

GO COMMITTEE #1
April 25, 2012

Worksession

MEMORANDUM

April 23, 2012

TO: Government Operations and Fiscal Policy Committee
FROM: Jean C. Arthur, Legislative Analyst *JCA*
SUBJECT: **Worksession:** FY13 Operating Budget
Office of the County Attorney

At this session, the Committee will review the County Executive's recommendation for the FY13 Operating Budget for the Office of the County Attorney. Relevant pages from the FY13 Recommended Operating Budget are attached on ©1-6.

The following persons are expected at this worksession:
Marc Hansen, County Attorney
Dennis Via, Office of the County Attorney
Phil Weeda, OMB

OVERVIEW

For FY13, the County Executive is recommending a total of \$5,139,791, an increase of \$1,100,291 or 27.2 percent from the FY12 approved budget of \$4,039,500. The budget restores several positions that have previously been lapsed.

	FY12 Approved	FY13 CE Recommended	% Change
EXPENDITURES			
• <i>Personnel</i>	\$3,657,460	\$4,698,201	28.5%
• <i>Operating Expenses</i>	\$382,040	\$441,590	15.6%
Total General Fund Expenditures	\$4,039,500	\$5,139,791	27.2%
PERSONNEL			
Full-time	71	71	
Part-time	3	3	
FTEs	34	42.4	24.7%
REVENUE			
• <i>Federal Financial Participation Reimbursements</i>	179,310	179,310	
• <i>Other Charges/Fees</i>	75,000	75,000	
• <i>Other Intergovernmental</i>	45,630	45,630	
General Fund Revenue	\$299,940	\$299,940	0

FY13 Recommended Changes from FY12 Approved Budget

	Expenditures	FTEs
Restore lapsed attorney position to handle certain EEO complaints transferred from Office of Human Rights to OCA	\$147,930	
Restore Assistant County Attorney – Public Interest Litigation	46,690	
Restore Assistant County Attorney – Finance and Procurement	134,180	
Restore Assistant County Attorney Finance and Procurement – commercial litigation	107,560	
Retirement Adjustment	263,547	
Group Insurance Adjustment	195,210	
Lump sum adjustment	137,908	
Outside legal counsel for child welfare cases	63,500	
Increase personnel costs to OCA because of reduction of chargeback to DEP Solid Waste	39,805	
Longevity adjustment	7,716	
Printing and Mail Adjustment	-3,040	
Help Desk	-910	
Technical Adjustment: Conversion of WYs to FTEs in the new budgeting system		8.4

STAFFING

The County Executive's FY13 budget recommends restoration of four attorney positions that have been lapsed for several years. The number of positions will not change but the personnel costs will increase since the positions now would be funded. In the FY12 budget those positions were listed under unfunded lapse.

One of the positions is necessary to handle the additional workload that resulted when the responsibility for investigating EEO discrimination complaints filed against the County with Federal, State, or County administrative agencies was transferred from the Office of Human Resources to OCA. Although that transfer happened in FY11, no positions were funded in the OCA budget to handle the work.

Two of the remaining three positions will cover finance and procurement and public information litigation. Attached at ©7-14 is a memorandum from the County Attorney outlining the workload changes in OCA over the past two years.

As is shown in the memorandum, the number of employment cases the office is handling is significantly higher than anticipated when the Council approved the budget that transferred EEOC case responsibility to OCA. Additionally, the case load and complexity in land use and labor case also have increased.

FY13 Expenditure Issues

Transfer from Capital to Operating Budget. Along with his operating budget transmittal in March, the Executive also sent over several changes to the Capital Budget requests. Among those, is an amendment to Facility Planning:MCG to reflect an additional \$600,000 in FY13 for a Minority, Female, and Disabled Owned Businesses (MFD) program disparity study.

At its April 19, 2012 meeting, the Government Operations Committee unanimously recommended moving this study directly to the County Attorney's Operating Budget. The Committee specified that it is recommending that funding for this study be added to the operating budget directly, not on the reconciliation list and removed from Facility Planning:MCG.

Council should note that this office also includes 31.3 FTEs and a recommended FY13 budget of \$4,223,325 that is charged to other departments. See ©6 for the specific funds charged.

Staff Recommendation: Approve as submitted by the County Executive, including the \$600,000 for the disparity study shifted from Facility Planning:MCG.

County Attorney

MISSION STATEMENT

The mission of the Office of the County Attorney is to act as the chief legal officer of Montgomery County Government and to conduct all its legal business.

BUDGET OVERVIEW

The total recommended FY13 Operating Budget for the Office of the County Attorney is \$5,139,791, an increase of \$1,100,291 or 27.2 percent from the FY12 Approved Budget of \$4,039,500. Personnel Costs comprise 91.4 percent of the budget for 71 full-time positions and three part-time positions for 42.40 FTEs. Operating Expenses account for the remaining 8.6 percent of the FY13 budget.

LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

❖ ***A Responsive, Accountable County Government***

DEPARTMENT PERFORMANCE MEASURES

Performance measures for this department are included below, with multi-program measures displayed at the front of this section and program-specific measures shown with the relevant program. The FY12 estimates reflect funding based on the FY12 approved budget. The FY13 and FY14 figures are performance targets based on the FY13 recommended budget and funding for comparable service levels in FY14.

ACCOMPLISHMENTS AND INITIATIVES

❖ ***Positive ratio between plaintiff's demand and amount paid by the County, and win/loss ratio of cases litigated.***

Positive gain over split in workers' compensation cases.

Debt collection (\$108.4 million since FY07) at a cost below the commercial collection agencies' rate.

Position of HHS affirmed in child welfare Termination of Parental Rights (TPR)/Child-in-Need-of-Assistance (CINA) adjudicated cases (99% granted).

Positive outcome in appeals (prevailed in approximately 80% of cases).

Positive win/loss ratio of code enforcement cases litigated (over 95% won).

Customer satisfaction survey shows improvement in general customer satisfaction above departmental averages.

Landmark matters: County Executive budget prerogative/IAFF, FOP, MCGEO; LiveNation; Republic Properties; speed cameras; IAD—summary punishment; Montgomery County v. Butler; Shropshire v. Inspector General; ambulance fee - government speech (Bernard v. Montgomery County); Project Civic Access; Public Electric Co. Opinion; Damage control from invalidation of carbon tax (Mirant v. Montgomery County); Bill 22-09, Notice of Violations/Board of Appeals jurisdiction; prevailed on maintenance of effort challenge filed by Montgomery County Board of Education (MCBOE) with State Board of Education.

❖ ***Productivity Improvements***

- Improved the Litigation case close-out report by using the existing CountyLaw system to eliminate the need to capture close-out data in a separate system. Attorneys can now point-and-click to selected reports on the disposition of a case.

- Completed the launching of a litigation pleadings bank, using web-based SharePoint software, which allows our legal staff to share documents, templates, and fill-in-the-blank legal forms.

- **Worked with the Enterprise Resource Planning (ERP) Office and the Department of Finance to revise the accounting procedures for posting debt collection information into the new ERP Oracle system. This will occur in Phase II of the ERP implementation. The new process will allow this office's Debt Collection Unit to post payments and accounting codes more efficiently. It will also make reporting of debt collection information much more efficient.**

PROGRAM CONTACTS

Contact Dennis Via of the Office of the County Attorney at 240.777.6715 or Philip Weeda of the Office of Management and Budget at 240.777.2780 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Insurance Defense Litigation

Provides legal defense for cases involving Montgomery County and fourteen local government Self-Insurance Fund participants (including such entities as the Montgomery County Board of Education, City of Rockville, Maryland-National Capital Park and Planning Commission, Montgomery College, and the Housing Opportunities Commission) and all of their employees. The attorneys appear regularly before State and Federal courts in Maryland and the District of Columbia for trials and oral arguments and before the Workers' Compensation Commission. These cases involve litigation in the following areas: common law torts; Police civil rights claims; Other Federal and State civil rights - constitutional torts; Americans with Disabilities Act; Individuals with Disabilities Education Act; Workers' Compensation; and employment discrimination.

Program Performance Measures	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Number of Workers' Compensation hearings	1,960	1,807	1,824	1,900	1,950
Worker's Compensation Cases Net Gain to the County	\$1,151,251	\$1,798,340	\$1,500,000	\$1,500,000	\$1,500,000
Last Settlement Amount Demanded by Plaintiff (\$)	87,539,319	205,938,308	TBD	TBD	TBD
Total Paid to Plaintiff by the County (\$)¹	258,117	1,585,412	260,000	260,000	260,000
Ratio Amount Paid by County Versus Amount Demanded by Plaintiff	.29%	.77%	2.00%	2.00%	2.00%
Total Number of Settlements	21	33	35	35	35
Number of Judgments Paid	9	7	8	8	8
Number Judgments in County's Favor²	64	104	60	60	60
Win/Loss Ratio (Resolution in County's Favor vs. Resolution in Plaintiffs Favor)	85%	94%	90%	90%	90%

¹ The FY11 \$1.5M judgment is due to an inter pleader action involving a Ride-On bus accident which had approximately forty claimants/plaintiffs.

This action was considered as one judgment. Judgments are very hard to predict or budget for.

² This number has increased dramatically due to less settlements in cases and more favorable outcomes on those cases that were not settled, and an increase in the number of cases handled during the reporting period.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	41,880	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	32,846	0.00
FY13 CE Recommended	74,726	0.00

Health and Human Services

The attorneys in this division act as counsel and give legal advice to the Department of Health and Human Services, including the Office of the Director and Management Services, Adult Mental Health, Aging and Disability Services, Children, Youth and Family Services, Child Welfare Services, Crisis, Income and Victim Services, Emergency Services and Public Health Services. The attorneys also represent Child Welfare Services in the Juvenile Court, in cases involving child abuse and child neglect, and Aging and Disability Services in the Circuit Court, in adult guardianship cases.

Program Performance Measures	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Number of Children in Need of Assistance (CINA) or Guardianship Hearings	2,418	2,546	2,000	2,000	2,000
Number of Adoptions Granted	34	47	40	40	40
Number of CINA Cases Closed	275	216	200	200	200
Number of New Adoption Petitions Filed	43	43	45	45	45
Number of New CINA Petitions Filed	210	214	200	200	200
Number of New Termination of Parental Rights (TPR) Petitions Filed	60	38	44	44	44
Number of Termination of Parents Rights (TPR's) Granted	53	25	30	30	30

	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Ratio of TPR/CINA Adjudicated Granted/Denied	100%	98.07%	99%	99%	99%

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	941,890	7.90
Increase Cost: Outside Legal Counsel for Child Welfare Cases	63,500	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	2,011	-0.30
FY13 CE Recommended	1,007,401	7.60

Finance and Procurement

Acts as counsel and gives legal advice to the County Executive, County Council, and to several County departments, agencies, boards, and commissions. The Division represents the County Government in tax and procurement matters before State, Federal, and local administrative agencies and courts; drafts and reviews agreements, legislation, regulations, and other legal documents; conducts negotiations; and prepares and issues legal opinions.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	702,010	4.20
Enhance: Restore Lapsed Assistant County Attorney III	134,180	0.00
Enhance: Restore Lapsed Attorney Position to handle Commercial Litigation in the Finance and the Procurement Division(s)	107,560	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	-157,989	1.80
FY13 CE Recommended	785,761	6.00

Human Resources and Appeals

Attorneys act as counsel and give legal advice to the following agencies: Montgomery County Fire and Rescue Service, Ethics Commission, Board of Investment Trustees, Office of Human Resources, Department of Correction and Rehabilitation, Office of Public Information, Department of Transportation (Transit Services Division, Taxicab Unit), Human Rights Commission, Board of Appeals, and the Police Department (Internal Affairs Division). Attorneys also defend or prosecute contested cases involving the County, Self-Insurance Fund agencies, and their employees, while pending before State and Federal appellate courts. The mission of the Ethics Commission is to enforce the Montgomery County Code of Ethics that ensures the ethical conduct of individuals who serve in County government.

Program Performance Measures	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Percent of Judicial Appeals Won	72%	81%	80%	80%	80%
Appeals Lost	5	5	5	5	5
Appeals Won	13	22	17	17	17

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	467,860	3.40
Enhance: Restore Lapsed Attorney Position to handle certain EEO Complaints Transferred from OHR to OCA	147,930	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	94,812	1.80
FY13 CE Recommended	710,602	5.20

Zoning, Land Use and Economic Development

Represents and advises the County Executive, the County Council, and various County departments, including the Department of General Services, the Department of Transportation, the Department of Housing and Community Affairs, the Department of Economic Development, and the Department of Public Libraries. Represents and advises agencies and commissions, including the Historic Preservation Commission, the Revenue Authority, Community Use of Public Facilities, and the Cable Compliance Commission. Advises the County Executive and County Council regarding telecommunications and cable matters. Represents the County with respect to land acquisitions and real estate transactions. Represents the County before Federal, State, and administrative courts. Drafts legal opinions and amendments to the County code and County regulations.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	152,640	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	64,066	4.20
FY13 CE Recommended	216,706	4.20

Public Interest Litigation

The Division provides litigation and other legal services to County agencies and departments in support of their mission to promote general welfare and protect vulnerable citizens. The Division acts as counsel and gives legal advice to the Police Department, the Departments of Emergency Management and Homeland Security, Environmental Protection, Permitting Services, Consumer Affairs, and Recreation. It also provides counsel to the Office of Landlord and Tenant Affairs, the Historic Preservation Commission, and the Inspector General's Office. The program represents these entities in contested cases before the County Board of Appeals and in both State and Federal courts. The program also drafts and reviews agreements, legislation, regulations and other legal documents. Attorneys from the program conduct negotiations, issue legal opinions, and testify before public bodies. It is primarily responsible for the processing and prosecution of code enforcement violations from all departments, agencies, boards, and commissions which are presented in the District Court of Maryland. The Debt Litigation or Collection Unit collects all monies owed to Montgomery County that have been referred to the County Attorney, including past due real property taxes, personal property taxes, code enforcement judgments, subrogation claims, bounced checks, unpaid fines, and miscellaneous amounts billed by the County.

Program Performance Measures	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Code Enforcement - Ratio of Win Versus Loss	97.18%	96.55%	96%	96%	96%
Ratio of Costs/Collection ¹	3%	3%	3%	3%	3%
Code Enforcement Collected (\$)	714,143	704,342	700,000	700,000	700,000
Debt Collection (\$) ²	14,052,713	15,352,129	10,000,000	10,000,000	10,000,000
Forfeitures Collected (\$)	223,247	71,318	75,000	75,000	75,000
Subrogation Collected (\$)	92,364	74,027	75,000	75,000	75,000

¹ Measures the ratio of cost to operate the Debt Collection Unit against the amount collected. For FY11, OCA devoted \$491,582 of operating resources to collect \$16,201,817.

² The economic slowdown has affected the amount the DCU has available for collection. Also, various high value cases have been previously collected.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	965,460	11.50
Enhance: Restore Lapsed Attorney Position to handle Public Information Litigation	46,690	0.00
Technical Adj: Increase Personnel Cost to OCA because of Reduction of Chargeback to DEP Solid Waste	39,805	0.00
Technical Adj: Reduce Chargeback from OCA to DEP Solid Waste	-39,805	0.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	-39,994	-1.00
FY13 CE Recommended	972,156	10.50

Support Services

Provide administrative, research, and technical guidance and support to the other programs within the Department. The program is designed to allow for an equitable distribution of work assignments, to cross-train staff, and to evaluate fairly the performance of the program staff. The program provides administrative support to the Risk Management Fund, and revenue support to the Risk Management Fund, Revenue Authority, and Solid Waste Fund.

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	87,780	1.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	61,528	2.90
FY13 CE Recommended	149,308	3.90

Administration

Provides internal personnel, financial, and operational management for the Office of the County Attorney.

Program Performance Measures	Actual FY10	Actual FY11	Estimated FY12	Target FY13	Target FY14
Average Internal Customer Satisfaction Rating - General and Timeliness ¹	3.1	3.1	3.1	3.1	3.1
¹ Internal Customer Satisfaction Survey Results (Scale of 1 to 4: 3 = Satisfied; 4 = Very Satisfied)					

FY13 Recommended Changes	Expenditures	FTEs
FY12 Approved	679,980	6.00
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs. Other large variances are related to the transition from the previous mainframe budgeting system to Hyperion.	543,151	-1.00
FY13 CE Recommended	1,223,131	5.00

BUDGET SUMMARY

	Actual FY11	Budget FY12	Estimated FY12	Recommended FY13	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	3,296,578	2,969,540	2,969,536	3,527,852	18.8%
Employee Benefits	1,070,154	687,920	730,606	1,170,349	70.1%
County General Fund Personnel Costs	4,366,732	3,657,460	3,700,142	4,698,201	28.5%
Operating Expenses	588,874	382,040	382,040	441,590	15.6%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	4,955,606	4,039,500	4,082,182	5,139,791	27.2%
PERSONNEL					
Full-Time	71	71	71	71	—
Part-Time	3	3	3	3	—
FTEs	35.80	34.00	34.00	42.40	24.7%
REVENUES					
Federal Financial Participation Reimbursements	185,938	179,310	179,310	179,310	—
Miscellaneous Revenues	-1,897	0	0	0	—
Other Charges/Fees	38,725	75,000	75,000	75,000	—
Other Fines/Forfeitures	-15	0	0	0	—
Other Intergovernmental	0	45,630	91,260	45,630	—
County General Fund Revenues	222,751	299,940	345,570	299,940	—

FY13 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY12 ORIGINAL APPROPRIATION	4,039,500	34.00
Changes (with service impacts)		
Enhance: Restore Lapsed Attorney Position to handle certain EEO Complaints Transferred from OHR to OCA [Human Resources and Appeals]	147,930	0.00
Enhance: Restore Lapsed Assistant County Attorney III [Finance and Procurement]	134,180	0.00
Enhance: Restore Lapsed Attorney Position to handle Commercial Litigation in the Finance and the Procurement Division(s) [Finance and Procurement]	107,560	0.00
Enhance: Restore Lapsed Attorney Position to handle Public Information Litigation [Public Interest Litigation]	46,690	0.00
Other Adjustments (with no service impacts)		
Increase Cost: Retirement Adjustment	263,547	0.00
Increase Cost: Group Insurance Adjustment	195,210	0.00
Increase Cost: Lump Sum Wage Adjustment	137,908	0.00
Increase Cost: Outside Legal Counsel for Child Welfare Cases [Health and Human Services]	63,500	0.00
Technical Adj: Increase Personnel Cost to OCA because of Reduction of Chargeback to DEP Solid Waste [Public Interest Litigation]	39,805	0.00
Increase Cost: Longevity Adjustment	7,716	0.00
Technical Adj: Conversion of WYs to FTEs in the New Hyperion Budgeting System; FTEs are No Longer Measured for Overtime and Lapse	0	8.40
Shift: Help Desk - Desk Side Support to the Desktop Computer Modernization NDA	-910	0.00
Decrease Cost: Printing and Mail Adjustment	-3,040	0.00

	Expenditures	FTEs
Technical Adj: Reduce Chargeback from OCA to DEP Solid Waste [Public Interest Litigation]	-39,805	0.00
FY13 RECOMMENDED:	5,139,791	42.40

PROGRAM SUMMARY

Program Name	FY12 Approved		FY13 Recommended	
	Expenditures	FTEs	Expenditures	FTEs
Insurance Defense Litigation	41,880	0.00	74,726	0.00
Health and Human Services	941,890	7.90	1,007,401	7.60
Finance and Procurement	702,010	4.20	785,761	6.00
Human Resources and Appeals	467,860	3.40	710,602	5.20
Zoning, Land Use and Economic Development	152,640	0.00	216,706	4.20
Public Interest Litigation	965,460	11.50	972,156	10.50
Support Services	87,780	1.00	149,308	3.90
Administration	679,980	6.00	1,223,131	5.00
Total	4,039,500	34.00	5,139,791	42.40

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY12		FY13	
		Total\$	FTEs	Total\$	FTEs
COUNTY GENERAL FUND					
Board of Appeals	County General Fund	87,210	0.50	87,210	0.50
Board of Investment Trustees	BIT 457 Deferred Comp. Plan	78,490	0.50	134,430	0.85
Board of Investment Trustees	Retirement Savings Plan	0	0.00	15,690	0.10
Cable Television	Cable Television	97,810	0.50	97,810	0.50
CIP	CIP	356,650	3.00	364,885	3.00
Finance	County General Fund	186,320	1.00	194,310	1.05
Finance	Self Insurance Internal Service Fund	2,513,070	19.00	2,513,070	19.00
Health and Human Services	County General Fund	170,590	2.20	170,590	2.20
Housing and Community Affairs	County General Fund	49,340	0.50	49,340	0.50
Housing and Community Affairs	Montgomery Housing Initiative	178,390	1.00	178,390	1.00
Human Resources	Employee Health Benefit Self Insurance Fund	7,990	0.05	0	0.00
Human Resources	Employee Retirement System	71,630	0.45	0	0.00
Intergovernmental Relations	County General Fund	28,650	0.30	28,650	0.30
Parking District Services	Bethesda Parking District	19,880	0.10	19,880	0.10
Parking District Services	Silver Spring Parking District	39,750	0.20	39,750	0.20
Permitting Services	Permitting Services	172,250	1.00	172,250	1.00
Solid Waste Services	Solid Waste Collection	39,805	0.25	39,267	0.25
Solid Waste Services	Solid Waste Disposal	157,070	0.70	117,803	0.75
Total		4,254,895	31.25	4,223,325	31.30

FUTURE FISCAL IMPACTS

Title	CE REC.			(\$000's)		
	FY13	FY14	FY15	FY16	FY17	FY18
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY13 Recommended	5,140	5,140	5,140	5,140	5,140	5,140
No inflation or compensation change is included in outyear projections.						
Elimination of One-Time Lump Sum Wage Adjustment	0	-138	-138	-138	-138	-138
This represents the elimination of the one-time lump sum wage increases paid in FY13.						
Subtotal Expenditures	5,140	5,002	5,002	5,002	5,002	5,002



OFFICE OF THE COUNTY ATTORNEY

Isiah Leggett
County Executive

Marc P. Hansen
County Attorney

MEMORANDUM

TO: Jean Arthur
Legislative Analyst

FROM: Marc P. Hansen *Marc Hansen*
County Attorney

DATE: April 19, 2012

RE: Office of the County Attorney –FY13 Budget

At your request, I am providing you with additional information concerning the Office of the County Attorney's (OCA) workload trends that are not otherwise reflected in the budget book or OCA's monthly reports.

EEOC/Labor Union Grievances and Prohibited Practice Charges

Two years ago OCA assumed responsibility for responding to discrimination complaints (usually employment related) filed against Montgomery County with the EEOC, the Maryland Human Rights Commission, and the Montgomery County Human Rights Commission. Previously, the Office of Human Resources had the lead responsibility for responding to these complaints. At the time, OCA understood that OHR expended .25 work years on responding to these complaints. The workload effort has turned out to be approximately 1 work year. The OCA currently has pending 45 EEOC complaints.

Responding to EEOC complaints typically requires the County to provide a position statement (with supporting documentation) and a response to a broad document request known as a "request for information". Employment discrimination claims are often factually complex, involving several discreet incidents in an employment relationship that occurs over a relatively long period of time. Rarely do complaints involve a single incident. These cases are document and witness intensive. OCA generally has less than 30 days to respond by the time it receives the complaint. In essence, each of these complaints is a lawsuit, and OCA must file

what is tantamount to a motion for summary judgment, explaining what happened and why it does not amount to employment discrimination.

In addition, OCA has experienced a significant increase in workload related to labor union contract grievances and prohibited practice charges. Currently, OCA has pending: 90 contract arbitration cases and 30 prohibited practice charges. In addition, the number of grievances filed by MCGEO in 2010 was 43; in 2011 the number of grievances filed was 88 – an increase of over 100%.¹

Land Use/Development Transactions

OCA has experienced a significant increase in the number and complexity of development projects for which OCA has been asked to provide legal representation. As of December 2011 OCA was providing legal representation on approximately 140 projects. Approximately 15 of these projects impose an extremely heavy workload on the office. These projects include the Silver Spring Transit Center, the Wisconsin Avenue tunnel, White Flint, Lot 31², and Site II. I have attached a list of projects being handled by attorneys in the office, organized by workload: heavy, moderate, and low.

In addition, the number of non-procurement contracts/mou's/grants, etc., has increased from 98 in FY08 to 297 in FY11, an increase of over 300%! At the same time, the number of procurement contracts reviewed by the office has also increased: in FY08 the office reviewed 565 procurement contracts and in FY11, 797 – an increase of over 41%.

I hope this additional information is helpful. If you have any questions, please let me know.

Attachment

MPH:tjs

¹ Not all grievances mature into contract arbitration cases.

² Lot 31 went to closing this week.

Commercial Transactions and Commercial Litigation

Workload Factor – Heavy

A09-01088 DED – Conference Center Development (JJF)
A10-00032 DED – Conference Center Parking Agreement (JJF)
A11-01425 RA – Rapid Transit Grant (JJF)
A08-01714 Rockville Core Redevelopment – General (JJF)
A09-00113 Wheaton Redevelopment (JJF)
A09-01990 Wisconsin Avenue Tunnel (JJF)
A08-01589 Transportation (CLR)
A08-01594 Zoning & Land Use (CLR)
L10-00323 Centro Tepayec v. Montgomery County, et al. (CLR)
L11-00113 First Federal v. Creamore, Montgomery County, Maryland (CLR)
L11-00129 Centro Tepayec v. Montgomery County, et al. (CLR)
L11-00325 Maravell, Nicholas, et ux. v. Montgomery County Council (CLR)
A11-01852 White Flint Redevelopment – Western Work-Around (EW)
Criminal Justice Complex (JM)
Wheaton Rescue Squad Relocation (JM)
Hungerford Drive Garage (JM)
Fillmore (JM)
Mid-County Recreation Center (JM)
Silver Spring Transit Center (JM)
Energy Savings Contract (ESCO) - Renovation of 401 Hungerford Drive (JM)
355 Pedestrian Tunnel Project (JM)
DGS/DBDC and DGS/Office of Special Project (JM)
Office of Procurement (JM)
DGS-Director of Department of General Services (JM)
Fleet Street (VG)
Lot 31 (VG)
Streetscape Project on Fenton Street (VG)
MPDU and WFH Programs (VG)
Right of First Refusal (Chapter 53A) (VG)
Loan Docs (VG)
Negotiations with HUD re FHA insured loans for MPDUs (VG)

Workload Factor – Moderate

A10-00138 Columbia Country Club – Purple Line (JJF)
A11-01268 Biotechnology Tax Credit (JJF)
A10-01082 DED – Costco – Westfield (JJF)
A11-01416 DED – EDF Agreements (JJF)
A10-00969 DED – Equity Investment Legislation (JJF)
A11-00461 DED – Incubator TEDCO Defaults (JJF)
A11-01718 DED – Meso Scale Diagnostics (JJF)
A07-00260 Glenmont Parking Garage – Fire Station (JJF)
A07-00510 Kensington Fire Station (JJF)
A07-00801 Lot 3 – Hillerson (JJF)
A07-00740 Lot 39/Donohoe Development (JJF)
A06-00325 Multi-Use Arena (JJF)
A09-02163 Pyramid Atlantic (JJF)
A08-02418 Ripafont/Ripley – SSP Project (JJF)
A10-01564 Round House Theatre, Inc. (JJF)
A11-01057 Rugby Road – Garage 35 (JJF)
A06-00321 Silver Spring – Transit Center (JJF)
A09-01822 Silver Spring Civic Center at Veterans Plaza (JJF) **Moderate/High**
A06-00346 Westfield Shopping Center (JJF)
A09-00950 Wheaton Volunteer Rescue Service Relocation (JJF)
A08-01586 Community Use of Public Facilities – General (CLR)
A08-01591 Right of Way Franchises and Telecommunications (CLR)
A08-01593 Cable TV/Telecom/FCC (CLR)
A08-02195 DOT – PLD – Identify Transactions (CLR)
A11-01886 800 MHz Rebanding (CLR)
A11-01899 Cable – Amend RCN Franchise (CLR)
L11-00001 Pringle, Gregory v. County Council (CLR)
L11-00411 Estreicher, Herbert v. Montgomery County Council (CLR)
L06-00081 Bethel v. Montgomery County (CLR)
A11-01870 Cabin John Development Limited Partnership (EW)
A11-01869 Cabin John Gardens, Inc. (EW)
A11-01913 Century Boulevard – Road Participation Agmt w/ Symmetry at Cloverly (EW)
A11-01930 Clarksburg Connector MOU (EW)
A11-01855 Metropolitan Branch Trail – Montgomery Preservation Inc. (EW)
A11-01932 Pearl Street easement agreement (EW)
A11-01934 Scotland Neighborhood Rec Ctr (EW)

A11-01944 Shady Grove Metro parking lot – acquisition from WMATA (EW)
 A08-00220 Smart Growth Initiative – Property Negotiations (EW)
 L11-00003 Travilah-WHM, LP v. Montgomery County (EW)
 Brickyard Soccer Fields (JM)
 Colesville Road Depot (JM)
 Colesville Salt Barn (JM)
 Olney Library Renovations and Addition (JM)
 Plum Gar Neighborhood Recreation Center (JM)
 Bethesda Fire Station No. 6 Renovations (JM)
 Brookeville Service Park, Part II (JM)
 Data Center Rehabilitation (JM)
 East Germantown Fire Station No. 34 (JM)
 Germantown Indoor Swim Center Interior Painting (JM)
 White Oak Community Recreation Center (JM)
 Equipment Maintenance and Operations Center (EMOC) (JM)
 Judicial Center Annex (JM)
 Public Safety Training Academy (PSTA) Relocation (JM)
 255 Lease Issues (JM)
 Job Order Contract (JOC) (JM)
 DGS/Office of Business Compliance (JM)
 DGS/Office of Business Compliance (JM)
 Wheaton Redevelopment (VG)
 BLT and TDR Easements (VG)
 ROE/Licenses/Easements Issues (VG)
 HOC (VG)
 Small Rehab Loans and re-fi issues (VG)
 Site II (VG)
 Wheaton Redevelopment (VG)

Workload Factor – Low

A09-02016 BUP Lease Amendment Review (JF)
 A11-01611 DED – Choice Hotels Projects (JF)
 A10-00114 Disposition of Real Property Regulation – Amendment (JF)
 A09-02228 Ripley Street North – Home Properties (JF)
 06-1663 Rockville Library (JF)
 A09-02405 SSTC – Maintenance Agreement (JF)

A06-00538 St. Charles Apartments (a/k/a Cameron) (JJF)
 A07-01630 Development Districts – Clarksburg Litigation (CLR)
 A08-01134 Level 3 Franchise Agreement (CLR)
 A08-01559 Insite Solutions – Request for Approval of Transfer (CLR)
 A08-01587 Libraries – General (CLR)
 A08-01592 Regional Service Centers (CLR)
 A08-01703 DED – General (CLR)
 A09-00495 Wisteria Drive MPA (CLR)
 A09-01372 Public Alleys Abandonment (Lot 3) (CLR)
 A10-00383 Early Elections MOU (CLR)
 A10-01973 Fibernet – Governance and First Amendment Issues (CLR)
 A11-01629 Bill 33-11, Community Benefits Agreements (CLR)
 A11-01884 WINX PIA Request (CLR)
 A11-01885 WSSC MOUs (CLR)
 A11-01887 Abovenet Franchise (CLR)
 A11-01888 CUPF MOU w/ MNCPPC (CLR)
 A11-01889 AT&T Wireless – Co-Location (CLR)
 A11-01890 RSC – Conflict Resolution Ctr Agreement (CLR)
 A11-01891 FAR Purchase – Norfolk & Cordell (CLR)
 A11-01892 Subpoena – Dufief Mill Work (CLR)
 A11-01893 Libraries – Canvassing Policy (CLR)
 A11-01894 Crown Farm Deed (CLR)
 A11-01895 Wheaton Volunteers – New Station (CLR)
 A11-01896 Travilah Square – TMAg (CLR)
 A11-01897 Frost School – Consent Agreement (CLR)
 A11-01898 Robey Road – TMAg (CLR)
 A11-01900 Cable – Revise COMCOR (CLR)
 L09-00457 Reile v. Montgomery County (CLR)
 L09-00458 Montgomery Preservation (SS – Falkland) v. Montgomery County (CLR)
 L10-00147 Kalivas and 8204 Associates v. County Council (CLR)
 L10-00441 Kalivas v. Montgomery County Council (CLR)
 L10-00601 Miller, Daniel v. Montgomery County (CLR)
 L10-00651 Petition of Herbert Estreicher (CLR)
 L11-00485 Michael LLC v. 8204 Associates (CLR)
 A11-01737 3rd District Police Station (EW)
 A11-01674 9300 Fernwood Road storm drain (EW)
 A07-02023 AB705 – Abandonment of a portion of Norbeck Avenue, Rockville (EW)
 A07-02024 AB706 – abandonment of portion of unimproved Sleaford Road (EW)

A07-02025 AB707 – Abandonment of unimproved Prospect Avenue, Silver Spring (EW)
 A07-02026 AB708 – Abandonment of unimproved Kenneth Road, Burtonsville (EW)
 A10-01299 AB726 – portion of Whittier Boulevard (EW)
 A11-00424 Blunt Road Disposition – Islamic Society of Germantown (EW)
 A11-01940 Buffington Enterprises – consideration agent (EW)
 A11-00694 Campbell, Sandra D., et al. (EW)
 A08-01150 Clarksburg Road Bridge – Eunice Walker (EW)
 A11-01931 DFA Access Road agreement
 A11-01795 Meadowood subdivision storm drain easements (EW)
 05-2329 Montrose Parkway – Kaiser Foundation Health Plan of (EW)
 05-2330 Montrose Parkway – Kaiser Foundation Health Plan of (EW)
 A07-00001 Montrose Parkway West – Tildenwood HOA (EW)
 A07-01717 Nebel Street Extended – Montrose Crossing property (EW)
 A11-01754 New Hampshire Avenue Sidewalk – Traini property (EW)
 A11-01753 Newport Mill Road – Harnam Arneja (EW)
 A11-01568 Perpetual easement from Rockville Evangelical Mission, Inc. (EW)
 A08-01995 Rafferty Center – TH acquisition (EW)
 A11-01730 Snouffer School Road – Flower Hill Central property (EW)
 A11-01697 Snouffer School Road – Right of Entry from WSSC (EW)
 A11-01927 Travilah Fire Station (EW)
 A11-00261 WSSC Right-of-Way for Animal Shelter (EW)
 L08-00327 620 Associates – Father Hurley Boulevard (EW)
 L08-00388 Fairfield Germantown Farms, LP (EW)
 L07-00042 Mouth of Monocacy Bridge – Anderson AT (EW)
 L06-00090 Norbeck Road extended – Johnson, Lancelot (EW)
 L08-00297 Rockville Pike 1910, LLC (EW)
 L10-00468 Soleimanzadeh, Joseph v. Montgomery County (EW)
 L10-00469 Soleimanzadeh, Khana & Joseph v. Montgomery County (EW)
 L11-00198 State Roads Commission v. Maplehill Road (EW)
 L09-00642 White Oak Transit Center – Rona Kramer (EW)
 L09-00641 White Oak Transit Center – Saul Subsidiary (EW)
 L08-00328 Wisteria Industrial Park Limited Partnership (EW)
 L11-00128 Workman, David A. (EW)
 Animal Shelter (JM)
 Cabin John Fire Station 30, Addition and Renovation (JM)
 Clarksburg Fire Station (JM)
 Dennis Avenue Health Center (JM)
 Gaithersburg Fire Station No. 8 Life Safety System (JM)

Laytonsville Fire Station No. 17 Life Safety System (JM)
Kensington Volunteer Fire Station No. 21 (JM)
Gaithersburg Library Renovations (JM)
Germantown Transit Center (JM) (Will become **moderate** early 2012)
Glen Echo Fire Station No. 11 (JM) (Will become **moderate** early 2012)
Glenmont Fire Station No. 18 (JM) (Will become **moderate** late spring 2012)
Scotland Neighborhood Recreation Center (JM) (Will become **moderate** early spring 2012)
Silver Spring Library-Building Design (JM) (Will become **moderate** early spring 2012)
NIH Stormwater Management Pond (JM)
Silver Spring Library – Utility Relocation Construction Phase I (JM)
Takoma Park Fire Station No. 2 (JM) (**low to moderate**)
Montgomery County Liquor Warehouse (JM) (**low to moderate**)
Montgomery County Public Safety Headquarters (JM) (**low to moderate**)
MCPS & MNCPPC (JM) (**low to moderate**)
MCPS Bus Depot and Maintenance Relocation (JM) (**low to moderate**)
MCPS Food Distribution Facility Relocation (JM) (**low to moderate**)
Montgomery County Radio Shop Relocation (JM) (**low to moderate**)
Wheaton Redevelopment (JM)
Site II-Percontee Negotiations. (JM) (**unclear what role will have in this**)
Rohrer Buses (JM)
Barwood Taxi Cab (PVL issuance and bankruptcy issues) (JM)
Bowie Mill (VG)