



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

March 15, 2023

10:00 a.m. – 11:00 a.m.

**Prince George's
Parks and Recreation Administration**
Auditorium

6600 Kenilworth Avenue
Riverdale, Maryland 20737

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**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING AGENDA
Wednesday, March 15, 2023**

		<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 – February 15, 2023	(*)	Page 3
3.	General Announcements (10:05 a.m.) a) Women’s History Month b) St. Patrick’s Day c) National Colorectal Cancer Awareness Month d) National Nutrition Month e) Upcoming Stress Awareness Month f) Upcoming Alcohol Awareness Month g) Financial Disclosure Filing Requirement Reminder		
4.	Committee Minutes/Board Reports (For Information Only) (10:10 a.m.) a) Employees Retirement Association Board of Trustees Regular Meeting – February 7, 2023		Page 11
5.	Officers’ Reports (10:10 a.m.) <u>Executive Director’s Report</u> a) Late Evaluation Report, February 2023 (For Information Only) b) Quarterly Budget Transfers Reports (For Information Only) c) MFD 2 nd Quarter Purchasing Statistics, Dec 2022 (For Information Only) <u>Secretary Treasurer</u> No report scheduled <u>General Counsel</u> d) Litigation Report (For Information Only) e) Legislative Update		Page 15 Page 17 Page 19 Page 33 (D)

(*) Vote (LD) Late Delivery (H) Handout (D) Discussion Only

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Commission Meeting
Open Session Minutes
February 15, 2023

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

PRESENT

Prince George's County Commissioners

Peter A. Shapiro, Chair
Dorothy Bailey (joined 10:10a)
Manuel Geraldo
A. Shuanise Washington

Montgomery County Commissioners

Jeffrey Zyontz, Vice Chair, joined at 10:30a
Cherri Branson, joined at 10:10a
David Hill
Roberto Piñero
Amy Presley, departed at 12 noon

NOT PRESENT

William Doerner

Chair Shapiro called the meeting to order at 10:02 a.m.

ITEM 1

APPROVAL OF COMMISSION AGENDA (As Amended 2.14.23)

ACTION: Motion of Vice Chair Hill to approve the amended agenda
Seconded by Commissioner Geraldo
6 approved the motion
Commissioners Bailey, Branson, Doerner and Zyontz absent for the vote

ITEM 2

APPROVAL OF COMMISSION MINUTES

Open Session – January 18, 2023
SPECIAL SESSION: Open Session – February 2, 2023
ACTION: Motion of Commissioner Presley to approve the minutes.
Seconded by Commissioner Geraldo
5 approved the motion to approve the January 18, 2023 and February 2, 2023 minutes
Commissioner Washington abstained
Commissioners Bailey, Branson, Doerner and Zyontz absent for the vote

ITEM 3

GENERAL ANNOUNCEMENTS

- a) National Blood Donor Month
- b) American / National Heart Month
- c) M-NCPPC Black History Month
- d) Upcoming Women's History Month
- e) Financial Disclosure Filing Requirement Reminder

8 approved the motion
Commissioners Bailey and Doerner absent for the vote

b) Resolution 23-03, RAISE Grant Application (Maneval/Mercer)

Senior Counsel Maneval described a working group comprised of members of Montgomery Parks and Prince George's Parks and Recreation to put together a grant request to the Federal Department of Transportation under their Rebuilding American Infrastructure Sustainability and Equity Program adding the project is a great example of multi-jurisdictional effort to enhance safety, expand trails and promote non-modal transportation. Seeking Commissioner support to submit an application to the Federal government for \$25M with a match of \$34M. For the M-NCPPC, \$16,225,000 would come from CIP funding plus and addition \$10M received from state legislation supporting this project.

Commissioner Hill asked the \$16M is more than the minimum of the grant – how was the number arrived at. Ms. Mercer replied this is the agency's third application and includes several existing projects which are part of our CIP budget for enhancements to various trail sites. Funding will also be included in future budgets.

Commissioner Hill asked about the proposed plant facility for Prince George's County parks and asked what other facilities does the agency have for native plant farming. Sustainability Coordinator Lauren Belle replied the M-NCPPC has a program outside of Olney. She added economy of scale we would be able to expand our reach of the program further into the urban populations, supporting our sustainability plan and operational scheme.

ACTION: Motion of Vice Chair Zyontz to adopt Resolution 23-03
Seconded by Commissioner Hill
9 approved the motion
Doerner absent

c) Resolution 23-04, Approval of Three-Year Collective Bargaining Agreement Between the Fraternal Order of Police, Lodge No. 30, Effective February 1, 2023 through January 2026. (Chiang-Smith)

No discussion.

ACTION: Motion of Commissioner Washington to adopt Resolution 23-04
Seconded by Commissioner Geraldo
8 approved the motion
Zyontz abstained
Doerner absent

d) Resolution 23-05, Approval of Fiscal Year 2024 Wage Adjustments and Pass Through of Other Terms Approved for Park Police Command Staff and Police Candidates (Chiang-Smith)

No discussion.

ACTION: Motion of Commissioner Washington to adopt Resolution 23-05
Seconded by Commissioner Geraldo

9 approved the motion
Doerner absent

e) Sustainability Committee Report (Sustainability Committee)

The members of the Sustainability Committee introduced themselves and presented the FY23-27 Sustainability Action Plans, provided in the packet.

Chair Shapiro and the rest of the Commission thanked the Sustainability Committee for their hard work adding it is good to see how the two counties plans are speaking to each other in good coherent ways. Commissioner Geraldo noted a lot of comments he has received from the public on improvements to M-NCPPC trails and parks, and said people are really appreciating them. Commissioner Hill said he appreciated how the committee worked with partnering and working with other organizations throughout the region. He also asked if there was a way to incentivize the use of local construction materials and asked if there could be a push to educate the public on using refillable water containers in parks. Ms. Belle replied both are addressed in the plan. There is a goal for 50% of goods and services to be locally-sourced; and there are plans to start pilot programs on waste containers to get some lessons learned before launching a full-scale program rollout.

Commissioner Branson asked if the Sustainability Committee had incorporated supplier diversity and using small/minority businesses into their plan. Ms. Hickman said not currently, but it is certainly something they would want to mirror, noting the Sustainability Practice does mention that sustainable procurement includes using small business and minority owned businesses. Executive Director Chiang-Smith said the agency's supplier diversity program will work closely with the sustainability group on procurement and help them coordinate with outward and inward communications and performance measurements.

f) Potential Implications of Montgomery County Spending Affordability Guidelines (Kroll)

Corporate Budget Director Kroll said the Montgomery County Council on Tuesday Feb 14, approved the Spending Affordability Guidelines for the FY24 operating budget, predicated on the Government Operations Committee review and recommendation, which did not follow staff recommendation. The committee voted to increase the CIP paygo which came at the expense of the allotments for both the county and the M-NCPPC. These guidelines represent a 6.2% reduction from the proposed budget, or approximately \$10.59M in Montgomery County funded departments' budgets including the Montgomery County funded portion of the bi-county operations of the M-NCPPC.

The amount of the reduction may change based on the County Executive's budget, expected March 15. Corporate Budget Director Kroll reminded Commissioners that reductions proposed to bi-county services from one county will impact the services to both Montgomery and Prince George's counties. He added the budget team has not yet been able to identify any agency-wide savings that might be applied to offset the reduction, but they will continue to explore options. He advised that Commissioners may wish to encourage departments to begin developing options.

g) Other Post-Employment Benefits (OPEB) Actuarial Evaluation Presentation (Cohen/Rodman/Bolton)

Secretary-Treasurer Cohen introduced Tim Barry and Tom Vicente of Bolton Associations who presented on their annual evaluation of the OPEB program, used to manage resources for retiree benefits in order to set expectations for fiscal 2024, as included in the packet. No questions.

ITEM 6

OFFICERS' REPORTS

Executive Director's Report

- a) Late Evaluation Report (January 2022) (For information only)

Secretary-Treasurer's Report

- b) Quarterly Investment Report (December) (For information only)

General Counsel's Report

- c) Litigation Report (For information only). General Counsel Borden addressed a question on litigation trends with the reduction of tort claims. It does appear that the increase we saw in tort claims during the past several years was the result of increased usage during the initial COVID shutdowns, and the current number of claims are back to their previous levels.

- d) Legislative Update. General Counsel Borden provided updates on a two legislative proposals:

Forest Conservation Act Amendments, proposed by Delegate Love and Senator Elfreth, which includes sweeping change to the Act. The counties would like to study and develop solutions. The agency has many concerns about the 8-fold increase in the ratio of cleared acres to planted acres. Staff does not find that sustainable and they hope to conduct a study with MACO to form some better ideas. At this point, staff do not know for sure if the bill will slow down.

Cannabis Reform Act, designed to implement the referendum passed in November legalizing adult-use cannabis without a prescription. This bill is 88 pages and is complex, focusing on employer liability/employee discipline, and zoning. It is very specific and directed. Staff will put together a letter on those two issues specifically and bring it to the respective planning board meetings. Commissioner Geraldo asked what the issue is with employer liability. General Counsel Borden replied there is language that states employers are not liable for disciplining employees who are reporting impaired or ingesting on the job. The issue is the testing does not match impairment. She is suggesting that language should be clarified. If there is a testing program, it must be paired with a reasonable suspicion standard. Commissioner Hill asked if smoking cannabis falls under tobacco/vaping issues. General Counsel Borden confirmed. Commissioner Branson asked what the impairment standard was for medical use. General Counsel Borden replied this legislation is specifically for adult non-medical use, which have statutes already in place.

With no other business to discuss, Chair Shapiro adjourned the meeting at 12:35 pm.


James F. Adams, Senior Technical Writer


Asuntha Chiang-Smith, Executive Director

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

Date: 2/15/2023

Time: 10:10 am

Location: Wheaton HQ Auditorium in Wheaton, MD & Via Videoconference

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

Members voting in favor: Bailey, Branson, Geraldo, Hill, Piñero, Presley, Shapiro, Washington, Zyontz

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

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

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

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

Pursuant to the Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b)(9), a closed session is proposed to consider matters relating to collective bargaining negotiations in order to protect and promote the public interest by preserving privileged and confidential deliberations required to manage ongoing collective bargaining negotiations.

The topic to be discussed: Collective Bargaining Update Negotiations with the Fraternal Order of Police Collective Bargaining Unit

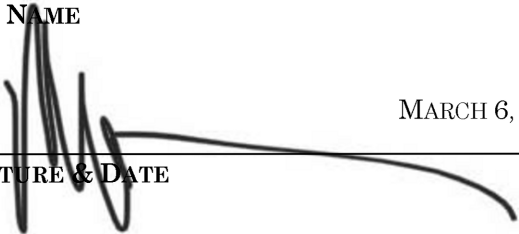
This statement is made by:

Peter Shapiro, Chair, Presiding Officer.

PRINT NAME

MARCH 6, 2023

SIGNATURE & DATE





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

BOARD OF TRUSTEES MEETING MINUTES
Tuesday, February 7, 2023; 10:00 a.m.
Kenilworth Office Building, Riverdale, MD
(Virtual Meeting via Microsoft Teams)

The Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually through Microsoft Teams with CHAIR SHAPIRO leading the call on Tuesday, February 7, 2023. The meeting was called to order at 10:07 a.m. by CHAIR SHAPIRO.

Board Members Present

Peter A. Shapiro, Board of Trustees Chair, Prince George’s County Commissioner
Amy L. Presley, Board of Trustees Vice Chair, Montgomery County Commissioner
Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio
Gavin Cohen, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio
Pamela F. Gogol, Montgomery County Public Member
Caroline McCarthy, Montgomery County Open Trustee
Sheila Morgan-Johnson, Prince George’s County Public Member
Theodore J. Russell III, Prince George’s County Open Trustee
Elaine A. Stookey, Bi-County Open Trustee
Howard Brown, FOP Represented Trustee
Lisa Blackwell-Brown, MCGEO Represented Trustee

Arrived at 10:09am

ERS Staff Present

Andrea L. Rose, Executive Director
Sheila Joynes, Accounting Manager
Alicia C. Stanford, Administrative Specialist

Presentations

Debra Borden – M-NCPPC, General Counsel
Ben Rupert – M-NCPPC, Principal Legal Counsel

ITEM 1. APPROVAL OF THE FEBRUARY 7, 2023, CONSENT AGENDA

ACTION: VICE CHAIR PRESLEY made a motion, seconded by MS. MCCARTHY to approve the Consent Agenda of February 7, 2023 with minor changes to the Open Session Minutes of December 6, 2022 suggested by Mr. Cohen. The motion PASSED (11-0) (Motion # 23-1).

ITEM 2. CHAIR’S ITEMS - Conference and Training Summary 2023 was presented by CHAIR SHAPIRO. No comments or inquiry from the Board.

ITEM 3. MISCELLANEOUS - No items to report.

ITEM 4. CONSULTATION/MANAGER PRESENTATIONS

ITEM 4.A. M-NCPPC Office of the General Counsel- Presentation by Debra Borden, General Counsel and Ben Rupert, Principal Counsel

Debra Borden, General Counsel, and Ben Rupert, Principal Counsel, presented the 2023 Ethics and Fiduciary Responsibility Workshop. Trustees of the ERS Board of Trustees and Commission's 115 Trust were provided 2023 Fiduciary Ethics Workshop Background Materials for review prior to the training. The training included a discussion of the legal requirements as a Trustee (States and Trust Article – 14.5 of the Maryland Code), the 5 rules of public trust, proper conduct, ethical traits, the 6 key fiduciary duties, decisional standards, compliance obligations, prohibited transactions, whistleblowing, co-fiduciary responsibility, conflicts of interest, corporate governance, acting objectively, and how to navigate wearing two hats. ERS Ethics training is mandatory and provided annually to Trustees.

ITEM 5. COMMITTEE REPORTS/RECOMMENDATIONS

ITEM 5.A. Investment Monitoring Group

Ms. Morgan-Johnson provided an overview of the Investment Monitoring Group (“IMG”) meeting of December 20, 2022. At the meeting, Bradley Baker, Wilshire Advisors LLC, presented a manager review of HarbourVest Partners Credit Opportunities Fund (COF) II. COF II is a diversified portfolio of sponsor backed debt securities (60-70%) and credit securities with equity appreciation (30-40%). Target net returns are 13-16%. COF II has total committed capital of approximately \$833 million. COF II is expected to make its final investment in the 4th quarter of 2022. COF II is presently on pace to meet its target net return.

The IMG, Wilshire Advisors and staff began a comprehensive review of the Statement of Investment Policy back in September 2022. Major updates included revisions to the target exposures and expected ranges to reflect the revised asset allocation approved in April 2022, authority for the Executive Director, in consultation with the Investment Consultant to rebalance asset class exposures, and distinct roles and responsibilities, as recommended by Wilshire Advisors. The IMG recommended the revised Statement of Investment Policy to the Board for approval.

ACTION: MR. RUSSELL made a motion, seconded by MS. GOGOL to approve the revised Statement of Investment Policy, as recommended by Wilshire Advisors. The motion PASSED (11-0) (Motion # 23-2).

Ms. Morgan-Johnson provided an overview of the IMG meeting of January 17, 2023. At the meeting, Bradley Baker, Wilshire Advisors LLC, presented a manager review of Golub Capital Partners (GCP) Opportunistic Fixed Income Funds 9 and 11. GCP focuses on senior, secured loans in the middle market, direct lending segment of the private credit industry. As of September 30, 2022, GCP Funds 9 and 11 had an IRR of 9.5% and 9.3% and TVPI of 1.69x and 1.32x, respectively. GCP 9 outperformed the peer median IRR of 6.7% and TVPI of 1.23x. GCP 11 outperformed the peer median TVPI of 1.20x and matched the peer median IRR of 9.3%.

ITEM 5.B. Administration & Personnel Oversight Committee

Ms. Rose provided an overview of the Administration & Personnel Oversight Committee (“Personnel Committee”) meeting of January 17, 2023. The Personnel Committee held three working sessions on development of a Governance Manual to incorporate language from existing policies, propose revisions to existing language and include new language for certain sections. The Governance Manual dated February 2023 incorporated the Rules of Procedure, Travel Policy, and Conference Attendance Policy; replaced certain terms such as “Chairman” and “Vice Chairman”

with “Chair” and “Vice Chair” and “Administrator” and “Deputy Administrator” with “Executive Director” and “Deputy Executive Director”; created Committee Charters; and included revisions to allow the Board to meet via video conferencing technology. The Personnel Committee recommended the Governance Manual dated February 2023 to the Board for approval.

ACTION: VICE CHAIR PRESLEY made a motion, seconded by MR. COHEN to approve the Governance Manual dated February 2023. The motion PASSED (11-0) (Motion # 23-3).

ITEM 6. ADMINISTRATOR’S REPORT

Ms. Rose presented the Administrator’s Report dated January 25, 2023. Ms. Rose informed the Board that as part of the financial statements review, the auditors, SB & Company, reviewed the Schedule K-1s to determine if additional IRS filing requirements are required based on the underlying activity of the partnership. This review determined no additional IRS filing requirements for the ERS. Ms. Rose informed the Board that candidates have been identified for two (2) new staff positions, a Senior Retirement Benefits Analyst and Deputy Executive Director. Background checks are underway. Lastly, the Bi-County Open Trustee and Montgomery County and Prince George’s County Public Members seats are set to expire on June 30, 2023. Staff are working on a calendar for the election/appointment for each vacant seat and will provide deadlines next month.

ITEM 7. CLOSED SESSION

ACTION: At 11:22 a.m., MS. BLACKWELL-BROWN made a motion, seconded by MS. CHIANG-SMITH to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(1), to discuss the performance evaluation of an employee, and the compensation of a different employee, over whom this public body has jurisdiction, and other personnel matters that affect the specific individuals; Section 3-305(b)(5), to consider matters directly concerning the actual investment of public funds under the authority of this Board; and Section 3-305(b)(7), to consult with counsel on matters related to the compensation of an employee. The motion PASSED (11-0). (Motion #23-4).

During Closed Session, the following action was taken:

1. The Board resolved a member appeal.
2. The Board approved Amendments to Investment Management Agreements for Eaton Vance and Capital International, Inc.
3. The Board discussed the performance evaluation of an employee and approved a recommendation from the Administration & Personnel Oversight Committee.

Board of Trustees in Closed Session: Chair Shapiro, Vice Chair Presley, Gavin Cohen, Lisa Blackwell-Brown, Sheila Morgan-Johnson, Theodore Russell III, Elaine Stookey, Caroline McCarthy, Howard Brown, Asuntha Chiang-Smith, and Pamela Gogol.

ACTION: VICE CHAIR PRESLEY made a motion, seconded by MS. STOOKEY to ratify items taken in Closed Session. The motion PASSED (11-0) (Motion # 23-9).

ITEM 8. ADMINISTRATIVE FUNCTIONS

The Board recessed to perform administrative functions not subject to the Open Meetings Act, pursuant to Section 3-104 of the General Provisions Article of the Annotated Code of Maryland.

The Board meeting of February 7, 2023, adjourned at 12:24 a.m.

Respectfully,

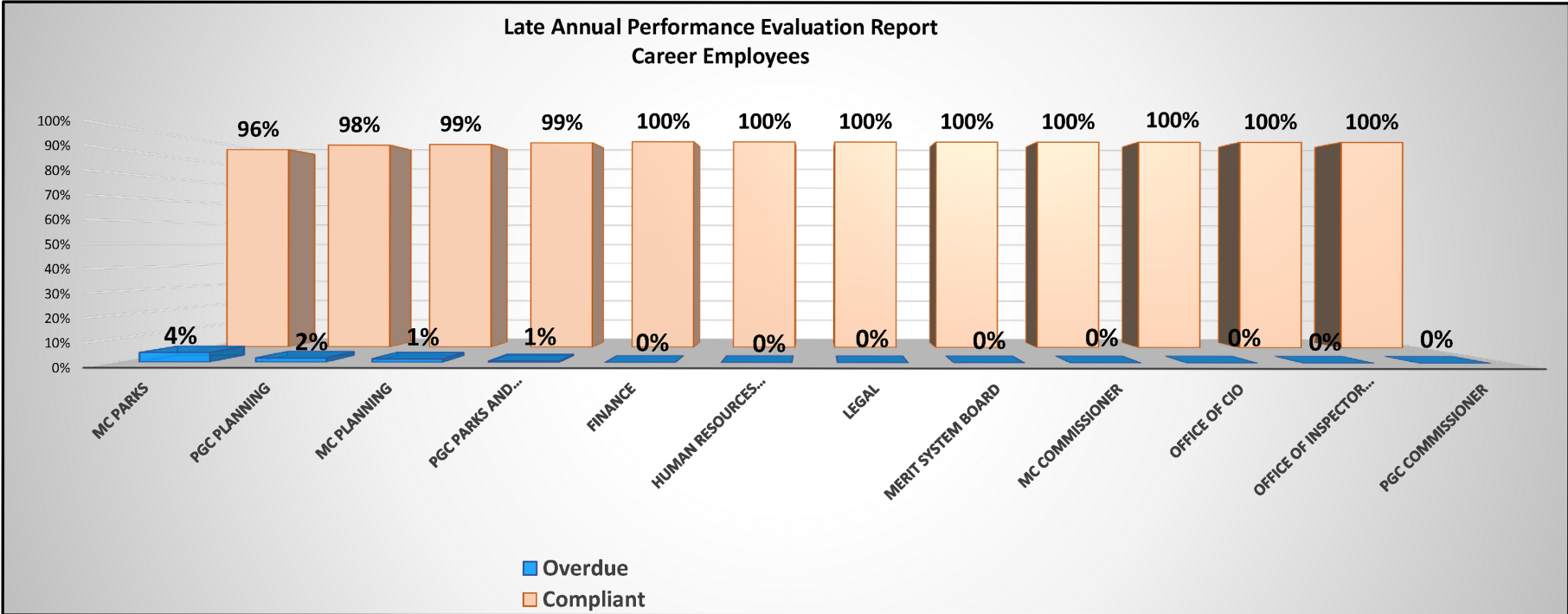
Alicia C. Stanford
Alicia C. Stanford
Administrative Specialist

Andrea L. Rose
Andrea L. Rose
Executive Director

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE
BY DEPARTMENT AS OF FEBRUARY 2023**

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	Jan-23	Feb-23	Jan-23	Feb-23	Jan-23	Feb-23	Jan-23	Feb-23
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	0	0	0	0	0	0	0	0
OFFICE OF INSPECTOR GENERAL	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	1	0	0	0	0	0	0	0
LEGAL DEPARTMENT	0	0	0	0	0	0	0	0
FINANCE DEPARTMENT	2	0	0	0	0	0	2	0
PRINCE GEORGE'S PLANNING	2	3	0	0	0	0	2	3
PRINCE GEORGE'S PARKS & RECREATION	4	6	0	0	0	0	4	6
MONTGOMERY COUNTY PARKS	13	26	1	1	0	1	15	28
MONTGOMERY COUNTY PLANNING	0	2	0	0	0	0	0	2
DEPARTMENT TOTAL BY DAYS LATE	22	37	1	1	0	1		
COMMISSION-WIDE TOTAL							23	39

**DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



*Data as of February 28, 2023

Employee Count Department	Evaluation Status		Total Employees
	Overdue	Compliant	
Finance		34	34
Human Resources and Mgt		52	52
Legal		22	22
MC Commissioner		2	2
MC Parks	28	663	691
MC Planning	2	134	136
Merit System Board		1	1
Office of CIO		19	19
Office of Inspector General		5	5
PGC Commissioner		7	7
PGC Parks and Recreation	6	986	992
PGC Planning	3	166	169
Total Employees	39	2,091	2,130



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

To: Commissioners
From: John Kroll, Corporate Budget Director *JKK*
Date: February 22, 2023
Subject: Report of Budget Transfers

BACKGROUND:

Commission Practice 3-60, Budget Adjustments (Amendments and Transfers), requires that a summary of all approved operating budget and capital project budget transfers and amendments will be prepared by the Corporate Budget Office and submitted to the Commission, quarterly.

REPORT for Information Only – No Action Required:

Report of Operating budget transfers attached for first and second quarters of FY23. There were no Capital budget transfers during this period.

Following the requirements of the practice:

BA's 23-2 was approved by the Commission.

BA's 23-3, 23-4 and 23-05 were approved by the Montgomery County Planning Board

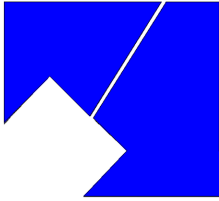
BA 23-1 was approved by the Secretary-Treasurer

I would be happy to answer any questions relating to this report or individual budget adjustments.

Attachment

Operating Budget Adjustment Log

Operating Budget Adjustment Log													
		Transfer From					Transfer To						
BA#	Date	Fund #	Fund Name	Department	Division	Amount	Fund #	Fund Name	Department	Division	Amount	Description	Approval
23-1	9/9/2022	201	MC Admin	MC Planning	Mid-County Planning	50,000	201	MC Admin	MC Planning	Director's Office	50,000	Move funding for Incentive Density Implementation Guidelines project	Sec/Treas
23-2	9/8/2022	101	PGC Admin	Non-Departmental		1,196,303	101	PGC Admin	Multiple	Multiple	1,196,303	Xfer salary marker to departmental budgets	Commission
		102	PGC Park	Non-Departmental		2,706,371	102	PGC Park	PGC Parks & Recreation	Multiple	2,706,371		
		103	PGC Recreation	Non-Departmental		1,156,572	103	PGC Recreation	PGC Parks & Recreation	Multiple	1,156,572		
		201	MC Admin	Non-Departmental		933,208	201	MC Admin	Multiple	Multiple	933,208		
		202	MC Park	Non-Departmental		2,598,723	202	MC Park	MC Parks	Multiple	2,598,723		
23-3	11/10/2022	202	MC Park	Non-Departmental		213,464	555	Risk Mgmt	DHRM	Risk Mgmt	213,464	Xfer remaining salary marker to partially fund legal settlement	MCPB
23-4	12/22/2022	202	MC Park	MC Parks	Multiple	1,988,786	202	MC Park	MC Parks	Multiple	9,069	Projected EOY savings to fund - Community Gardens	MCPB
											538,158	- replace existing equipment	
											150,000	- additional trash truck	
											258,947	- software licenses and program updates	
											104,000	- computers and related tech equip	
											150,000	- contracted svcs for redesign of dept website	
											88,708	- security upgrades	
											187,199	- contracted and temp tech and admin support	
											400,000	- demolition of NTB building	
											92,705	-park facility repairs and maintenance	
23-5	12/22/2022	201	MC Admin	MC Planning	Multiple	307,000	201	MC Admin	MC Planning	Multiple	100,000	Projected EOY savings to fund - website redesign	MCPB
											75,000	- Incentive Density Implementation Guidelines	
											75,000	- Cybersecurity improvements	
											57,000	- Adobe Creative Cloud licenses	



The Maryland-National Capital Park & Planning Commission
Supplier Diversity Program - Corporate Policy & Management Operations Division

6611 Kenilworth Avenue • Riverdale, Maryland 20737 • Phone: 301-454-1740
E-mail: mncppconpoint@service-now.com

March 1, 2023

TO: Commissioners

VIA: Asuntha Chiang-Smith, Executive Director

FROM: Malcolm Jackson, Supplier Diversity Program Manager

SUBJECT: MFD Purchasing Statistics — Second Quarter FY23

On February 22, 2023, the Maryland-National Capital Park and Planning Commission (M-NCPPC) learned that the Maryland Department of Transportation (MDOT) 2018 State Disparity Study required for authorization of the Commission's Minority Business Enterprise (MBE) Preference Program (*per House Bill 1279 {HB 1279}; Maryland-National Capital Park and Planning Commission - Procurement - Source Selection MC/PG 112-19*) would be pushed back to September 2024.

The Director of the MDOT Office of Small & Minority Business Policy, Ms. Chantal Kai-Lewis, shared with Commission Supplier Diversity Program and Procurement staff members that *"...work on the Statewide Disparity Study was temporarily halted in order for the General Assembly and MGT Consulting to complete a standalone and expedited disparity study on the new adult-use/recreational cannabis industry. As such, the anticipated due date for the Statewide Study is being pushed back to September 2024."*

In the spirit of anticipation and proactive readiness to such notice of delay, the Commission decoupled the MBE Preference Program from our Local Small Business Enterprise (SBE) Program in the first quarter of Fiscal Year 2023. This enabled the Commission to move forward with the Local Small Business Enterprise Program without undue delay.

Following authorizing legislation guidance (per HB 1279), the Commission retained the services of an independent research consultant to assist in the analysis for the development and implementation of a Local Small SBE Program. During the second quarter of FY23, the independent research consultant, amongst several other functions, conducted a series of "Business Advisory Group" meetings with numerous Prince George's and Montgomery County Local Small businesses to obtain information concerning barriers for local small businesses. The final independent research consultant's "Local Small Business Enterprise Program Assessment and Development Report" with recommended program elements and design is expected to be delivered this month, no later than March 15th, 2023.

M-NCPPC's Supplier Diversity Program Manager is responsible for the development and implementation of the Commission's innovative outreach strategies to attract and retain a diverse pool of Local Small SBE vendors. The Supplier Diversity Program Manager identifies and

establishes partnerships with “M-NCPPC Supplier Diversity Program Local Small Business Enterprise (SBE) Community Outreach Partners”. The Supplier Diversity Program Manager also hosts and attends numerous Local Small business community outreach events on a regular basis.

During 2nd Quarter FY23, and in preparation for the Commission’s Local Small SBE Program’s anticipated launch in July of this year, M-NCPPC’s Supplier Diversity Program Manager developed a budgeting plan for Local Small SBE Program launch and outreach coordination efforts. The Supplier Diversity Program Manager vetted and met virtually and in-person with several certified Local Small Prince George’s and Montgomery County based firms to discuss the Commission’s Supplier Diversity Program promotional, social media, event production, SWAG/ promotional material services, etc. required for a successful program launch.

As M-NCPPC prepares to launch its Local Small SBE Program, the Commission’s current procurement policy (Practice 4-10, Purchasing) which includes an anti-discrimination component assuring fair and equitable vendor opportunities are made available to minority, female or disabled owned firms (MFDs) remains in effect. This program is administered jointly by the Office of the Executive Director and the Corporate Procurement Division and includes an MFD subcontracting component based on Commission procurement practices and the available MFD vendors in the marketplace. This report is provided for your information and may be found on the Commission’s intranet.

Some of the observations of this FY 2023 MFD Purchasing Statistics report include:

- Attachment A indicates that through the Second Quarter of FY23, the Commission procured \$54,727,855 in goods, professional services, construction, and miscellaneous services and 19.1% or \$10,461,651 was spent with minority, female and disabled (MFD) owned firms.
- Attachment B indicates that in the Second Quarter of FY23, 19.1% was spent with minority, female and disabled (MFD) owned firms.
- Attachment C represents the MFD participation by type of procurement. The MFD participation for construction through the Second Quarter of FY23 was 26.7%. Attachment C also indicates that the largest consumers of goods and services in the Commission are Prince George’s County Department of Parks and Recreation and Montgomery Parks. These programs significantly impact the Commission’s utilization of MFD firms. The MFD cumulative utilization numbers for these Departments through the Second Quarter of 2023 are 16.6% and 22.4% respectively.
- Attachment D presents the FY23 activity for the Purchase Card program totaling \$54,727,855 of which 2.2% was spent with minority, female and disabled (MFD) firms. The amount of procurement card activity represents 10.6% of the Commission’s total procurement dollars.
- Attachment E portrays the historic MFD participation rates, and the total procurement from FY 1991 to Second Quarter FY23.
- Attachments F & G shows the MFD participation in procurements at various bid levels to determine if MFD vendors are successful in obtaining opportunities in procurements that require informal bidding and formal bidding. Based on the analysis, MFD vendors do appear to be participating, at an overall rate of 15.1% in informal (under \$30,000) and 21.0% in the formal (over \$30,000) procurements. For transactions under \$10k, MFD

participation is 9.8%. For transactions over \$10k but under \$30k, MFD participation is 22.1%.

- Attachment H presents the total amount of procurements and the number of vendors by location. Of the \$54,727,855 in total procurement, \$35,301,673 was procured from Maryland vendors. Of the \$35,301,673 in procurement from Maryland vendors, \$8,899,517 was procured from MFD vendors located in Maryland with 74.1% or \$7,746,270 procured from MFD vendors located in Montgomery and Prince George's Counties.
- Attachment I compares the utilization of MFD vendors by the Commission with the availability of MFD vendors. The results show under-utilization in the following categories: African American, Asian, Native American, and Females. The amount and percentage of procurement from MFD vendors is broken out by categories as defined by the Commission's Anti-Discrimination Policy. The availability percentages are taken from the most recent State of Maryland disparity study dated June 25, 2018.
- Attachments J and K are prepared by the Department of Human Resources and Management and show the amount and number of waivers of the procurement policy by department and by reason for waiver.

For further information on the MFD report, please contact the Office of Executive Director at (301) 454-1740.

Attachments

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT STATISTICS
FY 2023
FOR SIX MONTHS ENDED DECEMBER 31, 2022

Attachment A

	<u>Procurement</u>		<u>Waivers</u>		<u>Procurement</u>	
	<u>Total \$</u>		<u>Total \$</u>	<u>Total #</u>	<u>MFD \$</u>	<u>%</u>
<u>Prince George's County</u>						
Commissioners' Office	\$ 17,576	\$	-	-	\$ 97	0.6%
Planning Department	1,017,310		-	-	277,341	27.3%
Parks and Recreation Department	32,003,602		1,127,770	9	5,317,032	16.6%
Total	<u>33,038,488</u>		<u>1,127,770</u>	<u>9</u>	<u>5,594,470</u>	<u>16.9%</u>
<u>Montgomery County</u>						
Commissioners' Office	2,921		-	-	-	0.0%
Planning Department	1,210,697		197,297	4	280,680	23.2%
Parks Department	17,929,153		178,409	9	4,023,933	22.4%
Total	<u>19,142,771</u>		<u>375,706</u>	<u>13</u>	<u>4,304,613</u>	<u>22.5%</u>
<u>Central Administrative Services</u>						
Dept. of Human Resources and Mgt.	424,757		141,034	5	42,169	9.9%
Finance Department	159,240		64,160	2	2,972	1.9%
Legal Department	143,167		148,000	3	7,446	5.2%
Merit Board	-		-	-	-	0.0%
Office of Chief Information Officer	1,819,432		20,232	1	509,981	28.0%
Office of Inspector General	-		-	-	-	0.0%
Total	<u>2,546,596</u>		<u>373,426</u>	<u>11</u>	<u>562,568</u>	<u>22.1%</u>
Grand Total	<u>\$ 54,727,855</u>	<u>\$</u>	<u>1,876,902</u>	<u>33</u>	<u>\$ 10,461,651</u>	<u>19.1%</u>

Note: The "Waivers" columns report the amount and number of purchases approved to be exempt from the competitive procurement process, including sole source procurements.

Prepared by Supplier Diversity Program Manager, Corporate Policy & Management Operations Division
February 28, 2023

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS

FY 2023

MFD STATISTICS - CUMULATIVE AND ACTIVITY BY QUARTER

Attachment B

CUMULATIVE BY QUARTER

	SEPTEMBER	DECEMBER	MARCH	JUNE
<u>Prince George's County</u>				
Commissioners' Office	1.1%	0.6%		
Planning Department	41.5%	27.3%		
Parks and Recreation Department	17.1%	16.6%		
Total	17.7%	16.9%		
<u>Montgomery County</u>				
Commissioners' Office	0.0%	0.0%		
Planning Department	23.8%	23.2%		
Parks Department	22.7%	22.4%		
Total	22.7%	22.5%		
<u>Central Administrative Services</u>				
Dept. of Human Resources and Mgt.	15.5%	9.9%		
Finance Department	0.0%	1.9%		
Legal Department	2.4%	5.2%		
Merit Board	0.0%	0.0%		
Office of Chief Information Officer	0.5%	28.0%		
Office of Inspector General	0.0%	0.0%		
Total	3.4%	22.1%		
Grand Total	19.0%	19.1%		

ACTIVITY BY QUARTER

	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER	TOTAL
<u>Prince George's County</u>					
Commissioners' Office	1.1%	0.0%			0.6%
Planning Department	41.5%	12.3%			27.3%
Parks and Recreation Department	17.1%	16.0%			16.6%
Total	17.7%	15.9%			16.9%
<u>Montgomery County</u>					
Commissioners' Office	0.0%	0.0%			0.0%
Planning Department	23.8%	22.7%			23.2%
Parks Department	22.7%	22.2%			22.4%
Total	22.7%	22.2%			22.5%
<u>Central Administrative Services</u>					
Dept. of Human Resources and Mgt.	15.5%	6.8%			9.9%
Finance Department	0.0%	2.8%			1.9%
Legal Department	2.4%	26.4%			5.2%
Merit Board	0.0%	0.0%			0.0%
Office of Chief Information Officer	0.5%	39.4%			28.0%
Office of Inspector General	0.0%	0.0%			0.0%
Total	3.4%	31.6%			22.1%
Grand Total	19.0%	19.2%			19.1%

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS
BY MAJOR PROCUREMENT CATEGORY
FY 2023

FOR SIX MONTHS ENDED DECEMBER 31, 2022

ATTACHMENT C

	Grand Total	Montgomery Planning	Montgomery Parks	Pr. Geo. Parks & Recreation	Pr. Geo. Planning	Dept. of Human Resources	Finance Dept.	Legal Dept.	Office of Chief Information
Goods:									
Total \$	\$ 17,464,184	\$ 181,242	\$ 7,020,592	9,536,491	\$ 275,886	\$ 80,783	\$ 19,674	19,859	\$ 329,657
MFD \$	\$ 2,024,103	\$ 32,924	\$ 408,251	1,149,668	\$ 199,678	\$ 3,575	\$ 0	4,456	\$ 225,551
Percentage	11.6%	18.2%	5.8%	12.1%	72.4%	4.4%	0.0%	22.4%	68.4%
Miscellaneous Services:									
Total \$	\$ 8,405,524	\$ 950,378	\$ 2,227,128	3,640,424	\$ 662,529	\$ 167,865	\$ 67,889	20,571	\$ 668,740
MFD \$	\$ 1,411,173	\$ 247,756	\$ 218,496	648,886	\$ 77,663	\$ 970	\$ 2,972	0	\$ 214,430
Percentage	16.8%	26.1%	9.8%	17.8%	11.7%	0.6%	0.0%	0.0%	32.1%
Professional Services:									
Total \$	\$ 5,864,979	\$ 55,451	\$ 1,533,431	3,123,863	\$ 78,895	\$ 91,280	\$ 61,277	99,747	\$ 821,035
MFD \$	\$ 886,047	\$ 0	\$ 224,999	585,528	\$ 0	\$ 5,520	\$ 0	0	\$ 70,000
Percentage	15.1%	0.0%	14.7%	18.7%	0.0%	6.0%	0.0%	0.0%	2.0%
Construction:									
Total \$	\$ 22,972,671	\$ 23,626	\$ 7,148,002	15,702,824	\$ 0	\$ 84,829	\$ 10,400	2,990	\$ 0
MFD \$	\$ 6,140,231	\$ 0	\$ 3,172,187	2,932,950	\$ 0	\$ 32,104	\$ 0	2,990	\$ 0
Percentage	26.7%	0.0%	44.4%	18.7%	0.0%	37.8%	0.0%	100.0%	0.0%
SUBTOTAL									
Total \$	\$ 54,707,358	\$ 1,210,697	\$ 17,929,153	32,003,602	\$ 1,017,310	\$ 424,757	\$ 159,240	143,167	\$ 1,819,432
MFD \$	\$ 10,461,554	\$ 280,680	\$ 4,023,933	5,317,032	\$ 277,341	\$ 42,169	\$ 2,972	7,446	\$ 509,981
Percentage	19.1%	23.2%	22.4%	16.6%	27.3%	9.9%	1.9%	5.2%	28.0%
Pr. Geo. Commissioners' Office									
Total \$	\$ 17,576								
MFD \$	\$ 97								
Percentage	0.6%								
Mont. Commissioners' Office									
Total \$	\$ 2,921								
MFD \$	\$ 0								
Percentage	0.0%								
Merit Board									
Total \$	\$ 0								
MFD \$	\$ 0								
Percentage	0.0%								
Office of Inspector General									
Total \$	\$ 0								
MFD \$	\$ 0								
Percentage	0.0%								
GRAND TOTAL \$									
	\$ 54,727,855								
MFD\$	\$ 10,461,651								
Percentage	19.1%								



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT STATISTICS
Comparison of MFD % for Total Procurement and Purchase Card Procurement
FY 2023
FOR SIX MONTHS ENDED DECEMBER 31, 2022

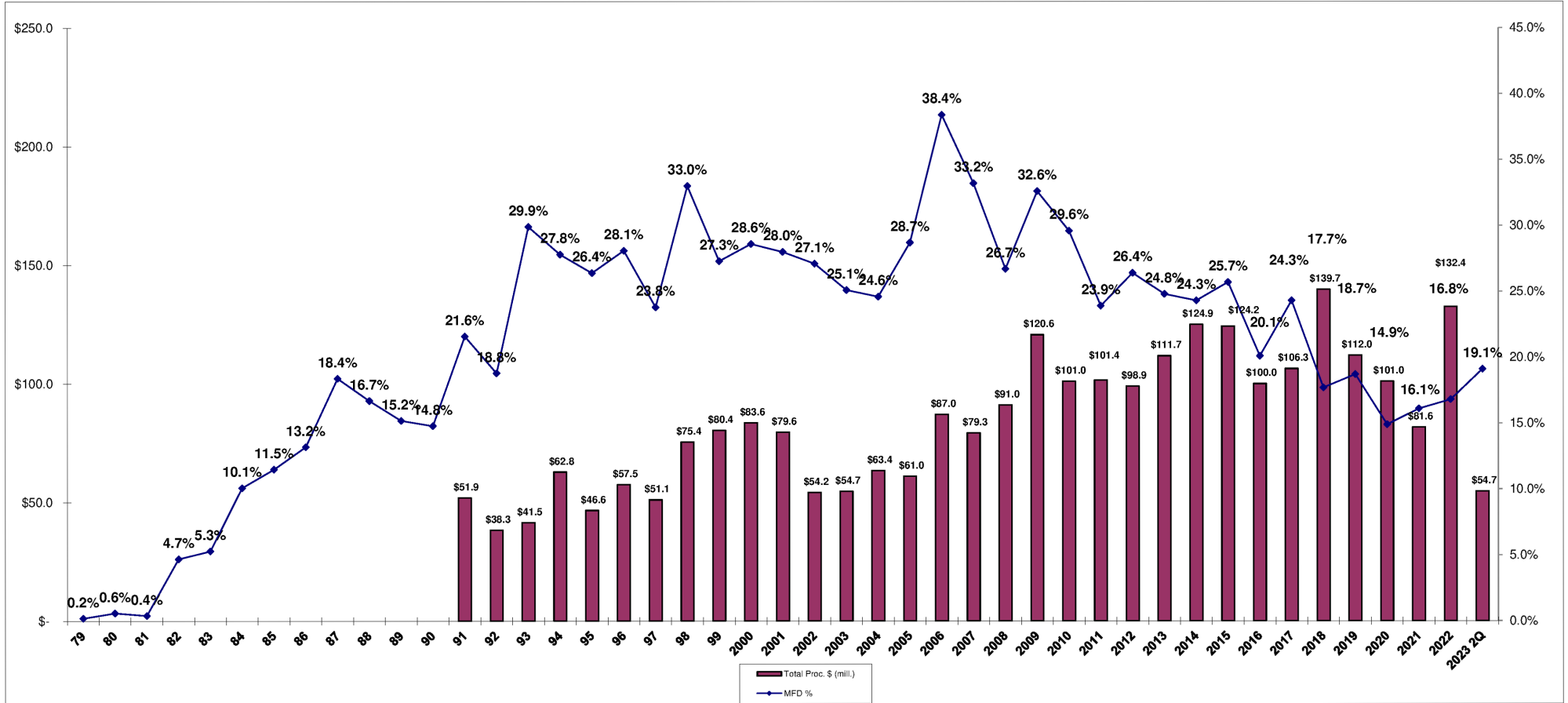
Attachment D

	Total Procurement		Purchase Card Procurement	
	Total \$	MFD %	Total \$	MFD %
<u>Prince George's County</u>				
Commissioners' Office	\$ 17,576	0.6%	\$ 11,738	0.8%
Planning Department	1,017,310	27.3%	60,414	0.0%
Parks and Recreation Department	32,003,602	16.6%	2,961,342	1.5%
Total	<u>33,038,488</u>	<u>16.9%</u>	<u>3,033,494</u>	<u>1.5%</u>
<u>Montgomery County</u>				
Commissioners' Office	2,921	0.0%	2,921	0.0%
Planning Department	1,210,697	23.2%	102,524	8.6%
Parks Department	17,929,153	22.4%	2,549,214	2.9%
Total	<u>19,142,771</u>	<u>22.5%</u>	<u>2,654,659</u>	<u>3.1%</u>
<u>Central Administrative Services</u>				
Dept. of Human Resources and Mgt.	424,757	9.9%	48,811	0.0%
Finance Department	159,240	1.9%	6,490	0.0%
Legal Department	143,167	5.2%	18,471	0.0%
Merit Board	-	0.0%	-	0.0%
Office of Chief Information Officer	1,819,432	28.0%	15,058	0.0%
Office of Inspector General	-	0.0%	-	0.0%
Total	<u>2,546,596</u>	<u>22.1%</u>	<u>88,830</u>	<u>0.0%</u>
Grand Total	<u>\$ 54,727,855</u>	<u>19.1%</u>	<u>\$ 5,776,983</u>	<u>2.2%</u>

Percentage of Purchase Card Procurement to Total Procurement 10.6%

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT RESULTS and TOTAL PROCUREMENT (millions)

Attachment E

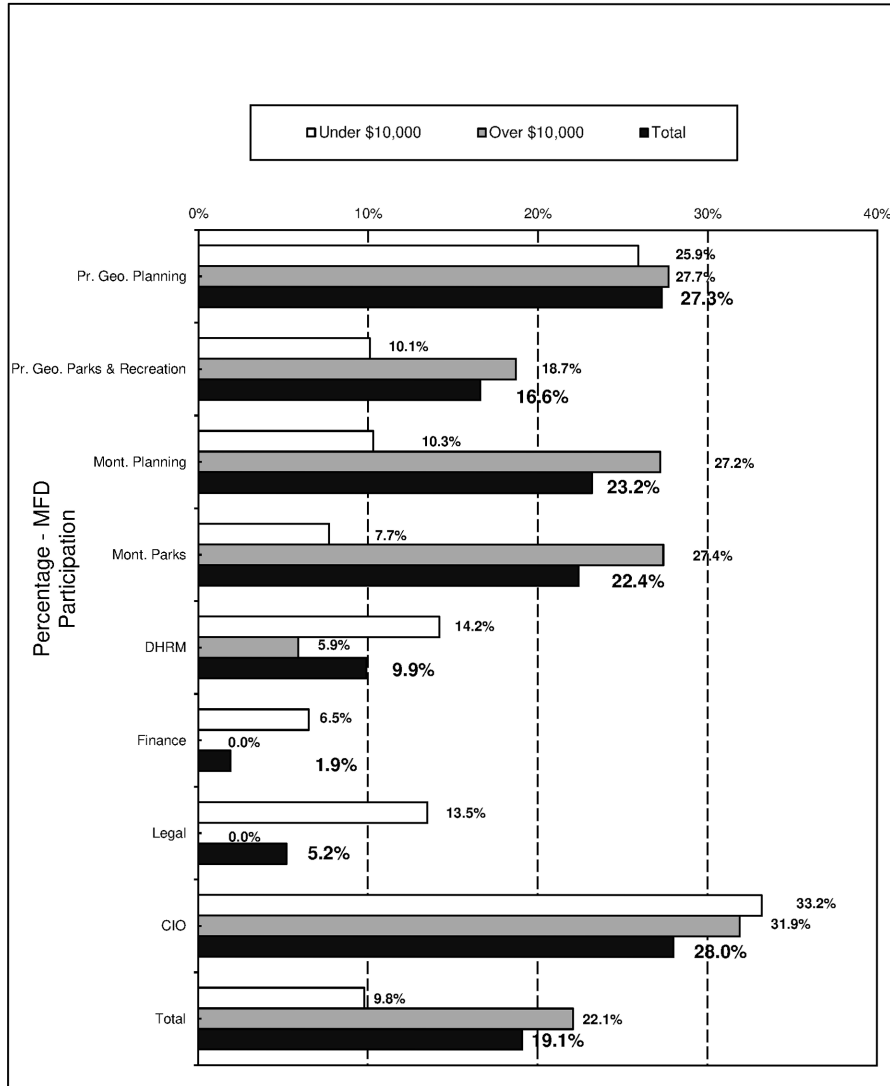


	FY2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
TOTAL PROCUREMENT \$ (MIL.)	\$124.9	\$124.2	\$100.0	\$106.3	\$139.7	\$112.0	\$101.0	\$81.6	\$132.4	\$54.7
MFD %	24.3%	25.7%	20.1%	24.3%	17.7%	18.7%	14.9%	16.1%	16.8%	19.1%

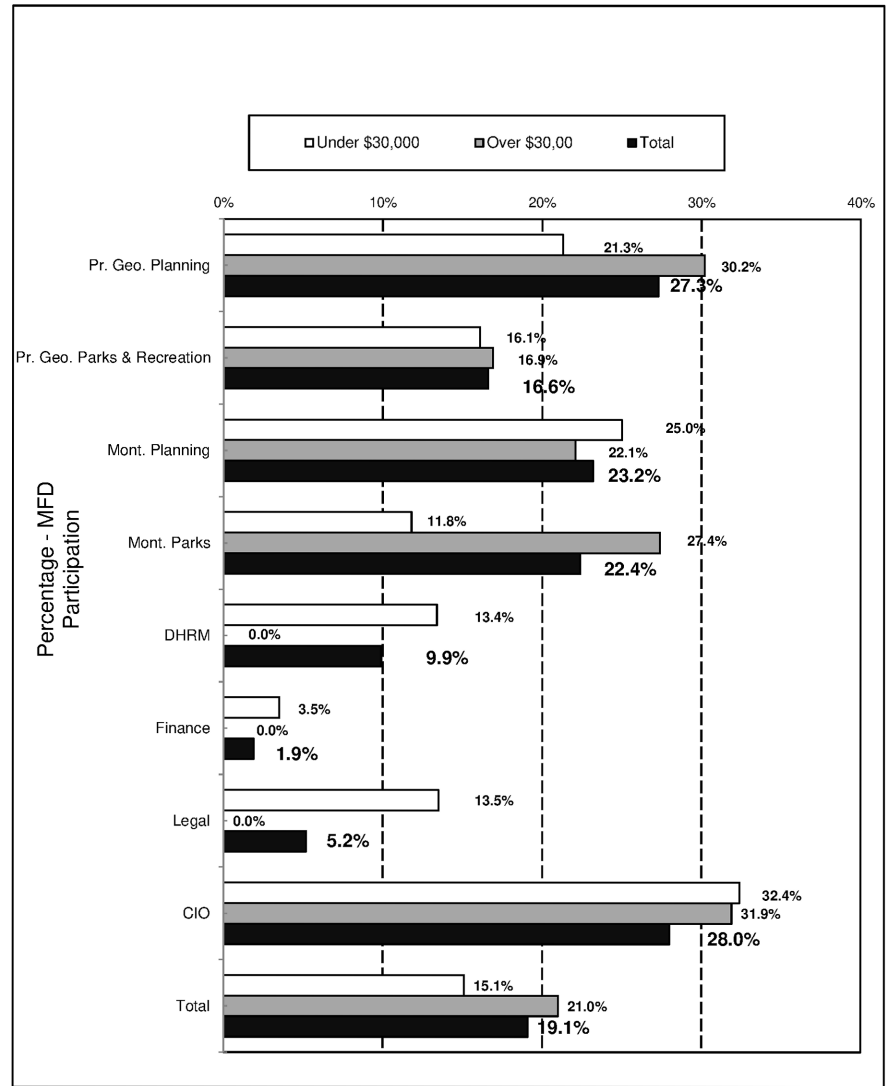
Prepared by Supplier Diversity Program Manager, Corporate Policy & Management Operations Division
 February 28, 2023

The Maryland-National Capital Park and Planning Commission
 MFD Procurement Statistics - Transactions Under/Over \$10,000 & \$30,000 plus Total %
 FY 2023 2Q

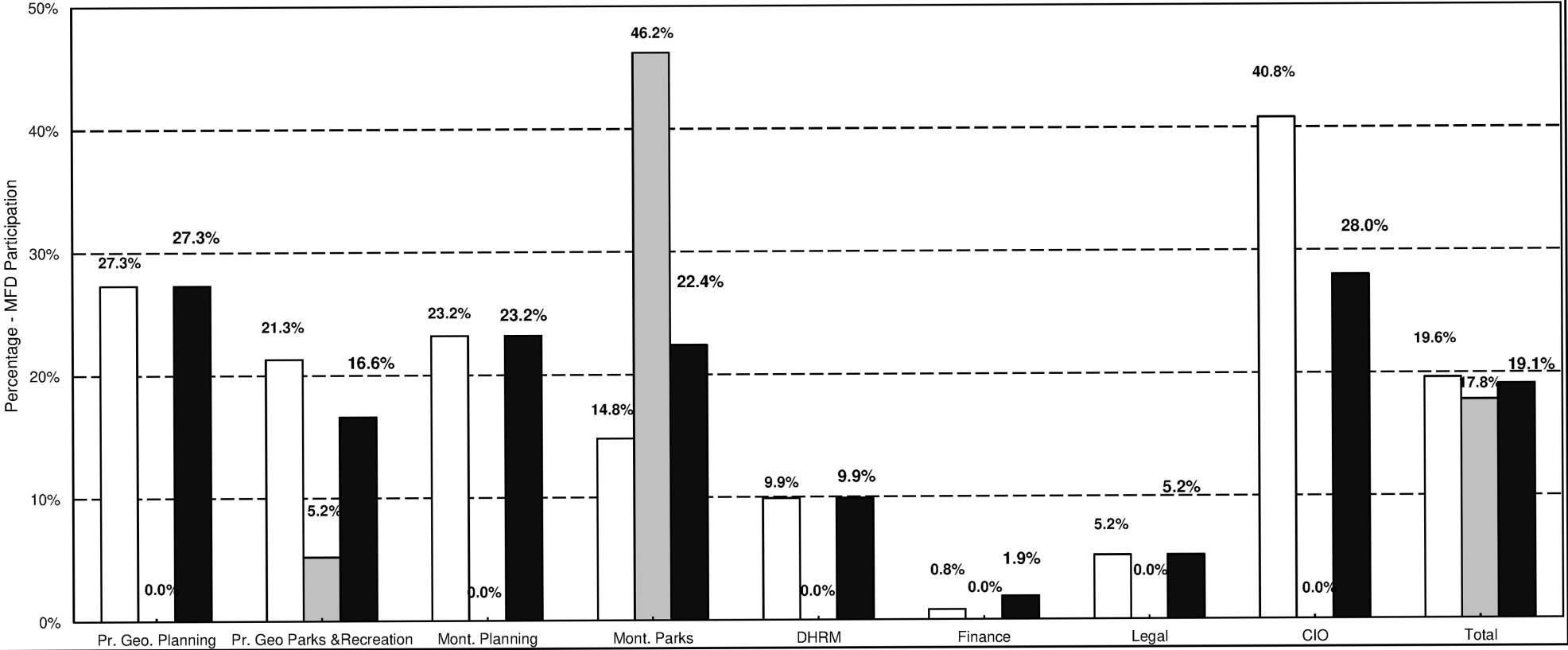
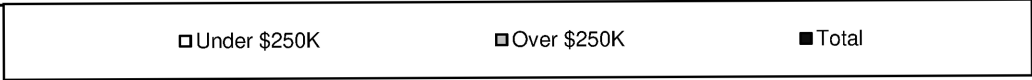
Under/Over \$10,000



Under/Over \$30,000



The Maryland-National Capital Park and Planning Commission
 MFD Procurement Statistics - Transactions Under /Over \$250,000 and Total %
 FY 2023 2Q



Prepared by Supplier Diversity Program Manager, Corporate Policy & Management Operations Division
 February 28, 2023

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Amount of Procurement and Number of Vendors by Location
FY 2023
FOR SIX MONTHS ENDED DECEMBER 31, 2022

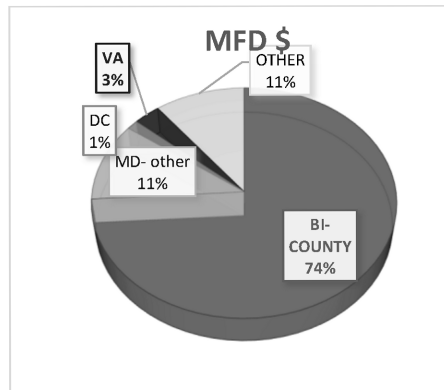
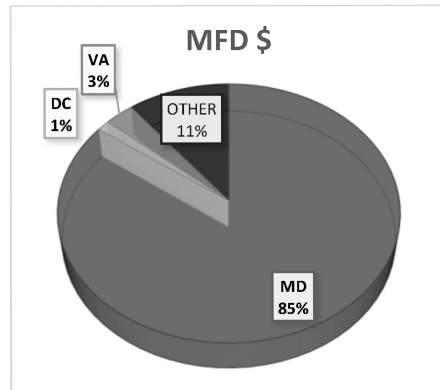
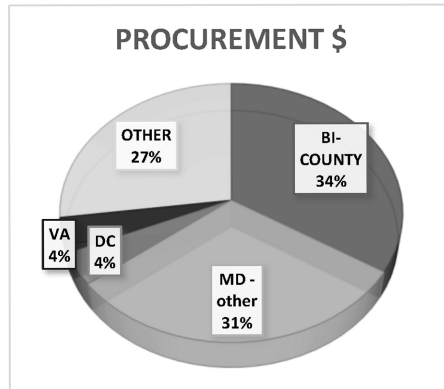
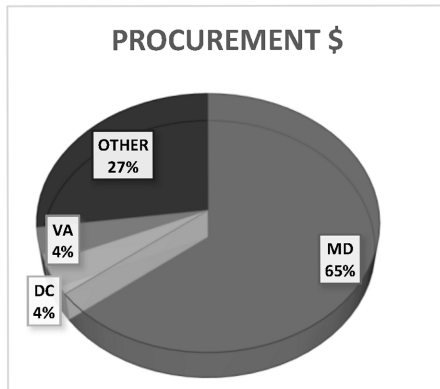
Attachment H

ALL VENDORS

Location	Procurement		Number of Vendors	
	Amount	%	Number	%
Montgomery County	\$ 7,101,432	13.0%	162	15.2%
Prince George's County	11,478,633	21.0%	278	26.2%
Subtotal	18,580,065	34.0%	440	41.4%
Maryland - other locations	16,721,608	30.5%	211	19.8%
Total Maryland	35,301,673	64.5%	651	61.2%
District of Columbia	2,209,254	4.0%	48	4.5%
Virginia	2,390,964	4.4%	89	8.4%
Other Locations	14,825,964	27.1%	275	25.9%
Total	\$ 54,727,855	100.0%	1,063	100.0%

MFD Vendors

Location	Procurement		Number of Vendors	
	Amount	%	Number	%
Montgomery County	\$ 2,324,905	22.2%	42	25.0%
Prince George's County	5,421,365	51.9%	59	35.1%
Subtotal	7,746,270	74.1%	101	60.1%
Maryland - other locations	1,153,247	11.0%	31	18.5%
Total Maryland	8,899,517	85.1%	132	78.6%
District of Columbia	138,052	1.3%	7	4.2%
Virginia	327,060	3.1%	15	8.9%
Other Locations	1,097,022	10.5%	14	8.3%
Total	\$ 10,461,651	100.0%	168	100.0%



Prepared by Supplier Diversity Program Manager, Corporate Policy & Management Operations Division
 February 28, 2023

Note: The number of vendors excludes purchase card vendors.

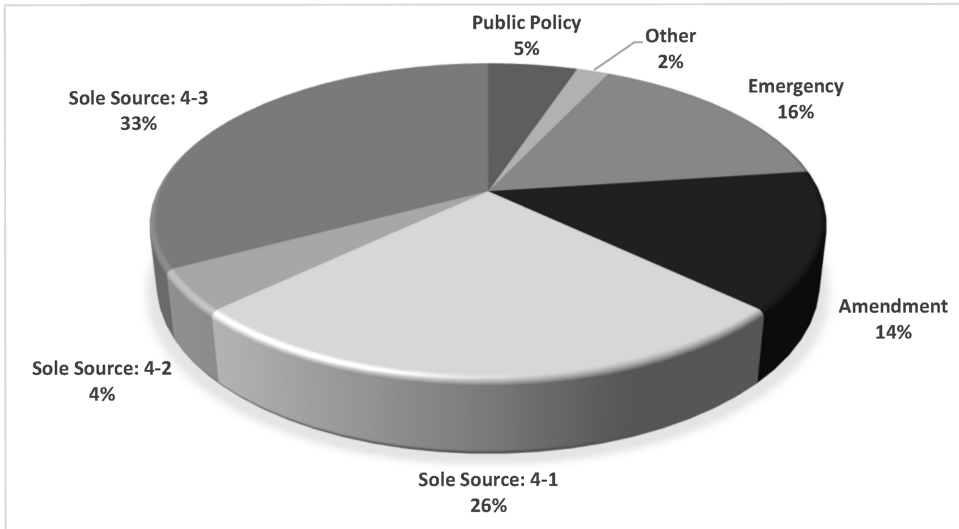
**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
REASONS FOR WAIVERS**

**CUMULATIVE DOLLAR AMOUNT & NUMBER OF WAIVERS
FY 2023**

FOR SIX MONTHS ENDED DECEMBER 31, 2022

Attachment J

REASON	NUMBER	AMOUNT	%
Emergency	3	\$ 298,738	15.9%
Other	1	\$ 35,000	1.9%
Public Policy	2	\$ 96,588	5.1%
Amendment	6	\$ 265,935	14.2%
Sole Source: 4-1	14	\$ 485,176	25.8%
Sole Source: 4-2	2	\$ 80,517	4.3%
Sole Source: 4-3	5	\$ 614,948	32.8%
Total	33	\$ 1,876,902	100.0%



Waiver Reason Definitions:

Emergency:

Sudden and unforeseeable circumstance have arisen which actually or imminently threaten the continuance of an essential operation of the Commission or which threaten public health, welfare or safety such that there is not enough time to conduct the competitive bidding.

Required by Law or Grant:

Public law or the terms of a donation/grant require that the above noted vendor be chosen.

Amendment:

A contract is already in place and it is appropriate for the above noted vendor to provide additional services and/or goods not within the original scope of the contract because the interested service and/or goods are uniquely compatible with the Commission's existing systems and patently superior in quality and/or capability than what can be gained through an open bidding process.

Sole Source 4:

It has been determined that:

- #1: The vendor's knowledge and experience with the Commission's existing equipment and/or systems offer a greater advantage in quality and/or cost to the Commission than the cost savings possible through competitive bidding, or
- #2: The interested services or goods need to remain confidential to protect the Commission's security, court proceedings and/or contractual commitments, or
- #3: The services or goods have no comparable and the above noted vendor is the only distributor for the interested manufacturer or there is otherwise only one source available for the sought after services or goods, e.g. software maintenance, copyrighted materials, or otherwise legally protected goods or services.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
TOTAL WAIVERS, MFD WAIVERS, AND SOLE SOURCE WAIVERS BY DEPARTMENT
PROCESSED FY 2023
FOR THE SIX MONTHS ENDED DECEMBER 31, 2022

Attachment K

	Total Waivers		MFD/Waivers		% of MFD	Sole Source 4-1 Waivers		Sole Source 4-2 Waivers		Sole Source 4-3 Waivers		%Sole Source
	\$	Number	\$	Number	%	\$	Number	\$	Number	\$	Number	%
Prince George's County												
Commissioners' Office	\$ -	0	\$ -	0	0.0%	\$ -	0	\$ -	0	\$ -	0	0.0%
Planning Department	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Parks and Recreation Department	1,127,770	9	-	0	0.0%	81,258	3	-	0	555,366	2	56.4%
Total	1,127,770	9	-	0	0.0%	81,258	3	-	0	555,366	2	56.4%
Montgomery County												
Commissioners' Office	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Planning Department	197,297	4	-	0	0.0%	115,632	2	-	0	-	2	58.6%
Parks Department	178,409	9	-	0	0.0%	137,249	6	-	0	33,582	0	95.8%
Total	375,706	13	-	0	0.0%	252,881	8	-	0	33,582	2	76.2%
Central Administrative Services												
Dept. of Human Resources and Mgt.	141,034	5	-	0	0.0%	13,037	1	80,517	2	-	0	66.3%
Finance Department	64,160	2	-	0	0.0%	-	0	-	0	26,000	1	40.5%
Legal Department	148,000	3	-	0	0.0%	138,000	2	-	0	-	0	93.2%
OCIO	20,232	1	-	0	0.0%	-	0	-	0	-	0	0.0%
Merit Board	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Total	373,426	11	-	0	0.0%	151,037	3	80,517	2	26,000	1	69.0%
Grand Total	\$ 1,876,902	33	\$ -	0	0.0%	\$ 485,176	14	\$ 80,517	2	\$ 614,948	5	62.9%

Purpose of Summary of Waiver Report:

- (1) To monitor the amount, number, reasons for waivers in order to ensure the Commission is encouraging and maintaining good community, public, vendor, and interdepartmental relations;
 To ensure fair and equitable treatment of all persons who deal in purchasing matters; to promote economy in Commission purchasing; and to ensure that minority owned firms receive a fair share of Commission awards (source: Practice 4-10); and
- (2) To comply with the Prince George's Planning Board directive of January 29, 1991 to report waiver activity to the Department Heads and the Planning Boards on a quarterly basis.

Sole Source: 4

It has been determined that:

- 4-1: The vendor's knowledge and experience with the Commission's existing equipment and/or systems offer a greater advantage in quality and/or cost to the Commission than the cost savings possible through competitive bidding, or
- 4-2: The interested services or goods need to remain confidential to protect the Commission's security, court proceedings and/or contractual commitments, or
- 4-3: The services or goods have no comparable and the above noted vendor is the only distributor for the interested manufacturer or there is otherwise only one source available for the sought after services or goods, e.g. software maintenance, copyrighted materials, or otherwise legally protected goods or services.



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

Reply To

February 28, 2023

Debra S. Borden
 General Counsel
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MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

FROM: Debra S. Borden
 General Counsel

RE: Litigation Report for February 2023 – FY 2023

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, March 15, 2023. 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.

Table of Contents – February 2023 FY 2023 Report

Composition of Pending Litigation.....	Page 01
Overview of Pending Litigation (Chart).....	Page 02
Litigation Activity Summary	Page 03
Index of New YTD Cases (FY23)	Page 04
Index of Resolved YTD Cases (FY23)	Page 05
Disposition of FY23 Closed Cases Sorted by Department	Page 06
Index of Reported Cases Sorted by Jurisdiction.....	Page 09
Litigation Report Ordered by Court Jurisdiction.....	Page 10

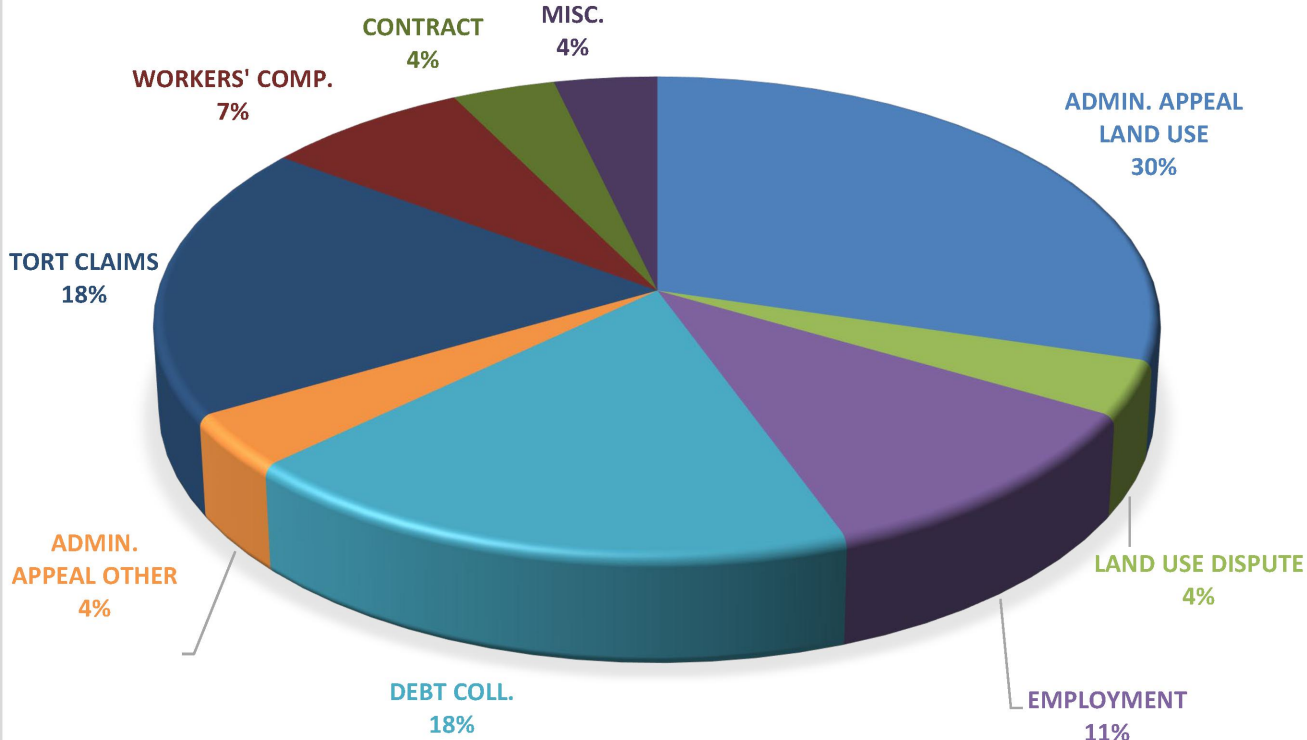
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February 2023 Composition of Pending Litigation

(Sorted by Subject Matter and Forum)

	STATE TRIAL COURT	APPELLATE COURT OF MARYLAND	SUPREME COURT OF MARYLAND	FEDERAL TRIAL COURT	FEDERAL APPEALS COURT	U.S. SUPREME COURT	SUBJECT MATTER TOTALS
ADMIN APPEAL: LAND USE	6	2					8
ADMIN APPEAL: OTHER	1						1
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	1						1
DEBT COLLECTION	5						5
EMPLOYMENT DISPUTE				3			3
LAND USE DISPUTE	1						1
MISCELLANEOUS	1						1
PROPERTY DISPUTE							
TORT CLAIM	5						5
WORKERS' COMPENSATION	2						2
PER FORUM TOTALS	22	2		3			27

OVERVIEW OF PENDING LITIGATION



February 2023 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2023			
	Pending Jan. 2023	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		7	6	5	8
Admin Appeal: Other (AAO)	1						1
Bankruptcy (B)							
Civil Enforcement (CE)							
Contract Disputes (CD)	1			7			1
Debt Collection (D)	5				1		5
Employment Disputes (ED)	4		1	5	3	4	3
Land Use Disputes (LD)		1					1
Miscellaneous (M)	1					1	1
Property Disputes (PD)							
Tort Claims (T)	6		1				5
Workers' Compensation (WC)	2			2	1	1	2
TOTALS	27	2	2	21	11	11	27

**INDEX OF YTD NEW CASES
(7/1/2022 TO 6/30/23)**

A. <u>New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Commission v. Joseph Cleveland-Cooper (Defendant was not served until August 2022; did not appear on report prior)	MC	Misc.	April 2020
Antawan Williams, et al. v. Prince George's County Planning Board (Did not appear on report prior)	PG	AALU	July 2022
Wilmington Savings Fund Society v. Tomel Burke, Jr., et al. (Commission recently served.)	PG	Misc.	Aug. 2022
English-Figaro v. Planning Board of Prince George's County	PG	AALU	Aug. 2022
Fairwood Community Association, Inc. v. Prince George's County Planning Board	PG	AALU	Aug. 2022
Stewart v. Dorsey, et al.	MC	Tort	Sept. 2022
Commission v. Lindsey	PG	Misc.	Sept. 2022
In the Matter of James Montville	PG	WC	Nov. 2022
In the Matter of Danielle Jones-Dawson	PG	ED	Nov. 2022
Commission v. Watts	PG	D	Jan. 2023
Deakins v. Commission	MC	ED	Jan. 2023
Izadjoo v. Commission	MC	ED	Jan. 2023
Commission v. Cruz	PG	D	Jan. 2023
Citizen Association of Kenwood, Inc. v. Commission	MC	LUD	Feb. 2023

B. <u>New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	MC	AALU	Aug. 2022
Wolf v. Commission, et al.	PG	AALU	Feb. 2023

**INDEX OF YTD RESOLVED CASES
(7/1/2022 TO 6/30/2023)**

<u>A. Trial Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	MC	AALU	Aug. 2022
Village of Friendship Heights v. Montgomery County Planning Board	MC	AALU	Aug. 2022
Tolson v. Commission	PG	ED	Aug. 2022
Alexander v. Proctor	PG	Tort	Sept. 2022
Melito v. Commission	PG	ED	Sept. 2022
Snyder v. Commission	PG	Tort	Sept. 2022
Commission v. Joseph Cleveland-Cooper	MC	Misc.	Sept. 2022
Stewart v. Dorsey	MC	Tort	Oct. 2022
McGill v. Commission	PG	WC	Oct. 2022
Miles v. Commission	MC	ED	Dec. 2022
Getnet v. Commission	PG	Tort	Jan. 2023

<u>B. Appellate Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Heard v. Commission	PG	AALU	Aug. 2022
6525 Belcrest Road, LLC v. Dewey, et al.	PG	AALU	Oct. 2022
Heard v. Commission	PG	AALU	Nov. 2022
Izadjoo v. Commission	MC	ED	Jan. 2023

Disposition of FY23 Closed Cases Sorted by Department		
CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources & Management		
Montgomery County Department of Parks		
Snyder v. State of Maryland, et al.	Tort suit for injuries allegedly sustained when tennis player allegedly tripped in hole of divider net and broke clavicle.	08/15/2022 – Stipulation of Dismissal filed. 9/12/2022 Case dismissed. Parties reached a settlement.
Stewart v. Dorsey, et al.	Injuries resulting from a motor vehicle incident. Vehicle operated by Commission employee.	10/16/2022 – Case settled. 12/09/2022 – Order of Court granting stipulation of dismissal.
Izadjoo v. Commission	In Appellate Court of Maryland, appeal from decision of the Circuit Court affirming the decision of the Merit System Board denying appeal of request for reclassification.	1/20/2023 - Judgment of Circuit Court for Montgomery County Affirmed
Montgomery County Park Police		
Commission v. Joseph Cleveland-Cooper	Forfeiture for cash of \$3,043.00	9/29/2022 – Court ordered monies forfeited.
Montgomery County Planning Board		
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	Appeal of decision affirming the Montgomery County Planning Board's approval of Site Plan 820200160 – Creekside at Cabin Branch.	08/02/2022 - Planning Board's Approval of Site Plan Affirmed. Petition for Judicial Review Denied.

Village of Friendship Heights v. Montgomery County Planning Board	Judicial Review of the Montgomery County Planning Board's approval of Sketch Plan 320220010-5500 Wisconsin Avenue.	08/24/2022 - Order of Court. Affirmed ruling of Planning Board.
Miles v. Commission	Plaintiff, police officer, filed a complaint against the Commission and individual defendant, alleging hostile work environment, discrimination, retaliation, and violations of 42 USC §1981, 42 USC §1983, Maryland Statutory violations, and County Code violations.	12/01/2022 – Marginal Order approving Stipulation of Dismissal, pursuant to global settlement.
Prince George's County Department of Parks and Recreation		
Melito v. Commission	Plaintiff seeks to secure administrative meeting or hearing on termination, former employee claims were denied.	09/15/2022 - Case dismissed pending implementation of contingencies allowing for appeal to Merit Board.
McGill v. Commission	Judicial review of Workers' Compensation Commission decision dated July 19, 2021, which determined claimant had not sustained an increase in permanent partial disability and denied further treatment.	10/26/2022 – Case settled and remanded to WCC for approval of settlement.
Getnet v. Commission	Tort suit for injuries allegedly sustained when visitor fell through decking at a historic property not owned by the Commission	01/09/2023 – Case settled.
Prince George's County Planning Board		
Heard v. Commission	Appeal of decision affirming Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-05068 and denial of March 31, 2020, request for document under the Maryland Public Information Act.	08/05/2022 – Judgment of the Circuit Court for Prince George's County affirmed.
6525 Belcrest Road, LLC v. Dewey, L.C., et al.	Declaratory Judgment Action filed over a dispute involving a parking parcel. Plaintiff contended that Defendants misconstrued prior approvals of the Planning Board regarding the need for parking in a manner that will harm their interests. Plaintiff sought to enjoin the Planning Board from approving a Detailed Site Plan.	10/25/2022 – Order of Appellate Court of Maryland affirming decision of Circuit Court that upheld Planning Board.

Heard v. Commission	Petition for Writ of Certiorari of the Court of Special Appeals decision affirming the Circuit Court's ruling that affirmed the Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-05068 and denial of March 31, 2020, request for document under the Maryland Public Information Act.	11/22/2022 Petition for Writ denied.
Prince George's Park Police		
Tolson v. Commission	Show Cause Action under the LEOBR regarding mandatory COVID vaccination requirements for police officers.	08/08/2022 Show Cause Hearing held. Application for Show Cause Order denied.
Alexander v. Proctor	Officer Proctor deployed his Commission issued pepper spray when an unknown individual was observed wearing police-type gear and approaching our police substation. The individual failed/refused to stop, leading to the Officer deploying his pepper spray to stop and subsequently arrest the individual. Mr. Alexander (the individual) asserted that the stop was without Reasonable Articulate Suspicion/Probable Cause and therefore was unlawful and the amount of force used was excessive.	9/29/2022 – Joint Stipulation of Dismissal filed. Parties settled matter at mediation.
Office of Internal Audit		

INDEX OF CASES

DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND	10
DISTRICT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND	10
Chambers v. Commission	10
Commission v. Conwell	10
Commission v. Cruz	11
Commission v. Faulk	11
Commission v. Lindsey	11
Commission v. Watts	12
CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND	12
Citizen Association of Kenwood, Inc. v. Maryland-National Park and Planning Commission	12
HMF Paving Contractors Inc. v. Maryland-National Park and Planning Commission	12
CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND	13
Antawan Williams, et al. v. Prince George’s County Planning Board	13
Brown v. City of Bowie, et al.	14
English-Figaro v. Planning Board of Prince George’s County	14
Fairwood Community Association, Inc. v. Prince George’s County Planning Board.....	15
Fricklas v. The Planning Board of Prince George’s County.....	16
Jackson v. Prince George’s County Sports & Learning Complex.....	16
In the Matter of Danielle Jones-Dawson	17
King v. Commission	17
In the Matter of James Montville	18
Robinson, et al. v. Prince George’s County Planning Board, et al.	18
Troublefield v. Prince George’s County, et al.	19
Walters v. Commission	19
Wilmington Savings Fund Society v. Tomel Burke, Jr., et al.	20
Wolf, et al. v. Planning Board of Prince George’s County	20
APPELLATE COURT OF MARYLAND	21
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board.....	21
Wolf, et al. v. Planning Board of Prince George’s County	22
SUPREME COURT OF MARYLAND	22
U.S. DISTRICT COURT OF MARYLAND	22
Deakins v. Commission, et al.....	22
Evans v. Commission, et al.....	23
Izadjoo v. Commission, et al.	25

DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

No Pending Matters.

DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Chambers v. Commission

Case No. 050200212652020 (Tort)

Lead Counsel: Rupert
Other Counsel:

Abstract: Injuries resulting from a motor vehicle incident. Vehicle operated by Commission employee.

Status: Judgment in favor of Commission. Plaintiff has filed a Motion to Alter/Amend Judgment and Commission has filed an Opposition.

Docket:

09/08/2020	Complaint filed
06/06/2022	Commission served
06/27/2022	Notice of Intent to Defend filed
07/19/2022	Motion to continue granted.
01/19/2023	Trial
02/04/2023	Judgment in favor of Commission
02/14/2023	Line Requesting Statement of Judgment
02/14/2023	Motion to Alter and Amend Judgment
02/17/2023	Commission's Opposition to Motion to Amend Judgment
02/27/2023	Plaintiff's Reply to Defendant's Opposition to Alter and Amend the Judgment

Commission v. Conwell

Case No. 050200086402022 (D)

Lead Counsel: Rupert
Other Counsel:

Abstract: Subrogation action to recover losses for damage(s) to Commission property.

Status: Trial pending.

Docket:

04/25/2022	Complaint filed
10/18/2022	Request for summons renewal filed.
01/11/2023	Defendant served.
01/23/2023	Affidavit of service filed.
03/02/2023	Trial scheduled.

Commission v. Cruz

Case No. D-05-CV-23-009783 (D)

Lead Counsel: Johnson
Other Counsel:

Abstract: Subrogation action to recover losses for damage(s) to Commission property.

Status: Complaint filed. Awaiting service papers

Docket:

01/31/2023	Complaint filed
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Commission v. Faulk

Case No. 050200086392022 (D)

Lead Counsel: Rupert
Other Counsel:

Abstract: Subrogation action to recover losses for damage(s) to Commission property.

Status: No service. Address vacant. Motion for Alternative Service pending.

Docket:

04/25/2022	Complaint filed
10/18/2022	Request for summons renewal filed.
01/23/2023	Affidavit of Non-service filed.
01/23/2023	Post Office request mailed
02/14/2023	Motion for Alternative Service

Commission v. Lindsey

Case No. 050200183742022 (D)

Lead Counsel: Johnson
Other Counsel:

Abstract: Action to recover losses for damage(s) to Commission property.

Status: Summons renewal filed. Awaiting service papers.

Docket:

09/12/2022	Complaint filed
12/05/2022	Request for summons renewal filed.

Commission v. Watts

Case No. D-05-CV-23-008262(D)

Lead Counsel: Johnson
Other Counsel:

Abstract: Subrogation action to recover losses for damage(s) to Commission property.

Status: Complaint filed. Awaiting service papers.

Docket:

01/17/2023	Complaint filed
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CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Citizen Association of Kenwood, Inc. v. Maryland-National Park and Planning Commission

Case No. C-15-CV-23-000378 (LUD)

Lead Counsel: Rupert
Other Counsel: Mills, Foster

Abstract: Complaint to prevent implantation of road diet project relating to Little Falls Parkway in Montgomery County.

Status: Commission served.

Docket:

02/06/2023	Complaint filed
02/22/2023	Commission served

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

Case No. 483255-V (CD)

Lead Counsel: Rupert
Other Counsel: Mills (CCRC)

Abstract: Judicial review of CCRC decision denying HMF's demand that an allowance be made, and additional monies paid by the Commission to HMF regarding the measurement (and relative cost) of the retaining wall at Greenbriar Local Park.

Status: All parties have submitted memos to the Court. Oral arguments rescheduled for April 14, 2023.

Docket:

08/25/2020	Complaint filed
11/01/2020	Commission served
11/25/2020	Motion to Dismiss
12/28/2020	Opposition to Motion to Dismiss
03/12/2021	Consent motion to postpone hearing and stay case.
03/15/2021	Order of Court. Matter stayed for 90 days.

10/20/2021	Order of Court. Matter stayed until January 10, 2022.
01/24/2022	Pre-Trial hearing statement filed
02/01/2022	Motion to Continue
02/18/2022	Order of Court. Motion Moot. Case has been placed on the Stay Docket.
08/05/2022	Amend Complaint/Petition for Judicial Review
09/06/2022	Notices of Intention to Participate filed by Commission and the CCRC
10/04/2022	Administrative Record received by Court
11/01/2022	Joint Stipulation for Extension of Time
12/07/2022	Memorandum of HMF Paving Contractors
01/05/2023	Stipulation – Modification of Time for Respondent's Memorandum
01/06/2023	Response to Petitioner's Memorandum of Law
01/13/2023	Commission's Answering Memorandum

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Antawan Williams, et al. v. Prince George's County Planning Board

Case No. CAL 22-19650 (AALU)

Lead Counsel: Warner
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-21056.

Status: Respondents Memorandum Due Upon Decision of Motion to Add to Record

Docket:

07/06/2022	Petition filed
07/27/2022	Notice mailed. Response to Petition and Certificate of Compliance filed
08/05/2022	Respondent/Applicant Notice to Participate filed
09/19/2022	Record and Transcript filed
09/29/2022	Notice of Record Issued
10/31/2022	Petitioners' Memorandum in Support of Petition for Judicial Review
11/10/2022	Petitioners' Motion to Stay
11/10/2022	Petitioner's Motion to Add to Record
11/28/2022	Respondent Opposition to Motion to Stay
12/13/2022	Citizen-Petitioner's Reply to Respondents' Opposition to Motion to Stay
12/23/2022	NCBP Answering Memorandum in Opposition to Petition for Judicial Review

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

Lead Counsel: Rupert
Other Counsel:

Abstract: Plaintiff alleges injuries resulted from an event at Prince George's Trap and Skeet Center. Defendants include the individual who discharged a weapon, a Commission volunteer assigned to the group that day, and the Commission.

Status: Awaiting Notice of Dismissal.

Docket:

11/15/2019	Complaint filed
01/27/2020	Defendant City of Bowie's Motion to Dismiss or in the Alternative for Summary Judgment
02/05/2020	Summons reissued for Commission
02/13/2020	Opposition to City of Bowie's Motion to Dismiss
02/26/2020	Defendant Daughtery's answer filed
03/13/2020	Commission served
04/08/2020	Commission's Answer filed
05/15/2020	Motions Hearing on City's Motion to Dismiss – continued due to pandemic
9/18/2020	Amended Complaint and Jury Trial
9/21/2020	Second Amended Complaint
9/24/2020	Hearing on Defendant City of Bowie's Motion to Dismiss and/or Summary Judgment. Motion to Dismiss is denied. Motion for Summary Judgment is granted based upon governmental immunity.
10/28/2020	Third Amended Complaint filed
12/08/2020	Answer to Complaint by Defendant Knode
02/16/2022	Status Conference Held
02/06/2023	Settlement Agreement signed

English-Figaro v. Planning Board of Prince George's County
Case No. CAL 22-25639 (AALU)

Lead Counsel: Warner
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104.

Status: Awaiting Petitioners' Memorandum. Parties in settlement discussions.

Docket:

08/26/2022	Petition filed
08/31/2022	Amended Petition filed
09/19/2022	Notice mailed. Response to Petition and Certificate of Compliance filed.

09/29/2022	Motion to Consolidate with Fairwood Community Association, Inc. v. Prince George's County Planning Board – CAL 22-26146
10/03/2022	Voluntary Partial Dismissal
11/10/2022	Record and Transcript filed
11/15/2022	Notice of Record Issued.
12/07/2022	Order Consolidating case with CAL22-26146 – Fairwood Community Association, Inc. v. Prince George's County Planning Board.

Fairwood Community Association, Inc. v. Prince George's County Planning Board
Case No. CAL 22-26146 (AALU)

Lead Counsel: Warner
Other Counsel: Coleman

Abstract: Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104.

Status: Awaiting Petitioners' Memorandum. Parties in settlement discussions.
Docket:

08/29/2022	Petition filed
09/21/2022	Notice mailed. Response to Petition and Certificate of Compliance filed.
10/18/2022	Response to Petition for Judicial Review.
11/10/2022	Record and Transcript filed.
11/15/2022	Notice of Record Issued.
12/07/2022	Order Consolidating case with CAL22-25639 – English-Figaro v. Prince George's County Planning Board.

Fricklas v. The Planning Board of Prince George's County

Case No. CAL 22-23156(AALU)

Lead Counsel: Warner
Other Counsel: Coleman

Abstract: Challenge to the Planning Board's approval of Preliminary Plan of Subdivision 4-21052 (Suffrage Point).

Status: Awaiting Motion's Hearing.

Docket:

08/06/2022	Petition for Judicial Review filed.
09/02/2022	Notice Mailed. Certificate of Compliance filed
09/14/2022	Response to Petition, Amended Certificate of Compliance, and Motion to Dismiss filed
9/27/2022	#466 Werrlein WSSC Motion to Dismiss filed
10/26/2022	Record and Transcript filed
11/15/2022	Notice of Record Issued.
01/23/2023	Hearing on Motion to Dismiss continued by Court
03/07/2023	Hearing on Motion to Dismiss

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: Order dismissing all claims.

Docket:

07/15/2019	Complaint filed
01/22/2020	Commission accepted service
01/27/2020	Complaint to be amended to reflect Commission as party.
02/04/2020	Amended Complaint filed
03/18/2020	Commission served
04/08/2020	Commission's answer filed.
08/09/2022	Case settled.
08/16/2022	Order of Court. Parties reached a tentative settlement, subject to administrative approval by defendant, M-NCPPC.
01/30/2023	Line of Dismissal
02/10/2023	60-day Order dismissing all claims

In the Matter of Danielle Jones-Dawson

Case No. C-16-CV-22-000675 (AAO)

Lead Counsel: Crowe
Other Counsel: Foster

Abstract: Claimant seeks judicial review of Merit Board decision dated October 20, 2022, terminating employment due to non-compliance with Notice 21-07, COVID-19 Vaccination Requirements.

Status: Petition filed.

Docket:

11/20/2022	Petition for Judicial Review filed
11/29/2022	Response to Petition for Judicial Review
02/08/2023	Memorandum for Petitioner

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 remanded to WCC.

Docket:

09/23/2019	Petition for Judicial Review filed
10/03/2019	Commission filed Response to Petition.
02/07/2022	Joint Motion for Continuance
03/18/2022	Order of Court. Trial continued
01/24/2023	Joint Motion to Dismiss and Remand to Workers' Compensation Commission

In the Matter of James Montville
Case No. C-16-CV-22-000489 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of Workers' Compensation Commission decision dated October 3, 2022, which determined that he has a 12% permanent partial disability. Claimant was seeking an award that was much higher.

Status: Case settled in principle. Awaiting WCC approval.

Docket:

11/03/2022	Petition for Judicial Review filed
11/17/2022	Response to Petition for Judicial Review
12/05/2022	Response to Petition for Judicial Review
12/05/2022	Designation of Expert Witnesses
12/05/2022	Cross-Petition for Judicial Review

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

Lead Counsel: Warner
Other Counsel:

Abstract: In relation to the development of a public K–8 middle school, Petitioners are challenging the Planning Board's decision to affirm the Planning Director's approval of a tree conservation plan, a revision of that tree conservation plan, and variances to the Woodland Conservation Ordinance that allowed removal of specimen trees. There is no statutory right to judicial review, and the petitioners cited no legal authority to petition the circuit court for judicial review. As a result, this may ultimately become a petition for a writ of mandamus under the administrative mandamus provisions of the Maryland Rules (7-401 to 7-403).

Status: Awaiting Decision

Docket:

11/12/2021	Petition filed
01/05/2022	Commission's Motion to Dismiss filed
01/05/2022	Response to Petition filed by Planning Board
01/05/2022	Motion to Dismiss filed by Planning Board
01/06/2022	Response to Petition filed by Board of Education
01/21/2022	Opposition to Motion to Dismiss
01/27/2022	Memorandum in Support of Petition for Judicial Review
01/31/2022	Motion to Strike Petitioner's Memorandum in Support of Petition for Judicial Review
01/31/2022	Planning Board's Reply to Petitioners' Opposition to Respondent's Motion to Dismiss
02/14/2022	Opposition to Motion to Strike
02/14/2022	Petitioner's Motion to Supplement the Record
02/14/2022	Amended Memorandum in Support of Petition for Judicial Review

02/25/2022	Planning Board's Memorandum
03/16/2022	Reply Memorandum filed.
06/30/2022	Motions hearing held and taken under advisement
07/18/2022	Order of Court. Planning Board's Motion to Dismiss denied. Motion to Supplement the Record granted.
12/07/2022	Oral Argument

Troublefield v. Prince George's County, et al.

Case No. CAL 22-12298 (Tort)

Lead Counsel: Rupert
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained while attending a graduation ceremony at Show Pace Arena.

Status: In discovery.

Docket:

04/11/2022	Complaint filed
04/27/2022	Commission served
05/09/2022	Stipulation/Line of Dismissal as to Prince George's County only
05/20/2022	Commission's Answer filed
11/14/2023	ADR
01/24/2024	Trial

Walters v. Commission

Case No. CAL22-01761 (Tort)

Lead Counsel: Johnson
Other Counsel: Rupert

Abstract: Tort suit for injuries allegedly sustained when minor was playing on playground equipment at Melwood Hills Community Park.

Status: In discovery.

Docket:

01/19/2022	Complaint filed
03/25/2022	Commission served
04/06/2022	Commission's answer filed
10/20/2022	Motion to Dismiss filed
11/03/2022	Opposition to Motion to Dismiss
11/16/2022	Order Denying Motion to Dismiss
11/17/2022	Defendant's Reply to Plaintiff's Opposition to Motion to Dismiss
11/18/2022	Order Motion to Dismiss is hereby Moot
05/09/2023	ADR

07/06/2023	Trial
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Wilmington Savings Fund Society v. Tomel Burke, Jr., et al.

Case No. CAE20-11813 (Misc.)

Lead Counsel: Rupert
Other Counsel:

Abstract: Lawsuit to quiet title to deed of trust and extinguish the lien and debt associated with that deed, establishing that Plaintiff's deed is in full force and effect and has first priority over the Commission's lien on property owned by Tomel Burke, judgment Debtor.

Status: Commission agreed to consent judgment.

Docket:

04/24/2020	Complaint filed
04/05/2022	Motion for Default as to Commission filed
04/19/2022	Commission's Opposition to Plaintiff's Motion for Default
05/09/2022	Order of Court. Motion for Default as to Commission denied.
11/18/2022	Complaint received
12/07/2022	Amended Motion for Entry of Default
12/30/2022	Commission's Consent to Judgment without Answer

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

Case No. CAL20-14895 (AALU)

Lead Counsel: Warner
Other Counsel:

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

Status: Case Appealed.

Docket:

08/19/2020	Petition for Judicial Review filed.
09/29/2020	Notice of Intent to Participate
09/29/2020	Motion to Dismiss filed by Werrlein WSSC, LLC
10/13/2020	City of Hyattsville's Notice of Intent to Participate
10/19/2020	Response to Petition for Judicial Review
10/19/2020	Planning Board's Motion to Dismiss filed
10/27/2020	City of Hyattsville's Opposition to Motion to Dismiss filed
11/30/2020	Motion to Consolidate with cases CAL19-21492, City of Hyattsville v. Prince George's County District Council and CAL19-22819 Eisen v. Prince George's County District Council
12/28/2020	Opposition to Motion to Dismiss
03/03/2021	Motions hearing held. Taken under advisement.
06/15/2022	Order of Court. Motion to Dismiss denied.

06/20/2022	Memorandum in support of the Petition for Judicial Review filed
08/12/2022	Oral Arguments held.
01/03/2023	Order Affirming the Decision of the Planning Board.
01/05/2023	Case closed statistically.
02/02/2023	Notice of Appeal to Appellate Court of Maryland

APPELLATE COURT OF MARYLAND

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

Case No. CSA-REG-1094-2022 (AALU)

(Originally filed under 487649-V in Montgomery County)

Lead Counsel: Mills
Other Counsel:

Abstract: Appeal of decision affirming the Montgomery County Planning Board's approval of Site Plan 820200160 – Creekside at Cabin Branch.

Status: Appeal filed.

Docket:

08/30/2022	Appeal filed
08/31/2022	Notice of Appeal issued by COSA
10/06/2022	Order to Proceed
12/05/2022	Briefing Notice
01/17/2023	Appellant Brief and Record Extract filed.
02/15/2023	Appellee Brief filed
02/16/2023	Notice to Amend/Substitute Party to name proper entity filed by Pulte Home Company, LLC
02/16/2023	Correspondence from Court regarding dates
02/21/2023	Response by Counsel to Conflict Notification letter

Wolf, et al. v. Planning Board of Prince George's County
Case No. ACM-REG-2099-2022(AALU)
(Originally filed under CAL20-14895 in Prince George's County)

Lead Counsel: Warner
Other Counsel:

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

Status: Appealed

Docket:

02/02/2023	Notice of Appeal
02/23/2023	Show Cause Issued to Appellant. Civil Appeal Information Report due March 10, 2023.

SUPREME COURT OF MARYLAND

No Pending Matters

U.S. DISTRICT COURT OF MARYLAND

Deakins v. Commission, et al.
8:23-cv-00138 AAQ (ED)

Lead Counsel: Foster
Other Counsel: Rupert

Abstract: Complaint by former employee relating to Commission's COVID-19 vaccination mandate. Complaint alleges disability discrimination and unreasonable failure to accommodate

Status: Complaint filed. Commission served.

Docket:

01/19/2023	Complaint filed
01/24/2023	Case Management Order
01/24/2023	Commission served
01/30/2023	Notice of Intent to file Motion to Dismiss by Defendants Riley and Spencer
02/01/2023	Order – all parties have voluntarily consent to proceed before Magistrate

Evans v. Commission, et al.
8:19-cv-02651 MJM (ED)

Lead Counsel: Levan
Other Counsel: Foster

Abstract: Plaintiff, police lieutenant, filed a complaint against the Commission and four individual defendants, alleging discrimination, retaliation and assorted negligence and constitutional violations.

Status: In discovery.
Docket:

09/11/2019	Complaint filed
10/23/2019	Notice of Intent to file Motion for More Definite Statement filed by Defendants Commission, McSwain, and Riley
10/24/2019	Notice of Intent to file Motion for More Definite Statement filed by J. Creed on behalf of Defendant Murphy
10/28/2019	Notice of Intent to File a Motion for More Definite Statement filed by attorney C. Bruce on behalf of Defendant Uhrig
11/26/2019	Status Report filed by Plaintiff agreeing to file Amended Complaint specifying against whom each claim is asserted and dates of alleged events.
12/10/2019	Amended Complaint filed.
12/23/2019	Notice of Intent to file a Motion to Dismiss filed by all defendants
01/09/2020	Order granting Plaintiff leave to file Amended Complaint
01/16/2020	Second Amended Complaint filed
02/14/2020	Joint Motion to Dismiss filed by all Defendants
03/20/2020	Opposition to Motion to Dismiss
03/20/2020	Motion for Leave to file Third Amended Complaint
03/20/2020	Third Amended Complaint
04/17/2020	Plaintiff's Reply to Defendants' joint Opposition to Plaintiff's Motion for Leave to file Third Amended Complaint.
05/07/2020	Order granting Motion for Leave to File Third Amended Complaint; denying as moot Defendants' Joint Motion to Dismiss; granting defendants leave to renew their Joint Motion to Dismiss by May 22, 2020.
06/05/2020	Joint Motion to Dismiss for Failure to State a Claim filed by Commission, McSwain, Murphy, Riley and Uhrig.
07/10/2020	Motion for Leave to File Excess Pages
07/16/2020	Order granting in part and denying in part Motion for Leave to file Excess Pages and directing the Plaintiff to file a brief by 7/23/2020
07/23/2020	Response in Opposition to Joint Motion to Dismiss for Failure to State a Claim
08/06/2020	Response to Motion for Leave to file Excess Pages.
08/06/2020	Reply to Opposition to Joint Motion to Dismiss.
11/13/2020	Defendants' Motion to Dismiss granted in part. Counts 4, 5, part of 6 and 7 -10, part of 11, and 12 dismissed. Counts, 1 -3,

	part of 6 and 11, 13 -15 will proceed at this stage. Defendants to file an answer to remaining claims.
11/27/2020	Answer filed.
01/11/2021	Order – Case referred to Magistrate Judge Timothy J. Sullivan generally and to Magistrate Judge Jillyn K. Schulze for mediation
01/15/2021	Joint Consent to Proceed before Magistrate
01/28/2021	Order of Court re mediation week of May 17, 2021.
07/26/2021	Commission’s Motion for Protective Order.
08/09/2021	Plaintiff’s Opposition to Motion for Protective Order.
08/23/2021	Commission’s Reply to Opposition for Protective Order.
10/05/2021	Informal Discovery Dispute Resolution Conference was held with the Judge to resolve issues raised in the Motion for Protective Order and Opposition. An Order was issued resolving several matters and requiring additional disclosure of information and/or documents
01/14/2022	Notice of Intent to file a Motion for Summary Judgment filed by Defendants Murphy, Uhrig, McSwain, and Commission.
02/17/2022	Order of Court re scheduling order. Motion for Summary Judgment due April 8, 2022.
04/08/2022	Defendants’ Joint Motion to Seal Exhibits Related to Defendants’ Motion for Summary Judgment
04/08/2022	Defendants’ Joint Motion for Summary Judgment and Supporting Memorandum of Law
04/20/2022	Response in Opposition to Motion to Seal Exhibits
05/03/2022	Reply to Response to Motion to Seal
06/09/2022	Consent Motion for Extension of Time to file Response to Defendants’ Joint Motion for Summary Judgment
06/10/2022	Order of Court granting Consent Motion
06/14/2022	Second Motion for Extension of Time to file Response to Defendants’ Joint Motion for Summary Judgment
06/14/2022	Order granting Second Motion for Extension of Time to File Response to Defendants’ Joint Motion for Summary Judgment
07/15/2022	Plaintiff’s Motion for Leave to File Excess Pages
07/15/2022	Opposition to Motion for Summary Judgment
07/18/2022	Defendants’ Response in Opposition to Motion for Leave to File Excess Pages
07/18/2022	Plaintiff’s Reply to Response in Opposition to Motion for Leave to File Excess Pages
07/19/2022	Order granting in part and denying in part Plaintiff’s Motion for Leave to File in Excess of 35 pages.
07/21/2022	Defendant’ Motion for Leave to File Excess Pages
07/21/2022	Order granting Defendants’ Motion for Leave to File in Excess of 20 pages
07/25/2022	Defendants’ Response to Motion to Seal Opposition to Motion for Summary Judgment
07/26/2022	Defendants Response in Opposition to Motion for Summary Judgment
09/30/2022	Reply to Plaintiff’s Opposition to Summary Judgment

10/14/2022	Plaintiff's Motion seeking permission to file a Sur-Reply to Motion for Summary Judgment.
10/20/2022	Defendant's Notice of Intent to Strike
10/26/2022	Motion for Extension of Time to file Response
11/01/2022	Order of Court Plaintiff permitted to file a sur-reply on or before November 8, 2022, and Defendants may file a joint response to the sur-reply on or before November 15, 2022
11/08/2022	Reply to Response to Motion for Summary Judgment
11/15/2022	Response to Reply to Response to Motion for Summary Judgment
01/19/2023	Sealed Response in Opposition to Motion for Summary Judgment

Izadjoo v. Commission, et al.

8:23-cv-00142 TDC (ED)

Lead Counsel: Foster
Other Counsel: Johnson

Abstract: Former Montgomery Parks employee alleging employment discrimination

Status: Complaint filed. Commission served.

Docket:

01/19/2023	Complaint filed
01/25/2023	Case Management Order
02/07/2023	Commission served
02/13/2023	Request for Pre-Motion Conference re: Intent to File Motion to Dismiss