which is not modified by this Resolution or otherwise by the Commission, Planning Board or Executive Director, as appropriate, remains in full force and effect.

BE IT FURTHER RESOLVED, that where any Practice or Procedure requires reporting to the Executive Committee, and unless and until such Practice or Procedure is formally modified, such reporting shall be done to the Executive Director who will share such report with the Chair and Vice Chair of the Commission.

BE IT FURTHER RESOLVED, that the Commission authorizes and directs the appropriate officers of the Commission to undertake such further acts, instruments and further assurances as are necessary to effectuate the purpose and intent of this Resolution.

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution for the \_\_\_\_\_ adopted by the Maryland-National Capital Park and Planning Commission on motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, with Commissioners \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ voting in favor at its regular meeting held on \_\_\_\_\_, \_\_\_\_\_, 2022, in \_\_\_\_\_, Maryland.

\_\_\_\_\_  
Asuntha Chiang-Smith  
Executive Director

Reviewed and Approved for Legal Sufficiency

\_\_\_\_\_  
Office of the General Counsel

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

November 16, 2022

TO: The Commission

VIA: Tracey Harvin, Director, Corporate Policy and Management Operations (CPMO)

FROM: Michael Beckham, Chief, Corporate Policy and Archives  
 Michael Doaks, Senior Policy Analyst, CPMO  
 Kevin Davey, Corporate Archives and Records Administrator

SUBJECT: Administrative Practice 5-81, Maryland Public Information Act (MPIA) Policy and Accompanying Procedures 22-01, MPIA Procedures Manual for Handling Requests for Public Records (For Information)

**Requested Action**

The Commission is being informed of the Executive Committee's approval of a revised Maryland Public Information Act (MPIA) policy, Administrative Practice 5-81 and accompanying Procedures 22-01 (Attachment A and B).

The proposed policy was presented to and supported by Department Heads at their October 25, 2022 meeting, and approved for issuance by the Executive Committee on November 2, 2022.

**Background**

The Maryland Public Information Act (MPIA or "Act") stipulates that all public agencies in the State must establish policies consistent with the Act, to provide members of the public (including individuals, businesses, and organizations) access to Public Records in their custody.

Working in concert with the Office of the General Counsel, Deputy Directors from each department, the Office of the Chief Information Officer, and IT managers, the Policy Office developed the new Administrative Practice 5-81 and accompanying Administrative Procedures 22-01.

The agency's policy regarding MPIA was previously covered by Practice 5-80, originally titled "Public Information and Records Management". At their July 6, 2022 meeting, the Executive Committee approved changes to this Practice to have it cover only records management.

**Summary of Recommended Policy Updates**

With the new MPIA Practice and accompanying Procedures, a new set of guidelines is provided to staff that has not previously existed, except for minor coverage in the previous version of Practice 5-80.

Requirements have been updated for agency-wide coordination between staff responsible for records management and those responsible for providing timely and appropriate responses to records requests. In particular, the new policy:

- Outlines requirements for:
  - Responding to records requests within the statutory time frames,
  - Providing access to applicants for public records,
  - Copying and duplicating records,
  - Determining appropriate fees related to producing records,
  - Waiver of fees when appropriate,
  - Denial and redaction of protected/confidential records mandated by law,
  - Legal review before release or denial,
  - Administrative and judiciary appeals, and
  - Documenting the agency's handling and disposition of records requests.
  - Ensuring employee training on compliance with the Maryland Public Information Act.
  
- Clarifies the roles of the:
  - Executive Director (Official Custodian of Records),
  - Official Designee,
  - Department Heads,
  - MPIA Coordinators in each department, as well as
  - All agency staff.

**Attachments:**

- A. Draft Administrative Practice 5-81, Maryland Public Information Act (MPIA) Policy
- B. Draft Administrative Procedures 22-01, MPIA Procedures Manual for Handlings Requests for Public Records



**DRAFT ADMINISTRATIVE PRACTICE 5-81,  
MARYLAND PUBLIC INFORMATION ACT (MPIA) POLICY**

- 1  
2  
3  
4  
5 **AUTHORITY** Pursuant to Md. Code Ann., Title 4 of the General Provisions Article this  
6 Administrative Practice was approved by the Commission on (Date TBD).  
7  
8
- 9 **APPLICATION** This Administrative Practice applies to any request for Public Records received by  
10 Commission employees, the Planning Boards, Executive Director, Department  
11 Heads, and other appointed officials.  
12  
13
- 14 **PURPOSE/  
15 BACKGROUND** On July 1, 1985, the Commission’s Executive Committee approved Administrative  
16 Practice 5-80, Public Information and Records Management. Subsequently,  
17 Practice 5-80 was modified to separate the requirements for records retention from  
18 the requirements of the Maryland Public Information Act.  
19  
20 (Date TBD) Issued to create a separate Practice for the Commission’s policy on the  
21 Maryland Public Information Act.  
22
- 23 **REFERENCES**
- Maryland Public Information Act, Md Code Ann., Title 4 of the General Provisions Article
  - Maryland Public Information Act Manual (as amended), prepared by the Maryland Office of the Attorney General
  - Administrative Practice 2-28, Employment Records
  - Administrative Practice 5-60, Open Meetings
  - Administrative Practice 5-61, Lobbying Disclosure
  - Administrative Practice 5-70, Financial Disclosure
  - Administrative Practice 5-80, Records Management
  - Administrative Practice 6-13, Electronic Communications Policy
  - Administrative Procedures 22-01, M-NCPPC Procedures Manual for Handling Requests for Public Records Pursuant to the Maryland Public Information Act
  - M-NCPPC Administrative Procedures 20-01, Access to Electronic Data Records
  - Retention Schedule 1229 approved by the Hall of Records Commission,
  - State of Maryland, August 21, 1990
- 24  
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40
- 41 **DEFINITIONS** “Act” means the Maryland Public Information Act as codified at Md. Code Ann.,  
42 Title 4 of the General Provisions Article  
43  
44 “Applicant” means a person or governmental unit that asks to inspect a Public  
45 Record.  
46  
47 “Application” means a written or oral request for records within the custody or  
48 control of the Commission.

1  
2 “**Commission**” means the Maryland-National Capital Park and Planning  
3 Commission.  
4

5 “**Custodian**” means any authorized person who has physical custody and control  
6 of the Public Record, including the Official Custodian, Designee, the MPIA  
7 Coordinator, or another person having physical custody or control of a Public  
8 Record.  
9

10 “**Denied Record**” means a record that the Custodian did not provide to the  
11 Applicant pursuant to one of the Exemptions or Exceptions of the Act.  
12

13 “**Department**” means a business unit or division within the Commission, including  
14 but not limited to the following: Department of Human Resources Management,  
15 Corporate Policy and Management Operations, Montgomery County Parks,  
16 Montgomery County Park Police Division, Montgomery County Planning, Prince  
17 George’s County Park Police Division, Prince George’s County Parks and  
18 Recreation, Prince George’s County Planning, the Department of Finance, the  
19 Office of the General Counsel, Montgomery Planning Board Office, Prince  
20 George’s Planning Board Office, the Merit System Protection Board, the Office of  
21 the Inspector General, the Office of the Chief Information Officer, and any of the  
22 IT business units.  
23

24 “**Department Head**” means the director of a Department.  
25

26 “**Designee**” means the Commission’s Corporate Archives and Records  
27 Management Administrator or another employee that the Official Custodian has  
28 delegated authority to manage and coordinate all duties under the Act on behalf of  
29 the Commission.  
30

31 “**Discretionary Exception Records**” means Public Records or parts thereof, that  
32 the Custodian may deny inspection of, pursuant to §§ 4-434 through 4-356 of the  
33 Act, because the Custodian believes providing them would be contrary to the public  
34 interest. These include: interagency or intra-agency letters or memoranda;  
35 examination information; state or local research project; inventions owned by state  
36 public institutions of higher education; confidential information owned by State  
37 entities; real estate appraisals; site-specific locations of certain plants, animals, or  
38 property; investigation, intelligence or security information; emergency  
39 management information; Maryland Port Administration, University of Maryland  
40 Global Campus records and public institution of higher education records; and, 911  
41 communications that depict the victim.  
42

43 “**Exempt Record**” means any Public Record or part of a Public Record, for which  
44 § 4-301 of the Act requires the Custodian to deny inspection because: i) by law the  
45 Public Record is privileged or confidential; or ii) the inspection would be contrary  
46 to a State statute, a federal statute or regulation; or, iii) the inspection would be  
47 contrary to the rules adopted by the Court of Appeals or any court order.  
48

1           **“IT Coordinator”** means the information technology unit staff designated to  
2 provide support for a Department to comply with the Act.  
3

4           **“Mandatory Exception Information”** means information that may be a part of a  
5 Public Record for which the Custodian must deny inspection as defined in §§ 4-  
6 328 through 4-341 of the Act. This specific information includes: medical,  
7 psychological, or sociological information; information about public employees or  
8 notaries; licensing records; social security number; trade secrets and confidential  
9 information; financial information; collusive or anti-competitive activity; security  
10 of information systems, alarm or security system; senior citizen activities centers;  
11 distribution list issued by a governmental entity or elected official.  
12

13           **“Mandatory Exception Record”** means any Public Record as described in §§ 4-  
14 304 through 4-327 of the Act which a Custodian must deny inspection unless  
15 required to provide it by some other law. These include: adoption, hospital, and  
16 welfare records; library and gifts of library, archival, or museum materials; letters  
17 of reference, personnel, and retirement records; student records; higher education  
18 investment contracts and school safety plans, policies, and guidelines; traffic  
19 accident reports, criminal charging documents and traffic citations; arrest warrants  
20 and charging documents; Department of Natural Resources, Maryland Transit  
21 Administration, Maryland Transportation Authority and Motor Vehicle  
22 Administration records; images from traffic control signal monitoring system and  
23 surveillance images; risk-based capital records; renewable energy credit records;  
24 firearm and handgun records; captured plate data; and shielded records. All these  
25 records are defined in the Act.  
26

27           **“Manual”** means the Administrative Procedures 22-01, the M-NCPPC MPIA  
28 Procedures Manual.  
29

30           **“Metadata”** means information that does not constitute a Public Record, and  
31 constitutes information that is generally not visible when an electronic document is  
32 printed, describing the history, tracking, or management of the electronic  
33 document, including information about data in the electronic document that  
34 describes how, when, and by whom the data is collected, created, accessed, or  
35 modified and how the data is formatted; but does not include: (1) a spreadsheet  
36 formula; (2) a database field; (3) an externally or internally linked file; or (4) a  
37 reference to an external file or a hyperlink.  
38

39           **“MPIA Coordinator”** means the Department employee assigned to respond to the  
40 Application received by or related to the respective Department.  
41

42           **“Official Custodian”** means the Executive Director of the Commission or  
43 Designee as the designated custodian of record for the Commission who is  
44 officially responsible for keeping the Public Record and ensuring proper  
45 management and response to the Applications in accordance with the Act.  
46

47           **“Practice”** means the Administrative Practice 5-81, M-NCPPC Public Information  
48 Act Policy.  
49

1           **“Public Access Ombudsman”** means the State employee appointed by the  
2 Maryland Attorney General to resolve disputes between applicants and custodians.  
3

4           **“Public Record(s)”** means the original or any copy of any documentary material  
5 that: (1) is made or received by the Commission in connection with the transaction  
6 of its public business, including the salary of Commission employees; and (2) is in  
7 any form, including, for example: a card; a computerized or electronic record;  
8 correspondence; a text message, a drawing; film or microfilm; a form; a map; a  
9 photograph or photostat; a video or audio recording; or a tape; but does not include  
10 (a) a digital photographic image or signature of an individual, or (b) the actual  
11 stored data of the image or signature, recorded by the Motor Vehicle  
12 Administration.  
13

14           **“Readily Available Record”** means Public Records designated by the Official  
15 Custodian, or Designee, that are immediately accessible to the public without  
16 search by the MPIA Coordinator or Designee and for which the Official Custodian  
17 maintains a list of the types and categories of such records.  
18

19           **“Reasonable Fee”** means a fee bearing a reasonable relationship to the recovery of  
20 actual costs incurred by the Commission to produce the Responsive Record, minus  
21 the cost for Statutory Time Allowance, that must be collected by the Commission  
22 before the release of the Responsive Record.  
23

24           **“Responsive Record”** means documents or data that are responsive to an  
25 Application that the Act requires the Commission (1) to timely provide to the  
26 Applicant; and (2) do not constitute Denied Records.  
27

28           **“State Public Information Act Compliance Board”** means the five-member  
29 board appointed by the Governor that receives, reviews, and resolves disputes  
30 between applicants and custodians relating to requests for Public Records.  
31

32           **“Statutory Time Allowance”** means the first two hours the Commission spends to  
33 search and prepare the Responsive Record for release that are not charged to the  
34 Applicant as part of the Reasonable Fee.  
35

36           **“Temporary Denials”** means a Public Record that would not be exempt from  
37 disclosure under normal circumstances, but which is denied temporarily by the  
38 Official Custodian because it has been determined that inspection of the Public  
39 Record would cause substantial injury to the public interest. A Temporary Denial  
40 shall be, within 10 days, followed by a petition to a court to authorize the continued  
41 denial of inspection of the Public Record.  
42  
43  
44  
45  
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47  
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49

1 **POLICY**

2 The Commission honors the public’s right to access Public Records under the Act  
3 while protecting individual rights to privacy, and the public interest, by keeping  
4 information confidential, as authorized or required under the Act and other laws  
5 relating to public disclosure.

6 Any person may make an Application to inspect or copy Public Records in the  
7 Commission’s custody, and the Commission will provide such access as required  
8 by law for a Reasonable Fee as defined in this Practice and within the statutory  
9 timeframe to respond as required by the Act. Except as otherwise provided in this  
10 Practice, a Custodian shall make Public Records available for inspection by an  
11 Applicant upon request. An Application includes any communication sent to the  
12 Commission via electronic mail, by letter, or verbal request as well as requests  
13 received by Commission employees which are transmitted to the Custodian. The  
14 Commission may ask that any verbal Application be made in writing, if such  
15 writing will assist the Custodian in preparing the Commission’s response.

16  
17 All Commission staff are responsible for protecting Public Records against misuse,  
18 misplacement, damage, undue destruction, or theft.

19  
20  
21 **I. Duties and Responsibilities**

22  
23 **A. Executive Director as the Official Custodian of Records**

- 24  
25 1. The Executive Director is the Commission’s Official Custodian for any purpose prescribed  
26 under the Act, this Practice, or the Manual and is responsible for ensuring compliance with  
27 the Act throughout the Commission.
- 28  
29 2. The Executive Director, as the Official Custodian, may delegate certain responsibilities,  
30 except for those specifically prohibited from delegation as covered below. The following  
31 responsibilities are only delegated to the Official Custodian:
  - 32  
33 a. **Readily Available Record** – Designating specific types of Public Records that are  
34 immediately available and maintaining a list of such records.
  - 35  
36 b. **Authority to Recommend Legal Action** – Recommending whether to seek court  
37 action to protect Public Records and Denied Records, as appropriate, from disclosure.
  - 38  
39 c. **Waiver of Fee** – Reviewing and deciding upon requests for fee waivers as covered  
40 below under “Waiver of Fees.”
  - 41  
42 d. **Establishment of Reasonable Fee** – Establishing “Reasonable Fee” schedules.
  - 43  
44 e. **Temporary Denial** – Temporarily denying inspection of Public Records as covered  
45 under “Temporary Denial of a Records Inspection Request” in the Manual and seeking  
46 the full Commission’s authorization to file a petition in Circuit Court.

1           **B. Department Heads**

- 2
- 3           1. Each Department Head shall ensure compliance with the Act, this Practice, and the Manual
- 4           within their respective Department pursuant to the directives of the Official Custodian.
- 5
- 6           2. Each Department Head shall designate one or more staff members to function continuously
- 7           as MPIA Coordinator(s) for their respective Department.
- 8
- 9           3. Each Department Head shall designate a temporary and alternate MPIA Coordinator, as
- 10           necessary, to maintain uninterrupted coverage during a brief or extended absence of the
- 11           personnel otherwise assigned to discharge those responsibilities.
- 12
- 13           4. Each designation required by this section shall be made in writing and delivered to:
- 14           a. The Official Custodian and Designee,
- 15           b. The individual(s) so designated, and
- 16           c. Every supervisor within the individual’s supervisory chain, leading up to the
- 17           Department Head.
- 18
- 19           5. Each Department Head shall ensure that MPIA Coordinators undergo appropriate periodic
- 20           training to ensure that Public Records which are protected from disclosure are properly
- 21           handled.
- 22
- 23           6. Each Department Head shall ensure that Public Records management systems are in place
- 24           within their respective Departments for each division’s work program, so that Public
- 25           Records are maintained in accordance with the Act, the Commission’s Document
- 26           Retention Schedule, this Practice, and any accompanying Manual.
- 27
- 28           7. Each Department Head shall ensure that units under their control (a) have appropriate
- 29           procedures in place to respond to Applications within the statutory time limits and (b) are
- 30           otherwise compliant with the requirements for processing the Applications, including but
- 31           not limited to, the application of Reasonable Fees and Fee Waivers.
- 32
- 33
- 34
- 35

36           **C. Official Designee**

37           The Official Designee is responsible for carrying out those functions that are delegated by the

38           Official Custodian to ensure compliance with the Act, and more specifically, as follows:

39

- 40           1. As the Official Custodian’s Designee, ensure that Applications are handled in compliance
- 41           with the Act, this Practice, and the accompanying Manual.
- 42
- 43           2. Coordinate responses to Applications submitted to Department MPIA Coordinators, as
- 44           appropriate, and when necessary, helping to facilitate responses to Applications.
- 45
- 46           3. Provide annual updates to the Office of the Attorney General as to each Department’s
- 47           MPIA Coordinator’s name, business address, telephone, and email address.
- 48
- 49           4. Maintain and update the list of records that are Readily Available to the Public and
- 50           coordinate with others to ensure that, where possible, documents are provided on the
- 51           Commission’s websites.

1           **D. MPIA Coordinators**

2           The designated MPIA Coordinator(s), and any temporary or alternate MPIA Coordinator(s), is  
3           responsible for undertaking the functions assigned by this Practice and the Manual, and more  
4           specifically, as follows:  
5

- 6           1. Review all Applications for their respective Department's Public Records and provide  
7           timely responses to Applications, in compliance with the Act, this Practice, and the Manual.  
8
- 9           2. Employ appropriate measures to protect restricted Public Records from disclosure, in  
10           compliance with the Act, this Practice, and the Manual.
- 11
- 12           3. Communicate with the Applicant at all stages of the Application, including production of  
13           the Responsive Record.
- 14
- 15           4. Coordinate and cooperate with the Designee, Legal, and other Custodians (as appropriate),  
16           when responding to Applications.
- 17
- 18           5. Maintain the confidentiality of information received, until the information is deemed to be  
19           a Responsive Record subject to disclosure, or a Denied Record subject to restriction from  
20           disclosure.  
21

22           **E. IT Coordinators**

- 23
- 24           1. Respond, in a timely manner, to requests for electronic data searches made by the Official  
25           Custodian, Designee, or MPIA Coordinators, in response to Applications for their  
26           respective Department's Public Records, and provide responses in compliance with the  
27           Act, this Practice, and the Manual.  
28
- 29           2. Each Commission information technology unit will designate one or more staff members  
30           to function continuously as an IT Coordinator for their respective unit. IT Coordinators,  
31           under the direction of their respective managers, may assign additional IT staff with  
32           specialized knowledge of involved systems, to assist on the request, as needed.  
33
- 34           3. Each Commission information technology unit will designate a temporary and alternate IT  
35           Coordinator, as necessary, to maintain uninterrupted coverage during a brief or extended  
36           absence of the personnel otherwise assigned to discharge those responsibilities.  
37
- 38           4. The designated IT Coordinator(s), and any temporary or alternate IT Coordinator(s), is  
39           responsible for producing and providing requested electronic and digital records to their  
40           respective MPIA Coordinator or the Designee, and for supporting MPIA Coordinators and  
41           the Designee on any technical aspects of processing the requested digital records, as  
42           needed. The IT Coordinator is also responsible for maintaining the confidentiality of the  
43           electronic and digital records that are produced and provided to the MPIA Coordinator or  
44           the Designee.  
45
- 46           5. When contacting the IT Coordinator, the MPIA Coordinator should identify themselves as  
47           the official designee of the Department Head for handling requests for Public Records and  
48           provide a case number to the IT Coordinator, so that the application for the agency's  
49           records can be tracked and documented.

1 F. **Legal**

2 The Office of the General Counsel is responsible for assisting the Custodian of the Public  
3 Record, as appropriate, to ensure compliance with the Act and more specifically as follows:  
4

- 5 1. Advise the Official Custodian, Designee, MPIA Coordinator(s), and others, as appropriate,  
6 on the Act and matters involving interpreting statutory requirements to ensure compliance  
7 with the Act.  
8
- 9 2. Advise staff on legal questions such as language in transmittal letters for Denied Record(s),  
10 Temporary Denials, and challenges involving the Public Access Ombudsman, State Public  
11 Information Act Compliance Board, and judicial appeals.  
12

13 G. **Other Commission Staff**

- 14 1. Assist Department MPIA Coordinator(s), as and when requested,  
15
- 16 2. Protect Public Records against misuse, misplacement, damage, undue destruction,  
17 or theft.  
18
- 19 3. Participate in periodic training on ensuring compliance with requirements of the  
20 Maryland Public Information Act.  
21

22  
23 II. **Access to Records**

24 Anyone (e.g., private individuals, corporations, government agencies, associations, public interest  
25 groups, universities, and members of the media) has the right to inspect Public Records. The  
26 Manual shall prescribe a process for inspecting Public Records.  
27

28 III. **Request for Records**

29  
30 A. **Responding to Requests for Records**

31 Any person may request to inspect or copy Public Records, except as otherwise provided by  
32 this Practice or the Manual. The Commission prefers that each Application be made in writing,  
33 to mitigate the risk of miscommunication and avoid potential disruption or delay.  
34

35 B. **Exemption from Inspection of Certain Public Records**

36 The Act provides for access to most Public Records. However, certain Public Records are  
37 Exempt or have Exceptions that prohibit disclosure and must be withheld by application of law  
38 or at the Commission's authorized discretion. If an Applicant is denied access to any Public  
39 Record, they will be notified of the specific statutory provision(s) for each Exemption or  
40 Exception and any appeal rights. The Applicant also will be notified if files that do not exist  
41 are maintained by another agency, or have been lost, or destroyed in accordance with the  
42 Commission's Records Retention and Disposition Schedule.  
43

44 C. **Readily Available Records**

45 The Official Custodian shall:

- 46 1. Designate the types of Public Records that are Readily Available;  
47
- 48 2. Maintain a current list of the types of records that have been designated as "Readily  
49 Available Records"; and  
50
- 51 3. Publish the list of Readily Available Records in a conspicuous place on the Commission's  
52 website(s).  
53



1 IV. **Responding to Requests**

2 The Act covers Public Records that exist at the time of the Application. Custodians are not  
3 required to create a record(s) that does not exist. However, if a record(s) does exist, then the  
4 Commission is required to assemble existing data into a report or a list(s) if the:

- 5
- 6 A. Commission possesses the data being sought;
  - 7
  - 8 B. Requested Public Record(s) exists in a searchable and analyzable format; and
  - 9
  - 10 C. Custodian can do so using existing resources and doing so is in the normal course of the  
11 Custodian’s duties. Custodians should consult Legal if they have questions regarding  
12 searchable data records requests.
  - 13

14 V. **Custodians and MPIA Coordinators**

- 15
- 16 A. The MPIA Coordinator is responsible for coordinating the official response to each  
17 Application directed to their respective Department. This coordination includes determining  
18 the proper handling of the Application and coordinating, as appropriate and applicable, with  
19 the Custodians, IT Coordinators, Legal, and/or the Official Custodian or Designee. MPIA  
20 Coordinators are also required to keep the Designee apprised of each Application so that a  
21 number can be assigned to track processing.
  - 22
  - 23 B. If the MPIA Coordinator is in possession of the Public Record, that person, as Custodian, has  
24 the responsibility of producing the requested Public Record and appropriately handling the  
25 response to the Applicant. This includes determining whether the Application requires any  
26 special handling such as legal review, excluding Exempt Records or those subject to an  
27 Exception, redacting information subject to an Exception, assembling the Responsive Record,  
28 and removing Metadata from electronic Responsive Records.
  - 29
  - 30 C. When the requested record(s) is electronic or digital, the MPIA Coordinator will coordinate  
31 the production, redaction, assemblage, etc. of the record(s) with the designated departmental  
32 IT Coordinator, following the procedures in the MPIA Procedures Manual accompanying this  
33 Administrative Practice.
  - 34
  - 35 D. Due to the nature of an Application, the Official Custodian or Designee may elect to assume  
36 responsibility for responding to any Application. The Official Custodian or Designee shall  
37 notify the appropriate MPIA Coordinator(s) affected by the election to respond directly but  
38 may require the assistance and coordination of the affected MPIA Coordinator(s) in producing  
39 the Responsive Record.
  - 40

41 VI. **Denials**

42 The Official Custodian, Designee, or MPIA Coordinator(s) shall determine, with advice from  
43 Legal, as needed, whether the Commission will deny any Application for disclosure of a Public  
44 Record. The denial response should be reviewed by Legal, to ensure that the appropriate statutory  
45 references and requirements are included in the written response.

46  
47 If disclosure is denied, the denial would fall under one of the following, which are defined above  
48 and discussed more fully in the Procedures Manual:  
49

- 1 (1) Exempt Records;
- 2
- 3 (2) Mandatory Exception Records;
- 4
- 5 (3) Mandatory Exception Information;
- 6
- 7 (4) Discretionary Exception Records; and
- 8
- 9 (5) Temporary Denials.

10  
11 VII. **Production of Responsive Record(s)**

12  
13 A. **Right to Copies**

14 Any Applicant may request to receive copies, printouts, or photographs for a Reasonable Fee.  
15 If the Custodian does not have the facilities to reproduce the Responsive Record(s), the  
16 Applicant should be granted access to make a copy.

17  
18 B. **Format**

19 Except for records stored in electronic format, the Act has not generally addressed the format  
20 in which Responsive Records should be provided. To further the Act's general purposes, the  
21 Commission should accede to the Applicant's choice of format, unless doing so imposes a  
22 significant, unrecoverable cost, or other burden on the Commission.

23  
24 VIII. **Fees**

25  
26 A. **Fee Policy**

27 As allowed under the Act and to further the Commission's purpose of managing public  
28 resources prudently, the Commission shall impose Reasonable Fees with respect to each  
29 Application, subject to the Statutory Time Allowance and any approved Fee Waivers.

30  
31 B. **Multiple Applications on the Same Subject**

- 32 1. At the discretion of the Commission, multiple Applications from the same or a related  
33 entity may be aggregated, for purposes of conducting the search and/or determining the  
34 applicable Reasonable Fee, where the actions of the Applicant raise concerns that an  
35 Applicant (or group of Applicants) is attempting to separate requests into a series of  
36 Applications to avoid the assessment of a Reasonable Fee.
- 37 2. The Commission has determined that combining multiple Applications, either in whole or  
38 in part, where deemed appropriate, promotes administrative efficiency in the handling of  
39 Applications.
- 40 3. The Commission shall not aggregate multiple Applications in unrelated subjects from one  
41 Applicant.
- 42 4. The Applicant will be informed of the aggregation and the expected Reasonable Fee, prior  
43 to the execution of the search for the requested record(s).
- 44
- 45
- 46
- 47
- 48
- 49

1 C. **Fee Schedule**

2 A Reasonable Fee shall be charged that is appropriate to recover the Commission’s costs for  
3 employee time, materials, third-party charges, and any other costs incurred to search, compile,  
4 review, redact text or remove Metadata, duplicate, deliver, or otherwise prepare Responsive  
5 Records before disclosure to the Applicant.  
6

7 D. **Advance Payment Requirement**

8 Before the Commission begins or completes fulfilling an Application, the Applicant will be  
9 required to:

- 10
- 11 1. Prepay the estimated Reasonable Fee as determined according to this Practice and the  
12 MPIA Procedures Manual; and/or
  - 13
  - 14 2. Enter into an enforceable agreement that obligates the Applicant to pay fees imposed under  
15 this Practice and the MPIA Procedures Manual.  
16

17 E. **Waiver of Fees**

18 Only the Official Custodian is authorized to waive any fee required under this Practice or the  
19 MPIA Procedures Manual. The Official Custodian may waive all or part of any Reasonable  
20 Fee so imposed. The MPIA Procedures Manual shall prescribe Commission forms for  
21 submitting any request for a Fee Waiver, as well as a supporting affidavit to support a Fee  
22 Waiver request made by an Applicant.  
23  
24

25 **VIOLATIONS**

26 Employees who violate any portion of this Practice or the accompanying Manual  
27 may be subject to disciplinary action. Disciplinary actions for employees shall be  
28 handled in accordance with the Merit System Rules and Regulations; applicable  
29 Collective Bargaining Agreements; or Administrative Practice 2-16,  
30 “Seasonal/Intermittent, Temporary, and Term Employment.”

31 Title 4 of the General Provisions Article §§ 4-401 and 4-402 also provide that a  
32 person who *willfully and knowingly* violates the Act may be subject to criminal  
33 penalty.  
34

35  
36 **PROCEDURES**

37 The Executive Director shall issue Administrative Procedures for implementation  
of this Practice.

1                                   **DRAFT ADMINISTRATIVE PROCEDURES 22-01,**  
2                                   **MARYLAND PUBLIC INFORMATION ACT (MPIA)**  
3                                   **PROCEDURES MANUAL FOR HANDLING REQUESTS FOR PUBLIC RECORDS**  
4  
5

6    **AUTHORITY**

7    These Administrative Procedures have been issued under Administrative Practice 5-81, M-NCPPC Public  
8    Information Act Policy, and were approved by the Executive Director on (Date TBD).  
9

10  
11   **APPLICATION**

12    These Administrative Procedures apply to any request for Public Records received by Commission  
13    employees, the Planning Boards, Executive Director, Department Heads, and other appointed officials.  
14  
15

16   **PURPOSE AND BACKGROUND**

17    These Administrative Procedures provide the procedural instructions for all responses to Maryland Public  
18    Information Act requests. They explain the Commission employees' roles and processes for the timely  
19    response to Maryland Public Information Act requests in compliance with State law.  
20

21    On July 1, 1985, the Commission's Executive Committee approved Administrative Practice 5-80, Public  
22    Information and Records Management. Subsequently, Practice 5-80 was modified to separate the  
23    requirements for records management from requirements of the Maryland Public Information Act.  
24

- 25    • (Date TBD): Approved by the Executive Director to establish procedures for compliance with  
26    Administrative Practice 5-81, Maryland Public Information Act (MPIA) Policy.  
27  
28

29   **REFERENCES**

- 30    • The Maryland Public Information Act, Md. Code. Ann., Title 4 of the General Provisions Article  
31    • Administrative Practice 2-28, Employment Records  
32    • Administrative Practice 5-60, Open Meetings  
33    • Administrative Practice 5-61, Lobbying Disclosure  
34    • Administrative Practice 5-70, Financial Disclosure  
35    • M-NCPPC Administrative Practice 5-80, Records Management  
36    • M-NCPPC Administrative Practice 5-81, Public Information Act Policy  
37    • Administrative Practice 6-13, Electronic Communications Policy  
38    • M-NCPPC Administrative Procedures 20-01, Access to Electronic Data  
39  
40  
41  
42  
43  
44  
45  
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1 **PROCEDURES**

2  
3 1. **The Who, What, When Where & Why of the Maryland Public Information Act.**

4  
5 1.1. **Definitions.**

6  
7 “**Acknowledgement Letter**” means the initial correspondence sent to an Applicant  
8 acknowledging receipt of an Application under the Act.

9  
10 “**Act**” means the Maryland Public Information Act as codified and amended at Md. Code Ann.,  
11 Title 4 of the General Provisions Article.

12  
13 “**Applicant**” means a person or governmental unit that asks to inspect or copy a Public Record.

14  
15 “**Application**” means a written or oral request for records within the custody or control of the  
16 Commission.

17  
18 “**Commission**” means the Maryland-National Capital Park and Planning Commission.

19  
20 “**Copy**” means any form of reproduction using a photocopy machine or other reproduction  
21 technology, including a paper copy, an electronic copy, a printout, or an image.

22  
23 “**Custodian**” means any authorized person who has physical custody and control of a Public  
24 Record, including the Official Custodian, Designee, MPIA Coordinator(s), or another person  
25 having physical custody or control of a Public Record.

26  
27 “**Denial Letter**” means written communication from the MPIA Coordinator or Designee to the  
28 Applicant notifying the Applicant of the Denied Record. Samples area attached in Section 8.4 of  
29 this Manual.

30  
31 “**Denied Record**” means a record that the Custodian did not provide to the Applicant pursuant to  
32 one of the Exemptions or Exceptions of the Act.

33  
34 “**Department**” means a business unit or division within the Commission, including but not limited  
35 to the following: the Department of Human Resources Management, Corporate Policy and  
36 Management Operations, Montgomery County Department of Parks, Montgomery County Park  
37 Police Division, Montgomery Department of Planning, Prince George’s County Park Police  
38 Division, Prince George’s County Department of Parks and Recreation, Prince George’s County  
39 Department of Planning, the Department of Finance, the Office of the General Counsel, the  
40 Montgomery Planning Board Office, the Prince George’s Planning Board Office, the Merit  
41 System Protection Board, the Office of the Inspector General, the Office of the Chief Information  
42 Officer, and any of the IT business units.

43  
44 “**Department Head**” means the director of a Department.

45  
46 “**Designee**” means the Commission’s Corporate Archives and Records Management  
47 Administrator or another employee that the Official Custodian has delegated authority to manage  
48 and coordinate all duties under the Act on behalf of the Commission.



1       **“Discretionary Exception Records”** means Public Records or parts thereof, that the Custodian  
2 may deny inspection of, pursuant to §§ 4-434 through 4-356 of the Act, because the Custodian  
3 believes providing them would be contrary to the public interest. These include: interagency or  
4 intra-agency letters or memoranda; examination information; state or local research project;  
5 inventions owned by state public institutions of higher education; confidential information owned  
6 by State entities; real estate appraisals; site-specific locations of certain plants, animals, or  
7 property; investigation, intelligence or security information; emergency management information;  
8 Maryland Port Administration, University of Maryland Global Campus records and public  
9 institution of higher education records; and, 911 communications that depict the victim.

10  
11       **“Electronic Data”** means all electronic data created, sent, received, or stored using any  
12 Commission information system, including Commission-owned electronic devices and  
13 Commission-maintained cloud computing services.

14  
15       **“Electronic Data Search Form”** means an Electronic Data search request form to be completed  
16 and submitted by an MPIA Coordinator to the applicable IT Coordinator to obtain the necessary  
17 assistance in compiling the necessary Commission records to fulfill an Application, a sample of  
18 which is attached to this Manual in Section 8.7.

19  
20       **“Exempt Record”** means any Public Record or part of a Public Record, for which § 4-301 of the  
21 Act requires the Custodian to deny inspection because i) by law the Public Record is privileged or  
22 confidential; or ii) the inspection would be contrary to a State statute, a federal statute or  
23 regulation; or, iii) the inspection would be contrary to the rules adopted by the Court of Appeals  
24 or any court order.

25  
26       **“HR Coordinator”** means the employee of the Commission working in the Human Resources  
27 Department who can provide hourly and or blended rates used to calculate Reasonable Fees for  
28 the production of Public Records pursuant to an Application.

29  
30       **“Indigent”** means an individual whose family household income is less than 50% of the median  
31 family income for the State as reported in the Federal Register or as otherwise defined in General  
32 Provisions Article, § 4-206(a)(2).

33  
34       **“IT Coordinator”** means the information technology unit staff designated to provide support for  
35 a Department to comply with the Act.

36  
37       **“Legal”** means the Commission’s legal department, the Office of the General Counsel.

38  
39       **“Mandatory Exception Information”** means information that may be a part of a Public Record  
40 for which the Custodian must deny inspection as defined in §§ 4-328 through 4-341 of the Act.  
41 This specific information includes: medical, psychological, or sociological information;  
42 information about public employees or notaries; licensing records; social security number; trade  
43 secrets and confidential information; financial information; collusive or anti-competitive activity;  
44 security of information systems, alarm or security system; senior citizen activities centers;  
45 distribution list issued by a governmental entity or elected official.

1       **“Mandatory Exception Record”** means any Public Record as described in §§ 4-304 through 4-  
2 327 of the Act which a Custodian must deny inspection unless required to provide it by some other  
3 law. These include: adoption, hospital, and welfare records; library and gifts of library, archival,  
4 or museum materials; letters of reference, personnel, and retirement records; student records;  
5 higher education investment contracts and school safety plans, policies, and guidelines; traffic  
6 accident reports, criminal charging documents and traffic citations; arrest warrants and charging  
7 documents; Department of Natural Resources, Maryland Transit Administration, Maryland  
8 Transportation Authority and Motor Vehicle Administration records; images from traffic control  
9 signal monitoring system and surveillance images; risk-based capital records; renewable energy  
10 credit records; firearm and handgun records; captured plate data; and shielded records. All these  
11 records are defined in the Act.

12  
13       **“Manual”** means these Administrative Procedures 22-01, the MPIA Procedures Manual.

14  
15       **“Metadata”** means information that does not constitute a Public Record, and constitutes  
16 information that is generally not visible when an electronic document is printed, describing the  
17 history, tracking, or management of the electronic document, including information about data in  
18 the electronic document that describes how, when, and by whom the data is collected, created,  
19 accessed, or modified and how the data is formatted; but does not include: (1) a spreadsheet  
20 formula; (2) a database field; (3) an externally or internally linked file; or (4) a reference to an  
21 external file or a hyperlink.

22  
23       **“MPIA Coordinator”** means the Department employee assigned to respond to Applications  
24 received by or related to the respective Department.

25  
26       **“Official Custodian”** means the Executive Director of the Commission or Designee as the  
27 designated custodian of record for the Commission who is officially responsible for keeping the  
28 Public Record and ensuring proper management and response to the Applications in accordance  
29 with the Act.

30  
31       **“Personal Information”** means information that identifies an individual, including an individual’s  
32 (1) name; (2) address; (3) driver’s license number or any other identification number; (4)  
33 fingerprint; (5) medical or disability information; (6) photograph or computer-generated image;  
34 (7) Social Security or Taxpayer Identification number; (8) telephone number; and (9) voice print;  
35 but does not include: (i) driver’s status; (ii) driving offenses; (iii) five-digit zip code; or (iv)  
36 information on vehicular accidents.

37  
38       **“Person in Interest”** means (1) a person or governmental unit that is the subject of a Public Record  
39 or a designee of the person or governmental unit; and (2) if the person has a legal disability, the  
40 parent or legal representative of the person.

41  
42       **“Personal Record”** means a Public Record that names or, with reasonable certainty, otherwise  
43 identifies an individual by Personal Information.

44  
45       **“Political Subdivision”** means: (1) a county; (2) a municipal corporation; (3) an unincorporated  
46 town; (4) a school district; or (5) a special district.

47  
48       **“Practice”** means the Administrative Practice 5-81, M-NCPPC Public Information Act Policy.

1       **“Public Access Ombudsman”** means the State employee appointed by the Maryland Attorney  
2 General to resolve disputes between applicants and custodians.  
3

4       **“Public Record”** means the original or any copy of any documentary material that: (1) is made or  
5 received by the Commission in connection with the transaction of its public business, including  
6 the salary of Commission employees; and (2) is in any form, including, for example: a card; a  
7 computerized or electronic record; correspondence; a text message, a drawing; film or microfilm;  
8 a form; a map; a photograph or photostat; a video or audio recording; or a tape; but does not  
9 include: (a) a digital photographic image or signature of an individual, or (b) the actual stored data  
10 of the image or signature, recorded by the Motor Vehicle Administration.  
11

12       **“Readily Available Record”** means Public Records designated by the Official Custodian or  
13 Designee, that are immediately accessible to the public without search by the MPIA Coordinator  
14 or Designee and for which the Official Custodian maintains a list of the types and categories of  
15 such records.  
16

17       **“Reasonable Fee”** means a fee bearing a reasonable relationship to the recovery of actual costs  
18 incurred by the Commission to produce the Responsive Record, minus the cost for Statutory Time  
19 Allowance, that must be collected by the Commission before the release of the Responsive Record.  
20

21       **“Response Letter”** means a written response to an Applicant addressing the Application,  
22 including whether all, none, or any part of the Application has been approved for inspection or  
23 production. Samples are attached to this Manual in Sections 8.3 through 8.5.  
24

25       **“Responsive Record”** means documents or data that are responsive to an Application that the Act  
26 requires the Commission (1) to timely provide to the Applicant; and (2) do not constitute Denied  
27 Records.  
28

29       **“Reverse MPIA”** means a court action filed to prevent the disclosure of Public Records, usually  
30 by a Person in Interest.  
31

32       **“State Public Information Act Compliance Board”** means the five-member board appointed by  
33 the Governor that receives, reviews, and resolves disputes between applicants and custodians  
34 relating to requests for Public Records.  
35

36       **“Statutory Time Allowance”** means the first two hours the Commission spends to search and  
37 prepare the Responsive Record for release that are not charged to the Applicant as part of the  
38 Reasonable Fee.  
39

40       **“Temporary Denials”** means a Public Record that would not be exempt from disclosure under  
41 normal circumstances, but which is denied temporarily by the Official Custodian because it has  
42 been determined that inspection of the Public Record would cause substantial injury to the public  
43 interest. A Temporary Denial shall be, within 10 days, followed by a petition to a court to authorize  
44 the continued denial of inspection of the Public Record.  
45

46       **“Ten Day Letter”** means a written response to an Applicant explaining why the requested  
47 record(s) will take longer than ten (10) Working Days to produce with an estimate of the  
48 Reasonable Fee for production and the time it will take to produce the Responsive Record. A  
49 sample Ten Day Letter is attached to this Manual in Section 8.2.  
50

51       **“Working Day”** means the Commission’s official business days, Monday through Friday, and  
52 does not include State, Federal, or Commission holidays.

1 **1.2. Why is this a Law?**

2 The Act is intended to allow all persons to have access to information about the affairs of the  
3 government and the acts of its public officials and employees. The federal corollary is the  
4 Freedom of Information Act (“FOIA”).<sup>i</sup>  
5

6 **1.3. What is a Public Record?**

7 In general, a Public Record is any document or record created or held by the agency related to the  
8 performance of its work. It can be in any format (e.g., electronic email, text message, or other  
9 digital file(s)), and is not limited to “paper”. Metadata may be removed from an electronic  
10 document before providing the record to an Applicant.  
11

12 **1.4. When Does the MPIA Apply?**

13 The Act always applies to requests for Public Records. Anyone (e.g., citizens, corporations,  
14 government agencies, associations, public interest groups, and members of the media, etc.) has the  
15 right to inspect a Public Record. The Commission has a duty to allow inspection and/or copying  
16 of Public Records upon request, subject to specific conditions and limitations. Those conditions  
17 and limitations are covered below.  
18

19 **1.5. Who is a Custodian of Records?**

20 A Custodian of Records is any staff member that holds a Public Record and is responsible for  
21 maintaining such records in accordance with guidelines established by the Commission for records  
22 management and retention. (See: Administrative Practice 5-80, Records Management.) There are  
23 different types of Custodians: (1) the Official Custodian; (2) the Designee; (3) the MPIA  
24 Coordinators; and (4) other Commission employees.  
25

26 **1.5.1. Official Custodian.**

27 The Executive Director is the Commission’s Official Custodian.  
28

29 **1.5.2. Designee.**

30 The Corporate Archives & Records Management Administrator is the Commission’s  
31 Designee.  
32

33 **1.5.3. MPIA Coordinators.<sup>ii</sup>**

34  
35 A. While the Official Custodian is the public-facing point of contact for Applications, the  
36 MPIA Coordinators handle most of the day-to-day Applications for purposes of  
37 carrying out the official responsibilities of the Act. MPIA Coordinators are responsible  
38 for notifying the Designee of each Application, and gathering, reviewing, and providing  
39 Responsive Records in the possession or control of their respective Departments.  
40 MPIA Coordinators are also required keep the Designee apprised of any progress in  
41 providing a response.  
42

43 B. The MPIA Coordinators also support the Official Custodian, and they are the  
44 designated staff that are responsible for responding to Applications received by their  
45 Departments in coordination with the Designee and Legal, as necessary.  
46

47 C. Each Department must designate an MPIA Coordinator and at least one alternate. The  
48 names of these individuals must be provided to the Official Custodian and Designee on  
49 an annual basis.

1           **1.5.4. IT Coordinators.**

- 2
- 3           A. When the Commission, typically through an MPIA Coordinator, determines that an
- 4           Electronic Data search is necessary to process an Application, the MPIA Coordinator,
- 5           Official Custodian, or Designee may submit an Electronic Data Search Form to the
- 6           applicable IT Coordinator. (See: Section 8.7.)
- 7
- 8           B. Each Commission information technology unit shall designate one or more staff
- 9           members to function continuously as an IT Coordinator for their respective unit.
- 10
- 11          C. Each Commission information technology unit shall designate a temporary and
- 12          alternate IT Coordinator as necessary to maintain uninterrupted coverage during a brief
- 13          or extended absence of the personnel otherwise assigned to discharge those
- 14          responsibilities.
- 15
- 16          D. Each designation required by this sub-section shall be made in writing and delivered
- 17          to:
- 18
- 19                1. The Official Custodian and Designee,
- 20
- 21                2. The individual(s) so designated,
- 22
- 23                3. The applicable MPIA Coordinator, and
- 24
- 25                4. Every supervisor within the individual’s supervisory chain, up through the head of
- 26                the applicable information technology unit.
- 27
- 28          E. Each Commission information technology unit shall establish an electronic submission
- 29          protocol for accepting the Electronic Data Search Request Form, including providing
- 30          an electronic time stamp for the date and time of receipt and automatic confirmation of
- 31          receipt of the Form to the submitter. A sample Electronic Data Search Request Form
- 32          is outlined in Section 8.7.
- 33
- 34          F. Submission of the Electronic Data Search Form as outlined in this Manual shall be
- 35          deemed to be approved by the applicable Department Head for the purposes of
- 36          compliance with the Commission’s Administrative Procedures 20-01 (Access to
- 37          Electronic Data).
- 38

39           **1.5.5. Other Commission Employees.**

40           Any Commission employee may be a Custodian, and as such, is responsible for protecting

41           Public Records against misuse, misplacement, damage, undue destruction, or theft; and

42           safeguarding Public Records and cooperating with the Official Custodian, Designee, Legal,

43           and/or MPIA Coordinators. As a Custodian of Public Records, a Commission employee

44           should safeguard the confidential nature of information in their possession, (i.e. restricted

45           Public Records and potential Denied Records) and should contact Legal if there is

46           uncertainty about the release of confidential information to the MPIA Coordinator.

47

48

49

1 **1.6. Where Does the MPIA Coordinator Obtain the Requested Records?**

2 The MPIA Coordinator should collect records from appropriate locations within their Department,  
3 Custodians, employees, and any other Department Custodian or employee within the Commission  
4 that has access to the records requested. Records can be found in many different forms and  
5 locations including but not limited to hard copy paper files, electronic materials in computer files,  
6 hard drives, and cloud storage. Records may be in the form of written or printed paper documents,  
7 photographs, films, drawings, microfilms, maps, police mugshots, and other formats.

8  
9 Readily Available Records should be made easily accessible to the public whenever possible and  
10 a current version of the document(s) should be stored on the Commission’s public-facing websites,  
11 information offices, kiosks, or other customer service locations as directed by the Official  
12 Custodian.

13  
14 **2. Importance of Proper Compliance.**

15  
16 **2.1. Why is this Procedure Important?**

17  
18 **2.1.1. Applications Must be Handled Consistently.**

19 While most Applications are simple, sometimes the Application can be complicated, or  
20 made in relation to a lawsuit filed (or to be filed) against the Commission. For these  
21 reasons, it is important to have a standard operating procedure.

22  
23 **2.1.2. Exercising Care When Responding to Records Requests.**

24 Even if Responsive Records can be provided right away, it is important that the Responsive  
25 Records be reviewed by the MPIA Coordinator, before release, to ensure there are no  
26 handwritten notes, missing pages, etc. on the Public Records to be provided. By law,  
27 certain Public Records shall not be provided to the public because they are subject to  
28 Exemptions or Exceptions. What cannot and what should not be produced is discussed  
29 later in this Manual. If there is uncertainty, contact Legal for assistance.

30  
31 **2.1.3. Exercising Care When Storing Records.**

32 A Custodian of Record should exercise care when compiling and storing documents  
33 pursuant to an Application for Public Records. The documents that may contain  
34 confidential information should be kept in a secure location (i.e. electronic or physical)  
35 until the information is deemed to be a Responsive Record subject to disclosure or a Denied  
36 Record subject to restriction from disclosure.

37  
38 **3. What to Do When the Commission Receives an MPIA Request.<sup>iii</sup>**

39 The following is a summary of the required steps in processing an Application. These steps should be  
40 used in conjunction with the remaining sections of this Manual:

41  
42 (1) If the requested record is Readily Available, provide the record to the requester immediately  
43 (or as soon as possible if, for example, the record must be copied, retrieved from another  
44 location, or the record requires a payment from the requester.) There is no need to obtain an  
45 Application number for these types of requests.

46  
47 (2) If the record is not Readily Available notify the requestor (in writing) acknowledging the  
48 request (See: sample Acknowledgement Letter using Form 8.1). Copy the Designee on the  
49 Acknowledgement Letter. The Designee will assign the Application a number for processing.

- 1 (3) Contact relevant Staff regarding providing the requested information and submit an IT search  
2 request, if needed. If the requested information is for portions of or documents that should be  
3 Denied Records, contact Legal before submitting the request for information to Staff and the  
4 IT Coordinator.  
5
- 6 (4) Review provided records from Staff and IT, to ensure there are no records or any portions of a  
7 record for which disclosure should be denied.  
8
- 9 (5) If the record can be retrieved within 10 Working Days, and there are no Denied Records,  
10 simply provide the records within that time frame.  
11
- 12 (6) If the record cannot be provided within 10 Working Days, prepare a Ten -Day Letter (Form  
13 8.2) telling the Applicant when the documents can be expected (within the required 30-day  
14 period), along with an estimate of the fees for producing the documents, if it will take more  
15 than 2 hours of Staff time.  
16
- 17 (7) If there will be a fee required, the Applicant must pay the fee before substantial research  
18 continues. However, keep in mind that the 30-day clock to produce the documents does not  
19 stop while awaiting the fee collection. Therefore, it is important to communicate with the  
20 Applicant often and determine if they intend to pay or not.  
21
- 22 (8) If it is estimated to take longer than 30 calendar days to produce the record(s), inform the  
23 Applicant and request the Applicant's permission for the extended time period.  
24
- 25 (9) Regardless of whether an extension is granted, continue using reasonable efforts to provide  
26 information and documents as they are ready, and if the fee has been paid. Remain in contact  
27 with the Applicant.  
28
- 29 (10) If there are Denied Records, include that information in the final production of documents to  
30 the Applicant with the applicable legal citations (See: Forms in Sections 8.3 through 8.5).  
31 Review by Legal should be obtained, if there will be Denied Records.  
32

33 (Additional details on each step are covered in the following sections.)  
34

### 35 3.1. **Written Request Is Preferred but Is Not Legally Mandatory.** 36

#### 37 3.1.1. **Handling Verbal Requests for Records.**

38 Although it is the Commission's preference that requests for Public Information be made  
39 in writing because it is much easier to understand the request and respond accordingly, by  
40 law, however, requests are not required to be written to trigger the Act. If an Applicant  
41 fails or refuses to put a request in writing, this cannot be used as a basis to deny the  
42 Application. Additionally, the MPIA Coordinator does not have to be the person to whom  
43 the request is made for the Act to apply.  
44

#### 45 3.1.2. **Handling Requests for Readily Available Records.**

46 If, alternatively, an Application is for records that comprise Readily Available Records, the  
47 MPIA Coordinator may simply refer the Applicant to the location of the Responsive  
48 Record. (See: Section 3.8.2 for additional instructions for Readily Available Records.)  
49

1           **3.1.3. Requests May Be Made to Any Staff Person.**

2           Applicants may submit requests to the Official Custodian, MPIA Coordinators identified  
3           on the Commission’s website, or to other Commission employees. There is no requirement  
4           that the request be made to a specific Custodian.  
5

6           **3.2. If a Request Is Received by a Non-Custodian.**

7           If an Application is received by or made to an employee who is not a Custodian, the non-Custodian  
8           must immediately send the Application to the Designee and the MPIA Coordinator. If the MPIA  
9           Coordinator is not available when the Application is received, the non-Custodian should forward  
10          the Application to the back-up MPIA Coordinator and the Department Head (if the back-up MPIA  
11          Coordinator is not known). The non-Custodian (a) should not wait to forward the Application to  
12          the Designee while trying to identify or contact the respective MPIA Coordinator and (b) must  
13          make sure that the MPIA Coordinator or Department Head acknowledges receipt and  
14          responsibility for the Application. The time clock for responding to an Application begins when  
15          the Commission receives the Application, and the clock runs even if the MPIA Coordinator does  
16          not yet have the Application. Therefore, it is important that every Commission employee forward  
17          the Application information immediately upon receipt.  
18

19          If the receiving Department is not the correct departmental/business unit, the receiving  
20          Department’s MPIA Coordinator must then forward the Application to the Designee and the  
21          appropriate MPIA Coordinator for handling. The appropriate Department’s MPIA Coordinator is  
22          then responsible for handling the Application, including sending the Acknowledgement Letter,  
23          Ten-Day Letter, Response Letter, and other communications regarding the Application.  
24

25          **3.3. The Request Involves Records Created by or Held by Another Agency.**

26               **3.3.1. The Records Are Held by M-NCPPC.**

27               When the Commission receives a request for records that were created by another agency,  
28               but the Commission has the records in its possession, MPIA Coordinators should, if  
29               reasonable, notify the Records Custodian of the respective agency. The Maryland Attorney  
30               General maintains an updated list of Records Custodians/MPIA representatives online  
31               which can be consulted for contact information. Any questions or concerns on this item  
32               may be directed to M-NCPPC’s Records Custodian’s Designee. This does not determine  
33               disclosure or withholding of documents but is simply a courtesy to the other public agency.  
34  
35

36               **3.3.2. The Records Are Not Held by M-NCPPC.**

37               If the Commission does not have the records, the MPIA Coordinator must respond in  
38               writing to the Applicant advising that there are no Responsive Records to the Application  
39               and, if known, the actual custodian of the record and the location or possible location of  
40               the record. This communication should be sent within the first ten (10) Working Days after  
41               the Commission receives the Application; not the date that the MPIA Coordinator receives  
42               the Application. Once this communication is sent, the MPIA Coordinator or Designee may  
43               close out the MPIA request.  
44

45          **3.4. When the Request Is Broad or Unclear.**

46          An Applicant may ask for information in very broad terms. When this happens, the MPIA  
47          Coordinator should ask the applicant to narrow or clarify their request. It is the Applicant’s  
48          responsibility to provide specific information concerning the record(s) of interest, such as project  
49          names, dates, type of documents, etc., and to utilize any standard request forms which may be  
50          provided.



1 For example, the Applicant may not really want “all documents related to the adoption of the 2014  
2 general plan”, they may only be looking for a copy of the general plan and the resolution approving  
3 it. However, this requires communication with the Applicant—preferably in writing, but also by  
4 phone (with phone log), if writing is not possible or available.  
5

### 6 **3.5. Why the Applicant Is Asking for the Records.**

7 The reason “why” the Applicant is seeking the records is wholly irrelevant to the Commission’s  
8 duty to respond to the Application. Applicants are not required to provide a reason for their  
9 requests for Public Records, so the Commission should not request this information, except when  
10 a Fee Waiver is requested. There are times, however, when *who* the Applicant is, may be relevant.  
11 Different exceptions to production apply if the Applicant is the Person in Interest. A Person in  
12 Interest may be able to obtain more information than a non-Person in Interest. For example, a  
13 Commission employee may be able to access records that relate to their personnel file, when  
14 otherwise personnel records are not disclosable to members of the public.  
15

### 16 **3.6. Who Has Relevant Records, and Where Those Records Are Located.**

17 The MPIA Coordinator determines who has relevant records, where those records are located, and  
18 gathers all Responsive Records. In cases where multiple people in a Department, and/or multiple  
19 Departments have Public Records that are responsive to an Application, the lead MPIA  
20 Coordinator should work with the Designee and the MPIA Coordinator(s) from the other  
21 Department(s) to provide all Responsive Records on behalf of the Commission.  
22

### 23 **3.7. The MPIA Coordinator Decides How Quickly the Records Can Be Produced.<sup>iv</sup>**

#### 24 **3.7.1. Running Against the Clock.**

- 25
- 26 A. In general, the Act requires that the Commission produce all Responsive Records, as  
27 soon as possible, upon the receipt of the Application, but no later than thirty (30)  
28 calendar days after receipt of the Application.  
29
  - 30 B. The MPIA Coordinator has ten (10) Working Days from the date of the receipt of the  
31 Application to identify (i) the scope of the Public Records that are responsive to the  
32 Application, and (ii) the estimated or actual cost to produce the Responsive Records.  
33 This information should be incorporated into the Ten-Day Letter. (See: Ten Day Letter  
34 in Section 3.12, below.)  
35
- 36

#### 37 **3.7.2. Decide Whether the Requested Documents Are Readily Available.**

38 The Official Custodian should have previously identified documents that are “off the shelf”  
39 available, meaning that those Public Records constitute Readily Available Records. These  
40 “off the shelf” Readily Available Records should be made available immediately to any  
41 Applicant and need not trigger the official MPIA process. Once identified as “off the  
42 shelf”, those Readily Available Records should be uploaded and maintained on a  
43 Commission webpage that is freely accessible to the public. The purpose of this is twofold:  
44 (1) it makes the Readily Available Records freely accessible; and (2) it reduces the number  
45 of Applications to which the MPIA Coordinator must spend additional time to respond.<sup>v</sup>  
46  
47  
48  
49

1           **3.7.3. Decide Whether Any Electronic Data Search Is Necessary.**

2           If processing an Application requires assistance from an IT Coordinator(s), the MPIA  
3           Coordinator, Designee, or Official Custodian should complete the Electronic Data Search  
4           Form (See: Section 8.7 for the sample form) and work with the respective IT  
5           Coordinator(s) to compile the Public Records for production processing. The Electronic  
6           Data search parameters and the responsible IT Coordinator(s) are listed in the Electronic  
7           Data Search Process Matrix for MPIA Compliance outlined in Section 8.8.  
8

9           **3.7.4. Partial Fulfillment.**

10          If the Response Letter includes a reference to Denied Records, the MPIA Coordinator  
11          should still promptly provide the allowable Responsive Records requested within thirty  
12          (30) calendar days. (See: Section 3.13, below, for handling records subject to denial.)  
13

14          **3.7.5. What if the MPIA Coordinator Needs More Time?**

15          The time limit of thirty (30) calendar days to respond to an Application may be extended  
16          only with the consent of the Applicant and by no more than an additional thirty (30)  
17          calendar days.<sup>vi</sup> Respond to the Applicant with Responsive Records as they are ready and  
18          continue in good faith and with reasonable efforts to produce the remaining Public Records,  
19          as soon as possible. Continue to communicate with the Applicant to make them aware of  
20          the status of the Application.  
21

22          **3.7.6. Modification and Withdrawal.**

23          An Applicant may modify any part of an Application, or withdraw it entirely, at any time.  
24          In the event of any modification or withdrawal of an Application:

- 25
- 26          A. The modification will constitute the Applicant’s consent to adjust the period of time  
27          allowed as necessary for the Commission to fulfill the modified request.
  - 28
  - 29          B. The estimate of Reasonable Fees covered below under Section 3.9 may be revised up  
30          or down, depending on the modified scope of an Application and the timing of  
31          modification.  
32

33          **3.8. Calculating and Collection of Reasonable Fees.<sup>vii</sup>**

34          Under the Act, the Commission may charge an Applicant a Reasonable Fee for the costs incurred  
35          in fulfilling the Application. Unless the Official Custodian grants a fee waiver, the Commission  
36          should recover its costs in the interest of safeguarding public funds. The collection, review, and  
37          production of Responsive Records in response to an Application can be very time intensive. The  
38          Commission is not required to absorb those costs, but subject to limitations, may require the  
39          Applicant to pay those costs to the Commission. Therefore, staff involved in responding to an  
40          Application shall track their time spent on each request. It is the Commission’s policy to require  
41          advance payment of all or part of the Reasonable Fee before producing the Responsive Records.  
42

43          **3.8.1. How to Calculate the Production Costs.**

- 44
- 45          A. The Statutory Time Allowance comprises the first two (2) hours of Commission  
46          employee time dedicated to producing the responsive record for which there is no fee  
47          charged to the Applicant. Therefore, when calculating the total hours used to respond  
48          to an Applicant’s request, the first two hours are deducted. Additionally, no fee for  
49          employee time can be charged when the time required to fulfill the Application totals  
50          two (2) hours or less.

1 B. Response time in excess of two (2) hours is subject to the payment of a Reasonable  
2 Fee, calculated by taking the hourly rates of each of the employee(s) working on the  
3 Application, multiplied by the estimated number of hours it will take to respond to the  
4 Application.  
5

6 Note: The Applicant should not generally be charged for multiple employees' review  
7 of the same material, but only one employee's time should be a part of the fee charged  
8 to the Applicant.  
9

10 If more than one Department works on an Application, to maintain the confidentiality  
11 of salary information, the MPIA Coordinator for each Department involved in the  
12 records collection shall request an HR Coordinator to collect the hourly rate of pay for  
13 each employee and calculate the total costs for their respective Department. The HR  
14 Coordinator shall provide only that information to the lead MPIA Coordinator or  
15 Designee. The lead MPIA Coordinator will add all costs for each Department to arrive  
16 at a total Reasonable Fee to be charged to the Applicant and prepare a single response  
17 to the Applicant.  
18

19 C. The Commission may recover any costs for media used in the production of Responsive  
20 Records, but only the actual cost to the Commission. For example, if a USB drive is  
21 provided to the Applicant to produce the Responsive Records, then the Commission  
22 may recover the cost it paid to purchase the USB drive. The Commission, however,  
23 cannot charge for both electronic media and paper copies *unless* production includes  
24 both electronic media and paper copies. If the production is entirely electronic via  
25 email, there should not be a fee assessed for copying costs.  
26

27 D. The Commission prefers the use of a digital medium for the calculation of cost  
28 estimates. For a detailed guide on how to calculate a cost estimate using the preferred  
29 digital medium, contact the Commission's Designee. When there are multiple  
30 employees reviewing documents in response to a request for Public Records, please  
31 contact Legal or the HR Coordinator for the calculation of a blended rate. Upon receipt  
32 of the blended rate, refer to Form 8.9, below, for the calculation of cost estimates.  
33

### 34 3.8.2. **When to Collect Money for the Fees.** 35

36 A. MPIA Coordinators should endeavor to include the Reasonable Fee estimate in the Ten-  
37 Day Letter. If more than two (2) hours will be necessary to compile the Responsive  
38 Record, MPIA Coordinators must advise the Applicant, preferably in the Ten-Day  
39 Letter, that the production will not occur unless the required Reasonable Fee is pre-  
40 paid. Prior to production, but at any time up to production, the MPIA Coordinator must  
41 collect the Reasonable Fee from the Applicant. Payments may be in the form of cash,  
42 check, money order, or cashier's check. While the Department of Finance will establish  
43 appropriate accounting codes and processing requirements for the collection of fees,  
44 the lead MPIA Coordinator shall be the front line of contact with the Application for  
45 collecting any Reasonable Fee. The MPIA Coordinator shall work with their respective  
46 Department to process the Reasonable Fee, in accordance with the Department's  
47 payment acceptance policies and capabilities. There should be no copying of currency.  
48 Cashier's or certified checks should be made payable to the "Maryland-National  
49 Capital Park and Planning Commission" and should be sent to the Finance Department,  
50 upon receipt.

- 1 B. If an Applicant refuses to pay the Reasonable Fee, production shall be withheld. If an  
2 Applicant asks to pay less than the entire Reasonable Fee, that request should be treated  
3 as a Fee Waiver request and handled pursuant to Section 3.9, below.  
4

5 **3.9. Fee Waiver Requests.**<sup>viii</sup>

6 Frequently an Applicant will ask for a part or all the Reasonable Fee to be waived. There are two  
7 main considerations for whether a Fee Waiver request should be granted: (1) Public Interest; and  
8 (2) Indigency. The granting of Fee Waivers is an exceptional occurrence and only the Official  
9 Custodian has the authority to consider and approve a fee waiver request. An Applicant can ask  
10 for a Fee Waiver at any time, or reimbursement, if they believe that they have been overcharged.  
11 It is within the Official Custodian’s discretion whether to refund part, or all, of the fees collected  
12 by the Commission regarding an Application.  
13

14 **3.9.1. Fee Waiver Request Based on Indigency.**

15 If an Applicant submits a Fee Waiver request based on Indigency, the MPIA Coordinator  
16 should immediately take the following steps, in addition to any other response necessary  
17 under the Act:  
18

- 19 A. Have the Applicant complete the Affidavit of Indigency, as soon as practical, and  
20 preferably along with the initial Application. The MPIA Coordinator shall continue  
21 working on the Application throughout this process.  
22  
23 B. Upon receipt of the completed Affidavit of Indigency, the MPIA Coordinator should  
24 forward the request for a Fee Waiver and the Affidavit, including a recommendation  
25 for approval, disapproval, or modification, to the Official Custodian for consideration.  
26  
27 C. After the Official Custodian’s decision or upon expiration of ten (10) Working Days,  
28 the MPIA Coordinator shall advise the Applicant of the outcome of their request in  
29 writing. This should be included in the Commission’s Ten-Day Letter.  
30

31 **3.9.2. Fee Waiver Based on Public Interest.**

32 Requests for Fee Waivers pursuant to the “public interest” exception follow the same  
33 process outlined above for an Affidavit of Indigency, except, Fee Waivers based on the  
34 public interest do not require an Affidavit of Indigency.  
35

36 **3.9.3. Fee Waiver Denied.**

37 The MPIA Coordinator need not produce any Responsive Records if (1) the Official  
38 Custodian denied the Applicant’s Fee Waiver request *and* the Applicant refuses to pay; or,  
39 (2) the Applicant does not pay the required advanced estimated Reasonable Fee. However,  
40 that limitation should be clearly stated in writing (usually in the Ten-Day Letter). The  
41 MPIA Coordinator should contact Legal immediately for additional guidance.  
42

43 **3.10. Appeal of the Fee Waiver Request.**

44 **3.10.1. No Administrative Appeal.**

45 There is no administrative appeal for the Official Custodian’s decision regarding a Fee  
46 Waiver request. However, the Applicant may seek a review of the decision by the Public  
47 Access Ombudsman and judicial review, in certain circumstances set forth in the Act.  
48  
49

1           **3.10.2. Appeal to State Public Information Act Compliance Board.**

2           In the event the Reasonable Fee payable by the Applicant to produce Public Records is  
3           more than \$350, the MPIA Coordinator or Designee must inform the Applicant of their  
4           right to file a complaint with the State Public Information Act Compliance Board. The  
5           Applicant may, within 90 days after the date the Reasonable Fee is imposed, file a written  
6           complaint with the State Public Information Act Compliance Board under the General  
7           Provisions Article, § 4-1A-05(a).  
8

9           **3.11. The Ten-Day Letter.**<sup>ix</sup>

10          If the production of the Responsive Record cannot occur within ten (10) Working Days after  
11          receipt of the Application by the Commission, MPIA Coordinators must send the Applicant a Ten-  
12          Day Letter. The Ten-Day Letter must advise the Applicant of the following:

- 13
- 14           (1) How long it will take to produce the Responsive Records (not to exceed thirty (30) calendar  
15           days from the date of receipt of the Application by the Commission);
  - 16
  - 17           (2) An estimate of the Reasonable Fees that may be charged, if more than two (2) hours will  
18           be needed to produce the Responsive Record;
  - 19
  - 20           (3) Instructions for advance Reasonable Fee payment; and
  - 21
  - 22           (4) The reason for requiring more than ten (10) Working Days to produce the Responsive  
23           Record. The MPIA Coordinator should sign the Ten-Day Letter and include the Designee  
24           as a “cc”. See: Form 8.2.  
25

26           **3.12. Review of Responsive Records by the MPIA Coordinator.**<sup>x, xi</sup>

27          The MPIA Coordinator should review all Responsive Records prior to disclosure, to ensure  
28          that no documents are Exempt Records, Mandatory Exception Records, Mandatory Exception  
29          Information, Discretionary Exception Records, or Temporary Denials, which the Act  
30          designates as protected from disclosure. If an MPIA Coordinator is uncertain about whether a  
31          specific document or documents should be released, they should contact Legal for assistance.  
32

33           **3.12.1. Records Subject to Mandatory Denials Under the Act.**

34          The MPIA Coordinator must deny inspection of a Public Record, or any part of a Public  
35          Record, if it is:

- 36
- 37           A. **An Exempt Record.** This means any Public Record or part of a Public Record, for  
38           which § 4-301 of the Act requires the Custodian to deny inspection because: (i) by law  
39           the Public Record is privileged or confidential; or (ii) the inspection would be contrary  
40           to a State statute, a federal statute or regulation; or, (iii) the inspection would be  
41           contrary to the rules adopted by the Court of Appeals or any court order.  
42

43          Some examples of common types of Exempt Records are as follows:

- 44
- 45           1. Criminal records.
  - 46
  - 47           2. Juvenile and minor records.
  - 48
  - 49           3. Tax information.  
50

- 1 4. Accountant-client privileged information.
- 2
- 3 5. Federal critical infrastructure and homeland security information.
- 4
- 5 6. Search warrants.
- 6
- 7 7. Sealed court records.
- 8
- 9 8. Attorney–client privileged information. This is a very common privilege and MPIA
- 10 Coordinators should take care to understand the breadth of this privilege. At the
- 11 beginning, the marking or non-marking of a document as “attorney-client
- 12 privileged” does not, in and of itself, determine whether the document is indeed
- 13 privileged. Instead, the MPIA Coordinator must look at the communication itself
- 14 and ask the following questions:
- 15
- 16 **Step 1.** Is an attorney for the Commission included (even as a “cc”) on this
- 17 document? If yes, it is likely privileged. If the document has nothing to do
- 18 with a legal matter, then the privilege may not apply (e.g., an email about
- 19 health/wellness). If no, go to step 2.
- 20
- 21 **Step 2.** What is the document about—is the attorney giving legal advice, is the
- 22 client seeking legal advice, or is the client reiterating legal advice? If “yes”
- 23 to any of these questions, then it is privileged and should not be produced.
- 24
- 25 **Step 3.** MPIA Coordinators should not release a document that falls within the
- 26 privilege.
- 27
- 28 **Step 4.** Consult Legal for assistance.
- 29
- 30 9. Attorney Work Product. This is a very common exception and protects work that
- 31 attorneys perform in the scope of their duties for the Commission. The MPIA
- 32 Coordinator has no authority to waive this privilege, and if concerned about its
- 33 applicability, should contact Legal. It would also include drafts of documents in
- 34 which Legal has provided comments.
- 35
- 36 10. Executive Privilege only applies to the Governor, Chief Judge of the Court of
- 37 Appeals, and presiding officers of the General Assembly.
- 38
- 39 11. Legislative Privilege only applies to the General Assembly and may apply to the
- 40 County Council when acting in their legislative capacities.
- 41
- 42 **B. A Mandatory Exception Record.** This means any Public Record as described in §§
- 43 4-304 through 4-327 of the Act which a Custodian must deny inspection, unless
- 44 required to provide it by some other law. These include: adoption, hospital, and welfare
- 45 records; library and gifts of library, archival, or museum materials; letters of reference,
- 46 personnel, and retirement records; student records; higher education investment
- 47 contracts and school safety plans, policies, and guidelines; traffic accident reports,
- 48 criminal charging documents and traffic citations; arrest warrants and charging
- 49 documents; Department of Natural resources, Maryland Transit Administration,
- 50 Maryland Transportation Authority and Motor Vehicle Administration records; images
- 51 from traffic control signal monitoring system and surveillance images; risk-based
- 52 capital records; renewable energy credit records; firearm and handgun records;
- 53 captured plate data; and shielded records. All these records are defined in the Act.

1 Some examples of common types of Mandatory Exceptions Records are as follows:

- 2
- 3 1. Personnel Records—includes home address, home phone or cell number,  
4 applications, performance ratings, hiring, firing, promotion, dismissal, leave  
5 balance, sick leave, benefit choices, retirement records, and technical infractions.  
6 Note: Not included as personnel records are salaries, bonuses, and monetary  
7 performance awards, which must be provided.  
8
- 9 2. Police Records—police officers have separate requirements and rules. Consult  
10 with Legal before disclosing any police-related records.  
11

12 **C. Mandatory Exception Information.** This means information that may be a part of a  
13 Public Record for which the Custodian must deny inspection as defined in §§ 4-328  
14 through 4-341 of the Act. This specific information includes: medical, psychological,  
15 or sociological information; information about public employees or notaries; licensing  
16 records; social security number; trade secrets and confidential information; financial  
17 information; collusive or anti-competitive activity; security of information systems,  
18 alarm or security system; senior citizen activities centers; distribution list issued by a  
19 governmental entity or elected official.  
20

21 Some examples of common types of Mandatory Exceptions Information are as follows:

- 22
- 23 1. The home address, telephone, or cell number of public employees—may be  
24 redacted from documents that might otherwise be provided.  
25
- 26 2. Trade secret(s)—include commercially valuable plan(s), formula(s), or device(s),  
27 known only to a few people and not susceptible to common knowledge.  
28
- 29 3. Confidential commercial or financial information—includes information  
30 voluntarily provided to the government that would not customarily be provided  
31 to the general public or to competitors, such as drafts of plans, engineering data,  
32 etc.; but, it does not include plans that are officially filed and are necessary for  
33 issuance of an approval or other agency action, which must be provided.  
34
- 35 4. An individual’s personal finances—includes assets, liabilities, net worth, bank  
36 balances, etc.  
37
- 38 5. Distribution Lists. The identifying address, email address, or telephone number  
39 of a person is protected from disclosure if it is on a list used to periodically send  
40 news about official activities of the governmental entity, or for informational or  
41 emergency alerts; this includes Commission email alert lists.  
42
- 43 6. Health Insurance Portability and Accountability Act (HIPAA)/Md Code Ann.,  
44 Title 4, Subtitle 3 of the Health-General Article. MPIA Coordinators should  
45 immediately stop and contact Legal if they are handling an Application that  
46 relates to a person’s health information when the Applicant is not the Person in  
47 Interest. While most people are familiar with HIPAA, the State of Maryland has  
48 additional, more restrictive, prohibitions regarding health care information.<sup>xii</sup>  
49

1 7. Minors. Records relating to minors (i.e., person 18 years of age and under),  
2 including photo/video images where minors are included. When an MPIA  
3 Coordinator comes across an Application that includes information relating to a  
4 juvenile or the juvenile’s image, the MPIA Coordinator should contact Legal  
5 prior to production.<sup>xiii</sup>  
6

7 *\*Exceptions Apply, review the Act, and/or consult Legal.*  
8

9 **3.12.2. Records Subject to Discretionary Denials.**

10 By law an MPIA Coordinator *may* deny inspection of a part of a Public Record if it is a:

11  
12 A. **Discretionary Exception Record.** This means Public Records or parts thereof, that the  
13 Custodian may deny inspection of, pursuant to §§ 4-434 through 4-356 of the Act,  
14 because the Custodian believes providing them would be contrary to the public interest.  
15 These include: interagency or intra-agency letters or memoranda; examination  
16 information; state or local research project; inventions owned by state public  
17 institutions of higher education; confidential information owned by State entities; real  
18 estate appraisals; site-specific locations of certain plants, animals, or property;  
19 investigation, intelligence or security information; emergency management  
20 information; Maryland Port Administration, University of Maryland Global Campus  
21 records and public institution of higher education records; 911 communications that  
22 depict victim.<sup>xiv</sup>  
23

24 The following is a partial list of common documents that the MPIA Coordinator has  
25 the discretion to deny access to, in part or in whole if their disclosure would be contrary  
26 to the public interest.  
27

- 28 1. Interagency and Intra-Agency Letters, Memorandum, Emails—this includes  
29 emails, memos, and other documents in draft form or discussing drafts of  
30 recommendations between staff or staff and other agencies as part of their  
31 deliberations and decision-making process; protection required to allow free and  
32 frank discussions among staff and disclosure would inhibit creative debate and  
33 discussion.  
34
- 35 2. Site-specific location of plants, animals, or property—this includes information  
36 concerning the site-specific location of an endangered or threatened species of  
37 plant or animal, a species of plant or animal in need of conservation, a cave, or a  
38 historic property as defined in § 5A-301 of the State Finance and Procurement  
39 Article.  
40
- 41 3. Emergency procedures and records related to buildings, facilities, and  
42 infrastructure.  
43
- 44 4. Real-estate appraisal regarding a public acquisition.  
45
- 46 5. Reports prepared by outside consultants in anticipation of litigation.  
47
- 48 6. Investigatory records—some must be disclosed, and others may be withheld,  
49 especially as it relates to police officers, therefore, review consult Legal.  
50

51 *\*Exceptions Apply, review the Act and/or consult Legal.<sup>xv</sup>*



1 B. **Temporary Denial Record.** These are Public Records that would otherwise be  
2 required to be provided to the Applicant, but the Official Custodian has determined,  
3 in consultation with Legal, that doing so would cause substantial injury to the public  
4 interest if produced. To withhold the Public Record(s), the Executive Director must  
5 seek the approval of the full Commission to file a petition in Circuit Court. If this  
6 Petition is filed, the Commission can no longer claim that the documents are  
7 otherwise protected under one of the other Exemptions or Exceptions, so this should  
8 be used only in extreme circumstances.  
9

10 **3.12.3. When to Involve Legal.**

- 11
- 12 A. If there is a question about the applicability of an Exception or Exemption to the  
13 disclosure of a record(s) or part of a record(s) applies.
- 14
- 15 B. When there is a potential lawsuit against the Commission or its employees.  
16 Additionally, Commission employees should take steps to preserve all relevant  
17 documents for future litigation.
- 18
- 19 C. Temporary Denials.<sup>xvi</sup>
- 20
- 21 D. Reverse MPIAs.
- 22
- 23 E. Applications that relate to Police Officers’ Internal Affairs Files (not records created  
24 by police officers relating to their normal duties “Police Reports”).  
25

26 **3.12.4. Restrictions on the Creation and Collection of Personal Records.**

27 The Commission is prohibited from creating Personal Records (a Public Record that names  
28 or, with reasonable certainty, otherwise identifies an individual by Personal Information)  
29 absent a clearly established need.  
30

31 **4. Preparing the Response to the MPIA Request.**

32

33 **4.1 In What Format Should the MPIA Coordinator Produce the Records?**

34 The general file formats for production are PDF, paper copies, cloud storage, email, or external  
35 storage devices. To prevent providing metadata in a record, a Public Record generally should not  
36 be provided in its native format unless metadata has been removed using the appropriate tools. If  
37 the Public Record is a video file, it should be produced as electronic media. If a portion of a  
38 document needs to be redacted, **use Adobe Acrobat or other authorized electronic tools that**  
39 **are safe for redacting records. Do not use Microsoft Word to redact.** When using Adobe  
40 Acrobat for redaction, convert the file(s) to PDF, as needed. If an Applicant needs documents  
41 produced in an accessible format, the MPIA Coordinator should work with the Designee and the  
42 IT Coordinator to accommodate this request, without releasing otherwise confidential Metadata.  
43

44 **4.1.1. Electronic Records.**

45 An Applicant may obtain a copy of an electronic Responsive Record in a “searchable and  
46 analyzable format” with all Metadata removed, if:

- 47
- 48 A. The Public Record is in a searchable and analyzable format;  
49

1 B. The Applicant requests a copy of the Responsive Record in a searchable and analyzable  
2 format; and  
3

4 C. The MPIA Coordinator can provide a copy of the Responsive Record, in whole or in  
5 part, in a searchable and analyzable format that does not disclose information that  
6 constitutes a Denied Record.  
7

8 The MPIA Coordinator should work with the IT Coordinator in producing electronic  
9 records in response to a request for Public Records.  
10

11 **4.1.2. What is Not Required with Regard to Electronic Records.**

12 The MPIA Coordinator or Custodian need not:  
13

14 A. Reconstruct a Public Record in an electronic format if the Custodian no longer has the  
15 Public Record available in an electronic format, or create a document that does not  
16 exist;  
17

18 B. Release an electronic Public Record in a format that would jeopardize or compromise  
19 the security or integrity of the original Public Record, or of any proprietary software in  
20 which the Public Record is maintained.  
21

22 **4.2. Drafting the Response Letter.**

23 Once all responsive Public Records have been gathered, redacted as necessary, and all Metadata  
24 has been removed, the MPIA Coordinator should draft the Response Letter and include the  
25 Responsive Records. That letter may grant all or part of the request or deny all or part of the  
26 Application. If a significant amount of the production is redacted or Records are denied, the MPIA  
27 Coordinator must describe the Denied Records and the reasons for denial, in a format similar to  
28 that in the sample letters at the end of this Manual in Section 8.3 through 8.4.2.  
29

30 **4.3. What Happens if the MPIA Coordinator Made an Error in the Production?<sup>xvii</sup>**

31 **4.3.1. Unlawful Disclosure of Public Records.<sup>xviii</sup>**

32 The employee and/or the Commission may be liable for actual damages if a court finds by  
33 clear and convincing evidence that Public Records that should not have been disclosed  
34 were disclosed willfully and knowingly in violation of the law, the Public Record produced  
35 identifies an individual, and that information is willingly and knowingly used in violation  
36 of the law.  
37

38 **4.3.2. Prohibited Act; Criminal Penalties.<sup>xix</sup>**

39 A person may not willfully and knowingly violate the Act; fail to petition a court after  
40 issuing a Temporary Denial; or, through undue means gain access to a copy of a Personal  
41 Record, if that record comprises a Denied Record. This crime is a misdemeanor and carries  
42 a penalty of up to a \$1,000.00 fine.  
43  
44

45 **4.4. What the Applicant Can Do if Unhappy with the Response Letter.**

46 The Applicant may seek review of the MPIA Coordinator's decision in four different ways: (1) by  
47 the Official Custodian; (2) by the Public Access Ombudsman; (3) by the State Public Information  
48 Act Compliance Board; or, (4) in a Court of Law.<sup>xx</sup>  
49

1           4.4.1. **Official Custodian.**

2           An Applicant may request an administrative review by the Official Custodian of any denial  
3           issued by the Designee or MPIA Coordinator (other than the Official Custodian).  
4

5           4.4.2. **Public Access Ombudsman.**

6           If an Applicant files a complaint with the Public Access Ombudsman challenging a Denied  
7           Record or the applicability of an Exception or Exemption, the MPIA Coordinator must  
8           demonstrate to the Ombudsman, with assistance from Legal, that the denial or exemption  
9           is clearly applicable to the requested Public Record; and, if the Public Record is denied  
10          pursuant to specific provisions within the Act, that the harm from the public disclosure of  
11          the Public Record is greater than the public interest in access to the information.<sup>xxi</sup>  
12

13          The Official Custodian may contact the Public Access Ombudsman on behalf of the  
14          Commission, to resolve a dispute relating to an Application.  
15

16          The Ombudsman shall make “reasonable attempts to resolve disputes” between Applicants  
17          and the MPIA Coordinators, regardless of which party brings the dispute to the  
18          Ombudsman. The Ombudsman has no authority to compel disclosure or otherwise disclose  
19          information about the dispute, without the consent of the Official Custodian.  
20

21          If any employee is contacted by the Ombudsman’s office or the Applicant’s lawyer, the  
22          employee, including the MPIA Coordinator, should contact Legal and the Designee  
23          immediately. Details about the Ombudsman’s Office and the applicable procedures can be  
24          found at [www.oag.state.md.us](http://www.oag.state.md.us).  
25

26          4.4.3. **State Public Information Act Compliance Board.**

27          The State Public Information Act Compliance Board is charged with resolving complaints  
28          filed alleging that an MPIA Coordinator has charged an excessive fee. After deciding, the  
29          Board will issue a written opinion stating its findings and may change the fee to an amount  
30          they determine proper; they may also order a refund.  
31

32          If a complaint is filed with the Board, the employee receiving the complaint should  
33          immediately contact Legal and the Designee.  
34

35          4.4.4. **Court of Law, Judicial Review.**

36          Whenever an Applicant is aggrieved by a decision not to produce the requested Public  
37          Records, the Applicant may file a complaint with a Circuit Court where the Applicant  
38          resides, has a business, or where the Public Record is physically located. If this occurs, the  
39          employee receiving the complaint should contact Legal and the Designee immediately, as  
40          there are important legal deadlines that must be met. If the Court rules that the production  
41          should have occurred, then the Court may assess actual damages, counsel fees, or other  
42          litigation costs against the Commission, and may order the production of the requested  
43          Denied Record. If the Court determines that the MPIA Coordinator acted arbitrarily or  
44          capriciously in denying access to the requested Public Record, the Court must report this  
45          to the MPIA Coordinator’s appointing authority—i.e., the Department Head. The  
46          respective Department Head may be required to take appropriate disciplinary actions  
47          against the MPIA Coordinator.  
48  
49

1 **5. Other Considerations.**

2  
3 **5.1. Temporary Denials of a Records Inspection Request.**<sup>xxii</sup>

4 When an MPIA Coordinator believes that production of the requested Public Records would cause  
5 “substantial injury to the public interest” the MPIA Coordinator may make a preliminary  
6 determination to temporarily deny inspection. However, before issuing a Temporary Denial, the  
7 Designee and the MPIA Coordinator should consult with Legal and make a recommendation to  
8 the Official Custodian. Consultation with Legal is critical because within ten (10) Working Days  
9 of issuing the temporary denial, Legal, on behalf of the Commission, and with full Commission  
10 approval, must file with the appropriate Circuit Court a petition for continued denial of inspection.  
11 A temporary denial is extremely rare. **The Official Custodian, with approval from the full  
12 Commission, has the authority to make a Temporary Denial of an Application.**

13  
14 **5.2. Reverse MPIA’s.**

15 A Reverse MPIA is a lawsuit that is filed to prevent the production of the requested Public Records.  
16 While rare, it is generally filed by the person to whom the Public Records relate, and not the  
17 Commission. For example, an MPIA Coordinator receives an Application that relates to a police  
18 officer. While the requested Public Record may be disclosable under the MPIA Coordinator’s  
19 discretionary authority, the MPIA Coordinator may alert the officer or the Fraternal Order of Police  
20 (FOP) regarding the Application, and the officer or the FOP may go to court and ask that the Public  
21 Record not be produced.

22  
23 **5.3. Limitation on Collection of Data and Records.**<sup>xxiii</sup>

24 Personal Information records (not to be confused with personnel records): (1) may not be created  
25 by the Commission unless appropriate and relevant to the clearly established need of the  
26 Commission; (2) must be accurate; and (3) cannot be obtained through fraudulent means. The  
27 State, a political subdivision, or a unit of the State may keep only the information about a person  
28 under the following circumstances:

29  
30 **5.3.1. When Personal Information is Needed by the State, the Political Subdivision, or the  
31 Unit of Local Government.**

32 The information retained must be needed to accomplish a governmental purpose that is  
33 authorized or required to be accomplished under:

- 34 A. A statute or any other legislative mandate;
- 35 B. An executive order of the Governor;
- 36 C. An executive order of the chief executive of a local jurisdiction; or
- 37 D. A judicial rule.

38  
39 **5.3.2. When Personal Information is Relevant to Accomplishment of the Purpose.**

40 When collecting Personal Information (for example, registering for a class through a web  
41 portal) the Commission must provide a disclaimer explaining the reason for the request,  
42 the consequences for failure to provide the Personal Information, the person’s right to  
43 inspect/amend/correct their Personal Information record, whether the Personal Information  
44 will be available for inspection by others, or will be shared with others. To that end, *the  
45 Commission is responsible for posting on its website its privacy policies on the collection  
46 of Personal Information* in accordance with the statute and other applicable laws.  
47  
48  
49  
50

1 **5.4. Request for Changes to Documents.**<sup>xxiv</sup>

2 In the event the Commission receives a request to correct or change a Public Record by a Person  
3 in Interest, then the following applies: (1) All requests must be made in writing by the Person in  
4 Interest and must describe the change requested and the reason(s) for the change. Within thirty  
5 (30) calendar days of receipt of the request, the Designee must take the following action(s): (a)  
6 make or refuse to make the change; or (b) advise the Person in Interest of the refusal and the reason  
7 for the refusal. (2) The Person in Interest may then seek administrative and judicial review. In the  
8 event the Person in Interest seeks administrative or judicial review, the Designee must immediately  
9 notify Legal.

10  
11 **6. Departmental/Business Unit Guide.**

12 The following Code Sections are from the General Provisions Article of the Maryland Annotated Code  
13 and are intended to advise the MPIA Coordinators on which statutes or other laws they *may commonly*  
14 *deal with* in determining whether to produce Public Records. It is not intended to be a comprehensive  
15 listing and the section titles cannot be relied upon as complete guidance as to whether and under what  
16 circumstances a request may be denied. **MPIA Coordinators must review relevant sections of the**  
17 **Act in its entirety** and consult Legal with questions or interpretation issues. In addition, the Maryland  
18 Attorney General’s Office publishes the Maryland Public Information Act Manual (17<sup>th</sup> ed., July 2022)  
19 with helpful explanations available on their website at:

20 [https://www.marylandattorneygeneral.gov/OpenGov%20Documents/PIA\\_manual\\_printable.pdf](https://www.marylandattorneygeneral.gov/OpenGov%20Documents/PIA_manual_printable.pdf).

21 Contact Legal as soon as possible with any questions about whether an exception applies.

22  
23 **6.1. Park Police.**

24 § 4-315 Traffic Accident Reports; Criminal Charging Documents; Traffic Citations; § 4-316 Arrest  
25 Warrants and Charging Documents; § 4-321 Recorded Images from Traffic Control Signal  
26 Monitoring System; § 4-322 Surveillance Images; § 4-325 Firearm and Handgun Records; § 4-  
27 326 Inspection of Captured License Plate Data; § 4-327 Shielded Criminal and Police Records; §  
28 § 4-329 Medical or Psychological Information; § 4-339 Alarm or Security Systems; § 4-344  
29 Interagency or Intra-agency Letters or Memoranda; § 4-345 Examination Information; § 4-351  
30 Investigation; Intelligence Information; Security Procedures; § 4-352 Information Related to  
31 Emergency Management; § 4-356 9-1-1 Communications Record; Protection of Juveniles/Records  
32 Containing Juveniles; Protected Health Care Information.

33  
34 **6.2. Planning.**

35 § 4-344 Interagency or Intra-agency Letters or Memoranda; § 4-346 State or Local Research  
36 Projects; § 4-350 Site-Specific Locations of Certain Plants, Animals, or Property.

37  
38 **6.3. Parks/Recreation.**

39 § 4-307 Welfare Records; § 4-322 Surveillance Images; § 4-325 Firearm and Handgun Records; §  
40 4-340 Senior Citizen Activities Centers; § 4-344 Interagency or Intra-agency Letters or  
41 Memoranda; § 4-350 Site-Specific Locations of Certain Plants, Animals, or Property; Protection  
42 of Juveniles/Records Containing Juveniles; Protected Health Care Information.

43  
44 **6.4. Executive Office Building (EOB)/Central Administrative Services (CAS)/Department of**  
45 **Human Resources Management (DHRM).**

46 § 4-306 Hospital Records; § 4-310 Letters of Reference; § 4-311 Personnel Records; § 4-312  
47 Retirement Records; § 4-327 Shielded Criminal and Police Records; § 4-329 Medical or  
48 Psychological Information; § 4-330 Sociological Information; § 4-331 Information About Public  
49 Employees; § 4-332 Information About Notaries Public; § 4-333 Licensing Records; § 4-334

1 Social Security Numbers; § 4-338 Security of Information Systems; § 4-339 Alarm or Security  
2 Systems; § 4-341 Inspection of Distribution Lists and Requests to be Added to Distribution Lists;  
3 § 4-344 Interagency or Intra-agency Letters or Memoranda; § 4-345 Examination Information; §  
4 4-349 Real Estate Appraisals.  
5

#### 6 **6.5. Risk Management & Safety Office.**

7 § 4-315 Traffic Accident Reports, Criminal Charging Documents, Traffic Citations; § 4-320 Motor  
8 Vehicle Administration; § 4-321 Recorded Images from Traffic Control Signal Monitoring System.  
9

#### 10 **6.6. Department of Finance.**

11 § 4-335 Trade Secrets, Confidential Information; § 4-336 Financial Information; § 4-337  
12 Collusive or Anticompetitive Activities; § 4-348 Confidential Information Owned by Specific  
13 State Entities.  
14

### 15 **7. Additional Guidance.**

#### 16 **7.1. Signing the Letters.**

17 The MPIA Coordinator or the Designee is the person responsible for signing the letters to the  
18 Applicant, including the initial Acknowledgment, Ten-Day Letter, completion, and other  
19 communications. If these letters are sent in an email format, and not through formal  
20 correspondence, the MPIA Coordinator or Designee must include an electronic signature to include  
21 their full name, title, department, division or office, and business telephone number. Legal may  
22 review the response for legal sufficiency but does not sign on behalf of or instead of the Designee  
23 or MPIA Coordinator.  
24  
25

#### 26 **7.2. Applying the Different Exemptions or Exceptions.**

27 Contact Legal if there is any question about whether an exemption or exception applies or exists.  
28

#### 29 **7.3. Contact from Public Access Ombudsman.**

30 If the MPIA Coordinator receives any correspondence or communication from the Public Access  
31 Ombudsman, contact Legal and the Designee immediately and prior to responding to the inquiry.  
32

#### 33 **7.4. Late Found/Identified Responsive Records.**

34 If the MPIA Coordinator subsequently becomes aware of additional Public Records that are  
35 Responsive Records, but was not included with the initial production, the MPIA Coordinator  
36 should prepare a supplemental response in accordance with any applicable exclusions and  
37 produce the additional Responsive Records.  
38

#### 39 **7.5. When to Contact Legal.**

40 Contact Legal any time there is a question or interpretation issue.  
41  
42  
43  
44  
45  
46  
47  
48  
49

1 **8. Model Correspondence/Forms.**

2  
3 **8.1. Initial Acknowledgement Letter.**

4  
5 [COMMISSION LETTERHEAD]

6  
7 [DATE]

8  
9 [NAME]

10 [ADDRESS 1]

11 [ADDRESS 2]

12  
13 RE: Request for [SUBJECT OF REQUESTED DOCUMENT(S)]  
14 Commission Case No. [\_\_\_]

15  
16 Dear Mr./Ms./Mrs. [NAME]:

17  
18 The Maryland-National Capital Park and Planning Commission (Commission) received your Maryland  
19 Public Information Act request on [DATE] and has assigned case number [\_\_\_\_\_] for your reference.

20  
21 To the extent available, the Commission will provide the Responsive Records as promptly as possible.

22  
23 Depending on the scope of the request, the request may take more than 10 Working Days to complete and  
24 a reasonable fee may be required. If so, the Commission will send a notice to you with the time and fee  
25 estimate.

26  
27 If you have any questions, please contact me at [PHONE NUMBER] or [EMAIL].

28  
29 Sincerely,

30  
31  
32 [NAME]

33 [TITLE]

34  
35 cc: Commission MPIA Office/Designee ([PIArep@mncppc.org](mailto:PIArep@mncppc.org))  
36  
37

1           **8.2. Ten-Day Letter.**

2  
3 [COMMISSION LETTERHEAD]

4  
5 [DATE]

6  
7 [NAME]

8 [ADDRESS 1]

9 [ADDRESS 2]

10  
11 RE:    Request for [SUBJECT OF REQUESTED DOCUMENT(S)]  
12           Commission Case No. [\_\_\_]

13  
14 Dear Mr./Ms./Mrs. [NAME]:

15  
16 On [MPIA request receipt date], the Maryland-National Capital Park and Planning  
17 Commission (Commission) received your request under the Public Information Act, Md. Code Ann., Gen.  
18 Prov (GP) §§ 4-101, *et seq.*, seeking records regarding the above-described subject matter, in which you  
19 requested the following:

20  
21 [ 1. Repeat the requests here]

22 [ 2. Repeat the requests here]

23 [ 3. Repeat the requests here]

24  
25 I write to advise you that it will take the Commission more than 10 Working Days to produce the records;  
26 to give you the date by which the Commission expects to be able to do that; to explain why more time is  
27 needed; and to provide an estimate of the costs of producing the records.

28  
29 Your request for Item No(s). [\_\_\_] above involves [ broad coverage throughout the  
30 Commission’s Departments and necessitates the input from and collaboration between multiple parties  
31 across the Commission to prepare an adequate response.][*other applicable reasons for the delay.*]

32  
33 The Commission is working to retrieve the records and expects to be able to respond to your request within  
34 days from the receipt of the below-explained fee. It is not yet known whether all the records are subject  
35 to inspection, but if any are to be withheld, the response will explain the reason for the withholding.

36  
37 The Commission expects that the response will take approximately \_\_\_ staff hours to  
38 produce, generating an estimated fee of \$\_\_\_\_, not including the first two hours available at no charge  
39 to you. There will be additional copying charges for individual hard copies of the documents requested  
40 based on the Commission’s copying charges, which are not included in the foregoing fee estimate.

41  
42 If you wish to continue with your request, you must remit payment in the amount of \$\_\_\_\_ payable by a  
43 money order, cashier’s or certified check made payable to “Maryland-National Capital Park and Planning  
44 Commission.” Upon receipt of the check the Commission will complete the compilation of the  
45 request. Once the requested record is collected and reviewed you will receive a final fee notice, which  
46 must be paid before the records are released or inspected. The final fee billing will reconcile the  
47 differences between the estimated and actual cost to complete your request.



1 If you decide to withdraw your request after receipt of this correspondence, please do so in writing. If the  
2 Commission does not receive a response to this correspondence, or payment, from you by [ *DATE*], this  
3 MPIA request will be closed.

4  
5 Pursuant to GP § 4-1A-01 et seq., you have the option to file a complaint with the Public Information Act  
6 Compliance Board concerning the amount of the fee charged.

7  
8 If you have any questions, please contact me at [*PHONE NUMBER*] or [*EMAIL*].

9  
10 Sincerely,

11  
12  
13 [NAME]  
14 [TITLE]

15  
16 cc: Commission MPIA Office (*PIArep@mncppc.org*)  
17

1       **8.3. Agency Advises, No Responsive Records.**

2  
3       [COMMISSION LETTERHEAD]

4  
5       [DATE]

6  
7       [NAME]

8       [ADDRESS 1]

9       [ADDRESS 2]

10  
11       RE:     Request for [SUBJECT OF REQUESTED DOCUMENT(S)]  
12             Commission Case No. [\_\_\_]

13  
14       Dear Mr./Ms./Mrs. [NAME]:

15  
16       On [MPIA request receipt date], the Maryland-National Capital Park and Planning  
17       Commission (Commission) received your request under the Public Information Act, Md. Code Ann., Gen.  
18       Prov (GP) §§ 4-101, *et seq.*, seeking records regarding the above-described subject matter, in which you  
19       requested the following:

20  
21       [ 1. Repeat the requests here]

22       [ 2. Repeat the requests here]

23       [ 3. Repeat the requests here]

24  
25       I write to advise you that the Commission has no documents which are responsive to your request. *[If we*  
26       *know that another agency may have them, we should state this.]*

27  
28       If you have any questions, please contact me at [PHONE NUMBER] or [EMAIL].

29  
30       Sincerely,

31  
32  
33       [NAME]

34       [TITLE]

35  
36       cc:     Commission MPIA Office (*PIArep@mncppc.org*)

37

1           **8.4. Denial Letters.**

2  
3           **8.4.1 Partial Denial/Partial Production.**

4  
5 [COMMISSION LETTERHEAD]

6  
7 [DATE]

8  
9 [NAME]

10 [ADDRESS 1]

11 [ADDRESS 2]

12  
13 RE:   Request for [SUBJECT OF REQUESTED DOCUMENT(S)]  
14       Commission Case No. [\_\_\_\_]

15  
16 Dear Mr./Ms./Mrs. [NAME]:

17  
18 On [MPIA request receipt date], the Maryland-National Capital Park and Planning  
19 Commission (Commission) received your request under the Public Information Act, Md. Code Ann., Gen.  
20 Prov (GP) §§ 4-101, *et seq.*, seeking records regarding the above-described subject matter, in which you  
21 requested the following:

- 22  
23  
24 [ 1. Repeat the requests here]  
25 [ 2. Repeat the requests here]  
26 [ 3. Repeat the requests here]

27  
28 We have collected those records in our custody that are responsive to your request. You may inspect  
29 or receive copies of all the records we have compiled with \_\_\_\_\_ exceptions.

30  
31 First, [ *example of potential denial attorney-client privilege – there were 13 emails between the*  
32 *Office of General Counsel and Planning Staff that are confidential legal memoranda which are*  
33 *subject to the attorney-client privilege and are protected from disclosure by GP §4-301 as privileged*  
34 *or confidential records.* ]

35  
36 Second, [ *example of interagency or intra-agency memoranda – there were 10 emails between staff*  
37 *of the Planning Department and/or with other agencies that involved the deliberative process and*  
38 *qualify as inter agency or intra-agency memoranda exempt from disclosure under GP § 4-344.*  
39 *Disclosure of these materials would be contrary to the public interest because it would discourage*  
40 *full and frank discussions among staff.*]

41  
42 Third, [    ]

43  
44 You have the option to file a complaint with the Public Information Act Compliance Board [if  
45 relevant - concerning the fee charged, pursuant to GP § 4-1A-01 *et seq.*] or refer any concerns about  
46 this decision to the Public Access Ombudsman pursuant to GP § 4-1B-01 *et seq.* Pursuant to GP §  
47 4-362, you are entitled to seek judicial review of this decision.

48  
49 If you have any questions, please contact me at [PHONE NUMBER] or [EMAIL].

1  
2  
3  
4  
5  
6  
7  
8  
9

Sincerely,

[NAME]

[TITLE]

cc: Commission MPIA Office ([PIArep@mncppc.org](mailto:PIArep@mncppc.org))

1           8.4.2. Full Denial.

2  
3 [COMMISSION LETTERHEAD]

4  
5 [DATE]

6  
7 [NAME]

8 [ADDRESS 1]

9 [ADDRESS 2]

10  
11 RE: Request for [SUBJECT OF REQUESTED DOCUMENT(S)]  
12 Commission Case No. [\_\_\_\_\_]

13  
14 Dear Mr./Ms. [NAME]:

15  
16 On [MPIA request receipt date], the Maryland-National Capital Park and Planning  
17 Commission (Commission) received your request under the Public Information Act, Md. Code Ann., Gen.  
18 Prov (GP) §§ 4-101, *et seq.*, seeking records regarding the above-described subject matter, in which you  
19 requested the following:

20  
21 [ 1. Repeat the requests here]

22 [ 2. Repeat the requests here]

23 [ 3. Repeat the requests here]

24  
25 We have collected those records in our custody that are responsive to your request. We find that  
26 none of the records may be released for your inspection due to the following reason(s).

27  
28 First, [ *example of potential denial attorney-client privilege – there were 13 emails between the*  
29 *Office of General Counsel and Planning Staff that are confidential legal memoranda which are*  
30 *subject to the attorney-client privilege and are protected from disclosure by GP §4-301 as privileged*  
31 *or confidential records.* ]

32  
33 Second, [ *example of interagency or intra-agency memoranda – there were 10 emails between staff*  
34 *of the Planning Department and/or with other agencies that involved the deliberative process and*  
35 *qualify as inter agency or intra-agency memoranda exempt from disclosure under GP § 4-344.*  
36 *Disclosure of these materials would be contrary to the public interest because it would discourage*  
37 *full and frank discussions among staff.*]

38  
39 Third, [ ]

40  
41 You have the option to file a complaint with the Public Information Act Compliance Board or refer  
42 any concerns about this decision to the Public Access Ombudsman pursuant to GP § 4-1B-01 *et*  
43 *seq.* Pursuant to GP § 4-362, you are entitled to seek judicial review of this decision.

44  
45 If you have any questions, please contact me at [PHONE NUMBER] or [EMAIL].

46  
47 Sincerely,

48  
49 [NAME]

50 [TITLE]

51  
52 cc: Commission MPIA Office (PIArep@mncppc.org)

1           **8.5. Completion of Response Letters.**

2  
3           **8.5.1. Response Letter.**

4  
5 [COMMISSION LETTERHEAD]

6  
7 [DATE]

8  
9 [NAME]

10 [ADDRESS 1]

11 [ADDRESS 2]

12  
13 RE:   Request for [SUBJECT OF REQUESTED DOCUMENT(S)]  
14       Commission Case No. [\_\_]

15  
16 Dear Mr./Ms./Mrs. [NAME]:

17  
18 On [MPIA request receipt date], the Maryland-National Capital Park and Planning  
19 Commission (Commission) received your request under the Public Information Act, Md. Code Ann., Gen.  
20 Prov (GP) §§ 4-101, *et seq.*, seeking records regarding the above-described subject matter, in which you  
21 requested the following:

22       [ 1. Repeat the requests here]

23       [ 2. Repeat the requests here]

24       [ 3. Repeat the requests here]

25  
26  
27 All documents responsive to your request are being made available to you with this correspondence. No  
28 documents were withheld.

29  
30 If you have any questions, please contact me at [PHONE NUMBER] or [EMAIL].

31  
32 Sincerely,

33  
34  
35 [NAME]

36 [TITLE]

37  
38 cc:   Commission MPIA Office (*PIArep@mncppc.org*)

1           8.5.2. With Additional Fees/Reconciliation of Fees Letter.

2  
3 [COMMISSION LETTERHEAD]

4  
5 [DATE]

6  
7 [NAME]

8 [ADDRESS 1]

9 [ADDRESS 2]

10  
11 RE: Request for [SUBJECT OF REQUESTED DOCUMENT(S)]  
12 Commission Case No. [ ]

13  
14 Dear Mr./Ms./Mrs. [NAME]:

15  
16 On [MPIA request receipt date], the Maryland-National Capital Park and Planning  
17 Commission (Commission) received your request under the Public Information Act, Md. Code Ann., Gen.  
18 Prov (GP) §§ 4-101, et seq., seeking records regarding the above-described subject matter, in which you  
19 requested the following:

- 20  
21 [ 1. Repeat the requests here]  
22 [ 2. Repeat the requests here]  
23 [ 3. Repeat the requests here]  
24

25 All documents responsive to your request are being made available to you with this correspondence. No  
26 documents were withheld.

27  
28 Maryland law provides that reasonable fees may be charged for costs incurred to respond to a Public  
29 Information Act request. All charges to collect the information requested must be reasonably related to  
30 the actual cost incurred. Pursuant to Md. Code, General Provisions, § 4-206(c), the first two hours are  
31 available at no charge to you.

32  
33 Earlier we provided a cost estimate of \$\_\_\_\_\_, not including the first two hours. Our final reconciliation  
34 of the request shows a total staff time incurred of \_\_\_\_ hours with cost to the Commission for \$\_\_\_\_\_.

35  
36 We previously received a payment of \$\_\_\_\_\_ for this MPIA request. Since the total cost is greater than  
37 the initial payment, there is an additional payment due of \$\_\_\_\_\_ to cover the Commission costs  
38 to fulfill your MPIA request. The requested documents will be released upon my receipt of \$\_\_\_\_\_.

39  
40 You have the option to file a complaint with the Public Information Act Compliance  
41 Board concerning the fee charged, pursuant to GP § 4-1A-01 et seq., or refer any concerns about this  
42 decision to the Public Access Ombudsman pursuant to GP § 4-1B-01 et seq. Pursuant to GP § 4-362,  
43 you are entitled to seek judicial review of this decision.

44  
45 If you have any questions, please contact me at [PHONE NUMBER] or [EMAIL].

46  
47 Sincerely,

48  
49  
50 [NAME]  
51 [TITLE]

52  
53 cc: Commission MPIA Office (PIArep@mncppc.org)

1           8.5.3. With Refund.

2  
3 [COMMISSION LETTERHEAD]

4  
5 [DATE]

6  
7 [NAME]

8 [ADDRESS 1]

9 [ADDRESS 2]

10  
11 RE: Request for [SUBJECT OF REQUESTED DOCUMENT(S)]  
12 Commission Case No. [\_\_\_\_]

13  
14 Dear Mr./Ms./Mrs. [NAME]:

15  
16 On [MPIA request receipt date], the Maryland-National Capital Park and Planning  
17 Commission (Commission) received your request under the Public Information Act, Md. Code Ann., Gen.  
18 Prov (GP) §§ 4-101, et seq., seeking records regarding the above-described subject matter, in which you  
19 requested the following:

- 20  
21 [ 1. Repeat the requests here]  
22 [ 2. Repeat the requests here]  
23 [ 3. Repeat the requests here]

24  
25 All documents responsive to your request are being made available to you with this correspondence. No  
26 documents were withheld.

27  
28 Maryland law provides that reasonable fees may be charged for costs incurred to respond to a Public  
29 Information Act request. All charges to collect the information requested must be reasonably related to  
30 the actual cost incurred. Pursuant to Md. Code, General Provisions, § 4-206(c), the first two hours are  
31 available at no charge to you.

32  
33 Earlier we provided a cost estimate of \$\_\_\_\_\_, not including the first two hours. Our final reconciliation  
34 of the request shows a total staff time incurred of \_\_\_\_ hours with cost to the Commission for  
35 \$\_\_\_\_\_.

36  
37 We previously received a payment of \$\_\_\_\_\_ for this MPIA request. Since the total cost is less than the  
38 initial payment, there is no additional payment due and the requested documents are released to you along  
39 with a refund of \$\_\_\_\_\_.

40  
41 You have the option to file a complaint with the Public Information Act Compliance  
42 Board concerning the fee charged, pursuant to GP § 4-1A-01 et seq., or refer any concerns about this  
43 decision to the Public Access Ombudsman pursuant to GP § 4-1B-01 et seq. Pursuant to GP § 4-362,  
44 you are entitled to seek judicial review of this decision.

45  
46 If you have any questions, please contact me at [PHONE NUMBER] or [EMAIL].

47  
48 Sincerely,

49  
50 [NAME]

51 [TITLE]

52  
53 cc: Commission MPIA Office (PIArep@mncppc.org)



1 **8.6. Affidavit of Indigency.**

2  
3 **AFFIDAVIT OF INDIGENCY**  
4 (Md. Code, Ann., General Provisions, § 4-206)

5  
6 I, \_\_\_\_\_, have submitted a request for Public Records  
7 under the Public Information Act (Md. Code, Ann., Gen. Prov. §§ 4-101 – 4-601) and wish to request a  
8 waiver of any fee that would otherwise be required in order to process my request. I am unable to pay  
9 the necessary fee because I am indigent.

10  
11 I respectfully submit that:

- 12  
13 1. There are family members living in my household, including myself. *(Do not include renters or*  
14 *temporary guests.)*
- 15  
16 2. The total gross household income \_\_\_\_\_ (before  
17 taxes) is \$ *(total income earned by all persons in the household)* per \_\_\_ WEEK / \_\_\_ MONTH / \_\_\_ Y  
18 EAR *(check appropriate reporting period).*
- 19  
20 3. The gross household income (before taxes) is from the following sources *(list amounts before*  
21 *taxes)* \_\_\_ WEEK / \_\_\_ MONTH / \_\_\_ YEAR:  
22 • Wages \$ \_  
23 • Commissions/Bonuses \$ \_  
24 • Social Security/SSI \$ \_  
25 • Retirement Income \$ \_  
26 • Unemployment Insurance \$ \_  
27 • Temporary Cash Assistance \$ \_  
28 • Alimony/Spousal Support \$ \_  
29 • Rent received from tenants \$ \_  
30 • Any Other Income *(Do not include food stamps/SNAP)* \$ \_  
31

32 I affirm under the penalties of perjury that what I have said above is true to the best of my knowledge,  
33 information, and belief.

34  
35 \_\_\_\_\_

36 Party Signature Telephone

37 \_\_\_\_\_

38 \_\_\_\_\_

39 Party Name Email

40 \_\_\_\_\_

41 \_\_\_\_\_

42 Address Date

43 \_\_\_\_\_

44 \_\_\_\_\_

45 City, State, Zip

46

1 8.7. Electronic Data Search Form.

2  
3 **The Maryland Public Information Act (MPIA) Request**  
4 **Electronic Data Search Form**  
5

6 The Commission's IT offices requires the following information to process an MPIA electronic search  
7 request. This form is for internal use and should be completed by the respective MPIA Coordinator or  
8 Designee. Please complete this form and send to the applicable IT Division.

9  
10 MPIA Request ID: \_\_\_\_\_ MPIA Coordinator Name: \_\_\_\_\_  
11

<b>Media Type:</b> <i>Please provide the type/format of record(s) being requested.</i>  <i>(i.e., Email, document, phone record, text message, etc.)</i>	
<b>Location:</b>	
<b>Request text:</b> <i>Provide the text of the request, so the IT coordinator can better assist in determining search criteria.</i>	
<b>Search Period:</b> <i>Provide the dates to search records. Provide a start and end date.</i>	
<b>Keyword(s):</b> <i>Please include each combination on a new line and include connectors such as AND/OR. IT Coordinator may assist with determination as needed.</i>	
<b>Additional information:</b> <i>Any other criteria you would like to add.</i>	

12  
13  
14

1 **8.8. Electronic Data Search Process Matrix.**

2  
3 **Electronic Data Search Process Matrix for MPIO Compliance**

4  
5 The IT Coordinator for the Department MPIO Coordinator handling an Application will handle any  
6 necessary Electronic Data search associated with the Application as set forth below.  
7

<b>Electronic Data Search Parameter</b>	<b>Responsible IT Coordinator</b>
Application seeking documents pertaining to Bi-County Corporate Management Operations or Commission-wide material. Bi-County Corporate Management Operations includes the following Departments: <ol style="list-style-type: none"> <li>1. Office of the Executive Director</li> <li>2. Department of Human Resources &amp; Management</li> <li>3. Finance Department</li> <li>4. Legal Department</li> <li>5. Office of the Chief Information Officer</li> <li>6. Office of the Inspector General</li> <li>7. Merit System Board</li> <li>8. EOB Service Desk</li> </ol>	CAS IT Coordinator
Application seeking documents pertaining to Montgomery County Department of Parks and Planning, and Montgomery County Planning Board	MC IT Coordinator
Application seeking documents pertaining to Prince George’s County Planning Department and the Planning Board	PG Planning IT Coordinator
Application seeking documents pertaining to Prince George’s County Departments of Parks & Recreation	PG Parks & Rec. IT Coordinator
Application seeking documents pertaining to Commission’s Park Police, Montgomery County Division	MC IT Coordinator
Application seeking documents pertaining to Commission’s Park Police, Prince George’s County Division	PG Parks & Rec. IT Coordinator
<b><i>Official Custodian or Designee may always specify the IT Coordinator that will provide support for any Application.</i></b>	

8  
9  
10  
11  
12  
13  
14  
15

1  
2

### 8.9. Sample Calculation of Costs Estimate.

MPIA REQ Number:	2017-24		
Requestor:	Bleu, Joseph		
Work Unit:	Finance / Accounts Payable		
Prepared By:	Esperanza Spaulding, Accountant III		
Date Prepared:	25-Mar-17		
<b>0. Parameters of Estimate</b>			
			<b>Hours</b>
0	1	Work Units Responding	3
0	2	Staff Respondents	2
0	3	Management Respondents	1
0	4	Est. Documents In Scope of Search	500
<b>1. Paper Documents</b>			
			<b>Hours</b>
1	1	Locate Paper Files	2.50
1	2	Cull Paper Files	1.25
1	3	Legal Review	1.00
1	4	Reproduction/Prepare For Delivery	0.00
1	5	Proctor For Inspection	0.00
<b>2. Electronic Documents</b>			
			<b>Hours</b>
2	1	Search Electronic Documents Per Respondent	4.00
2	2	Cull, Collate and Transmit For Review	2.00
2	3	Legal Review	2.00
2	4	Reproduction/Prepare For Delivery	0.00
2	6	Proctor For Inspection	0.00
<b>3. Network Resources and Data</b>			
			<b>Hours</b>
3	1	Corporate Network Managers	0.00
3	2	Business Unit Review (Responsiveness)	0.00
3	3	Legal Review	0.00
3	4	Reproduction/Prepare For Delivery	0.00
3	6	Proctor For Inspection	0.00
<b>Calculation of Estimate</b>			
		<b>Blended</b>	
		<b>Rate</b>	<b>Hours</b>
			<b>Total</b>
	<b>A</b>	Locate Paper Files	\$ 29.72
	<b>B</b>	Cull Paper Files	\$ 29.72
	<b>C</b>	Search Emails Per Respondent	\$ 25.00
	<b>D</b>	Collate & Transmit Email For Review	\$ 29.72
	<b>E</b>	Corporate Network Managers	\$ 44.93
	<b>F</b>	Business Unit Review Network Info	\$ 44.93
	<b>G</b>	Legal Review	\$ 53.19
	<b>I</b>	Reproduction/Prepare For Delivery	\$ 29.72
	<b>J</b>	Proctor For Inspection	\$ 23.39
<b>Subtotal:</b>	Cost of Staff Time To Process		20.75 \$ 630.46
<b>Subtotal:</b>	Digital Media		\$ 5.00 \$ -
<b>Subtotal:</b>	Paper Copies		\$ 0.26 \$ 130.00
<b>LESS:</b>	<b>2-Hour Statutory Time Allowance</b>		<b>\$ 53.19 2.00 (106.38)</b>

3  
4

<sup>i</sup> Md. Code, General Provisions §4-203.

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- ii Md. Code, General Provisions §4-503.
  - iii Md. Code, General Provisions §4-202.
  - iv Md. Code, General Provisions §4-203.
  - v Md. Code, General Provisions §4-201 -202.
  - vi Md. Code, General Provisions §4-203.
  - vii Md. Code, General Provisions §4-206.
  - viii Md. Code, General Provisions §4-206.
  - ix Md. Code, General Provisions §4-203.
  - x Md. Code, General Provisions §4-201.
  - xi Md. Code, General Provisions §4-201.
  - xii Md. Code, Health Gen. §§4-301, et seq.
  - xiii Md. Code, Courts & Judicial Proceedings §3-8A-27.
  - xiv Md. Code, General Provisions §4-343.
  - xv Md. Code, General Provisions §§4-343-357.
  - xvi Md. Code, General Provisions §4-358.
  - xvii Md. Code, General Provisions §§4-401 – 402.
  - xviii Md. Code, General Provisions §4-401.
  - xix Md. Code, General Provisions §4-402.
  - xx Md. Code, General Provisions Subtitle 4-1a, 4-1b, §4-301, and §4-362.
  - xxi Md. Code, General Provisions §§4-343 – 4-357.
  - xxii Md. Code, General Provisions §4-358.
  - xxiii Md. Code, General Provisions §4-102.
  - xxiv Md. Code, General Provisions, §4-502.

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

November 16, 2022

TO: The Commission

VIA: Asuntha Chiang-Smith, Executive Director

FROM: Tracey Harvin, Corporate Policy and Management Operations (CPMO) Director

SUBJECT: Extension of the Designation of all Vacant Positions as “Hard-to-Fill” and Eligibility for the Referral and Employment (Sign-On) Bonus Programs

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The Commission is being informed of an extension in the designation of all vacant Merit System and Seasonal/Intermittent positions as “hard-to-fill” through December 31, 2023. This extension will aid the agency’s recruitment efforts by allowing these positions to remain eligible for referral and sign-on bonuses.

**Background**

Under the Referral Bonus Program, eligible employees may receive up to a \$1,000 bonus to assist in filling a Merit System position designated as “hard-to-fill”, and up to a \$100 bonus to assist in filling a Seasonal/Intermittent position designated as “hard-to-fill”. The newly hired employee must complete 30 days of service with the Commission for the referral bonus to be paid. Those above a certain grade, responsible for recruitment, and within the line of supervision are ineligible for this bonus.

The Sign-on Bonus Program allows newly hired Merit System employees who fill a position designated as “hard-to-fill” to receive up to a \$10,000 bonus and requires completion of two years of service. The program also allows newly hired Seasonal/Intermittent employees who hold positions designated as “hard-to-fill” to receive up to a \$500 bonus, payable no sooner than after the completion of 30 calendar days of employment.

The use of the Referral and Sign-on Bonus Programs is at the discretion of the hiring department and subject to available funding.

In 2006, the Commission adopted M-NCPPC Resolution 06-24, *Employment and Employee Referral Bonuses*, to attract applicants to the Commission during a time of high vacancies and limited human resources.

In 2019, pursuant to M-NCPPC Resolution 19-19, *Employment and Employee Referral Bonuses*, the referral bonus amount was increased to up to \$1,000 per newly hired employee and the sign-on bonus amount was increased to up to \$10,000 per newly hired employee. In both the original and more recently issued M-NCPPC Resolutions, the Executive Director has been charged with developing and distributing the administrative terms and conditions for the award of these bonuses.

To address a large number of vacancies throughout the agency, in April of this year the Executive Director:

1. Expanded the Referral and Sign-On Bonus Programs to be available to assist in filling vacant Seasonal/Intermittent positions in addition to Merit System positions, and
2. Issued Notice 22-06 designating all open Merit System and Seasonal/ Intermittent positions as “hard-to-fill” through December 31, 2022.

The expansion of the programs to assist in filling vacant Seasonal/Intermittent positions, as well as, designating all positions as “hard-to-fill” through the end of the calendar year, has helped recruit for vacancies.

By extending “hard-to-fill” designation for all vacant Merit System and Seasonal/Intermittent positions through December 31, 2023, hiring departments will continue to have an important tool at their disposal to assist in recruiting efforts.

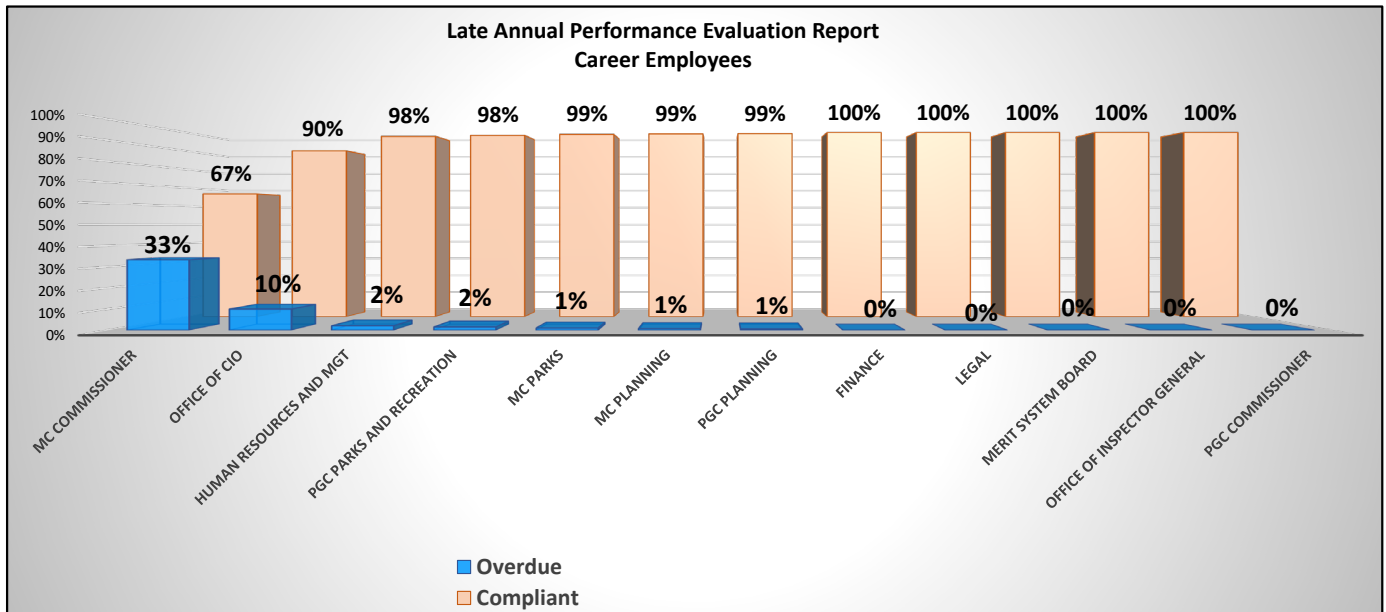


**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE  
BY DEPARTMENT AS OF SEPTEMBER 2022**

Item 7a

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	Aug-22	Sep-22	Aug-22	Sep-22	Aug-22	Sep-22	Aug-22	Sep-22
CHAIRMAN, MONTGOMERY COUNTY	1	1	0	0	0	0	1	1
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	2	1	0	1	1	0	3	2
OFFICE OF INSPECTOR GENERAL	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	1	1	0	0	0	0	1	1
LEGAL DEPARTMENT	0	0	0	0	0	0	0	0
FINANCE DEPARTMENT	3	0	0	0	1	0	4	0
PRINCE GEORGE'S PLANNING	2	1	0	0	0	0	2	1
PRINCE GEORGE'S PARKS & RECREATION	8	13	1	2	0	0	9	15
MONTGOMERY COUNTY PARKS	8	6	0	1	3	0	10	7
MONTGOMERY COUNTY PLANNING	1	1	2	0	0	0	1	1
<b>**DEPARTMENT TOTAL BY DAYS LATE**</b>	<b>26</b>	<b>24</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>0</b>		
<b>COMMISSION-WIDE TOTAL</b>							<b>31</b>	<b>28</b>

\*\*DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



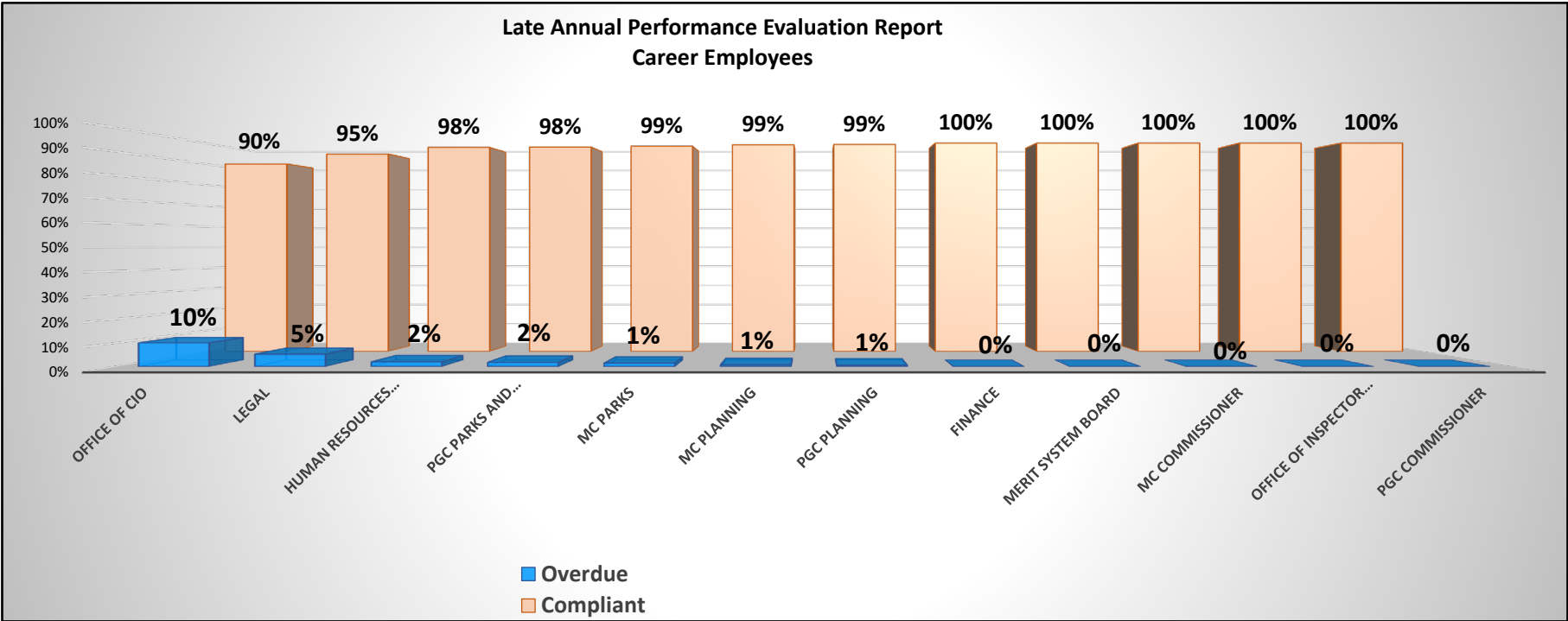
\*Data As Of September 30, 2022

Employee Count	Evaluation Status		Total Employees
	Overdue	Compliant	
Finance		35	35
Human Resources and Mgt	1	47	48
Legal		20	20
MC Commissioner	1	2	3
MC Parks	7	667	674
MC Planning	1	133	134
Merit System Board		1	1
Office of CIO	2	18	20
Office of Inspector General		4	4
PGC Commissioner		8	8
PGC Parks and Recreation	15	970	985
PGC Planning	1	167	168
<b>Total Employees</b>	<b>28</b>	<b>2,072</b>	<b>2,100</b>

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE  
BY DEPARTMENT AS OF OCTOBER 2022**

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	Sep-22	Oct-22	Sep-22	Oct-22	Sep-22	Oct-22	Sep-22	Oct-22
CHAIRMAN, MONTGOMERY COUNTY	1	0	0	0	0	0	1	0
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	1	1	1	0	0	1	2	2
OFFICE OF INSPECTOR GENERAL	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	1	1	0	0	0	0	1	1
LEGAL DEPARTMENT	0	1	0	0	0	0	0	1
FINANCE DEPARTMENT	0	0	0	0	0	0	0	0
PRINCE GEORGE'S PLANNING	1	1	0	0	0	0	1	1
PRINCE GEORGE'S PARKS & RECREATION	13	15	2	3	0	0	15	18
MONTGOMERY COUNTY PARKS	6	7	1	3	0	0	7	10
MONTGOMERY COUNTY PLANNING	1	1	0	0	0	0	1	1
<b>**DEPARTMENT TOTAL BY DAYS LATE**</b>	<b>24</b>	<b>27</b>	<b>4</b>	<b>6</b>	<b>0</b>	<b>1</b>		
<b>COMMISSION-WIDE TOTAL</b>							<b>28</b>	<b>34</b>

\*\*DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



\*Data As Of October 31, 2022

Employee Count Department	Evaluation Status		Total Employees
	Overdue	Compliant	
Finance		35	35
Human Resources and Mgt	1	48	49
Legal	1	18	19
MC Commissioner		2	2
MC Parks	10	670	680
MC Planning	1	132	133
Merit System Board		1	1
Office of CIO	2	18	20
Office of Inspector General		5	5
PGC Commissioner		7	7
PGC Parks and Recreation	18	970	988
PGC Planning	1	165	166
<b>Total Employees</b>	<b>34</b>	<b>2,071</b>	<b>2,105</b>



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
6611 Kenilworth Avenue • Riverdale, Maryland 20737

**To:** Commissioners  
**From:** John Kroll, Corporate Budget Director *JRK*  
**Date:** August 24, 2022  
**Subject:** Report of Budget Transfers

**BACKGROUND:**

Commission Practice 3-60, Budget Adjustments (Amendments and Transfers), requires that a summary of all approved operating budget and capital project budget transfers and amendments will be prepared by the Corporate Budget Office and submitted to the Commission, quarterly.

**REPORT for Information Only – No Action Required:**

Report of Operating and Capital budget transfers attached for the fourth quarter of FY22.

Following the requirements of the practice:

- BA 22-11 was approved by the Prince George's County Council
- BA 22-12 was approved by the Prince George's Planning Board
- BA 22-13 was approved by the full Commission
- BA's 22-14, 22-16 and 22-17 were approved by the Montgomery County Planning Board
- BA 22-15 was approved by the Secretary-Treasurer

I would be happy to answer any questions relating to this report or individual budget adjustments.

Attachment

**Operating Budget Adjustment Log**

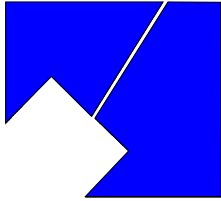
Operating Budget Adjustment Log													
Transfer From							Transfer To						
BA#	Date	Fund #	Fund Name	Department	Division	Amount	Fund #	Fund Name	Department	Division	Amount	Description	Approval
22-12	3/31/2022	102	PGC Park	PGC Parks & Rec	Park Police	1,947,197	102	PGC Park	PGC Parks & Rec	Natural & Historical Resources	660,829	Sal savings and other minor savings to Misc major maintenance projects and equipment purchases and replacements	PGCPB
		102	PGC Park	PGC Parks & Rec	Northern Region Parks	1,820,000	102	PGC Park	PGC Parks & Rec	Maintenance & Dev	2,200,000		
		102	PGC Park	PGC Parks & Rec	Public Affairs & Marketing	80,000	102	PGC Park	PGC Parks & Rec	Northern Region Parks	375,000		
		102	PGC Park	PGC Parks & Rec	Arts & Cultural Heritage	40,000	102	PGC Park	PGC Parks & Rec	Park Police	2,000,000		
		102	PGC Park	PGC Parks & Rec	Office of the Director	71,500							
		102	PGC Park	PGC Parks & Rec	Admin & Dev - Deputy	180,000							
		102	PGC Park	PGC Parks & Rec	Park Planning & Dev	1,077,132							
		102	PGC Park	PGC Parks & Rec	Support Services	20,000							
		103	PGC Recreation	PGC Parks & Rec	Aquatics & Athletic Facilities	410,000	103	PGC Recreation	PGC Parks & Rec	Aquatics & Athletic Facilities	410,000		
22-13	4/20/2022	101	PGC Admin	Legal		58,155	101	PGC Admin	Legal		58,155	Sal savings to office renovations, prefunding legal fees, prefunding outside counsel	Commission
		201	MC Admin	Legal		56,549	201	MC Admin	Legal		56,549		
22-14	5/5/2022	201	MC Admin	MC Planning	Director's Office	72,000	201	MC Admin	MC Planning	Director's Office	72,000	Sal savings to UMD contract extension; Climate Assessment Methodology initiative; Capital Equipment ISF pre-payment; CWIT ERP pre-payments	MCPB
		201	MC Admin	MC Planning	Downcounty Planning	112,000	201	MC Admin	MC Planning	Downcounty Planning	112,000		
		201	MC Admin	MC Planning	ITI	321,500	201	MC Admin	MC Planning	ITI	321,500		
		201	MC Admin	MC Planning	Research & Strategic Projects	80,000	201	MC Admin	MC Planning	Research & Strategic Projects	80,000		
		201	MC Admin	MC Planning	Support Services	114,500	201	MC Admin	MC Planning	Support Services	79,500		
							201	MC Admin	MC Planning	Mid-County Planning	35,000		
22-15	5/27/2022	202	MC Park	MC Parks	Director's Office	50,280	202	MC Park	MC Parks	Director's Office	50,280	Sal savings to professional services for Park Foundation	Sec/Treas
22-16	6/23/2022	201	MC Admin	Non-Departmental		256,000	201	MC Admin	MC Planning	Downcounty Planning	54,841	Reclassification marker to Planning salaries	MCPB
								MC Admin	MC Planning	Mid-County Planning	73,833		
								MC Admin	MC Planning	Communications	22,744		
								MC Admin	MC Planning	County-wide Planning	94,582		
								MC Admin	MC Planning	Intake & Regulatory Coordination	10,000		

**Operating Budget Adjustment Log**

Operating Budget Adjustment Log													
Transfer From						Transfer To							
BA#	Date	Fund #	Fund Name	Department	Division	Amount	Fund #	Fund Name	Department	Division	Amount	Description	Approval
22-17	6/23/2022	202	MC Park	MC Parks	Mgmt Services	4,738	202	MC Park	MC Parks	Mgmt Services	4,738	Reallocation within division	MCPB
		202	MC Park	MC Parks	Park Planning & Stewardship	173,892	202	MC Park	MC Parks	Public Affairs & Marketing	133,795	Sal savings and misc operating savings to Stage for Activating Parks; Truck for Athletic Field Team; Legal costs; Capital Equipment ISF pre-payment	
		202	MC Park	MC Parks	Southern Parks	304,253	202	MC Park	MC Parks	Southern Parks	129,253		
		202	MC Park	MC Parks	Park Police	40,000	202	MC Park	MC Parks	Park Police	40,000		
		202	MC Park	MC Parks	Facilities Mgmt	50,000	202	MC Park	MC Parks	Support Services	467,873		
		202	MC Park	MC Parks	Northern Parks	148,510	202	MC Park	MC Parks	Park Planning & Stewardship	40,097	Reallocation within division	
		202	MC Park	MC Parks	Info Tech & Innovation	11,300							
		202	MC Park	MC Parks	Support Services	83,063							
				Non-Departmental		135,120	202	MC Park	MC Parks	Public Affairs & Marketing	19,755	Reclass marker to salaries	
							202	MC Park	MC Parks	Park Planning & Stewardship	65,546		
							202	MC Park	MC Parks	Horticulture, Forestry and Env Educ	17,962		
							202	MC Park	MC Parks	Facilities Mgmt	12,442		
							202	MC Park	MC Parks	Mgmt Services	19,415		
				Non-Departmental		15,870	202	MC Park	MC Parks	Horticulture, Forestry and Env Educ	2,046	Seasonal benefit marker to medical insurance	
							202	MC Park	MC Parks	Northern Parks	13,824		







**The Maryland-National Capital Park & Planning Commission**  
**Department of Finance - Purchasing Division**

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6611 Kenilworth Avenue, Suite 300 • Riverdale, Maryland 20737 • 301-454-1600 Fax: 301-454-1606

November 1, 2022

TO: Commissioners

VIA: Asuntha Chiang-Smith, Executive Director

FROM: Gavin Cohen, Secretary/Treasurer

SUBJECT: MFD Purchasing Statistics— Fourth Quarter FY22

In an on-going effort to establish appropriate procurement programs for minority and small local-owned businesses, we are pleased to report that an agreement has been fully executed with the Maryland Department of Transportation (“MDOT”) that will enable the Commission to participate in the State’s current disparity study. Staff is currently partnering with MDOT to provide data in support of the study. Additionally, the Commission has retained the services of a consultant to assist in the analysis for the development and implementation of a Local and Small Business Supplier Diversity Program. The analysis is expected to be completed by mid-January 2023.

The Commission’s procurement policy (Practice 4-10, Purchasing) includes an anti-discrimination component which assures that fair and equitable vendor opportunities are made available to minority, female or disabled owned firms (MFDs). This program is administered jointly by the Office of the Executive Director and the Corporate Procurement Division and includes a MFD subcontracting component based on the Commission procurement practices and the available MFD vendors in the marketplace. The price preference program has been suspended until a MFD study is conducted to provide evidence that the price preference is/is not needed. This report is provided for your information and may be found on the Commission’s intranet.

Some of the observations of this FY22 report include:

- Attachment A indicates that through the Fourth Quarter of FY22, the Commission procured \$132,438,711 in goods, professional services, construction, and miscellaneous services and 16.8% or \$22,287,486 was spent with minority, female and disabled (MFD) owned firms.
- Attachment B indicates that in the Fourth Quarter of FY22, 17.2% was spent with minority, female and disabled (MFD) owned firms.
- Attachment C represents the MFD participation by type of procurement. The MFD participation for construction through the Fourth Quarter of FY22 was 20.2%. Attachment C also indicates that the largest consumers of goods and services in the Commission are the Prince George’s County Department of Parks and Recreation and the Montgomery County Department of Parks. These programs significantly impact the Commission’s

utilization of MFD firms. The MFD cumulative utilization numbers for these Departments through the Fourth Quarter are 15.3% and 13.7 %, respectively.

- Attachment D presents the FY22 activity for the Purchase Card program totaling \$12,607,481 or 1.5% was spent with minority, female and disabled (MFD) firms. The amount of procurement card activity represents 9.5% of the Commission's total procurement dollars.
- Attachment E portrays the historic MFD participation rates, and the total procurement from FY 1991 to Fourth Quarter FY22.
- Attachments F & G shows the MFD participation in procurements at various bid levels to determine if MFD vendors are successful in obtaining opportunities in procurements that require informal bidding and formal bidding. Based on the analysis, MFD vendors do appear to be participating, at an overall rate of 14.3% in informal (under \$30,000) and 17.8% in the formal (over \$30,000) procurements. For transactions under \$10k, MFD participation is 10.3%. MFD vendors are participating at an overall rate of 13.5% in transactions over \$250,000.
- Attachment H presents the total amount of procurements and the number of vendors by location. Of the \$132,438,711 in total procurement, \$87,356,553 was procured from Maryland vendors. Of the \$25,287,486 in procurement from MFD vendors, \$16,388,234 was procured from MFD vendors located in Maryland with 47% or \$11,919,571 procured from MFD vendors located in Montgomery and Prince George's Counties.
- Attachment I compares the utilization of MFD vendors by the Commission with the availability of MFD vendors. The results show under-utilization in the following categories: African American, Asian, Native American, Hispanic and Females. The amount and percentage of procurement from MFD vendors is broken out by categories as defined by the Commission's Anti-Discrimination Policy. The availability percentages are taken from the most recent State of Maryland disparity study dated June 25, 2018.
- Attachments J and K are prepared by the Department of Human Resources and Management and show the amount and number of waivers of the procurement policy by department and by reason for waiver. Total waivers were 4.5% of total procurement.

For further information on the MFD report, please contact the Office of Executive Director at (301) 454-1740.

Attachments

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**MFD PROCUREMENT STATISTICS**  
**FY 2022**  
**FOR TWELVE MONTHS ENDED JUNE 30, 2022**

**Attachment A**

	<u>Procurement</u>		<u>Waivers</u>		<u>Procurement</u>	
	<u>Total \$</u>		<u>Total \$</u>	<u>Total #</u>	<u>MFD \$</u>	<u>%</u>
<b><u>Prince George's County</u></b>						
Commissioners' Office	\$ 74,010	\$	-	-	\$ 25,523	34.5%
Planning Department	5,241,694		-	-	854,691	16.3%
Parks and Recreation Department	67,877,331		2,522,223	21	10,355,960	15.3%
Total	<u>73,193,035</u>		<u>2,522,223</u>	<u>21</u>	<u>11,236,174</u>	<u>15.4%</u>
<b><u>Montgomery County</u></b>						
Commissioners' Office	9,372		-	-	-	0.0%
Planning Department	3,508,347		286,220	7	993,775	28.3%
Parks Department	49,910,826		1,677,483	20	6,854,129	13.7%
Total	<u>53,428,545</u>		<u>1,963,703</u>	<u>27</u>	<u>7,847,904</u>	<u>14.7%</u>
<b><u>Central Administrative Services</u></b>						
Dept. of Human Resources and Mgt.	1,311,158		425,000	4	289,006	22.0%
Finance Department	440,553		-	-	218,043	49.5%
Legal Department	210,942		760,632	15	83,859	39.8%
Merit Board	-		-	-	-	0.0%
Office of Chief Information Officer	3,844,867		350,580	2	2,612,500	67.9%
Office of Inspector General	9,611		-	-	-	0.0%
Total	<u>5,817,131</u>		<u>1,536,212</u>	<u>21</u>	<u>3,203,408</u>	<u>55.1%</u>
Grand Total	<u>\$ 132,438,711</u>	<u>\$</u>	<u>6,022,138</u>	<u>69</u>	<u>\$ 22,287,486</u>	<u>16.8%</u>

Note: The "Waivers" columns report the amount and number of purchases approved to be exempt from the competitive procurement process, including sole source procurements.

Prepared by Finance Department  
October 11, 2022

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

**MFD PROCUREMENT STATISTICS**

**FY 2022**

**MFD STATISTICS - CUMULATIVE AND ACTIVITY BY QUARTER**

**Attachment B**

**CUMULATIVE BY QUARTER**

	<b>SEPTEMBER</b>	<b>DECEMBER</b>	<b>MARCH</b>	<b>JUNE</b>
<b><u>Prince George's County</u></b>				
Commissioners' Office	0.0%	0.0%	11.1%	34.5%
Planning Department	34.9%	14.4%	14.8%	16.3%
Parks and Recreation Department	23.8%	17.5%	16.0%	15.3%
Total	<u>24.2%</u>	<u>17.4%</u>	<u>15.9%</u>	<u>15.4%</u>
<b><u>Montgomery County</u></b>				
Commissioners' Office	0.0%	0.0%	0.0%	0.0%
Planning Department	47.7%	33.6%	30.4%	28.3%
Parks Department	10.1%	9.5%	10.6%	13.7%
Total	<u>11.7%</u>	<u>11.2%</u>	<u>11.6%</u>	<u>14.7%</u>
<b><u>Central Administrative Services</u></b>				
Dept. of Human Resources and Mgt.	10.9%	17.9%	26.8%	22.0%
Finance Department	8.7%	43.9%	42.4%	49.5%
Legal Department	0.0%	0.0%	0.0%	39.8%
Merit Board	0.0%	0.0%	0.0%	0.0%
Office of Chief Information Officer	14.4%	79.2%	76.6%	67.9%
Office of Inspector General	0.0%	0.0%	0.0%	0.0%
Total	<u>13.0%</u>	<u>72.0%</u>	<u>66.0%</u>	<u>55.1%</u>
Grand Total	<u><u>19.0%</u></u>	<u><u>18.9%</u></u>	<u><u>16.6%</u></u>	<u><u>16.8%</u></u>

**ACTIVITY BY QUARTER**

	<b>FIRST QUARTER</b>	<b>SECOND QUARTER</b>	<b>THIRD QUARTER</b>	<b>FOURTH QUARTER</b>	<b>TOTAL</b>
<b><u>Prince George's County</u></b>					
Commissioners' Office	0.0%	0.0%	18.4%	57.7%	34.5%
Planning Department	34.9%	3.4%	7.9%	17.3%	16.3%
Parks and Recreation Department	23.8%	11.4%	11.9%	13.9%	15.3%
Total	<u>24.2%</u>	<u>11.0%</u>	<u>11.7%</u>	<u>14.3%</u>	<u>15.4%</u>
<b><u>Montgomery County</u></b>					
Commissioners' Office	0.0%	0.0%	0.0%	0.0%	0.0%
Planning Department	47.7%	26.4%	24.7%	26.1%	28.3%
Parks Department	10.1%	8.8%	10.9%	20.3%	13.7%
Total	<u>11.7%</u>	<u>10.7%</u>	<u>11.6%</u>	<u>20.9%</u>	<u>14.7%</u>
<b><u>Central Administrative Services</u></b>					
Dept. of Human Resources and Mgt.	10.9%	19.7%	28.5%	18.5%	22.0%
Finance Department	8.7%	69.4%	65.2%	59.4%	49.5%
Legal Department	0.0%	0.0%	0.0%	56.9%	39.8%
Merit Board	0.0%	0.0%	0.0%	0.0%	0.0%
Office of Chief Information Officer	14.4%	91.2%	86.4%	13.3%	67.9%
Office of Inspector General	0.0%	0.0%	0.0%	0.0%	0.0%
Total	<u>13.0%</u>	<u>84.8%</u>	<u>75.9%</u>	<u>25.3%</u>	<u>55.1%</u>
Grand Total	<u><u>19.0%</u></u>	<u><u>18.9%</u></u>	<u><u>15.5%</u></u>	<u><u>17.2%</u></u>	<u><u>16.8%</u></u>

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

MFD PROCUREMENT STATISTICS  
 BY MAJOR PROCUREMENT CATEGORY  
 FY 2022  
 FOR TWLEVE MONTHS ENDED JUNE 30, 2022

**ATTACHMENT C**

	<b>Grand Total</b>	<b>Montgomery Planning</b>	<b>Montgomery Parks</b>	<b>Pr. Geo. Parks &amp; Recreation</b>	<b>Pr. Geo. Planning</b>	<b>Dept. of Human Resources</b>	<b>Finance Dept.</b>	<b>Legal Dept.</b>	<b>Office of Chief Information</b>
<b>Goods:</b>									
Total \$	\$ 36,718,459	\$ 1,454,338	\$ 14,954,364	18,965,008	\$ 606,140	\$ 212,773	\$ 294,648	34,505	\$ 196,683
MFD \$	\$ <u>3,726,597</u>	\$ <u>537,515</u>	\$ <u>567,243</u>	<u>1,960,724</u>	\$ <u>348,776</u>	\$ <u>75,363</u>	\$ <u>208,963</u>	<u>23,454</u>	\$ <u>4,559</u>
Percentage	10.1%	37.0%	3.8%	10.3%	57.5%	35.4%	70.9%	68.0%	2.3%
<b>Miscellaneous Services:</b>									
Total \$	\$ 24,914,987	\$ 1,274,334	\$ 7,069,714	10,522,797	\$ 2,438,140	\$ 528,629	\$ 39,508	29,717	\$ 3,012,148
MFD \$	\$ <u>4,713,534</u>	\$ <u>300,610</u>	\$ <u>665,916</u>	<u>1,011,619</u>	\$ <u>154,716</u>	\$ <u>123,870</u>	\$ <u>0</u>	<u>0</u>	\$ <u>2,456,803</u>
Percentage	18.9%	23.6%	9.4%	9.6%	6.3%	23.4%	0.0%	0.0%	81.6%
<b>Professional Services:</b>									
Total \$	\$ 11,567,659	\$ 758,675	\$ 3,416,131	4,073,541	\$ 2,193,166	\$ 424,791	\$ 96,800	86,315	\$ 518,240
MFD \$	\$ <u>1,904,054</u>	\$ <u>155,650</u>	\$ <u>897,002</u>	<u>404,828</u>	\$ <u>351,199</u>	\$ <u>3,675</u>	\$ <u>9,080</u>	<u>0</u>	\$ <u>82,620</u>
Percentage	16.5%	20.5%	26.3%	9.9%	16.0%	0.9%	9.4%	0.0%	15.9%
<b>Construction:</b>									
Total \$	\$ 59,144,613	\$ 21,000	\$ 24,470,617	34,315,985	\$ 4,248	\$ 144,965	\$ 9,597	60,405	\$ 117,796
MFD \$	\$ <u>11,917,778</u>	\$ <u>0</u>	\$ <u>4,723,968</u>	<u>6,978,789</u>	\$ <u>0</u>	\$ <u>86,098</u>	\$ <u>0</u>	<u>60,405</u>	\$ <u>68,518</u>
Percentage	20.2%	0.0%	19.3%	20.3%	0.0%	59.4%	0.0%	100.0%	58.2%
<b>SUBTOTAL</b>									
Total \$	\$ 132,345,718	\$ 3,508,347	\$ 49,910,826	67,877,331	\$ 5,241,694	\$ 1,311,158	\$ 440,553	210,942	\$ 3,844,867
MFD \$	\$ <u>22,261,963</u>	\$ <u>993,775</u>	\$ <u>6,854,129</u>	<u>10,355,960</u>	\$ <u>854,691</u>	\$ <u>289,006</u>	\$ <u>218,043</u>	<u>83,859</u>	\$ <u>2,612,500</u>
Percentage	16.8%	<u>28.3%</u>	<u>13.7%</u>	<u>15.3%</u>	<u>16.3%</u>	<u>22.0%</u>	<u>49.5%</u>	<u>39.8%</u>	<u>67.9%</u>
<b>Pr. Geo. Commissioners' Office</b>									
Total \$	\$ 74,010								
MFD \$	\$ <u>25,523</u>								
Percentage	34.5%								
<b>Mont. Commissioners' Office</b>									
Total \$	\$ 9,372								
MFD \$	\$ <u>0</u>								
Percentage	0.0%								
<b>Merit Board</b>									
Total \$	\$ 0								
MFD \$	\$ <u>0</u>								
Percentage	0.0%								
<b>Office of Inspector General</b>									
Total \$	\$ 9,611								
MFD \$	\$ <u>0</u>								
Percentage	0.0%								
<b>GRAND TOTAL \$</b>									
	\$ 132,438,711								
<b>MFD\$</b>	\$ <u>22,287,486</u>								
<b>Percentage</b>	<u>16.8%</u>								

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**MFD PROCUREMENT STATISTICS**  
**Comparison of MFD % for Total Procurement and Purchase Card Procurement**  
**FY 2022**  
**FOR TWELVE MONTHS ENDED JUNE 30, 2022**

**Attachment D**

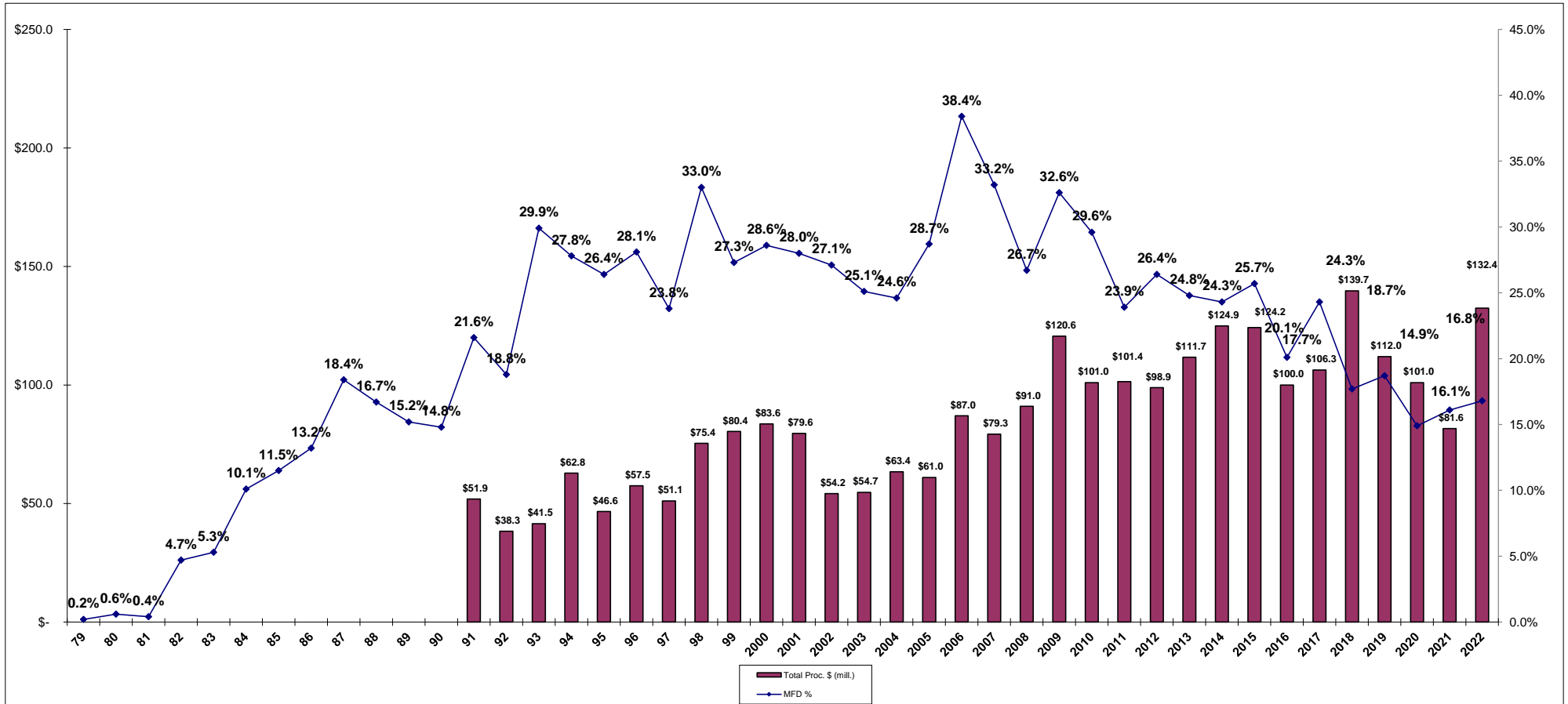
	<b>Total Procurement</b>		<b>Purchase Card Procurement</b>	
	<b>Total \$</b>	<b>MFD %</b>	<b>Total \$</b>	<b>MFD %</b>
<b><u>Prince George's County</u></b>				
Commissioners' Office	\$ 74,010	34.5%	\$ 46,349	0.0%
Planning Department	5,241,694	16.3%	190,373	0.2%
Parks and Recreation Department	67,877,331	15.3%	6,026,931	1.1%
Total	73,193,035	15.4%	6,263,653	1.1%
<b><u>Montgomery County</u></b>				
Commissioners' Office	9,372	0.0%	9,372	0.0%
Planning Department	3,508,347	28.3%	188,002	0.0%
Parks Department	49,910,826	13.7%	6,001,017	2.1%
Total	53,428,545	14.7%	6,198,391	2.1%
<b><u>Central Administrative Services</u></b>				
Dept. of Human Resources and Mgt.	1,311,158	22.0%	33,723	0.0%
Finance Department	440,553	49.5%	50,195	0.0%
Legal Department	210,942	39.8%	21,745	0.0%
Merit Board	-	0.0%	-	0.0%
Office of Chief Information Officer	3,844,867	67.9%	30,163	1.3%
Office of Inspector General	9,611	0.0%	9,611	0.0%
Total	5,817,131	55.1%	145,437	0.3%
Grand Total	\$ 132,438,711	16.8%	\$ 12,607,481	1.5%

**Percentage of Purchase Card Procurement to Total Procurement 9.5%**

Prepared by Finance Department  
October 11, 2022

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**MFD PROCUREMENT RESULTS and TOTAL PROCUREMENT (millions)**

**Attachment E**

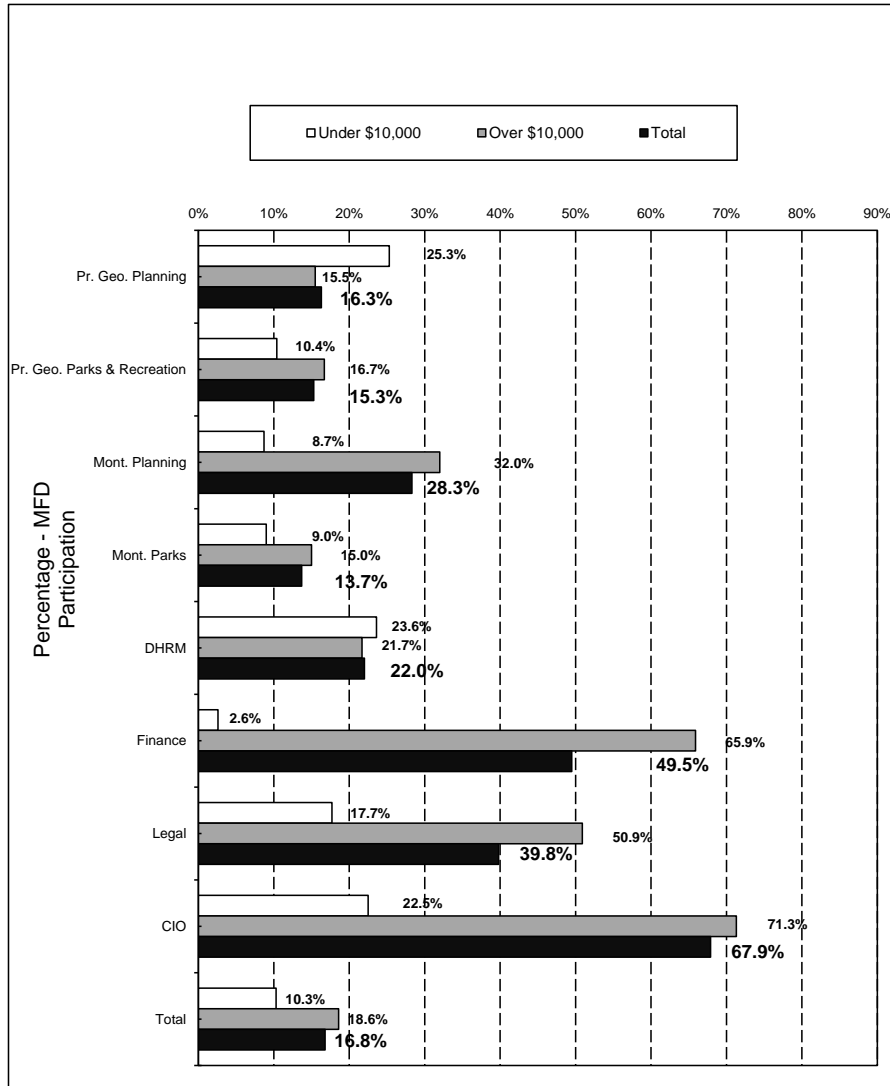


	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>TOTAL PROCUREMENT \$ (MIL.)</b>	\$111.7	\$124.9	\$124.2	\$100.0	\$106.3	\$139.7	\$112.0	\$101.0	\$81.6	\$132.4
<b>MFD %</b>	24.8%	24.3%	25.7%	20.1%	24.3%	17.7%	18.7%	14.9%	16.1%	16.8%

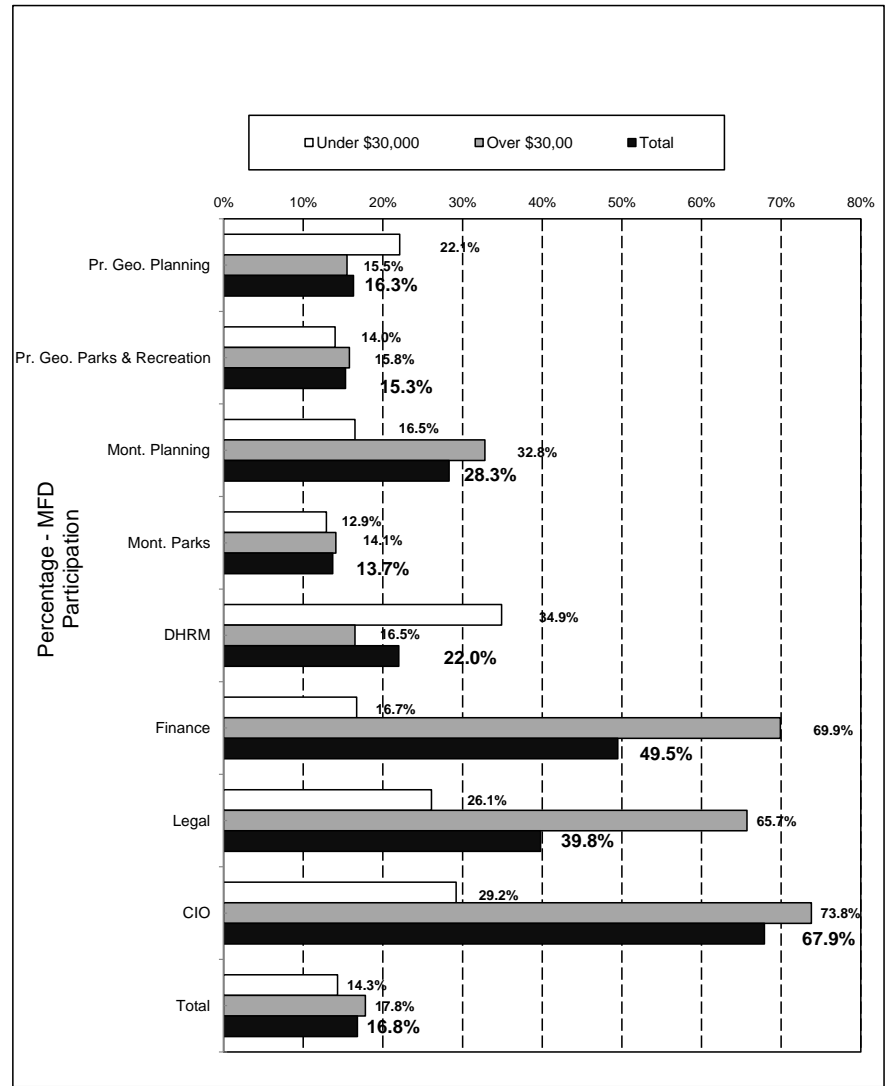
Prepared by Finance Department  
 October 11, 2022

The Maryland-National Capital Park and Planning Commission  
 MFD Procurement Statistics - Transactions Under/Over \$10,000 & \$30,000 plus Total %  
 FY 2022 4Q

Under/Over \$10,000



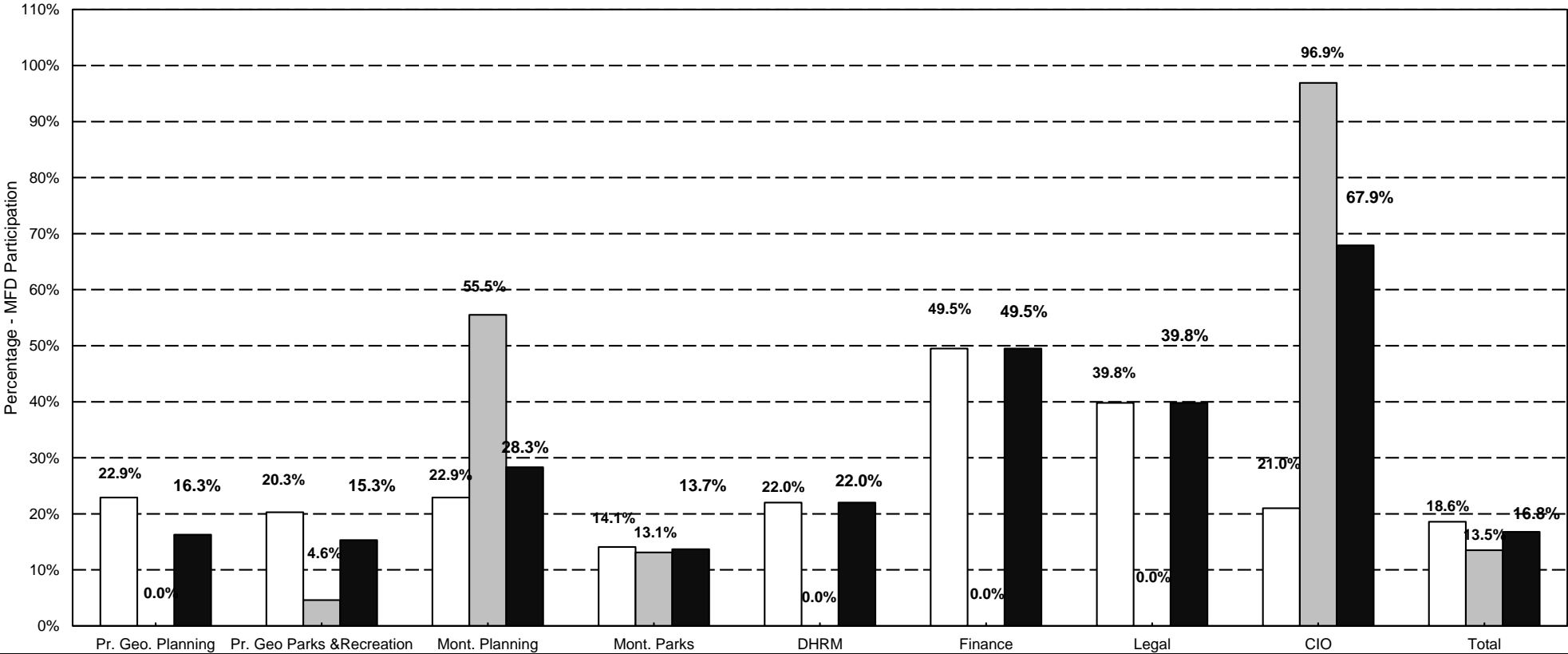
Under/Over \$30,000





The Maryland-National Capital Park and Planning Commission  
 MFD Procurement Statistics - Transactions Under /Over \$250,000 and Total %  
 FY 2022 4Q

□ Under \$250K      □ Over \$250K      ■ Total



Prepared by Finance Department  
 October 11, 2022

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**Amount of Procurement and Number of Vendors by Location**  
**FY 2022**  
**FOR TWELVE MONTHS ENDED JUNE 30, 2022**

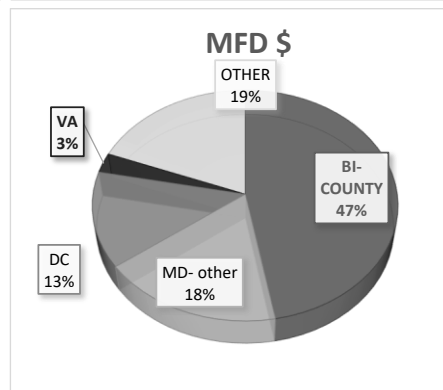
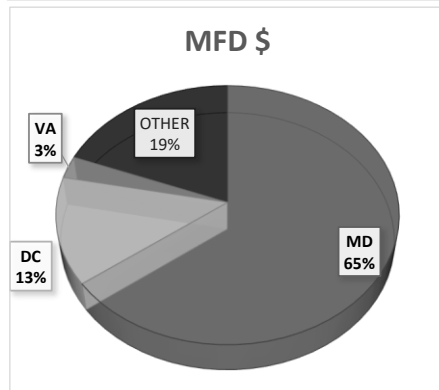
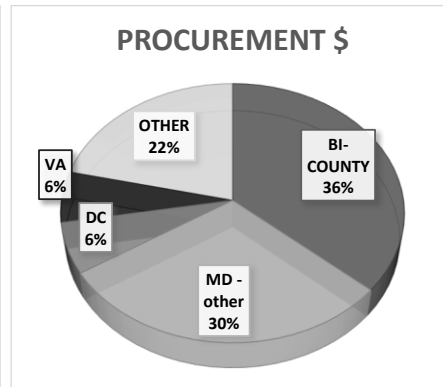
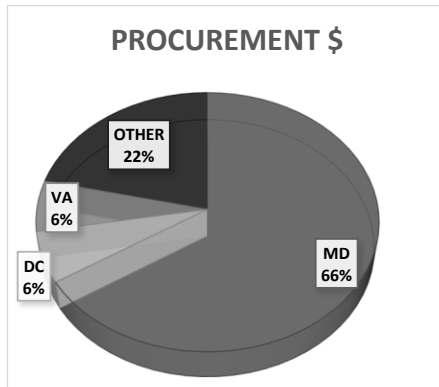
**Attachment H**

**ALL VENDORS**

Location	Procurement		Number of Vendors	
	Amount	%	Number	%
Montgomery County	\$ 17,113,390	12.9%	243	14.5%
Prince George's County	31,031,972	23.4%	396	23.7%
Subtotal	48,145,362	36.3%	639	38.2%
Maryland - other locations	39,211,191	29.7%	320	19.1%
Total Maryland	87,356,553	66.0%	959	57.3%
District of Columbia	8,366,167	6.3%	100	6.0%
Virginia	8,406,216	6.3%	174	10.4%
Other Locations	28,309,775	21.4%	441	26.3%
Total	\$ 132,438,711	100.0%	1,674	100.0%

**MFD Vendors**

Location	Procurement		Number of Vendors	
	Amount	%	Number	%
Montgomery County	\$ 5,238,909	20.7%	54	19.9%
Prince George's County	6,680,662	26.3%	90	33.0%
Subtotal	11,919,571	47.0%	144	52.9%
Maryland - other locations	4,468,663	17.7%	54	19.9%
Total Maryland	16,388,234	64.7%	198	72.8%
District of Columbia	3,378,346	13.4%	16	5.9%
Virginia	699,643	2.8%	24	8.8%
Other Locations	4,821,263	19.1%	34	12.5%
Total	\$ 25,287,486	100.0%	272	100.0%



Prepared by Finance Department  
 October 11, 2022

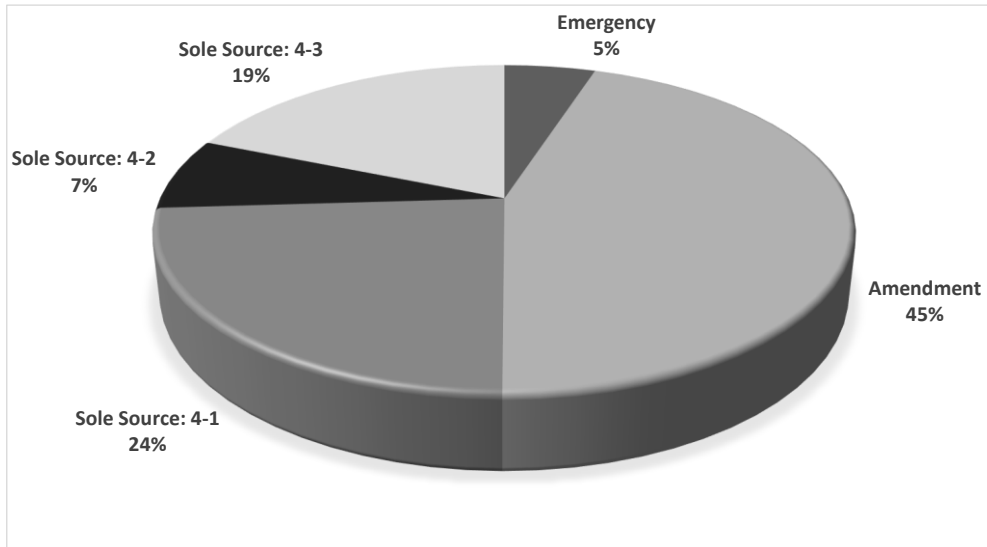
Note: The number of vendors excludes purchase card vendors.



**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
REASONS FOR WAIVERS  
CUMULATIVE DOLLAR AMOUNT & NUMBER OF WAIVERS  
FY 2022  
FOR TWELVE MONTHS ENDED JUNE 30, 2022**

**Attachment J**

<b>REASON</b>	<b>NUMBER</b>	<b>AMOUNT</b>	<b>%</b>
Emergency	9	\$ 302,484	5.0%
Public Policy	0	\$ 0	0.0%
Amendment	21	\$ 2,713,459	45.1%
Sole Source: 4-1	30	\$ 1,443,890	24.0%
Sole Source: 4-2	4	\$ 428,000	7.1%
Sole Source: 4-3	5	\$ 1,134,305	18.8%
<b>Total</b>	<b>69</b>	<b>\$ 6,022,138</b>	<b>100.0%</b>



**Waiver Reason Definitions:**

**Emergency:**

Sudden and unforeseeable circumstance have arisen which actually or imminently threaten the continuance of an essential operation of the Commission or which threaten public health, welfare or safety such that there is not enough time to conduct the competitive bidding.

**Required by Law or Grant:**

Public law or the terms of a donation/grant require that the above noted vendor be chosen.

**Amendment:**

A contract is already in place and it is appropriate for the above noted vendor to provide additional services and/or goods not within the original scope of the contract because the interested service and/or goods are uniquely compatible with the Commission's existing systems and patently superior in quality and/or capability than what can be gained through an open bidding process.

**Sole Source 4:**

It has been determined that:

- #1: The vendor's knowledge and experience with the Commission's existing equipment and/or systems offer a greater advantage in quality and/or cost to the Commission than the cost savings possible through competitive bidding, or
- #2: The interested services or goods need to remain confidential to protect the Commission's security, court proceedings and/or contractual commitments, or
- #3: The services or goods have no comparable and the above noted vendor is the only distributor for the interested manufacturer or there is otherwise only one source available for the sought after services or goods, e.g. software maintenance, copyrighted materials, or otherwise legally protected goods or services.

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
TOTAL WAIVERS, MFD WAIVERS, AND SOLE SOURCE WAIVERS BY DEPARTMENT  
PROCESSED FY 2022  
FOR THE TWELVE MONTHS ENDED JUNE 30, 2022**

**Attachment K**

	Total Waivers		MFD/Waivers		% of MFD	Sole Source 4-1 Waivers		Sole Source 4-2 Waivers		Sole Source 4-3 Waivers		% Sole Source
	\$	Number	\$	Number	%	\$	Number	\$	Number	\$	Number	%
<b>Prince George's County</b>												
Commissioners' Office	\$ -	0	\$ -	0	0.0%	\$ -	0	\$ -	0	\$ -	0	0.0%
Planning Department	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Parks and Recreation Department	2,522,223	21	-	0	0.0%	435,303	9	-	0	990,873	2	56.5%
Total	2,522,223	21	-	0	0.0%	435,303	9	-	0	990,873	2	56.5%
<b>Montgomery County</b>												
Commissioners' Office	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Planning Department	286,220	7	-	0	0.0%	282,170	6	-	0	-	0	98.6%
Parks Department	1,677,483	20	-	0	0.0%	294,493	8	238,000	1	143,432	3	40.3%
Total	1,963,703	27	-	0	0.0%	576,663	14	238,000	1	143,432	3	48.8%
<b>Central Administrative Services</b>												
Dept. of Human Resources and Mgt.	425,000	4	-	0	0.0%	100,000	1	-	0	-	0	23.5%
Finance Department	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Legal Department	760,632	15	-	0	0.0%	310,632	6	190,000	3	-	0	65.8%
OCIO	350,580	2	-	0	0.0%	21,292	0	-	0	-	0	6.1%
Merit Board	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Total	1,536,212	21	-	0	0.0%	431,924	7	190,000	3	-	0	40.5%
Grand Total	\$ 6,022,138	69	\$ -	0	0.0%	\$ 1,443,890	30	\$ 428,000	4	\$ 1,134,305	5	49.9%

**Purpose of Summary of Waiver Report:**

- (1) To monitor the amount, number, reasons for waivers in order to ensure the Commission is encouraging and maintaining good community, public, vendor, and interdepartmental relations;  
To ensure fair and equitable treatment of all persons who deal in purchasing matters; to promote economy in Commission purchasing; and to ensure that minority owned firms receive a fair share of Commission awards (source: Practice 4-10); and
- (2) To comply with the Prince George's Planning Board directive of January 29, 1991 to report waiver activity to the Department Heads and the Planning Boards on a quarterly basis.

**Sole Source: 4**

It has been determined that:

- 4-1: The vendor's knowledge and experience with the Commission's existing equipment and/or systems offer a greater advantage in quality and/or cost to the Commission than the cost savings possible through competitive bidding, or
- 4-2: The interested services or goods need to remain confidential to protect the Commission's security, court proceedings and/or contractual commitments, or
- 4-3: The services or goods have no comparable and the above noted vendor is the only distributor for the interested manufacturer or there is otherwise only one source available for the sought after services or goods, e.g. software maintenance, copyrighted materials, or otherwise legally protected goods or services.

Prepared by Department of Finance  
October 11, 2022

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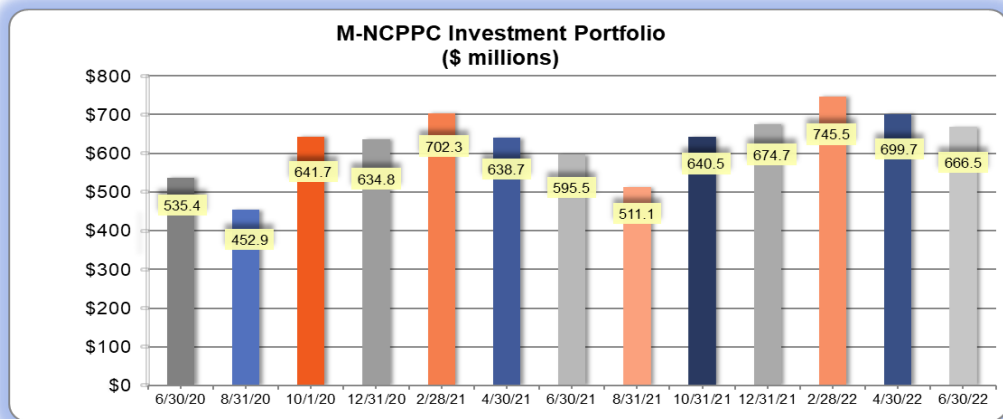


**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
 CORPORATE TREASURY & INVESTMENTS, FINANCE DEPARTMENT  
 6611 Kenilworth Avenue, Suite 302, Riverdale, MD 20737  
 Telephone (301) 454-1592 / Fax (301) 454-1637

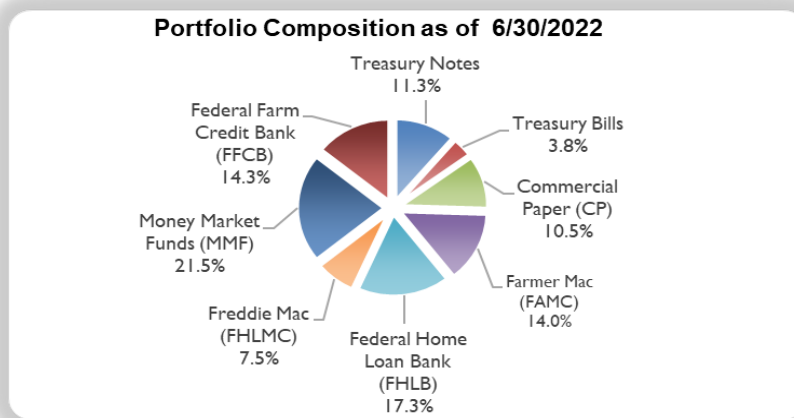
**MEMO**

**TO:** Commissioners  
**VIA:** Gavin Cohen, Secretary-Treasurer  
**FROM:** Tanya Hankton, Corporate Treasury & Investments Manager *F. H.*  
**DATE:** 8/4/2022  
**SUBJECT:** FY2022 Investment Report – **June 2022**

The Commission’s pooled cash investment portfolio totaled \$666.5 million as of June 30, 2022, with a 0.6% increase from May 31, 2022. Details of the portfolio are shown below:



The composition of the pooled cash portfolio as of June 30, 2022, is summarized below:

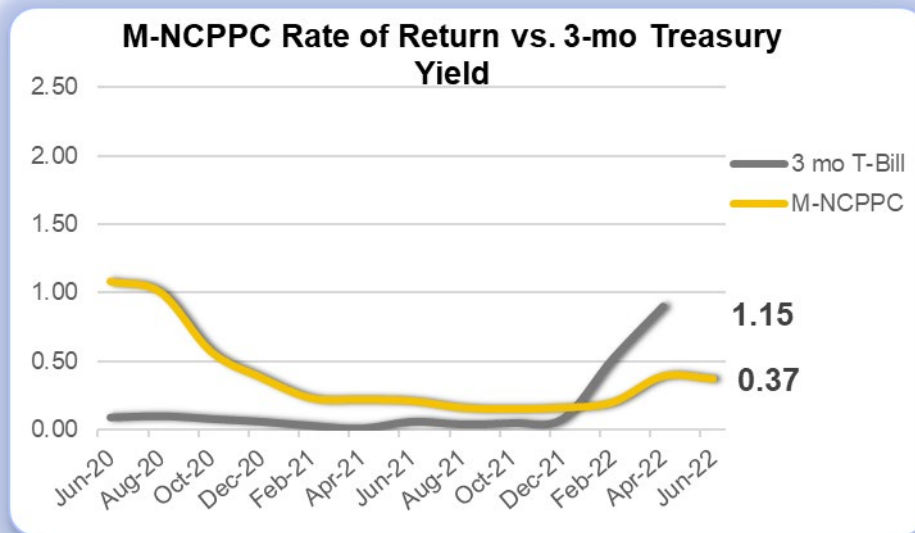


### Current Investment Portfolio - June 2022

Instrument	Policy Limit	Actual	Par Value	Wtd. Avg. Return (B/E)
Money Funds	* 50%	21.5%	\$ 143,598,823	1.31%
Federal Home Loan Banks	20%	17.3%	115,000,000	0.48%
Federal Farm Credit Bank	20%	14.3%	95,000,000	0.17%
Farmer Mac	20%	14.0%	93,000,000	1.00%
Treasury Notes	100%	11.3%	75,000,000	0.54%
Commercial Paper	10%	10.5%	70,000,000	0.20%
Freddie Mac	20%	7.5%	50,000,000	0.53%
Treasury Bills	100%	3.8%	25,000,000	0.05%
Fannie Mae	20%	0.0%	-	0.00%
Certificates of Deposit	50%	0.0%	-	0.00%
Bankers Acceptances	25%	0.0%	-	0.00%
Repurchase Agreements	50%	0.0%	-	0.00%
		100%	<b>\$666,598,823</b>	<b>0.54%</b>

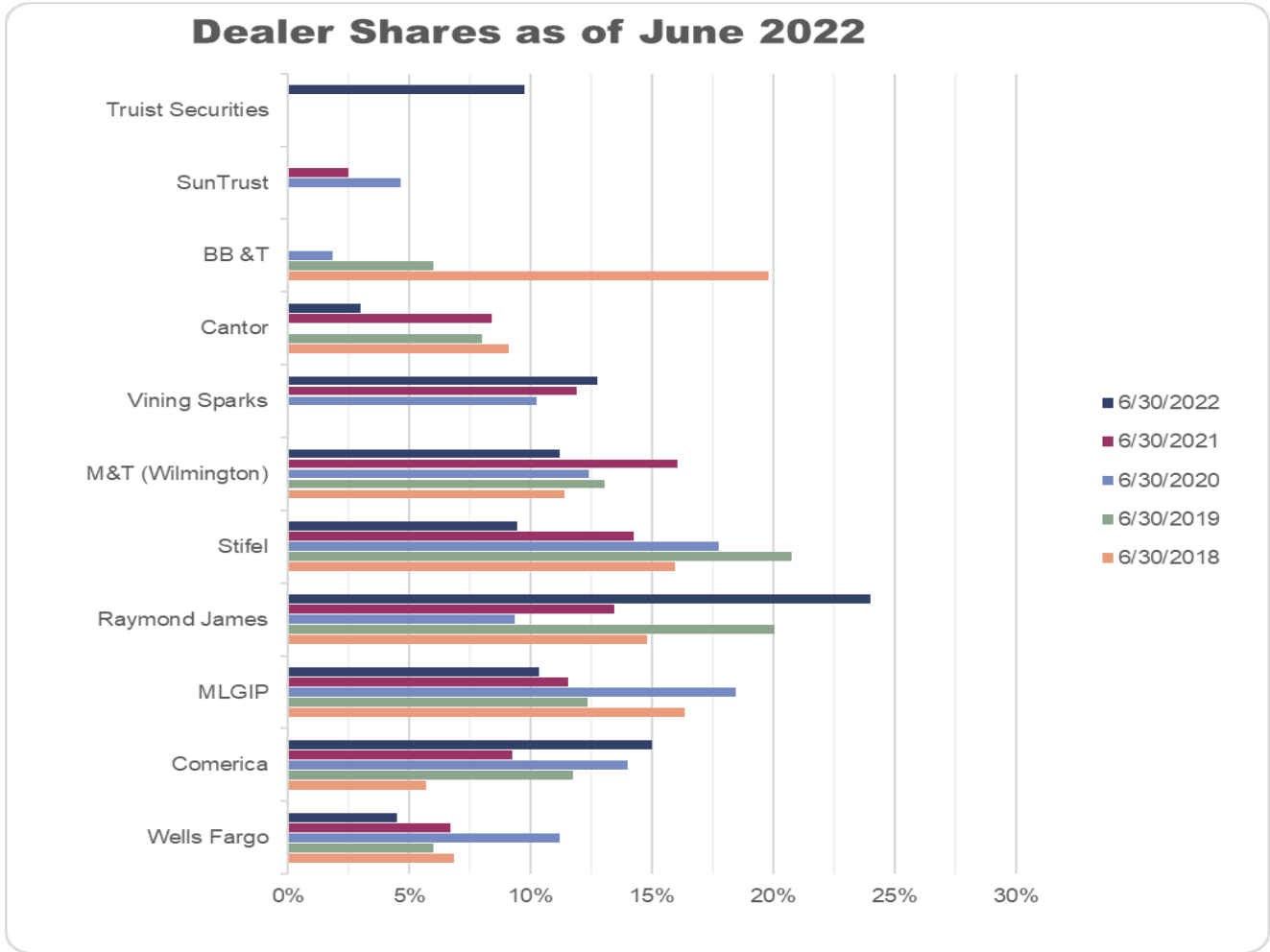
\*As of 6/30/2022

The pooled cash portfolio complied with all policy limits with regards to product types and proportions throughout the month.





In addition to the product limits, portfolio purchases also adhered to the 30% limit per dealer. Dealer participation is shown below:



The total value of securities held by Broker-Dealer are shown below, includes Money Market Funds:

Institution	Current Par Value	% of Portfolio
Cantor Fitzgerald	20,000,000.00	3.00%
Comerica	100,000,000.00	15.00%
M&T	74,607,525.03	11.19%
MLGIP	68,991,298.20	10.35%
Raymond James (Morgan Keegan)	160,000,000.00	24.00%
Stifel Nicolaus	63,000,000.00	9.45%
Truist Securities, Inc.	65,000,000.00	9.75%
Vining Sparks	85,000,000.00	12.75%
Wells Fargo	30,000,000.00	4.50%
<b>Total Value of Securities Held</b>	<b>666,598,823.23</b>	<b>100.00%</b>

The market values of unspent debt balances (invested by T. Rowe Price) were as follows:

<b>Market Value - June 2022</b>	
Prince George's County (PGC-2021A)	\$ 6,737,195
Montgomery County (MC-2020A)	8,094,392
	<b><u>\$ 14,831,587</u></b>

The Commission had no debt service payments during the month.

Details by issue of debt outstanding as of June 30, 2022, appear below:

<b>Debt Balances - June 2022</b>					
	Initial Par	Amount Outstanding	% Outstanding	Issue Date	Maturity Date
<b>Bi-County</b>					
<b>Total Bi-County</b>	<b>\$ -</b>	<b>\$ -</b>	<b>0%</b>		
<b>Prince George's County</b>					
PGC-2012A (Refunded P-2, M-2, EE-2)	11,420,000	1,735,000	15%	Jun-12	Jan-24
PGC-2015A (Refunded JJ-2)*	24,820,000	18,020,000	73%	Oct-15	Jan-36
PGC-2017A	33,000,000	24,750,000	75%	Jul-17	Jan-37
PGC-2018A	31,000,000	26,350,000	85%	Nov-19	Nov-38
PGC-2020 (Refunded PGC-2014A)	19,119,615	18,814,328	98%	Oct-20	Jan-34
PGC-2021A	25,100,000	25,100,000	100%	Nov-21	Nov-41
<b>Total Prince George's County</b>	<b>\$ 144,459,615</b>	<b>\$ 114,769,328</b>	<b>79%</b>		
<b>Montgomery County</b>					
MC-2012A (Refunded CC-2, FF-2)	8,035,000	965,000	12%	Apr-12	Dec-22
MC-2012B	3,000,000	140,000	5%	Apr-12	Dec-22
MC-2014A	14,000,000	660,000	5%	Jun-14	Dec-22
MC-2016A	12,000,000	9,180,000	77%	Apr-16	Nov-35
MC-2016B (Refunded FF-2, II-2, MM-2)	6,120,000	4,125,000	67%	Apr-16	Nov-28
MC-2016C (Refunded FF-2 ALA of 2004)	1,075,000	365,000	34%	Apr-16	Nov-24
MC-2017A	8,000,000	6,000,000	75%	Apr-17	Nov-36
MC-2018A	12,000,000	10,200,000	85%	Oct-18	Nov-38
MC-2018B	3,000,000	1,200,000	40%	Oct-18	Nov-23
MC-2020A	10,000,000	9,500,000	95%	Jun-20	Nov-40
MC-2020B (Refunded MC-2012A)	4,895,487	4,895,487	100%	Oct-20	Dec-32
MC-2020C (Refunded MC-2012B)	1,866,095	1,866,095	100%	Oct-20	Dec-32
MC-2020D (Refunded MC-2014A)	9,655,588	9,655,588	100%	Oct-20	Dec-33
<b>Total Montgomery County</b>	<b>\$ 93,647,170</b>	<b>\$ 58,752,170</b>	<b>63%</b>		
<b>Total</b>	<b>\$ 238,106,785</b>	<b>\$ 173,521,498</b>	<b>73%</b>		

ATTACHMENT A

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 REPORT ON COMPLIANCE TO INVESTMENT POLICY Approved May 18, 2022  
 FISCAL YEAR 2022 – June 30, 2022

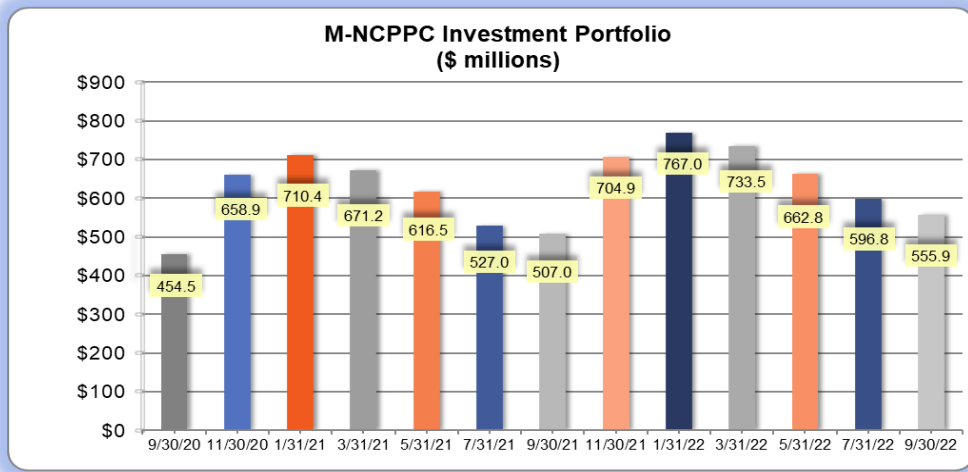
OBJECTIVES	Met Objective	Within Limits	Comments
<b>Protection of principal</b>	Yes		
<b>Limiting types and amounts of securities</b>	Limit	Yes	All securities purchased were within the limits established by the Investment Policy at the time of purchase. This monthly report is prepared for the Secretary-Treasurer to demonstrate compliance with investment policy objectives and limitation
US Government	100%		
US Federal Agencies - combined	75%		
US Federal Agencies - each	20%		
Repurchase Agreements	50%		
 CD's and Time Deposits	50%		
Commercial Paper	10%		
Money Market Mutual Funds (25%/Fund)	50%		
MD Local Gov't Investment Pool	25%		
<u>Investing Bond Proceeds:</u>			
State and local agency securities	100%		
Money Market Mutual Funds	10%		
 <u>Bond Proceeds:</u>		Yes	T. Rowe Price managed all funds within limits
Highly rated state / local agency securities			
Highly rated money market mutual funds (Max. 10% in lower-rated funds)			
 <b>Pre-qualify financial institutions, broker/dealers, intermediaries, and advisers</b>		Yes	All firms must meet defined capital levels and be approved by the Secretary-Treasurer
<b>Ensure competition among participants</b>	30%	Yes	No dealer shares exceeded 30%
 <b>Competitive Bidding</b>		Yes	Investments competitively bid, except for new issue securities
 <b>Diversification of Maturities</b>			
Majority of investments shall be a maximum maturity of (1.5) years. A portion may be as long as three years.		Yes	All maturities within limits
 <b>Require third-party collateral and safekeeping, and delivery-versus-payment settlement</b>		Yes	M&T Investments serves as custodian, monitoring compliance daily
 <b>Maintain sufficient liquidity</b>			Sufficient funds available for all cash requirements during period
 <b>Attain a market rate of return</b>		No	Less than market by 78 basis points
The pro-rated rates of return for T-bills and the portfolio were 1.15% and 0.37%, respectively.			



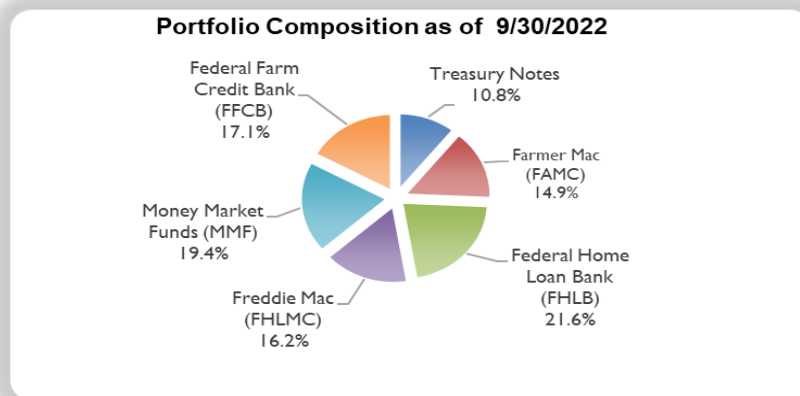
**MEMO**

**TO:** Commissioners  
**VIA:** Gavin Cohen, Secretary-Treasurer  
**FROM:** Tanya Hankton, Corporate Treasury & Investments Manager *F.H.*  
**DATE:** 10/23/2022  
**SUBJECT:** FY2023 Investment Report – September 2022

The Commission’s pooled cash investment portfolio totaled \$555.9 million as of September 30, 2022, with a 4.0% decrease from August 31, 2022. Details of the portfolio are shown below:



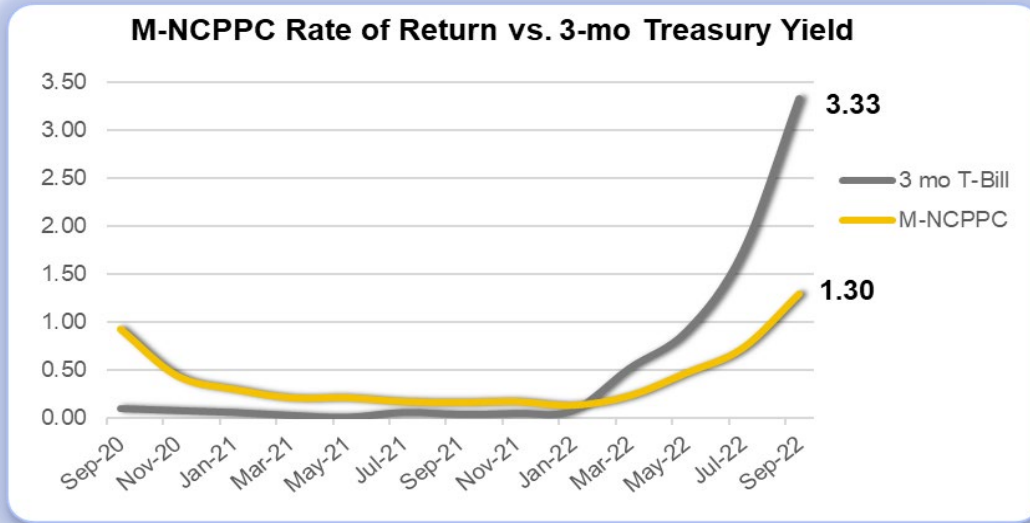
The composition of the pooled cash portfolio as of September 30, 2022, is summarized below:



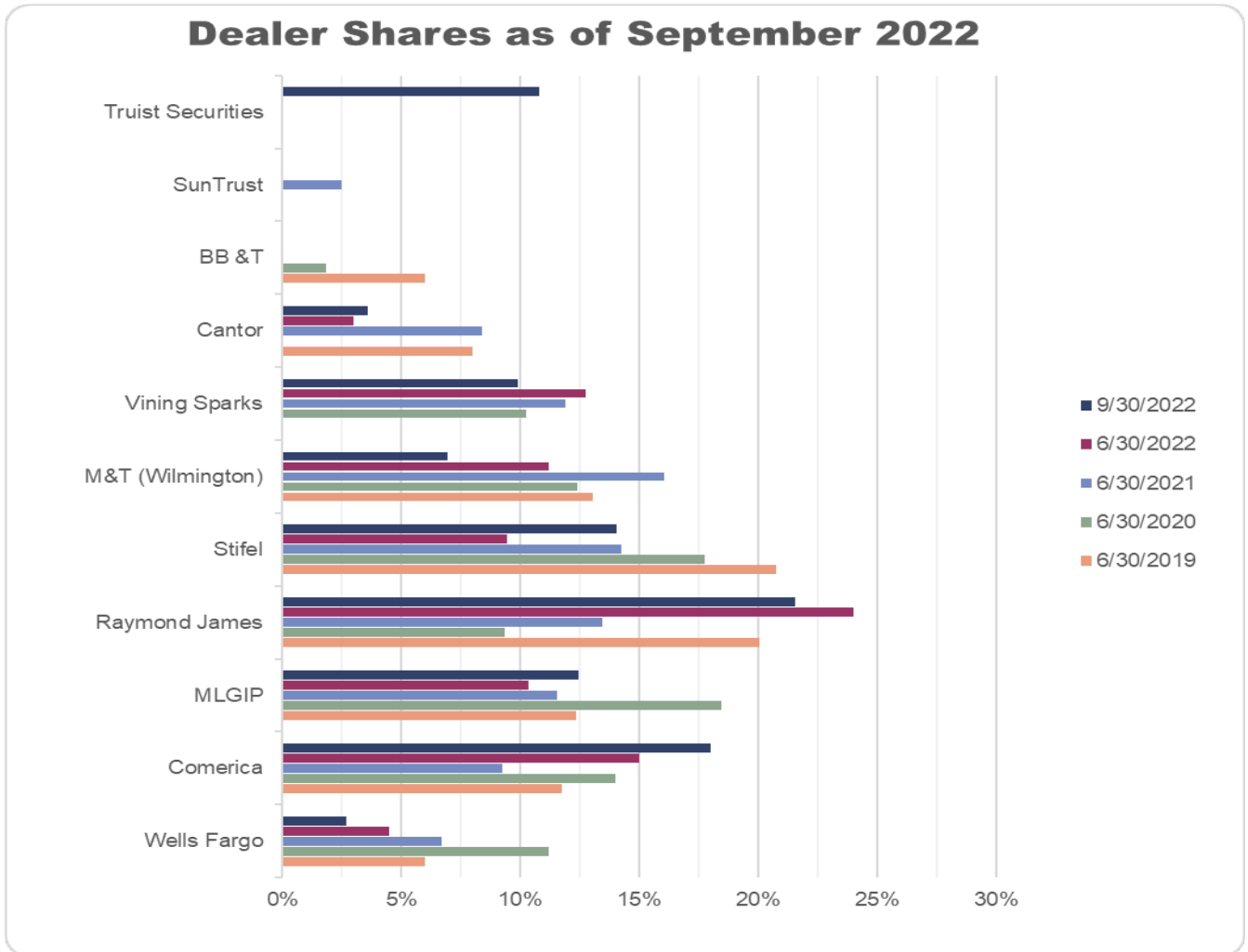
<b>Current Investment Portfolio - September 2022</b>				
<b>Instrument</b>	<b>Policy Limit</b>	<b>Actual</b>	<b>Par Value</b>	<b>Wtd. Avg. Return (B/E)</b>
Federal Home Loan Banks	20%	21.6%	\$ 120,000,000	1.18%
Money Funds	* 50%	19.4%	107,937,593	2.76%
Federal Farm Credit Bank	20%	17.1%	95,000,000	0.17%
Freddie Mac	20%	16.2%	90,000,000	1.90%
Farmer Mac	20%	14.9%	83,000,000	1.30%
Treasury Notes	100%	10.8%	60,000,000	0.60%
Commercial Paper	10%	0.0%	-	0.00%
Treasury Bills	100%	0.0%	-	0.00%
Fannie Mae	20%	0.0%	-	0.00%
Certificates of Deposit	50%	0.0%	-	0.00%
Bankers Acceptances	25%	0.0%	-	0.00%
Repurchase Agreements	50%	0.0%	-	0.00%
		100%	<b>\$555,937,593</b>	<b>1.32%</b>

\*As of 9/30/2022

The pooled cash portfolio complied with all policy limits with regards to product types and proportions throughout the month.





In addition to the product limits, portfolio purchases also adhered to the 30% limit per dealer. Dealer participation is shown below:



The total value of securities held by Broker-Dealer are shown below, includes Money Market Funds:



Institution	Current Par Value	% of Portfolio
Cantor Fitzgerald	20,000,000.00	3.60%
Comerica	100,000,000.00	17.99%
M&T	38,680,110.16	6.96%
MLGIP	69,257,482.46	12.46%
Raymond James (Morgan Keegan)	120,000,000.00	21.59%
Stifel Nicolaus	78,000,000.00	14.03%
Truist Securities, Inc.	60,000,000.00	10.79%
Vining Sparks	55,000,000.00	9.89%
Wells Fargo	15,000,000.00	2.70%
<b>Total Value of Securities Held</b>	<b>\$ 555,937,593</b>	<b>100.00%</b>

The market values of unspent debt balances (invested by T. Rowe Price) were as follows:

Market Value - September 2022	
Prince George's County (PGC-2021A)	\$ 6,740,702
Prince George's County (PGC-2022A) 	13,065,055
Montgomery County (MC-2020A)	2,049,162
Montgomery County (MC-2022A) 	14,207,056
	<b>\$ 36,061,975</b>

The Commission had no debt service payments during the month.

Details by issue of debt outstanding as of September 30, 2022, appear below:

Debt Balances - September 2022					
	Initial Par	Amount Outstanding	% Outstanding	Issue Date	Maturity Date
<b>Bi-County</b>					
<b>Total Bi-County</b>	\$ -	\$ -	0%		
<b>Prince George's County</b>					
PGC-2012A (Refunded P-2, M-2, EE-2)	11,420,000	1,735,000	15%	Jun-12	Jan-24
PGC-2015A (Refunded JJ-2)*	24,820,000	18,020,000	73%	Oct-15	Jan-36
PGC-2017A	33,000,000	24,750,000	75%	Jul-17	Jan-37
PGC-2018A	31,000,000	26,350,000	85%	Nov-19	Nov-38
PGC-2020 (Refunded PGC-2014A)	19,119,615	18,814,328	98%	Oct-20	Jan-34
PGC-2021A	25,100,000	25,100,000	100%	Nov-21	Nov-41
 PGC-2022A	12,000,000	12,000,000	100%	Sep-22	Nov-42
<b>Total Prince George's County</b>	<b>\$ 156,459,615</b>	<b>\$ 126,769,328</b>	<b>81%</b>		
<b>Montgomery County</b>					
MC-2012A (Refunded CC-2, FF-2)	8,035,000	965,000	12%	Apr-12	Dec-22
MC-2012B	3,000,000	140,000	5%	Apr-12	Dec-22
MC-2014A	14,000,000	660,000	5%	Jun-14	Dec-22
MC-2016A	12,000,000	9,180,000	77%	Apr-16	Nov-35
MC-2016B (Refunded FF-2, II-2, MM-2)	6,120,000	4,125,000	67%	Apr-16	Nov-28
MC-2016C (Refunded FF-2 ALA of 2004)	1,075,000	365,000	34%	Apr-16	Nov-24
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MC-2020A	10,000,000	9,500,000	95%	Jun-20	Nov-40
MC-2020B (Refunded MC-2012A)	4,895,487	4,895,487	100%	Oct-20	Dec-32
MC-2020C (Refunded MC-2012B)	1,866,095	1,866,095	100%	Oct-20	Dec-32
MC-2020D (Refunded MC-2014A)	9,655,588	9,655,588	100%	Oct-20	Dec-33
 MC-2022A	13,100,000	13,100,000	100%	Sep-22	Jan-43
<b>Total Montgomery County</b>	<b>\$ 106,747,170</b>	<b>\$ 71,852,170</b>	<b>67%</b>		
<b>Total</b>	<b>\$ 263,206,785</b>	<b>\$ 198,621,498</b>	<b>75%</b>		

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 REPORT ON COMPLIANCE TO INVESTMENT POLICY Approved May 18, 2022  
 FISCAL YEAR 2023 – September 30, 2022

OBJECTIVES	Met Objective	Within Limits	Comments																																	
<b>Protection of principal</b>	<b>Yes</b>																																			
<b>Limiting types and amounts of securities</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="text-align: right; width: 20%;">Limit</th> </tr> </thead> <tbody> <tr> <td>US Government</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>US Federal Agencies - combined</td> <td style="text-align: right;">75%</td> </tr> <tr> <td>US Federal Agencies - each</td> <td style="text-align: right;">20%</td> </tr> <tr> <td>Repurchase Agreements</td> <td style="text-align: right;">50%</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td>CD's and Time Deposits</td> <td style="text-align: right;">50%</td> </tr> <tr> <td>Commercial Paper</td> <td style="text-align: right;">10%</td> </tr> <tr> <td>Money Market Mutual Funds (25%/Fund)</td> <td style="text-align: right;">50%</td> </tr> <tr> <td>MD Local Gov't Investment Pool</td> <td style="text-align: right;">25%</td> </tr> <tr> <td colspan="2"><u>Investing Bond Proceeds:</u></td> </tr> <tr> <td>State and local agency securities</td> <td style="text-align: right;">100%</td> </tr> <tr> <td>Money Market Mutual Funds</td> <td style="text-align: right;">10%</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td colspan="2"><u>Bond Proceeds:</u></td> </tr> <tr> <td>Highly rated state / local agency securities</td> <td></td> </tr> <tr> <td>Highly rated money market mutual funds (Max. 10% in lower-rated funds)</td> <td></td> </tr> </tbody> </table>		Limit	US Government	100%	US Federal Agencies - combined	75%	US Federal Agencies - each	20%	Repurchase Agreements	50%			CD's and Time Deposits	50%	Commercial Paper	10%	Money Market Mutual Funds (25%/Fund)	50%	MD Local Gov't Investment Pool	25%	<u>Investing Bond Proceeds:</u>		State and local agency securities	100%	Money Market Mutual Funds	10%			<u>Bond Proceeds:</u>		Highly rated state / local agency securities		Highly rated money market mutual funds (Max. 10% in lower-rated funds)			<p>All securities purchased were within the limits established by the Investment Policy at the time of purchase. This monthly report is prepared for the Secretary-Treasurer to demonstrate compliance with investment policy objectives and limitation</p>
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<b>Pre-qualify financial institutions, broker/dealers, intermediaries, and advisers</b>		<b>Yes</b>	All firms must meet defined capital levels and be approved by the Secretary-Treasurer																																	
<b>Ensure competition among participants</b> 30%		<b>Yes</b>	No dealer shares exceeded 30%																																	
<b>Competitive Bidding</b>		<b>Yes</b>	Investments competitively bid, except for new issue securities																																	
<b>Diversification of Maturities</b> Majority of investments shall be a maximum maturity of (1.5) years. A portion may be as long as three years.		<b>Yes</b>	All maturities within limits																																	
<b>Require third-party collateral and safekeeping, and delivery-versus-payment settlement</b>		<b>Yes</b>	M&T Investments serves as custodian, monitoring compliance daily																																	
<b>Maintain sufficient liquidity</b>	<b>Yes</b>		Sufficient funds available for all cash requirements during period																																	
<b>Attain a market rate of return</b>  The pro-rated rates of return for T-bills and the portfolio were <b>3.33%</b> and <b>1.30%</b> , respectively.	<b>No</b>		Less than market by <b>203</b> basis points																																	





**Office of the General Counsel**  
**Maryland-National Capital Park and Planning Commission**

*Reply To*

October 4, 2022

**Debra S. Borden**  
**General Counsel**  
 6611 Kenilworth Avenue, Suite 200  
 Riverdale, Maryland 20737  
 (301) 454-1670 • (301) 454-1674 fax

**MEMORANDUM**

**TO:** The Maryland-National Capital Park and Planning Commission

**FROM:** Debra S. Borden  
 General Counsel

**RE:** Litigation Report for September 2022 – FY 2023

---

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, October 19, 2022. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

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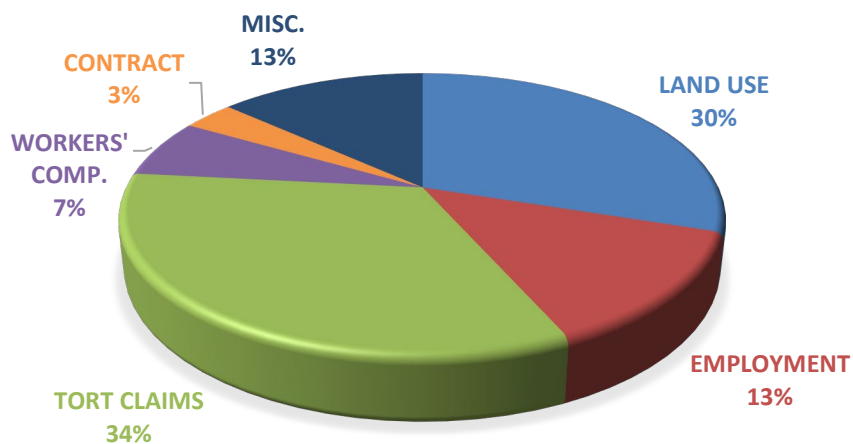
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## September 2022 Composition of Pending Litigation

(Sorted by Subject Matter and Forum)

	STATE TRIAL COURT	MARYLAND COSA	MARYLAND COURT OF APPEALS	FEDERAL TRIAL COURT	FEDERAL APPEALS COURT	U.S. SUPREME COURT	SUBJECT MATTER TOTALS
ADMIN APPEAL: LAND USE	6	3					9
ADMIN APPEAL: OTHER							
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	1						1
DEBT COLLECTION							
EMPLOYMENT DISPUTE	1	1		2			4
LAND USE DISPUTE							
MISCELLANEOUS	4						4
PROPERTY DISPUTE							
TORT CLAIM	10						10
WORKERS' COMPENSATION	2						2
PER FORUM TOTALS	24	4		2			30

### OVERVIEW OF PENDING LITIGATION



## September 2022 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2023			
	Pending Aug. 2022	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
<b>Admin Appeal: Land Use (AALU)</b>	7	4	2	7	4	2	9
<b>Admin Appeal: Other (AAO)</b>							
<b>Bankruptcy (B)</b>							
<b>Civil Enforcement (CE)</b>							
<b>Contract Disputes (CD)</b>	1			7			1
<b>Debt Collection (D)</b>							
<b>Employment Disputes (ED)</b>	5		1	5		1	4
<b>Land Use Disputes (LD)</b>							
<b>Miscellaneous (M)</b>	4			2	2		4
<b>Property Disputes (PD)</b>							
<b>Tort Claims (T)</b>	9	1		9	1		10
<b>Workers' Compensation (WC)</b>	2			2			2
<b>Totals</b>	28	5	3	26	7	3	30

**INDEX OF YTD NEW CASES  
(7/1/2022 TO 6/30/23)**

<b>A. <u>New Trial Court Cases.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Commission v. Joseph Cleveland-Cooper (Defendant was not served until August 2022 did not appear on report prior)	MC	Misc.	April 2020
Antawan Williams, et al. v. Prince George's County Planning Board (Did not appear on report prior)	PG	AALU	July 2022
Wilmington Savings Fund Society v. Tomel Burke, Jr., et al. (Commission has yet to be properly served.)	PG	Misc.	Aug. 2022
English-Figaro v. Planning Board of Prince George's County	PG	AALU	Aug. 2022
Fairwood Community Association, Inc. v. Prince George's County Planning Board	PG	AALU	Aug. 2022
Stewart v. Dorsey, et al.	MC	Tort	Sept. 2022

<b>B. <u>New Appellate Court Cases.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	MC	AALU	Aug. 2022

**INDEX OF YTD RESOLVED CASES  
(7/1/2022 TO 6/30/2023)**

<b>A. <u>Trial Court Cases Resolved.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	MC	AALU	Aug. 2022
Village of Friendship Heights v. Montgomery County Planning Board	MC	AALU	Aug. 2022
Tolson v. Commission	PG	ED	Aug. 2022

<b>B. <u>Appellate Court Cases Resolved.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
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	<b>Disposition of FY23 Closed Cases Sorted by Department</b>	
<b>CLIENT</b>	<b>PRINCIPAL CAUSE OF ACTION IN DISPUTE</b>	<b>DISPOSITION</b>
<b>Employees Retirement System</b>		
<b>Finance Department</b>		
<b>Department of Human Resources &amp; Management</b>		
<b>Montgomery County Department of Parks</b>		
<b>Montgomery County Park Police</b>		
<b>Montgomery County Planning Board</b>		
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	Appeal of decision affirming the Montgomery County Planning Board's approval of Site Plan 820200160 – Creekside at Cabin Branch.	08/02/2022 - Planning Board's Approval of Site Plan Affirmed. Petition for Judicial Review Denied.
Village of Friendship Heights v. Montgomery County Planning Board	Judicial Review of the Montgomery County Planning Board's approval of Sketch Plan 320220010-5500 Wisconsin Avenue.	08/24/2022 - Order of Court. Affirmed ruling of Planning Board.
<b>Prince George's County Department of Parks and Recreation</b>		
<b>Prince George's County Planning Board</b>		
<b>Prince George's Park Police</b>		
Tolson v. Commission	Show Cause Action under the LEOBR regarding mandatory COVID vaccination requirements for police officers.	08/08/2022
<b>Office of Internal Audit</b>		

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**DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**Commission v. Joseph Cleveland-Cooper**

Case No. 0601SP00404-2020 (Misc.)

Lead Counsel: Johnson

Other Counsel:

Abstract: Forfeiture of \$3,043.00 in U.S. currency.

Status: Awaiting show cause order.

Docket:

04/20/2020	Complaint filed
09/01/2020	Property posted
07/25/2022	Substitution of Counsel
07/25/2022	Request for Summons Renewal
08/08/2022	Defendant served
08/16/2022	Affidavit of Service

**Stewart v. Dorsey, et al.**

Case No. D-06-CV-22-013649 (Tort)

Lead Counsel: Rupert

Other Counsel:

Abstract: Injuries resulting from a motor vehicle incident. Vehicle operated by Commission employee.

Status: Employee has been served. Commission has yet to be served.

Docket:

06/13/2022	Complaint filed
09/25/2022	Commission employee served



**DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**Chambers v. Commission**

Case No. 050200212652020 (Tort)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Injuries resulting from a motor vehicle incident. Vehicle operated by Commission employee.

Status: In discovery.

Docket:

09/08/2020	Complaint filed
06/06/2022	Commission served
06/27/2022	Notice of Intent to Defend filed
07/19/2022	Motion to continue granted.
01/19/2023	Trial

**Commission v. Conwell**

Case No. 050200086402022 (Misc.)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Subrogation action to recover losses for damage(s) to Commission property.

Status: Defendant has contacted Commission to arrange payment plan.

Docket:

04/25/2022	Complaint filed
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**Commission v. Faulk**

Case No. 050200086392022 (Misc.)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Subrogation action to recover losses for damage(s) to Commission property.

Status: Need to reissue summons.

Docket:

04/25/2022	Complaint filed
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**CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**HMF Paving Contractors Inc. v. Maryland-National Park and Planning Commission**

Case No. 483255-V (CD)

Lead Counsel: Borden  
Other Counsel: Mills (CCRC)

Abstract: Dispute over whether an allowance should be made, and additional monies paid regarding the measurement (and relative cost) of the retaining wall at Greenbriar Local Park.

Status: Amended Complaint for Judicial Review filed.

Docket:

08/25/2020	Complaint filed
11/01/2020	Commission served
11/25/2020	Motion to Dismiss
12/28/2020	Opposition to Motion to Dismiss
03/12/2021	Consent motion to postpone hearing and stay case.
03/15/2021	Order of Court. Matter stayed for 90 days.
10/20/2021	Order of Court. Matter stayed until January 10, 2022.
01/24/2022	Pre-Trial hearing statement filed
02/01/2022	Motion to Continue
02/18/2022	Order of Court. Motion Moot. Case has been placed on the Stay Docket.
08/05/2022	Amend Complaint/Petition for Judicial Review
09/06/2022	Notices of Intention to Participate filed by Commission and the CCRC

**CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**Alexander v. Proctor**  
Case No. CAL19-37187 (Tort)

Lead Counsel: Borden  
Other Counsel:

Abstract: Officer Proctor deployed his Commission issued pepper spray when an unknown individual was observed wearing police-type gear and approaching our police substation. The individual failed/refused to stop, leading to the Officer deploying his pepper spray to stop and subsequently arrest the individual. Mr. Alexander (the individual) asserts that the stop was without Reasonable Articulate Suspicion/Probable Cause and therefore was unlawful and the amount of force used was excessive.

Status: Case settled. Awaiting Notice of Dismissal.

Docket:

11/20/2019	Complaint filed
12/06/2019	Proctor served
12/09/2019	Commission served
01/03/2020	Commission's Motion to Dismiss filed
01/23/2020	Motion to Dismiss denied. Plaintiff to file Amended Complaint on or before 02/07/2020.
02/08/2020	Amended Complaint filed
02/21/2020	Motion to Strike Amended Complaint or in the alternative to Dismiss
03/09/2020	Opposition to Motion to Strike
03/27/2020	Court orders matter to be set in for hearing on Motion
05/06/2020	Motion to Quash and for Protective Order
05/06/2020	Plaintiff's Opposition to Motion to Quash and for Protective Order
05/22/2020	Order of Court – Motion to Quash and for Protective Order held in abeyance
09/16/2020	Motions Hearing held.
9/23/2020	Order of Court – Motion to Strike or in the alternative Motion to Dismiss denied. Motion to Quash and for Protective Order moot. Case to continue to due course.
9/30/2020	Answer to Amended Complaint filed.
03/14/2022	Plaintiff's Expert Designation filed
04/11/2022	Defendant's Expert Designation filed
06/22/2022	Mediation
08/17/2022	Joint Stipulation of Dismissal

**Antawan Williams, et al. v. Prince George's County Planning Board**

Case No. CAL 22-19650 (AALU)

Lead Counsel: Warner  
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-21056.

Status: Awaiting Petitioners' Memorandum.

Docket:

07/06/2022	Petition filed
07/27/2022	Notice mailed. Response to Petition and Certificate of Compliance filed
08/05/2022	Respondent/Applicant Notice to Participate filed
09/19/2022	Record and Transcript filed

**Brown v. City of Bowie, et al.**

Case No. CAL19-35931 (Tort)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Injuries resulting from an event at Trap and Skeet location owned by the Commission. Defendants include the individual who discharged a weapon, a volunteer assigned to the group that day and Shooting Stars Shotgun Sports, LLC, an entity that provides shooting instructors at that location.

Status: Awaiting trial.

Docket:

11/15/2019	Complaint filed
01/27/2020	Defendant City of Bowie's Motion to Dismiss or in the Alternative for Summary Judgment
02/05/2020	Summons reissued for Commission
02/13/2020	Opposition to City of Bowie's Motion to Dismiss
02/26/2020	Defendant Daughtery's answer filed
03/13/2020	Commission served
04/08/2020	Commission's Answer filed
05/15/2020	Motions Hearing on City's Motion to Dismiss – continued due to pandemic
9/18/2020	Amended Complaint and Jury Trial
9/21/2020	Second Amended Complaint
9/24/2020	Hearing on Defendant City of Bowie's Motion to Dismiss and/or Summary Judgment. Motion to Dismiss is denied. Motion for Summary Judgment is granted based upon governmental immunity.
10/28/2020	Third Amended Complaint filed
12/08/2020	Answer to Complaint by Defendant Knode
02/16/2022	Status Conference Held
06/21/2023	Trial

**English-Figaro v. Planning Board of Prince George's County**

Case No. CAL22-25639 (AALU)

Lead Counsel: Warner  
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104.

Status: Pending filing of Record and Transcript.

Docket:

08/26/2022	Petition filed
08/31/2022	Amended Petition filed
09/19/2022	Notice mailed. Response to Petition and Certificate of Compliance filed.

**Fairwood Community Association, Inc. v. Prince George's County Planning Board**

Case No. CAL22-26146 (AALU)

Lead Counsel: Warner  
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104.

Status: Pending filing of Record and Transcript.

Docket:

08/29/2022	Petition filed
09/21/2022	Notice mailed. Response to Petition and Certificate of Compliance filed.

**Fricklas v. The Planning Board of Prince George's County**

Case No. CAL 22-23156(AALU)

Lead Counsel: Warner  
Other Counsel: Coleman

Abstract: Challenge to the Planning Board's approval of Preliminary Plan of Subdivision 4-21052 (Suffrage Point).

Status: Pending filing of Record and Transcript

Docket:

08/06/2022	Petition for Judicial Review filed.
09/02/2022	Notice Mailed. Certificate of Compliance filed

09/14/2022	Response to Petition, Amended Certificate of Compliance, and Motion to Dismiss filed
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**Getnet v. Maryland-National Capital Park and Planning Commission**

Case No. CAL 20-13268(Tort)

Lead Counsel: Rupert  
Other Counsel: Johnson

Abstract: Tort suit for injuries allegedly sustained when visitor fell through decking at a historic property not owned by the Commission.

Status: In discovery.

Docket:

07/06/2020	Complaint filed
07/29/2020	Commission served
08/20/2020	Motion to Dismiss filed
09/10/2020	Amended Complaint
09/11/2020	Opposition to Motion to Dismiss
09/22/2020	Amended Complaint
10/09/2020	Answer filed.
11/02/2020	2 <sup>nd</sup> Amended Complaint filed
11/06/2020	Defendant Montgomery County's Motion to Dismiss 2 <sup>nd</sup> Amended Complaint
12/03/2020	Case dismissed as to Montgomery County only
03/04/2021	3 <sup>rd</sup> Amended Complaint filed
04/19/2021	Defendant/Cross-Plaintiff, Kadcon Corporation's Crossclaim against Defendants/Cross-Defendants filed
05/19/2021	Robert Stillman Associates Answer to 3 <sup>rd</sup> Amended Complaint and Crossclaim
05/19/2021	Bell Architects Answer to 3 <sup>rd</sup> Amended Complaint and Crossclaim
10/15/2021	Defendant Bell Architects, PC and Robert Silman Associates Motion to Dismiss Plaintiff's Third Amended Complaint
11/01/2021	Plaintiff's Opposition to Motion to Dismiss 3 <sup>rd</sup> Amended Complaint.
11/04/2021	Defendant/Cross-Plaintiff, Kadcon Corporation's Opposition to Defendants/Cross-Defendants, Bell Architects, PC, and Robert Silman Associates, PLLC's, Motion to Dismiss Plaintiff's Third Amended Complaint and Kadcon Corporation's Crossclaim, Request for Hearing and Supporting Memorandum
12/10/2021	Defendant Bell Architects, PC and Robert Silman Associates PLLC's Motion for Leave to file Reply Memorandum in Support of Motion to Dismiss Plaintiff's Third Amended Complaint
12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Motion for Leave to file Reply Memorandum in Support of Motion to Dismiss Kadcon Corporation's Crossclaim

12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Reply to Kadcon Corporation's Opposition to the Pending Motion to Dismiss
12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Reply to Plaintiff's Opposition to the Pending Motion to Dismiss
02/24/2022	Order of Court modifying scheduling order and setting trial for April 5, 2023.
04/08/2022	Motions Hearing
04/13/2022	Motion to Dismiss denied. Motion for Leave to File Reply Memorandum moot. Motion to Dismiss Third Amended Complaint denied.
04/06/2023	Trial

**JACKSON V. PRINCE GEORGE'S COUNTY SPORTS & LEARNING COMPLEX**

Case No. CAL19-21516 (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Injury to a minor allegedly related to use of equipment at the Sports & Learning Complex.

Status: Case settled. Awaiting Notice of Dismissal.

Docket:

07/15/2019	Complaint filed
01/22/2020	Commission accepted service
01/27/2020	Complaint to be amended to reflect Commission as party.
02/04/2020	Amended Complaint filed
03/18/2020	Commission served
04/08/2020	Commission's answer filed.
08/09/2022	Case settled.
08/16/2022	Order of Court. Parties reached a tentative settlement, subject to administrative approval by defendant, M-NCPPC.

**King v. Commission**

Case No. CAL 19-30096 (WC)

Lead Counsel: Foster  
Other Counsel:

Abstract: Claimant seeks judicial review of an order from the Workers' Compensation Commission denying authorization for neck surgery.

Status: Awaiting trial.

Docket:

09/23/2019	Petition for Judicial Review filed
10/03/2019	Commission filed Response to Petition.
02/07/2022	Joint Motion for Continuance

03/18/2022	Order of Court. Trial continued
03/02/2023	Trial

**McGill v. Commission**  
Case No. CAL 21-08946 (WC)

Lead Counsel: Foster  
Other Counsel:

Abstract: Claimant seeks judicial review of Workers' Compensation Commission decision dated July 19, 2021, which determined he had not sustained an increase in permanent partial disability and denied further treatment.

Status: Awaiting trial.

Docket:

08/03/2021	Petition for Judicial Review filed
08/16/2021	Commission filed Response to Petition
10/26/2022	Trial

**Melito v Commission**  
Case No. CAL 21-03760 (ED)

Lead Counsel: Johnson  
Other Counsel:

Abstract: Plaintiff seeks to secure administrative meeting or hearing on termination, former employee claims were denied.

Status: Case dismissed pending implementation of contingencies allowing for appeal to Merit Board.

Docket:

04/01/2021	Complaint filed
04/22/2021	Commission served
05/20/2021	Motion to Dismiss filed
06/04/2021	Plaintiff's Opposition to Motion to Dismiss filed.
02/17/2022	Order of Court. Motion to Dismiss denied. Matter to continue in due course.
03/03/2022	Commission's Answer filed
07/22/2022	Plaintiff's Line to Dismiss Petition for Writ of Mandamus with Prejudice
07/29/2022	Court – Dismissal returned for failure to pay \$15.00 dismissal fee
08/05/2022	Commission's Response to Plaintiff's Line to Dismiss
08/05/2022	Commission's Motion to Dismiss filed
09/12/2022	Order of Court. Case dismissed with prejudice pending implementation of the contingencies ordered by the court.



**Montague v. Newton White Mansion**

Case No. CAL 20-05753 (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Claim related to slip and fall on ice at Newton White Mansion.

Status: Awaiting settlement papers and dismissal.

Docket:

02/13/2020	Complaint filed.
06/19/2020	Amended Complaint filed.
07/21/2020	Answer filed.
08/29/2022	Case settled.

**Robinson, et al. v. Prince George's County Planning Board, et al.**

Case No. CAL 21-13945(AALU)

Lead Counsel: Warner  
Other Counsel:

Abstract: In relation to the development of a public K–8 middle school, Petitioners are challenging the Planning Board's decision to affirm the Planning Director's approval of a tree conservation plan, a revision of that tree conservation plan, and variances to the Woodland Conservation Ordinance that allowed removal of specimen trees. There is no statutory right to judicial review, and the petitioners cited no legal authority to petition the circuit court for judicial review. As a result, this may ultimately become a petition for a writ of mandamus under the administrative mandamus provisions of the Maryland Rules (7-401 to 7-403).

Status: Awaiting to receive hearing date.

Docket:

11/12/2021	Petition filed
01/05/2022	Commission's Motion to Dismiss filed
01/05/2022	Response to Petition filed by Planning Board
01/05/2022	Motion to Dismiss filed by Planning Board
01/06/2022	Response to Petition filed by Board of Education
01/21/2022	Opposition to Motion to Dismiss
01/27/2022	Memorandum in Support of Petition for Judicial Review
01/31/2022	Motion to Strike Petitioner's Memorandum in Support of Petition for Judicial Review
01/31/2022	Planning Board's Reply to Petitioners' Opposition to Respondent's Motion to Dismiss
02/14/2022	Opposition to Motion to Strike
02/14/2022	Petitioner's Motion to Supplement the Record
02/14/2022	Amended Memorandum in Support of Petition for Judicial Review
02/25/2022	Planning Board's Memorandum
03/16/2022	Reply Memorandum filed.

06/30/2022	Motions hearing held and taken under advisement
07/18/2022	Order of Court. Planning Board's Motion to Dismiss denied. Motion to Supplement the Record granted.

**Snyder v. State of Maryland, et al.**

Case No. CAL 20-13024 (Tort)

Lead Counsel: Borden  
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained when tennis player allegedly tripped in hole of divider net and broke clavicle.

Status: Case settled.

Docket:

06/19/2020	Complaint filed.
07/27/2020	Commission's Motion to Dismiss
07/27/2020	Motion to Transfer Venue
08/11/2020	Opposition to Motion to Dismiss
08/25/2020	State of Maryland's Motion to Dismiss
09/10/2020	Amended Complaint.
10/30/2020	2 <sup>nd</sup> Amended Complaint filed
10/14/2020	Order of Court – Motion to Dismiss and Motion to Transfer Venue Moot.
05/04/2021	Commission and L. Gertzog's Answer to 2 <sup>nd</sup> Amended Complaint
06/27/2022	Motion for Summary Judgment by Defendant American Tennis Courts, Inc.
08/11/2022	Order of Court. ADR held 06/24/2022. Parties reached agreement. All Claims dismissed without prejudice
08/12/2022	Order of Court. Defendant American Tennis Courts, Inc. Motion for Summary Judgment granted.
8/14/2022	Joint Stipulation of Dismissal
09/12/2022	Order of Court. Case Dismissed

**Troublefield v. Prince George's County, et al.**

Case No. CAL 22-12298 (Tort)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained while attending a graduation ceremony at Show Pace Arena.

Status: In discovery.

Docket:

04/11/2022	Complaint filed
04/27/2022	Commission served
05/09/2022	Stipulation/Line of Dismissal as to Prince George's County only
05/20/2022	Commission's Answer filed
11/14/2023	ADR
01/24/2024	Trial

**Walters v. Commission**

Case No. CAL22-01761 (Tort)

Lead Counsel: Johnson  
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained when minor was playing on playground equipment at Melwood Hills Community Park.

Status: In discovery.

Docket:

01/19/2022	Complaint filed
03/25/2022	Commission served
04/06/2022	Commission's answer filed.
05/09/2023	ADR
07/06/2023	Trial

**Wilmington Savings Fund Society v. Tomel Burke, Jr., et al.**

Case No. CAE20-11813 (Misc.)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Lawsuit to quiet title and extinguish the Commission's lien on property owned by Tomel Burke, judgment Debtor. Commission has yet to be properly served.

Status:

Docket:

04/24/2020	Complaint filed
04/05/2022	Motion for Default as to Commission filed
04/19/2022	Commission's Opposition to Plaintiff's Motion for Default
05/09/2022	Order of Court. Motion for Default as to Commission denied.

**Wolf, et al. v. Planning Board of Prince George's County**

Case No. CAL20-14895 (AALU)

Lead Counsel: Warner  
Other Counsel:

Abstract: Judicial Review of the Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-18001 (Magruder Pointe).

Status: Awaiting ruling.

Docket:

08/19/2020	Petition for Judicial Review filed.
09/29/2020	Notice of Intent to Participate
09/29/2020	Motion to Dismiss filed by Werrlein WSSC, LLC
10/13/2020	City of Hyattsville's Notice of Intent to Participate
10/19/2020	Response to Petition for Judicial Review
10/19/2020	Planning Board's Motion to Dismiss filed
10/27/2020	City of Hyattsville's Opposition to Motion to Dismiss filed
11/30/2020	Motion to Consolidate with cases CAL19-21492, City of Hyattsville v. Prince George's County District Council and CAL19-22819 Eisen v. Prince George's County District Council
12/28/2020	Opposition to Motion to Dismiss
03/03/2021	Motions hearing held. Taken under advisement.
06/15/2022	Order of Court. Motion to Dismiss denied.
06/20/2022	Memorandum in support of the Petition for Judicial Review filed
08/12/2022	Oral Arguments held.

**MARYLAND COURT OF SPECIAL APPEALS**

**6525 Belcrest Road, LLC v. Dewey, L.C., et al.**

Case No. CSA-REG-1632-2021 (AALU)

(Originally filed under CAE 20-11589 in Prince George’s County)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Declaratory Judgment Action filed over a dispute involving a parking parcel. Plaintiff contends that Defendants have misconstrued prior approvals of the Planning Board regarding the need for parking in a manner that will harm their interests. Plaintiff seeks to enjoin the Planning Board from approving a Detailed Site Plan.

Status: Awaiting oral arguments.

Docket:

12/14/2021	Appeal filed.
02/28/2022	Briefing Notice issued
04/07/2022	Show cause issued as to Appellant and why matter should not be dismissed for failure to timely file record.
05/17/2022	Appellant’s Brief and Record Extract filed
09/09/2022	Oral argument scheduled.

**Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board**

Case No. CSA-REG-1094-2022 (AALU)

(Originally filed under 487649-V in Montgomery County)

Lead Counsel: Mills  
Other Counsel:

Abstract: Appeal of decision affirming the Montgomery County Planning Board’s approval of Site Plan 820200160 – Creekside at Cabin Branch.

Status: Appeal filed.

Docket:

08/30/2022	Appeal filed
08/31/2022	Notice of Appeal issued by COSA

**Heard v. Maryland-National Capital Park and Planning Commission**

Case No. CSA-REG-1563-2021 (AALU)  
(Originally filed under CAL 20-14095 in Prince George's County)

Lead Counsel: Warner  
Other Counsel:

Abstract: Appeal of decision affirming Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-05068 and denial of March 31, 2020, request for document under the Maryland Public Information Act.

Status: Decision affirmed.

Docket:

12/01/2021	Appeal filed.
03/28/2022	Appellant Brief filed
04/20/2022	Appellee Brief filed
06/07/2022	Reply Brief filed
08/05/2022	Opinion of Court. Judgement of the Circuit Court for Prince George's County Affirmed.
09/05/2022	Appellant/Heard Cert Petition filed
09/21/2022	Appellee/Commission Response to Cert Petition filed

**Izadjoo v. Maryland-National Capital Park and Planning Commission**

Case No. CSA-REG 1795-2021 (ED)  
(Originally filed under 486280-V in Montgomery County)

Lead Counsel: Johnson  
Other Counsel:

Abstract: Izadjoo appeals the decision of the Circuit Court affirming the decision of the Merit System Board denying appeal of his request for reclassification.

Status: Awaiting ruling.

Docket:

01/14/2022	Notice of Appeal to Court of Special Appeals
03/29/2022	Briefing Notice issued
05/19/2022	Appellant's Brief and Record Extract filed
06/17/2022	Commission's Brief filed
07/11/2022	Case to be decided without a hearing

**MARYLAND COURT OF APPEALS**

No pending matters.

**U.S. DISTRICT COURT OF MARYLAND**

**Evans v. Commission, et al.**

8:19-cv-02651 MJM (ED)

Lead Counsel: Levan  
Other Counsel: Foster

Abstract: Plaintiff, police lieutenant, filed a complaint against the Commission and four individual defendants, alleging discrimination, retaliation and assorted negligence and constitutional violations.

Status: In discovery.  
Docket:

09/11/2019	Complaint filed
10/23/2019	Notice of Intent to file Motion for More Definite Statement filed by Defendants Commission, McSwain, and Riley
10/24/2019	Notice of Intent to file Motion for More Definite Statement filed by J. Creed on behalf of Defendant Murphy
10/28/2019	Notice of Intent to File a Motion for More Definite Statement filed by attorney C. Bruce on behalf of Defendant Uhrig
11/26/2019	Status Report filed by Plaintiff agreeing to file Amended Complaint specifying against whom each claim is asserted and dates of alleged events.
12/10/2019	Amended Complaint filed.
12/23/2019	Notice of Intent to file a Motion to Dismiss filed by all defendants
01/09/2020	Order granting Plaintiff leave to file Amended Complaint
01/16/2020	Second Amended Complaint filed
02/14/2020	Joint Motion to Dismiss filed by all Defendants
03/20/2020	Opposition to Motion to Dismiss
03/20/2020	Motion for Leave to file Third Amended Complaint
03/20/2020	Third Amended Complaint
04/17/2020	Plaintiff's Reply to Defendants' joint Opposition to Plaintiff's Motion for Leave to file Third Amended Complaint.
05/07/2020	Order granting Motion for Leave to File Third Amended Complaint; denying as moot Defendants' Joint Motion to Dismiss; granting defendants leave to renew their Joint Motion to Dismiss by May 22, 2020.
06/05/2020	Joint Motion to Dismiss for Failure to State a Claim filed by Commission, McSwain, Murphy, Riley and Uhrig.
07/10/2020	Motion for Leave to File Excess Pages
07/16/2020	Order granting in part and denying in part Motion for Leave to

	file Excess Pages and directing the Plaintiff to file a brief by 7/23/2020
07/23/2020	Response in Opposition to Joint Motion to Dismiss for Failure to State a Claim
08/06/2020	Response to Motion for Leave to file Excess Pages.
08/06/2020	Reply to Opposition to Joint Motion to Dismiss.
11/13/2020	Defendants' Motion to Dismiss granted in part. Counts 4, 5, part of 6 and 7 -10, part of 11, and 12 dismissed. Counts, 1 -3, part of 6 and 11, 13 -15 will proceed at this stage. Defendants to file an answer to remaining claims.
11/27/2020	Answer filed.
01/11/2021	Order – Case referred to Magistrate Judge Timothy J. Sullivan generally and to Magistrate Judge Jillyn K. Schulze for mediation
01/15/2021	Joint Consent to Proceed before Magistrate
01/28/2021	Order of Court re mediation week of May 17, 2021.
07/26/2021	Commission's Motion for Protective Order.
08/09/2021	Plaintiff's Opposition to Motion for Protective Order.
08/23/2021	Commission's Reply to Opposition for Protective Order.
10/05/2021	Informal Discovery Dispute Resolution Conference was held with the Judge to resolve issues raised in the Motion for Protective Order and Opposition. An Order was issued resolving several matters and requiring additional disclosure of information and/or documents
01/14/2022	Notice of Intent to file a Motion for Summary Judgment filed by Defendants Murphy, Uhrig, McSwain, and Commission.
02/17/2022	Order of Court re scheduling order. Motion for Summary Judgment due April 8, 2022.
04/08/2022	Defendants' Joint Motion to Seal Exhibits Related to Defendants' Motion for Summary Judgment
04/08/2022	Defendants' Joint Motion for Summary Judgment and Supporting Memorandum of Law
04/20/2022	Response in Opposition to Motion to Seal Exhibits
05/03/2022	Reply to Response to Motion to Seal
06/09/2022	Consent Motion for Extension of Time to file Response to Defendants' Joint Motion for Summary Judgment
06/10/2022	Order of Court granting Consent Motion
06/14/2022	Second Motion for Extension of Time to file Response to Defendants' Joint Motion for Summary Judgment
06/14/2022	Order granting Second Motion for Extension of Time to File Response to Defendants' Joint Motion for Summary Judgment
07/15/2022	Plaintiff's Motion for Leave to File Excess Pages
07/15/2022	Opposition to Motion for Summary Judgment
07/18/2022	Defendants' Response in Opposition to Motion for Leave to File Excess Pages
07/18/2022	Plaintiff's Reply to Response in Opposition to Motion for Leave to File Excess Pages
07/19/2022	Order granting in part and denying in part Plaintiff's Motion for Leave to File in Excess of 35 pages.
07/21/2022	Defendant' Motion for Leave to File Excess Pages



07/21/2022	Order granting Defendants' Motion for Leave to File in Excess of 20 pages
07/25/2022	Defendants' Response to Motion to Seal Opposition to Motion for Summary Judgment
07/26/2022	Defendants Response in Opposition to Motion for Summary Judgment
09/30/2022	Reply to Plaintiff's Opposition to Summary Judgment

**Miles v. Commission, et al.**  
8:22-cv-00624-PJM (ED)

Lead Counsel: Levan  
Other Counsel: Foster

Abstract: Plaintiff, police officer, filed a complaint against the Commission and individual defendant, alleging hostile work environment, discrimination, retaliation, and violations of 42 USC §1981, 42 USC §1983, Maryland Statutory violations, and County Code violations.

Status: Case stayed to allow parties to attempt to mediate dispute.  
Docket:

03/14/2022	Complaint filed
03/16/2022	Commission accepted service
03/23/2022	Waiver of the Service of Summons filed by Commission
04/29/2022	Case reassigned to Magistrate Judge Ajmel Ashen Quereshi
05/06/2022	Answer to Complaint filed by Commission
06/15/2022	Answer to Complaint Stephanie Harvey
06/28/2022	ORDER directing Stephanie Harvey to show cause for failure to comply with <u>Standing Order 2019-07</u> . Show Cause Hearing set for 7/29/2022
06/29/2022	Show Cause cancelled
07/13/2022	Scheduling Order issued
07/27/2022	Consent Motion for Extension of Time
09/13/2022	Order of Court – Stipulated Order of Confidentiality
09/23/2022	Consent Motion to Stay Scheduling Order
09/23/2022	Order granting in part the Consent Motion to Stay Scheduling Order and directing parties to file status reports
09/23/2022	Case stayed.



**Office of the General Counsel**  
**Maryland-National Capital Park and Planning Commission**

*Reply To*

October 31, 2022

**Debra S. Borden**  
General Counsel  
6611 Kenilworth Avenue, Suite 200  
Riverdale, Maryland 20737  
(301) 454-1670 • (301) 454-1674 fax

**MEMORANDUM**

**TO:** The Maryland-National Capital Park and Planning Commission

**FROM:** Debra S. Borden  
General Counsel

**RE:** Litigation Report for October 2022 – FY 2023

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Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, November 16, 2022. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

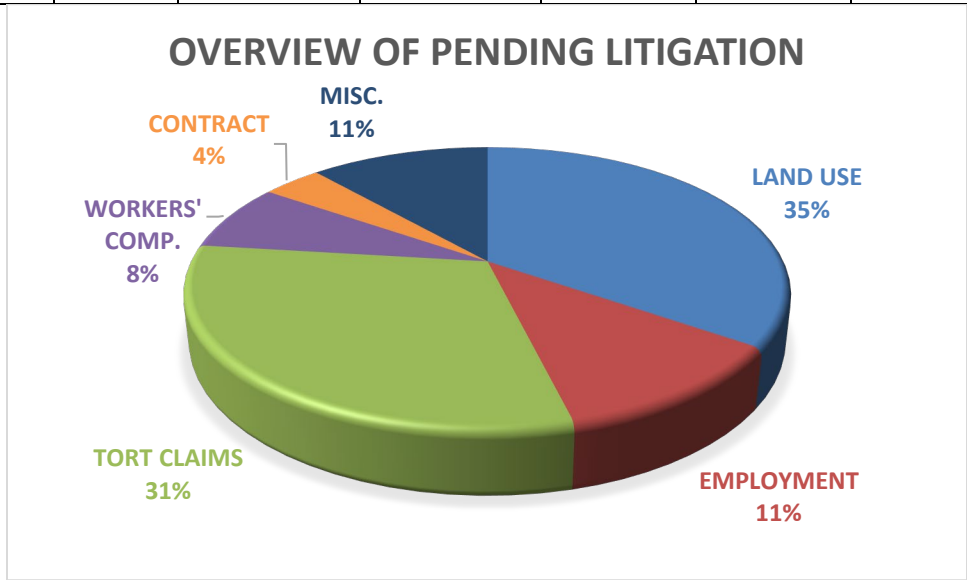
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## October 2022 Composition of Pending Litigation

(Sorted by Subject Matter and Forum)

	STATE TRIAL COURT	MARYLAND COSA	MARYLAND COURT OF APPEALS	FEDERAL TRIAL COURT	FEDERAL APPEALS COURT	U.S. SUPREME COURT	SUBJECT MATTER TOTALS
ADMIN APPEAL: LAND USE	6	2	1				9
ADMIN APPEAL: OTHER							
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	1						1
DEBT COLLECTION							
EMPLOYMENT DISPUTE		1		2			3
LAND USE DISPUTE							
MISCELLANEOUS	3						3
PROPERTY DISPUTE							
TORT CLAIM	8						8
WORKERS' COMPENSATION	2						2
<b>PER FORUM TOTALS</b>	<b>20</b>	<b>3</b>	<b>1</b>	<b>2</b>			<b>26</b>



## October 2022 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2023			
	Pending Sept. 2022	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
<b>Admin Appeal: Land Use (AALU)</b>	9	1	1	7	5	3	8
<b>Admin Appeal: Other (AAO)</b>							
<b>Bankruptcy (B)</b>							
<b>Civil Enforcement (CE)</b>							
<b>Contract Disputes (CD)</b>	1			7			1
<b>Debt Collection (D)</b>							
<b>Employment Disputes (ED)</b>	4		1	5		2	3
<b>Land Use Disputes (LD)</b>							
<b>Miscellaneous (M)</b>	4		1	2	2	1	3
<b>Property Disputes (PD)</b>							
<b>Tort Claims (T)</b>	10		2	9	1	2	8
<b>Workers' Compensation (WC)</b>	2			2			2
<b>Totals</b>	30	1	5	26	7	3	26

**INDEX OF YTD NEW CASES  
(7/1/2022 TO 6/30/23)**

<b>A. <u>New Trial Court Cases.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Commission v. Joseph Cleveland-Cooper (Defendant was not served until August 2022 did not appear on report prior)	MC	Misc.	April 2020
Antawan Williams, et al. v. Prince George's County Planning Board (Did not appear on report prior)	PG	AALU	July 2022
Wilmington Savings Fund Society v. Tomel Burke, Jr., et al. (Commission has yet to be properly served.)	PG	Misc.	Aug. 2022
English-Figaro v. Planning Board of Prince George's County	PG	AALU	Aug. 2022
Fairwood Community Association, Inc. v. Prince George's County Planning Board	PG	AALU	Aug. 2022
Stewart v. Dorsey, et al.	MC	Tort	Sept. 2022

<b>B. <u>New Appellate Court Cases.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	MC	AALU	Aug. 2022

**INDEX OF YTD RESOLVED CASES  
(7/1/2022 TO 6/30/2023)**

<b>A. <u>Trial Court Cases Resolved.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	MC	AALU	Aug. 2022
Village of Friendship Heights v. Montgomery County Planning Board	MC	AALU	Aug. 2022
Tolson v. Commission	PG	ED	Aug. 2022
Alexander v. Proctor	PG	Tort	Sept. 2022
Melito v. Commission	PG	ED	Sept. 2022
Snyder v. Commission	PG	Tort	Sept. 2022
Commission v. Joseph Cleveland-Cooper	MC	Misc.	Sept. 2022
<b>B. <u>Appellate Court Cases Resolved.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Heard v. Commission	PG	AALU	Aug. 2022

<b>Disposition of FY23 Closed Cases Sorted by Department</b>		
<b>CLIENT</b>	<b>PRINCIPAL CAUSE OF ACTION IN DISPUTE</b>	<b>DISPOSITION</b>
<b>Employees Retirement System</b>		
<b>Finance Department</b>		
<b>Department of Human Resources &amp; Management</b>		
<b>Montgomery County Department of Parks</b>		
Snyder v. State of Maryland, et al.	Tort suit for injuries allegedly sustained when tennis player allegedly tripped in hole of divider net and broke clavicle.	08/15/2022 – Stipulation of Dismissal filed. 9/12/2022 Case dismissed. Parties reached a settlement.
Stewart v. Dorsey, et al.	Injuries resulting from a motor vehicle incident. Vehicle operated by Commission employee.	10/16/2022 – Case settled for \$4,000. Joint stipulation of dismissal to be filed.
<b>Montgomery County Park Police</b>		
Commission v. Joseph Cleveland-Cooper	Forfeiture for cash of \$3,043.00	9/29/2022 – Court ordered monies forfeited.
<b>Montgomery County Planning Board</b>		
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	Appeal of decision affirming the Montgomery County Planning Board's approval of Site Plan 820200160 – Creekside at Cabin Branch.	08/02/2022 - Planning Board's Approval of Site Plan Affirmed. Petition for Judicial Review Denied.
Village of Friendship Heights v. Montgomery County Planning Board	Judicial Review of the Montgomery County Planning Board's approval of Sketch Plan 320220010-5500 Wisconsin Avenue.	08/24/2022 - Order of Court. Affirmed ruling of Planning Board.
<b>Prince George's County Department of Parks and Recreation</b>		
Melito v. Commission	Plaintiff seeks to secure administrative meeting or hearing on termination, former employee claims were denied.	09/15/2022 - Case dismissed pending implementation of contingencies allowing for appeal to Merit Board.

<b>Prince George's County Planning Board</b>		
Heard v. Commission	Appeal of decision affirming Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-05068 and denial of March 31, 2020, request for document under the Maryland Public Information Act.	08/05/2022 – Judgment of the Circuit Court for Prince George's County affirmed.
<b>Prince George's Park Police</b>		
Tolson v. Commission	Show Cause Action under the LEOBR regarding mandatory COVID vaccination requirements for police officers.	08/08/2022 Show Cause Hearing held. Application for Show Cause Order denied.
Alexander v. Proctor	Officer Proctor deployed his Commission issued pepper spray when an unknown individual was observed wearing police-type gear and approaching our police substation. The individual failed/refused to stop, leading to the Officer deploying his pepper spray to stop and subsequently arrest the individual. Mr. Alexander (the individual) asserted that the stop was without Reasonable Articulate Suspicion/Probable Cause and therefore was unlawful and the amount of force used was excessive.	9/29/2022 – Joint Stipulation of Dismissal filed. Parties settled matter at mediation.
<b>Office of Internal Audit</b>		



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**DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**Stewart v. Dorsey, et al.**

Case No. D-06-CV-22-013649 (Tort)

Lead Counsel: Rupert

Other Counsel:

Abstract: Injuries resulting from a motor vehicle incident. Vehicle operated by Commission employee.

Status: Case settled.

Docket:

06/13/2022	Complaint filed
10/16/2022	Case settled. Joint stipulation of dismissal to be filed.

**DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**Chambers v. Commission**

Case No. 050200212652020 (Tort)

Lead Counsel: Rupert

Other Counsel:

Abstract: Injuries resulting from a motor vehicle incident. Vehicle operated by Commission employee.

Status: In discovery.

Docket:

09/08/2020	Complaint filed
06/06/2022	Commission served
06/27/2022	Notice of Intent to Defend filed
07/19/2022	Motion to continue granted.
01/19/2023	Trial

**Commission v. Conwell**

Case No. 050200086402022 (Misc.)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Subrogation action to recover losses for damage(s) to Commission property.

Status: Defendant has contacted Commission to arrange payment plan. Summons renewal filed.

Docket:

04/25/2022	Complaint filed
10/18/2022	Request for summons renewal filed.

**Commission v. Faulk**

Case No. 050200086392022 (Misc.)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Subrogation action to recover losses for damage(s) to Commission property.

Status: Summons renewal filed.

Docket:

04/25/2022	Complaint filed
10/18/2022	Request for summons renewal filed.

**CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**HMF Paving Contractors Inc. v. Maryland-National Park and Planning Commission**

Case No. 483255-V (CD)

Lead Counsel: Rupert  
Other Counsel: Mills (CCRC)

Abstract: Dispute over whether an allowance should be made, and additional monies paid regarding the measurement (and relative cost) of the retaining wall at Greenbriar Local Park.

Status: Amended Complaint for Judicial Review filed.

Docket:

08/25/2020	Complaint filed
11/01/2020	Commission served
11/25/2020	Motion to Dismiss

12/28/2020	Opposition to Motion to Dismiss
03/12/2021	Consent motion to postpone hearing and stay case.
03/15/2021	Order of Court. Matter stayed for 90 days.
10/20/2021	Order of Court. Matter stayed until January 10, 2022.
01/24/2022	Pre-Trial hearing statement filed
02/01/2022	Motion to Continue
02/18/2022	Order of Court. Motion Moot. Case has been placed on the Stay Docket.
08/05/2022	Amend Complaint/Petition for Judicial Review
09/06/2022	Notices of Intention to Participate filed by Commission and the CCRC
10/04/2022	Administrative Record received by Court

**CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**Antawan Williams, et al. v. Prince George's County Planning Board**

Case No. CAL 22-19650 (AALU)

Lead Counsel: Warner  
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-21056.

Status: Awaiting Petitioners' Memorandum.

Docket:

07/06/2022	Petition filed
07/27/2022	Notice mailed. Response to Petition and Certificate of Compliance filed
08/05/2022	Respondent/Applicant Notice to Participate filed
09/19/2022	Record and Transcript filed

**Brown v. City of Bowie, et al.**

Case No. CAL19-35931 (Tort)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Injuries resulting from an event at Trap and Skeet location owned by the Commission. Defendants include the individual who discharged a weapon, a volunteer assigned to the group that day and Shooting Stars Shotgun Sports, LLC, an entity that provides shooting instructors at that location.

Status: Awaiting trial.

Docket:

11/15/2019	Complaint filed
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01/27/2020	Defendant City of Bowie's Motion to Dismiss or in the Alternative for Summary Judgment
02/05/2020	Summons reissued for Commission
02/13/2020	Opposition to City of Bowie's Motion to Dismiss
02/26/2020	Defendant Daughtery's answer filed
03/13/2020	Commission served
04/08/2020	Commission's Answer filed
05/15/2020	Motions Hearing on City's Motion to Dismiss – continued due to pandemic
9/18/2020	Amended Complaint and Jury Trial
9/21/2020	Second Amended Complaint
9/24/2020	Hearing on Defendant City of Bowie's Motion to Dismiss and/or Summary Judgment. Motion to Dismiss is denied. Motion for Summary Judgment is granted based upon governmental immunity.
10/28/2020	Third Amended Complaint filed
12/08/2020	Answer to Complaint by Defendant Knode
02/16/2022	Status Conference Held
06/21/2023	Trial

**English-Figaro v. Planning Board of Prince George's County**  
Case No. CAL 22-25639 (AALU)

Lead Counsel: Warner  
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104.

Status: Pending filing of Record and Transcript.

Docket:

08/26/2022	Petition filed
08/31/2022	Amended Petition filed
09/19/2022	Notice mailed. Response to Petition and Certificate of Compliance filed.

**Fairwood Community Association, Inc. v. Prince George's County Planning Board**

Case No. CAL 22-26146 (AALU)

Lead Counsel: Warner  
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104.

Status: Response filed.

Docket:

08/29/2022	Petition filed
09/21/2022	Notice mailed. Response to Petition and Certificate of Compliance filed.
10/18/2022	Response to Petition for Judicial Review.

**Fricklas v. The Planning Board of Prince George's County**

Case No. CAL 22-23156(AALU)

Lead Counsel: Warner  
Other Counsel: Coleman

Abstract: Challenge to the Planning Board's approval of Preliminary Plan of Subdivision 4-21052 (Suffrage Point).

Status: Awaiting Petitioners' Memorandum.

Docket:

08/06/2022	Petition for Judicial Review filed.
09/02/2022	Notice Mailed. Certificate of Compliance filed
09/14/2022	Response to Petition, Amended Certificate of Compliance, and Motion to Dismiss filed
9/27/2022	#466 Werrlein WSSC Motion to Dismiss filed
10/26/2022	Record and Transcript filed

**Getnet v. Maryland-National Capital Park and Planning Commission**

Case No. CAL 20-13268(Tort)

Lead Counsel: Rupert  
Other Counsel: Johnson

Abstract: Tort suit for injuries allegedly sustained when visitor fell through decking at a historic property not owned by the Commission.

Status: In discovery.

Docket:

07/06/2020	Complaint filed
07/29/2020	Commission served
08/20/2020	Motion to Dismiss filed

09/10/2020	Amended Complaint
09/11/2020	Opposition to Motion to Dismiss
09/22/2020	Amended Complaint
10/09/2020	Answer filed.
11/02/2020	2 <sup>nd</sup> Amended Complaint filed
11/06/2020	Defendant Montgomery County's Motion to Dismiss 2 <sup>nd</sup> Amended Complaint
12/03/2020	Case dismissed as to Montgomery County only
03/04/2021	3 <sup>rd</sup> Amended Complaint filed
04/19/2021	Defendant/Cross-Plaintiff, Kadcon Corporation's Crossclaim against Defendants/Cross-Defendants filed
05/19/2021	Robert Stillman Associates Answer to 3 <sup>rd</sup> Amended Complaint and Crossclaim
05/19/2021	Bell Architects Answer to 3 <sup>rd</sup> Amended Complaint and Crossclaim
10/15/2021	Defendant Bell Architects, PC and Robert Silman Associates Motion to Dismiss Plaintiff's Third Amended Complaint
11/01/2021	Plaintiff's Opposition to Motion to Dismiss 3 <sup>rd</sup> Amended Complaint.
11/04/2021	Defendant/Cross-Plaintiff, Kadcon Corporation's Opposition to Defendants/Cross-Defendants, Bell Architects, PC, and Robert Silman Associates, PLLC's, Motion to Dismiss Plaintiff's Third Amended Complaint and Kadcon Corporation's Crossclaim, Request for Hearing and Supporting Memorandum
12/10/2021	Defendant Bell Architects, PC and Robert Silman Associates PLLC's Motion for Leave to file Reply Memorandum in Support of Motion to Dismiss Plaintiff's Third Amended Complaint
12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Motion for Leave to file Reply Memorandum in Support of Motion to Dismiss Kadcon Corporation's Crossclaim
12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Reply to Kadcon Corporation's Opposition to the Pending Motion to Dismiss
12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Reply to Plaintiff's Opposition to the Pending Motion to Dismiss
02/24/2022	Order of Court modifying scheduling order and setting trial for April 5, 2023.
04/08/2022	Motions Hearing
04/13/2022	Motion to Dismiss denied. Motion for Leave to File Reply Memorandum moot. Motion to Dismiss Third Amended Complaint denied.
04/06/2023	Trial

**Jackson v. Prince George's County Sports & Learning Complex**

Case No. CAL19-21516 (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Injury to a minor allegedly related to use of equipment at the Sports & Learning Complex.

Status: Case settled. Awaiting Notice of Dismissal.

Docket:

07/15/2019	Complaint filed
01/22/2020	Commission accepted service
01/27/2020	Complaint to be amended to reflect Commission as party.
02/04/2020	Amended Complaint filed
03/18/2020	Commission served
04/08/2020	Commission's answer filed.
08/09/2022	Case settled.
08/16/2022	Order of Court. Parties reached a tentative settlement, subject to administrative approval by defendant, M-NCPPC.

**King v. Commission**

Case No. CAL 19-30096 (WC)

Lead Counsel: Foster  
Other Counsel:

Abstract: Claimant seeks judicial review of an order from the Workers' Compensation Commission denying authorization for neck surgery.

Status: Awaiting trial.

Docket:

09/23/2019	Petition for Judicial Review filed
10/03/2019	Commission filed Response to Petition.
02/07/2022	Joint Motion for Continuance
03/18/2022	Order of Court. Trial continued
03/02/2023	Trial



**McGill v. Commission**  
Case No. CAL 21-08946 (WC)

Lead Counsel: Foster  
Other Counsel:

Abstract: Claimant seeks judicial review of Workers' Compensation Commission decision dated July 19, 2021, which determined he had not sustained an increase in permanent partial disability and denied further treatment.

Status: Case settled in principle. Awaiting WCC approval.

Docket:

08/03/2021	Petition for Judicial Review filed
08/16/2021	Commission filed Response to Petition
10/26/2022	Case settled prior to trial.

**Montague v. Newton White Mansion**  
Case No. CAL 20-05753 (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Claim related to slip and fall on ice at Newton White Mansion.

Status: Awaiting settlement papers and dismissal.

Docket:

02/13/2020	Complaint filed.
06/19/2020	Amended Complaint filed.
07/21/2020	Answer filed.
08/29/2022	Case settled.

**Robinson, et al. v. Prince George's County Planning Board, et al.**  
Case No. CAL 21-13945(AALU)

Lead Counsel: Warner  
Other Counsel:

Abstract: In relation to the development of a public K–8 middle school, Petitioners are challenging the Planning Board's decision to affirm the Planning Director's approval of a tree conservation plan, a revision of that tree conservation plan, and variances to the Woodland Conservation Ordinance that allowed removal of specimen trees. There is no statutory right to judicial review, and the petitioners cited no legal authority to petition the circuit court for judicial review. As a result, this may ultimately become a petition for a writ of mandamus under the administrative mandamus provisions of the Maryland Rules (7-401 to 7-403).

Status: Hearing Date Scheduled

Docket:

11/12/2021	Petition filed
01/05/2022	Commission's Motion to Dismiss filed
01/05/2022	Response to Petition filed by Planning Board
01/05/2022	Motion to Dismiss filed by Planning Board
01/06/2022	Response to Petition filed by Board of Education
01/21/2022	Opposition to Motion to Dismiss
01/27/2022	Memorandum in Support of Petition for Judicial Review
01/31/2022	Motion to Strike Petitioner's Memorandum in Support of Petition for Judicial Review
01/31/2022	Planning Board's Reply to Petitioners' Opposition to Respondent's Motion to Dismiss
02/14/2022	Opposition to Motion to Strike
02/14/2022	Petitioner's Motion to Supplement the Record
02/14/2022	Amended Memorandum in Support of Petition for Judicial Review
02/25/2022	Planning Board's Memorandum
03/16/2022	Reply Memorandum filed.
06/30/2022	Motions hearing held and taken under advisement
07/18/2022	Order of Court. Planning Board's Motion to Dismiss denied. Motion to Supplement the Record granted.
12/07/2022	Virtual Hearing Date.

**Troublefield v. Prince George's County, et al.**

Case No. CAL 22-12298 (Tort)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained while attending a graduation ceremony at Show Pace Arena.

Status: In discovery.

Docket:

04/11/2022	Complaint filed
04/27/2022	Commission served
05/09/2022	Stipulation/Line of Dismissal as to Prince George's County only
05/20/2022	Commission's Answer filed
11/14/2023	ADR
01/24/2024	Trial

**Walters v. Commission**

Case No. CAL22-01761 (Tort)

Lead Counsel: Johnson  
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained when minor was playing on playground equipment at Melwood Hills Community Park.

Status: In discovery. Motion to Dismiss pending.

Docket:

01/19/2022	Complaint filed
03/25/2022	Commission served
04/06/2022	Commission's answer filed.
10/20/2022	Motion to Dismiss filed.
05/09/2023	ADR
07/06/2023	Trial

**Wilmington Savings Fund Society v. Tomel Burke, Jr., et al.**

Case No. CAE20-11813 (Misc.)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Lawsuit to quiet title and extinguish the Commission's lien on property owned by Tomel Burke, judgment Debtor. Commission has yet to be properly served.

Status: Commission not yet served.

Docket:

04/24/2020	Complaint filed
04/05/2022	Motion for Default as to Commission filed
04/19/2022	Commission's Opposition to Plaintiff's Motion for Default
05/09/2022	Order of Court. Motion for Default as to Commission denied.

**Wolf, et al. v. Planning Board of Prince George's County**

Case No. CAL20-14895 (AALU)

Lead Counsel: Warner  
Other Counsel:

Abstract: Judicial Review of the Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-18001 (Magruder Pointe).

Status: Awaiting ruling.

Docket:

08/19/2020	Petition for Judicial Review filed.
09/29/2020	Notice of Intent to Participate
09/29/2020	Motion to Dismiss filed by Werrlein WSSC, LLC
10/13/2020	City of Hyattsville's Notice of Intent to Participate
10/19/2020	Response to Petition for Judicial Review
10/19/2020	Planning Board's Motion to Dismiss filed
10/27/2020	City of Hyattsville's Opposition to Motion to Dismiss filed
11/30/2020	Motion to Consolidate with cases CAL19-21492, City of Hyattsville v. Prince George's County District Council and CAL19-22819 Eisen v. Prince George's County District Council
12/28/2020	Opposition to Motion to Dismiss
03/03/2021	Motions hearing held. Taken under advisement.
06/15/2022	Order of Court. Motion to Dismiss denied.
06/20/2022	Memorandum in support of the Petition for Judicial Review filed
08/12/2022	Oral Arguments held.

**MARYLAND COURT OF SPECIAL APPEALS**

**6525 Belcrest Road, LLC v. Dewey, L.C., et al.**

Case No. CSA-REG-1632-2021 (AALU)

(Originally filed under CAE 20-11589 in Prince George’s County)

Lead Counsel: Rupert  
Other Counsel:

Abstract: Declaratory Judgment Action filed over a dispute involving a parking parcel. Plaintiff contends that Defendants have misconstrued prior approvals of the Planning Board regarding the need for parking in a manner that will harm their interests. Plaintiff seeks to enjoin the Planning Board from approving a Detailed Site Plan.

Status: COSA affirmed decision of Circuit Court in favor of Commission and Defendants.

Docket:

12/14/2021	Appeal filed.
02/28/2022	Briefing Notice issued
04/07/2022	Show cause issued as to Appellant and why matter should not be dismissed for failure to timely file record.
05/17/2022	Appellant’s Brief and Record Extract filed
09/09/2022	Oral argument held.
10/14/2022	Motion to Stay Issuance of Court’s Opinion
10/17/2022	Letter requesting that a copy of Motion be given to panel that heard oral argument.
10/25/2022	Order of Court. COSA affirmed decision of Circuit Court.

**Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board**

Case No. CSA-REG-1094-2022 (AALU)

(Originally filed under 487649-V in Montgomery County)

Lead Counsel: Mills  
Other Counsel:

Abstract: Appeal of decision affirming the Montgomery County Planning Board’s approval of Site Plan 820200160 – Creekside at Cabin Branch.

Status: Appeal filed.

Docket:

08/30/2022	Appeal filed
08/31/2022	Notice of Appeal issued by COSA
10/06/2022	Order to Proceed

**Izadjo v. Maryland-National Capital Park and Planning Commission**

Case No. CSA-REG 1795-2021 (ED)  
(Originally filed under 486280-V in Montgomery County)

Lead Counsel: Johnson  
Other Counsel:

Abstract: Izadjo appeals the decision of the Circuit Court affirming the decision of the Merit System Board denying appeal of his request for reclassification.

Status: Awaiting ruling.

Docket:

01/14/2022	Notice of Appeal to Court of Special Appeals
03/29/2022	Briefing Notice issued
05/19/2022	Appellant's Brief and Record Extract filed
06/17/2022	Commission's Brief filed
07/11/2022	Case to be decided without a hearing

**MARYLAND COURT OF APPEALS**

**Heard v. Maryland-National Capital Park and Planning Commission**

Case No. COA-PET-0214-2022 (AALU)  
(Originally filed under CAL 20-14095 in Prince George's County, CSA-REG-1563-2021)

Lead Counsel: Warner  
Other Counsel:

Abstract: Petition for Writ of Certiorari of the Court of Special Appeals decision affirming the Circuit Court's ruling that affirmed the Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-05068 and denial of March 31, 2020, request for document under the Maryland Public Information Act.

Status: Petition filed.

Docket:

09/05/2022	Petition for Writ of Certiorari
09/21/2022	Respondent Answer

**U.S. DISTRICT COURT OF MARYLAND**

**Evans v. Commission, et al.**

8:19-cv-02651 MJM (ED)

Lead Counsel: Levan  
Other Counsel: Foster

Abstract: Plaintiff, police lieutenant, filed a complaint against the Commission and four individual defendants, alleging discrimination, retaliation and assorted negligence and constitutional violations.

Status: In discovery.  
Docket:

09/11/2019	Complaint filed
10/23/2019	Notice of Intent to file Motion for More Definite Statement filed by Defendants Commission, McSwain, and Riley
10/24/2019	Notice of Intent to file Motion for More Definite Statement filed by J. Creed on behalf of Defendant Murphy
10/28/2019	Notice of Intent to File a Motion for More Definite Statement filed by attorney C. Bruce on behalf of Defendant Uhrig
11/26/2019	Status Report filed by Plaintiff agreeing to file Amended Complaint specifying against whom each claim is asserted and dates of alleged events.
12/10/2019	Amended Complaint filed.
12/23/2019	Notice of Intent to file a Motion to Dismiss filed by all defendants
01/09/2020	Order granting Plaintiff leave to file Amended Complaint
01/16/2020	Second Amended Complaint filed
02/14/2020	Joint Motion to Dismiss filed by all Defendants
03/20/2020	Opposition to Motion to Dismiss
03/20/2020	Motion for Leave to file Third Amended Complaint
03/20/2020	Third Amended Complaint
04/17/2020	Plaintiff's Reply to Defendants' joint Opposition to Plaintiff's Motion for Leave to file Third Amended Complaint.
05/07/2020	Order granting Motion for Leave to File Third Amended Complaint; denying as moot Defendants' Joint Motion to Dismiss; granting defendants leave to renew their Joint Motion to Dismiss by May 22, 2020.
06/05/2020	Joint Motion to Dismiss for Failure to State a Claim filed by Commission, McSwain, Murphy, Riley and Uhrig.
07/10/2020	Motion for Leave to File Excess Pages
07/16/2020	Order granting in part and denying in part Motion for Leave to file Excess Pages and directing the Plaintiff to file a brief by 7/23/2020
07/23/2020	Response in Opposition to Joint Motion to Dismiss for Failure to State a Claim

08/06/2020	Response to Motion for Leave to file Excess Pages.
08/06/2020	Reply to Opposition to Joint Motion to Dismiss.
11/13/2020	Defendants' Motion to Dismiss granted in part. Counts 4, 5, part of 6 and 7 -10, part of 11, and 12 dismissed. Counts, 1 -3, part of 6 and 11, 13 -15 will proceed at this stage. Defendants to file an answer to remaining claims.
11/27/2020	Answer filed.
01/11/2021	Order – Case referred to Magistrate Judge Timothy J. Sullivan generally and to Magistrate Judge Jillyn K. Schulze for mediation
01/15/2021	Joint Consent to Proceed before Magistrate
01/28/2021	Order of Court re mediation week of May 17, 2021.
07/26/2021	Commission's Motion for Protective Order.
08/09/2021	Plaintiff's Opposition to Motion for Protective Order.
08/23/2021	Commission's Reply to Opposition for Protective Order.
10/05/2021	Informal Discovery Dispute Resolution Conference was held with the Judge to resolve issues raised in the Motion for Protective Order and Opposition. An Order was issued resolving several matters and requiring additional disclosure of information and/or documents
01/14/2022	Notice of Intent to file a Motion for Summary Judgment filed by Defendants Murphy, Uhrig, McSwain, and Commission.
02/17/2022	Order of Court re scheduling order. Motion for Summary Judgment due April 8, 2022.
04/08/2022	Defendants' Joint Motion to Seal Exhibits Related to Defendants' Motion for Summary Judgment
04/08/2022	Defendants' Joint Motion for Summary Judgment and Supporting Memorandum of Law
04/20/2022	Response in Opposition to Motion to Seal Exhibits
05/03/2022	Reply to Response to Motion to Seal
06/09/2022	Consent Motion for Extension of Time to file Response to Defendants' Joint Motion for Summary Judgment
06/10/2022	Order of Court granting Consent Motion
06/14/2022	Second Motion for Extension of Time to file Response to Defendants' Joint Motion for Summary Judgment
06/14/2022	Order granting Second Motion for Extension of Time to File Response to Defendants' Joint Motion for Summary Judgment
07/15/2022	Plaintiff's Motion for Leave to File Excess Pages
07/15/2022	Opposition to Motion for Summary Judgment
07/18/2022	Defendants' Response in Opposition to Motion for Leave to File Excess Pages
07/18/2022	Plaintiff's Reply to Response in Opposition to Motion for Leave to File Excess Pages
07/19/2022	Order granting in part and denying in part Plaintiff's Motion for Leave to File in Excess of 35 pages.
07/21/2022	Defendant' Motion for Leave to File Excess Pages
07/21/2022	Order granting Defendants' Motion for Leave to File in Excess of 20 pages
07/25/2022	Defendants' Response to Motion to Seal Opposition to Motion for Summary Judgment



07/26/2022	Defendants Response in Opposition to Motion for Summary Judgment
09/30/2022	Reply to Plaintiff's Opposition to Summary Judgment
10/14/2022	Plaintiff's Moton seeking permission to file a Sur-Reply to Motion for Summary Judgment.
10/20/2022	Defendant's Notice of Intent to Strike

**Miles v. Commission, et al.**  
8:22-cv-00624-PJM (ED)

Lead Counsel: Rupert  
Other Counsel: Foster

Abstract: Plaintiff, police officer, filed a complaint against the Commission and individual defendant, alleging hostile work environment, discrimination, retaliation, and violations of 42 USC §1981, 42 USC §1983, Maryland Statutory violations, and County Code violations.

Status: Parties reached settlement in principle.  
Docket:

03/14/2022	Complaint filed
03/16/2022	Commission accepted service
03/23/2022	Waiver of the Service of Summons filed by Commission
04/29/2022	Case reassigned to Magistrate Judge Ajmel Ashen Quereshi
05/06/2022	Answer to Complaint filed by Commission
06/15/2022	Answer to Complaint Stephanie Harvey
06/28/2022	ORDER directing Stephanie Harvey to show cause for failure to comply with <u>Standing Order 2019-07</u> . Show Cause Hearing set for 7/29/2022
06/29/2022	Show Cause cancelled
07/13/2022	Scheduling Order issued
07/27/2022	Consent Motion for Extension of Time
09/13/2022	Order of Court – Stipulated Order of Confidentiality
09/23/2022	Consent Motion to Stay Scheduling Order
09/23/2022	Order granting in part the Consent Motion to Stay Scheduling Order and directing parties to file status reports
09/23/2022	Case stayed.
10/24/2022	Mediation held. Settled in principle.