



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

January 19, 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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**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING AGENDA
Wednesday, January 19, 2022**

**Via videoconference live-streamed by
Montgomery County Planning Department**

10:00 a.m. – 12 noon

		<u>ACTION</u>	
		Motion	Second
1.	Approval of Commission Agenda (10:00 a.m.)	(+*) Page 1	
2.	Approval of Commission Minutes (10:05 a.m.) a) Open Session – December 15, 2021 b) Closed Session – December 15, 2021	(+*) Page 3 (+*)	
3.	General Announcements (10:05 a.m.) a) National Blood Donor Month b) National Slavery and Human Trafficking Prevention Month c) Upcoming M-NCPPC Black History Month Observances – February 2022 d) Financial Disclosure Filing Requirement April 30 (State and M-NCPPC Deadlines)		
4.	Committee Minutes/Board Reports (For Information Only) (10:10 a.m.) a) Executive Committee Meeting – Open Session – January 5, 2022 b) Executive Committee Meeting – Closed Session – January 5, 2022 c) Employees Retirement Association Board of Trustees Regular Meeting – November 2, 2021	(+ Page 9 (++) (+ Page 14	
5.	Action and Presentation Items (10:10 a.m.) a) Rotation of Commission Chair (Hewlett/Anderson) b) Resolution 22-01, Extension of Annual/General Leave Carryover (Beckham/Chiang-Smith) c) Lobby Disclosure Policy (Practice 5-61) (Gardner/Beckham) d) Diversity Council	(* (+*) Page 19 (+ Page 24 (LD)	
6.	Officers’ Reports (11:00 a.m.) <u>Executive Director’s Report</u> a) Late Evaluation Report, December 2021 (For Information Only) <u>Secretary Treasurer</u> No report for January <u>General Counsel</u> b) Litigation Report (For Information Only) c) Legislative Update (<i>Discussion Only</i>)	(+ Page 41 (+ Page 44	
<i>Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7), (9), and (15) a closed session is proposed to discuss the following topics:.</i>			
7.	Closed Session (11:10 a.m.) a) KRONOS update (Chilet) b) Collective Bargaining Update (Chiang-Smith)	(++) (++)	

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

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Commission Meeting
Open Session Minutes
December 15, 2021

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

PRESENT

Prince George’s County Commissioners

Elizabeth M. Hewlett, Chair
Dorothy Bailey
William Doerner
Manuel Geraldo

Montgomery County Commissioners

Casey Anderson, Vice Chair
Gerald Cichy
Tina Patterson
Partap Verma

NOT PRESENT

A. Shuanise Washington

Carol Rubin

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

ITEM 1 APPROVAL OF COMMISSION AGENDA

Chair Hewlett said item 5d. (Amendments to the Lobbying Disclosure Practice) would not be taken during the meeting.

ACTION: Motion of Commissioner Geraldo to approve the amended agenda

Seconded by Bailey
8 approved the motion

ITEM 2 APPROVAL OF COMMISSION MINUTES

Open Session – November 17, 2021

Seconded by Commissioner Bailey
8 approved the motion

ITEM 3 GENERAL ANNOUNCEMENTS

- a) National Universal Human Rights Month
- b) National Drunk and Drugged Driving Prevention month
- c) Global AIDS Awareness Month
- d) Ongoing Prince George’s County Department of Parks and Recreation Annual Winter Festival of Lights at Watkins Park
- e) Ongoing Montgomery Parks Department Winter Garden Walk-Through Holiday Lights Display at Brookside Gardens

- f) Chair Hewlett welcomed Secretary-Treasurer Cohen to his first full Commission meeting. She is thrilled to have Gavin Cohen join the agency.

ITEM 4

COMMITTEE MINUTES/BOARD REPORTS (For Information Only)

- a) Executive Committee Meeting – Open Session, December 1, 2021
b) Executive Committee Meeting – Closed Session, December 1, 2021

ITEM 5

ACTION AND PRESENTATION ITEMS

- a) Resolution 21-29 Approval of Great Seneca Science Corridor Minor Master Plan Amendment (Hill)

No discussion.

ACTION: Motion of Commissioner Geraldo to adopt Resolution 21-29

Seconded by Commissioner Cichy

8 approved the motion

- b) Resolution 21-30 Approval of FY23 Proposed Operating and Capital Budgets (Kroll)

No discussion.

ACTION: Motion of Commissioner Geraldo to adopt Resolution 21-30

Seconded by Commissioner Doerner

8 approved the motion

- c) Requested Commission-Wide Budget Transfers (Kroll)

Mr. Kroll requested Commission approval on two budget transfers: (i) two Commission-wide studies – (a) succession Planning initial implementation and (b) training and the completion of the Classification and Compensation Study; and (ii) another for the Microsoft License annual renewal. Details were presented in the packet. No questions.

ACTION: Motion of Commissioner Geraldo to approve the budget transfer

Seconded by Doerner

8 approved the motion

- d) Amendments to Lobbying Disclosure (Gardner)

Item was not discussed at the meeting but General Counsel Gardner requested a memo be attached to these minutes, see Attachment A.

- e) GFOA Budget Award (Kroll)

Chair Hewlett announced the agency has received the Government Finance Officers' Association Distinguished Budget Presentation Award for the agency's FY2022 Proposed Annual Budget. This is the 36th time the agency has won the award. Corporate Budget Director Kroll extended recognition to the corporate budget division and the departmental budget managers and staff. Chair Hewlett extended her congratulations to all the budget staff who worked to produce the award-winning document.

- f) Actuarial Valuation Other Post-Employment Benefits (OPEB)/115 Trust (Cohen/Bolton)

provided actuarial analysis, interpretation of the data presented in the report, including budget forecasts and reconciliation for funding for the agency's retirees' benefits program.

No questions. Chair Hewlett thanked Secretary-Treasurer Cohen, Mr. Binder, and Mr. Barry for their time and thorough report.

ITEM 6

OFFICERS' REPORTS

Executive Director's Report

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

Secretary-Treasurer's Report

No report for December

General Counsel's Report

- b) Litigation Report (For information only)
c) Legislative Update (Gardner)

General Counsel Gardner introduced Assistant General Counsel Caleen Kufera, who will be assisting the Office of the General Counsel for the upcoming legislative session in Annapolis. He provided a verbal presentation on legislative updates.

General Counsel Gardner noted during the last session, the agency supported a Mandatory Referral Bill, requiring applicants for mandatory referral complete their submittal information, which was becoming a problem for a number of projects. The bill, which the agency supported for 3 consecutive years, was vetoed each time. During the last session, the veto was overturned in the state legislature, and the bill was passed without amendment.

General Counsel Gardner asked Commissioners to note four pending bills and/or the agency's position for each. These include bill on:

Montgomery County Land Use Documents (opposed)

Montgomery County Council Voting Thresholds (no position)

Montgomery County Planning Board Video Streaming (no position)

Bi-County Commissioners Ethics Certifications (not opposed, but working with sponsor for modifications)

No questions. No action was requested.

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7), (8), (9), and (15) a closed session was proposed on the following topics: Security of the Commission's information technology resources; matters related to positions of the Commission in collective bargaining negotiations, and pending litigation. The purposes for closing the 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; and (iii) enabling productive governance deliberations supported by legal counsel and protected by available legal privileges.

Chair Hewlett noted the agenda, read the applicable provisions of the Open Meetings Act, and asked for a motion to move to closed session. Commissioner Geraldo moved; Commissioner Cichy seconded. All 8

Commissioners in attendance voted for the measure and the meeting moved to closed session at 10:44 a.m. The meeting reconvened in a separate virtual meeting platform and the topics identified above were discussed.

The following individuals were present:

Prince George’s County Commissioners

Elizabeth M. Hewlett, Chair
Dorothy Bailey
William Doerner
Manuel Geraldo

Montgomery County Commissioners

Casey Anderson, Vice-Chair
Gerald Cichy
Tina Patterson
Partap Verma

NOT PRESENT

A. Shuanise Washington

Carol Rubin


Also present (by videoconference):

Asuntha Chiang-Smith, Executive Director
Gavin Cohen, Secretary-Treasurer
Adrian Gardner, General Counsel
Andree Checkley, Director, Prince George’s Planning
Mike Riley, Director, Montgomery Parks
Bill Tyler, Director, Prince George’s Parks and Recreation
Gwen Wright, Director, Montgomery County Planning (not in open – Robert Kronenberg)
James Adams, Senior Technical Writer
Michael Beckham, Acting Corporate Policy and Management Operations (CPMO) Director
Derick Berlage, Deputy Director, Prince George’s Planning
Debra Borden, Deputy General Counsel
Steve Carter, Deputy Director, Prince George’s Parks, and Recreation
Mazen Chilet, Chief Information Officer
Miti Figueredo, Deputy Director, Montgomery Parks
Christian Gabriel, Deputy Director, Prince George’s Parks and Recreation
John Kroll, Corporate Budget Director
Robert Kronenberg, Deputy Director, Montgomery Parks

William Spencer, Corporate Human Resources Director
Wanda Wesley-Major, Liability and Safety Manager, CPMO

Direction was given to counsel and staff. Commissioner consensus was given to continue the vaccination mandate and all current bargaining and litigation strategies.

There being no further business to discuss or action to be taken in open session, Chair Hewlett adjourned the meeting from closed session at 12:01 p.m.


James F. Adams, Senior Technical Writer

Asuntha Chiang-Smith, Executive Director



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

December 15, 2021

To: The Maryland-National Capital Park and Planning Commission

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

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

REQUESTED FOR DEFERRAL – AGENDA ITEM No. 5d.

As you can see from the packet, the Legal Department and Corporate Policy and Management Operations Division have been working together on necessary revisions to the agency's Lobbying Disclosure policy (Administrative Practice 5-61). This policy establishes when certain individuals and entities must register and file activity reports with the agency when money is spent, or expenses are incurred, to influence a Commission Action. Proposed revisions to the Practice were shared with senior management.

Under the Maryland Public Ethics Act, the Commission is required to have lobbying disclosure requirements that are "similar to the provisions"¹ of those applicable to individuals and entities who lobby the State. For that reason, our team has also consulted with the State Ethics Commission and requested their input, and we anticipate receiving their comments in time for the next regularly scheduled meeting of our Commission.

For this reason, we recommend that you table the item until your January meeting and, of course, feel free to contact our team if you have questions or comments in the meantime.

¹ See: Annotated Code of Maryland, General Provisions Article, Section 5-830(b).

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EXECUTIVE COMMITTEE MEETING MINUTES
January 5, 2022

On January 5, 2022, the Maryland-National Capital Park and Planning Commission's Executive Committee met via teleconference. Present were Chair Elizabeth M. Hewlett, Vice-Chair Casey Anderson, and Executive Director Asuntha Chiang-Smith. Also present were:

Department Heads

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

Presenters/Staff

Michael Beckham, Acting Corporate Policy and Management Operations (CPMO) Director
 Kevin Davey, Acting Technical Writer
 Brian Coburn, Acting Budget & Management Services Chief
 Mazen Chilet, Chief Information Officer
 John Kroll, Corporate Budget Director
 William Spencer, Corporate Human Resources (CHR) Director
 Wanda Wesley-Major, Risk and Safety Manager

Chair Hewlett convened the meeting at 10:04 a.m.

ITEM 1a – APPROVAL OF EXECUTIVE COMMITTEE AGENDA

Discussion	No Discussion.
ACTION	Chair Hewlett moved to pass all agendas. Chair Anderson seconded. Approved unanimously. All agendas passed.

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

ITEM 1c – ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS

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

ITEM 2 – EXECUTIVE COMMITTEE MEETING MINUTES

Discussion	December 1, 2021 Open Session December 1, 2021 Closed Session
ACTION	Chair Hewlett moved to approve the minutes; Vice-Chair Anderson seconded. Approved unanimously.

ITEM 3 – DISCUSSION/PRESENTATION ITEMS	
Discussion	<p><u>3a. Extension of Social Distancing Leave (SDL) Use (Beckham/Chiang-Smith)</u></p> <p>Acting CPMO Director Beckham asked the Executive Committee to approve an extension on the expiration of unused Social Distancing Leave (SDL) granted to Merit and Term Contract employees, through the end of the 2022 calendar year.</p> <p>Chair Anderson requested to know how much SDL remains unused and why. Executive Director Chiang-Smith indicated those numbers are difficult to produce while the timekeeping system (Kronos) is down, but they can be produced once the system is functional again. She explained it is often essential staff or those whose responsibilities dictate they take less leave who have remaining SDL balances. Chair Anderson said if staff has spent SDL leave, perhaps we should look at assigning more leave, but if there is existing leave it may not be appropriate.</p>
ACTION/follow-up	<p>Chair Hewlett moved to approve the request; Vice-Chair Anderson seconded. Approved unanimously.</p> <p>Executive Director Chiang-Smith will follow up with current SDL numbers when the Kronos timekeeping is restored.</p>
Discussion	<p><u>3b. Proposed Resolution 22-01 Extension of 2021 Annual Leave Carryover (Beckham)</u></p> <p>The Executive Committee was asked to support a proposed M-NCPPC Resolution 22-01, to provide a temporary extension on annual/generic leave carryover for Merit and Term Contract employees, through the end of the 2022 calendar year. With the Executive Committee’s support, the proposed M-NCPPC Resolution will be shared with the Commission for adoption.</p> <p>Executive Director Chiang-Smith said unions are already in agreement with this measure and updates will be communicated as soon as formal agreements have been reached.</p>
ACTION/Follow-up	<p>Chair Anderson moved to approve the request; Chair Hewlett seconded. Approved unanimously.</p>
Discussion	<p><u>3c. Communicate with Confidence Program (Coburn/O’Malley-Sen/Oatley/Davis)</u></p> <p>Acting Chief Coburn briefed the group on the agency’s Communicate with Confidence Program, which is now accepting applications for the 2022 program. Applications are due January 24. Acting Chief Coburn and Executive Director Chiang-Smith asked for support in promoting the program in the departments with managers and staff..</p> <p>Chair Hewlett emphasized the success of the program and the benefits of the program. Chair Anderson asked if more online learning is possible or effective and if there is a way to get new people into the program. The group discussed ways of including more staff who have English as a second language. Chair Hewlett also wants to broaden participation so they can accommodate more people. The Chairs discussed balancing online expansion with staff who lack computers at their job sites. Acting</p>

	Chief Coburn responded that hybrid/online lessons and laptops are being offered for this purpose, as well as a digital Bootcamp to increase technical literacy.
ACTION/Follow-up	
Discussion	<u>3d. Payroll Update (Cohen)</u> Secretary-Treasurer Cohen provided a status update agency payroll operations in response to the KRONOS cyber-attack crisis. Secretary-Treasurer Cohen informed Payroll staff have gone above and beyond in meeting this crisis to ensure Commission staff get paid every week. The Executive Committee thanked Secretary-Treasurer Cohen and Payroll staff for their work during the crisis.
Discussion	<u>3e. November 2021 Investment Report (Cohen) (information item only)</u> No discussion.
ACTION/Follow-up	

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (9) & (15), a closed session was proposed to consider matters that relate to collective bargaining negotiations and the Commission's network security. The purpose for the closed session was to maintain the confidentiality of the Commission's discussions concerning strategies and positions with regard to negotiations and to discuss matters related to cybersecurity that the Board believes constitute a risk to the security of the Commission's information resources technology.

Chair Hewlett noted the agenda, read the applicable provisions of the Open Meetings Act, and asked for a motion to move to closed session. Chair Hewlett motioned for the meeting to move into Closed Session at 10:47 a.m. Chair Anderson seconded. Motion approved unanimously. The closed session was conducted by teleconference. The meeting reconvened after a short break and the following topics were discussed: matters related to collective bargaining negotiations and cybersecurity issues.

The following individuals were present:

Elizabeth Hewlett, Chair
Casey Anderson, Vice-Chair
Asuntha Chiang-Smith, Executive Director

Department Heads

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

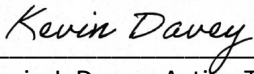
Presenters/Staff

Michael Beckham, Acting Corporate Policy and Management Operations (CPMO) Director

Brian Coburn, Acting Budget & Management Services Chief
Debra Borden, Deputy General Counsel
Mazen Chilet, Chief Information Officer
Kevin Davey, Acting Technical Writer
John Kroll, Corporate Budget Director
William Spencer, Corporate Human Resource Director

Direction was given to Counsel and Staff on both topics discussed.

With no further business to discuss or action to be taken in open session, the meeting adjourned from Closed Session at 11.33 p.m.



Kevin J. Davey, Acting Technical Writer

Asuntha Chiang-Smith, Executive Director

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

BOARD OF TRUSTEES MEETING MINUTES
Tuesday, November 2, 2021; 10:00 a.m.
County Administration Building, 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 from the County Administration Building in Upper Marlboro, Maryland on Tuesday, November 2, 2021. The meeting was called to order at 10:00 a.m. by CHAIRMAN HEWLETT.

Board Members Present

Elizabeth M. Hewlett, Board of Trustees Chairman, Prince George’s County Commissioner
Gerald R. Cichy, Board of Trustees Vice Chairman, Montgomery County Commissioner
Howard Brown, FOP Represented Trustee Absent
Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio Arrived 10:09 a.m./Left at 12:00 p.m.
Melissa D. Ford, Prince George’s County Open Trustee
Pamela F. Gogol, Montgomery County Public Member
Caroline McCarthy, Montgomery County Open Trustee Absent
Amy Millar, MCGEO Represented Trustee
Sheila Morgan-Johnson, Prince George’s County Public Member
Elaine A. Stookey, Bi-County Open Trustee
Joseph C. Zimmerman, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio

ERS Staff Present

Ann McCosby, Software Manager

Presentations

Cheiron – Janet Cranna, FSA, FCA, EA, MAAA and Patrick Nelson, FSA, CERA, EA, MAAA
Wilshire Associates - Bradley A. Baker, Managing Director and Martel McDuffy, Senior Analyst

Legal Counsel Present

M-NCPPC Legal Department - William C. Dickerson, Principal Counsel, and Tracey Harvin, Senior Counsel

ITEM 1 APPROVAL OF THE NOVEMBER 2, 2021 CONSENT AGENDA

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. GOGAL to approve the Consent Agenda. The motion PASSED unanimously (8-0). (Motion #21-54)

Ms. Chiang-Smith arrived.

ITEM 2 CHAIRMAN’S ITEMS

- A. Conference Summary
- B. Resolution in Honor of Joseph C. Zimmerman, CPA

ITEM 3 MISCELLANEOUS

No items reported.

ITEM 4 MANAGER REPORTS/PRESENTATIONS

A. Cheiron

Presentation by Janet Cranna, FSA, FCA, EA, MAAA, and Patrick Nelson, FSA, CERA, EA, MAAA

i. Pension Actuarial Valuation as of June 30, 2021

Janet Cranna and Patrick Nelson conducted an educational session on the actuarial valuation process, historical trends, and the identification and assessment of risk prior to presenting the June 30, 2021 actuarial valuation results.

The June 30, 2021 actuarial valuation indicated a funded ratio (based on the actuarial value of assets) of 92.6%, which is up from 91.2% in 2020.

The June 30, 2021 actuarial valuation included demographic and economic changes, including a change in the investment return assumption from 6.80% to 6.75%, which were approved by the Board earlier this year following a five-year experience study.

To meet the ERS' funding objectives, the recommended employer contribution of \$25,682,999 (14.43% of covered payroll) is payable July 1, 2022 for fiscal year 2023. The recommended employer contribution decreased from \$26,174,744 (15.18% of covered payroll) as of July 1, 2020. The decrease in the employer contribution from 2020 to 2021 can be primarily attributed to: 1) a \$25.7 million actuarial gain on investments; 2) a \$6.8 million gain on the liabilities due to COLA increases being less than expected for retirees and salary increases being less than expected for active members; and 3) a \$11.3 million decrease in the unfunded actuarial liability which resulted from a large actuarial gain offset by the increase in liability due to the change in demographic and economic assumptions.

ACTION: MR. ZIMMERMAN made a motion, seconded by VICE CHAIRMAN CICHY to Approve an Employer Contribution of \$25,682,999 (14.43% of Payroll) Payable July 1, 2022 for Fiscal Year 2023. The Motion PASSED unanimously (9-0). (Motion #21-55)

ii. Actuarial Equivalence Update; November 2, 2021

In accordance with the Pension Funding Policy, the actuarial equivalence assumptions will be reviewed at least every five years during the Experience Study to determine if any updates are needed. As a result of the demographic and economic assumption changes approved by the Board, Cheiron reviewed and recommended updating the actuarial equivalence assumptions used for optional forms of benefit and for actuarial deficiency calculations. The purpose is to convert from one form of benefit to another based on the member's and spouse's ages, using mortality and the interest rate assumptions. There is no gain or loss to the ERS, regardless of the optional form the member elects.

Implementation of the actuarial equivalence factors requires time for the vendor to load the factors and program the software to be effective date driven; and for staff to test and communicate the changes to members. To that end, staff recommended an effective date of January 1, 2023.

ITEM 5 REPORT OF THE ADMINISTRATOR

Presentation by Andrea L. Rose, Administrator

Andrea L. Rose presented the Administrator's Report dated October 22, 2021. Given the continued spike in cyber-criminal activity, staff have been working closely with legal counsel to review the cyber policy prior to renewal. B.F. Saul reported has been an upsurge in both claim frequency and claim severity which may result in a spike in premiums significantly outside the approved Operating Budget. Ms. Rose recommended the Board authorize a special meeting to address cyber security insurance coverage prior to the December 7, 2021 Board meeting, if necessary.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. CHIANG-SMITH to Authorize a Special Meeting to Address Cyber Security Insurance Coverage prior to the December 7, 2021 Board Meeting, if necessary. The Motion PASSED unanimously (9-0). (Motion #21-57)

ITEM 6 COMMITTEE REPORTS/RECOMMENDATIONS

A. Audit Committee

Presentation by Andrea L. Rose, Administrator

SB & Company, LLC reported to the Audit Committee the results of the audit of the June 30, 2021 financial statements which resulted in the issuance of an unmodified (aka "clean") opinion on the financial statements. There were no material weaknesses or instances of fraud identified. This year SB & Company evaluated the benefits paid under the new pension software administration system. No exceptions and/or concerns were identified in the new benefit payment process. Additional reconciliations to the new system were performed by the auditors and staff provided all information required to audit the benefits. SB & Company received full cooperation from management and staff.

B. Investment Monitoring Group

Presentation by Andrea L. Rose, Administrator

- i. Regular Report of September 21, 2021
- ii. Regular Report of October 19, 2021

Following training on private infrastructure and renewable energy at its July 13, 2021 meeting, the Board tasked the IMG with due diligence on investment strategies and selection of managers within this space.

At its September 21, 2021 Investment Monitoring Group (IMG) meeting, Wilshire's Brad Baker discussed the private real asset target allocation and annual pacing options; provided an overview of the infrastructure space along with discussion of the key characteristics and investment merits, including low correlation to other asset classes, good inflation protection and long-term return potential with limited downside risk; and provided an in-depth review of the private core, value-add and opportunistic space with specifics on the current top managers in each space.

At its October 19, 2021 IMG meeting, Wilshire's Brad Baker provided a structure and return/risk analysis of the current portfolio, along with alternative structures with exposures to private infrastructure (core, non-core and a combination of both) included in the allocation. The primary goals of a private real asset allocation include diversification, inflation protection and return enhancement.

The ERS' current allocation to private real assets is well diversified in real estate, timber and farmland, energy and resources (oil, gas, metals and mining), and traditional infrastructure (transportation, utilities, energy and communications). The portfolio does not have any exposure to renewable/clean infrastructure (wind, solar, energy storage/projects). Wilshire's Brad Baker confirmed a significant amount of capital is being pushed to

renewables; however, there remains plenty of opportunity in this space. Mr. Baker recommended one commitment to a non-core strategy and the IMG concurred.

Wilshire analyzed 40-50 managers in the non-core renewable space in conjunction with the investment and operational aspects of the ERS. Following an extensive and in-depth discussion of Wilshire's preliminary group of candidates, the IMG selected four managers to present to the Board at the December 7, 2021 meeting as follows: Adrian, Brookfield, GCM Grosvenor and Oaktree Capital.

Ms. Chiang-Smith left at 12:00 p.m.

**C. Administration & Personnel Oversight Committee
Presentation by Joseph C. Zimmerman, CPA**

At its June 15, 2021 meeting, the Maryland-National Capital Park and Planning Commission (the "Commission") approved changes to the Commission's sick leave policy. The revisions approved by the Commission update the definition of "family member" and those for whom an employee may take sick leave, to comply with the Maryland Healthy Working Families Act. While the Maryland Healthy Working Families Act is required for employers with 15 or more employees, the ERS typically tries to keep leave policies in alignment with the Commission whenever practicable. Therefore, the Administration & Personnel Oversight Committee recommended approval of the revisions to the ERS Employee Handbook.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. FORD to approve Revisions to the ERS Employee Handbook to update the definition of "family members" and those for whom an employee may take leave, as recommended by legal counsel. The Motion PASSED unanimously (8-0). (Motion #21-58)

ITEM 7 CLOSED SESSION

At 12:00 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)(1) to discuss personnel matters that affect one or more specific individuals.

ACTION: MS. GOGOL made a motion, seconded by VICE CHAIRMAN CICHY to go into Closed Session. The motion PASSED unanimously (8-0). (Motion #21-59)

During Closed Session, the following action was taken:

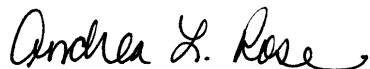
1. Bonuses were awarded to staff.

The Board moved back into Open Session at 12:10 p.m.

ACTION: MR. ZIMMERMAN made a motion, seconded by VICE CHAIRMAN CICHY to ratify the actions taken in Closed Session. The motion PASSED unanimously (8-0). (Motion #21-62)

The Board meeting of November 2, 2021 adjourned at 12:12 p.m.

Respectfully,



Andrea L. Rose
Administrator

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

January 19, 2022

To: The Commission

Via: Asuntha Chiang-Smith, Executive Director

From: Michael Beckham, Acting Corporate Policy and Management Operations Director

Subject: Updated Temporary Extension on Annual/Generic Leave Carryover

Requested Action

The Commission is asked to adopt proposed M-NCPPC Resolution 22-01 (Attachment A), which provides a temporary extension on annual/generic leave carryover for Merit and Term Contract employees, through the end of the 2022 calendar year.

The Executive Committee approved the annual/generic leave carryover extension at their January 5, 2022, meeting. The agency has also reached an agreement with both the MCGEO and FOP unions to cover represented employees. With the Commission's adoption of the proposed Resolution, the leave carryover extension will be shared with the workforce.

Background

Under agency policy (Merit Rules Section 1464), when a Merit System employee has accumulated annual leave balances beyond the calendar year limit, the excess annual leave hours are transferred to the employee's sick leave balances, depending upon hire date. For employees hired:

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

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

In December 2020, the agency approved an automatic extension in the use of excess annual leave, allowing all employees who have excess annual leave to use this leave through April 30, 2021.

In April 2021, the Commission adopted M-NCPPC Resolution 21-06, extending this to the end of the calendar year (December 31, 2021). The Commission authorized a temporary modification of Section 1464.2 of the Merit

System Rules and Regulations by allowing the extension. It was automatically applied to all Merit System positions, unless the employee opted out.

Recommendation

Staff recommends the Commission authorize another temporary extension on the carryover of both annual leave for represented and non-represented Merit System employees and generic leave for Term Contract employees until December 31, 2022:

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

Staff further recommend providing a similar opt-out option like last year, for these employees to submit an opt-out request.

Attachments

- A. Proposed M-NCPPC Resolution 22-01, Updated Temporary Extension on Annual/Generic Leave Carryover.



M-NCPPC Resolution 22-01

Updated Temporary Extension in Annual/Generic Leave Carryover

(Merit and Term Contract Employees)

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

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

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

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

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

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

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

WHEREAS, the Merit Rules establish limits on annual leave balances, and requires an automatic transfer of excess annual leave beyond certain limits to sick leave no later than April 30, 2022; and

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

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

- a. Represented and non-represented Merit System employees, as well as Term Contract employees, may continue to maintain their annual/generic leave balance until December 31, 2022, at which time the excess annual/generic leave balance rollover will be managed consistent with the provisions of the Merit System Rules and Regulations and Contract Employment Manual, as appropriate.
- b. This extension will be automatically applied for excess annual/generic leave as of December 25, 2021, to all represented and non-represented Merit System positions, as well as Term Contract positions, unless written notification is made by an employee to the Corporate Human Resources Office no later than close of business on:
 - i. January 31, 2022, for FOP-represented employees. FOP-represented employees who decide to retire after January 31, 2022 but not later than November 30, 2022, may convert their excess annual leave balance to the same level that would have been converted on December 25, 2021, assuming the FOP member has sufficient balance when the request is submitted.
 - ii. February 28, 2022, for MCGEO-represented and non-represented Merit System employees, as well as Term Contract employees.

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

APPROVED FOR LEGAL SUFFICIENCY:

Tracey Harvin, 1/11/22

Tracey Harvin, Senior Counsel

Asuntha Chiang-Smith, Executive Director

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

January 19, 2021

To: The Commission

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

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

REQUESTED ACTION

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

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

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

BACKGROUND

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

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

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

SUMMARY OF PROPOSED CHANGES

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

1. Definitions

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

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

2. Who Must Register

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

a. For qualifying exemptions (#1):

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

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

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

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

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

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

1. Receive \$2,500 or more in compensation.
*Currently \$500 in the Practice; and \$5,000 in the State law.
2. Pay or incur more than \$2,500 in Compensation to one or more third-party.
*Currently \$500 in the Practice; the revised amount mirrors the State law.
3. Pay or incur \$1,000 or more for grassroots Lobbying.
*Currently \$2,000 in the Practice and in State law.
4. Pay or incur \$100 or more for gifts.
*Currently \$100 in the Practice and in State law.

*This includes paying or incurring postage expenses, which exists in the current practice with a threshold of \$2,000. Currently \$2,000 in State law.

3. How and When to Register

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

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

4. Contingent Compensation

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

5. Reports to the Agency

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

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

6. Training

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

7. Agency Reporting

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

8. Public Inspection of Lobbyist Records

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

Attachments

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

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

Key to Revisions:

Shaded: Recommended additions

~~Strikeout:~~ Recommended deletions

Bold Italicized: Comments regarding proposed amendments

AUTHORITY

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

APPLICATION

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

**PURPOSE AND
BACKGROUND**

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

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

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

REFERENCES

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

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

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

24 DEFINITIONS

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

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

28

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

33

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

- 37
- 38 a) Authorizing a grant, credit, or other subsidy from the Commission,
- 39
- 40 b) Awarding a procurement contract,
- 41

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

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

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

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

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

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

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

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

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

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

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

1 **POLICY**

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

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

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

- 11
12 1. Government and Related Entities. The individual or entity is a government entity, the
13 Metropolitan Washington Council of Governments, Maryland Association of Counties, the
14 Maryland Municipal League, a comparable quasi-governmental agency designated by the
15 Executive Director for this purpose by giving written notice in advance, or an employee of such an
16 organization acting within the scope of their official duties;
- 17
18 2. Certain Public Interest Organizations. The individual or entity is a news organization, religious
19 institution, or not-for-profit independent college or university that is not attempting to influence a
20 Commission Action related to the regulation of its property or interests related to its property, or
21 an employee of such an organization acting within the scope of their official duties;
- 22
23 3. Educational Purposes. The individual or entity is a student or educator lobbying as part of a course
24 or student activity undertaken by an elementary, secondary, or post-secondary school student or
25 student organization;
- 26
27 4. Work for Hire or By Commission Request. The individual or entity's only communications (a) are
28 limited to work for hire by the Commission, or (b) pertaining to a particular Commission Action
29 undertaken at the request of an agency employee or official authorized to make such request;
- 30
31 5. Personal Communications. The communications undertaken by the individual or entity are limited
32 to communications directly with, and for hire by, a Commission official or employee acting in their
33 personal capacity to obtain personal legal advice, professional services, or other information for
34 reasons that do not involve official Commission business or a Commission Action;

- 39
40 7. Certain Attorneys. With respect to a particular Commission Action, the individual or entity is a
41 licensed attorney who communicates with agency officials and staff exclusively on the record by
42 means of (a) writings that are published on the agency website and available as part of the official

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

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

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

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

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

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

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

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

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

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

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

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

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

II. How and When to Register as a Lobbyist

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15
16 **V. Training Course**

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

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

25
26 **VI. Agency Reports**

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

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

32
35 a. Prepare an annual report on the Lobbying before the agency for the previous calendar year.

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

39
40 c. Publish the annual report on the agency’s website, www.mncpc.org.

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

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

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

12 **VIII. Compliance and Enforcement**

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

26
27 **APPENDICES:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Practice 5-61 in General

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

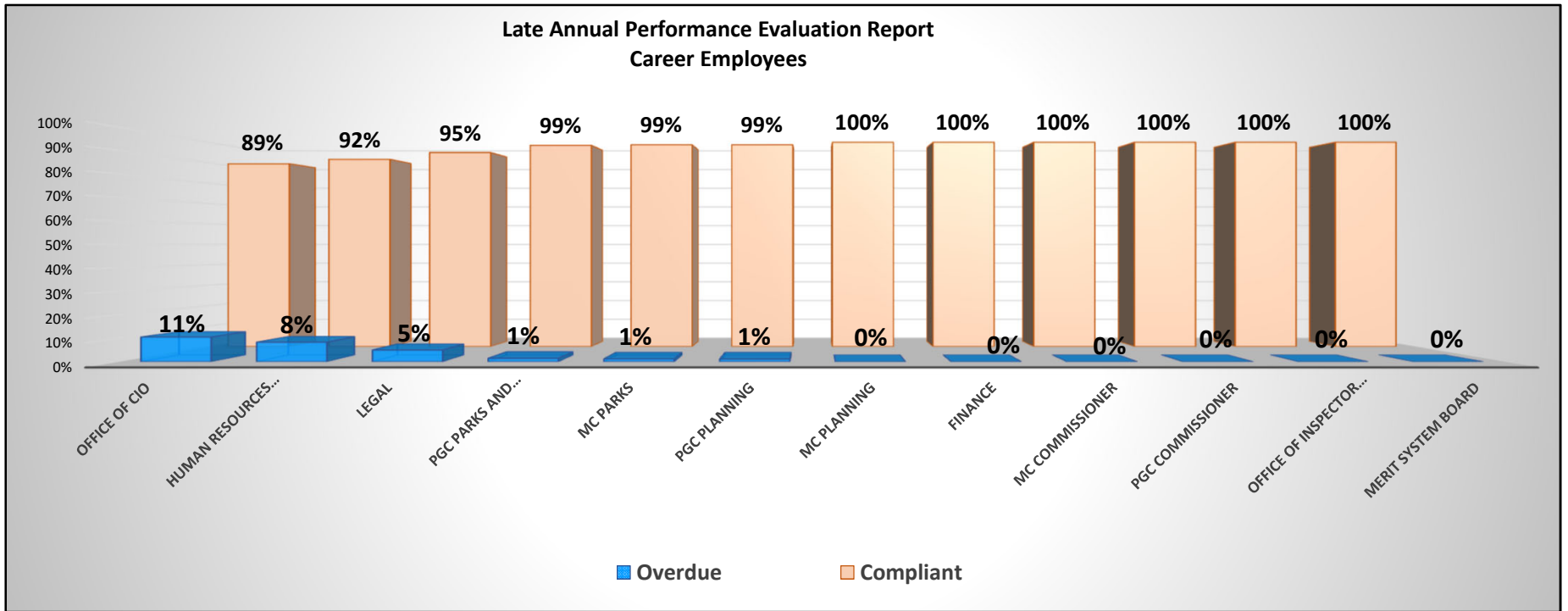
Staff Response/Recommendation: The requirement for the agency is for its Lobbying provisions to be “similar to the provisions” applicable to those who lobby the State legislature and executive branches. Therefore, addressing elements such as requiring written authorizations, training, etc. seek to cover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

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

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	<u>Nov-21</u>	<u>Dec-21</u>	<u>Nov-21</u>	<u>Dec-21</u>	<u>Nov-21</u>	<u>Dec-21</u>	<u>Nov-21</u>	<u>Dec-21</u>
CHAIRMAN, MONTGOMERY COUNTY	0	0	0	0	0	0	0	0
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	0	1	0	0	1	1	1	2
OFFICE OF INSPECTOR GENERAL	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.			1	1	2	2	4	4
LEGAL DEPARTMENT	1	0	0	1	0	0	1	1
FINANCE DEPARTMENT	1	0	0	0	0	0	1	0
PRINCE GEORGE'S PLANNING	1	2	0	0	0	0	1	2
PRINCE GEORGE'S PARKS & RECREATION	12	15	2	0	1	0	15	15
MONTGOMERY COUNTY PARKS	8	4	2	2	2	2	12	8
MONTGOMERY COUNTY PLANNING	5	0	0	0	0	0	5	0
DEPARTMENT TOTAL BY DAYS LATE	29	23	5	4	6	5		
COMMISSION-WIDE TOTAL							40	32

**DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



*Data As Of December 31, 2021

Employee Count Department	Evaluation Status		Total Employees
	Overdue	Compliant	
Finance		38	38
Human Resources and Mgt	4	44	48
Legal	1	19	20
MC Commissioner		4	4
MC Parks	8	659	667
MC Planning		124	124
Merit System Board		1	1
Office of CIO	2	17	19
Office of Inspector General		3	3
PGC Commissioner		8	8
PGC Parks and Recreation	15	1,003	1,018
PGC Planning	2	167	169
Total Employees	32	2,087	2,119

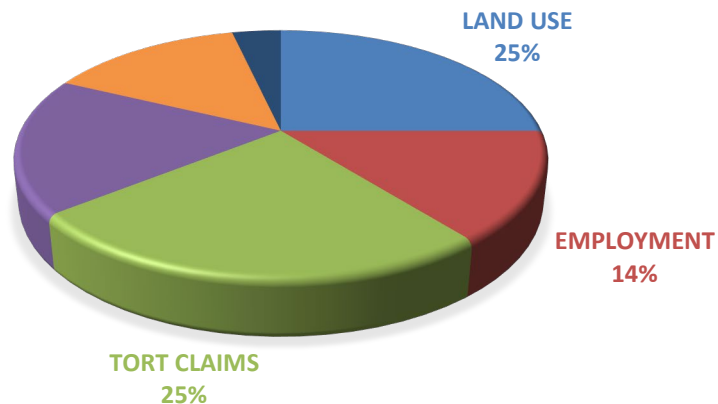
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December 2021 Composition of Pending Litigation

(Sorted by Subject Matter and Forum)

	STATE TRIAL COURT	MARYLAND COSA	MARYLAND COURT OF APPEALS	FEDERAL TRIAL COURT	FEDERAL APPEALS COURT	U.S. SUPREME COURT	SUBJECT MATTER TOTALS
ADMIN APPEAL: LAND USE	3	4					7
ADMIN APPEAL: OTHER							
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	4						4
DEBT COLLECTION							
EMPLOYMENT DISPUTE	2			2			4
LAND USE DISPUTE							
MISCELLANEOUS	1						1
PROPERTY DISPUTE							
TORT CLAIM	7						7
WORKERS' COMPENSATION	5						5
PER FORUM TOTALS	22	4		2			28

OVERVIEW OF PENDING LITIGATION



December 2021 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2022			
	Pending Nov. 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	2	2	10	5	8	7
Admin Appeal: Other (AAO)							
Civil Enforcement (CE)							
Contract Disputes (CD)	4			3	1		4
Debt Collection (D)							
Employment Disputes (ED)	4			4	1	1	4
Land Use Disputes (LD)							
Miscellaneous (M)	1			2		1	1
Property Disputes (PD)							
Tort Claims (T)	7			8	1	2	7
Workers' Compensation (WC)	4	1		7	3	5	5
Totals	27	3	2	34	11	17	28

**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
 Montgomery County Planning Board Commission v. Alan's Outlet, et al. Robinson, et al. v. Prince George's County Planning Board, et al. In the Matter of Michael Fox	 St. M PG Calvert	 CD AALU WC	 Nov. 21 Nov. 21 Dec. 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

**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
6525 Belcrest Road, LLC v. Dewey, L.C., et al.	PG	AALU	Nov. 21
Heard v. Maryland-National Capital Park and	PG	AALU	Dec. 21

Planning Commission

B. Appellate Court Cases Resolved.

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

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

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

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

<p>Heard v. Maryland-National Capital Park and Planning Commission</p>	<p>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.</p>	<p>11/09/2021 – Decision of the Prince George's County Planning Board affirmed.</p>
<p>Prince George's Park Police</p>		
<p>Office of Internal Audit</p>		

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DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

No Pending Cases

DISTRICT COURT FOR ST. MARY'S COUNTY, MARYLAND

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

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

Lead Counsel: Johnson
Other Counsel: Adams

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

Status: Complaint filed.

Docket:

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

CIRCUIT COURT FOR CALVERT COUNTY, MARYLAND

In the Matter of Michael Fox

Case No. C-04-CV-21-0004000 (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: Petition filed.

Docket:

12/16//2021	Petition for Judicial Review filed
-------------	------------------------------------

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

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

Case No. 487649-V (AALU)

Lead Counsel: Mills
Other Counsel:

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

Status: Petition filed.

Docket:

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

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

Case No. 483255-V (CD)

Lead Counsel: Adams
Other Counsel:

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

Status: Awaiting trial.

Docket:

08/25/2020	Complaint filed
11/01/2020	Commission served
11/25/2020	Motion to Dismiss
12/28/2020	Opposition to Motion to Dismiss
03/12/2021	Consent motion to postpone hearing and stay case.
03/15/2021	Order of Court. Matter stayed for 90 days.
10/20/2021	Order of Court. Matter stayed until January 10, 2022.
03/07/2022	Trial.

Hitchcock v. Maryland-National Park and Planning Commission

Case No. 485337-V (WC)

Lead Counsel: Foster
Other Counsel:

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

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

Docket:

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

Izadjo v. Maryland-National Capital Park and Planning Commission

Case No. 486280-V (ED)

Lead Counsel: Dickerson
Other Counsel: Johnson

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

Status: Decision of Merit Board Affirmed.

Docket:

07/01/2021	Petition for Judicial Review filed
07/30/2021	Response to Petition
12/01/2021	Oral Argument
12/20/2021	Order of Court. Decision of Merit Board Affirmed.

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

Case No. 483234-V (CD)

Lead Counsel: Dickerson
Other Counsel: Adams; Johnson

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

Status: Case stayed pending Settlement Agreement.

Docket:

08/21/2020	Complaint filed.
08/31/2020	Commission served.

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

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Alexander v. Proctor

Case No. CAL19-37187 (Tort)

Lead Counsel: Adams
Other Counsel:

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

Status: In discovery.

Docket:

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

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

Lead Counsel: Harvin
Other Counsel:

Abstract: Injuries resulting from an event at Trap and Skeet location owned by the Commission. Defendants include the individual who discharged a weapon, a volunteer assigned to the group that day and Shooting Stars Shotgun Sports, LLC, an entity that provides shooting instructors at that location.

Status: In discovery.

Docket:

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

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

Lead Counsel: Adams
Other Counsel: Dickerson

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

Status: 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: Motions Pending.

Docket:

07/06/2020	Complaint filed
07/29/2020	Commission served
08/20/2020	Motion to Dismiss filed
09/10/2020	Amended Complaint
09/11/2020	Opposition to Motion to Dismiss
	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
02/22/2022	Trial

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

Case No. CAL19-21516 (Tort)

Lead Counsel: Harvin
Other Counsel:

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

Status: 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
04/08/2020	Commission's answer filed.
09/02/2022	Trial

King v. Commission

Case No. CAL 19-30096 (WC)

Lead Counsel: Foster
Other Counsel:

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

Status: Awaiting trial.

Docket:

09/23/2019	Petition for Judicial Review filed
10/03/2019	Commission filed Response to Petition.
04/7/2022	Trial

McGill v. Commission

Case No. CAL 21-08946 (WC)

Lead Counsel: Foster
Other Counsel:

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

Status: Awaiting trial.

Docket:

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

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

Lead Counsel: Dickerson
Other Counsel:

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

Status: Motions pending.

Docket:

04/01/2021	Complaint filed
04/22/2021	Commission served
05/20/2021	Motion to Dismiss filed
06/04/2021	Plaintiff's Opposition to Motion to Dismiss filed.

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

Lead Counsel: Harvin
Other Counsel:

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

Status: In discovery.

Docket:

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

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

Lead Counsel: Harvin
Other Counsel: Dickerson

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

Status: Awaiting Trial.

Docket:

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

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

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

Case No. CAL 21-13945(AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

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

Status: Petition filed.

Docket:

11/12/2021	Petition filed
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Snyder v. State of Maryland, et al.

Case No. CAL 20-13024 (Tort)

Lead Counsel: Adams
Other Counsel:

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

Status: In discovery.

Docket:

06/19/2020	Complaint filed.
07/27/2020	Commission's Motion to Dismiss
07/27/2020	Motion to Transfer Venue
08/11/2020	Opposition to Motion to Dismiss
08/25/2020	State of Maryland's Motion to Dismiss
09/10/2020	Amended Complaint.
10/30/2020	2 nd Amended Complaint filed
10/14/2020	Order of Court – Motion to Dismiss and Motion to Transfer Venue Moot.

05/04/2021	Commission and L. Gertzog's Answer to 2 nd Amended Complaint
08/22/2022	Trial

Troublefield v. Commission, et al.

Case No. CAL 21-02943 (Tort)

Lead Counsel: Mitchell
Other Counsel: Johnson

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

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

Docket:

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

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

Case No. CAL20-14895 (AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

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

Status: Awaiting decision on Motions.

Docket:

08/19/2020	Petition for Judicial Review filed.
09/29/2020	Notice of Intent to Participate
09/29/2020	Motion to Dismiss filed by Werlein WSSC, LLC
10/13/2020	
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: Appeal filed.

Docket:

07/02/2021	Appeal filed
	Appellant Brief filed.
12/21/2021	Appellee Brief of Montgomery County Planning Board filed
12/22/2021	Appellee Brief of RCCG Jesus House filed

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

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

Lead Counsel: Goldsmith
Other Counsel:

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

Status: Awaiting decision.

Docket:

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

MARYLAND COURT OF APPEALS

No Pending Cases

U.S. DISTRICT COURT OF MARYLAND

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

8:20-cv-03305 PX (ED)

Lead Counsel: Dickerson
Other Counsel: Foster

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

Status: In discovery.

Docket:

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

Evans v. Commission, et al.

8:19-cv-02651 TJS (ED)

Lead Counsel: Dickerson
Other Counsel: Foster

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

Status: In discovery.

Docket:

09/11/2019	Complaint filed
10/23/2019	Notice of Intent to file Motion for More Definite Statement filed by Defendants Commission, McSwain, and Riley
10/24/2019	Notice of Intent to file Motion for More Definite Statement filed by J. Creed on behalf of Defendant Murphy
10/28/2019	Notice of Intent to File a Motion for More Definite Statement filed by attorney C. Bruce on behalf of Defendant Uhrig
11/26/2019	Status Report filed by Plaintiff agreeing to file Amended Complaint specifying against whom each claim is asserted and dates of alleged events.
12/10/2019	Amended Complaint filed.
12/23/2019	Notice of Intent to file a Motion to Dismiss filed by all defendants
01/16/2020	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