

MEMORANDUM

April 14, 2015

TO: Government Operations and Fiscal Policy Committee
FROM: JCA Jean Arthur, Legislative Analyst
SUBJECT: **FY16 Operating Budget: Office of the County Attorney**

Those expected to attend this worksession include:
Marc Hansen, County Attorney
Dennis Via, Office of the County Attorney
Phil Weeda, OMB

Relevant pages from the FY16 Recommended Operating Budget are attached on ©1-6.

Budget Summary:

- The County Executive's FY16 recommendation for the Office of the County Attorney is 5.2 percent above the FY15 approved budget. In addition to compensation adjustments that apply to most County employees, the only other significant increase is \$100,000 to deal with Pepco/Exelon and Public Service Commission matters.

Council Staff Recommendation:

- **Approved as recommended by the County Executive.**

Overview

For FY16, the County Executive recommends a total of \$5,660,259, an increase of \$279,023 or 5.2 percent from the FY15 approved budget of \$5,381,236. The recommended budget funds 72 full-time positions and five part-time positions for a total of 43.5 FTEs. Other FTEs are charged to other departments.

	<i>FY14 Actual</i>	<i>FY15 Approved</i>	<i>FY16 Recommended</i>	<i>% Change FY15 - FY16</i>
<i>Expenditures by fund</i>				
General Fund	\$6,042,811	\$5,381,236	\$5,660,259	5.2%
<i>Expenditures by type</i>				
Personnel Cost	\$5,195,286	\$4,907,091	\$5,093,260	3.8%
Operating Expenses	\$847,525	\$474,145	\$566,999	19.6%
<i>Positions</i>				
Full-Time	73	72	72	0
Part-Time	3	5	5	0
<i>FTEs</i>	43	43.25	43.5	0.6%

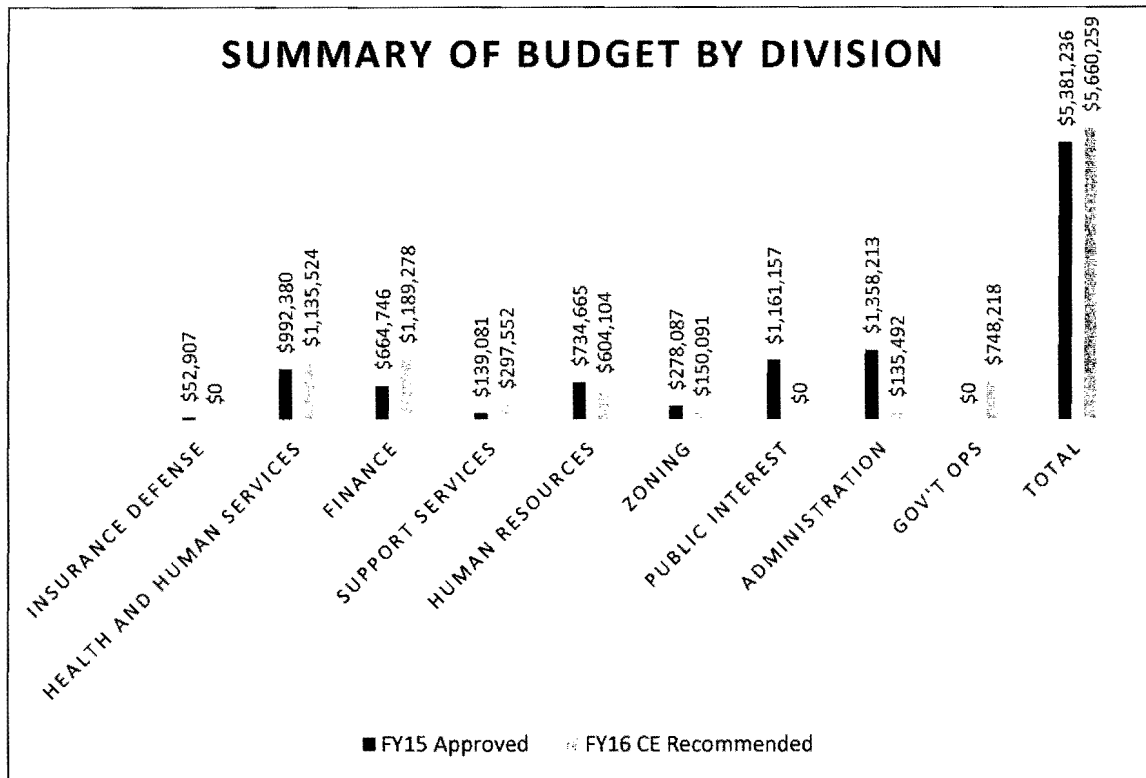
FY16 Expenditure Issues

OCA recently reorganized its divisions to achieve greater efficiency. What used to be the Public Interest Litigation Division is now the Government Operations Division. Government Operations focuses on:

- Legislation
- Opinions
- Ethics
- Public information requests, and
- Confidentiality issues.

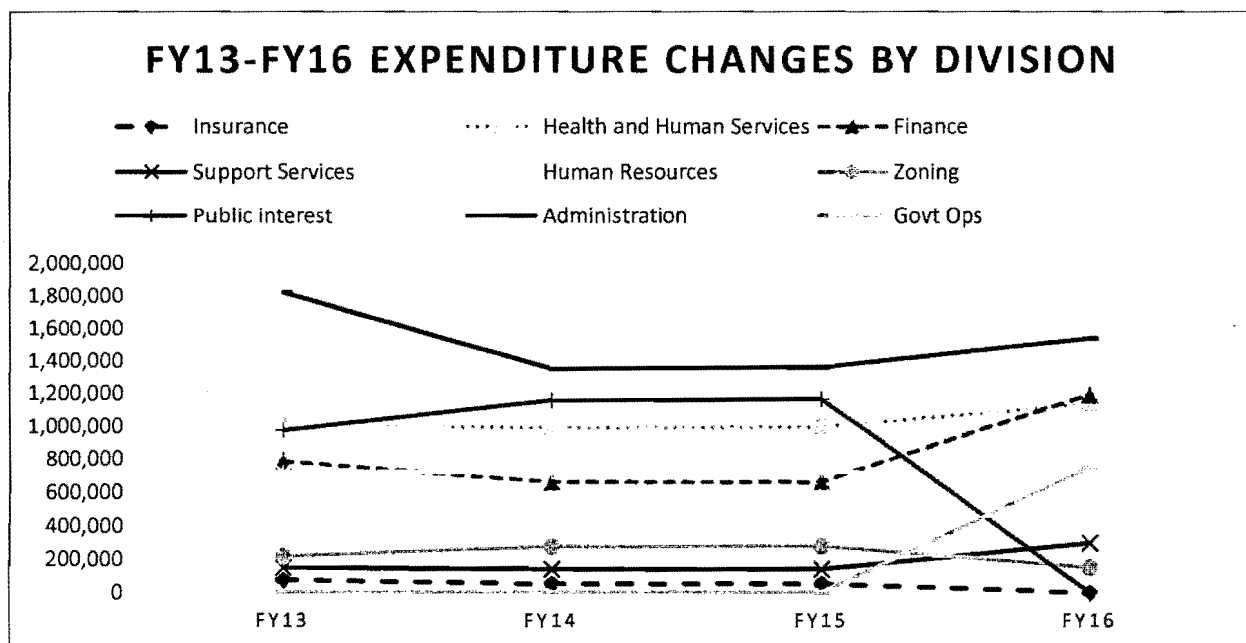
Pepco – Related Legal Work (Administration)			<i>Changes</i>	
	FY15 App.	FY16 Rec.	\$	%
General Fund	\$148,160	\$100,000		
Program Total	\$1,350,782	\$1,358,213	\$7,431	.005%

In FY14, the County brought legal work pertaining to Pepco and representation before the Public Service Commission in-house. OCA had been contracting with outside attorneys for this work, but as the County increasingly became involved with matters before the Public Service Commission, it became more cost effective to bring the work in-house. OCA has been involved in the Pepco/Exelon merger case as well as Pepco rate cases. Most of this funding is used for experts in the rate cases. The County Attorney believes that the County will be involved in rate cases on an annual basis into the foreseeable future.



Note: The Insurance Defense and Litigation Division shows no expenditures in FY16 because all expenses are charged to the Self Insurance Fund.

The Committee should note that the Office also includes 32.5 FTEs and a recommended FY16 budget of \$4,592,210 that is charged to other departments. See ©6.



Council Staff Recommendation: Approve as recommended by the County Executive.

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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 FY16 Operating Budget for the Office of the County Attorney is \$5,660,259, an increase of \$279,023 or 5.2 percent from the FY15 Approved Budget of \$5,381,236. Personnel Costs comprise 90.0 percent of the budget for 72 full-time positions and five part-time positions, and a total of 43.50 FTEs. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating Expenses account for the remaining 10.0 percent of the FY16 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 FY15 estimates reflect funding based on the FY15 approved budget. The FY16 and FY17 figures are performance targets based on the FY16 recommended budget and funding for comparable service levels in FY17.

ACCOMPLISHMENTS AND INITIATIVES

- ❖ ***From July 1, 2013 through June 20, 2014, the Debt Collection (DC) Unit has registered \$19 million in collections from debts owed to the County. The DC Unit continues to achieve greater efficiency by streamlining the collection process and reducing paper usage and printing costs through enhanced interface with the Enterprise Imaging system.***
- ❖ ***Reduced legal publications subscription cost by 85% by switching to West Publishing which provides online resources and eliminated the need for expensive print copies.***
- ❖ ***Reduced operating cost of in-house editing of the County Code, Zoning, and COMAR by out-sourcing the task of editing and sales of CDs and print copies to American Legal Publishing.***
- ❖ ***Productivity Improvements***
 - ***The office replaced its current case management system, CountyLaw, with a web-based system that is integrated with Outlook and has a robust reporting system. The new system allows attorneys and managers to track, assemble and manage the status of any case and provides accurate and easy-to-run ad hoc reports.***
 - ***The office made the Debt Collection Unit a new module in the Case management system.***
 - ***The office automated the litigation preservation request process by implementing eDiscovery workflow.***

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 FY13	Actual FY14	Estimated FY15	Target FY16	Target FY17
Last Settlement Amount Demanded by Plaintiff (\$)	\$91,618,668	\$296,041,754	\$212,306,550	\$212,306,550	\$212,306,550
Number of Judgments in County's Favor	55	57	59	59	59
Number of Judgments Paid	7	6	9	9	9
Number of Workers' Compensation hearings	2,144	1,911	2,007	2,007	2,007
Ratio Amount Paid by County Versus Amount Demanded by Plaintiff	0.31%	0.28%	0.42%	0.42%	0.42%
Self-Insurance Litigation: Win/Loss Ratio	89%	90%	89%	89%	89%
Subrogation Collected (\$)	\$500	\$0	\$0	\$0	\$0
Total Number of Settlements	29	35	35	35	35
Total Paid to Plaintiff by the County (\$)	\$288,490	\$82,561	\$379,847	\$379,847	\$379,847
Worker's Compensation Cases: Total Net Gain to the County	\$2,045,674.00	\$2,309,944.30	\$2,159,439.70	\$2,159,439.70	\$2,159,439.70

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	52,907	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.	-52,907	0.00
FY16 CE Recommended	0	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 FY13	Actual FY14	Estimated FY15	Target FY16	Target FY17
Child Welfare Litigation - Ratio of TPR/CINA Adjudicated Granted/Denied	97.87%	97.67%	97.3%	97.3%	97.3%
Number of Adoptions Granted	30	14	24	24	24
Number of Children in Need of Assistance (CINA) or Guardianship Hearings	2,279	2,177	2,292	2,292	2,292
Number of CINA Cases Closed	141	226	222	222	222
Number of New Adoption Petitions Filed	30	16	20	20	20
Number of New CINA Petitions Filed	198	188	198	198	198
Number of New Termination of Parental Rights (TPR) Petitions Filed	30	25	27	27	27
Number of Termination of Parents Rights (TPR's) Granted	26	20	26	26	26

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	992,380	7.52
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	143,144	-0.12
FY16 CE Recommended	1,135,524	7.40

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.

Program Performance Measures	Actual FY13	Actual FY14	Estimated FY15	Target FY16	Target FY17
Average rating from Internal Customer Satisfaction Survey: Overall	3.31	2.99	3.2	3.2	3.2
Code Enforcement Collected (\$)	\$393,269	\$570,385	\$478,528	\$478,528	\$478,528
Code Enforcement: Ratio of Win Versus Loss	97.80%	98.65%	97.60%	97.60%	97.60%
Debt Collection (\$)	\$14,233,604	\$19,544,780	\$16,302,289	\$16,302,289	\$16,302,289
Debt Collection: Collected / Total Referred Ratio	150.0%	184.0%	143.0%	143.0%	143.0%
Debt Collection: Cost / Revenue Ratio	3.0%	2.5%	3.0%	3.0%	3.0%
Forfeitures Collected (\$)	\$10,430	\$235,406	\$95,327	\$95,327	\$95,327

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	664,746	6.00
Decrease Cost: Increase Lapse	-73,608	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.	598,140	6.00
FY16 CE Recommended	1,189,278	12.00

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.

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	139,081	3.90
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	158,471	2.00
FY16 CE Recommended	297,552	5.90

Human Resources

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 FY13	Actual FY14	Estimated FY15	Target FY16	Target FY17
Appeals Lost	11	7	7	7	7
Appeals Won	9	17	16	16	16
Percent of appeals in the Appellate Court won	45.0%	54.5%	60.0%	60.0%	60.0%

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	734,665	5.23
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	-130,561	-0.73
FY16 CE Recommended	604,104	4.50

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.

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	278,087	4.20
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	-127,996	-1.50
FY16 CE Recommended	150,091	2.70

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 judgements, subrogation claims, bounced checks, unpaid fines, and miscellaneous amounts billed by the County.

Program Performance Measures	Actual FY13	Actual FY14	Estimated FY15	Target FY16	Target FY17
Ratio of Costs/Collection	3.2%	2.5%	3.0%	3.0%	3.0%

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	1,161,157	11.60
Multi-program adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting multiple programs.	-1,161,157	-11.60
FY16 CE Recommended	0	0.00

Notes: This program is being eliminated in FY16. Funding and FTEs have been distributed among other programs with the bulk shifted to the new Government Operations program.

Administration

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

Program Performance Measures	Actual FY13	Actual FY14	Estimated FY15	Target FY16	Target FY17
Average Internal Customer Satisfaction Rating: Timeliness	3.33	3.33	3.25	3.25	3.25

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	1,358,213	4.80
Increase Cost: PEPCO - Related Legal Work	100,000	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.	77,279	1.20
FY16 CE Recommended	1,535,492	6.00

Government Operations

Drafts and reviews County and State legislation; Represents the County in legal challenges to its legislative acts; Drafts and coordinates formal legal advice given by the Office of the County Attorney; Provides legal assistance to the Office of Management and Budget, Ethics Commission, Office of the Inspector General, and the Charter Review Commission; Provides legal guidance on the Open Meetings Act and the Public Information Act; Oversees the publication of the County Code; and provides legal guidance to the Special Assistant to the Executive for Boards, Committees, and Commissions.

FY16 Recommended Changes	Expenditures	FTEs
FY15 Approved	0	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.	748,218	5.00
FY16 CE Recommended	748,218	5.00

BUDGET SUMMARY

	Actual FY14	Budget FY15	Estimated FY15	Recommended FY16	% Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	3,742,342	3,623,625	3,746,932	3,689,896	1.8%
Employee Benefits	1,452,944	1,283,466	1,415,305	1,403,364	9.3%
County General Fund Personnel Costs	5,195,286	4,907,091	5,162,237	5,093,260	3.8%
Operating Expenses	847,525	474,145	574,145	566,999	19.6%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	6,042,811	5,381,236	5,736,382	5,660,259	5.2%
PERSONNEL					
Full-Time	73	72	72	72	—
Part-Time	3	5	5	5	—
FTEs	43.00	43.25	43.25	43.50	0.6%
REVENUES					
Federal Financial Participation Reimbursements	198,734	231,165	231,165	231,165	—
Miscellaneous Revenues	100	0	0	0	—
Other Charges/Fees	-8	75,000	75,000	75,000	—
Other Intergovernmental	136,890	45,630	45,630	45,630	—
County General Fund Revenues	335,716	351,795	351,795	351,795	—

FY16 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY15 ORIGINAL APPROPRIATION	5,381,236	43.25
<u>Other Adjustments (with no service impacts)</u>		
Increase Cost: FY16 Compensation Adjustment	199,474	0.00
Increase Cost: PEPCO - Related Legal Work [Administration]	100,000	0.00
Increase Cost: Retirement Adjustment	51,580	0.00
Increase Cost: Group Insurance Adjustment	13,503	0.00
Decrease Cost: Annualization of FY15 Personnel Costs	-4,780	0.25
Decrease Cost: Printing and Mail	-7,146	0.00
Decrease Cost: Increase Lapse [Finance and Procurement]	-73,608	0.00
FY16 RECOMMENDED:	5,660,259	43.50

PROGRAM SUMMARY

Program Name	FY15 Approved		FY16 Recommended	
	Expenditures	FTEs	Expenditures	FTEs
Insurance Defense Litigation	52,907	0.00	0	0.00
Health and Human Services	992,380	7.52	1,135,524	7.40
Finance and Procurement	664,746	6.00	1,189,278	12.00
Support Services	139,081	3.90	297,552	5.90
Human Resources	734,665	5.23	604,104	4.50
Zoning, Land Use and Economic Development	278,087	4.20	150,091	2.70
Public Interest Litigation	1,161,157	11.60	0	0.00
Administration	1,358,213	4.80	1,535,492	6.00
Government Operations	0	0.00	748,218	5.00
Total	5,381,236	43.25	5,660,259	43.50

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY15		FY16	
		Total\$	FTEs	Total\$	FTEs
COUNTY GENERAL FUND					
Board of Appeals	County General Fund	93,141	0.50	95,579	0.50
Cable Television	Cable Television	109,621	0.50	118,688	0.50
CIP	CIP	362,737	3.00	384,095	3.00
Finance	County General Fund	173,849	1.05	178,262	1.05

Charged Department	Charged Fund	FY15		FY16	
		TotalS	FTEs	TotalS	FTEs
Finance	Self Insurance Internal Service Fund	2,633,229	20.00	2,728,803	19.75
Health and Human Services	Grant Fund MCG	194,294	2.40	194,294	2.40
Housing and Community Affairs	County General Fund	82,898	0.50	84,892	0.50
Housing and Community Affairs	Montgomery Housing Initiative	165,797	1.00	169,783	1.00
Human Resources	Employee Health Benefit Self Insurance	16,105	0.10	16,958	0.10
Intergovernmental Relations	County General Fund	25,582	0.30	26,574	0.30
NDA - Mont. County Employee Retirement Plans	County General Fund	16,427	0.10	16,958	0.10
NDA - Mont. County Employee Retirement Plans	Employee Retirement System	67,079	0.42	71,224	0.42
NDA - Mont. County Employee Retirement Plans	Retirement Savings Plan	16,427	0.10	16,958	0.10
NDA - Retiree Health Benefits Trust	Retiree Health Benefits	27,379	0.17	28,829	0.17
NDA - Retiree Health Benefits Trust	RSP-Disability Benefits LTD2	9,583	0.06	10,175	0.06
Parking District Services	Bethesda Parking District	20,907	0.10	21,931	0.10
Parking District Services	Silver Spring Parking District	41,814	0.20	43,862	0.20
Permitting Services	Permitting Services	137,352	1.00	219,309	1.00
Solid Waste Services	Solid Waste Collection	39,047	0.25	41,259	0.25
Solid Waste Services	Solid Waste Disposal	117,140	0.75	123,777	0.75
Total		4,350,408	32.50	4,592,210	32.25

FUTURE FISCAL IMPACTS

Title	CE REC.			(S000's)		
	FY16	FY17	FY18	FY19	FY20	FY21
This table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY16 Recommended	5,660	5,660	5,660	5,660	5,660	5,660
No inflation or compensation change is included in outyear projections.						
Labor Contracts	0	37	37	37	37	37
These figures represent the estimated annualized cost of general wage adjustments, service increments, and associated benefits.						
Subtotal Expenditures	5,660	5,697	5,697	5,697	5,697	5,697