



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

December 15, 2021

10:00 a.m. – 12:00 noon

*via teleconference
and live-streamed by*

**Department of Parks and
Recreation, Prince George's County**

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MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING AGENDA
Wednesday, December 15, 2021

Via videoconference live-streamed by
The Department of Parks and Recreation, Prince George’s County

10:00 a.m. – 12 noon

		<u>ACTION</u>	
		Motion	Second
1.	Approval of Commission Agenda (10:00 a.m.)	(+*)	Page 1
2.	Approval of Commission Minutes (10:05 a.m.)		
	a) Open Session – November 17, 2021	(+*)	Page 3
	b) Closed Session – November 17, 2021	(++*)	
3.	General Announcements (10:05 a.m.)		
	a) National Human Rights Month		
	b) National Drunk and Drugged Driving Prevention Month		
	c) Global AIDS Awareness Month		
	d) Ongoing Prince George’s County Department of Parks and Recreation Annual Winter Festival of Lights at Watkins Park		
	e) Ongoing Montgomery Parks Department Winter Garden Walk-Through Holiday Light Display at Brookside Gardens		
4.	Committee Minutes/Board Reports (For Information Only) (10:10 a.m.)		
	a) Executive Committee Meeting – Open Session – December 1, 2021	(+)	Page 7
	b) Executive Committee Meeting – Closed Session – December 1, 2021	(++)	
5.	Action and Presentation Items (10:10 a.m.)		
	a) Resolution 21-29 Approval of Great Seneca Science Corridor Minor Master Plan Amendment (Hill)	(+*)	Page 11
	b) Resolution 21-30 Approval of FY23 Proposed Operating and Capital Budgets (Kroll)	(+*)	LD
	c) Requested Commission-Wide Budget Transfers (Kroll)	(+*)	Page 19
	d) Amendments to Lobbying Disclosure Practice 5-61 (Gardner/Beckham)	(+*)	Page 21
	e) GFOA Budget Award (Kroll)	(+)	Page 37
	f) Actuarial Valuation Other Post-Employment Benefits (OPEB)/115 Trust (Cohen/Bolton)	(+)	Page 39
6.	Officers’ Reports (11:00 a.m.)		
	<u>Executive Director’s Report</u>		
	a) Late Evaluation Report, November 2021 (For Information Only)	(+)	Page 51
	<u>Secretary Treasurer</u>		
	No report for December		
	<u>General Counsel</u>		
	b) Litigation Report (For Information Only)	(+)	Page 53
	c) Legislative Update (Discussion Only)	(+)	

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7) & (9), a closed session is proposed to consult with counsel for legal advice and consider matters that relate to negotiation

- 7. **Closed Session (11:15 a.m.)**
 - a) CIO Quarterly Update (Chilet) (++)
 - b) Vaccination Disclosure Mandate for Return-to-Office Update (Chiang-Smith) (++)
 - c) Collective Bargaining Update (Chiang-Smith) (++)

(+) Attachment (++) Commissioners Only (*) Vote (H) Handout (LD) Late Delivery



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
Open Session Minutes
November 17, 2021

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

PRESENT

Prince George's County Commissioners

Elizabeth M. Hewlett, Chair
Dorothy Bailey
William Doerner

Montgomery County Commissioners

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

NOT PRESENT

Manuel Geraldo
A. Shuanise Washington

Chair Hewlett called the meeting to order at 10:11 a.m.

ITEM 1 APPROVAL OF COMMISSION AGENDA

No modifications

ACTION: Motion of Commissioner Bailey to approve the amended agenda
Seconded by Vice Chair Anderson
8 approved the motion

ITEM 2 APPROVAL OF COMMISSION MINUTES

Open Session – October 20, 2021

Closed Session – October 20, 2021

ACTION: Motion of Vice Chair Anderson to approve the minutes
Seconded by Commissioner Bailey
7 approved the motion
1 abstention (Rubin)

ITEM 3 GENERAL ANNOUNCEMENTS

- a) Thanksgiving & Employee Appreciation Day Holidays
- b) National American Indian Heritage Month
(Maryland American Indian Heritage Day Nov 2)
- c) American Lung Cancer Awareness Month & Pancreatic Cancer Awareness Month
- d) "Great American Smoke Out" Nov 18
- e) Bereaved Siblings Month
- f) Caregivers Month
- g) National Adoption Month
- h) Military Family Appreciation Month

- i) Upcoming Festival of Lights and Winter Garden Walkthrough in Prince George’s and Montgomery Counties
- j) Diversity Council Openings for 2022
- k) No-Shave November – highlighting the need to focus on Men’s Care
- k) Chair Hewlett introduced and welcomed Commissioner Carol Rubin as a member of the Montgomery County Planning Board and the M-NCPPC. She acknowledged Commissioner Rubin’s hard work in the agency’s Office of the General Counsel and lead role in the M-NCPPC’s response to the Managed Lanes Project.

ITEM 4 COMMITTEE MINUTES/BOARD REPORTS (For Information Only)

- a) Executive Committee Meeting – Open Session, November 3, 2021
- b) Executive Committee Meeting – Closed Session, November 3, 2021
- c) Employees’ Retirement System Board of Trustees Regular Meeting, September 14, 2021

ITEM 5 ACTION AND PRESENTATION ITEMS

- a) Resolution 21-25 Land Exchange and Mitigation between M-NCPPC and PGCPs for Construction of Middle School at Glenridge Park (Sun)

No discussion.

ACTION: Motion of Vice Chair Anderson to adopt Resolution 21-25

Seconded by Commissioner Rubin

8 approved the motion

- b) Resolution 21-26 ERS Employer Contribution (Rose/Cheiron)

Employee Retirement System Administrator Andrea Rose introduced the actuaries from Cheiron, Patrick Nelson, and Janet Cranna, to present their report included in the packet and request the Commission approve the recommended employer contribution of \$25,682,999 for fiscal year 2023 to the M-NCPPC Employees’ Retirement System.

Mr. Nelson and Ms. Cranna provided historical perspectives and future projections of the actuarial evaluation, and compared the last year’s assumptions against collected data and changes to projected demographic and economic liabilities to support their final recommendation.

ACTION: Motion of Commissioner Bailey to adopt Resolution 21-26

Seconded by Vice Chair Anderson

7 approved the motion

1 abstention (Rubin)

- c) Resolution 21-27 Resolution of Appreciation for Joseph Zimmerman (Hewlett)

Chair Hewlett read from the Resolution honoring departing Secretary-Treasurer Joseph C. Zimmerman. She thanked him for his service, his wit, his dedication, and his integrity. She thanked him for his service on the Employees’ Retirement System Board of Trustees on his dedication to safeguarding employees’ retirement funds.

Secretary-Treasurer Zimmerman thanked everyone for the opportunity and experience for the past 11 years, and appreciated the chance to work with his successor, Mr. Gavin Cohen during the transition.

ACTION: Motion of Commissioner Cichy to adopt Resolution 21-27
Seconded by Commissioner Bailey
8 approved the motion

- d) Resolution 21-28 Appointment of Secretary-Treasurer Gavin Cohen (Hewlett)
Chair Hewlett introduced Mr. Gavin Cohen as the incoming Secretary-Treasurer. She remarked on Mr. Cohen's experience working for the city of Rockville, and said she is very happy to have him join the agency. She welcomed Mr. Cohen to the M-NCPPC, to serve its employees, its retirees, and its residents.

Mr. Cohen shared his excitement to interact with and meet the Commissioners, Department Heads, and looks forward to engaging with staff.

ACTION: Motion of Vice Chair Anderson to adopt Resolution 21-28
Seconded by Commissioner Bailey
8 approved the motion

- e) GFOA Award for CAFR/ACFR (Zimmerman)
Chair Hewlett congratulated Secretary Treasurer Zimmerman on the 47th award from the Government Finance Officers' Association's Award of Excellence for the M-NCPPC's Comprehensive Annual Financial Report. Secretary-Treasurer Zimmerman thanked his teams for producing another excellent report.

ITEM 6

OFFICERS' REPORTS

Executive Director's Report

- a) Late Evaluation Report (October 2021) (For information only)

Secretary Treasurer's Report

- b) 1st Quarter Investment Report (For information only)

General Counsel's Report

- c) Litigation Report (For information only)

CLOSED SESSION DISCLOSURE

Proposal for a Closed Session Stated in Meeting Agenda

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7) and (9), a closed session is proposed to consult with counsel to consult with counsel for legal advice, consider matters that relate to negotiation.

Chair Hewlett noted the agenda, read the applicable provisions of the Open Meetings Act and asked for a motion to move to closed session. Commissioner Bailey moved; Vice Chair Anderson seconded. All 8 Commissioners in attendance voted for the measure and the meeting moved to closed session at 11:12 a.m. The meeting reconvened in a separate virtual meeting platform and the following topics were discussed: (1) status of employee vaccination policies, trends and disputes, (2) related collective bargaining issues, and (3) related legal issues.

The following individuals were present:

Prince George's County Commissioners

Elizabeth M. Hewlett, Chair
Dorothy Bailey
William Doerner

Montgomery County Commissioners

Casey Anderson, Vice-Chair
Gerald Cichy
Tina Patterson (departed 12:39)
Carol Rubin
Partap Verma

NOT PRESENT

Manuel Geraldo
A. Shuanise Washington

Also present (by videoconference):

Asuntha Chiang-Smith, Executive Director
Joe Zimmerman, Secretary-Treasurer
Adrian Gardner, General Counsel
Andree Checkley, Director, Prince George's Planning
Mike Riley, Director, Montgomery Parks
Bill Tyler, Director, Prince George's Parks and Recreation
Gwen Wright, Director, Montgomery County Planning
Gavin Cohen, Secretary-Treasurer (Dec 1, 2021)
James Adams, Senior Technical Writer
Craig Ballew, Labor Counsel
Michael Beckham, Acting Corporate Policy and Management Operations (CPMO) Director
Derick Berlage, Deputy Director, Prince George's Planning
Debra Borden, Deputy General Counsel
Steve Carter, Deputy Director, Prince George's Parks and Recreation
Miti Figueredo, Deputy Director, Montgomery Parks
Christian Gabriel, Deputy Director, Prince George's Parks and Recreation
Suzann King, Deputy Director, Prince George's Planning
John Kroll, Corporate Budget Director
John Nissel, Deputy Director, Montgomery Parks
William Spencer, Corporate Human Resources Director
Tanya Stern, Deputy Director, Montgomery Planning

The Commission took the following actions:

- Provided additional direction to legal counsel and staff relating to COVID-19 policies for various represented and non-represented employees.

There being no further business to discuss, Chair Hewlett adjourned the meeting at 12:53 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
December 1, 2021

On December 1, 2021, the Maryland-National Capital Park and Planning Commission’s Executive Committee met via teleconference. Present were Chair Elizabeth M. Hewlett, Vice-Chair Casey Anderson, and Executive Director Asuntha Chiang-Smith. Also present were:

Department Heads

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

Presenters/Staff

- Areaya Abebe, Acting Corporate Policy Manager
- James Adams, Senior Technical Writer
- Michael Beckham, Acting Corporate Policy and Management Operations (CPMO) Director
- Debra Borden, Deputy General Counsel
- Mazen Chilet, Chief Information Officer
- Michael Doaks, Policy Analyst, CPMO
- John Kroll, Corporate Budget Director
- William Spencer, Corporate Human Resources (CHR) Director

Chair Hewlett convened the meeting at 10:05 a.m.

ITEM 1a – APPROVAL OF EXECUTIVE COMMITTEE AGENDA

Discussion	No Discussion
ACTION	Chair Hewlett moved to pass all agendas (Commission Meeting agenda amended below). Vice Chair Anderson seconded. All agendas passed.

ITEM 1b – APPROVAL OF COMMISSION MEETING AGENDA for December 15, 2021

Discussion	Executive Director Chiang-Smith asked to move the CIO’s quarterly report into Closed Session.
ACTION/Follow-up	See item 1a. Passed as amended.

ITEM 1c – ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS

Discussion	No Discussion
ACTION/Follow-up	See item 1a

ITEM 2 – EXECUTIVE COMMITTEE MEETING MINUTES

Discussion	November 3, 2021 Open Session November 3, 2021 Closed Session
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ACTION	Chair Hewlett moved to approve the minutes; Vice Chair Anderson seconded. Approved unanimously.
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ITEM 3 – DISCUSSION/PRESENTATION ITEMS

Discussion	<p><u>3a. Amendments to Lobbying Disclosure Practice 5-61 (Gardner/Beckham/Abebe)</u></p> <p>Acting CPMO Director Beckham requested Executive Committee feedback on proposed changes to the Practice, in order to bring the amendments to the Commission for approval in December. Acting CPMO Director Beckham shared background on the practice and General Counsel Gardner explained the impetus for moving forward on an accelerated time frame.</p> <p>General Counsel Gardner said the purpose of the amendments were to address and be in compliance with the State law on lobbying while simplifying requirements in the Practice.</p> <p>Acting Corporate Policy Manager Abebe listed changes that were shared with Department Heads, including:</p> <ul style="list-style-type: none"> • Definitions • Who must register as a lobbyist, including <i>de minimis</i> spending thresholds • Contingent Compensation • Training of Lobbyists • Agency Reporting • Public Inspection of Lobbyist Records <p>General Counsel Gardner said these are material changes to be consistent with the State Law.</p> <p>Vice Chair Anderson asked how lobbyists will be notified that they have to register. General Counsel Gardner said there is a lot of implementation that will need to be developed by the departments’ communications managers. He suggested including sign-up links next to the Planning Board sign-up sheets to make it easy for people. He added once the amended policy is adopted, there will be an education campaign/notice for persons of record.</p> <p>Vice Chair Anderson suggested tying it to the planning board sign up to testify to capture the greatest number of people—saying it would be easy, there will be no charge, and it will require only basic facts to see if the person passes the <i>de minimis</i> thresholds for registration. Director Wright cautioned that requiring every individual to register, regardless of meeting certain <i>de minimis</i> thresholds, may generate blowback from the general public. General Counsel Gardner added each department will also need to look into those individuals who may pass the lobbying threshold.</p> <p>Chair Hewlett asked how other agencies learn they have lobbyists. General Counsel Gardner said the responsibility of registering is on the lobbyist and agreed having everyone register would capture or identify the most people, but asked the Executive Committee to consider whether they want to go this route.</p> <p>Acting CPMO Director Beckham asked for Executive Committee input on three discussion items:</p>
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	<p>1. Whether to charge lobbyists a registration fee. The Department Heads' recommendation was to not charge a registration fee. He noted Department Heads were open to revisiting a registration fee after the agency settles into compliance with the updated practice. The Executive Committee agreed.</p> <p>2. Frequency of reporting. Department Heads recommended an annual report. The Executive Committee agreed.</p> <p>3. Late fees for late activity report. Department Heads recommended against charging a late activity report fee. Executive Director Chiang-Smith suggested adding language to say "we may" as opposed to "we shall" assess the late fee. The Executive Committee agreed.</p>
ACTION/follow-up	The Executive Committee agreed with recommendations and to move the policy to the Commission in December for approval, after the submission of other comments, requested by the end of the week.
Discussion	<p><u>3b. Notice 21-08-A1 Administrative Leave to Recover from COVID-19 Booster Shot (Beckham)</u></p> <p>Acting CPMO Director Beckham requested Executive Committee support to provide Administrative Leave for non-represented Merit and Term employees to recover from the side effects of the COVID-19 booster shot (as the agency did with the vaccine itself for non-represented Merit, FOP represented, and term employees). This Administrative Leave would only be for the calendar day following receipt of the booster. He noted Department Heads supported the leave, as described.</p>
ACTION/Follow-up	Chair Hewlett moved approval; Executive Director Chiang-Smith seconded. Motion approved unanimously.
Discussion	<p><u>3c. Report on Tuition Assistance Program (Beckham/Doaks)</u></p> <p>Acting CPMO Director Beckham introduced Policy Analyst Mike Doaks to present the report requested by the Executive Committee in November on the use of the Tuition Assistance Program.</p> <p>Mr. Doaks presented the information as included in the packet.</p> <p>Chair Hewlett thanked Mr. Beckham and Mr. Doaks for sharing the information and reiterated her support for the Tuition Assistance Program.</p>
ACTION/Follow-up	
Discussion	<p><u>3d. October 2021 Investment Report (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) (7) & (9), a closed session is proposed to consult with counsel for legal advice and consider matters that relate to negotiation.

Chair Hewlett motioned for the meeting to move into Closed Session at 11:02 a.m. Vice-Chair Anderson seconded. Motion approved unanimously.

With no further business to discuss, the meeting adjourned from Closed Session at 12:06 p.m.



James F. Adams, Senior Technical Writer



Asuntha Chiang-Smith, Executive Director

Montgomery Planning

RESOLUTION OF ADOPTION OF THE GREAT SENECA SCIENCE
CORRIDOR MINOR MASTER PLAN AMENDMENT



Great Seneca Science Corridor
MINOR MASTER PLAN AMENDMENT

Description

The Great Seneca Science Corridor Minor Master Plan Amendment is an Amendment to the 2010 Great Seneca Science Corridor Master Plan (2010 Plan). The amendment revisits the 30-year vision established in the 2010 Plan and offers recommendations to support the Life Sciences Center, a crucial life sciences hub, and further the economic health of the county.

MH

Maren Hill, Planner Coordinator, Midcounty Planning, maren.hill@montgomeryplanning.org, 301-650-5613

JM

Jessica McVary, Supervisor, Midcounty Planning, jessica.mcvary@montgomeryplanning.org, 301-495-4723

CS

Carrie Sanders, Chief, Midcounty Planning, carrie.sanders@montgomeryplanning.org, 301-495-4653

SUMMARY

- Attached for your review and approval is the M-NCPPC Resolution No. 21-29 to adopt the Great Seneca Science Corridor Minor Master Plan Amendment. The Montgomery County Council, sitting as the District Council, approved the Great Seneca Science Corridor Minor Master Plan Amendment by Resolution Number 21-052 on November 9, 2021.

MASTER PLAN INFORMATION

Draft

Resolution of Adoption

Date

December 15, 2021

Lead Planner

Maren Hill

Planning Division

Midcounty

Staff Contact

Maren.hill@montgomeryplanning.org

301-650-5613

RECOMMENDATION AND SUMMARY

Staff Recommendation

Approve the Resolution of Adoption.

Summary

Attached for your review and approval is the M-NCPPC Resolution No. 21-29 to adopt the Great Seneca Science Corridor Minor Master Plan Amendment. The Montgomery County Council, sitting as the District Council, approved the Great Seneca Science Corridor Minor Master Plan Amendment by Resolution Number 21-052 on November 9, 2021.

Attachments

1. Montgomery County Planning Board Resolution No. 21-128; M-NCPPC Resolution No. 21-29
2. Montgomery County Council Resolution No. 19-1053



MCPB No. 21-128
M-NCPPC NO. 21-29

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission, by virtue of the Land Use Article of the Annotated Code of Maryland, is authorized and empowered, from time to time, to make and adopt, amend, extend and add to *The General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District Within Montgomery and Prince George's Counties*; and

WHEREAS, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, pursuant to procedures set forth in the Montgomery County Code, Chapter 33A, held a duly advertised public hearing on June 3, 2021 on the Public Hearing Draft Great Seneca Science Corridor Minor Master Plan Amendment, being also an amendment to portions of the approved and adopted 2010 *Great Seneca Science Corridor Master Plan*; and *The General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District Within Montgomery and Prince George's Counties*, as amended.

WHEREAS, the Montgomery County Planning Board, after said public hearing and due deliberation and consideration, on July 1, 2021, approved the Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment, recommended that it be approved by the District Council, and forwarded it to the County Executive for recommendations and analysis; and

WHEREAS, the Montgomery County Council sitting as the District Council for the portion of the Maryland-Washington Regional District lying within Montgomery County, held a public hearing on October 19, 2021, wherein testimony was received concerning the Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment; and

WHEREAS, the District Council, on November 9, 2021 approved the Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment subject to the modifications and revisions set forth in Resolution No. 19-1053.

NOW, THEREFORE BE IT RESOLVED, that the Montgomery County Planning Board and The Maryland-National Capital Park and Planning Commission do hereby adopt the said Great Seneca Science Corridor Minor Master Plan Amendment, together with the *General Plan for the Physical Development of the Maryland-Washington Regional District within Montgomery and Prince George's Counties*, as amended, and as approved by the District Council in the attached Resolution No. 19-1053; and

Approved as to
Legal Sufficiency: /s/ Matthew T. Mills
M-NCPPC Legal Department

BE IT FURTHER RESOLVED, that copies of said Amendment must be certified by The Maryland-National Capital Park and Planning Commission and filed with the Clerk of the Circuit Court of each of Montgomery and Prince George's Counties, as required by law.

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Rubin, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Cichy, Patterson, and Rubin voting in favor of the motion, and Commissioner Verma absent at its regular meeting held on Thursday, December 2, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

Resolution No.: 19-1053
Introduced: November 9, 2021
Adopted: November 9, 2021

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of the August 2021 Great Seneca Science Corridor Minor Master Plan Amendment

1. On August 9, 2021, the Montgomery County Planning Board transmitted to the County Executive and the County Council the August 2021 Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment.
2. The August 2021 Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment contains the text and supporting maps for an amendment to portions of the Approved and Adopted 2010 Great Seneca Science Corridor Master Plan. It also amends The General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District in Montgomery and Prince George’s Counties, as amended.
3. On October 19, 2021, the County Council held a virtual public hearing on the August 2021 Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment. The Minor Master Plan Amendment was referred to the Council’s Planning, Housing, and Economic Development Committee for review and recommendations.
4. On November 1, 2021, the Planning, Housing, and Economic Development Committee held a worksession to review the issues raised in connection with the Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment.
5. On November 9, 2021, the County Council reviewed the Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment and the recommendations of the Planning, Housing, and Economic Development Committee.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment, dated August 2021, is approved with revisions. County Council revisions to the Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment are identified below. Additions to the text of the Plan are indicated by underscoring. All page references are to the August 2021 Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment.

Page 3: Modify the first bulleted recommendation under “Recommendations” as follows:

- Create an interim stage, between Stage 1 and Stage 2, that shifts 400,000 square feet of non-residential development from Stage 2 to this interim stage. Release 400,000 square feet of non-residential development capacity immediately through this interim stage. The 400,000 square feet of non-residential development capacity is limited to the LSC North, LSC Central, and LSC South districts. New development capacity allocations through this interim stage are prohibited in the LSC West and LSC Belward Districts. The additional capacity of 400,000 square feet is only available for non-residential development and is not eligible for conversion to residential development under the staging requirements.

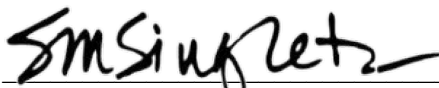
Page 30: Modify the first bulleted recommendation under “Recommendations” as follows:

- Create an interim stage, between Stage 1 and Stage 2, that shifts 400,000 square feet of non-residential development from Stage 2 to this interim stage. Release 400,000 square feet of non-residential development capacity immediately through this interim stage. The 400,000 square feet of non-residential development capacity is limited to the LSC North, LSC Central, and LSC South districts. New development capacity allocations through this interim stage are prohibited in the LSC West and LSC Belward Districts. The additional capacity of 400,000 square feet is only available for non-residential development and is not eligible for conversion to residential capacity under the staging requirements.

General

All illustrations and tables included in the Plan will be revised to reflect the District Council changes to the Planning Board Draft Great Seneca Science Corridor Minor Master Plan Amendment (August 2021). The text and graphics will be revised as necessary to achieve and improve clarity and consistency, to update factual information, and to convey the actions of the District Council. Graphics and tables will be revised and re-numbered, where necessary, to be consistent with the text and titles.

This is a correct copy of Council action.



Selena Mendy Singleton, Esq.
Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

TO: Commissioners

FROM: John Kroll, Corporate Budget Director *JRK*

DATE: December 15, 2021

SUBJECT: Requested Commission-wide Budget Transfers

Three Commission-wide budget transfers are requested.

- \$40,000 for succession planning initial implementation and training assessment across the Commission.
- \$330,000 for the completion of the class and compensation study.

Both of these will be funded from remaining compensation marker budgeted in the Non-Departmental sections of the Administration, Park and Recreation Funds. Both of these were agreed upon by the departments. The allocation for the succession planning study was based on the size of the department; the allocation for the class and comp study were based on the number of affected positions in each department remaining to be addressed.

- \$439,422 for the Microsoft License annual renewal.

This will be funded from savings identified by each affected department. This license renewal occurs every three years, and at that time Microsoft adds to the renewal amount any additional licenses the departments have entered into in the interim. As licenses are added throughout the year by departments due to operational needs, the CIO's office is unable to anticipate the specific number of additional licenses in advance of budget development, resulting in insufficient funding in the CWIT budget for FY22 to cover the renewal amount. This was discussed at a recent IT Council meeting and the departments agreed to pick up their share of the additional license cost for their departments, after applying any prior year license savings.

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
6611 Kenilworth Avenue • Riverdale, Maryland 20737

December 15, 2021

To: The Commission

From: Adrian Gardner, General Counsel
Tracey Harvin, Senior Counsel
Michael Beckham, Acting Corporate Policy and Management Operations Director
Areaya Abebe, Acting Corporate Policy and Management Operations Manager

Subject: Proposed Amendments to Administrative Practice 5-61, Lobbying Disclosure

REQUESTED ACTION

The Commission is asked to review and consider proposed amendments to Administrative Practice 5-61, Lobbying Disclosure (Attachment A). This policy establishes when certain individuals and entities must register and file activity reports with the agency when money is spent, or expenses are incurred, to influence a Commission Action.

Commission Actions can include any executive, administrative, quasi-legislative, quasi-judicial, advisory, or adjudicatory action taken formally by the full Commission, the Planning Boards, or other officials. More specifically, these can include authorizing grants, awarding procurement contracts, adopting resolutions or policies, making recommendations for the General Plan, and making decisions on site plans.

Proposed amendments were shared with Department Heads at their November 23, 2021 meeting and with the Executive Committee at their December 1, 2021 meeting. Feedback from Departments is reflected in Attachment B, as well as noted below in the summary of proposed changes. With the Commission's input and support, proposed updates to the policy will be finalized and promulgated.

BACKGROUND

This Practice was originally approved by the Commission in 1983 to establish the agency's Lobbying Disclosure policy and was last revised in 1985.

Proposed amendments to the policy were shared with Department Heads and the Executive Committee in the latter half of 2019, at which time the Executive Committee requested that the Legal Department (i) help provide guidance to the agency regarding what Lobbying includes and does not include, as well as, (ii) work with the Policy Office on any further clarifications or changes needed to the policy.

The Policy team has subsequently worked with Legal on proposed changes, as described below.

SUMMARY OF PROPOSED CHANGES

The Maryland Public Ethics Law requires the agency to develop Lobbying disclosure standards that are “similar to the provisions” applicable to those who Lobby the State legislature and executive branches. Therefore, proposed changes seek to simplify the core elements of the policy while updating it and meeting this standard.

1. Definitions

The following changes have been made to the definitions within the policy:

- a. Lobbyist – Revised the definition of Lobbyist to mean any individual engaged in Lobbying.
- b. Compensation - Added to the definition section.
- c. Lobbying – Added to the definition section.
- d. Commission Action – Added to the definition section.
- e. Grassroots Lobbying Activity – Added to definition section.
- f. Individual or entity – Added to the definition section.
- g. Legislative or Quasi-Legislative – Removed from the definition section and incorporated into “Commission Action”.

2. Who Must Register

The revised policy casts a wider net on who must register with the agency, and reflects that a Lobbyist (i.e., any individual or entity who seeks to influence a Commission Action for Compensation) is required to register unless the Lobbyist: (#1) qualifies for an exemption, or (#2) does not exceed certain *de minimis* spending thresholds.

a. For qualifying exemptions (#1):

The draft policy is revised to more closely mirror the qualifying exemptions found in the Maryland Public Ethics Law and clarify the provision. The individuals/entities and related activities not previously covered which qualify for exemptions now include:

1. Certain Architects and Engineers who communicate with the agency representing a client in the adjudication of a particular land use application.
2. Educational Purposes where an individual or entity is a student or educator Lobbying as part of a course or student activity undertaken by a school or student organization.
3. Sales People who are bona fide sales agents promoting the sale of goods or services for a commercial entity.

4. Certain Public Interest Organizations where the individual or entity is a news organization, religious entity, or non-profit educational institution and is not attempting to influence a Commission Action related to the regulation of its property or interest.
5. Certain Attorneys who communicate with the agency exclusively on the records during an official hearing or meeting open to the public.
6. Personal Communications when limited to those with a Commission official or employee and when acting in the individual or entity's personal capacity for providing personal legal advice or professional services, or other reason not involving a Commission Action.
7. Hiring Third-Party Lobbyists where an individual or entity hires a third party to engage in Lobbying on its behalf.

Note: One exemption that is present in the Public Ethics Law that is not included is a carveout for Lobbying for small procurement transactions reasonably estimated to have a value under \$100,000.

b. For the certain *de minimis* spending thresholds:

The draft policy expands the types of financial exchanges which trigger a Lobbyist to register and adjust minimum thresholds that require registration. An individual or entity is required to register with the agency when, for the purposes of influencing a Commission Action, they:

1. Receive \$2,500 or more in compensation.
*Currently \$500 in the Practice; and \$5,000 in the State law.
2. Pay or incur more than \$2,500 in Compensation to one or more third-party.
*Currently \$500 in the Practice; the revised amount mirrors the State law.
3. Pay or incur \$1,000 or more for grassroots Lobbying.
*Currently \$2,000 in the Practice and in State law.
4. Pay or incur \$100 or more for gifts.
*Currently \$100 in the Practice and in State law.
5. Pay or incur \$500 or more for miscellaneous expenses.
*This includes paying or incurring postage expenses, which exists in the current practice with a threshold of \$2,000. Currently \$2,000 in State law.

3. How and When to Register

This section is amended to provide that every individual or entity required to register with the agency must do so no later than five (5) days after meeting the policy's registration requirements.

Additionally, while several jurisdictions charge a registration fee, the draft incorporates Department Head and Executive Committee input to not charge a registration fee to Lobbyists.

4. Contingent Compensation

This section is added to reflect that an individual or entity must not pay another a fee that is dependent upon whether a Commission Action is successful or defeated.

5. Reports to the Agency

a. Frequency of Activity Report Filing: This section reflects Department Head and Executive Committee input to maintain the status quo requirement for filing annual activity reports—unlike the State and several surrounding jurisdictions which require filing twice yearly.

b. Late Activity Report Fees: Although there was some discussion among Department Heads and the Executive Committee on charging a late activity report fee, the draft reflects the Executive Committee’s recommendation to provide that the agency may charge a late fee—if needed for enforcement after implementation. Department Heads recommended not charging a late activity report fee and revisiting the idea in a couple years after implementing the policy update.

6. Training

This section is added to require that a Lobbyist must complete the agency’s Lobbying training course within six months of registration, and every two years thereafter.

7. Agency Reporting

This section is added to reflect the Executive Director will submit a copy of the Practice to the Maryland State Ethics Commission. Additionally, the Executive Director will submit an annual report on Lobbying to the Chief Administrative Officer of Montgomery County and Prince George’s County each year and publish the report on the agency’s website.

8. Public Inspection of Lobbyist Records

This section is added to reflect the agency must maintain all required documents pertaining to the Practice and make them available to the public for inspection and copying. In providing copies, the agency may charge fees consistent with the Maryland Public Information Act (See: Maryland Public Information Act, Art. § 4-205, Annotated Code of Maryland).

Attachments

A: Proposed Amendments to Administrative Practice 5-61, Lobbyist Disclosure

B: Analysis of Comments Submitted for Proposed Amendments to Practice 5-61, Lobbyist Disclosure

**PROPOSED AMENDMENTS TO ADMINISTRATIVE PRACTICE 5-61,
LOBBYING DISCLOSURE**

Key to Revisions:

Shaded: Recommended additions

~~Strikeout~~: Recommended deletions***Bold Italicized***: Comments regarding proposed amendments**AUTHORITY**

This practice was approved by the Commission November 9, 1983, and ~~last~~ revised (date TBA) ~~June 12, 1985~~ by the [governing body to be inserted].

APPLICATION

This Practice applies to all individuals or groups who Lobby Commissioners and ~~appointees,~~ or employees (including appointees) of the Maryland-National Capital Park and Planning Commission for the purpose of influencing any legislative, quasi-legislative, or executive actions of the Commission, the Planning Boards, ~~the Merit System Board, or the~~ as well as agency employees in the performance of legislative or quasi-legislative functions. Lobbying provisions applicable to the Merit System Board may be found in the Board's Rules of Procedures. (***Note to Draft Reviewer***: This section was moved from its previous placement to standardize with layout of agency policies.)

**PURPOSE AND
BACKGROUND**

To ~~ensure~~ assure that Lobbying the Maryland-National Capital Park and Planning Commission, the Montgomery County Planning Board, the Prince George's County Planning Board, ~~or the Merit System,~~ for the purpose of influencing any legislative, quasi-legislative, or executive action ~~of theirs,~~ does not violate ethical norms or ~~and~~ erode the highest trust placed by the public in Commissioners, appointees, and employees of the Commission.

Subsequent to the initial adoption, the Practice has been amended as follows:

- June 12, 1985: Revised to reflect the Practice applies to Lobbying appointees and the Merit System Board; clarify lobbying applies to attempting to influence legislative or quasi-legislative actions; and add definitions for legislative or quasi-legislative functions.
- [Date TBA]: Revised to update definitions and references; clarify Lobbyist registration requirements and exemptions; add provisions for reports to the Chief Administrative Officers of Montgomery County and Prince George's County; add training requirement; and add reference to public inspections of Lobbyist records; and reflect Lobbying provisions applicable to the Merit System Board may be found in the Board's Rules of Procedures.

REFERENCES

- Maryland Public Ethics Law, General Provisions Article, Title 5, ~~40-A, §6-302,~~ Annotated Code of Maryland, ~~requires the Maryland National Capital Park and Planning Commission to develop a lobbying disclosure policy.~~ (***Note to Draft Reviewer***: This

1 section was moved from its previous placement to standardize layout of agency
2 policies.)

- 3
- 4 • ~~Article 28, §2-115, Annotated Code of Maryland.~~ (**Note to Draft Reviewer:** Deleted,
5 as the Conflict of Interest provision is now located within Title 5 of the General
6 Provisions Article, Maryland Public Ethics Law, referenced above.)
- 7
- 8 • Merit System Rules and Regulations, Chapter 1800, Political Activities
- 9
- 10 • M-NCPPC Notice 14-04, Employee Conduct with Respect to Political Activities
- 11
- 12 • M-NCPPC Administrative Practices addressing gifts, including, but not limited to:
13 * ~~Various Commission Practices and Merit Rules prohibit the acceptance of gifts in the~~
14 ~~course of Commission business by Commissioners or employees. See: Practices 2-72~~
15 ~~and 4-10 and Merit Rules 1625 and 1629.~~ (**Note to Draft Reviewer:** Content moved from
16 previous footnote and incorporated here in the References Section.)
 - 17
 - 18 ○ Practice 2-24, Ethics
 - 19
 - 20 ○ Practice 2-72, Conditions for Acceptance of Awards from Outside the Commission
 - 21
 - 22 ○ Practice 4-10, Purchasing Policy
 - 23

24 DEFINITIONS

25 For the purpose of this practice the following words are defined:

26 **Commission:** Means the Maryland-National Capital Park and Planning Commission (“M-
27 NCPPC” or “agency”).

28

29 **Compensation:** Means the payment or, if earlier, the accrual of an obligation to pay, any
30 salaries, fees and the actual cost of fringe benefits reasonably allocable in exchange for
31 Lobbying activities undertaken by any employee, contractual employee, consultant or other
32 independent third-party contractor of any nature.

33

34 **Commission Action:** Means any executive, administrative, quasi-legislative, quasi-judicial,
35 advisory, or adjudicatory action taken formally by the Commission, the Planning Boards, an
36 officer or other official so designated by the Commission. Commission Actions include:

- 37
- 38 a) Authorizing a grant, credit, or other subsidy from the Commission,
- 39
- 40 b) Awarding a procurement contract,
- 41
- 42 c) Preparing and adopting resolutions, rules, and regulations, and policies to direct the
43 operation of the Commission, the Planning Boards, and other agency functions,

1
2 d) Making recommendations for the General Plan, county sector or small area plan
3 approvals, zoning text amendments, revisions to the subdivision regulations, as well
4 as sectional and area map amendments, and

5
6 e) Decisions on preliminary plans of subdivisions and site plan applications.
7

8 **Grassroots Lobbying Activity:** Means hiring or engaging one or more third parties for the
9 express purpose of soliciting others to communicate with a Commission official or employee
10 to influence a Commission Action.

11
12 **Individual or entity:** Means any person, organization, unincorporated association, or other
13 legal entity.

14
15 **Lobbying:** Means any communication undertaken for compensation that is directed to a
16 member or employee of the Commission for the purpose of directly or indirectly influencing
17 any Commission Action, including any Grassroots Lobbying Activity.

18
19 **Lobbyist:** Means any individual or entity that engages in any Lobbying or hires a third-party
20 to engage in Lobbying.

21
22 ~~(a) Lobbyist: Means a person who:~~

23 ~~(1) Receives \$500 or more as compensation, or~~

24 ~~(2) Expends a cumulative sum of \$100 or more during a fiscal year to~~
25 ~~entertain a Commissioner or employee with meals and beverages,~~
26 ~~entertainment, or other gifts*, and~~

27 ~~(3) Communicates orally or in writing with any Commissioner or employee for the~~
28 ~~purpose of influencing any action which that Commissioner or employee is~~
29 ~~authorized to take in the performance of legislative or quasi-legislative functions.~~

30 ~~(b) Legislative or Quasi-Legislative Function: The preparation and adoption of rules and~~
31 ~~regulations to direct the operation of the Commission, the Planning Boards, and the~~
32 ~~Merit System Board.~~

1 **POLICY**

2
3 **I. Who Must Register as a Lobbyist ~~Registration of Lobbyist with the Commission~~**

4
5 A. A Lobbyist is required to register unless the individual or entity (i) qualifies for an exemption set forth
6 in Subsection I(B) or (ii) does not exceed any *de minimus* spending threshold set forth in Subsection
7 I(C).

8
9 B. An individual or entity is not required to register during a reporting period if one of the following
10 exemptions applies:

- 11
12 1. Government and Related Entities. The individual or entity is a government entity, the
13 Metropolitan Washington Council of Governments, Maryland Association of Counties, the
14 Maryland Municipal League, a comparable quasi-governmental agency designated by the
15 Executive Director for this purpose by giving written notice in advance, or an employee of such an
16 organization acting within the scope of their official duties;
- 17
18 2. Certain Public Interest Organizations. The individual or entity is a news organization, religious
19 institution, or not-for-profit independent college or university that is not attempting to influence a
20 Commission Action related to the regulation of its property or interests related to its property, or
21 an employee of such an organization acting within the scope of their official duties;
- 22
23 3. Educational Purposes. The individual or entity is a student or educator lobbying as part of a course
24 or student activity undertaken by an elementary, secondary, or post-secondary school student or
25 student organization;
- 26
27 4. Work for Hire or By Commission Request. The individual or entity's only communications (a) are
28 limited to work for hire by the Commission, or (b) pertaining to a particular Commission Action
29 undertaken at the request of an agency employee or official authorized to make such request;
- 30
31 5. Personal Communications. The communications undertaken by the individual or entity are limited
32 to communications directly with, and for hire by, a Commission official or employee acting in their
33 personal capacity to obtain personal legal advice, professional services, or other information for
34 reasons that do not involve official Commission business or a Commission Action;
- 35
36 6. Sales People. The individual or entity is an employee or bona fide sales agent promoting sales of
37 goods or services for a commercial entity before the Commission and has advertised or otherwise
38 solicited bids or proposals for a specific procurement transaction;
- 39
40 7. Certain Attorneys. With respect to a particular Commission Action, the individual or entity is a
41 licensed attorney who communicates with agency officials and staff exclusively on the record by
42 means of (a) writings that are published on the agency website and available as part of the official

1 public record of the proceeding and/or (b) oral argument (in person, via video conference or
2 teleconference) during an official hearing or other meeting that either is open to the public or
3 properly closed under the Maryland Open Meetings Act;

4
5 8. Certain Architects, Engineers, Etc. With respect to a particular Commission Action, the individual
6 or entity is a licensed architect, engineer or similarly licensed professional representing a client in
7 the adjudication of a particular land use application who communicates (a) with agency officials
8 and staff exclusively on the record (1) in writings that are published on the agency website and
9 available as part of the official public record of the proceeding and/or (2) oral presentations (in
10 person, via video conference or teleconference) during an official hearing or other meeting that is
11 open to the public under the Maryland Open Meetings Act, and (b) exclusively pertaining to the
12 submission or interpretation of plans, drawings, blueprints or similar technical documents; or

13
14 9. Hiring Third-Party Lobbyists. With respect to a particular Commission Action, the individual or
15 entity does not engage directly in Lobbying but hires one or more third-parties to engage in
16 Lobbying on its behalf, provided, that every such third-party registers timely as a Lobbyist in
17 compliance with this Practice.

18
19 (a) This practice does not apply to the following:

20 ~~(1) Professional services by any Commissioner or employee of the Commission in drafting or in~~
21 ~~advising and rendering opinions as to the construction and effect of proposed or pending actions~~
22 ~~where these services do not otherwise constitute activities as a lobbyist.~~

23 ~~(2) Appearances before the Commission, Planning Board, or any committee, upon its specific~~
24 ~~invitation or request, but only if the person engages in no further or other activities in connection~~
25 ~~with the passage or defeat of proposed actions.~~

26 ~~(3) Appearances as part of the official duties of a duly elected or appointed official, or employee of~~
27 ~~the state, or a political subdivision of the state, or of the United States, and not on behalf of any~~
28 ~~other entity.~~

29 ~~(4) Actions of a publisher or working member of the press, radio, or television in the ordinary course~~
30 ~~of business of disseminating news or making editorial comment to the general public, but who does~~
31 ~~not engage in further or other lobbying that would directly and specifically benefit the economic,~~
32 ~~business, or professional interests of that person or that person's employer.~~

33 ~~(5) Appearances as a witness before the Commission, or Planning Board, or a committee at the~~
34 ~~specific invitation or request of a lobbyist, provided no other act is undertaken for which reporting~~
35 ~~is required, and provided the witness identifies himself as appearing at the request of the lobbyist.~~

36 ~~(6) The representation of a bona fide citizens' organization solely for the purpose of protecting the~~
37 ~~rights of its own members.~~

38
39 C. An individual or entity that engages in any Lobbying and is not exempted for a reason set forth
40 Subsection I(B) is required to register only if they exceed any of the expenditure thresholds specified,
41 as follows:

42
43 1. Compensation Received. The individual or entity actually or constructively receives Compensation
44 for Lobbying from one or more sources totaling \$2,500 or more during a reporting period;

2. Compensation Paid. The individual or entity pays or incurs Compensation payable to one or more third-parties for Lobbying totaling \$2,500 or more during a reporting period;
3. Grass Roots Spending. The individual or entity pays or incurs Compensation payable for Grass Roots Activities totaling \$1,000 or more during the reporting period;
4. Gifts. The individual or entity pays or incurs expenses for gifts having an aggregate fair market value of at least \$100, including meals, beverages, or special events during the reporting period; or
5. Miscellaneous Expenses. The individual or entity pays or incurs other expenses for postage, telecommunications services, electronic services, advertising, printing, and delivery services, or similar business expenses having a fair market value of at least \$500.

II. How and When to Register as a Lobbyist

- A. Every individual or entity required to register with the M-NCPPC pursuant to Section I must disclose the following information on a form provided by the agency.

~~(a) Except as exempted above the following persons shall register with the Commission: (1) A lobbyist; (2) Any person who has expended \$500 or more for compensation of one or more lobbyists in a fiscal year; and; (3) Any person who expends \$2,000, including postage, during any fiscal period for the express purpose of soliciting others to communicate with any Commissioner or employee to influence any Commission action.~~

~~(b) On or before January 31st of each year if required, and, in any event, not later than five days after first authorized to perform any act requiring registration under this Practice, every person required to register with the Commission pursuant to subsection (A) shall provide the following information, where appropriate, on a form approved by the Commission and provided by the Executive Director:~~

1. The Lobbyist's ~~(or other person's)~~ name and permanent address;
2. The name and permanent address of ~~each any~~ person who is required to register under this practice and ~~who will Lobby on the registrant's behalf as applicable~~ of the Lobbyist;
3. The name, address, and nature of business of ~~any person~~ individual or entity who compensates ~~person~~ the Lobbyist ~~accompanied by the Lobbyist's statement that he is authorized to represent that person and that the person will be exempt from the provisions of this practice;~~ and
4. The identification, by formal designation, if known, of ~~matters~~ each matter on which the Lobbyist expects to Lobby or employs someone to Lobby ~~to act or employ someone to act in a manner which requires registration under this practice.~~

- B. This form must be filed no later than five days after an individual or organization first meets the requirements for registration under this Practice.

1 C. A Lobbyist shall file a separate registration must register separately for each employer.

2
3 D. Each registration, if applicable, shall include the authorization required under Section III.

4
5 E. Each registrant Lobbyist may file a notice of termination within 30 days after:

- 6
7 1. Ceasing any Lobbying activity that requires registration; and
8
9 2. Filing file the reports required hereunder this Practice.

10
11 **III. Authority to Lobby Authorization of Lobbyist to Act**

12
13 A. Every employer of An entity that engages a Lobbyist for the purpose of Lobbying shall furnish provide a
14 written and signed authorization for the person to act which shall be filed with the Commission by the
15 lobbyist at the time he acts pursuant to the authority. If the entity employer is a corporation or other entity,
16 any an authorized officer or agent other than the Lobbyist shall furnish and sign the written authorization.

17
18 B. The authorization to act required by Subsection (A) of this section shall include the full and legal name and
19 business address of both the employer and the Lobbyist, the period during which the Lobbyist is authorized
20 to act (subject to subsequent modification), unless sooner terminated and the subject matter upon which
21 the Lobbyist represents the entity employer is represented.

22
23 C. Any individual or entity must not pay any other person a fee or any other compensation that depends
24 on or varies with the success or defeat of any Commission Action.

25
26 **IV. Reports of Lobbying to the Commission**

27
28 A. Each Lobbyist must file a Lobbyist Activity Report with the agency, affirmed under oath, covering the
29 period of January 1st through December 31st of the previous year, by January 31st of the current year. Each
30 registrant shall file with the Commission, one report per year under oath concerning his/her lobbying
31 activities. The report shall be filed by January 31st, covering the previous calendar year.

32
33 B. Failure to timely file a Lobbyist Activity Report may result in a fee of \$10 for each late day, up to
34 a maximum of \$1,000.

35
36 C. For an entity that is required to register as a Lobbyist (i.e., not an individual) If the registrant is not an
37 individual, an authorized officer or agent of the registrant must shall sign the form. Each Lobbyist must
38 shall file a separate activity report for each individual or entity person from whom the Lobbyist he
39 receives compensation. The report must shall include:

- 40
41 1. A complete and current statement of the information required to be supplied pursuant to this
42 pPractice.
43
44 2. Total expenditures on acts requiring registration in each of the following categories: (**Note to Draft**

1 **Reviewer:** Some content below has been reorganized in the numbering sequence, however, the text
2 is unchanged.)
3

- 4 a. Meals and beverages for **Commissioners officials**, or employees, or their immediate families;
5
 - 6 b. Entertainment, including parties, dinners, athletic events, and other functions to which all
7 members of the **agency Commission** and employees are invited;
8
 - 9 c. Expenses of food, lodging, and scheduled entertainment of Commissioners and employees for a
10 meeting which is given in return for participation in a panel or speaking engagement at the
11 meeting;
12
 - 13 d. Expenses for a ticket or free admission to Commissioners and employees to attend charitable,
14 cultural or political events where a Commissioner or employee is invited by the event holder;
15
 - 16 e. ~~Other~~ Gifts to or for Commissioners, or employees, or their immediate families;
17
 - 18 f. Total compensation paid to the registrant not including either expenses reported under
19 ~~subparagraph~~ subsections (a), (h), (i), (j), (k) ~~(iii) through (vi)~~ or salaries, compensation, and
20 reimbursed expenses for the staff of the registrants;
21
 - 22 g. Salaries, compensation and reimbursed expenses for staff who were not required to register;
23
 - 24 h. Office expenses of the registrant not reported in ~~subparagraph (i) of this subsection~~ (f);
25
 - 26 i. Professional and technical research and assistance not reported in ~~subparagraph (i) of this~~
27 subsection (f);
28
 - 29 j. Publications which expressly encourage persons to communicate with **Commissioners officials** or
30 employees;
31
 - 32 k. Names of witnesses, and the fees and expenses paid to each;
33
 - 34 l. Any other relevant expenses.
35
- 36 3. The name of each Commissioner, or employee, or ~~member of his~~ immediate family **member**, who
37 has benefited from gifts with ~~accumulative~~ a cumulative value of \$75 or more during the reporting
38 period given by the registrant or anyone acting in behalf of the registrant, whether or not the gifts
39 were given in connection with the registrant's Lobbying activities.
40

41 For the purpose of this subsection, gifts totaling less than \$15 in a calendar day need not be
42 counted toward the cumulative value of \$75, but if the cumulative value of \$75 is attained or
43 exceeded, each gift of \$15 or more, thereafter, shall be itemized by date, recipient, amount of
44 value, and the nature of the gift. Expenses reported for each meeting, event, **or seminar shall be**

1 stated with and the date, location, and total expense incurred by the registrant but need not shall
2 be stated without with allocation of expenses to each individual participant.

3
4 D. The agency Commission may require any registrant to file additional reports as it may deem necessary.

5
6 E. Notice to Commissioner or Employee Named in Report

7
8 1. If any report filed with the Executive Director contains the name of a Commissioner, or employee
9 of the agency or member of their his/her immediate family, the Executive Director shall notify the
10 Commissioner or employee within 30 days, with a copy of such notification sent to the agency.

11
12 2. Following notification of inclusion of their his name in a report filed by a registrant, the
13 Commissioner or employee shall have 30 days to file a written exception or explanation to the
14 inclusion of their his or her name.

15
16 **V. Training Course**

17 Lobbyists shall complete the M-NCPPC Lobbyist training course within six (6) months of registering with the
18 agency or within two years following the date of the most recently-completed training course. (**Note**
19 **to Draft Reviewer:** Text added to reflect § 5–704.1 of the Maryland Public Ethics Law, which requires Lobbyists
20 to complete mandatory training.

21
22 **Note to Draft Reviewer:** New Section on reports to the State Ethics Commission (below) added to reflect § 5-830(c)
23 and (d) of the Maryland Public Ethics Law, as well as the Bi-County Commissions – Annual Reports – Conflicts of
24 Interest and Lobbying Act of 2020, which became effective October 1, 2020.

25
26 **VI. Agency Reports**

27
28 A. The Executive Director, on behalf of the agency, will:

29
30 1. Submit a copy of this Practice, inclusive of all future amendments, to the Maryland State Ethics
31 Commission.

32
33 2. On or before April 30th of each year:

34 a. Prepare an annual report on the Lobbying before the agency for the previous calendar year.

35
36 b. Submit the annual report to the Chief Administrative Officer of Montgomery County and Prince
37 George's County, and

38
39 c. Publish the annual report on the agency's website, www.mncpc.org.

1 **Note to Draft Reviewer:** New Section on public inspection of Lobbyist records (below) added to reflect § 5-710 of
2 the Maryland Public Ethics Law.

3
4 **VII. Public Inspection of Lobbyist Records**

- 5
6 A. The agency must maintain all required documents under this Practice and make them available to the public
7 for inspection and copying.
8
9 B. The agency may establish procedures for inspection. The agency may charge fees for copying as permitted
10 by the Maryland Public Information Act, § 4-205, Annotated Code of Maryland.
11

12 **VIII. Compliance and Enforcement**

- 13
14 A. The Executive Director is vested with the authority to implement and enforce this Practice, including
15 the authority to collect and maintain Lobbying registration and activity reports, as well as to
16 promulgate any forms, internal Administrative Procedures, and develop online applications or tools
17 deemed necessary or appropriate for such implementation.
18
19 B. The Maryland-National Capital Park and Planning Commission will enforce strict compliance of this
20 Practice ~~its practice~~, including by reporting any known violations in accordance with Section VI above
21 for this purpose. ~~by taking appropriate legal measures for this purpose.~~
22
23 C. Without limiting the generality foregoing, except upon good cause shown, the Executive Director may
24 suspend Lobbying privileges for a Lobbyist who violates this Practice.
25

26
27 **APPENDICES:**

- 28
29 A. Lobbyist Registration Form and Instructions
30
31 B. Lobbyist Activity Report Form and Instruction

**ANALYSIS OF COMMENTS SUBMITTED FOR
PROPOSED AMENDMENTS TO PRACTICE 5-61, LOBBYIST DISCLOSURE**

Six (6) submitted substantive comments are outlined by the relevant policy/procedure section, along with policy staff analysis/response. Recommendations for additional policy amendments are indicated as appropriate.

Section II (How and When to Register as a Lobbyist)

1. **Comment/Question submitted by the Montgomery County Planning Department Director:** I do not support a lobbyist [registration] fee.

Staff Response/Recommendation: This change has been implemented and is reflected in the current draft which shows the agency will not charge a Lobbyist registration fee.

Section IV(A) (Reports of Lobbying to the Commission)

2. **Comment/Question submitted by the Montgomery County Planning Department Director:** I support an annual report.

Staff Response/Recommendation: The draft reflects the status quo requirement for Lobbyists to file an activity report once annually.

Section IV(B) (Reports of Lobbying to the Commission)

3. **Comment/Question submitted by the Montgomery County Planning Department Director:** I do not support a late [activity report] fee at this time, although I think this should be re-assessed after 2 years.

Staff Response/Recommendation: The draft has been updated to reflect the Executive Committee's recommendation that the agency may charge a late activity report fee—in case this is needed for enforcement after implementing the updated policy.

Section IV(C) (Reports of Lobbying to the Commission)

4. **Comment/Question submitted by Prince George's Planning Department:** Clarity regarding content of Lobbyist Activity Report. Section IV(C) states:

- C. If the registrant is not an individual, an authorized officer or agent of the registrant ~~must shall~~ sign the form. Each Lobbyist ~~must shall~~ file a separate activity report for each ~~individual or entity person~~ from whom ~~the Lobbyist~~ he receives compensation. The report ~~must shall~~ include:

After this language, there is a list of numerous items/information that must be provided. So, this begs the question whether this information must be provided by all lobbyists, or just those registrants who are not

individuals. I just want to make sure this is the intent given that there are no other provisions that discuss the specific content of the Lobbyist Activity Report.

Staff Response/Recommendation: This information must be provided by the lobbyist (when the lobbyist is an individual) and by an authorized officer or agency (when the lobbyist is an entity). The language has been revised and clarified to provide:

C. For an entity that is required to register as a Lobbyist (i.e., not an individual) ~~if the registrant is not an individual~~, an authorized officer or agent of the registrant ~~must shall~~ sign the form. Each Lobbyist ~~must shall~~ file a separate activity report for each individual or entity ~~person~~ from whom the Lobbyist he receives compensation. The report ~~must shall~~ include:

5. **Comment/Question submitted by Prince George’s Planning Department:** Language was added to Section IV(C) that requires the lobbyist to report on the "[s]alaries, compensation and reimbursed expenses for staff who were not required to register"

Requiring all of this information seems to be onerous, especially seeking information about all of the employees' reimbursed expenses. Who is really going to review this potentially voluminous information? Will it be too voluminous to be of use? Maybe some limiting language could be added seeking list of reimbursed expenses related to MNCPPC and its employees, or expenses related to public entities or employees.

Staff Response/Recommendation: This section is almost entirely existing and is modeled after the State’s Lobbyist disclosure system, at least in terms of the content of the disclosure. Therefore, no change is recommended in the level of information required to be disclosed.

Practice 5-61 in General

6. **Comment/Question submitted by Prince George’s Planning Department:** Tracking requirements: I have the same concerns about the tracking requirements required in this policy, i.e., late fees, written authorizations, training, etc. However, if EOB is going to administer those provisions, then I defer to them about whether they have the capacity to address those items.

Staff Response/Recommendation: The requirement for the agency is for its Lobbying provisions to be “similar to the provisions” applicable to those who lobby the State legislature and executive branches. Therefore, addressing elements such as requiring written authorizations, training, etc. seek to cover the core elements of the policy while updating it and meeting this standard.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

TO: Commissioners

FROM: John Kroll, Corporate Budget Director *JRK*

DATE: December 15, 2021

SUBJECT: GFOA Distinguished Budget Presentation Award for FY2022

The Distinguished Budget Presentation Award has been awarded to the Maryland-National Capital Park and Planning Commission (M-NCPPC) by the Government Finance Officers Association of the United States and Canada (GFOA) for its FY22 Proposed Budgets.

GFOA established the Distinguished Budget Presentation Awards Program (Budget Awards Program) in 1984 to encourage and assist state and local governments to prepare budget documents of the very highest quality that reflect both the guidelines established by the National Advisory Council on State and Local Budgeting and the GFOA's best practices on budgeting and then to recognize individual governments that succeed in achieving that goal. Over 1700 governments, including states, cities, counties, special districts, school districts, and more have been recognized for transparency in budgeting. To earn recognition, budget documents must meet program criteria and excel as a policy document, financial plan, operations guide, and communication tool.

M-NCPPC has now received this award for the 36th time.

Beyond the Corporate Budget Office, recognition is extended to the budget managers and coordinators throughout all of the departments who contribute to what becomes the proposed budget documents.



GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished
Budget Presentation
Award*

PRESENTED TO

**Maryland-National Capital Park & Planning Comm
Maryland**

For the Fiscal Year Beginning

July 01, 2021

Christopher P. Morill

Executive Director



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING
COMMISSION

DEPARTMENT OF FINANCE

OFFICE OF THE SECRETARY-TREASURER

6611 KENILWORTH AVENUE, SUITE 304, RIVERDALE, MD 20737

TELEPHONE (301) 454-1540 / FAX (301) 454-1545

MEMO

To: Commissioners
From: Gavin Cohen, Secretary-Treasurer
Date: December 15, 2021
Subject: FY 2023 Other Post-employment Benefits (OPEB) Actuarial Valuation Report and Employer Contribution

BACKGROUND:

The Commission currently maintains the Post-Retirement Insurance Benefits Program (Trust) to provide health insurance benefits for qualified Commission retirees. The Commission pre-funds these benefits through an IRS Section 115 Trust which is managed by a separate Board of Trustees consisting of: one Trustee from the Montgomery County Planning Board, one Trustee from the Prince George's County Planning Board, the Executive Director, Director of Human Resources, and the Secretary-Treasurer. The Commission's Investment Manager is appointed as the Trust Administrator.

The Trust Administrator and other staff from the Department of Finance manage the operational aspects of the Trust. Resolution 99-06 approved by the Commission on March 10, 1999 established the Trust, July 1, 1999 and a Trust agreement (Agreement) was amended and restated on July 1, 2007. The Agreement sets forth how the Trust is to be administered. The benefits paid are funded by employer contributions from the Commission and interest earnings on Trust assets.

DISCUSSION:

A critical aspect of the management of the Trust is to have an annual actuarial valuation report prepared by an independent actuary. The Trust contracts with Bolton to provide actuary services for the Trust. Kevin Binder and Tim Barry will present the results of their report and will be available for any questions from the Commission.

The primary purpose of the valuation report is to provide a picture of how the Trust is performing and to establish the employer contribution for the upcoming fiscal year. The Trust is prefunded which means that money is set aside annually as recommended by an actuary to pay for future benefits.

Two key financial indicators reflected in the valuation report are as follows:

- 1.) Funded status at July 1, 2022 is 28% with an upward projected trend.
- 2.) Employer Contribution for July 1, 2022 is \$9,409,000 (\$6,832,000 July 1, 2021). Though this amount is significantly higher, 38% than the previous year, the projected outlook is stable.

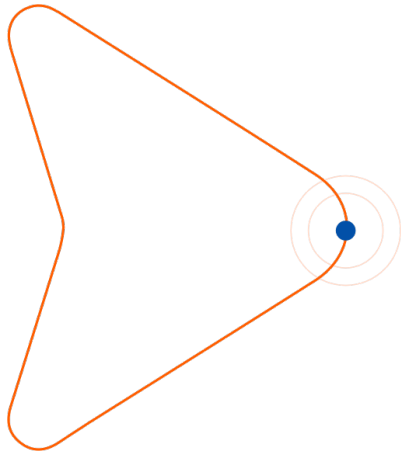
As the Trust assets continue to grow and as the retirees receiving benefits continue to grow, staff will have to look at ways of managing the costs of the program in addition to looking at more efficient ways and structures of managing the daily operations.

RECOMMENDATION/ACTION:

Staff recommends that the Commission receive the presentation from Bolton on the FY 2023 OPEB valuation and employer contribution. This is an informational item and no action is required by the Commission.

Attachments:

A – Bolton Presentation OPEB



Maryland-National Capital Park and Planning Commission





Other Post Employment Benefits (OPEB)

Presented by:

Kevin Binder, FSA, MAAA, EA

Tim Barry, Senior Actuarial Analyst

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-  **03** Overview
-  **05** Assumption Changes
(Annual Updates)
-  **07** Budget Forecast
-  **09** Required ASOP 41 Disclosure

-  **04** Overview of Valuation Assumption Changes
-  **06** Assumption Changes
(Pension Plan Experience Study)
-  **08** Reconciliation

Overview

- Actuarial valuation performed to determine the FY2023 recommended contribution
- Changed assumptions to the Pension Plan experience study results
- ADC increased from \$29,465,000 to \$35,913,000
- Net Trust contribution increased from \$6,832,000 to \$9,409,000
- Much of the Increases resulted from assumption changes associated with Pension Plan Experience Study and unfavorable claims experience
- FYE 2021 Accounting results are based on the prior valuation report
- FYE 2022 GASB disclosure will reflect the data, methods, and assumptions reflected in this valuation report.

Overview of Valuation Assumption Changes

- Annual updates to the claims assumption to include actual plan experience and to the discount rate assumption
- Updates the long-term medical trend assumption to be consistent with most recent SOA medical trends
- Demographic assumptions updated as determined in the Experience Study for the Pension plan performed by Cheiron in May 2021

Assumption Changes

(Annual Updates)

■ Claims updated

- **Claims experience from 7/1/2019 – 6/30/2021**
 - Total post-65 claims paid increased 15.78%
 - Rx claims increased 23.77%
 - Medical claims increased 1.83%
- **Premium increases of 8.40% for UHC POS and 0% for UHC EPO Pre-Medicare Plans.**

■ Discount Rate updated

- **Decreased from 6.80% to 6.75%**
- **Budget Forecast assumes continued reduction in discount rate and investment rate of return by 0.05% annually to 6.55% in 2027**

■ Healthcare Trend

- **Latest SOA model**
- **Baseline inputs adjusted to be consistent with Montgomery County OPEB valuation assumptions and prior assumptions**

Assumption Changes

(Due to Pension Plan Experience Study)

- Mortality rates
 - **Retirees are living longer than previously expected increasing OPEB Cost**
- Retirement rates
 - **Employees are retiring earlier than previously expected increasing OPEB Cost**
- Termination (Turnover) rates
 - **Employees are leaving more frequently than previously expected decreasing OPEB Cost**
- Disability rates
 - **Less disabilities than previously expected**
 - **Increased OPEB cost since no OPEB benefit is offered to disabled participants**
- Salary Scale
 - **Higher future salary increases**
 - **Decreased OPEB cost**
 - **Previous assumption was a flat increase equal to inflation assumption (2.50%)**
 - **Affects the percentage of the OPEB liability allocated to future service, not the benefit itself**

Budget Forecast

	07/01/2021	07/01/2022	07/01/2023	07/01/2024	07/01/2025	07/01/2026
	06/30/2022	06/30/2023	06/30/2024	06/30/2025	06/30/2026	06/30/2027
Assumptions:						
Trust Investment Return	6.80%	6.75%	6.70%	6.65%	6.60%	6.55%
Discount Rate	6.80%	6.75%	6.70%	6.65%	6.60%	6.55%
Salary Scale	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%
Normal Cost Increase	4.00%	4.00%	4.00%	4.00%	4.00%	4.00%
ERI Remaining Amortization	4	3	2	1	-	-
# Years to Amortize	25	24	23	22	21	20
Unfunded Accrued Liability:						
APBO BOY	419,642,000	511,401,000	537,464,000	563,870,000	590,742,000	618,330,000
Estimated Assets BOY	98,306,417	144,817,522	164,636,522	185,221,522	206,780,522	229,120,522
Unfunded APBO	321,335,583	366,583,478	372,827,478	378,648,478	383,961,478	389,209,478
Percent Funded	23%	28%	31%	33%	35%	37%
BOY ADC (Actuarially Determined Contribution):						
Normal Cost	8,924,000	12,063,000	12,703,000	13,377,000	14,087,000	14,835,000
Amortization	20,541,000	23,850,000	24,786,000	25,777,000	26,316,000	27,431,000
Total (ADC)	29,465,000	35,913,000	37,489,000	39,154,000	40,403,000	42,266,000
Expected Employer Contributions:						
Implicit Subsidy	5,723,000	8,601,000	9,233,000	9,813,000	10,251,000	10,799,000
Federal Subsidies	2,370,000	2,955,000	3,073,000	3,196,000	3,324,000	3,457,000
Net Explicit Subsidy	14,540,000	14,948,000	16,229,000	17,479,000	18,674,000	19,834,000
Additional Contribution	6,832,000	9,409,000	8,954,000	8,666,000	8,154,000	8,176,000
Total Contribution	29,465,000	35,913,000	37,489,000	39,154,000	40,403,000	42,266,000
Trust Assets:						
Beginning of Year Amount *	128,764,522	144,817,522	164,636,522	185,221,522	206,780,522	229,120,522
Return on Investments	8,756,000	9,775,000	11,031,000	12,317,000	13,648,000	15,007,000
BOY Contributions**	6,832,000	9,409,000	8,954,000	8,666,000	8,154,000	8,176,000
Return on Contributions	465,000	635,000	600,000	576,000	538,000	536,000
End of Year Amount	144,817,522	164,636,522	185,221,522	206,780,522	229,120,522	252,839,522
Benefit Payments	20,263,000	23,549,000	25,462,000	27,292,000	28,925,000	30,633,000
Benefit Payment as percent of expense	69%	66%	68%	70%	72%	72%

* FYE 2022 Beginning of Year amount updated to actual assets.

** The FYE 2022 contribution is based on the previous valuation (report issued November 24, 2020). The FYE 2023 contribution is based on the current valuation (please refer to page 6). All contributions are assumed to be made at the beginning of the fiscal year.

Reconciliation

Comparison of Current and Previous Valuations

Data as of	July 1, 2020	July 1, 2021
Data is used to calculate ADC for FYE	2022	2023
Demographic Data (with Medical Coverage)		
Employees	1,921	1,940
Retirees	1,215	1,363
Reconciliation	ADC	Contribution
FYE 2022 ADC (<i>Previous Valuation</i>)	\$29,465,000	\$6,832,000
Increase/(Decrease) due to Passage of Time	1,067,000	(289,000)
Increase/(Decrease) due to a Larger than Expected FYE 2021 Federal Reimbursement	-	(490,000)
Increase/(Decrease) due to a Smaller than Expected FYE 2021 Net Contributions in excess of Benefit Payments	107,000	107,000
Increase/(Decrease) due to FYE 2021 Investment Experience	(2,196,000)	(2,196,000)
Increase/(Decrease) due to Demographic Experience	1,076,000	(632,000)
Increase/(Decrease) due to Claims Experience	2,367,000	2,143,000
Increase/(Decrease) due to New Trend Assumption	1,834,000	1,569,000
Increase/(Decrease) due to Experience Study	1,949,000	2,121,000
Increase/(Decrease) due to Reducing Discount Rate from 6.80% to 6.75%	244,000	244,000
FYE 2023 ADC (Current Valuation)	\$35,913,000	\$9,409,000

Required ASOP 41 Disclosure

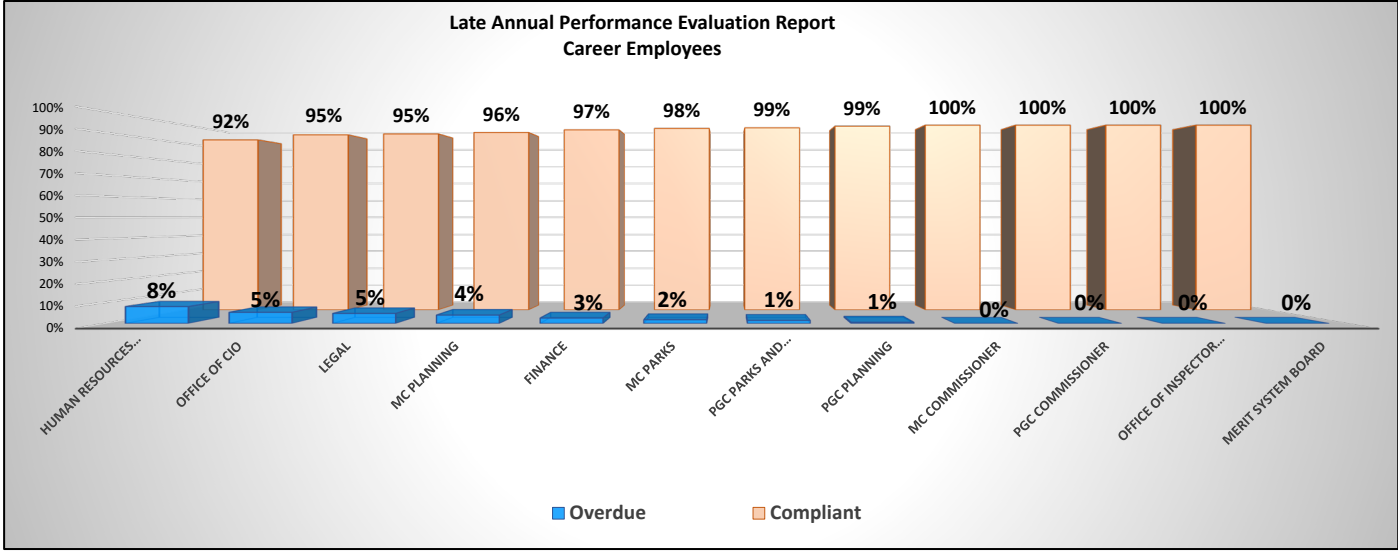
- This presentation has been prepared for the Maryland-National Capital Park and Planning Commission for the purposes of presenting the results of the actuarial valuation. It is neither intended nor necessarily suitable for other purposes. Bolton Partners is not responsible for the consequences of any other use. The DRAFT Actuarial Valuation Report dated October 12, 2021, discloses the data we relied upon, the actuarial methods and assumptions, and include other required disclosures under Actuarial Standard of Practice (ASOP) #41.
- Future medical care cost increase rates are unpredictable and could be volatile. They will depend upon the economy, future health care delivery systems and emerging technologies. The trend rate selected is based on an economic model developed by a health care economist for the Society of Actuaries. Future medical trend increases could vary significantly from the model. Model inputs will be updated periodically based on the best estimate of the economy at that time. Small changes in the model inputs can results in actuarial losses or gains of 5 to 15 percent of liabilities.

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**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE
BY DEPARTMENT AS OF OCTOBER NOVEMBER 2021**

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	<u>Oct-21</u>	<u>Nov-21</u>	<u>Oct-21</u>	<u>Nov-21</u>	<u>Oct-21</u>	<u>Nov-21</u>	<u>Oct-21</u>	<u>Nov-21</u>
CHAIRMAN, MONTGOMERY COUNTY	0	0	0	0	0	0	0	0
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	1	0	0	0	0	1	2	1
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.	2	1	0	1	2	2	4	4
LEGAL DEPARTMENT	2	1	0	0	0	0	2	1
FINANCE DEPARTMENT	0	1	0	0	0	0	0	1
PRINCE GEORGE'S PLANNING	2	1	0	0	0	0	2	1
PRINCE GEORGE'S PARKS & RECREATION	24	12	2	2	0	1	26	15
MONTGOMERY COUNTY PARKS	16	8	7	2	4	2	27	12
MONTGOMERY COUNTY PLANNING	2	5	0	0	0	0	2	5
DEPARTMENT TOTAL BY DAYS LATE	49	29	9	5	6	6		
COMMISSION-WIDE TOTAL							65	40

**DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



*Data As Of November 30, 2021

Employee Count Department	Evaluation Status		Total Employees
	Overdue	Compliant	
Finance	1	38	39
Human Resources and Mgt	4	46	50
Legal	1	20	21
MC Commissioner		5	5
MC Parks	12	666	678
MC Planning	5	121	126
Merit System Board		1	1
Office of CIO	1	18	19
Office of Inspector General		3	3
PGC Commissioner		9	9
PGC Parks and Recreation	15	1,015	1,030
PGC Planning	1	173	174
Total Employees	40	2,115	2,155



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

Reply To

December 1, 2021

Adrian R. Gardner
 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: Adrian R. Gardner
 General Counsel

RE: Litigation Report for November 2021 – FY 2022

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, December 15, 2021. 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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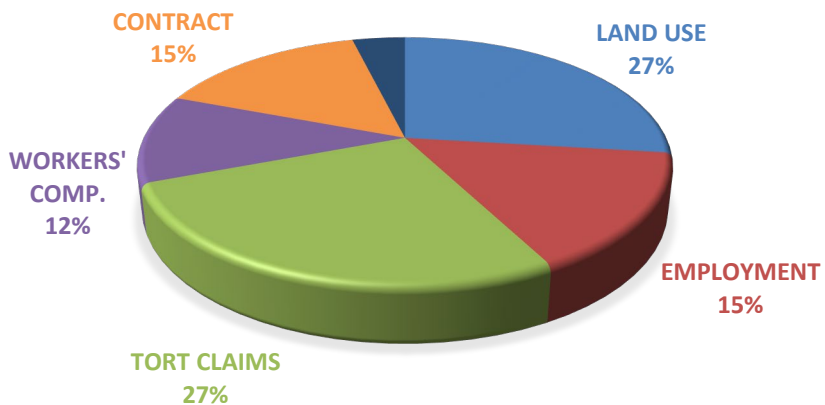
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November 2021
Composition of Pending Litigation
(Sorted by Subject Matter and Forum)

	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	5	2					7
ADMIN APPEAL: OTHER							
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	4						4
DEBT COLLECTION							
EMPLOYMENT DISPUTE	2			2			4
LAND USE DISPUTE							
MISCELLANEOUS	1						1
PROPERTY DISPUTE							
TORT CLAIM	7						7
WORKERS' COMPENSATION	3						3
PER FORUM TOTALS	22	2		2			26

OVERVIEW OF PENDING LITIGATION



November 2021 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2022			
	Pending Oct. 2021	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
Admin Appeal: Land Use (AALU)	7	1	1	10	3	6	7
Admin Appeal: Other (AAO)							
Bankruptcy (B)							
Civil Enforcement (CE)							
Contract Disputes (CD)	3	1		3	1		4
Debt Collection (D)							
Employment Disputes (ED)	4			4	1	1	4
Land Use Disputes (LD)							
Miscellaneous (M)	1			2		1	1
Property Disputes (PD)							
Tort Claims (T)	7			8	1	2	7
Workers' Compensation (WC)	3			7	1	5	3
Totals	25	2	1	34	4	10	26

**INDEX OF YTD NEW CASES
(7/1/2021 TO 6/30/22)**

A. <u>New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Izadjoo v. M-NCPPC	MC	ED	July 21
McGill v. Commission	PG	WC	Aug 21
Troublefield v. Commission	PG	Tort	July 21
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	MC	AALU	Oct. 21
Commission v. Alan's Outlet, et al.	St. M	CD	Nov. 21
Robinson, et al. v. Prince George's County Planning Board, et al.	PG	AALU	Nov. 21

B. <u>New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board	MC	AALU	July 21

**INDEX OF YTD RESOLVED CASES
(7/1/2021 TO 6/30/2022)**

A. <u>Trial Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board	MC	AALU	June 21
Commission v. Batson	PG	WC	June 21
Gibson v. Commission	PG	WC	June 21
Hoenig v. Commission	PG	WC	June 21
Simmons, et al. v. Prince George's Planning Bd.	PG	AALU	June 21
Frederick-Bey v. Dick, et al.	PG	Tort	July 21
Deutsche Bank National Trust Company v. Commission	PG	Misc.	July 21
Amica Mutual Insurance Company v. Montgomery County, Maryland, et al.	MC	Tort	Aug. 21
Izadjoo v. Maryland-National Capital Park & Planning Commission	MC	ED	Aug. 21
Snoots v. Commission	MC	WC	Sep. 21
Murray v. Commission	MC	WC	Sep. 21
Kosary v. Montgomery County Planning Board	MC	AALU	Oct. 21

B. Appellate Court Cases Resolved.

	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Benton v. Woodmore Overlook Commercial, LLC.	PG	AALU	Apr. 21
Benton v. Woodmore Overlook Commercial, LLC.	PG	AALU	Sep. 21
Benton v. Woodmore Overlook Commercial, LLC.	PG	AALU	Sep. 21

	Disposition of FY21-FY22 Closed Cases Sorted by Department	
CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources & Management		
Commission v. Batson	The Commission filed for Judicial Review on the record of WCC order regarding surgical authorization for leg causally related to accidental injury.	06/03/2021 - Order of the Court. Case Dismissed and Remanded to the Workers' Compensation Commission for consideration and approval of the Agreement of Final Compromise and Settlement.
Gibson v. Commission	Claimant seeks judicial review of an order from the Workers' Compensation Commission denying causal connection of back injury to the accidental injury of October 20, 2017.	06/10/2021 - Order of Court. Case remanded to Workers' Compensation Commission.
Hoenig v. Commission	Claimant seeks judicial review of February 7, 2020 order from the Workers' Compensation Commission regarding extent of disability.	06/02/2021 - Order of Court. Case Dismissed and Remanded to Workers' Compensation Commission.
Izadjoo v. Maryland-National Capital Park and Planning Commission	Izadjoo filed an appeal of the Merit Board decision of February 25, 2021 denying his appeal of the Montgomery County Department of Parks' denial of grievance 20-14 regarding his 2020 Annual Performance Evaluation.	08/23/2021 – Order of Court – Decision of Merit Board affirmed.
Snoots v. Commission	Petition for Judicial Review of Workers' Compensation Commission determination that not permanently totally disabled	09/01/2021 – Order of Court. Case remanded to Workers' Compensation Commission.
Murray v. Commission	Petition for Judicial Review of an order from the Workers' Compensation Commission that held claimant is not permanently and totally disabled.	09/01/2021 – Order of Court. Case remanded to Workers' Compensation Commission.

Montgomery County Department of Planning		
Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board	Judicial Review of Montgomery County Planning Board's approval of RCCG Jesus House Preliminary Plan 120160040.	06/04/21 - Planning Board's decision affirmed.
Kosary v. Montgomery County Planning Board	Judicial Review of Montgomery County Planning Board's approval of Primrose School Preliminary Forest Conservation Plan CU-18-08.	10/19/21 – Summary Judgment in favor of Plaintiff.
Montgomery County Department of Parks		
Amica Mutual Insurance Company v. Montgomery County, Maryland, et al.	Subrogation suit for damages caused by a tulip poplar striking a home.	08/12/21 – Joint Stipulation of Dismissal with Prejudice.
Montgomery County Park Police		
Montgomery County Planning Board		
Prince George's County Department of Parks and Recreation		
Frederick-Bey v. Dick, et al.	Plaintiff claims injury in the course of using weight room at Allentown Splash and Fitness Center allegedly due a defect in the equipment as a result of negligence on the part of Commission staff and has sued a Commission employee who has not been properly served.	07/28/2021 – Order of the Court. Case Dismissed with Prejudice on grounds barred by statute of limitations.
Deutsche Bank National Trust Company v. Commission	Action seeking to quiet title as to alleged encroachment on Commission land.	07/08/2021 – Amended Complaint filed that no longer included the Commission as no encroachment on Commission land.
Prince George's County Planning Department		
Prince George's County Planning Board		
Simmons v. Prince George's County Planning Board	Judicial Review of Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-20006 (Freeway Airport)	06/17/2021 - Prince George's County Planning Board's Motion to Dismiss Granted.

Benton v. Woodmore Overlook Commercial, LLC	Judicial Review of decision of the Prince George's County Planning Board No. 19-32, File No. 4-180007. Benton failed to appear at judicial review hearing in Circuit Court and his petition was dismissed without an opinion. Benton filed for reconsideration which was also denied. Benton appealed the denial of the motion for reconsideration.	04/20/2021 - Mandate. Circuit Court decision affirmed. Costs to be paid by appellant.
Benton v. Woodmore Overlook Commercial, LLC	Judicial Review of decision of the Prince George's County Planning Board on Preliminary Plan of Subdivision 4-18007, Woodmore Overlook Commercial. Before the parties filed legal memoranda, in the Circuit Court and before the court held oral argument, and before the Planning Board had a chance to transmit the agency record, the developer's attorney filed a motion to dismiss based on, among other things, lack of standing. The Circuit Court granted the motion to dismiss. Benton appealed.	09/01/2021 – Mandate. Motion for reconsideration denied.
Benton v. Woodmore Overlook Commercial, LLC	Judicial Review of decision of the Prince George's County Planning Board No. 19-32, File No. 4-180007. Benton failed to appear at judicial review hearing in Circuit Court and his petition was dismissed without an opinion. Benton filed for reconsideration which was also denied. Benton appealed the denial of the motion for reconsideration	09/28/2021 – Petition Dismissed.
Prince George's Park Police		
Office of Internal Audit		

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DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

No Pending Cases

DISTRICT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND

No Pending Cases

DISTRICT COURT FOR ST. MARY’S COUNTY, MARYLAND

Commission v. Alan’s Outlet, et. al.

Case No. D-043-CV-21-008547 (CD)

Lead Counsel: Johnson
Other Counsel: Adams

Abstract: Commission’s claim for damages regarding an undelivered garage shed. Commission submitted an order with payment for five sheds but only four were delivered.

Status: Complaint filed.

Docket:

11/03/2021	Complaint filed
01/10/2022	Trial

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board

Case No. 487649-V (AALU)

Lead Counsel: Mills
Other Counsel:

Abstract: Judicial Review of the Montgomery County Planning Board’s approval of Site Plan 820200160 – Creekside at Cabin Branch.

Status: Petition filed.

Docket:

10/12/2021	Petition for Judicial Review filed
10/27/2021	Response to Petition
11/02/2021	Response to Petition
11/12/2021	Amended Petition to add Petitioner Norman Mease

HMF Paving Contractors Inc. v. Maryland-National Park and Planning Commission

Case No. 483255-V (CD)

Lead Counsel: Adams
Other Counsel:

Abstract: Dispute over whether or not an allowance should be made, and additional monies paid regarding the measurement (and relative cost) of the retaining wall at Greenbriar Local Park.

Status: Awaiting trial.

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.
03/07/2022	Trial.

Hitchcock v. Maryland-National Park and Planning Commission

Case No. 485337-V (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Hitchcock filed appeal of Workers' Compensation Commission determination that he did not sustain a compensable accidental injury on June 5, 2020.

Status: Case settled in principle pending approval by the Workers' Compensation Commission.

Docket:

04/06/2021	Petition for Judicial Review filed
04/06/2021	Response to Petition
09/10/2021	Pretrial hearing
11/10/2021	Mediation held and agreement reached. Case settled pending approval by court.

Izadjo v. Maryland-National Capital Park and Planning Commission

Case No. 486280-V (ED)

Lead Counsel: Dickerson
Other Counsel: Johnson

Abstract: Izadjo seeks judicial review of the decision of the Merit System Board denying appeal of denial of his request for reclassification.

Status: Oral Argument scheduled.

Docket:

07/01/2021	Petition for Judicial Review filed
07/30/2021	Response to Petition
12/01/2021	Oral Argument

Structural Engineering Group Inc. v. Maryland-National Capital Park and Planning Commission

Case No. 483234-V (CD)

Lead Counsel: Dickerson
Other Counsel: Adams; Johnson

Abstract: Construction change order dispute and time delay claim related to greenhouse at Brookside Gardens.

Status: Case stayed pending Settlement Agreement.

Docket:

08/21/2020	Complaint filed.
08/31/2020	Commission served.
09/29/2020	Motion to Dismiss or in the Alternative for Summary Judgment filed.
10/09/2020	Opposition to Motion to Dismiss filed.
12/09/2020	Motions hearing held.
12/09/2020	Motion to Dismiss or in the alternative for Summary Judgment denied.
12/28/2020	Answer to Complaint filed.
09/13/2021	Joint Pretrial Statement filed.
10/04/2021	Case to be stayed for 60 days for parties to file settlement agreement.

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

6525 Belcrest Road, LLC v. Dewey, L.C., et al.

Case No. CAE 20-11589 (AALU)

Lead Counsel: Dickerson
Other Counsel: Harvin

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: Motion to Dismiss granted as to all Defendants. Case closed.

Docket:

04/14/2020	Complaint filed
06/05/2020	Commission served
07/06/2020	Answer filed by Commission
07/21/2020	Motion to Dismiss filed by Defendant Dewey, L.C.
07/23/2020	Motion to Dismiss filed by BE UTC Dewey Parcel, LLC
08/20/2020	Opposition to Motion to Dismiss
09/14/2020	Defendant, Dewey, L.C.'s Reply Response in Support of its Motion to Dismiss or Stay and Request for hearing
09/16/2020	Defendant, BE UTC Dewey Parcel, LLC's Reply in Support of Motion to Dismiss and Request for hearing
10/26/2020	Defendants Dewey L.C. and Bald Eagle Partners, Inc. Line Requesting Judicial Notice of Arbitrator's Decision
12/23/2020	Motions hearing held. Court takes under advisement.
01/11/2021	Order of Court - case is stayed pending resolution of the current arbitration proceedings; further ordered that a status hearing in this matter be scheduled.
02/17/2021	Arbitrator's decision filed.
04/02/2021	Status hearing.
05/20/2021	Suggestion of Bankruptcy filed.
05/24/2021	Case stayed.
06/28/2021	Defendants Dewey L.C. and Bald Eagle Partners, Inc.'s Request to Lift Stay.
07/26/2021	Order of Court – Stay Lifted
09/27/2021	Status Hearing held. Motions hearing set.
11/11/2021	Status Hearing held. Defendant's previously filed Motion to Dismiss granted as to all parties.

Alexander v. Proctor
Case No. CAL19-37187 (Tort)

Lead Counsel: Adams
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: In discovery.

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.

Brown v. City of Bowie, et al.
Case No. CAL19-35931 (Tort)

Lead Counsel: Harvin
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: In discovery.

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	Trial

Coakley & Williams Construction v. Commission
Case No. CAL 20-13593 (CD)

Lead Counsel: Adams
Other Counsel: Dickerson

Abstract: Breach of contract regarding work done at the Southern Area Aquatics Recreation Center.

Status: In discovery.

Docket:

07/15/2020	Complaint filed
09/15/2020	Commission served
10/08/2020	Motion to Dismiss filed
10/27/2020	Opposition to Motion to Dismiss
01/11/2021	Motion to Quash and for Protective Order

04/02/2021	Order of Court. Motion to Quash denied.
04/02/2021	Order of Court. Motion to Dismiss Granted in part. Plaintiff to amend complaint within 15 days to correct the legal name of Defendant. The remaining issues in the Motion to Dismiss are denied.
04/14/2021	First Amended Complaint filed
05/04/2021	Commission Answer to First Amended Complaint and Jury Demand
07/25/2021	Pretrial Conference held
07/29/2021	Withdrawal of Request for Jury Trial.
09/13/2021	Motion to Strike Second Amended Complaint
09/14/2021	Pretrial Statement filed
09/27/2021	Second Amended Complaint
10/5/2021	Answer to Second Amended Complaint and Line withdrawing Motion to Strike Second Amended Complaint
01/23/2023	Trial

Getnet v. Maryland-National Capital Park and Planning Commission

Case No. CAL 20-13268(Tort)

Lead Counsel: Harvin
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: Motions Pending.

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 nd Amended Complaint filed
11/06/2020	Defendant Montgomery County's Motion to Dismiss 2 nd Amended Complaint
12/03/2020	Case dismissed as to Montgomery County only
03/04/2021	3 rd 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 rd Amended Complaint and Crossclaim
05/19/2021	Bell Architects Answer to 3 rd 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 rd 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
02/22/2022	Trial

Heard v. Maryland-National Capital Park and Planning Commission

Case No. CAL 20-14095(AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Judicial review of 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: Planning Board decision affirmed.

Docket:

07/30/2020	Petition filed
08/16/2020	Commission notified by Court.
08/31/2020	Response to Petition for Judicial Review filed.
03/02/2021	Notice of Partial Voluntary Dismissal (MPIA claim) against Commission
09/24/2021	Oral Argument held. Case taken under advisement.
11/09/2021	Order of Court. The final decision of the Prince George's County Planning Board in this matter is Affirmed. Case Closed.

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: In discovery.

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.
09/02/2022	Trial

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.
04/7/2022	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: Dickerson
Other Counsel:

Abstract: Plaintiff seeks to secure administrative meeting or hearing on termination, former employee claims were denied.

Status: Motions pending.

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.

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: In discovery.

Docket:

02/13/2020	Complaint filed.
06/19/2020	Amended Complaint filed.
07/21/2020	Answer filed.
08/29/2022	Trial

Nuzback, Kathryn A., Revocable Trust v. Commission
Case No. CAL 20-13248 (Misc.)

Lead Counsel: Harvin
Other Counsel: Dickerson

Abstract: Action filed against the Commission and Prince George's County to obtain documents pertaining to a Maryland Public Information Act request.

Status: Awaiting Trial.

Docket:

07/01/2020	Complaint filed.
10/09/2020	Commission Answer filed
01/14/2021	Line Requesting Order of Default against Prince George's County Department of Permitting Inspection Enforcement

05/25/2021	Order of Default against Defendant Prince George's County Department of Permitting Inspection Enforcement
05/27/2021	Certified Judgment Notice as to Prince George's County Department of Permitting Inspection and Enforcement
06/28/2021	Hearing held on Motion to Vacate Order of Default
06/30/2021	Order – Motion to Vacate Granted.
09/20/2021	Trial continued. Date to be set.
03/31/2022	Trial.

Robinson, et al. v. Prince George's County Planning Board, et al.
Case No. CAL 21-13945(AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

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: Petition filed.

Docket:

11/12/2021	Petition filed
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Snyder v. State of Maryland, et al.
Case No. CAL 20-13024 (Tort)

Lead Counsel: Adams
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained when tennis player allegedly tripped in hole of divider net and broke clavicle.

Status: In discovery.

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 nd 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 nd Amended Complaint
08/22/2022	Trial

Troublefield v. Commission, et al.

Case No. CAL 21-02943 (Tort)

Lead Counsel: Mitchell
Other Counsel: Johnson

Abstract: Tort suit for injuries allegedly sustained while attending a graduation ceremony at Show Pace Arena. Prince George's County Public Schools handling defense subject to indemnification agreement.

Status: Court reversed dismissal and allowing for limited discovery to ascertain proper parties. Motion pending.

Docket:

03/12/2021	Complaint filed
07/21/2021	Commission served
08/20/2021	Motion to Dismiss filed by Commission
10/12/2021	Line of Dismissal with prejudice as to Prince George's County and Maryland-National Capital Park and Planning Commission
10/12/2021	Order of Court. Plaintiffs to file no more than five interrogatories and/or request for production of documents upon Prince George's County and the Commission by October 22, 2021. Defendants responses due by November 23, 2021. Plaintiff has until December 8, 2021 to file a response to Commission's Motion to Dismiss.

Wolf, et al. v. Planning Board of Prince George's County

Case No. CAL20-14895 (AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Judicial Review of the Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-18001 (Magruder Pointe).

Status: Awaiting decision on Motions.

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.

MARYLAND COURT OF SPECIAL APPEALS

Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board

CSA-REG-0620-2021 (AALU)

(Originally file under 483411-V in Montgomery County)

Lead Counsel: Mills

Other Counsel:

Abstract: Appeal from Circuit Court decision affirming Montgomery County Planning Board's approval of RCCG Jesus House Preliminary Plan 120160040

Status: Appeal filed.

Docket:

07/02/2021	Appeal filed
11/22/2021	Appellant Brief filed.

Stewart, et al. v. Prince George's Planning Board, et al.

Case No. CSA-REG-0038-2021 (AALU)

(Originally filed as CAL20-11215 in Prince George's County)

Lead Counsel: Goldsmith

Other Counsel:

Abstract: Appeal from Circuit decision affirming Prince George's County Planning Board's approval of GB Mall Limited Partnership/Quantum Company Preliminary Plan Case No.4-19023

Status: Awaiting decision.

Docket:

03/08/2021	Appeal filed
06/07/2021	Mediation held
11/09/2021	Oral Argument held.

MARYLAND COURT OF APPEALS

No Pending Cases

U.S. DISTRICT COURT OF MARYLAND

Beck v. Montgomery County Department of Parks, et al.

8:20-cv-03305 PX (ED)

Lead Counsel: Dickerson
Other Counsel: Foster

Abstract: Plaintiff alleges discrimination on the basis of disability under the ADA and FMLA.

Status: In discovery.

Docket:

11/14/2020	Complaint filed
01/13/2021	Commission served
02/02/2021	Answer filed

Evans v. Commission, et al.

8:19-cv-02651 TJS (ED)

Lead Counsel: Dickerson
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