



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

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

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

Wheaton Headquarters

Auditorium

2425 Reddie Drive

Wheaton, Maryland 20902

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
Open Session Minutes
February 16, 2022

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

PRESENT

Montgomery County Commissioners

Casey Anderson, Chair (absent 10:30-10:45)
Gerald Cichy
Carol Rubin
Tina Patterson
Partap Verma (arrived 10:10 a.m.)

Prince George's County Commissioners

Elizabeth M. Hewlett, Vice Chair
Dorothy Bailey
William Doerner
Manuel Geraldo
A. Shuanise Washington

Chair Anderson called the meeting to order at 10:04 a.m.

Chair Anderson asked Commissioners to support a Resolution of Appreciation for departing Planning Board Chair and M-NCPPC Vice-Chair Elizabeth Hewlett. He read from the resolution and thanked her for her decades-long leadership. The Resolution will be formally passed in March 2022. Commissioners all enthusiastically supported the resolution by acclamation. Vice-Chair Hewlett said it has been her joy to serve the M-NCPPC and the amazing men and women in this agency, adding that we owe a debt of gratitude to our employees and retirees who brought us this far.

ITEM 1 APPROVAL OF COMMISSION AGENDA
ACTION: Motion of Vice Chair Hewlett to approve the agenda
 Seconded by Commissioner Rubin
 10 approved the motion

ITEM 2 APPROVAL OF COMMISSION MINUTES
Open Session – January 19, 2022
Closed Session – January 19, 2022
ACTION: Motion of Vice-Chair Hewlett to approve the minutes
 Seconded by Commissioner Geraldo
 9 approved the motion
 Patterson abstained

ITEM 3 GENERAL ANNOUNCEMENTS
a) American/National Heart Month
b) M-NCPPC Black History Month Events
c) Upcoming Women's History Month (March 2022)
d) Financial Disclosure Filing Requirement Reminder
e) Teen Dating Violence Prevention Month

ITEM 4

COMMITTEE MINUTES/BOARD REPORTS (For Information Only)

- a) Executive Committee Meeting – Open Session, February 2, 2022
- b) Executive Committee Meeting – Closed Session, February 2, 2022
- c) Employees’ Retirement System Board of Trustees Regular Meeting, January 4, 2022

ITEM 5

ACTION AND PRESENTATION ITEMS

- a) Resolution 22-02 Warner Circle Building Disposition (Coppola/Sandberg)

No discussion

ACTION: Motion of Vice-Chair Hewlett to adopt Resolution 22-02

Seconded by Commissioner Geraldo

10 approved the motion

- b) FY2021 Finance External Audit/Annual Comprehensive Financial Report (Cohen)

Secretary-Treasurer Cohen told Commissioners the reports included in the packet reflect the financial health of the agency. In summary, the external audit, performed by SB & Co., and the Finance Department’s own Annual Comprehensive Financial Report (ACFR) indicate a confidence that the finance function, the recording of financial transactions, and the flow of money into the agency and how it spends it, subscribes to and implements best industry practices. The M-NCPPC takes financial integrity very seriously and other industry professionals and experts recognize this as well. County residents and all M-NCPPC stakeholders can be confident in the agency’s finances. He also added the agency volunteered to participate in the Government Finance Officers’ Association (GFOA) Program of Excellence in Financial Reporting, a robust review program that reviews and provides comments and feedback on the agency’s financial reporting, resulting in a Certificate of Achievement from the GFOA.

He introduced Mr. Chris Lehman of external auditors SB & Co., to provide an unmodified opinion of the agency’s financial statements, from the fiscal year 2021 audit. Mr. Lehman shared a brief presentation that summarized the results of the audit, noting that he had met with the M-NCPPC’s Audit Committee to discuss the results in more detail. He said the audit demonstrated no material weaknesses and that management was fully cooperative. Mr. Lehman said the agency is still working on the Federal audit and will complete it well before the September 2022 deadline. Finally, he noted if the audit found any evidence of fraud or items of negative nature, he would be required to bring it to the Commissioners’ attention. He verified there were none. Vice Chair Hewlett thanked Mr. Lehman and appreciated the confirmation that the M-NCPPC maintains responsible fiscal stewardship. She was satisfied to hear what the agency is doing is correct and conforms to best practices.

Corporate Accounting Director Abbey Rodman presented Financial Highlights from the Finance Department’s Annual Comprehensive Financial Report, overall indicating the agency ended FY2021 in a strong financial position.

c) Briefing on Preliminary FY23 Spending Affordability Guidelines (SAG) for Montgomery County (Kroll)

Corporate Budget Director Kroll said the Montgomery County Council approved spending affordability guidelines on February 8, which included a 3.33% reduction in the agency's operating budget for fiscal year 2023 for Montgomery County-funded departmental budgets, or approximately \$5.4M. This is a much smaller recommended reduction than was proposed last year. He noted any Montgomery County proposed reductions for bi-county departments of the M-NCPPC will also impact Prince George's County operations. He noted history suggests that the fiscal situation will improve, but it may be appropriate to develop some options in advance.

Vice-Chair Hewlett notes she was very pleased that we comport with the SAG as required by law for both counties. Other Commissioners agreed and were impressed with the level of transparency in the county's budget. The M-NCPPC has been recognized for decades across the country for having the best budget and financial reporting processing.

d) Quarterly Budget Transfer Reports (Kroll)

Corporate Budget Director Kroll said he will be reporting approved budget transfers to the Commission on a quarterly basis, based on recent policy changes. He noted the item was reporting approved transfers for the past 2 quarters.

e) Update to Open Meetings Act Compliance (Garnder/Borden)

Deputy General Counsel Borden updated Commissioners on developments with Open Meetings Act (OMA) Compliance. One is pending, dealing with the Executive Committee in responding to the Open Meetings Act, relating to the fact that the policy is not entirely clear as to whether the Executive Committee is a public body. Since the duties of the Executive Committee seem to be administrative, which is not subject to the requirements of the Open Meetings Act, the Legal Department proposes to reorganize and restructure the Executive Committee to conform with what is required. She will work with the Corporate Policy team and present some revisions at a future meeting and will clarify the duties of the Executive Committee in M-NCPPC policies.

Another issue is reviewing the many committees, boards, and community groups within the M-NCPPC and how the OMA impacts them. Most of these bodies are in connection with the work of the planning departments. Legal staff are still gathering that information and will analyze each one to determine if they are in compliance, starting with the ones that are created by statute. She added there are more than fifty groups to review and determine if they are in compliance with the OMA. She will report on the progress of the review at the next Commission meeting, but the full review will take several months to complete.

Commissioner Rubin asked if it would make sense to make a public status report, so it is made clear these continued challenges and questions are acknowledged and taken seriously. Commissioners agreed an interim progress report should be submitted. Deputy General Counsel said she would do that. Chair Anderson added the Open Meetings Act in Maryland is considerably broader than in other states, in that any group that is created by statute or bylaw of an agency must be considered a public body, even if there is nobody with decision-

making authority on it. He echoed Deputy General Counsel Borden's observation that the Executive Committee might be considered simply an administrative body, not subject to the OMA. He noted it would be valuable to make this clear, and if we find anything that needs to be corrected, the agency will do it.

ITEM 6

OFFICERS' REPORTS

Executive Director's Report

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

Secretary-Treasurer's Report

- b) 1st Quarter MFD report (For information only)
- c) 2nd Quarter Investment report (For information only)

General Counsel's Report

- d) Litigation Report (For information only)
- e) Legislative Update (Borden)

Deputy General Counsel Borden and Counsel Caleen Kufera briefed Commissioners on HB 1057, The Prince George's County Recreation Authority, which establishes a county recreation authority and the formation of a workgroup to determine how to establish this authority. Ms. Kufera described the timeline of the bill, noting its introduction on February 7, amendments made to it during its development, including making it an emergency bill removing its July 1st effective date, and its passage by the delegation committee on February 11. Deputy General Counsel Borden said the bill's proposed study group will seek to determine how to remove the recreation function from the Department of Parks and Recreation and move it to a county operation. The basis of this bill assumes the best future for the recreation program is to divest it from the M-NCPPC. It is not clear how that decision was found.

It is profoundly concerning that the study related to the bill assumes taking the program away from the M-NCPPC is for the best, rather than making any determination *if* it is for the best. Deputy General Counsel Borden noted the composition of the study group has no recreation experts or policy staff but has political appointees who lack any expertise about the financial issues or planning of a recreation program. There is a profound lack of information on how this would work financially, and the ripple effects it would have on both counties and on the M-NCPPC itself, particularly on pensions. Legal staff recommended opposing the bill and joining the conversation on the issue. While this may be a valid concept to discuss and explore, the method and speed in which the bill was developed, and the lack of involvement of any M-NCPPC recreation or policy staff in determining if this is a good idea, is of great concern.

Deputy General Counsel Borden said The Department of Parks and Recreation has comprehensive needs assessment data on recreation programs in the county. Deputy Director Gabriel of the Department of Parks and Recreation discussed the Land Preservation Recreation Parks Review survey that provides community data and opinion on recreation activities, that it conducts every 5 years. It was conducted from Nov 2021 through Jan 2022. 1,600 participants representing demographics from the county responded. Over 80 percent of the respondents felt facilities were in good to excellent condition. 33% participated in the last year in recreation programs, which is above the national average. 64% were very satisfied with the value they felt they were getting from the recreation programs; 25% were neutral or good; and only 10% felt unsatisfied with the value. Investments that respondents identified as high priority correlated with the agency's planned and active program investments. 96%

of respondents felt high quality recreation programs are important and that funding should be increased.

Commissioner Patterson asked how the financial position of the M-NCPPC would be impacted by this legislation. Deputy General Counsel Borden said there are many questions and few answers about the financial consequences of divesting. The bill tells us how it will be done, but not why it should be done. The bill skipped over any analysis of whether this is a good idea or not.

Commissioner Doerner said this bill was developed with no transparency and was put through quietly. There are a host of problems, including many unfounded allegations by people who have never attended a meeting or asked a question. This issue should be discussed in the open, not through a lobbying group with a professional video. The county is extremely affordable. People who often do not get thought about or considered are able to participate and take advantage of our programs. This bill is not about doing the right things or about providing good services. If it was, they would have sat down at a table and asked us questions or asked us to participate in the process.

Commissioner Rubin said the focus should be to get others on board to oppose the bill. The bill does not ask if this serves the citizens of Prince George's County. The issue should not be about maintaining control but the fact that the bill skipped over the step of determining if it is in the best interest of the residents from a service perspective and a financial perspective. In its current form, it is doing a disservice to the residents. We do not know if the costs are going to go up, we don't know if the services will be reduced. They are proposing this without examining the process.

Vice-Chair Hewlett thanked Deputy General Counsel Borden and Ms. Kufera as well as Commissioners for their comments. She noted the Commissioners just heard a glowing presentation about our transparency in our financial audit. The agency has won awards for the past 40 years honoring its management and transparency. Department of Parks and Recreation employees provide wonderful programs. There needs to be other people on this task force who can have a critical dialogue with those supporting it to determine whether it is a good idea, not simply make the assumption that it is.

Chair Anderson said the M-NCPPC will want to get involved in this process long term and get representation in the study group.

ACTION: Motion of Commissioner Washington oppose HB 1057 and authorize the General Counsel to engage in the process to defeat or amended the bill to provide a more balanced, rigorous and methodical evaluation.

Seconded by Commissioner Patterson

10 approved the motion

Commissioner Bailey was present, but unable to vote and added her approval after the meeting.

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (9) and (15) a closed session is proposed on the following topics. The purposes for closing this meeting generally are to protect and promote the public interest by: (i) preserving privileged and confidential deliberations needed to manage ongoing litigation and collective bargaining negotiations; (ii) preventing disclosure of recommended changes to agency IT resources/systems to prevent bad actors from attempting to interfere with or exploit them.

Chair Anderson noted the agenda and asked for a motion to move to closed session. Vice-Chair Hewlett read the applicable provisions of the Open Meetings Act and so moved; Commissioner Patterson seconded. Commissioners in attendance voted for the measure and the meeting moved to closed session at 11:38 a.m. The meeting reconvened in a separate virtual meeting platform and the following topics were discussed: (1) the CIO's report and update on the situation with the Kronos payroll system; and (2) The Executive Director and General Counsel's litigation and collective bargaining update.

9 out of 10 Commissioners voted. Commissioner Bailey was present, but unable to vote and added her approval after the meeting.

The following individuals were present (via videoconference):

PRESENT

Montgomery County Commissioners

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

Prince George's County Commissioners

Elizabeth M. Hewlett, Vice Chair
Dorothy Bailey
William Doerner
Manuel Geraldo
A. Shuanise Washington

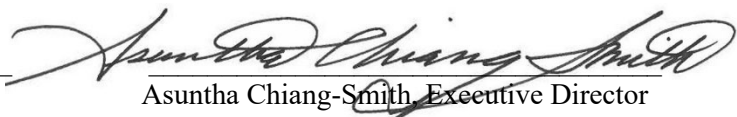
Also present (by videoconference):

Asuntha Chiang-Smith, Executive Director
Gavin Cohen, Secretary-Treasurer
Debra Borden, Deputy General Counsel for General Counsel Adrian Gardner
Andree Checkley, Director, Prince George's Planning
Mike Riley, Director, Montgomery Parks
Bill Tyler, Director, Prince George's Parks and Recreation
Gwen Wright, Director, Montgomery County Planning
James Adams, Senior Technical Writer
Michael Beckham, Acting Corporate Policy and Management Operations (CPMO) Director
Gary Burnett, Acting Deputy Director, Montgomery Parks
Steve Carter, Deputy Director, Prince George's Parks and Recreation
Mazen Chilet, Chief Information Officer
Christian Gabriel, Deputy Director, Prince George's Parks and Recreation
Suzann King, Deputy Director, Prince George's Planning
John Kroll, Corporate Budget Director
Robert Kronenberg, Deputy Director, Montgomery Parks
Wanda Ramos, Deputy Director, Prince George's Parks and Recreation
William Spencer, Corporate Human Resources Director
Tanya Stern, Deputy Director, Montgomery Planning

Direction was given to counsel and staff on how to proceed with IT security and collective bargaining matters.

There being no further business to discuss, Chair Anderson adjourned the meeting from closed session at 12:25 p.m.


James F. Adams, Senior Technical Writer


Asuntha Chiang-Smith, Executive Director



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

BOARD OF TRUSTEES MEETING MINUTES
Tuesday, February 1, 2022; 10:00 a.m.
Upper Marlboro, MD
(Due to COVID -19 Attend via Microsoft Teams)

Due to COVID-19, the Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually through Microsoft Teams with CHAIRMAN HEWLETT leading the call in Upper Marlboro, Maryland on Tuesday, February 1, 2022. The meeting was called to order at 10:05 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
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
Elaine A. Stookey, Bi-County Open Trustee
Gavin Cohen, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio

Board Members Absent

Howard Brown, FOP Represented Trustee
Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio
Vacant, Prince George’s County Open Trustee

ERS Staff Present

Andrea L. Rose, Administrator
Sheila S. Joynes, ERS Accounting Manager

Presentations

M-NCPPC Legal Department – Adrian Gardner, General Counsel
Cheiron – Janet Cranna, FSA, FCA, EA, MAAA and Patrick Nelson, FSA, CERA, EA, MAAA

ITEM 1 APPROVAL OF THE FEBRUARY 1, 2022 CONSENT AGENDA

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. GOGOL to approve the Consent Agenda. The motion PASSED (8-0). (Motion #22-06)

ITEM 2 CHAIRMAN’S ITEMS

The January 4, 2022 meeting adjourned from Closed Session and the action taken was not ratified in Open Session.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. STOOKEY to ratify the action taken in Closed Session on January 4, 2022. The motion PASSED (7-0). (Motion #22-07) Pam Gogol was away during the vote.

During the Closed Session of January 4, 2022, the following action was taken:

1. Approval of State Street Global Advisor's Tax Reclaim Service with GlobeTax Services, Inc.

ITEM 3 MISCELLANEOUS

No items reported.

ITEM 4 TRUSTEE EDUCATION

- A. M-NCPPC Legal Department
Presentation by Adrian Gardner, General Counsel

Trustees of the ERS Board and Commission's 115 Trust were provided 2022 Fiduciary Ethics Workshop Background Materials for review prior to the training. The training included a discussion of the origins and sources of legal standards, an overview of fiduciary duties including a participant's exclusive benefit, decisional standards, compliance obligations, and prohibited transactions, special problems such as whistleblowing, abuse of public office and gratuities, an interactive game of "Name that Duty", and how to navigate wearing two hats. Ethics training is mandatory and provided annually to trustees.

ITEM 5 MANAGER REPORTS/PRESENTATIONS

- A. Cheiron
Presentation by Janet Cranna, FSA, FCA, EA, MAAA and Patrick Nelson, FSA, CERA, EA, MAAA

At its November 2, 2021 meeting, the Board requested Cheiron survey other retirement systems; provide options to mitigate contribution volatility; and determine whether any changes to the existing methods and tools in the ERS' Pension Funding Policy were warranted.

In terms of funding the ERS, money is set aside during the working life of an employee to cover all future benefit payments. The ERS' funding objectives, in order of importance, are to: 1) Provide sufficient assets to permit the payment of all benefits under the ERS; 2) Maintain equity among generations of taxpayers by establishing improvement in the ERS' funded ratio such that it approaches 100% over time and amortizes the unfunded actuarial accrued liability over fixed periods; and 3) Minimize the volatility of the employer's annual contribution rate as a percentage of covered pay by smoothing investment gains and losses over a period of five years.

The ERS attempts to minimize the volatility of the employers' contribution rate from year to year as a percentage of covered pay by 1) using the Entry Age actuarial cost method; 2) smoothing the actuarial value of assets such that investment gains and losses are recognized gradually; and 3) amortizing the unfunded actuarial accrued liability as a level dollar amount over a rolling 15-year period. If the actuarial value of assets is less than the actuarial liability, the ERS has an unfunded actuarial liability which must be amortized.

Cheiron discussed four different amortization methods. 1) A level percentage of payroll approach may start off with a lower unfunded actuarial accrued liability, but would eventually be higher than the existing level dollar approach; 2) A closed/layered approach amortizes the unfunded accrued liability faster, but may also be more volatile; 3) Varying the amortization beyond 15 years creates issues related to generational equity and may not cover the interest payments resulting in an increased unfunded accrued liability; and 4) A corridor approach developing a corridor around the contribution rate may limit the contribution volatility, but may also lead to over-funding or under-funding of the ERS. Cheiron provided two case studies related to the corridor approach, one successful and one detrimental to the system.

Cheiron recommended the Board adhere to the existing methods and tools in the ERS' Pension Funding Policy which have worked well for the ERS over the years resulting in a funded status of 92.6% as of June 30, 2021. The Board concurred with Cheiron and did not approve any changes to the Pension Funding Policy.

Cheiron suggested providing "worst" case projections for the employer contribution rate that could be utilized to assist the employer in budgeting for contribution volatility.

ITEM 6 COMMITTEE REPORTS/RECOMMENDATIONS

A. Investment Monitoring Group

Presentation by Sheila Morgan-Johnson, IMG Chairman

Sheila Morgan-Johnson presented the Investment Monitoring Group (IMG) Regular Report dated January 18, 2022.

The IMG met with Golub Capital Partners and White Oak for performance reviews. These strategies lend to middle market well-established companies. Golub Capital Partners focuses on companies backed by private equity sponsors and White Oak focuses on the non-sponsored space. These are closed-end funds with a lifespan of 7-8 years. The firms discussed the organization, track record and personnel/team changes. The IMG did not find any material concerns with either manager. The ERS' opportunistic fixed income program for private credit has performed well with an IRR since inception (12/31/2009) of 15.2% versus the peer median IRR of 10.2% from Thompson One.

Wilshire provided an overlap analysis of the holdings of Earnest Partners' separate account and Capital Group's All Countries International Equity Fund. Earnest Partners' total holdings of 57 were compared with Capital Group's 198 holdings. There were 13 holdings (5.10%) in common, which is low and was expected.

ITEM 7 ADMINISTRATOR'S ITEMS

Presentation by Andrea L. Rose, Administrator

A. Administrator's Report dated January 20, 2022.

Melissa Ford, the Prince George's County Open Trustee, resigned from the Commission on January 19, 2021 resulting in a vacancy on the ERS' Board of Trustees. A call for nominations will be advertised to fill the remaining term of the seat which expires June 30, 2024.

The ERS has received inquiries regarding the processing time for retirement checks. Key processing changes were made with implementation of the new pension system which resulted in a slightly longer processing schedule for benefit payments. The duplicate entry of retirement data into the bank's payment system was eliminated and replaced with a file upload and download process. This resulted in daily processing being exchanged for an upload/download process twice per month. As a result of these changes, the average processing time increased from 6-9 weeks to approximately 8-10 weeks. The ERS does not have complete control over the timeline. Staff must adhere to the bank's deadlines and are impacted by the schedules and delays from the Commission's Human Resource and Payroll Departments. Additionally, delays on the average processing time may occur due to the complexity of the calculation and/or the volume and timing of benefits. As staff become more familiar with the new system, the team hopes to find ways to reduce the impact on the processing time. Staff provided a diagram of the average processing time from the last day of employment to receipt of the first retirement check.

B. Memorandum dated January 10, 2022 re: Additional Due Diligence – State Street Global Advisor’s Tax Reclaim Service

At its January 4, 2022 meeting, the Board approved use of State Street Global Advisor’s (“SSGA”) Tax Reclaim Service with GlobeTax Services, Inc., (“GlobeTax”) subject to further due diligence.

In December 2021, SSGA outlined a new value-add service for participants in SSGA’s U.S. Common Trust Fund related to taxes withheld on non-U.S. income. Historically, SSGA assisted participants in filing tax reclaims on income derived in France, German, the Netherlands and Switzerland. This process was managed within SSGA along with the custodian of the funds on a very limited basis. SSGA is now expanding the opportunity in additional jurisdictions. GlobeTax was selected to provide expanded services for a contingency fee, except for reclaims from France, Germany, the Netherlands and Switzerland. SSGA selected GlobeTax, a third party, versus utilizing the custodian further because it is necessary to look through the fund to the underlying participants to determine eligibility on a pro-rated basis and file at that level. This is a specialty of GlobeTax and custodian banks are not typically set up to look through to the underlying investors when it does not exist at the fund level. The 25% contingent fee is non-negotiable and a reduction from the typical contingent fee which SSGA was able to avail. SSGA considered multiple providers; however, GlobeTax’s systems and processes are more mature and defined. Additionally, GlobeTax was willing to service the four markets where SSGA previously provided this service at no cost to investors.

The Board agreed the due diligence was acceptable and instructed the Administrator to move forward with execution of the documents with SSGA.

ITEM 8 CLOSED SESSION

At 12:10 p.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 the investment of public funds and Section 3-305(b)(7) to consult with legal counsel.

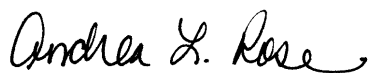
ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. MILLAR to go into Closed Session. The motion PASSED (8-0). (Motion #22-08)

ITEM 9 ADMINISTRATIVE FUNCTIONS

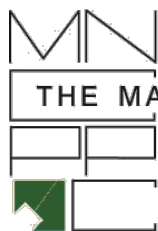
The Board will recess to perform administrative functions not subject to the Open Meetings Act, pursuant to Section 3-104 of the General Provisions Article of the Annotated Code of Maryland.

The Board meeting of February 1, 2022 adjourned at 12:32 p.m.

Respectfully,



Andrea L. Rose
Administrator



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC Resolution No. 22-03

RESOLUTION OF APPRECIATION FOR ELIZABETH M. HEWLETT

WHEREAS, **ELIZABETH M. HEWLETT** – fondly known to most simply as “Betty” – has commendably served the nearly two million residents of Montgomery and Prince George’s Counties during both her first and second chapters as the Chairman of the Prince George’s County Planning Board and The Maryland-National Capital Park and Planning Commission (M-NCPPC); and

WHEREAS, as a young attorney, **BETTY HEWLETT** played a crucial and instrumental role in the modern civil rights history of Prince George’s County by courageously navigating through the existing power structure, taking the first steps to advance the cause of Black leadership, and asserting the interests and needs for representation for African Americans in Prince George’s County – all of which not only gave African Americans a seat at the table, but has helped the County emerge into the amazing, vibrant community it is today; and

WHEREAS, **BETTY HEWLETT** became the first African American and first woman to serve as Chairman of the Prince George’s County Planning Board and M-NCPPC in the 94-year history of the organization where she directed the agency with 6,000 employees, a unionized park police force, and a \$395 million operating budget, managed public, quasi-judicial hearings on land-use matters, and maintained oversight of innovative community planning services and first-class parks and recreation programs; and

WHEREAS, in testimony to her twenty-nine-year journey within the Commission, in addition to her role as Chairman of the Prince George’s County Planning Board, **BETTY HEWLETT** admirably provided key contributions in several leadership capacities including Chairman and Vice Chairman of The Maryland-National Capital Park and Planning Commission, Chairman of the Board of Trustees for the M-NCPPC Employees’ Retirement System, and Principal Counsel in the Office of the General Counsel; and

WHEREAS, over the years and as an extension of her considerable talents and leadership skills, **BETTY HEWLETT** was appointed by County Executives Wayne K. Curry and Rushern Baker to Chair the Prince George’s County Census 2000 and 2020 initiatives and she built and maintained successful professional relationships with appointed and elected officials, the business, development, and legal communities, civic and community organizations, and residents; and

WHEREAS, throughout her distinguished career with the Commission, **BETTY HEWLETT** earned numerous awards, honors, and accolades from local, state, and national organizations, guided the agency to earning a AAA bond rating from all three rating agencies,

and led M-NCPPC to receiving its fifth and sixth National Gold Medal Awards for excellence in parks and recreation management from the National Recreation and Park Association; and

WHEREAS, as a testament to her abiding integrity and devotion to serving in the public interest, **BETTY HEWLETT** has earned the unbridled support, accolades and expressions of support from three County Executives, dozens of colleagues on the County Council and countless other elected officials and civic leaders throughout Maryland, the region and Prince George’s County; and

WHEREAS **BETTY HEWLETT** is retiring from the Commission and will be sorely missed by her colleagues and many friends, both in the Commission and throughout the bi-county region, not only for her outstanding leadership and mentorship, but also for her dedication and commitment to creating positive, diverse, equitable, and inclusive environments and enjoyable programming and recreation services for all.

NOW, THEREFORE, BE IT RESOLVED that The Maryland-National Capital Park and Planning Commission congratulates **BETTY HEWLETT** on her retirement, thanks **BETTY** for her sage guidance, demonstrated leadership, and unwavering dedication to the Commission, and extends wishes for the very best of health, happiness, and success in future endeavors.

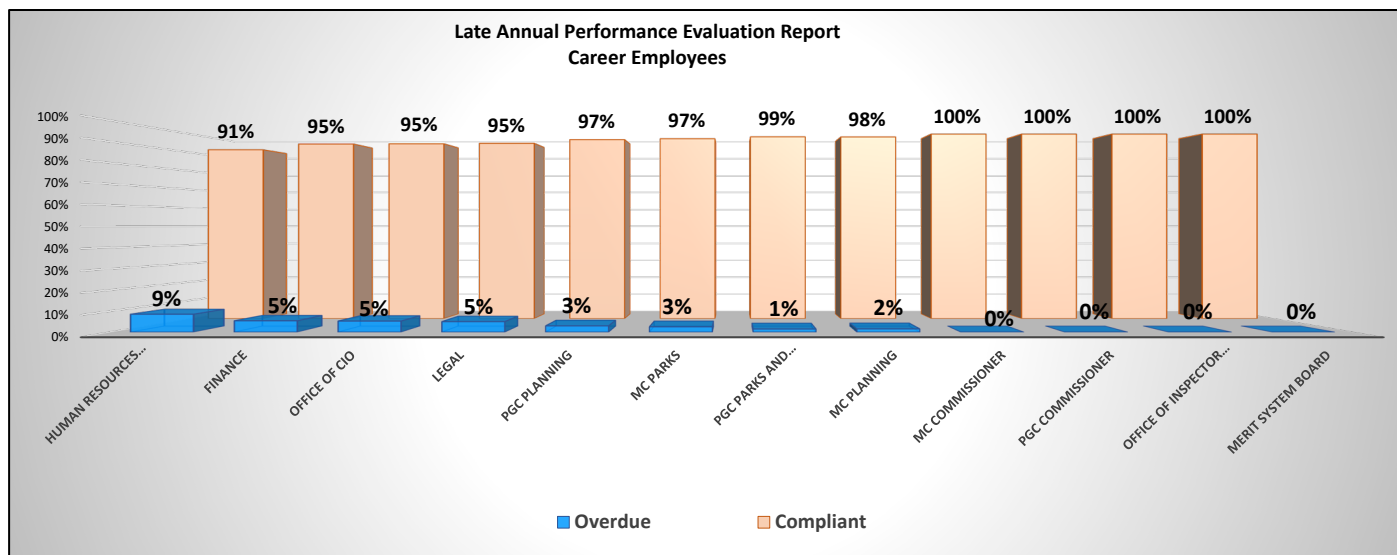
.....
This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with Commissioners _____, _____, _____, _____, and _____ voting in favor of the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

Asuntha Chiang-Smith
Executive Director

REVIEWED AND APPROVED FOR LEGAL SUFFICIENCY:

s\ Debra S. Borden 3/3/22

M-NCPPC Legal Department Date



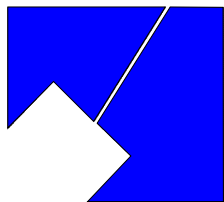
*Data As Of February 28, 2021

Employee Count Department	Evaluation Status		Total Employees
	Overdue	Compliant	
Finance	2	35	37
Human Resources and Mgt	4	43	47
Legal	1	19	20
MC Commissioner		4	4
MC Parks	17	654	671
MC Planning	2	127	129
Merit System Board		1	1
Office of CIO	1	18	19
Office of Inspector General		3	3
PGC Commissioner		7	7
PGC Parks and Recreation	15	993	1,008
PGC Planning	5	162	167
Total Employees	47	2,066	2,113

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE
BY DEPARTMENT AS OF FEBRUARY 2022**

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	Jan-22	Feb-22	Jan-22	Feb-22	Jan-22	Feb-22	Jan-22	Feb-22
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	1	1	1	1
OFFICE OF INSPECTOR GENERAL	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	3	1	0	2	1	1	3	4
LEGAL DEPARTMENT	0	0	1	0	0	1	1	1
FINANCE DEPARTMENT	2	2	0	0	0	0	2	2
PRINCE GEORGE'S PLANNING	6	5	0	0	0	0	6	5
PRINCE GEORGE'S PARKS & RECREATION	10	13	0	2	0	0	10	15
MONTGOMERY COUNTY PARKS	17	14	1	1	2	2	20	17
MONTGOMERY COUNTY PLANNING	2	2	0	0	0	0	2	2
DEPARTMENT TOTAL BY DAYS LATE	40	37	2	5	4	5		
COMMISSION-WIDE TOTAL							45	47

**DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



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 1, 2022

TO: Commissioners

VIA: Asuntha Chiang-Smith, Executive Director

FROM: Gavin Cohen, Secretary/Treasurer

SUBJECT: MFD Purchasing Statistics— Second Quarter FY22

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

Some of the observations of this FY22 report include:

- Attachment A indicates that through the Second Quarter of FY22, the Commission procured \$55,255,488 in goods, professional services, construction and miscellaneous services.
- Attachment B indicates that in the Second Quarter 18.9% or \$10,469,200 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 FY22 was 19.2%. Attachment C also indicates that the largest consumers of goods and services in the Commission are the Prince George's County Department of Parks and Recreation and the Montgomery County Department of Parks. These programs significantly impact the Commission's utilization of MFD firms. The MFD cumulative utilization numbers for these Departments through the Second Quarter are 17.5% and 9.5%, respectively.
- Attachment D presents the FY22 activity for the Purchase Card program totaling \$5,661,288 or 1.6% was spent with minority, female and disabled (MFD) firms. The amount of procurement card activity represents 10.2% 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 FY22.
- Attachments F & G shows the MFD participation in procurements at various bid levels to determine if MFD vendors are successful in obtaining opportunities in procurements that require informal bidding and formal bidding. Based on the analysis, MFD vendors do appear to be participating, at an overall rate of 13.4% in informal (under \$30,000) and 21.1% in the formal (over \$30,000) procurements. For transactions under \$10k, MFD participation is 9%. MFD vendors are participating at an overall rate of 12.8% in transactions over \$250,000.
- Attachment H presents the total amount of procurements and the number of vendors by location. Of the \$55,255,488 in total procurement, \$37,720,169 was procured from Maryland vendors. Of the \$10,469,200 in procurement from MFD vendors, \$7,062,350 was procured from MFD vendors located in Maryland with 42.2% or \$23,362,325 procured from vendors located in Montgomery and Prince George's Counties.
- Attachment I compares the utilization of MFD vendors by the Commission with the availability of MFD vendors. The results show under-utilization in the following categories: African American, Asian, Native American, Hispanic and Females. The amount and percentage of procurement from MFD vendors is broken out by categories as defined by the Commission's Anti-Discrimination Policy. The availability percentages are taken from the most recent State of Maryland disparity study dated June 25, 2018.
- Attachments J and K are prepared by the Department of Human Resources and Management and show the amount and number of waivers of the procurement policy by department and by reason for waiver. Total waivers were 4.6% of total procurement.

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

Attachments

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT STATISTICS
FY 2022
FOR SIX MONTHS ENDED DECEMBER 31, 2021

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	\$ 21,051	\$	-	-	\$ -	0.0%
Planning Department	1,531,667		-	-	221,012	14.4%
Parks and Recreation Department	30,826,608		756,927	9	5,400,768	17.5%
Total	<u>32,379,326</u>		<u>756,927</u>	<u>9</u>	<u>5,621,780</u>	<u>17.4%</u>
<u>Montgomery County</u>						
Commissioners' Office	6,258		-	-	-	0.0%
Planning Department	1,333,651		198,023	5	447,684	33.6%
Parks Department	17,783,286		981,641	8	1,697,661	9.5%
Total	<u>19,123,195</u>		<u>1,179,664</u>	<u>13</u>	<u>2,145,345</u>	<u>11.2%</u>
<u>Central Administrative Services</u>						
Dept. of Human Resources and Mgt.	256,507		100,000	1	45,792	17.9%
Finance Department	247,710		-	-	108,803	43.9%
Legal Department	31,318		215,000	4	-	0.0%
Merit Board	-		-	-	-	0.0%
Office of Chief Information Officer	3,216,636		329,288	1	2,547,480	79.2%
Office of Inspector General	796		-	-	-	0.0%
Total	<u>3,752,967</u>		<u>644,288</u>	<u>6</u>	<u>2,702,075</u>	<u>72.0%</u>
Grand Total	<u>\$ 55,255,488</u>	<u>\$</u>	<u>2,580,879</u>	<u>28</u>	<u>\$ 10,469,200</u>	<u>18.9%</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 15, 2022

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS

FY 2022

MFD STATISTICS - CUMULATIVE AND ACTIVITY BY QUARTER

Attachment B

CUMULATIVE BY QUARTER

	SEPTEMBER	DECEMBER	MARCH	JUNE
<u>Prince George's County</u>				
Commissioners' Office	0.0%	0.0%		
Planning Department	34.9%	14.4%		
Parks and Recreation Department	23.8%	17.5%		
Total	<u>24.2%</u>	<u>17.4%</u>		
<u>Montgomery County</u>				
Commissioners' Office	0.0%	0.0%		
Planning Department	47.7%	33.6%		
Parks Department	10.1%	9.5%		
Total	<u>11.7%</u>	<u>11.2%</u>		
<u>Central Administrative Services</u>				
Dept. of Human Resources and Mgt.	10.9%	17.9%		
Finance Department	8.7%	43.9%		
Legal Department	0.0%	0.0%		
Merit Board	0.0%	0.0%		
Office of Chief Information Officer	14.4%	79.2%		
Office of Inspector General	0.0%	0.0%		
Total	<u>13.0%</u>	<u>72.0%</u>		
Grand Total	<u><u>19.0%</u></u>	<u><u>18.9%</u></u>		

ACTIVITY BY QUARTER

	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER	TOTAL
<u>Prince George's County</u>					
Commissioners' Office	0.0%	0.0%			0.0%
Planning Department	34.9%	3.4%			14.4%
Parks and Recreation Department	23.8%	11.4%			17.5%
Total	<u>24.2%</u>	<u>11.0%</u>			<u>17.4%</u>
<u>Montgomery County</u>					
Commissioners' Office	0.0%	0.0%			0.0%
Planning Department	47.7%	26.4%			33.6%
Parks Department	10.1%	8.8%			9.5%
Total	<u>11.7%</u>	<u>10.7%</u>			<u>11.2%</u>
<u>Central Administrative Services</u>					
Dept. of Human Resources and Mgt.	10.9%	19.7%			17.9%
Finance Department	8.7%	69.4%			43.9%
Legal Department	0.0%	0.0%			0.0%
Merit Board	0.0%	0.0%			0.0%
Office of Chief Information Officer	14.4%	91.2%			79.2%
Office of Inspector General	0.0%	0.0%			0.0%
Total	<u>13.0%</u>	<u>84.8%</u>			<u>72.0%</u>
Grand Total	<u><u>19.0%</u></u>	<u><u>18.9%</u></u>			<u><u>18.9%</u></u>

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS
BY MAJOR PROCUREMENT CATEGORY
FY 2022

FOR SIX MONTHS ENDED DECEMBER 31, 2021

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 \$	\$ 14,787,483	\$ 787,943	\$ 5,507,038	7,947,934	\$ 301,409	\$ 31,609	\$ 136,971	1,078	\$ 73,501
MFD \$	\$ <u>1,706,053</u>	\$ <u>194,298</u>	\$ <u>105,322</u>	<u>1,110,789</u>	\$ <u>191,758</u>	\$ <u>0</u>	\$ <u>99,723</u>	<u>0</u>	\$ <u>4,163</u>
Percentage	11.5%	24.7%	1.9%	14.0%	63.6%	0.0%	72.8%	0.0%	5.7%
Miscellaneous Services:									
Total \$	\$ 10,964,816	\$ 336,908	\$ 4,010,902	2,658,012	\$ 1,152,643	\$ 65,231	\$ 15,779	15,950	\$ 2,709,391
MFD \$	\$ <u>3,194,625</u>	\$ <u>203,386</u>	\$ <u>155,209</u>	<u>380,514</u>	\$ <u>23,610</u>	\$ <u>39,727</u>	\$ <u>0</u>	<u>0</u>	\$ <u>2,392,179</u>
Percentage	29.1%	60.4%	3.9%	14.3%	2.0%	60.9%	0.0%	0.0%	88.3%
Professional Services:									
Total \$	\$ 2,543,377	\$ 208,800	\$ 727,611	961,292	\$ 77,615	\$ 142,861	\$ 94,960	14,290	\$ 315,948
MFD \$	\$ <u>390,198</u>	\$ <u>50,000</u>	\$ <u>149,676</u>	<u>89,503</u>	\$ <u>5,644</u>	\$ <u>3,675</u>	\$ <u>9,080</u>	<u>0</u>	\$ <u>82,620</u>
Percentage	15.3%	23.9%	20.6%	9.3%	7.3%	2.6%	9.6%	0.0%	26.1%
Construction:									
Total \$	\$ 26,931,707	\$ 0	\$ 7,537,735	19,259,370	\$ 0	\$ 16,806	\$ 0	0	\$ 117,796
MFD \$	\$ <u>5,178,324</u>	\$ <u>0</u>	\$ <u>1,287,454</u>	<u>3,819,962</u>	\$ <u>0</u>	\$ <u>2,390</u>	\$ <u>0</u>	<u>0</u>	\$ <u>68,518</u>
Percentage	19.2%	0.0%	17.1%	19.8%	0.0%	14.2%	0.0%	0.0%	58.2%
SUBTOTAL									
Total \$	\$ 55,227,383	\$ 1,333,651	\$ 17,783,286	30,826,608	\$ 1,531,667	\$ 256,507	\$ 247,710	31,318	\$ 3,216,636
MFD \$	\$ <u>10,469,200</u>	\$ <u>447,684</u>	\$ <u>1,697,661</u>	<u>5,400,768</u>	\$ <u>221,012</u>	\$ <u>45,792</u>	\$ <u>108,803</u>	<u>0</u>	\$ <u>2,547,480</u>
Percentage	19.0%	<u>33.6%</u>	<u>9.5%</u>	<u>17.5%</u>	<u>14.4%</u>	<u>17.9%</u>	<u>43.9%</u>	<u>0.0%</u>	<u>79.2%</u>
Pr. Geo. Commissioners' Office									
Total \$	\$ 21,051								
MFD \$	\$ <u>0</u>								
Percentage	0.0%								
Mont. Commissioners' Office									
Total \$	\$ 6,258								
MFD \$	\$ <u>0</u>								
Percentage	0.0%								
Merit Board									
Total \$	\$ 0								
MFD \$	\$ <u>0</u>								
Percentage	0.0%								
Office of Inspector General									
Total \$	\$ 796								
MFD \$	\$ <u>0</u>								
Percentage	0.0%								
GRAND TOTAL \$									
	\$ 55,255,488								
MFD\$	\$ <u>10,469,200</u>								
Percentage	<u>18.9%</u>								

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT STATISTICS
Comparison of MFD % for Total Procurement and Purchase Card Procurement
FY 2022
FOR SIX MONTHS ENDED DECEMBER, 31, 2021

Attachment D

	Total Procurement		Purchase Card Procurement	
	Total \$	MFD %	Total \$	MFD %
<u>Prince George's County</u>				
Commissioners' Office	\$ 21,051	0.0%	\$ 19,301	0.0%
Planning Department	1,531,667	14.4%	86,789	0.4%
Parks and Recreation Department	30,826,608	17.5%	2,611,917	1.2%
Total	32,379,326	17.4%	2,718,007	1.2%
<u>Montgomery County</u>				
Commissioners' Office	6,258	0.0%	6,258	0.0%
Planning Department	1,333,651	33.6%	71,327	0.0%
Parks Department	17,783,286	9.5%	2,789,441	2.0%
Total	19,123,195	11.2%	2,867,026	2.0%
<u>Central Administrative Services</u>				
Dept. of Human Resources and Mgt.	256,507	17.9%	12,618	0.0%
Finance Department	247,710	43.9%	36,230	0.0%
Legal Department	31,318	0.0%	14,428	0.0%
Merit Board	-	0.0%	-	0.0%
Office of Chief Information Officer	3,216,636	79.2%	12,183	0.0%
Office of Inspector General	796	0.0%	796	0.0%
Total	3,752,967	72.0%	76,255	0.0%
Grand Total	\$ 55,255,488	18.9%	\$ 5,661,288	1.6%

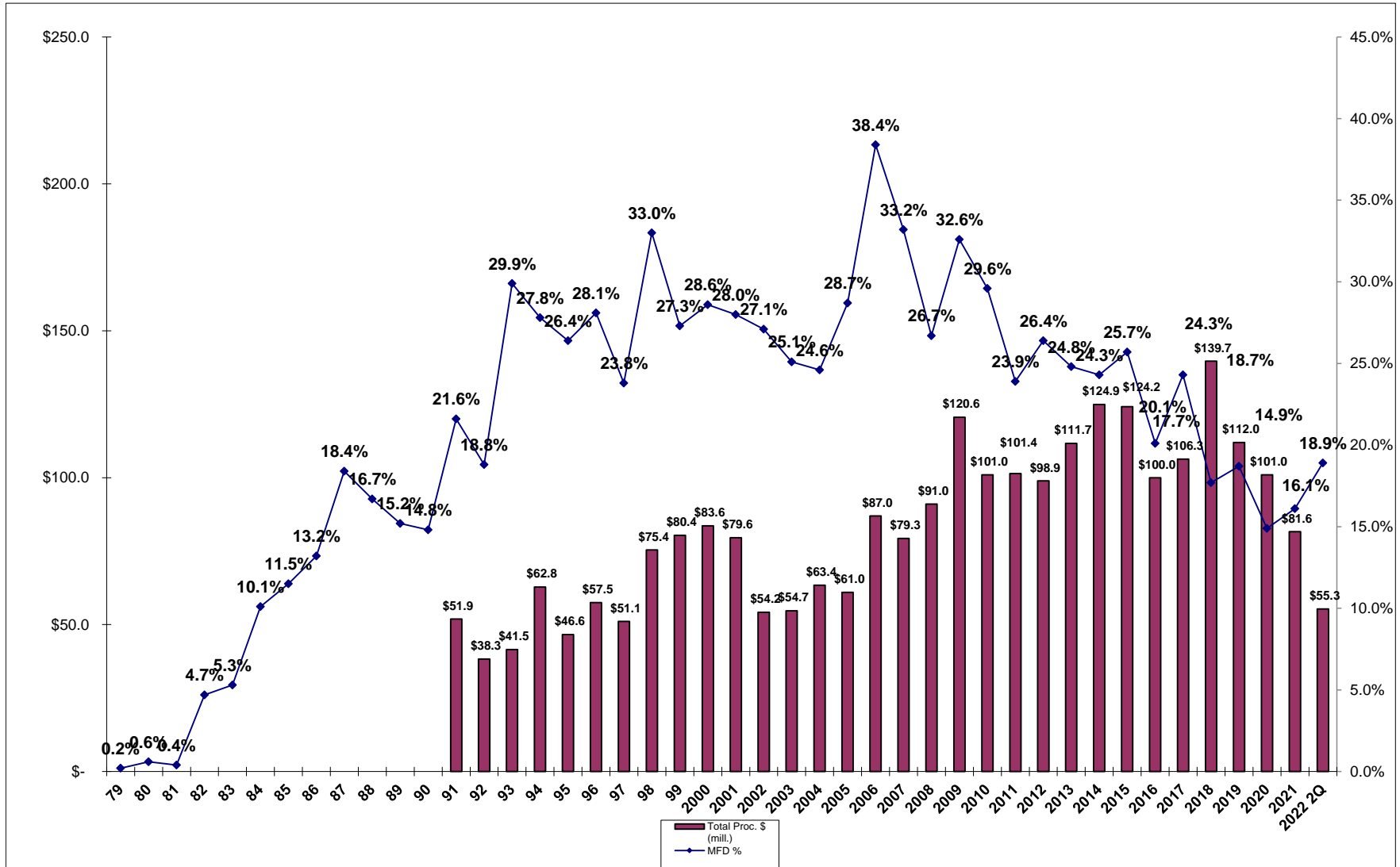
Percentage of Purchase Card Procurement to Total Procurement 10.2%

Prepared by Finance Department
February 15, 2022

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT RESULTS and TOTAL PROCUREMENT (millions)

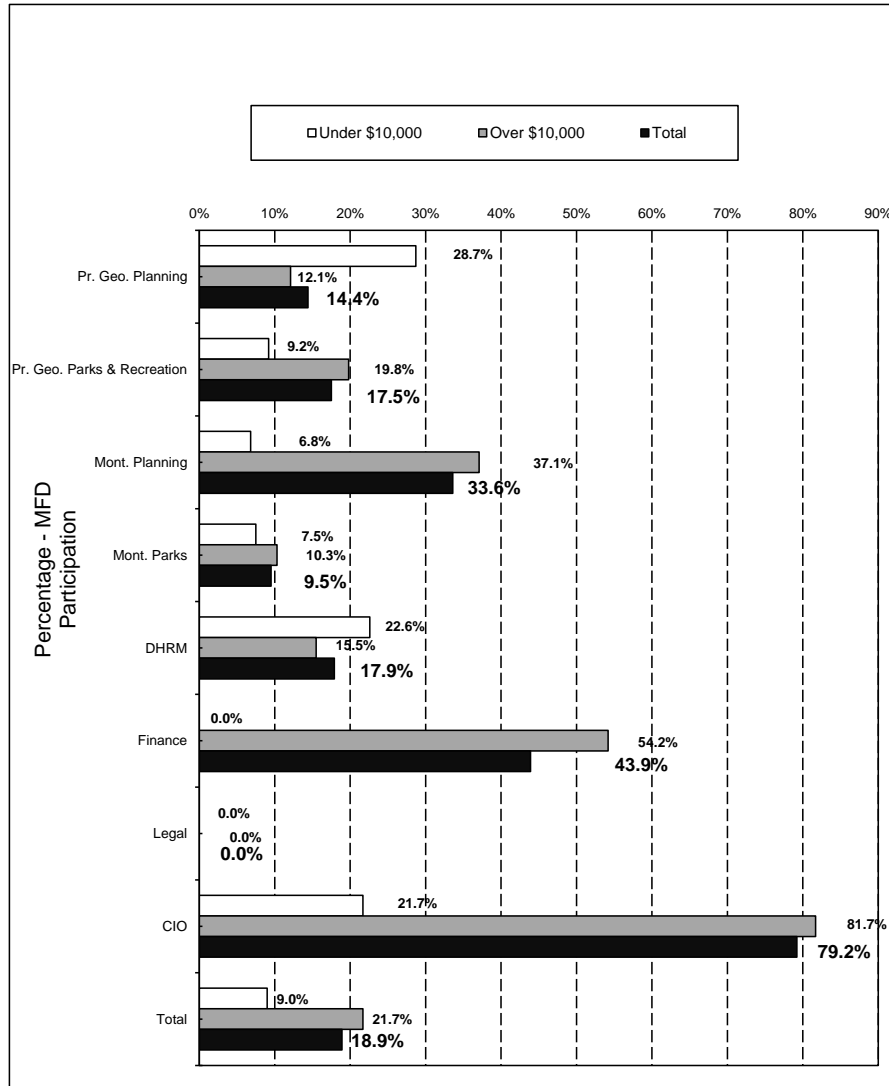
Attachment E



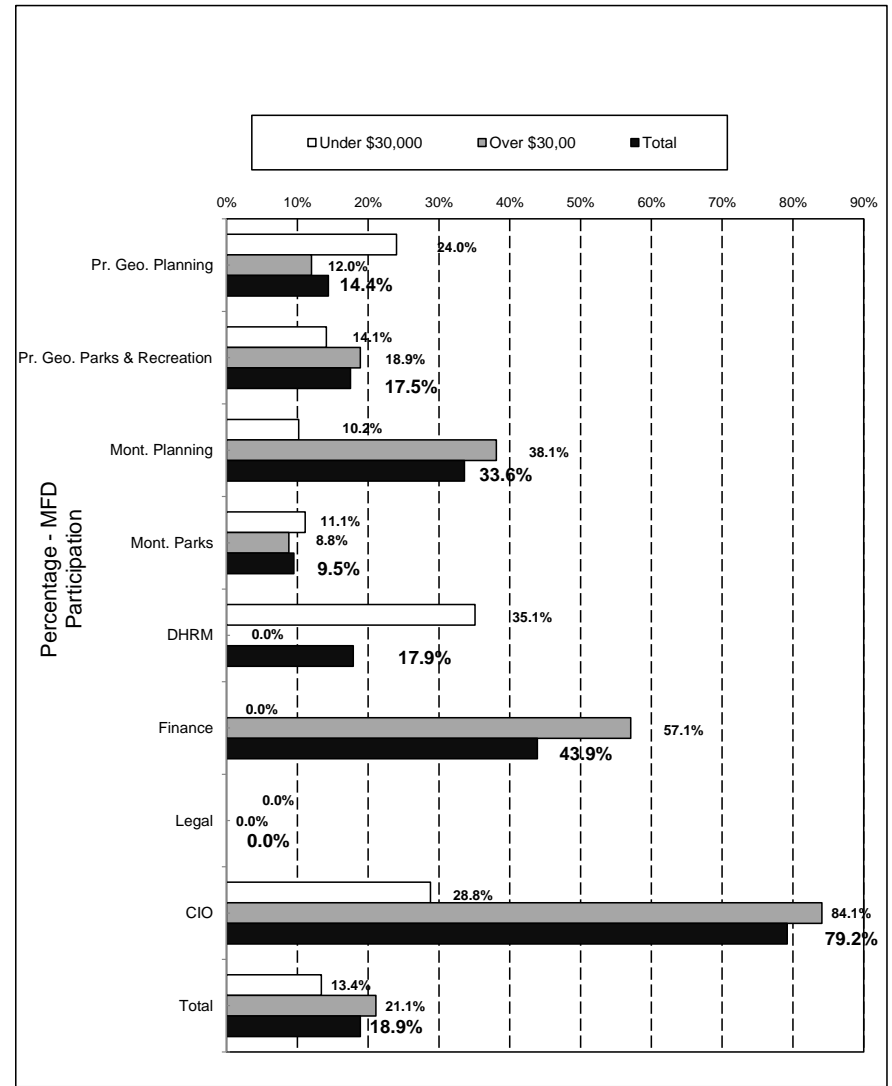
	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022 2Q
TOTAL PROCUREMENT \$ (MIL.)	\$111.7	\$124.9	\$124.2	\$100.0	\$106.3	\$139.7	\$112.0	\$101.0	\$81.6	\$55.3
MFD %	24.8%	24.3%	25.7%	20.1%	24.3%	17.7%	18.7%	14.9%	16.1%	18.9%

The Maryland-National Capital Park and Planning Commission
 MFD Procurement Statistics - Transactions Under/Over \$10,000 & \$30,000 plus Total %
 FY 2022 2Q

Under/Over \$10,000

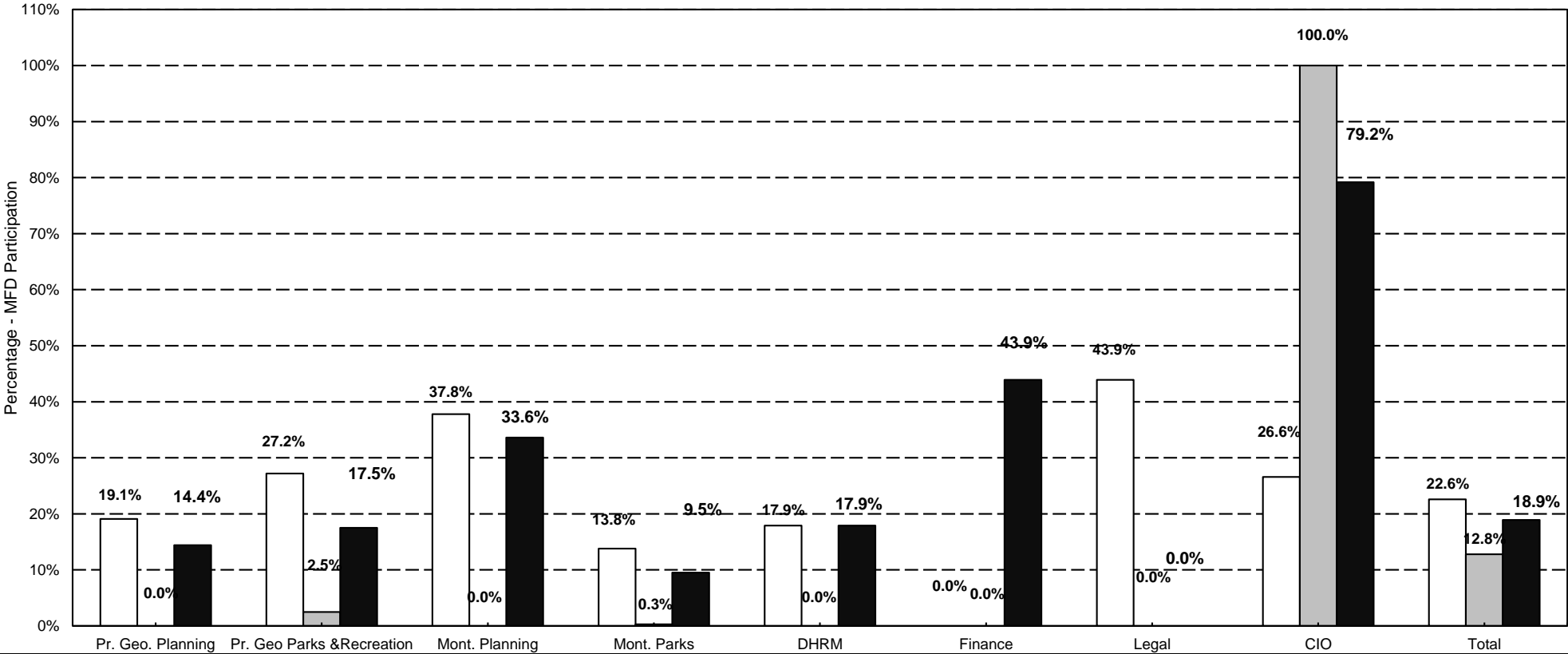


Under/Over \$30,000



The Maryland-National Capital Park and Planning Commission
 MFD Procurement Statistics - Transactions Under /Over \$250,000 and Total %
 FY 2022 2Q

□ Under \$250K □ Over \$250K ■ Total



Prepared by Finance Department
 February 15, 2022

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Amount of Procurement and Number of Vendors by Location
FY 2022
FOR SIX MONTHS ENDED DECEMBER 31, 2021

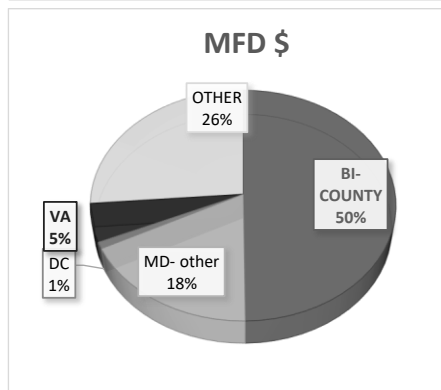
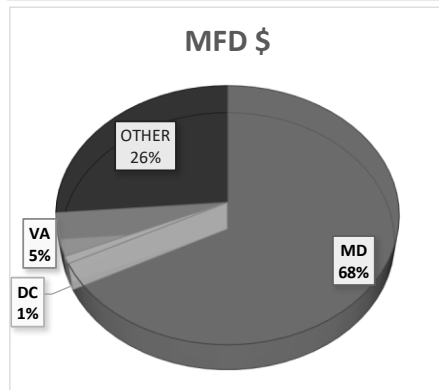
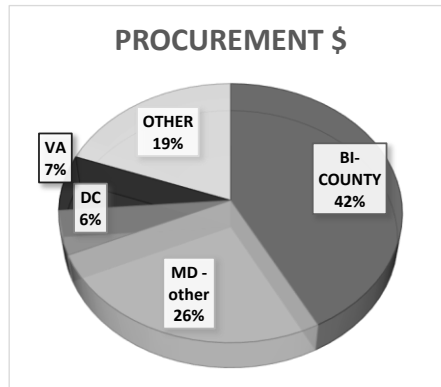
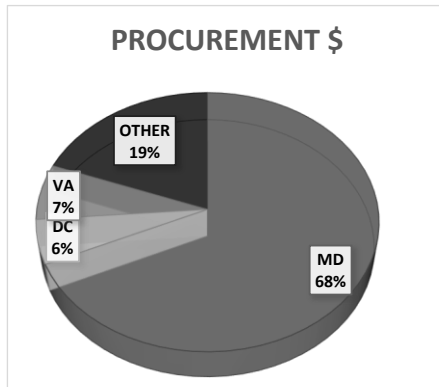
Attachment H

ALL VENDORS

Location	Procurement		Number of Vendors	
	Amount	%	Number	%
Montgomery County	\$ 7,158,460	13.0%	151	15.9%
Prince George's County	16,203,865	29.2%	238	25.0%
Subtotal	23,362,325	42.2%	389	40.9%
Maryland - other locations	14,357,844	26.0%	173	18.2%
Total Maryland	37,720,169	68.2%	562	59.1%
District of Columbia	3,035,370	5.5%	40	4.2%
Virginia	3,840,508	7.0%	102	10.7%
Other Locations	10,659,441	19.3%	247	26.0%
Total	\$ 55,255,488	100.0%	951	100.0%

MFD Vendors

Location	Procurement		Number of Vendors	
	Amount	%	Number	%
Montgomery County	\$ 2,029,792	19.4%	32	21.6%
Prince George's County	3,184,368	30.4%	51	34.5%
Subtotal	5,214,160	49.8%	83	56.1%
Maryland - other locations	1,848,190	17.7%	28	18.9%
Total Maryland	7,062,350	67.5%	111	75.0%
District of Columbia	95,138	0.9%	7	4.7%
Virginia	561,279	5.4%	12	8.1%
Other Locations	2,750,433	26.2%	18	12.2%
Total	\$ 10,469,200	100.0%	148	100.0%



Prepared by Finance Department
 February 15, 2022

Note: The number of vendors excludes purchase card vendors.

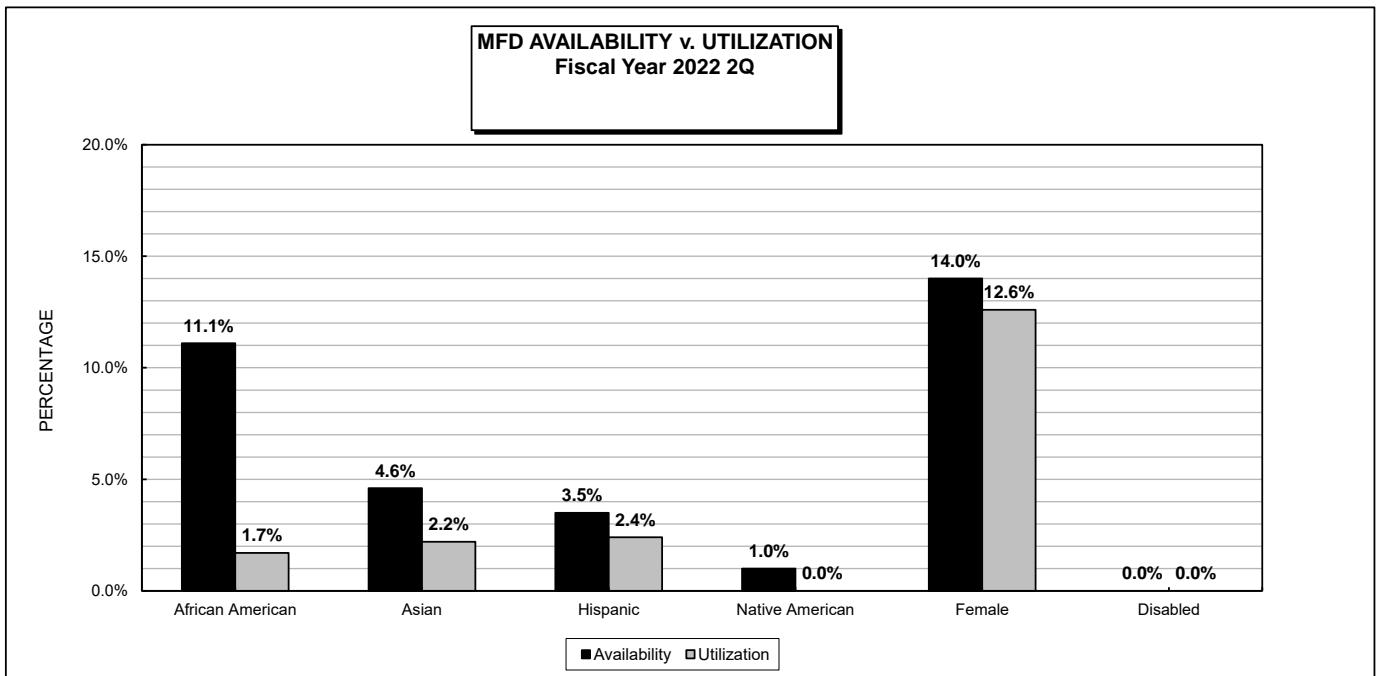
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT RESULTS
FY 2022
FOR SIX MONTHS ENDED DECEMBER 31, 2021

Attachment I

Total Amount of Procurement \$ 55,255,488

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

	Procurement		Availability
	Amount	%	%
Minority Owned Firms			
African American	\$ 951,049	1.7%	11.1%
Asian	1,204,542	2.2%	4.6%
Hispanic	1,313,938	2.4%	3.5%
Native American	1,999	0.0%	1.0%
Total Minority Owned Firms	3,471,528	6.3%	20.2%
Female Owned Firms	6,997,672	12.6%	14.0%
Disabled Owned Firms	0	0.0%	n/a
Total Minority, Female, and Disabled Owned Firms	\$ 10,469,200	18.9%	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

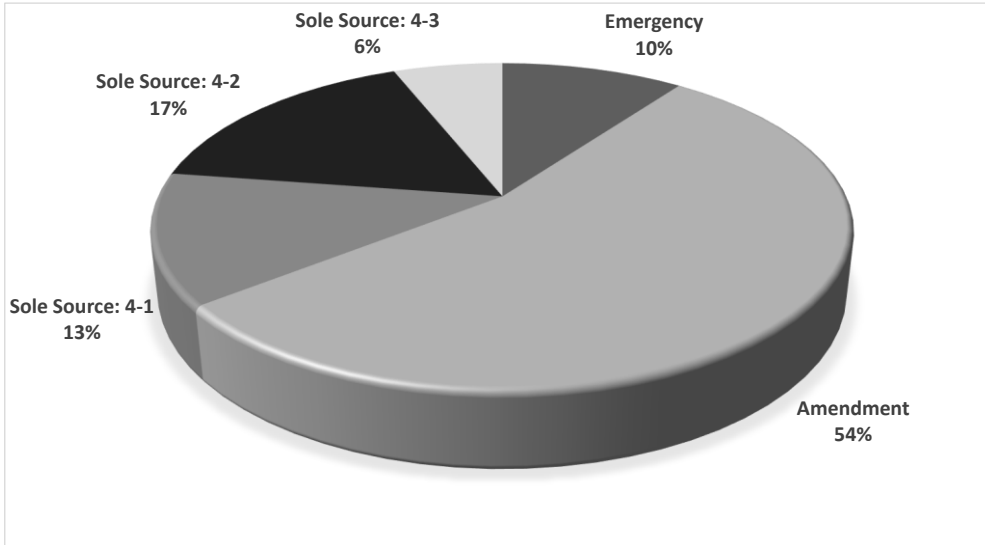
Prepared by Department of Finance

February 15, 2022

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
REASONS FOR WAIVERS
CUMULATIVE DOLLAR AMOUNT & NUMBER OF WAIVERS
FY 2022
FOR SIX MONTHS ENDED DECEMBER 31, 2021**

Attachment J

REASON	NUMBER	AMOUNT	%
Emergency	6	\$ 260,109	10.1%
Public Policy	0	\$ 0	0.0%
Amendment	7	\$ 1,401,892	54.3%
Sole Source: 4-1	7	\$ 334,973	13.0%
Sole Source: 4-2	4	\$ 428,000	16.6%
Sole Source: 4-3	4	\$ 155,905	6.0%
Total	28	\$ 2,580,879	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 2022
FOR THE SIX MONTHS ENDED DECEMBER 31, 2021**

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	756,927	9	-	0	0.0%	24,000	1	-	0	12,473	1	4.8%
Total	756,927	9	-	0	0.0%	24,000	1	-	0	12,473	1	4.8%
Montgomery County												
Commissioners' Office	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Planning Department	198,023	5	-	0	0.0%	193,973	4	-	0	-	0	98.0%
Parks Department	981,641	8	-	0	0.0%	17,000	1	238,000	1	143,432	3	40.6%
Total	1,179,664	13	-	0	0.0%	210,973	5	238,000	1	143,432	3	50.2%
Central Administrative Services												
Dept. of Human Resources and Mgt.	100,000	1	-	0	0.0%	100,000	1	-	0	-	0	100.0%
Finance Department	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Legal Department	215,000	4	-	0	0.0%	-	0	190,000	3	-	0	88.4%
OCIO	329,288	1	-	0	0.0%	-	0	-	0	-	0	0.0%
Merit Board	-	0	-	0	0.0%	-	0	-	0	-	0	0.0%
Total	644,288	6	-	0	0.0%	100,000	1	190,000	3	-	0	45.0%
Grand Total	\$ 2,580,879	28	\$ -	0	0.0%	\$334,973	7	\$ 428,000	4	\$ 155,905	4	35.6%

Purpose of Summary of Waiver Report:

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

Sole Source: 4

It has been determined that:

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

Prepared by Department of Finance
February 15, 2022

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

Reply To

March 2, 2022

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

MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

FROM: Debra S. Borden
Acting General Counsel

RE: Litigation Report for February 2022 – FY 2022

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, March 16, 2022. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

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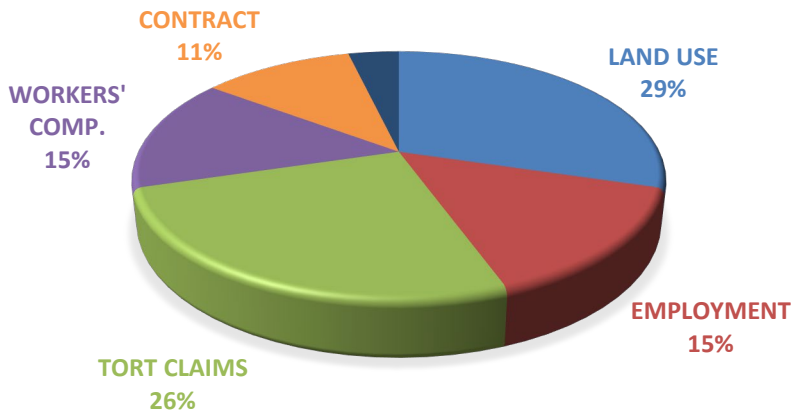
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February 2022
Composition of Pending Litigation
(Sorted by Subject Matter and Forum)

	STATE TRIAL COURT	MARYLAND COSA	MARYLAND COURT OF APPEALS	FEDERAL TRIAL COURT	FEDERAL APPEALS COURT	U.S. SUPREME COURT	SUBJECT MATTER TOTALS
ADMIN APPEAL: LAND USE	4	4					8
ADMIN APPEAL: OTHER							
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	3						3
DEBT COLLECTION							
EMPLOYMENT DISPUTE	1	1		2			4
LAND USE DISPUTE							
MISCELLANEOUS	1						1
PROPERTY DISPUTE							
TORT CLAIM	7						7
WORKERS' COMPENSATION	4						4
PER FORUM TOTALS	20	5		2			27

OVERVIEW OF PENDING LITIGATION



February 2022 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2022			
	Pending 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)	7	1		10	6	8	8
Admin Appeal: Other (AAO)							
Bankruptcy (B)							
Civil Enforcement (CE)							
Contract Disputes (CD)	4		1	3	1	1	3
Debt Collection (D)							
Employment Disputes (ED)	5		1	4	2	2	4
Land Use Disputes (LD)							
Miscellaneous (M)	1			2		1	1
Property Disputes (PD)							
Tort Claims (T)	7	1	1	8	2	3	7
Workers' Compensation (WC)	5		1	7	4	5	4
Totals	29	2	4	34	15	20	27

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

A. <u>New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Izadjoo v. M-NCPPC	MC	ED	July 21
McGill v. Commission	PG	WC	Aug 21
Payne v. M-NCPPC	PG	Tort	Aug 21
Troublefield v. Commission	PG	Tort	July 21
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board	MC	AALU	Oct. 21
Commission v. Alan's Outlet, et al.	St. M	CD	Nov. 21
Robinson, et al. v. Prince George's County Planning Board, et al.	PG	AALU	Nov. 21
In the Matter of Michael Fox	Calvert	WC	Dec. 21
In the Matter of Michael Fox	Calvert	WC	Dec. 21
Village of Friendship Heights v. Montgomery Planning Board	MC	AALU	Jan. 21
B. <u>New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board	MC	AALU	July 21
6525 Belcrest Road, LLC v. Dewey, L.C., et al.	PG	AALU	Dec. 21
Heard v. Maryland-National Capital Park and Planning Commission	PG	AALU	Dec. 21
Izadjoo v. M-NCPPC	MC	ED	Jan. 22

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

A. <u>Trial Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board	MC	AALU	June 21
Commission v. Batson	PG	WC	June 21
Gibson v. Commission	PG	WC	June 21
Hoenig v. Commission	PG	WC	June 21
Simmons, et al. v. Prince George's Planning Bd.	PG	AALU	June 21
Frederick-Bey v. Dick, et al.	PG	Tort	July 21
Deutsche Bank National Trust Company v. Commission	PG	Misc.	July 21
Amica Mutual Insurance Company v. Montgomery County, Maryland, et al.	MC	Tort	Aug. 21
Izadjoo v. Maryland-National Capital Park & Planning Commission	MC	ED	Aug. 21
Snoots v. Commission	MC	WC	Sep. 21
Murray v. Commission	MC	WC	Sep. 21
Kosary v. Montgomery County Planning Board	MC	AALU	Oct. 21
Troublefield v. Commission, et al.	PG	Tort	Oct. 21
6525 Belcrest Road, LLC v. Dewey, L.C., et al.	PG	AALU	Nov. 21
Heard v. Maryland-National Capital Park and Planning Commission	PG	AALU	Dec. 21
Izadjoo v. Maryland-National Capital Park & Planning Commission	MC	ED	Dec. 21
Hitchcock v. M-NCPPC	MC	WC	Jan. 21
Structural Engineering Group Inc. v. M-NCPPC	MC	CD	Jan. 21
B. <u>Appellate Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Benton v. Woodmore Overlook Commercial, LLC.	PG	AALU	Apr. 21
Benton v. Woodmore Overlook Commercial, LLC.	PG	AALU	Sep. 21
Benton v. Woodmore Overlook Commercial, LLC.	PG	AALU	Sep. 21

	Disposition of FY21-FY22 Closed Cases Sorted by Department	
CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources & Management		
Commission v. Batson	The Commission filed for Judicial Review on the record of WCC order regarding surgical authorization for leg causally related to accidental injury.	06/03/2021 - Order of the Court. Case Dismissed and Remanded to the Workers' Compensation Commission for consideration and approval of the Agreement of Final Compromise and Settlement.
Gibson v. Commission	Claimant seeks judicial review of an order from the Workers' Compensation Commission denying causal connection of back injury to the accidental injury of October 20, 2017.	06/10/2021 - Order of Court. Case remanded to Workers' Compensation Commission.
Hoenig v. Commission	Claimant seeks judicial review of February 7, 2020 order from the Workers' Compensation Commission regarding extent of disability.	06/02/2021 - Order of Court. Case Dismissed and Remanded to Workers' Compensation Commission.
Izadjoo v. Maryland-National Capital Park and Planning Commission	Izadjoo filed an appeal of the Merit Board decision of February 25, 2021 denying his appeal of the Montgomery County Department of Parks' denial of grievance 20-14 regarding his 2020 Annual Performance Evaluation.	08/23/2021 – Order of Court – Decision of Merit Board affirmed.
Snoots v. Commission	Petition for Judicial Review of Workers' Compensation Commission determination that not permanently totally disabled	09/01/2021 – Order of Court. Case remanded to Workers' Compensation Commission.
Murray v. Commission	Petition for Judicial Review of an order from the Workers' Compensation Commission that held claimant is not permanently and totally disabled.	09/01/2021 – Order of Court. Case remanded to Workers' Compensation Commission.
Izadjoo v. Maryland-National Capital Park and Planning Commission	Izadjoo filed an appeal of the Merit Board decision of denying appeal of his request for reclassification.	12/20/21 Decision of Merit Board affirmed.

Hitchcock v. Commission	Hitchcock filed appeal of Workers' Compensation Commission determination that he did not sustain a compensable accidental injury on June 5, 2020.	01/12/2022 – Order of Court. Case remanded to the Workers' Compensation Commission for approval of settlement.
Montgomery County Department of Planning		
Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board	Judicial Review of Montgomery County Planning Board's approval of RCCG Jesus House Preliminary Plan 120160040.	06/04/21 - Planning Board's decision affirmed.
Kosary v. Montgomery County Planning Board	Judicial Review of Montgomery County Planning Board's approval of Primrose School Preliminary Forest Conservation Plan CU-18-08.	10/19/21 – Summary Judgment in favor of Plaintiff.
Montgomery County Department of Parks		
Amica Mutual Insurance Company v. Montgomery County, Maryland, et al.	Subrogation suit for damages caused by a tulip poplar striking a home.	08/12/21 – Joint Stipulation of Dismissal with Prejudice.
Structural Engineering Group Inc. v. M-NCPPC	Construction change order dispute and time delay claim related to greenhouse at Brookside Gardens.	01/3/2022 – Order of Court. Matter dismissed with prejudice. Parties entered into settlement agreement.
Montgomery County Park Police		
Montgomery County Planning Board		
Prince George's County Department of Parks and Recreation		
Frederick-Bey v. Dick, et al.	Plaintiff claims injury in the course of using weight room at Allentown Splash and Fitness Center allegedly due a defect in the equipment as a result of negligence on the part of Commission staff and has sued a Commission employee who has not been properly served.	07/28/2021 – Order of the Court. Case Dismissed with Prejudice on grounds barred by statute of limitations.
Deutsche Bank National Trust Company v. Commission	Action seeking to quiet title as to alleged encroachment on Commission land.	07/08/2021 – Amended Complaint filed that no longer included the Commission as no encroachment on Commission land.

Troublefield v. Commission, et al.	Tort suit for injuries allegedly sustained while attending a graduation ceremony at Show Place Arena.	10/21/2021 Voluntary Dismissal
Prince George's County Planning Department		
Prince George's County Planning Board		
Simmons v. Prince George's County Planning Board	Judicial Review of Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-20006 (Freeway Airport)	06/17/2021 - Prince George's County Planning Board's Motion to Dismiss Granted.
Benton v. Woodmore Overlook Commercial, LLC	Judicial Review of decision of the Prince George's County Planning Board No. 19-32, File No. 4-180007. Benton failed to appear at judicial review hearing in Circuit Court and his petition was dismissed without an opinion. Benton filed for reconsideration which was also denied. Benton appealed the denial of the motion for reconsideration.	04/20/2021 - Mandate. Circuit Court decision affirmed. Costs to be paid by appellant.
Benton v. Woodmore Overlook Commercial, LLC	Judicial Review of decision of the Prince George's County Planning Board on Preliminary Plan of Subdivision 4-18007, Woodmore Overlook Commercial. Before the parties filed legal memoranda, in the Circuit Court and before the court held oral argument, and before the Planning Board had a chance to transmit the agency record, the developer's attorney filed a motion to dismiss based on, among other things, lack of standing. The Circuit Court granted the motion to dismiss. Benton appealed.	09/01/2021 – Mandate. Motion for reconsideration denied.

Benton v. Woodmore Overlook Commercial, LLC	Judicial Review of decision of the Prince George's County Planning Board No. 19-32, File No. 4-180007. Benton failed to appear at judicial review hearing in Circuit Court and his petition was dismissed without an opinion. Benton filed for reconsideration which was also denied. Benton appealed the denial of the motion for reconsideration	09/28/2021 – Petition Dismissed.
6525 Belcrest Road, LLC v. Dewey, L.C., et al.	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.	11/11/2021 – Motion to Dismiss granted as to all parties.
Heard v. Maryland-National Capital Park and Planning Commission	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.	11/09/2021 – Decision of the Prince George's County Planning Board affirmed.
Prince George's Park Police		
Office of Internal Audit		

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Commission v. Alan's Outlet, et. al.

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

Lead Counsel: Johnson
Other Counsel: Adams

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

Status: Awaiting trial.

Docket:

11/03/2021	Complaint filed
01/13/2022	Return of Service as to all Defendants
02/23/2022	Voluntary Dismissal of Joseph Bernau
03/14/2022	Trial

CIRCUIT COURT FOR CALVERT COUNTY, MARYLAND

In the Matter of Michael Fox

Case No. C-04-CV-21-000400 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: The Claimant appealed a determination by the WCC that he did not sustain a compensable occupational disease (hypertension) as a result of his work as a Park Police officer.

Status: In Discovery.

Docket:

12/16//2021	Petition for Judicial Review filed
01/10/2022	Response to Petition and Cross Complaint
01/20/2022	Response to Reply and Cross Petition
02/24/2022	Plaintiff's Designation of Experts filed.
03/16/2022	Pretrial hearing

In the Matter of Michael Fox
Case No. C-04-CV-21-000401 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: The Claimant appealed a determination by the WCC that he did not sustain a compensable occupational disease (hypertension) as a result of his work as a Park Police officer.

Status: In Discovery.

Docket:

12/16//2021	Petition for Judicial Review filed
12/22/2021	Response to Petition
01/04/2022	Cross Complaint
01/14/2022	Response to Reply and Cross Petition
01/20/2022	Response to Petition and Cross Petition
02/24/2022	Plaintiff's Designation of Experts filed
03/16/2022	Pretrial hearing

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board
Case No. 487649-V (AALU)

Lead Counsel: Mills
Other Counsel:

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

Status: Petition filed.

Docket:

10/12/2021	Petition for Judicial Review filed
10/27/2021	Response to Petition
11/02/2021	Response to Petition
11/12/2021	Amended Petition to add Petitioner Norman Mease
01/18/2022	Memorandum in Support of Petition for Judicial Review
02/15/2022	Joint Stipulation to Extend time to file Responsive Memorandum

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

Case No. 483255-V (CD)

Lead Counsel: Adams
Other Counsel:

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

Status: Matter Stayed.

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 Contine
02/18/2022	Order of Court. Motion Moot. Case has been placed on the Stay Docket.

Village of Friendship Heights v. Montgomery County Planning Board

Case No. C-15-CV-22-000398 (AALU)

Lead Counsel: Mills
Other Counsel: Vaias

Abstract: Judicial Review of the Montgomery County Planning Board's approval of Sketch Plan 320220010-5500 Wisconsin Avenue.

Status: Petition filed.

Docket:

01/27/2022	Petition for Judicial Review filed.
2/11/2022	Response filed.
02/22/2022	Response to Petition for Judicial Review.

CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND

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

Lead Counsel: Adams
Other Counsel:

Abstract: Officer Proctor deployed his Commission issued pepper spray when an unknown individual was observed wearing police-type gear and approaching our police substation. The individual failed/refused to stop, leading to the Officer deploying his pepper spray to stop and subsequently arrest the individual. Mr. Alexander (the individual) asserts that the stop was without Reasonable Articulate Suspicion/Probable Cause and therefore was unlawful and the amount of force used was excessive.

Status: In discovery.

Docket:

11/20/2019	Complaint filed
12/06/2019	Proctor served
12/09/2019	Commission served
01/03/2020	Commission’s Motion to Dismiss filed
01/23/2020	Motion to Dismiss denied. Plaintiff to file Amended Complaint on or before 02/07/2020.
02/08/2020	Amended Complaint filed
02/21/2020	Motion to Strike Amended Complaint or in the alternative to Dismiss
03/09/2020	Opposition to Motion to Strike
03/27/2020	Court orders matter to be set in for hearing on Motion
05/06/2020	Motion to Quash and for Protective Order
05/06/2020	Plaintiff’s Opposition to Motion to Quash and for Protective Order
05/22/2020	Order of Court – Motion to Quash and for Protective Order held in abeyance
09/16/2020	Motions Hearing held.
9/23/2020	Order of Court – Motion to Strike or in the alternative Motion to Dismiss denied. Motion to Quash and for Protective Order moot. Case to continue to due course.
9/30/2020	Answer to Amended Complaint filed.
12/02/2022	ADR
01/13/2023	Pretrial Conference
02/09/2023	Jury Selection
02/13/2023	Trial

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: Awaiting trial.

Docket:

11/15/2019	Complaint filed
01/27/2020	Defendant City of Bowie's Motion to Dismiss or in the Alternative for Summary Judgment
02/05/2020	Summons reissued for Commission
02/13/2020	Opposition to City of Bowie's Motion to Dismiss
02/26/2020	Defendant Daughtery's answer filed
03/13/2020	Commission served
04/08/2020	Commission's Answer filed
05/15/2020	Motions Hearing on City's Motion to Dismiss – continued due to pandemic
9/18/2020	Amended Complaint and Jury Trial
9/21/2020	Second Amended Complaint
9/24/2020	Hearing on Defendant City of Bowie's Motion to Dismiss and/or Summary Judgment. Motion to Dismiss is denied. Motion for Summary Judgment is granted based upon governmental immunity.
10/28/2020	Third Amended Complaint filed
12/08/2020	Answer to Complaint by Defendant Knode
02/16/2022	Status Conference Held
02/23/2022	Order of Court. Reset for June 21, 2023 for trial.

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

Lead Counsel: Adams
Other Counsel:

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

Status: Mediation held. Settlement pending.

Docket:

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

04/02/2021	Order of Court. Motion to Quash denied.
04/02/2021	Order of Court. Motion to Dismiss Granted in part. Plaintiff to amend complaint within 15 days to correct the legal name of Defendant. The remaining issues in the Motion to Dismiss are denied.
04/14/2021	First Amended Complaint filed
05/04/2021	Commission Answer to First Amended Complaint and Jury Demand
07/25/2021	Pretrial Conference held
07/29/2021	Withdrawal of Request for Jury Trial.
09/13/2021	Motion to Strike Second Amended Complaint
09/14/2021	Pretrial Statement filed
09/27/2021	Second Amended Complaint
10/5/2021	Answer to Second Amended Complaint and Line withdrawing Motion to Strike Second Amended Complaint
12/15/2021	Mediation held. Commission seeking budget transfer request to fund settlement.

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
03/04/2021	3 rd Amended Complaint filed
04/19/2021	Defendant/Cross-Plaintiff, Kadcon Corporation's Crossclaim against Defendants/Cross-Defendants filed
05/19/2021	Robert Stillman Associates Answer to 3 rd Amended Complaint and Crossclaim
05/19/2021	Bell Architects Answer to 3 rd Amended Complaint and Crossclaim
10/15/2021	Defendant Bell Architects, PC and Robert Silman Associates Motion to Dismiss Plaintiff's Third Amended Complaint

11/01//2021	Plaintiff's Opposition to Motion to Dismiss 3 rd Amended Complaint.
11/04/2021	Defendant/Cross-Plaintiff, Kadcon Corporation's Opposition to Defendants/Cross-Defendants, Bell Architects, PC, and Robert Silman Associates, PLLC's, Motion to Dismiss Plaintiff's Third Amended Complaint and Kadcon Corporation's Crossclaim, Request for Hearing and Supporting Memorandum
12/10/2021	Defendant Bell Architects, PC and Robert Silman Associates PLLC's Motion for Leave to file Reply Memorandum in Support of Motion to Dismiss Plaintiff's Third Amended Complaint
12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Motion for Leave to file Reply Memorandum in Support of Motion to Dismiss Kadcon Corporation's Crossclaim
12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Reply to Kadcon Corporation's Opposition to the Pending Motion to Dismiss
12/10/2021	Defendants Bell Architects, PC and Robert Silman Associates PLLC's Reply to Plaintiff's Opposition to the Pending Motion to Dismiss
02/24/2022	Order of Court modifying scheduling order and setting trial for April 5, 2023.

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

Case No. CAL19-21516 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Injury to a minor allegedly related to use of equipment at the Sports & Learning Complex.

Status: In discovery.

Docket:

07/15/2019	Complaint filed
01/22/2020	Commission accepted service
01/27/2020	Complaint to be amended to reflect Commission as party.
02/04/2020	Amended Complaint filed
03/18/2020	Commission served
04/08/2020	Commission's answer filed.
01/26/2022	Order of Court. Trial continued to September 1, 2022.

King v. Commission

Case No. CAL 19-30096 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of an order from the Workers' Compensation Commission denying authorization for neck surgery.

Status: Awaiting trial.

Docket:

09/23/2019	Petition for Judicial Review filed
10/03/2019	Commission filed Response to Petition.
02/07/2022	Joint Motion for Continuance
04/07/2022	Trial

McGill v. Commission

Case No. CAL 21-08946 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of Workers' Compensation Commission decision dated July 19, 2021 which determined he had not sustained an increase in permanent partial disability and denied further treatment.

Status: Awaiting trial.

Docket:

08/03/2021	Petition for Judicial Review filed
08/16/2021	Commission filed Response to Petition
10/26/2022	Trial

Melito v Commission
Case No. CAL 21-03760 (ED)

Lead Counsel: Johnson
Other Counsel:

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

Status: In discovery.

Docket:

04/01/2021	Complaint filed
04/22/2021	Commission served
05/20/2021	Motion to Dismiss filed
06/04/2021	Plaintiff's Opposition to Motion to Dismiss filed.
02/17/2022	Order of Court. Motion to Dismiss denied. Matter to continue in due course.

Montague v. Newton White Mansion
Case No. CAL 20-05753 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Claim related to slip and fall on ice at Newton White Mansion.

Status: In discovery.

Docket:

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

Nuzback, Kathryn A., Revocable Trust v. Commission

Case No. CAL 20-13248 (Misc.)

Lead Counsel: Harvin
Other Counsel:

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

Status: Motion pending.

Docket:

07/01/2020	Complaint filed.
10/09/2020	Commission Answer filed
01/14/2021	Line Requesting Order of Default against Prince George's County Department of Permitting Inspection Enforcement
05/25/2021	Order of Default against Defendant Prince George's County Department of Permitting Inspection Enforcement
05/27/2021	Certified Judgment Notice as to Prince George's County Department of Permitting Inspection and Enforcement
06/28/2021	Hearing held on Motion to Vacate Order of Default
06/30/2021	Order – Motion to Vacate Granted.
09/20/2021	Trial continued. Date to be set.
02/14/2022	Prince George's County Department of Permitting Inspection and Enforcement's Motion to Dismiss filed.
03/31/2022	Trial.

Payne v. Commission, et al.

Case No. CAL 21-06287 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained in 2014 at Clearwater Nature Center while working in summer camp program.

Status: In discovery.

Docket:

06/03/2021	Complaint filed
08/02/2021	Defendant Mock served
08/16/2021	Commission served
09/27/2021	Commission's answer filed
12/09/2021	Motion for Default filed as to Defendant Mock

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

Case No. CAL 21-13945(AALU)

Lead Counsel: Goldsmith
Other Counsel: Warner

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

Status: Petition filed.

Docket:

11/12/2021	Petition filed
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

Snyder v. State of Maryland, et al.

Case No. CAL 20-13024 (Tort)

Lead Counsel: Adams
Other Counsel:

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

Status: In discovery.

Docket:

06/19/2020	Complaint filed.
07/27/2020	Commission's Motion to Dismiss
07/27/2020	Motion to Transfer Venue
08/11/2020	Opposition to Motion to Dismiss
08/25/2020	State of Maryland's Motion to Dismiss

09/10/2020	Amended Complaint.
10/30/2020	2 nd Amended Complaint filed
10/14/2020	Order of Court – Motion to Dismiss and Motion to Transfer Venue Moot.
05/04/2021	Commission and L. Gertzog's Answer to 2 nd Amended Complaint
08/22/2022	Trial

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

Case No. CAL20-14895 (AALU)

Lead Counsel: Goldsmith

Other Counsel: Warner

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

Status: Awaiting decision on Motions.

Docket:

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

MARYLAND COURT OF SPECIAL APPEALS

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

Case No. CSA-REG-1632-2021 (AALU)

(Originally filed under CAE 20-11589 in Prince George's County)

Lead Counsel: Harvin
Other Counsel:

Abstract: Declaratory Judgment Action filed over a dispute involving a parking parcel. Plaintiff contends that Defendants have misconstrued prior approvals of the Planning Board regarding the need for parking in a manner that will harm their interests. Plaintiff seeks to enjoin the Planning Board from approving a Detailed Site Plan.

Status: Appeal from Circuit Court granting Motion to Dismiss.

Docket:

12/14/2021	Appeal filed.
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Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board

Case No. CSA-REG-0620-2021 (AALU)

(Originally filed under 483411-V in Montgomery County)

Lead Counsel: Mills
Other Counsel:

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

Status: Awaiting oral argument.

Docket:

07/02/2021	Appeal filed
11/22/2021	Appellant Brief filed.
12/21/2021	Appellee Brief of Montgomery County Planning Board filed
12/22/2021	Appellee Brief of RCCG Jesus House filed
03/01/2022	Oral Argument

Heard v. Maryland-National Capital Park and Planning Commission

Case No. CSA-REG-1563-2021 (AALU)
(Originally filed under CAL 20-14095 in Prince George's County)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Appeal of decision affirming Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-05068 and denial of March 31, 2020, request for document under the Maryland Public Information Act.

Status: Appeal filed.

Docket:

12/01/2021	Appeal filed.
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Izadjoo v. Maryland-National Capital Park and Planning Commission

Case No. CSA-REG 1795-2021 (ED)
(Originally filed under 486280-V in Montgomery County)

Lead Counsel: Adams
Other Counsel: Johnson

Abstract: Izadjoo appeals the decision of the Circuit Court affirming the decision of the Merit System Board denying appeal of his request for reclassification.

Status: Appeal filed.

Docket:

01/14/2022	Notice of Appeal to Court of Special Appeals
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Stewart, et al. v. Prince George's Planning Board, et al.

Case No. CSA-REG-0038-2021 (AALU)
(Originally filed as CAL20-11215 in Prince George's County)

Lead Counsel: Goldsmith
Other Counsel:

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

Status: Awaiting decision.

Docket:

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

MARYLAND COURT OF APPEALS

No Pending Cases

U.S. DISTRICT COURT OF MARYLAND

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

8:20-cv-03305 PX (ED)

Lead Counsel: Foster
Other Counsel:

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

Status: Case settled.

Docket:

11/14/2020	Complaint filed
01/13/2021	Commission served
02/02/2021	Answer filed
02/23/2022	Notice of Settlement filed.

Evans v. Commission, et al.

8:19-cv-02651 TJS (ED)

Lead Counsel: Foster
Other Counsel:

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.