



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

March 17, 2021

10:00 a.m. – 11:00 a.m.

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, March 17, 2021**

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

10:00 – 11:00 a.m.

		<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 23, 2021	(+*)	Page 3
	b) Closed Session – February 23, 2021	(++*)	
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.)		
	<i>No Executive Committee Held in March</i>		
	a) Employees’ Retirement System Board of Trustees Regular Meeting – February x, 2021	(+)	Page 7
5.	Action and Presentation Items (10:10 a.m.)		
	a) Resolution 21-04 PEPCO Easement (Sun)	(+*)	Page 11
	b) Update to Preliminary FY22 Spending Affordability Guidelines for Montgomery County (Kroll) (information item)	(+)	Page 23
	c) Legislative Update (Gardner)	(+*)	H
6.	Officers’ Reports (10:40 a.m.)		
	<u>Executive Director’s Report</u>		
	a) Late Evaluation Report, February 2021 (For Information Only)	(+)	Page 25
	<u>Secretary Treasurer</u>		
	b) MFD 2 nd Quarter Purchasing Statistics (For Information Only)	(+)	Page 27
	<u>General Counsel</u>		
	c) Litigation Report (For Information Only)	(+)	Page 41
<i>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.</i>			
7.	Union Negotiation Update (Tentative) (Chiang-Smith) (10:40 a.m.)	(++)	
(+)	Attachment	(++)	Commissioners Only
(*)	Vote	(H)	Handout
(LD)	Late Delivery		

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
Open Session Minutes
February 17, 2021

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

PRESENT

Prince George’s County Commissioners

Elizabeth M. Hewlett, Chair
Dorothy Bailey
William Doerner
Manuel Geraldo
A. Shuanise Washington (departed 10:55 am)

Montgomery County Commissioners

Casey Anderson, Vice-Chair (absent 10:11- 10:35 am)
Gerald Cichy
Natali Fani-Gonzalez
Tina Patterson (departed 10:55 am)
Partap Verma

Chair Hewlett called meeting to order at 10:08 a.m. General Counsel Gardner noted for the record that technical staff were having streaming issues with the meeting and said the meeting would be recorded and posted publicly after the meeting concluded.

ITEM 1 APPROVAL OF COMMISSION AGENDA

No modifications

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

ITEM 2 APPROVAL OF COMMISSION MINUTES

Open Session – January 20, 2020

ACTION: Motion of Commissioner Geraldo to approve the minutes
Seconded by Commissioner Bailey
9 approved the motion (Vice-Chair Anderson not present for vote)

ITEM 3 GENERAL ANNOUNCEMENTS

- a) M-NCPPC Black History Month Observances
- b) National Blood Donor Month
- c) American/National Heart Month
- d) Upcoming Women’s History Month (March 2021)
- e) Teen Dating Abuse Awareness and Prevention Month
- f) Financial Disclosure Filing Requirement April 30 (State and M-NCPPC)

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

- a) Executive Committee – Open Session – February 3, 2021
- b) Employees’ Retirement System Board of Trustees Regular Meeting, January 5, 2021

ITEM 5

ACTION AND PRESENTATION ITEMS

a) Resolution 21-02 Golf Cart Easement Agreement (Sun)

No Discussion

ACTION: Motion of Commissioner Geraldo to adopt Resolution 21-02

Seconded by Commissioner Washington

9 approved the motion (Vice-Chair Anderson not present for vote)

b) Resolution 21-03 Riverview Park – Vista Way Storm Drain Easement (Sun)

No Discussion

ACTION: Motion of Commissioner Washington to adopt Resolution 21-03

Seconded by Commissioner Geraldo

9 approved the motion (Vice-Chair Anderson not present for vote)

c) Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ended June 30, 2020

Secretary-Treasurer Zimmerman introduced Chris Lehman of auditors SB & Company, and Abbey Rodman, M-NCPPC Corporate Accounting Manager. Secretary-Treasurer Zimmerman said this process was a collaborative effort between the Finance Department and the operating departments who help with critical aspects for this front-facing document for the agency. He noted two items – first, the Finance Department was concerned the projected Montgomery Park Fund balance for contingencies would not be available, but Montgomery Parks fund management team maintained a \$70,000 fund balance. Despite this balance, the fund is still at the lowest point it's been for more than 10 years. Second, regarding Prince George's Enterprise, which has depleted their available resources and will require an infusion of money from the Recreation Fund in order to continue operations at its current level.

Presentation by Auditor SB & Company (Lehman)

Mr. Lehman presented from the report included in the packet that described the audit of the annual financial report for the M-NCPPC for Fiscal Year ending 6/30/20. SB & Company issued their opinion on the financial report, which they found free of misstatement, fraud, and material weakness in internal controls. Auditors received full management cooperation, no audit questions posed to the financial statements, which speaks to the quality of the accounting information presented.

Presentation by M-NCPPC Finance Department (Zimmerman/Rodman)

Ms. Rodman touched on the highlights of the CAFR, as presented in the report included in the packet.

Commissioner Doerner asked for an explanation of the difference in Enterprise Funds, why the Prince George's County Enterprise Fund required such a large transfer, and whether this is expected again in the future. Secretary-Treasurer Zimmerman explained Prince George's County subsidizes the Enterprise Fund by about 50% by long-standing public policy. Prince George's County tried to keep operations running more than Montgomery County. Prince George's County Parks and Recreation has different staffing pattern from Montgomery County Parks enterprise programs, with larger number of staff. He said these programs are more aptly described as recreation programs with a fee, rather than revenue-generators.

Historically they have been described as Enterprise activities so they could be highlighted in the financial reporting. Chair Hewlett agreed, noting it's a misnomer to call the programs Enterprise activities, since the stress has always been affordability and access to keep fees down. Consequently, the program has always subsidized to keep user costs low.

d) Briefing of Preliminary FY22 Spending Affordability Guidelines for Montgomery County (Kroll)

Corporate Budget Manager Kroll referred to the brief included in the packet to describe the Montgomery County Council's approval of the County's Spending Affordability Guidelines for the Fiscal Year 2022 Operating Budget which he stated projects a 9.1 % reduction from the agency's proposed budget in Montgomery County funded budgets, including portions of the bi-county departments. He explained this follows a 7 % reduction in Fiscal Year 2021. The amount may change with the release of the County Executive's budget on March 15.

Mr. Kroll said the magnitude of these reductions on the bi-county departmental budgets will almost certainly have an impact on the entire agency. Unlike FY21, no further reductions have been identified to cut the bi-county budget. The Montgomery County Planning Board is scheduled to begin discussions on this impact at tomorrow's Planning Board meeting.

Chair Hewlett acknowledged Commissioners in both counties are aware of the SAG reductions and anticipate the Planning Board's preliminary discussions to be helpful. She thanked Mr. Kroll for the report.

e) Legislative Update (Gardner)

General Counsel Gardner requested Commissioners to consider positions on three bills in front of the state legislature:

HB857 - Environment – Synthetic Turf and Turf Infill – Chain of Custody and Reuse. Delegate Lehman asked for input from Parks Directors Riley and Tyler, to be consistent with environmental stewardship policy. Director Riley and Director Tyler said it was a pleasure to work with each other on this bi-county and state-wide issue, supporting our environmental mission and that it was a great opportunity to collaborate. Commissioner Doerner asked if the bill would be applicable to Public-Private Partnerships. General Counsel Gardner replied he thought it would. Commissioner Doerner advised the agency should convey this information to affected parties.

HB1114 – Illegal Dumping and Litter Control Law – Yard Waste – Disposal on Highways. This bill fixes a loophole to make dumping yard waste in public parks illegal.

HB67/SB843. I-495/I-270 Public-Private Partnership - Partnership Agreement. This initiative of Delegate Korman and Senator Benson codifies a series of promises made by the Secretary of MDOT to the Board of Public Works related to the managed lanes project. There is an element of the bill that the sponsors and M-NCPPC staff agree should be changed, involving how the toll revenue is calculated, based on discussions between the

governor and Secretary of MDOT. Toll revenue should be agreed upon in MOUs between MDOT and the governing bodies of the counties to be used only for Transit Projects.

Commissioner Cichy said he supported the legislation, noting the MDOT is supposed to be a multi-modal department. He discussed the history of allocation of transportation funds generated by certain Public-Private Partnerships in Maryland. He suggested a transit provision that would be funded up-front from an extension to the time frame of the project. General Counsel Gardner noted the bill's amendment would give the Counties the jurisdiction and flexibility to assess the best transit projects for the project.

ACTION: Motion of Commissioner Cichy to support HB857, HB1114 and HB67/SB843, with modifications as noted by the General Counsel.

Seconded by Commissioner Geraldo

10 approved the motion

ITEM 6

OFFICERS' REPORTS

Executive Director's Report

a) Late Evaluation Report (January 2021) (For information only)

Memo to Department Heads (Chiang-Smith/Spencer)

Executive Director Chiang-Smith shared a memo issued to Department Heads and Deputies to address concerns about rising numbers of late evaluations raised by Commissioner Washington in December. She thanked the CIO for launching an automated system to remind supervisors and their managers via email of upcoming evaluations that are upcoming or late. The letter also described how to hold supervisors accountable for late performance evaluations through their own evaluations.

Secretary Treasurer Report

b) 4th Quarter Investment Report (For information only)


General Counsel Report

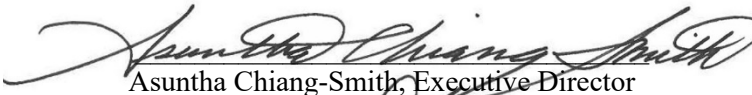
c) Litigation Report (For information only)

General Counsel Gardner asked for a moment to introduce new Principal Counsel Emily Vaias. He said it speaks well of the agency that it is able to attract staff of this caliber.

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, discuss public security issues related to the agency's information systems and consider matters that relate to negotiation.

Chair Hewlett asked for a motion to move to closed session. Commissioner Bailey moved, Commissioner Geraldo seconded. All Commissioners in attendance voted for the measure and the meeting moved to closed session at 10:50 a.m. There being no further business in open session Chair Hewlett adjourned the meeting from closed session at 11:55 a.m.


James F. Adams, Senior Technical Writer


Asuntha Chiang-Smith, Executive Director



**BOARD OF TRUSTEES MEETING
MINUTES
Tuesday, February 2, 2021; 10:00 a.m.
via Microsoft Teams**

Due to COVID-19, the Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually through Microsoft Teams with CHAIRMAN HEWLETT leading the call from the County Administration Building in Upper Marlboro, Maryland on Tuesday, February 2, 2021. The meeting was called to order at 10:00 a.m. by CHAIRMAN HEWLETT.

Board Members Present

- Elizabeth M. Hewlett, Board of Trustees Chairman, Prince George’s County Commissioner
- Gerald R. Cichy, Board of Trustees Vice Chairman, Montgomery County Commissioner
- Howard Brown, FOP Represented Trustee
- Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio Joined at 10:03 a.m.
- Melissa D. Ford, Prince George’s County Open Trustee
- Pamela F. Gogol, Montgomery County Public Member
- Caroline McCarthy, Montgomery County Open Trustee
- Amy Millar, MCGEO Represented Trustee
- Sheila Morgan-Johnson, Prince George’s County Public Member Joined at 10:03 a.m.
- Elaine A. Stookey, Bi-County Open Trustee
- Joseph C. Zimmerman, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio

ERS Staff Present

- Andrea L. Rose, Administrator
- Sheila S. Joynes, ERS Accounting Manager
- Heather D. Van Wagner, Senior Administrative Specialist

Presentation

- M-NCPPC Legal Department – William C. Dickerson, Principal Counsel and Rita Grindle, Legal Administrative Assistant

Others Present

- The Commission’s 115 Post-Retirement Trust Fund Members – Commissioner Manuel Geraldo; Tanya Hankton; and, Abbey Rodman

ITEM 1 APPROVAL OF THE FEBRUARY 2, 2021 CONSENT AGENDA

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. GOGOL to approve the Consent Agenda. The motion PASSED unanimously (9-0). (Motion #21-09)

CHIANG-SMITH and MORGAN-JOHNSON joined the meeting at 10:03 a.m.

ITEM 2 CHAIRMAN’S ITEMS

CHAIRMAN HEWLETT pointed out a few virtual conferences and encouraged trustees to attend.

ITEM 3 MISCELLANEOUS

No items reported.

ITEM 4 REPORT OF THE ADMINISTRATOR**Presentation by Andrea L. Rose, Administrator
Administrator's Report dated January 22, 2021**

The ERS' actuary, Cherion, kicked off an actuarial experience study for the five-year period ending June 30, 2020 and will present the results at the May 4, 2021 Board meeting.

The contract with the ERS' auditors, SB & Company, expires April 15, 2021. A joint Request for Proposal with the Commission was released and the pre-proposal conference is scheduled for February 4, 2021.

The terms of the Montgomery County and Prince George's County Open Trustee seats will expire June 30, 2021. Open trustees are elected from among the persons eligible for selection as the Montgomery County and Prince George's County Open Trustee. Polling will be conducted by the ERS staff by written, secret ballot in accordance with its written procedures adopted in advance. Staff are working on a calendar for the election.

Levi, Ray & Shoup granted the ERS a one-month extension for user acceptance testing which allowed staff to wrap-up the majority of the testing on January 15, 2021. ERS staff spent the last two-weeks of January preparing for go-live parallel processing which began on February 1, 2021.

ITEM 5 COMMITTEE REPORTS/PRESENTATIONS**A. Investment Monitoring Group****Presentation by Andrea L. Rose, Administrator****i. Regular Report of January 19, 2021**

At the Investment Monitoring Group (IMG) meeting of January 19, 2021, the IMG met with Mark Haak, CFA, Senior Vice President, Portfolio Manager, and Russell Greig, CFA, Senior Vice President, Institutional Client Service on VOYA's Bank Loan team for a performance review.

Mr. Haak reported on the 2020 fiscal stress for bank loans due to the pandemic. In the spring of 2020, prices sank dramatically and VOYA sold names that either were downgraded or were anticipated to be downgraded with COVID exposure. This decision to reduce risk proved costly as there was a quick snapback in the market. VOYA outperformed in the first quarter of 2020; however, by reducing risk, VOYA could not maintain performance when the market snapped back. VOYA is now adding incremental exposure back to the portfolio.

Wilshire's, Bradley Baker, said VOYA underperformed the S&P/LSTA Leveraged Loan Index over all cumulative time periods since inception in April 2014. While the strategy performed well on a relative basis during "down market" periods; the strategy lagged during "up markets". Only one manager on Wilshire's focus list outperformed the index during this same time period. Wilshire recommended closely monitoring VOYA's investment performance during 2021 with the expectation of examining alternative options if investment performance does not improve by year-end. Ms. Rose agreed to add to the IMG's work program for the end of 2021.

Mr. Baker presented a private equity pacing and commitment report that summarized Wilshire's Private Markets ("WPM") customized program for the ERS that consists of an allocation of \$105 million to two WPM managed separate accounts (Series I and Series II).

Wilshire recommended additional capital commitments to private equity that would provide adequate exposure and vintage year diversification. Wilshire provided two options for implementation as follows:

- Option #1: "Re-Commit" or "Re-Up" with Wilshire Private Markets Group through an additional series (Series III).
- Option #2: Evaluate alternative investment strategies in the marketplace that would provide Private Equity exposure.

Mr. Baker provided four pacing options; however, pacing analysis suggests and Wilshire recommended a commitment amount of \$15 million (\$45 million in total) that would be invested over the next three-years.

The IMG discussed potential commitments to private equity and pacing of the additional private equity commitment and considered the advantages and disadvantages with Re-Committing to WPM (Series III), including the conflict of interest between Wilshire Consulting and Wilshire Private Markets. The IMG agreed further due diligence on the conflict of interest issue was necessary. Additionally, the IMG asked Mr. Baker to prepare a scouting report of other managers in the industry for the IMG's review at its February 19, 2021 meeting. Mr. Baker agreed to confirm Series III provisions with the WPM group, including fees paid on committed capital and the opportunity to reduce the commitment amount (similar to Series II provision).

ITEM 6. TRUSTEE EDUCATION

A. Ethics & Fiduciary Responsibility Training

Presentation by M-NCPPC Legal Department – William C. Dickerson, Principal Counsel

William C. Dickerson, Principal Counsel from the Commission's Legal Department presented the annual Ethics & Fiduciary Responsibility Training which focused on the responsibilities of the public plans' fiduciary.

Alexander P. Ryan from the Groom Law Group joined the meeting at 10:36 a.m.

ITEM 7. CLOSED SESSION

At 10:44 a.m. CHAIRMAN HEWLETT requested a motion to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) for investment of public funds and Section 3-305(b)(7) to consult with counsel to obtain legal advice on legal matters.

ACTION: MS. MILLAR made a motion, seconded by VICE CHAIRMAN CICHY to go into Closed Session. The motion PASSED unanimously (11-0). (Motion #21-10)

During Closed Session, the following action was taken:

1. Approved the transition from the Loomis Sayles Full Discretion Trust to Loomis Sayles U.S. High Yield Bond Trust following the Groom Law Group's review of the Third Amended and Restated Declaration of Trust.

The Board moved back into Open Session at 10:55 a.m.

ACTION: MS. FORD made a motion, seconded by VICE CHAIRMAN CICHY to ratify the actions taken in Closed Session. The motion PASSED unanimously (11-0). (Motion #21-14)

ITEM 8. ADMINISTRATIVE FUNCTIONS

The Board will recess 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.

ACTION: MR. ZIMMERMAN made a motion, seconded by VICE CHAIRMAN CICHY to adjourn the Board meeting of February 2, 2021. The motion PASSED unanimously (11-0). (Motion #21-15)

The Board meeting of February 2, 2021 adjourned at 10:59 a.m.

Respectfully,

Heather D. Van Wagner *Andrea L. Rose*

Heather D. Van Wagner
Senior Administrative Specialist

Andrea L. Rose
Administrator



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation

6600 Kenilworth Avenue Riverdale, Maryland 20737

MEMORANDUM

DATE: March 4, 2021

TO: The Maryland-National Capital Park and Planning, Full Commission

FROM: Paul J. Sun, Land Acquisition Specialist *PJS*
Park Planning and Development Division
Department of Parks and Recreation

SUBJECT: **M-NCPPC No. 21-04 (PGCPB Resolution No. 2021-06), for Full Commission**

Attached, please find the above referenced Resolution regarding a perpetual non-exclusive subsurface utility easement at Westphalia Central Park, located in Upper Marlboro, Maryland.

The Commission agrees to grant this easement to Potomac Electric Company (PEPCO), (the utility company), for the purposes of installing electric lines that will serve the community.

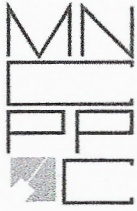
We request that the Prince George's County Planning Board Resolution be scheduled for adoption by the Full Commission on March 17, 2021.

Thank you for your attention to this matter.

Attachment:

- M-NCPPC Resolution No. 21-04
(PGCPB Resolution No. 2021-06)

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation

6600 Kenilworth Avenue Riverdale, Maryland 20737

PGCPB No. 2021-06
MNCPPC No. 21-04

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission (“Commission”) is authorized under the Annotated Code of Maryland, Land Use §17-205 to transfer any land held by it and deemed by the Commission not to be needed for park purposes or other authorized purposes; and

WHEREAS, the Commission owns Westphalia Central Park in Upper Marlboro, a portion of which is Parcel CP1, consisting of 68.02 ± acres and further identified as Tax Map 90, Grid D-3; and

WHEREAS, Potomac Electric Power Company (“PEPCO”), a District of Columbia and Virginia corporation, has requested that the Commission convey, for no monetary consideration, a 506 ± square foot (0.01 ± acre) perpetual, non-exclusive subsurface utility easement to PEPCO for the installation of electric lines; and

WHEREAS, for the benefit of the public, the Commission intends to grant to PEPCO such 0.01 ± acre perpetual, non-exclusive subsurface utility easement as requested by PEPCO.

NOW, THEREFORE BE IT RESOLVED, that the Planning Board hereby approve the conveyance of the above-referenced easement to PEPCO.

BE IT FURTHER RESOLVED, that, in connection with the transactions contemplated herein, the Executive Director is authorized to execute and deliver, on behalf of the Commission, any and all such certificates, documents, and/or instruments, and to do or cause to be done, any and all such acts, as the Executive Director deems necessary or appropriate to make effective or to implement the intended purposes of the foregoing resolution, without limitation, and the taking of such actions shall be deemed conclusively to be authorized hereby.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Doerner, with Commissioners Washington, Geraldo, Hewlett, and Doerner voting in favor of the motion, and Commissioner Bailey absent, during open session at its regular meeting on Thursday, January 21, 2021.

Adopted by the Prince George’s County Planning Board this 11th day of February, 2021

Elizabeth M. Hewlett
Chairman

By: Jessica Jones
Planning Board Administrator

APPROVED AS TO LEGAL SUFFICIENCY
Hunter O. Manserel
M-NCPPC Legal Department
Date 2/25/21

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**Proposed Utility Easement
Property of The Maryland-National Capital Park and Planning
Commission (M-NCPPC)**

Grant of Easement to Potomac Electric Power Company (PEPCO)

Prince George's County Planning Board

January 21, 2021

Item #

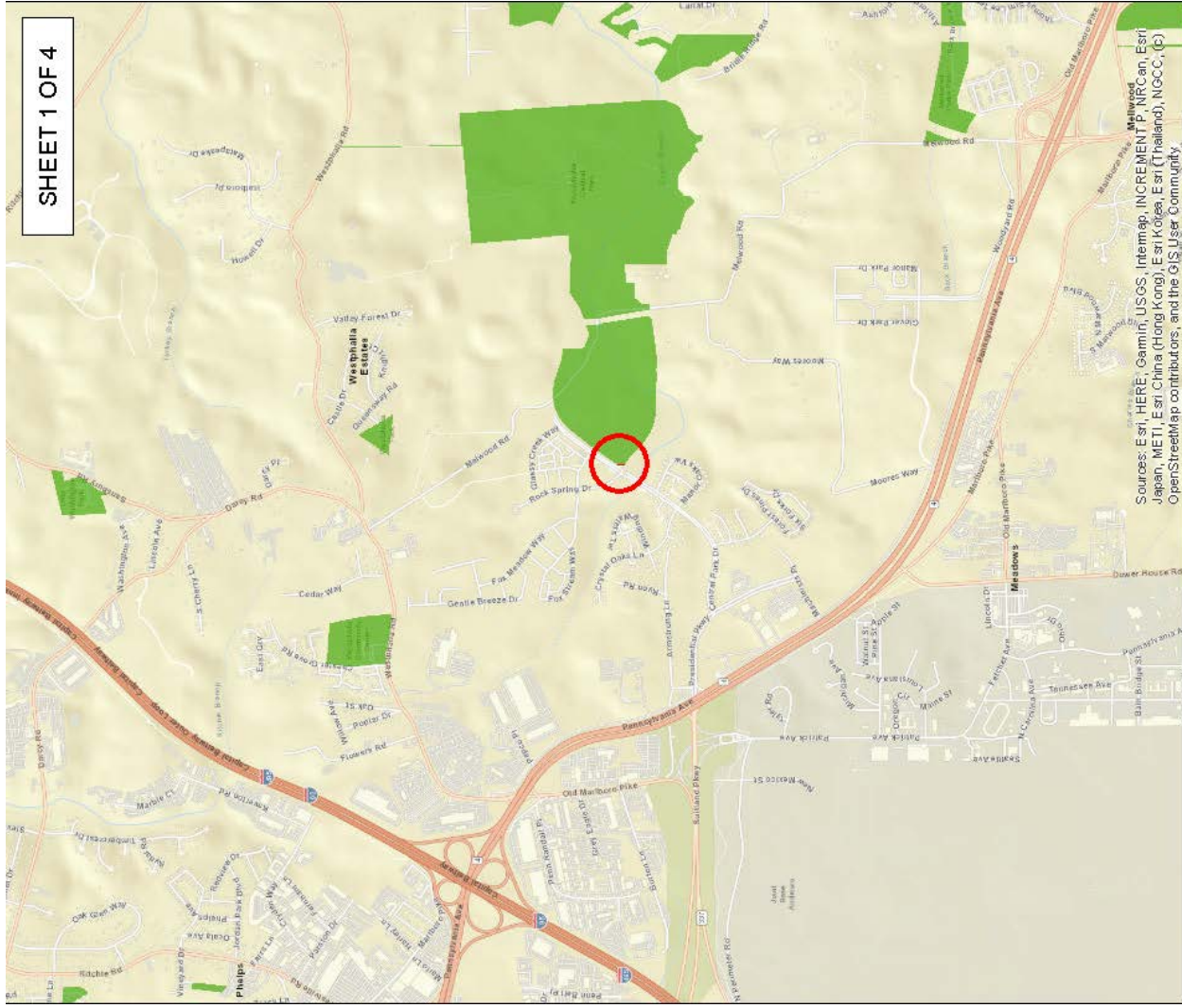
Property of M-NCPPC

Westphalia Central Park

Tax Map: 90 Grid: D3
Parcels: CP1

16

SHEET 1 OF 4



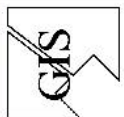
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NOAA, (C) OpenStreetMap contributors, and the GIS User Community

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DATE: 12/21/2020

SCALE: 2,000 Feet

Part of Parcel CP1
Proposed
PEPCo Easement
Westphalia Central Park

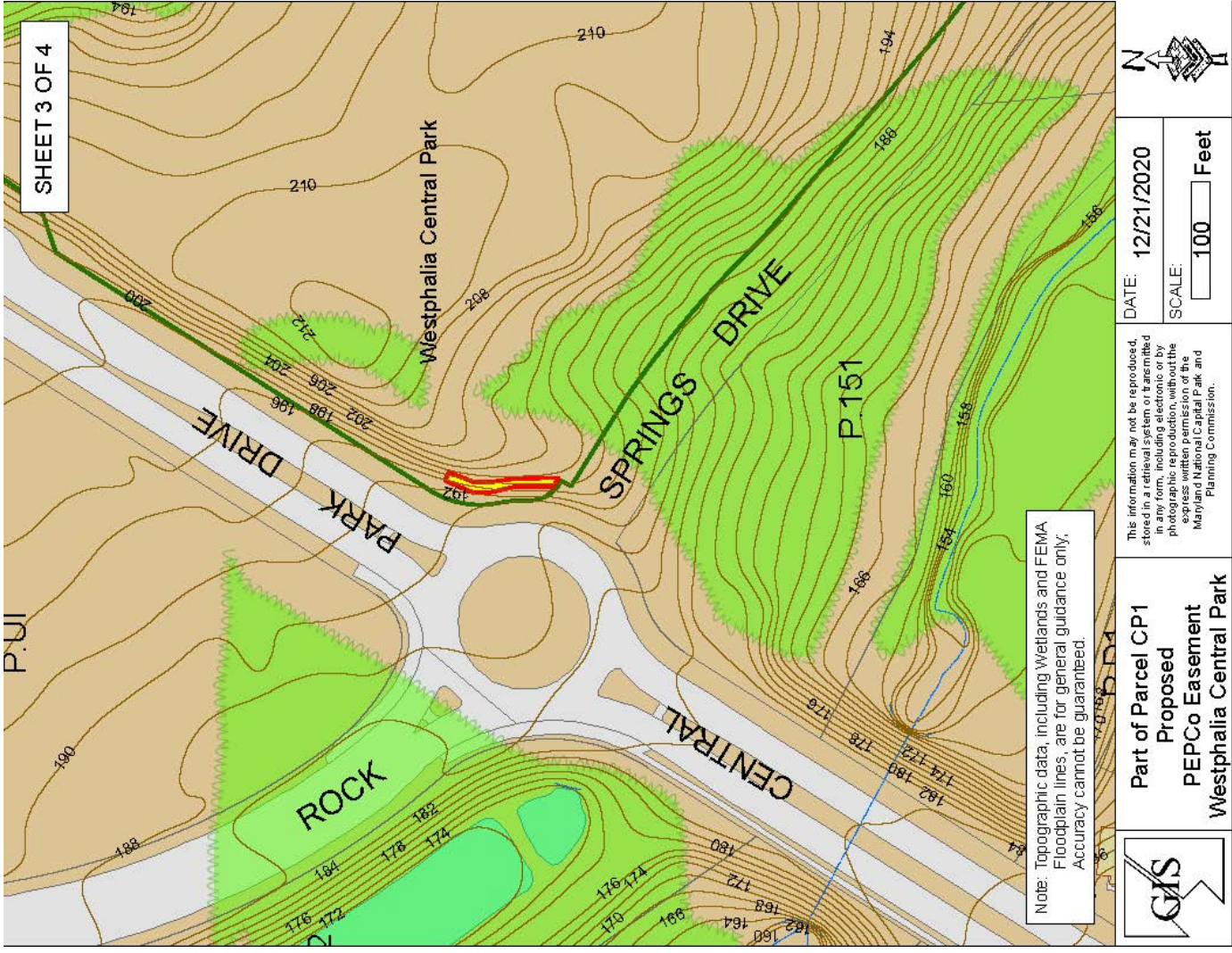


Vicinity Map

Property of M-NCPPC

Westphalia Central Park

Tax Map: 90 Grid: D3
Parcels: CP1



Property of M-NCPPC

Westphalia Central Park

Tax Map: 90 Grid: D3
Parcels: CP1



Aerial Map

Proposed Utility Easement at Westphalia Central Park

- PEPCO has requested that M-NCPPC grant a 506 square foot perpetual non-exclusive easement to allow for the utility company to extend their services to the community.
- Park Planning and Development staff has worked with PEPCO on the easement's size and location as to minimize any impacts to Park Property.
- There will be no cost considerations for the granting of this easement.

STAFF
RECOMMENDATION

Approval
(Tyler/Ewing/Sun)

END


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

March 9, 2021

TO: Commissioners

FROM: John Kroll, Corporate Budget Director 

SUBJECT: FY22 Spending Affordability Guidelines for Montgomery County (**Correction to February 10, 2021 Memo**)

On Tuesday, February 9, 2021, the Montgomery County Council approved the Spending Affordability Guidelines for the operating budget for FY22.

These guidelines project a **7.12%** reduction from the proposed budget, or approximately **\$10.96M** in Montgomery County funded departmental budgets, including the MC funded portion of the bi-county departments. By comparison, last year's SAG reduction was 7.5% (\$11.35M).

The amount of the required reduction may change with the release of the County Executive's budget on March 15th.

I am presenting this information to the full Commission for two reasons:

- Reductions that may be proposed for the bi-county departments will undoubtedly impact the Prince George's County side of the Commission as well; and
- Equally important, the magnitude of these suggested reductions may result in other spill-over effects to the full Commission.

I would like to point out that, unlike some past years, we have not yet been able to identify any Commission-wide savings that could be applied.

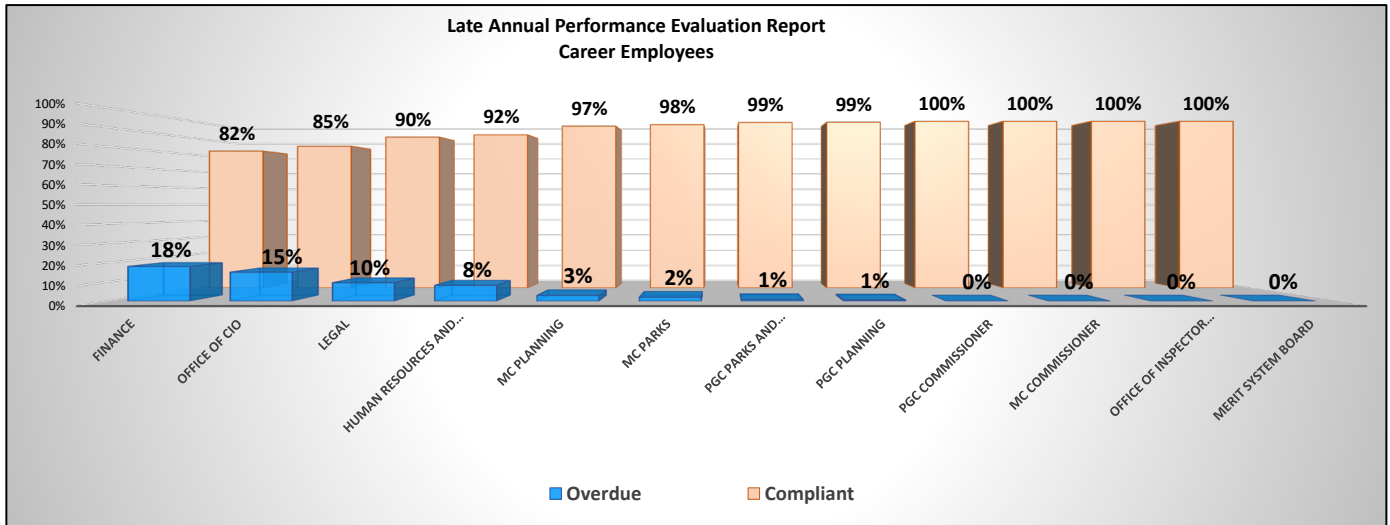
Although recent history suggests that the fiscal picture of Montgomery County may be shown to improve in the next month, given the size of the reduction at this time it may be appropriate to begin developing our options now. Toward that end, the MC Planning Board is scheduled to begin this discussion at tomorrow's Planning Board meeting.

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

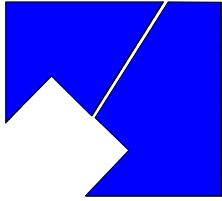
	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	Jan-21	Feb-21	Jan-21	Feb-21	Jan-21	Feb-21	Jan-21	Feb-21
CHAIRMAN, MONTGOMERY COUNTY	0	0	0	0	0	0	0	0
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	2	0	0	2	1	1	3	3
OFFICE OF INSPECTOR GENERAL	0	0	0	0	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	1	0	1	0	0	0	2	0
FINANCE DEPARTMENT	5	4	3	2	5	1	13	7
PRINCE GEORGE'S PLANNING	1	1	0	0	0	0	1	1
PRINCE GEORGE'S PARKS & RECREATION	7	9	0	0	0	0	7	9
MONTGOMERY COUNTY PARKS	6	14	1	1	1	0	8	15
MONTGOMERY COUNTY PLANNING	7	4	1	0	0	0	8	4
DEPARTMENT TOTAL BY DAYS LATE	31	33	6	6	9	4		
COMMISSION-WIDE TOTAL							46	43

**DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



*Data As Of February 28, 2021


Employee Count	Evaluation Status		Total Employees
	Overdue	Compliant	
Finance	7	32	39
Human Resources and Mgt	4	45	49
Legal	2	19	21
MC Commissioner		4	4
MC Parks	14	678	692
MC Planning	4	132	136
Merit System Board		1	1
Office of CIO	3	17	20
Office of Inspector General		4	4
PGC Commissioner		9	9
PGC Parks and Recreation	8	1,043	1,051
PGC Planning	1	172	173
Total Employees	43	2,156	2,199



The Maryland-National Capital Park & Planning Commission
Department of Finance - Purchasing Division

6611 Kenilworth Avenue, Suite 300 • Riverdale, Maryland 20737 • 301-454-1600 Fax: 301-454-1606

March 8, 2021

TO: Commissioners
VIA: Asuntha Chiang-Smith, Executive Director
FROM: Joseph C. Zimmerman, Secretary/Treasurer 
SUBJECT: MFD Purchasing Statistics— Second Quarter FY21

The Commission’s procurement policy (Practice 4-10, Purchasing) includes an anti-discrimination component which assures that fair and equitable vendor opportunities are made available to minority, female or disabled owned firms (MFDs). This program is administered jointly by the Office of the Executive Director and the Purchasing Division and includes a price preference program and an MFD subcontracting component based on the Commission procurement practices and the available MFD vendors in the marketplace. The price preference program has been suspended until a MFD study is conducted to provide evidence that the price preference is/is not needed. This report is provided for your information and may be found on the Commission’s intranet.

Some of the observations of this FY21 report include:

- Attachment A indicates that through the Second Quarter of FY21, the Commission procured approximately \$38.0 million in goods, professional services, construction and miscellaneous services. Approximately 19.0% or \$7.2 million was spent with minority, female and disabled (MFD) owned firms.
- Attachment B indicates that in the Second Quarter MFD utilization was 17.8%.
- Attachment C represents the MFD participation by type of procurement. The MFD participation for construction through the Second Quarter of FY21 was 29.3%. Attachment C also indicates that the largest consumers of goods and services in the Commission are the Prince George’s County Department of Parks and Recreation and the Montgomery County Department of Parks. These programs significantly impact the Commission’s utilization of MFD firms. The MFD cumulative utilization numbers for these departments through the Second Quarter are 18.7% and 17.5%, respectively.
- Attachment D presents the FY21 activity for the Purchase Card program totaling approximately \$5 million of which 2.6% was spent with minority, female and disabled (MFD) firms. The amount of procurement card activity represents approximately 13.2% of the Commission’s total procurement dollars. One reason for lower MFD participation on the purchase card is that the cards are used with national retail corporations when a

quick purchase for a maintenance job is needed. The purchase cards are also used for training registration in order to guarantee attendance.

- Attachment E portrays the historic MFD participation rates, and the total procurement from FY 1991 to Second Quarter FY21.
- 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 department analysis, MFD vendors do appear to be participating, at an overall rate of 13.2% in informal (under \$30,000) and 22.3% in the formal (over \$30,000) procurements. For transactions under \$10k, MFD participation is 9.3%. MFD vendors are participating at an overall rate of 20.8% in transactions over \$250,000.
- Attachment H presents the total amount of procurements and the number of vendors by location. Of the \$38.0 million in total procurement, \$24.8 million or 65% was procured from Maryland vendors. Of the \$7.2 million in procurement from MFD vendors, \$6.3 million or 87.2% was procured from MFD vendors located in Maryland.
- Attachment I compares the utilization of MFD vendors by the Commission with the availability of MFD vendors. The results show under-utilization in the following categories: African American, Asian, Native American, Hispanic, Females and Disabled Owned. The amount and percentage of procurement from MFD vendors is broken out by categories as defined by the Commission's Anti-Discrimination Policy. The availability percentages are taken from the most recent State of Maryland disparity study dated June 25, 2018.
- Attachments J and K are prepared by the Department of Human Resources and Management and show the amount and number of waivers of the procurement policy by department and by reason for waiver. Total waivers were approximately 2.0% of total procurement.

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

Attachments

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS

FY 2021

FOR SIX MONTHS ENDED DECEMBER 31, 2020

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	\$ 14,616	\$	-	-	\$ 2,525	17.3%
Planning Department	1,185,578		-	-	494,872	41.7%
Parks and Recreation Department	23,560,336		307,165	7	4,412,797	18.7%
Total	<u>24,760,530</u>		<u>307,165</u>	<u>7</u>	<u>4,910,194</u>	<u>19.8%</u>
<u>Montgomery County</u>						
Commissioners' Office	1,025		-	-	-	0.0%
Planning Department	398,825		37,681	2	69,658	17.5%
Parks Department	11,663,659		123,080	2	2,042,086	17.5%
Total	<u>12,063,509</u>		<u>160,761</u>	<u>4</u>	<u>2,111,744</u>	<u>17.5%</u>
<u>Central Administrative Services</u>						
Dept. of Human Resources and Mgt.	325,033		279,267	4	120,187	37.0%
Finance Department	52,781		-	-	6,993	13.2%
Legal Department	12,215		31,680	1	384	3.1%
Merit Board	-		-	-	-	0.0%
Office of Chief Information Officer	683,877		-	-	63,585	9.3%
Office of Inspector General	1,525		-	-	-	0.0%
Total	<u>1,075,431</u>		<u>310,947</u>	<u>5</u>	<u>191,149</u>	<u>17.8%</u>
Grand Total	<u>\$ 37,899,470</u>	<u>\$</u>	<u>778,873</u>	<u>16</u>	<u>\$ 7,213,087</u>	<u>19.0%</u>

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

Prepared by Finance Department
February 19, 2021

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS

FY 2021

MFD STATISTICS - CUMULATIVE AND ACTIVITY BY QUARTER

Attachment B

CUMULATIVE BY QUARTER

	SEPTEMBER	DECEMBER	MARCH	JUNE
<u>Prince George's County</u>				
Commissioners' Office	6.8%	17.3%		
Planning Department	46.1%	41.7%		
Parks and Recreation Department	17.6%	18.7%		
Total	<u>18.7%</u>	<u>19.8%</u>		
<u>Montgomery County</u>				
Commissioners' Office	0.0%	0.0%		
Planning Department	7.1%	17.5%		
Parks Department	24.0%	17.5%		
Total	<u>23.3%</u>	<u>17.5%</u>		
<u>Central Administrative Services</u>				
Dept. of Human Resources and Mgt.	41.1%	37.0%		
Finance Department	0.0%	13.2%		
Legal Department	0.0%	3.1%		
Merit Board	0.0%	0.0%		
Office of Chief Information Officer	20.7%	9.3%		
Office of Inspector General	0.0%	0.0%		
Total	<u>26.5%</u>	<u>17.8%</u>		
Grand Total	<u>20.7%</u>	<u>19.0%</u>		

ACTIVITY BY QUARTER

	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER	TOTAL
<u>Prince George's County</u>					
Commissioners' Office	6.8%	28.6%			17.3%
Planning Department	46.1%	39.7%			41.7%
Parks and Recreation Department	17.6%	19.4%			18.7%
Total	<u>18.7%</u>	<u>20.5%</u>			<u>19.8%</u>
<u>Montgomery County</u>					
Commissioners' Office	0.0%	0.0%			0.0%
Planning Department	7.1%	43.0%			17.5%
Parks Department	24.0%	10.4%			17.5%
Total	<u>23.3%</u>	<u>11.0%</u>			<u>17.5%</u>
<u>Central Administrative Services</u>					
Dept. of Human Resources and Mgt.	41.1%	34.6%			37.0%
Finance Department	0.0%	16.2%			13.2%
Legal Department	0.0%	4.0%			3.1%
Merit Board	0.0%	0.0%			0.0%
Office of Chief Information Officer	20.7%	2.9%			9.3%
Office of Inspector General	0.0%	0.0%			0.0%
Total	<u>26.5%</u>	<u>13.0%</u>			<u>17.8%</u>
Grand Total	<u>20.7%</u>	<u>17.8%</u>			<u>19.0%</u>

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS
BY MAJOR PROCUREMENT CATEGORY

FY 2021

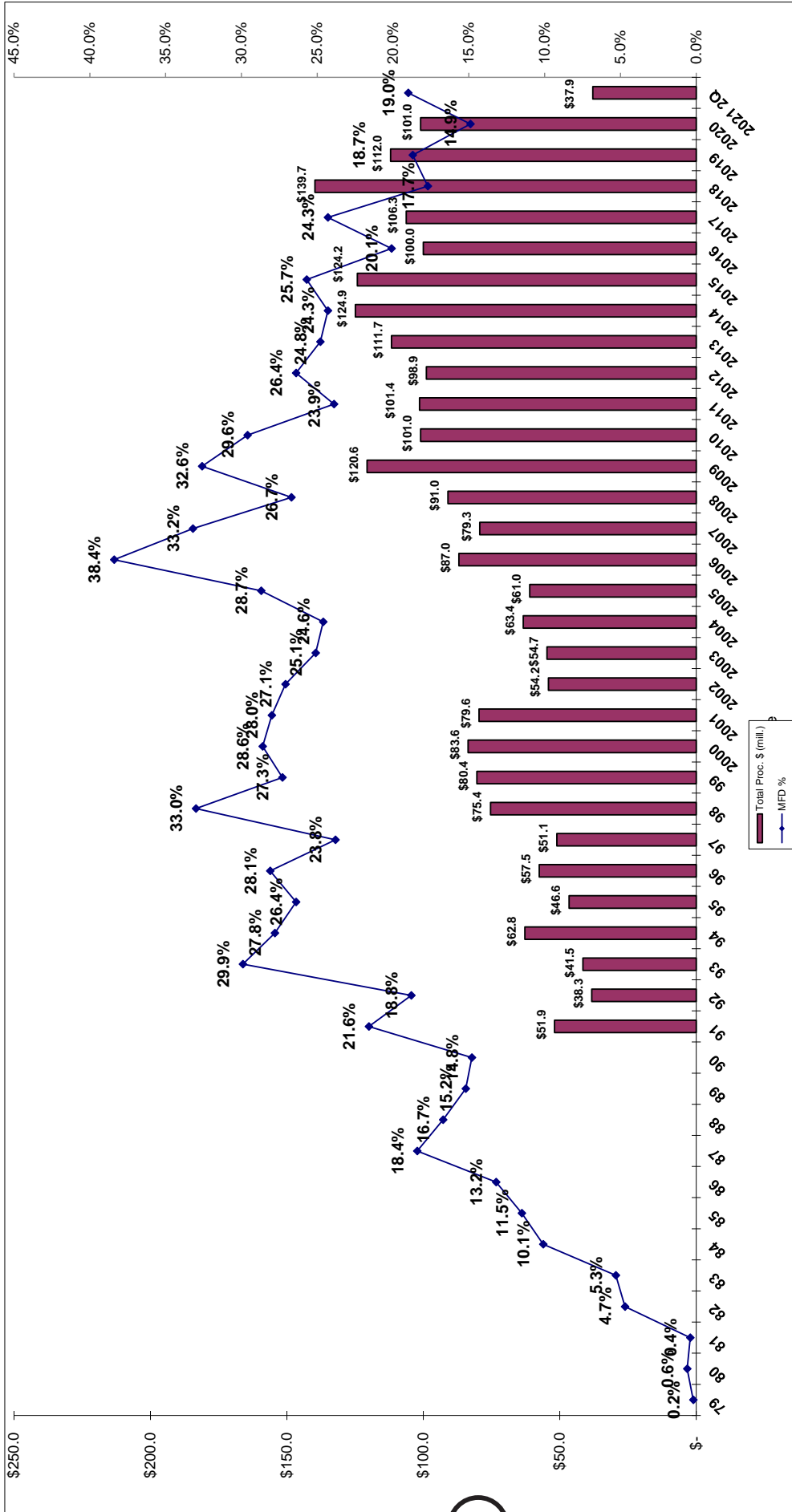
FOR SIX MONTHS ENDED DECEMBER 31, 2020

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 \$	\$ 14,209,818	\$ 118,322	\$ 5,164,594	\$ 8,098,373	\$ 497,828	\$ 124,358	\$ 24,326	\$ 2,087	\$ 179,930
MFD \$	\$ 1,391,549	\$ 4,736	\$ 52,015	\$ 952,348	\$ 371,220	\$ 8,853	\$ 0	\$ 0	\$ 2,377
Percentage	9.8%	4.0%	1.0%	11.8%	74.6%	7.1%	0.0%	0.0%	1.3%
Miscellaneous Services:									
Total \$	\$ 6,980,645	\$ 241,834	\$ 2,036,632	\$ 3,543,266	\$ 623,107	\$ 48,716	\$ 24,375	\$ 10,128	\$ 452,587
MFD \$	\$ 889,375	\$ 64,922	\$ 184,426	\$ 477,815	\$ 123,652	\$ 19,379	\$ 6,993	\$ 384	\$ 11,804
Percentage	12.7%	26.8%	9.1%	13.5%	19.8%	39.8%	0.0%	3.8%	2.6%
Professional Services:									
Total \$	\$ 865,554	\$ 35,700	\$ 271,982	\$ 397,870	\$ 63,320	\$ 41,242	\$ 4,080	\$ 0	\$ 51,360
MFD \$	\$ 297,884	\$ 0	\$ 45,500	\$ 179,280	\$ 0	\$ 23,700	\$ 0	\$ 0	\$ 49,404
Percentage	34.4%	0.0%	16.7%	45.1%	0.0%	57.5%	0.0%	0.0%	96.2%
Construction:									
Total \$	\$ 15,826,287	\$ 2,969	\$ 4,190,451	\$ 11,520,827	\$ 1,323	\$ 110,717	\$ 0	\$ 0	\$ 0
MFD \$	\$ 4,631,754	\$ 0	\$ 1,760,145	\$ 2,803,354	\$ 0	\$ 68,255	\$ 0	\$ 0	\$ 0
Percentage	29.3%	0.0%	42.0%	24.3%	0.0%	61.6%	0.0%	0.0%	0.0%
SUBTOTAL									
Total \$	\$ 37,882,304	\$ 398,825	\$ 11,663,659	\$ 23,560,336	\$ 1,185,578	\$ 325,033	\$ 52,781	\$ 12,215	\$ 683,877
MFD \$	\$ 7,210,562	\$ 69,658	\$ 2,042,086	\$ 4,412,797	\$ 494,872	\$ 120,187	\$ 6,993	\$ 384	\$ 63,585
Percentage	19.0%	17.5%	17.5%	18.7%	41.7%	37.0%	13.2%	3.1%	9.3%
Pr. Geo. Commissioners' Office									
Total \$	\$ 14,616								
MFD \$	\$ 2,525								
Percentage	17.3%								
Mont. Commissioners' Office									
Total \$	\$ 1,025								
MFD \$	\$ 0								
Percentage	0.0%								
Merit Board									
Total \$	\$ 0								
MFD \$	\$ 0								
Percentage	0.0%								
Office of Inspector General									
Total \$	\$ 1,525								
MFD \$	\$ 0								
Percentage	0.0%								
GRAND TOTAL \$	\$ 37,899,470								
MFD\$	\$ 7,213,087								
Percentage	19.0%								

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

Attachment E

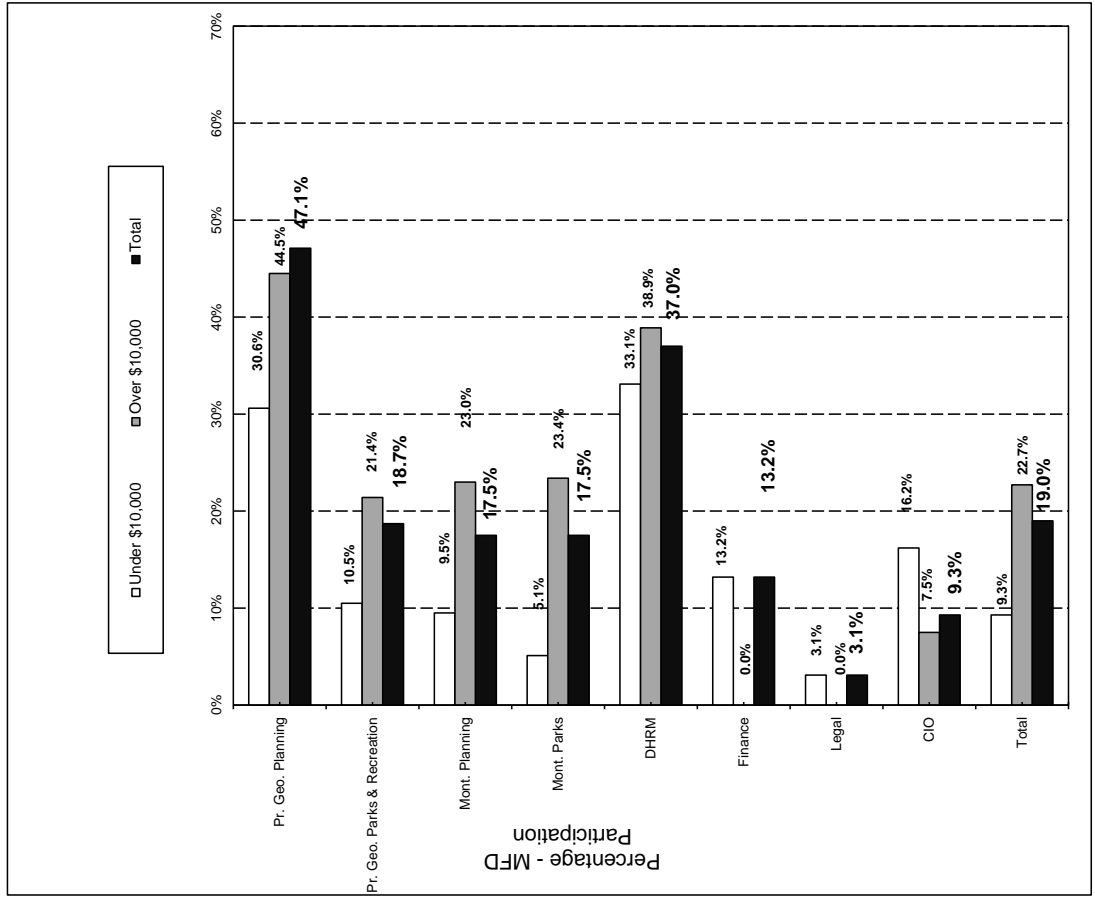


The Maryland-National Capital Park and Planning Commission

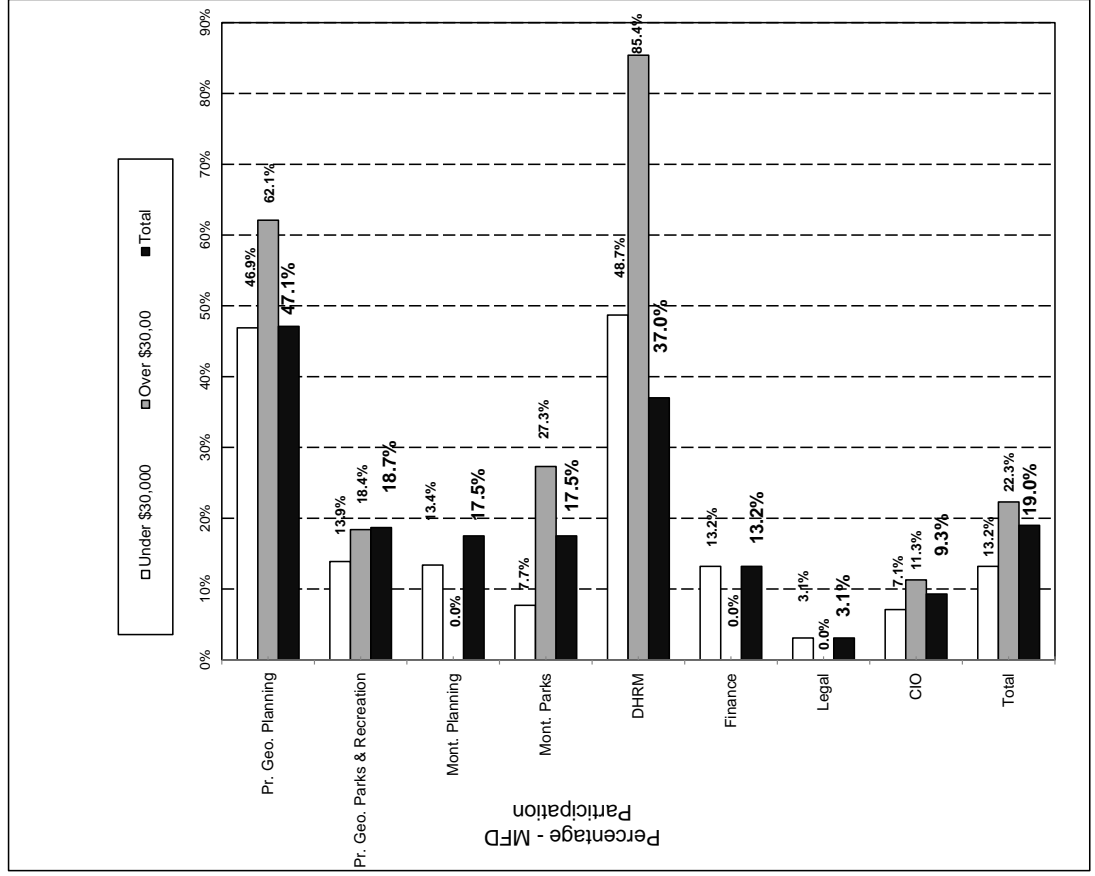
MFD Procurement Statistics - Transactions Under/Over \$10,000 & \$30,000 plus Total %

FY 2021 2Q

Under/Over \$10,000

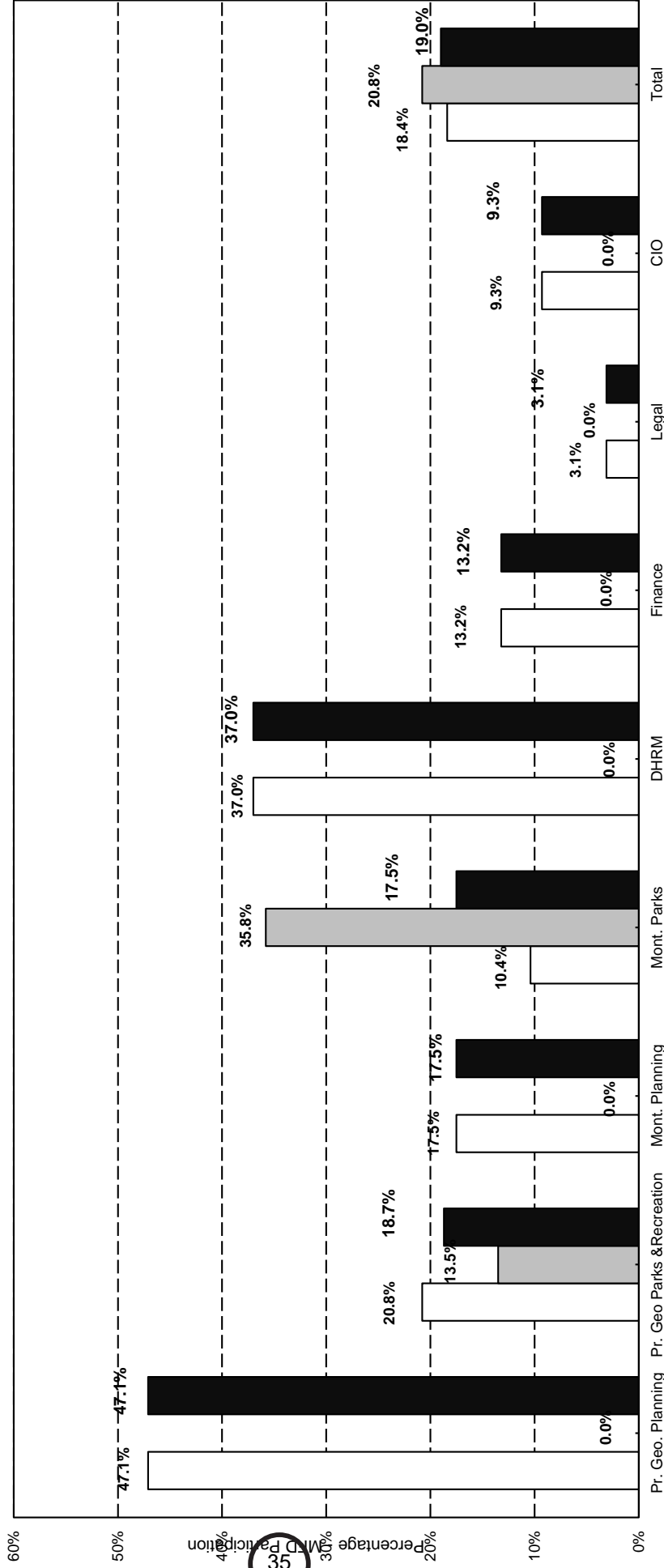


Under/Over \$30,000



The Maryland-National Capital Park and Planning Commission
 MFD Procurement Statistics - Transactions Under /Over \$250,000 and Total %
 FY 2021 2Q

□ Under \$250K □ Over \$250K ■ Total



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Amount of Procurement and Number of Vendors by Location
FY 2021
FOR SIX MONTHS ENDED DECEMBER 31, 2020

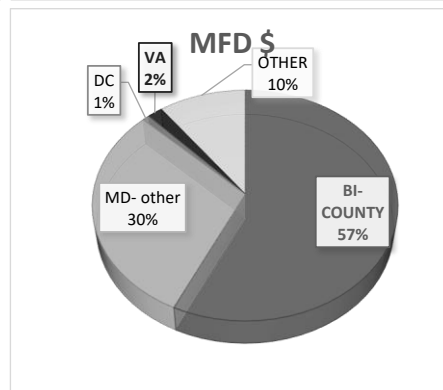
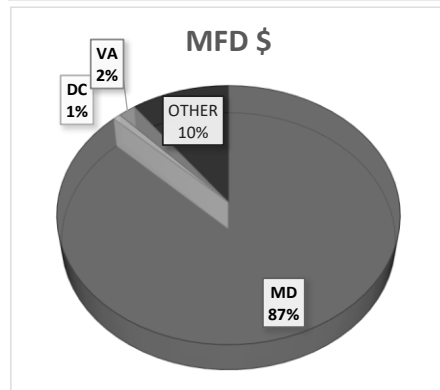
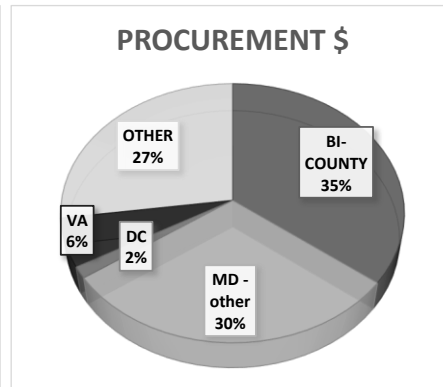
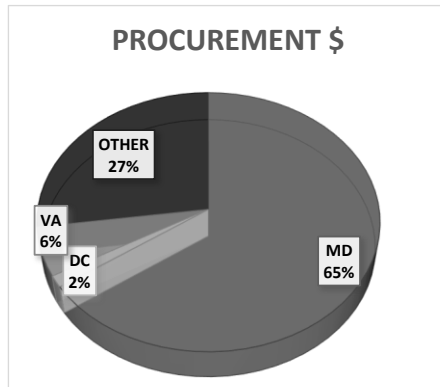
Attachment H

ALL VENDORS

Location	Procurement		Number of Vendors	
	Amount	%	Number	%
Montgomery County	\$ 8,055,312	21.3%	112	15.5%
Prince George's County	5,339,135	14.1%	154	21.3%
Subtotal	13,394,447	35.4%	266	36.8%
Maryland - other locations	11,368,409	30.0%	141	19.5%
Total Maryland	24,762,856	65.4%	407	56.3%
District of Columbia	543,155	1.4%	33	4.6%
Virginia	2,296,906	6.1%	64	8.9%
Other Locations	10,296,553	27.1%	219	30.2%
Total	\$ 37,899,470	100.0%	723	100.0%

MFD Vendors

Location	Procurement		Number of Vendors	
	Amount	%	Number	%
Montgomery County	\$ 1,763,256	24.4%	25	22.7%
Prince George's County	2,349,992	32.6%	27	24.5%
Subtotal	4,113,248	57.0%	52	47.2%
Maryland - other locations	2,181,747	30.2%	21	19.2%
Total Maryland	6,294,995	87.2%	73	66.4%
District of Columbia	56,925	0.8%	11	10.0%
Virginia	128,676	1.8%	10	9.1%
Other Locations	732,491	10.2%	16	14.5%
Total	\$ 7,213,087	100.0%	110	100.0%



Prepared by Finance Department
 February 19, 2021

Note: The number of vendors excludes purchase card vendors.

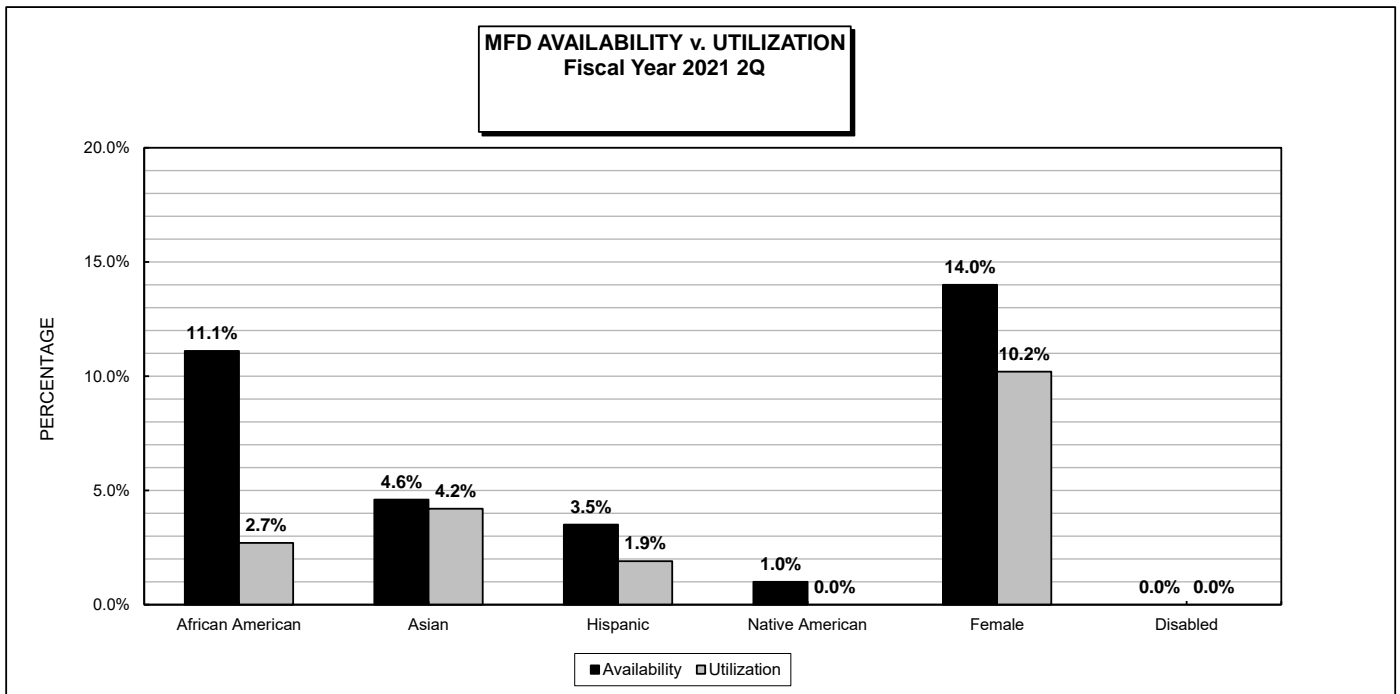
**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT RESULTS
FY 2021
FOR SIX MONTHS ENDED DECEMBER 31, 2020**

Attachment I

Total Amount of Procurement \$ 37,899,470

**Amount, Percentage of Procurement by Category, and
Percentage of Availability by Category:**

	Procurement		Availability
	Amount	%	%
Minority Owned Firms			
African American	\$ 1,006,658	2.7%	11.1%
Asian	1,579,762	4.2%	4.6%
Hispanic	712,155	1.9%	3.5%
Native American	600	0.0%	1.0%
Total Minority Owned Firms	3,299,175	8.8%	20.2%
Female Owned Firms	3,912,112	10.2%	14.0%
Disabled Owned Firms	1,800	0.0%	n/a
Total Minority, Female, and Disabled Owned Firms	\$ 7,213,087	19.0%	34.2%



Note: (1) Availability percentages are taken from State of Maryland study titled "Disadvantaged Business Enterprise Disparity Study: Vol. 1", dated June 25, 2018, page 13.

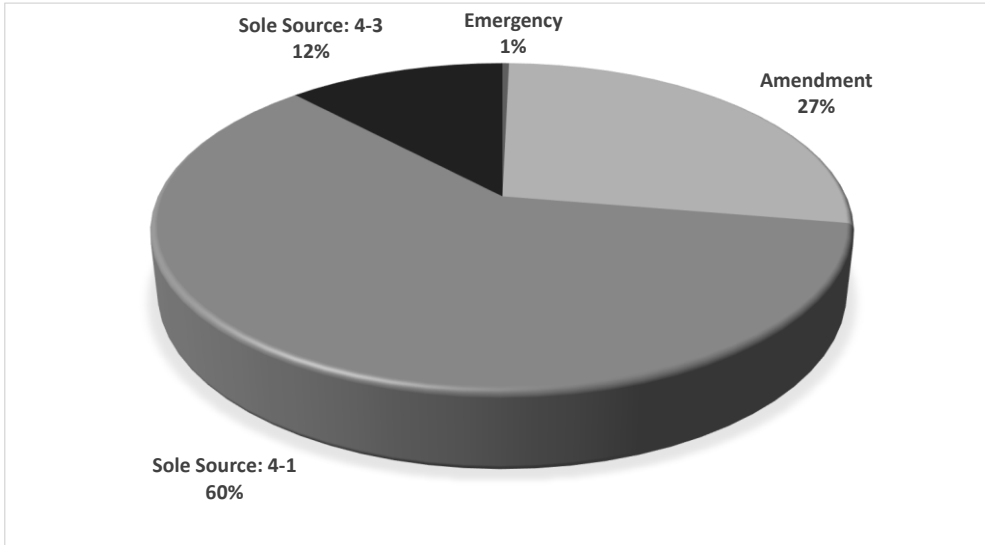
(2) n/a = not available

Prepared by Department of Finance
February 19, 2021

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
REASONS FOR WAIVERS
CUMULATIVE DOLLAR AMOUNT & NUMBER OF WAIVERS
FY 2021
FOR SIX MONTHS ENDED DECEMBER 31, 2020**

Attachment J

REASON	NUMBER	AMOUNT	%
Emergency	2	\$ 45,265	5.8%
Public Policy	0	\$ 0	0.0%
Amendment	4	\$ 324,268	41.6%
Sole Source: 4-1	8	\$ 349,385	44.9%
Sole Source: 4-2	0	\$ -	0.0%
Sole Source: 4-3	2	\$ 59,955	7.7%
Total	16	\$ 778,873	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 2021
FOR THE SIX MONTHS ENDED DECEMBER 31, 2020**

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	\$	Number	%	
Prince George's County														
Commissioners' Office	\$ -	0	\$ -	0	0.0%	0	\$ -	0	\$ -	0	\$ -	0	0.0%	
Planning Department	-	0	-	0	0.0%	0	-	0	-	0	-	0	0.0%	
Parks and Recreation Department	307,165	7	-	0	0.0%	0	142,656	3	-	0	28,275	1	55.6%	
Total	307,165	7	-	0	0.0%	0	142,656	3	-	0	28,275	1	55.6%	
Montgomery County														
Commissioners' Office	-	0	-	0	0.0%	0	-	0	-	0	-	0	0.0%	
Planning Department	37,681	2	-	0	0.0%	0	35,881	1	-	0	-	0	95.2%	
Parks Department	123,080	2	-	0	0.0%	0	75,080	1	-	0	-	0	61.0%	
Total	160,761	4	-	0	0.0%	0	110,961	2	-	0	-	0	69.0%	
Central Administrative Services														
Dept. of Human Resources and Mgt.	279,267	4	-	0	0.0%	0	47,768	2	-	0	-	0	17.1%	
Finance Department	-	0	-	0	0.0%	0	-	0	-	0	-	0	0.0%	
Legal Department	31,680	1	-	0	0.0%	0	-	0	-	0	31,680	1	100.0%	
LEAD	-	0	-	0	0.0%	0	-	0	-	0	-	0	0.0%	
CS&C	-	0	-	0	0.0%	0	-	0	-	0	-	0	0.0%	
Merit Board	-	0	-	0	0.0%	0	-	0	-	0	-	0	0.0%	
Total	310,947	5	-	0	0.0%	0	47,768	2	-	0	31,680	1	25.6%	
Grand Total	\$ 778,873	16	\$ -	0	0.0%	0	\$301,385	7	\$ -	0	\$ 59,955	2	46.4%	

Purpose of Summary of Waiver Report:

- 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
- 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:

- 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
- The interested services or goods need to remain confidential to protect the Commission's security, court proceedings and/or contractual commitments, or
- 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.

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

Reply To

March 3, 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 February 2021 – FY 2021

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, March 17, 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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Composition of Pending Litigation.....Page 01
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Disposition of FY21 Closed Cases Sorted by DepartmentPage 05
Index of Reported Cases Sorted by Jurisdiction.....Page 07
Litigation Report Ordered by Court Jurisdiction.....Page 09

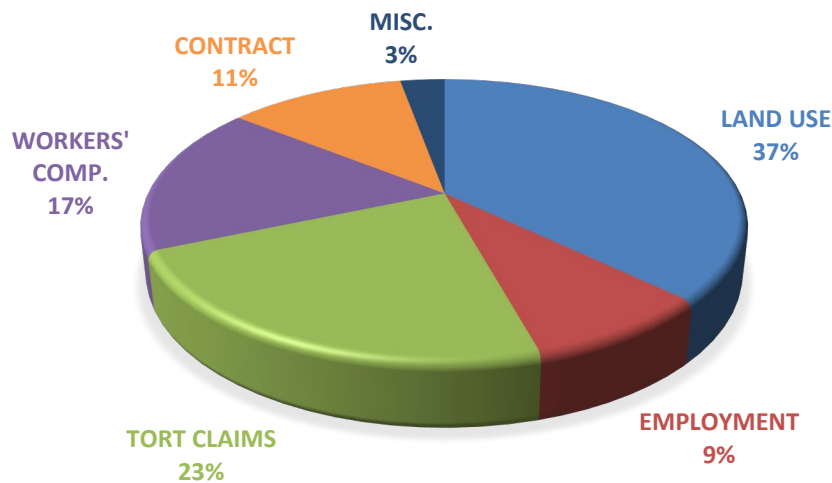
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February 2021 Composition of Pending Litigation

(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	8	4	1				13
ADMIN APPEAL: OTHER							
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	4						4
DEBT COLLECTION							
EMPLOYMENT DISPUTE	1			2			3
LAND USE DISPUTE							
MISCELLANEOUS	1						1
PROPERTY DISPUTE							
TORT CLAIM	8						8
WORKERS' COMPENSATION	5	1					6
PER FORUM TOTALS	27	5	1	2			35

OVERVIEW OF PENDING LITIGATION



February 2021 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2021			
	Pending In Jan. 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)	14		1	8	11	6	13
Admin Appeal: Other (AAO)							
Bankruptcy (B)							
Civil Enforcement (CE)							
Contract Disputes (CD)	4				4		4
Debt Collection (D)							
Employment Disputes (ED)	3			3	1	1	3
Land Use Disputes (LD)							
Miscellaneous (M)	1						1
Property Disputes (PD)							
Tort Claims (T)	8			5	5	1	8
Workers' Compensation (WC)	7		1	3	4	1	6
Totals	37		2	19	25	7	35

**INDEX OF YTD NEW CASES
(7/1/2020 TO 6/30/21)**

A. <u>New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Getnet v. M-NCPPC	PG	Tort	July 20
HMF Paving Contractors, Inc. v. M-NCPPC	MC	Contract	July 20
Snyder v. State of Maryland, et al.	PG	Tort	July 20
Amica Mutual Insurance Company v. Montgomery County, Maryland, et al.	MC	Tort	Aug. 20
Uzlyan v. Montgomery County, Maryland, et al.	MC	Tort	Aug. 20
Heard v. M-NCPPC	PG	AALU	Aug. 20
Wolf, et al. v. Planning Board of Prince George's County	PG	AALU	Aug. 20
Structural Engineering Group Inc. v. M-NCPPC	MC	Contract	Aug. 20
Concerned Citizens of Cloverly, et al v. Montgomery County Planning Board	MC	AALU	Sep. 20
Shipkovitz v. Montgomery County Planning Board	MC	AALU	Sep. 20
Coakley & Williams v. Commission	PG	Contract	Sep. 20
Gibson v. Commission	PG	WC	Sep. 20
Murray v. Commission	PG	WC	Sep. 20
Newton, et al. v. Prince George's County Planning Board	PG	AALU	Sep. 20
Dana v. Lenk, et al.	MC	Tort	Oct. 20
HMF Paving Contractors, Inc. v. M-NCPPC	MC	Contract	Oct. 20
Hoenig v. Commission (case should be on prior reports as filed in March)	PG	WC	Dec. 20
Simmons, et al. v. Prince George's County Planning Board	PG	AALU	Jan. 21
Beck v. Montgomery County Department of Parks	MC	ED	Jan. 21
B. <u>New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	Aug. 20
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	Sep. 20
Estreicher v. Montgomery County Planning Board	MC	AALU	Sep. 20
Benton v. Woodmore Overlook Commercial LLC	PG	AALU	Sep. 20
West Montgomery County Citizens Association, Inc. v. Montgomery County Planning Board, et al.	MC	AALU	Dec. 20
M-NCPPC v. Mail My Meds, LLC	AC	WC	Jan. 21
Jan A.J. Bove, et al. v. Montgomery County Planning Board	MC	AALU	Jan. 21

**INDEX OF YTD RESOLVED CASES
(7/1/2020 TO 6/30/2021)**

<u>A. Trial Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
McCourt v. Commission	PG	ED	Sep. 20
Estreicher v. Montgomery County Planning Board	MC	AALU	Sep. 20
Uzlyan v. Montgomery County, et al.	MC	Tort	Oct. 20
Newton, et al. v. Prince George's County Planning Board	PG	AALU	Nov. 20
M-NCPPC v. Mail My Meds, LLC	AC	WC	Dec. 20
Jan A.J. Bove, et al. v. Montgomery County Planning Board	MC	AALU	Dec. 20
<u>B. Appellate Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	July 20
(Appeared on the June report in error. The Commission was not a party to this suit)			
Gaspard v. Montgomery County Planning Planning Board	MC	AALU	Oct. 20
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	Oct. 20

Disposition of FY21 Closed Cases Sorted by Department

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources & Management		
McCourt v. Commission	Judicial Review of Merit Board Decision related to reclassification under the Administrative Series	09/04/20 – Decision of Merit Board Affirmed.
Commission v. Mail My Meds, LLC	Judicial Review of WCC decision regarding mail order prescription medication.	11/23/20 – Decision of WCC Affirmed.
Montgomery County Department of Planning		
Montgomery County Department of Parks		
Uzylan v. Montgomery Count, Maryland, et al.	Personal injuries matter as a result of a tulip poplar tree striking a home.	10/15/20 - Case Consolidated with Case No. 483068-V.
Montgomery County Park Police		
Montgomery County Planning Board		
Gaspar v. Montgomery County Planning Board	Judicial Review of decision affirming Planning Board's approval of Preliminary Plan 120160180 Glen Mill – Parcel 833	10/29/2020 – Judgment of Circuit Court Affirmed.
Jan A.J. Bove, et al. v. Montgomery Planning Board	Judicial Review of Planning Board's approval of 7025 Longwood Drive subdivision no. 62019100.	12/02/2020 – Resolution of Planning Board Affirmed.
Prince George's County Department of Parks and Recreation		

Prince George's County Planning Department			
Benton v. Woodmore Overlook Commercial, LLC	Judicial Review of decision of Prince George's County Planning Board	10/23/2020 – Petition for Writ of Cert. denied. Matter still pending in Court of Special Appeals.	
Newton, et al. v. Prince George's County Planning Board	Judicial review of Prince Georges County Planning Board's approval of preliminary plan of subdivision 4 -19048	11/09/2020 - Petition dismissed by Petitioner.	
Prince George's County Planning Board			
Prince George's Park Police			
Office of Internal Audit			

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No Pending Cases

DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

No Pending Cases

CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

No Pending Cases

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Amica Mutual Insurance Company v. Montgomery County, Maryland, et al.
Case No. 483068-V (Tort)

Lead Counsel: Adams
Other Counsel:

Abstract: Subrogation suit for damages caused by a tulip poplar tree striking home.

Status: In discovery.

Docket:

08/06/2020	Complaint filed.
08/19/2020	Commission served.
09/08/2020	Plaintiff's Motion to Consolidate with Case 483039-V
09/18/2020	Defendant Montgomery County Maryland's Answer to Complaint
09/22/2020	Commission's Motion to Dismiss
09/22/2020	Commission's Motion to Consolidate with Case 483039-V
10/15/2020	Order of the Court Granting Motion to Consolidate. All future pleadings to be filed in case 483068V.

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

Case No. 483411-V (AALU)

Lead Counsel: Mills
Other Counsel:

Abstract: Judicial Review of Montgomery County Planning Board's approval of RCCG Jesus House Preliminary Plan 120160040

Status: Awaiting decision.

Docket:

09/10/2020	Petition for Judicial Review filed
10/01/2020	Planning Board's Response to Petition for Judicial Review filed
01/04/2021	RCCG Jesus House DC's Motion to Strike
01/19/2021	Petitioner's Opposition to Motion to Strike
02/10/2021	Oral Argument held. .

Dana v. Lenk, et al.

Case No. 482474-V (Misc.)

Lead Counsel: Harvin
Other Counsel:

Abstract: Plaintiff disputes the existence of, and access to, a right-of-way utilized by an adjacent property owner.

Status: Motions pending.

Docket:

06/17/2020	Complaint filed
07/28/2020	Defendant Lenk's Motion to Dismiss
07/30/2020	Opposition to Motion to Dismiss
08/06/2020	Defendant Lenk's Reply to Plaintiff's Opposition to Motion to Dismiss
10/13/2020	Motion to Dismiss granted in part and denied in part
10/21/2020	Defendant Lenk's Answer to Complaint
10/22/2020	Amended Complaint filed
10/29/2020	Commission served
11/16/2020	Montgomery County's Answer to Amended Complaint
12/10/2020	Order of Court - Count IV of Amended Complaint dismissed with prejudice
12/29/2020	Commission's Answer to Amended Complaint
01/27/2021	Order of Court for Alternative Dispute Resolution
02/19/2021	Defendant Lenk's Emergency Motion for Protective Order

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

Case No. 481768-V (CD)

Lead Counsel: Dickerson
Other Counsel: Johnson

Abstract: Construction suit alleging failure to pay two pay applications.

Status: In discovery.

Docket:

04/30/2020	Complaint filed
08/28/2020	Motion to Dismiss filed
09/24/2020	Opposition to Motion to Dismiss
11/13/2020	Commission's Reply to Motion to Dismiss
11/19/2020	Motions hearing postponed
11/25/2020	Commission's Supplemental Memorandum
12/01/2020	Motions hearing held
12/01/2020	Motion to Dismiss or in the Alternative for Summary Judgment denied
12/16/2020	Answer to Complaint

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

Case No. 483255-V (CD)

Lead Counsel: Adams
Other Counsel:

Abstract: Construction suit alleging failure to pay final payment.

Status: Motions pending.

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
03/16/2021	Motions hearing

Kosary v. Montgomery County Planning Board

Case No. 476283-V (AALU)

Lead Counsel: Sorrento
Other Counsel:

Abstract: Judicial Review of Montgomery County Planning Board's approval of Primrose School Preliminary Forest Conservation Plan CU-18-08.

Status: Case stayed.

Docket:

12/06/2019	Petition for Judicial Review filed
12/11/2019	Planning Board's Motion to Dismiss filed
12/12/2019	Response to Petition for Judicial Review filed
12/19/2019	Petitioner's Supplemental Petition for Judicial Review filed
12/23/2019	Petitioner's Response to Motion to Dismiss filed.
01/21/2020	Motion to Dismiss denied as moot.
01/22/2020	Petitioner's Motion for Stay and Request for Hearing.
02/06/2020	Primrose School Opposition to Motion to Stay.
02/28/2020	Motion for Stay Granted
03/03/2020	Case stayed pending resolution from County Hearing Examiner
03/26/2020	Petitioner's interim report on status of administrative proceedings

Shipkovitz v. Montgomery County Planning Board

Case No. 483442-V (AALU)

Lead Counsel: Coleman
Other Counsel:

Abstract: Petition for Judicial Review of Planning Board Approval of 12500 Ardennes Avenue Site Plan820200080

Status: Petition for Judicial Review filed.

Docket:

09/15/2020	Petition for Judicial Review filed.
09/28/2020	Planning Board's Response to Petition filed.
10/26/2020	Ardennes Partners, LLC's Response to Petition filed.
10/26/2020	Ardennes Partners, LLC's and Planning Board's Joint Motion to Dismiss Petition for Judicial Review
12/02/2020	Plaintiff's Motion to Suspend Proceedings
12/10/2020	Opposition to Motion to Suspend Proceedings
02/05/2021	Order of the Court. Petition dismissed with prejudice.
02/16/2021	Petitioner's Motion for Reconsideration filed.

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

Case No. 483234-V (CD)

Lead Counsel: Dickerson
Other Counsel: Johnson

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

Status: In discovery.

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.
01/27/2021	Order of Court for Alternative Dispute Resolution

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: Matter Stayed pending arbitration.

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
10/22/2020	Motions Hearing continued
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.

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

Lead Counsel: Adams
Other Counsel:

Abstract: Alexander filed complaint against Park Police officer arising from arrest on Commission property.

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
06/19/2020	Motions Hearing postponed due to COVID-19
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 Daugherty'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
11/23/2020	Motion to Compel Discovery from Defendant Daugherty
12/08/2020	Answer to complaint by Defendant Knode

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: Complaint filed.

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

Coe v. Commission
Case No. CAL19-39808 (ED)

Lead Counsel: Adams
Other Counsel:

Abstract: Coe filed for Judicial Review of decision to terminate employment following LEOBR police disciplinary hearing.

Status: Affirmed.

Docket:

12/13/2019	Petition for Judicial Review filed
01/03/2020	Commission's Response to Petition for Judicial Review
06/12/2020	Oral argument continued at Judge's request
08/7/2020	Oral argument held
02/03/2021	Affirmed.

Commission v. Batson
Case No. CAL19-24204 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: The Commission filed for Judicial Review on the record of WCC order regarding surgical authorization for leg causally related to accidental injury.

Status: Awaiting Trial.

Docket:

07/26/2019	Petition for Judicial Review filed
08/19/2019	Batson's Notice of Intent to Participate, Jury Demand
08/22/2019	Commission's Motion to Strike Request for De Novo Review and Request for Jury Demand
09/03/2019	Opposition to Motion to Strike filed
09/06/2019	Memo in Support of on the record Judicial Review filed
10/02/2019	Order of Court- Commission's Motion to Strike Request for De Novo Review and Request for Jury Trial denied. Case to proceed De Novo before a jury.
11/21/2019	Motion to Bifurcate filed by Commission in an attempt to litigate the dispositive legal issue preliminarily before any de novo trial.
12/16/2019	Motion to Bifurcate denied.
04/06/2021	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: In discovery.

Docket:

07/06/2020	Complaint filed
07/29/2020	Commission served
08/20/2020	Motion to Dismiss filed
09/10/2020	Amended Complaint
09/11/2020	Opposition to Motion to Dismiss
09/22/2020	Amended Complaint
10/09/2020	Answer filed.
11/02/2020	2 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

Gibson v. Commission

Case No. CAL 20-15318 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: 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.

Status: In discovery.

Docket:

09/03/2020	Petition for Judicial Review filed
09/18/2020	Response to Petition and Expert Designation
08/11/2021	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: Petition for Judicial Review filed.

Docket:

07/30/2020	Petition filed
08/16/2020	Commission served
08/31/2020	Response to Petition for Judicial Review filed.

Hoenig v. Commission

Case No. CAL 20-07257 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of February 7, 2020 order from the Workers' Compensation Commission regarding extent of disability.

Status: In discovery.

Docket:

03/04/2020	Petition for Judicial Review filed
03/16/2020	Response to Petition and Expert Designation
09/12/2021	Trial

Jackson v. Prince George's County Sports & Learning Complex

Case No. CAL19-21516 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Injury to a minor from 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.
09/02/2021	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.
03/25/2021	Trial

Montague v. Newton White Mansion

Case No. CAL 20-05753 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: 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.
09/15/2021	Trial.

Murray v. Commission
Case No. CAL 20-16372 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of an order from the Workers' Compensation Commission that held claimant is not permanently and totally disabled.

Status: In discovery.

Docket:

09/18/2020	Petition for Judicial Review filed
10/05/2020	Response to Petition for Judicial Review and Expert Designation
10/13/2020	Subsequent Injury Fund's Response to Petition for Judicial Review
10/13/2020	Subsequent Injury Fund's Cross-Petition for Judicial Review
10/21/2020	Claimant's Response to Cross-Petition
10/27/2020	Commission's Response to Cross-Petition
10/27/2020	Notice of Cross-Appeal
08/11/2021	Trial

Pumphrey v. Wilson Case No. CAL 19-30161 (Tort)

Lead Counsel: Dickerson
Other Counsel: Foster

Abstract: Automobile accident with vehicle driven by now deceased former Commission employee.

Status: In discovery.

Docket:

09/16/2019	Complaint filed
07/24/2020	Motion to Dismiss
08/17/2020	Opposition to Motion to Dismiss and Request for Hearing.
09/02/2020	Order of Court – Motion to Dismiss Denied
09/18/2020	Answer filed
06/08/2021	Trial

Simmons, et al. v. P.G. Planning Board

Case No. CAL 21-00308 (AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Judicial Review of Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-20006 (Freeway Airport)

Status: Petition for Judicial Review filed.

Docket:

01/07/2021	Petition for Judicial Review filed
01/27/2021	Commission's Response to Petition

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: 2nd Amended Complaint filed.

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

Stewart v. P.G. Planning Board

Case No. CAL 20-11215 (AALU)

Lead Counsel: Goldsmith
Other Counsel:

Abstract: Judicial Review of Prince George's County Planning Board's approval of GB Mall Limited Partnership/Quantum Company Preliminary Plan Case No.4-19023

Status: Decision of Planning Board Affirmed.

Docket:

04/01/2020	Petition for Judicial Review filed
04/13/2020	Amended Petition for Judicial Review filed.
06/26/2020	Second Amended Petition filed.
07/20/2020	Response to Petition filed.
02/17/2021	Decision of Planning Board affirmed.

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: Motions pending.

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

MARYLAND COURT OF SPECIAL APPEALS

Benton v. Woodmore Overlook Commercial, LLC

CSA-REG-2118-2019 (AALU)

(Originally filed under CAL19-14488 in Prince George's County)

Lead Counsel: Borden
Other Counsel: Goldsmith

Abstract: Judicial Review of decision of the Prince George's County Planning Board No. 19-32, File No. 4-180007.

Status: Awaiting decision.

Docket:

12/19/2019	Appeal filed
02/11/2020	Show Cause issued by Court regarding non-lawyer representing corporate entities
02/25/2020	Response to Show Cause filed
03/04/2020	Order of Court. Show Cause satisfied, appeal to proceed.
05/07/2020	Motion for Emergency Ex Parte Temporary Restraining Order Pending Appeal and Order to Show Cause Why a Preliminary Injunction Should Not Be Issued
05/13/2020	Commission's Response to Motion filed.
05/18/2020	Appellant's Motion for Leave & Notice of Intent to Respond to Commission's Opposition to Temporary Restraining Order Pending Appeal
05/26/2020	Appellant's Motion for Leave of the Maryland Rules Regard the Page Limit, Word Count, Content or Form of Appellant's Motion for Temporary, Preliminary and Permanent Injunction.
06/03/2020	Woodmore Overlook's Motion to Join in Commission's Opposition and Response to Appellant's Motion for Temporary Restraining Order and Preliminary Injunction.
06/04/2020	Order of the Court. Appellant's Motion's denied.
06/23/2020	Appellant Brief and Record Extract filed
06/30/2020	Order – Appellee to refile brief in compliance with Maryland Rules by 8/28/2020
08/03/2020	Petition for Writ of Certiorari
10/22/2020	Summary Notice from Court. Matter to be decided without oral argument
10/23/2020	Petition for Writ of Certiorari denied

Benton v. Woodmore Overlook Commercial, LLC

CSA-REG-0707-2020 (AALU)

(Originally filed under CAL20-13237 in Prince George's County)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Judicial Review of decision of the Prince George's County Planning Board on Preliminary Plan of Subdivision 4-18007, Woodmore Overlook Commercial.

Status: Appeal filed.

Docket:

09/09/2020	Appeal filed
10/27/2020	Motion to Dismiss
11/18/2020	Motion to Dismiss denied

Jan A.J. Bove, et al. v. Montgomery County Planning Board

CSA-REG-1232-2020 (AALU)

(originally filed under Case No. 480775V in Circuit Court Montgomery County) (AALU)

Lead Counsel: Mills
Other Counsel:

Abstract: Judicial Review of Montgomery County Planning Board's approval of 7025 Longwood Drive subdivision no. 620190100.

Status: Appeal filed.

Docket:

12/30/2020	Appeal filed
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Estreicher v. Montgomery County Planning Board.

CSA-REG-0781-2020 (AALU)

(Originally filed under 472672V in Montgomery County)

Lead Counsel: Mills
Other Counsel:

Abstract: Appeal of August 28, 2020 Order reversing Planning Board Resolution MCPB No 19-108 approving Sketch Plan 320190100 and remanding the matter to the Planning Board for further proceedings pursuant to the Court's findings.

Status: Appeal filed.

Docket:

09/28/2020	Appeal filed
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Maryland-National Capital Park and Planning Commission v. Mail My Meds, LLC

CSA-REG-1314-2020 (WC)

(Originally filed as Case No. C-02-CV-20-001143 in Circuit Court Anne Arundel)

Lead Counsel: Foster
Other Counsel:

Abstract: Judicial Review of WCC decision regarding mail order prescription medication.

Status: Appeal dismissed.

Docket:

01/22/2021	Appeal filed
02/03/2021	Appeal voluntarily dismissed

MARYLAND COURT OF APPEALS

West Montgomery County Citizens Association, Inc. v. Montgomery County Planning Board, et al

COA-PET-0400-2020 (AALU)

(Originally filed under 451996V in Montgomery County; CSA-REG-0579-2019)

Lead Counsel: Mills
Other Counsel:

Abstract: Appeal of August 28, 2020 Order reversing Planning Board Resolution MCPB No 19-108 approving Sketch Plan 320190100 and remanding the matter to the Planning Board for further proceedings pursuant to the Court's findings.

Status: Appeal filed.

Docket:

12/14/2020	Petition for Writ of Certiorari
12/29/2020	Respondent's Answer filed
01/05/2021	Petitioner's Reply filed

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
01/15/2021	Joint Consent to Proceed before Magistrate