

Worksession

MEMORANDUM

April 4, 2013

TO: Planning, Housing and Economic Development Committee
FROM: Jean C. Arthur, ^{JA}Legislative Analyst
SUBJECT: **Worksession: FY14 Operating Budget
Office of Zoning and Administrative Hearings**

At this meeting the Committee will review the Executive's recommendation for the FY14 Operating Budget for the Office of Zoning and Administrative Hearings. Relevant pages from the FY14 Recommended Operating Budget are attached at ©1-3.

The following persons are expected at this worksession:

Martin Grossman, Director, Office of Zoning and Administrative Hearings
Sara Behanna-Mosely, Office of Zoning and Administrative Hearings
Erika Finn-Lopez, OMB

OVERVIEW

For FY14, the County Executive is recommending a total of \$611,779, an increase of \$19,591 or 3.3 percent from the FY13 approved budget of \$592,188. Personnel costs are 87.5 percent of this budget. The Office has three full-time positions and one part-time position for 3.75 FTEs.

	FY13 Approved	FY14 CE Recommended	% Change
EXPENDITURES			
General Fund			
• Personnel	\$516,083	\$535,489	3.8%
• Operating	\$76,105	\$76,290	.2%
Total Expenditures	\$592,188	\$611,779	3.3%
PERSONNEL			
Full-time	3	3	0
Part-time	1	1	0
FTEs	3.75	3.75	0
REVENUE			
General Fund Revenue	\$65,000	\$65,000	0

Discussion

Budget Changes. Most of the increase in the budget is related to compensation changes, with a \$185 increase in printing and mailing costs.

Caseload. To date in FY13, OZAH has received fewer zoning applications than last year. However, this has not resulted in a reduced workload. Several cases the Office will be handling this year are complex and require multiple days of hearings, reams of exhibits and numerous witnesses, such as the Costco's application for a gas station at its soon-to-be-open Wheaton location.

As of the end of the second quarter, 24 cases have been filed directly or referred to OZAH. In the same period the office has completed 22 cases.

Referrals to OZAH come from the Board of Appeals, Office of Human Rights, Commission on Common Ownership Communities and other offices that may need an adjudicatory hearing.

Accessory Apartment Special Exception. On February 5, the Council enacted Bill 31-12, Accessory Apartments – Licensing, which authorizes OZAH to hold hearings and decide applications for special exceptions for accessory apartments. OZAH also will hear administrative appeals from decisions of the Director of the Department of Housing and Community Affairs on accessory apartments.

OZAH has no filing fee for special exception applications or the potential appeals. Council staff will introduce a resolution before the Council, separately, to establish the fees.

Revenue. Through the second quarter of FY13, OZAH has collected \$22, 650 in filing fees. It is not likely to collect the projected \$65,000 in the approved budget.

Staff Recommendation: Approve as submitted by the County Executive.

Zoning and Administrative Hearings

MISSION STATEMENT

The mission of the Office of Zoning and Administrative Hearings is to conduct due process hearings in land use and other administrative matters in a manner that protects the rights of the participants, provides a complete record in each case, results in a thorough and balanced report or decision and serves the public interest.

BUDGET OVERVIEW

The total recommended FY14 Operating Budget for the Office of Zoning and Administrative Hearings is \$611,779, an increase of \$19,591 or 3.3 percent from the FY13 Approved Budget of \$592,188. Personnel Costs comprise 87.5 percent of the budget for three full-time positions and one part-time position. A total of 3.75 FTEs includes these positions as well as any seasonal, temporary, and positions charged to or from other departments or funds. Operating Expenses account for the remaining 12.5 percent of the FY14 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. The FY13 estimates reflect funding based on the FY13 approved budget. The FY14 and FY15 figures are performance targets based on the FY14 recommended budget and funding for comparable service levels in FY15.

Measure	Actual FY11	Actual FY12	Estimated FY13	Target FY14	Target FY15
Program Measures					
Number of Hearing Examiner decisions overturned on appeal ¹	2	1	0	0	0
Total cases completed ²	54	43	44	44	44
Average time from filing a case until hearing is held (months) ³	4.5	4.5	4.5	3.5	3.5
Percentage of Hearing Examiner recommendations accepted by County Council, Board of Appeals, and Human Rights Commission	96	98	98	98	98
Percentage of all legal deadlines and requirements met	100	100	100	100	100

¹ The District Council accepted the hearing examiners' recommendations in the four FY 2012 cases in which hearing examiner reports and recommendations were submitted in FY 12. The Board of Appeals accepted the hearing examiners' recommendations in all of the special exceptions it decided in FY 2012, save one, which it denied on a split vote.

² While the number of cases processed declined in FY12, this measure does not accurately reflect OZAH's FY12 caseload. OZAH processed a series of complicated and time-consuming matters in FY12 which required multiple hearings and extended reviews. The number of cases may continue to drop but will be more than offset by cases from both the HRC and the CCOC.

³ Average time from filing to hearing has, in the past, been dictated in all land use cases by the amount of time M-NCPPC Technical Staff required to review the applications. OZAH anticipates reductions in the future based on Council changes to the accessory apartment application process, which go into effect on May 20, 2013.

ACCOMPLISHMENTS AND INITIATIVES

- ❖ **The Council's recent enacted legislation which changes the way accessory apartment applications will be processed (Ordinance 17-28 and Bill No. 31-12). OZAH anticipates this change will result in a reduction in the number of accessory apartment applications reaching OZAH. However, the Commission on Common Ownership Communities (CCOC) has begun to refer cases to OZAH for administrative hearings, as they are permitted to do under Code §10B-12(d), and the Human Rights Commission also referred additional cases to OZAH in FY 13. Each of those cases is usually the equivalent of at least five accessory apartment cases in terms of hearing examiner time to resolve discovery issues, conduct the hotly disputed hearings and write the reports. OZAH thus projects that the reduction in caseload resulting from Council legislation will be offset by the increasingly time-consuming cases being referred to this office for resolution.**

PROGRAM CONTACTS

Contact Martin Grossman of the Office of Zoning and Administrative Hearings at 240.777.6667 or Erika Lopez Finn of the Office of Management and Budget at 240.777.2771 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Zoning and Administrative Hearings

The Hearing Examiner receives applications for certain zoning matters decided by the County Council; schedules and conducts public hearings; prepares and issues reports and recommendations for County Council action; hears and decides certain special exception cases; schedules and conducts referral hearings from other departments, such as the Commission on Human Rights and the Commission on Common Ownership Communities; maintains administrative records for public inspection; collects zoning application fees; responds to public inquiries on zoning cases and certain special exception cases; and works with other County agencies in the preparation, revision, and review of procedural rules, fee schedules, and zoning text amendments. Administrative support involves preparing legal advertising and other forms of notice; providing court reporter services for hearings before the Hearing Examiners; coordinating the public hearing calendar; preparation of the Office's annual budget; printing and mailing; and general office services.

BUDGET SUMMARY

	Actual FY12	Budget FY13	Estimated FY13	Recommended FY14	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	360,197	432,104	423,104	439,860	1.8%
Employee Benefits	68,585	83,979	80,979	95,629	13.9%
County General Fund Personnel Costs	428,782	516,083	504,083	535,489	3.8%
Operating Expenses	80,033	76,105	76,105	76,290	0.2%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	508,815	592,188	580,188	611,779	3.3%
PERSONNEL					
Full-Time	3	3	3	3	—
Part-Time	1	1	1	1	—
FTEs	3.80	3.75	3.75	3.75	—
REVENUES					
Miscellaneous Revenues	810	0	0	0	—
Zoning Fees	53,336	65,000	65,000	65,000	—
Other Charges/Fees	-700	0	0	0	—
County General Fund Revenues	53,446	65,000	65,000	65,000	—

FY14 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY13 ORIGINAL APPROPRIATION	592,188	3.75
Other Adjustments (with no service impacts)		
Increase Cost: FY14 Compensation Adjustment	16,701	0.00
Increase Cost: Group Insurance Adjustment	12,918	0.00
Increase Cost: Other Labor Contract Costs	363	0.00
Increase Cost: Printing and Mail Adjustment	185	0.00
Decrease Cost: Retirement Adjustment	-1,600	0.00
Decrease Cost: Elimination of FY13 \$2,000 Lump Sum	-8,976	0.00
FY14 RECOMMENDED:	611,779	3.75

FUTURE FISCAL IMPACTS

Title	CE REC. FY14	FY15	FY16	(5000's) FY17	FY18	FY19
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY14 Recommended	612	612	612	612	612	612
No inflation or compensation change is included in outyear projections.						
Labor Contracts	0	24	32	32	32	32
These figures represent the estimated cost of general wage adjustments, new service increments, and associated benefits.						
Subtotal Expenditures	612	636	644	644	644	644