

MEMORANDUM

April 18, 2016

TO: Planning, Housing and Economic Development Committee
FROM: Jean C. Arthur, Legislative Analyst
SUBJECT: **FY17 Operating Budget: Board of Appeals**

Those expected to attend this worksession include:
Barbara Jay, Executive Director, Board of Appeals
Carolyn Shawaker, Chair, Board of Appeals
Jennifer Nordin, OMB

Budget Summary:

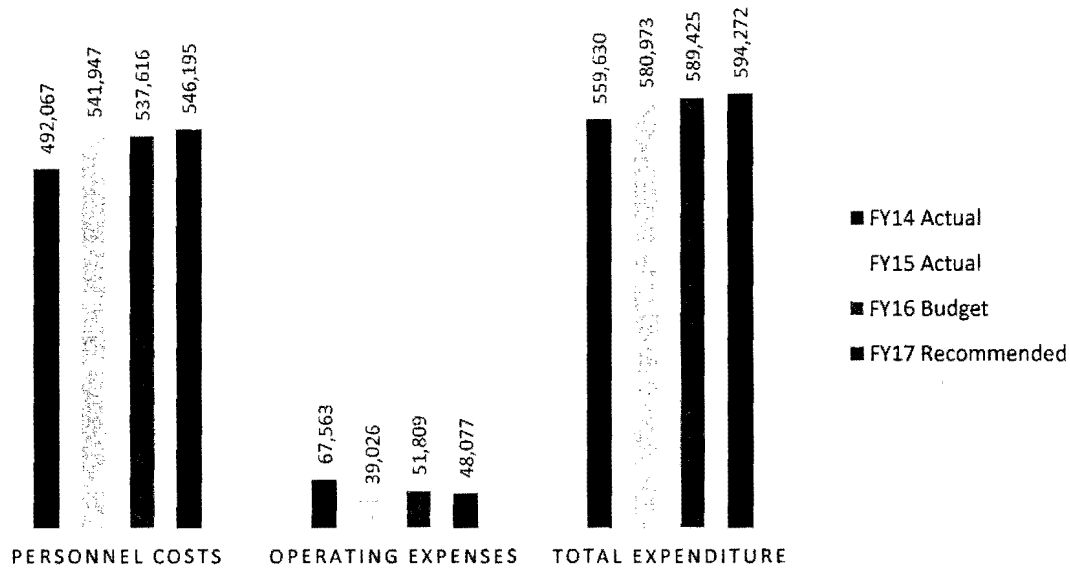
- The budget for the Board of Appeals has no changes. The recommended budget amount is .82 percent higher than FY16 approved amount; the entire increase is due to projected adjustments in compensation for the Board and staff.

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

Overview

For FY17, the County Executive recommends a total of \$594,272, an increase of \$4,847 or .82 percent from the FY16 approved budget of \$589,425. The recommended budget funds three full-time positions and a chargeback of .5 FTE from the Office of the County Attorney.

BUDGET SUMMARY



	<i>FY15 Actual</i>	<i>FY16 Approved</i>	<i>FY17 Recommended</i>	<i>% Change FY15 - FY16</i>
<i>Expenditures by fund</i>				
General Fund	\$580,973	\$589,425	\$594,272	.8%
<i>Expenditures by type</i>				
Personnel Cost	\$541,947	\$537,616	\$546,195	1.6%
Operating Expenses	\$39,026	\$51,809	48,077	-7.2%
<i>Total Expenditures</i>	\$580,973	\$589,425	\$594,272	.8%
<i>Positions</i>				
Full-Time	3	3	3	
Part-Time				
<i>FTEs</i>	3.5	3.5	3.5	

FY17 Expenditure Issues

Board member stipends. The budget includes funding for a small increase in the stipend for the five board members. Montgomery County Council resolution 9-527A allows for an annual adjustment of the stipend to reflect 50 percent of change in the Washington area consumer price index. The total increase for all five members is \$706. The FY16 increase was \$646.

Performance Measures: The Committee should note that for the past two years the Board of Appeals has met all statutory deadlines pertaining to administrative appeals and variances. The law specifies deadlines for issuing notices for hearings, holding hearings and issuing written decisions.

FY17 Revenue

Revenue. The Board of Appeals has collected \$115,011 in revenue as of April 13, 2016. These revenues are from filing fees.

Since FY13, the Executive's recommended budget has included a revenue estimate for the Board of Appeals of \$306,334. The highest amount of revenue BOA has collected in that period was \$224,041 in FY15. With just over two months remaining in this fiscal year, BOA has collected only \$150,011, less than half of the budgeted amount.

Staff suggests that the revenue recommendations be adjusted to reflect reality and provide a clearer budget picture.



Board of Appeals

Mission Statement

The mission of the Board of Appeals is to implement the flexibility provided in the Zoning Ordinance as approved by the County Council and to assist County residents in understanding and participating in the special exception, variance, and administrative appeal process.

Budget Overview

The total recommended FY17 Operating Budget for the Board of Appeals is \$594,272, an increase of \$4,847 or 0.82 percent from the FY16 Approved Budget of \$589,425. Personnel Costs comprise 91.91 percent of the budget for three full-time position(s) and no part-time position(s), and a total of 3.50 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 8.09 percent of the FY17 budget.

Linkage to County Result Areas

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

❖ A Responsive, Accountable County Government

Department Performance Measures

Performance measures for this department are included below (where applicable). The FY16 estimates reflect funding based on the FY16 approved budget. The FY17 and FY18 figures are performance targets based on the FY17 recommended budget and funding for comparable service levels in FY18.

Measure	Actual FY14	Actual FY15	Estimated FY16	Target FY17	Target FY18
Program Measures					
Number of Administrative Appeals (AAs) filed	5	7	7	7	7
Number of Administrative Appeals heard	8	2	7	7	7
Number of Administrative Appeals decided	10	10	10	10	10
Average days to Administrative Appeals hearing notice ¹	9	4	3	3	5
Average days to issue written Administrative Appeals decisions ²	26	21	21	21	45
Average days to Administrative Appeals hearing ³	69	46	46	45	45
Number of Variances filed	16	26	26	26	26
Number of Variances heard	19	23	23	23	23
Number of Variances decided	19	13	15	15	15
Average days to Variance hearing notice	14	7	3	3	5
Average days to issue Variance decisions ⁴	25	28	30	30	30
Average days to Variances hearing ⁵	52	22	38	38	38
Number of Special Exceptions filed ⁶	4	7	0	0	0
Number of Special Exceptions heard ⁷	6	7	0	0	0
Number of Special Exceptions decided ⁸	3	5	3	0	0
Average days to Special Exceptions hearing notice ⁹	10	21	0	0	0
Average days to Special Exceptions written decision ¹⁰	19	13	22	0	0
Average days to Special Exception hearing ¹¹	112	221	0	0	0
Number of Worksessions held	22	22	22	22	22
Number of Administrative Actions taken	154	166	150	150	150
Average days to Worksession Resolutions	27	26	30	30	30
Number of Walk-in Clients assisted	288	330	330	330	330
Number of Telephone Inquiries Answered	679	1042	1000	1000	1000

①

- ¹ County Code requires mailing of written notice a minimum of 30 days before the scheduled hearing date.
- ² Board of Appeals Rule 9.1 requires issuance of administrative appeal opinions within 45 days of close of record.
- ³ County Code requires that the hearing on an administrative appeal be held not fewer than 30 days after issuance of written notice of the hearing.
- ⁴ Board of Appeals Rule 9.1 requires issuance of variance opinions within 30 days of close of record.
- ⁵ Section 59-7.3.2.C of the Zoning Ordinance requires the Board to schedule a hearing within 60 days after receiving an application.
- ⁶ October 30, 2014 changes to Zoning Ordinance remove new special exception (conditional use) applications from BOA jurisdiction. The Board continues to have jurisdiction over modifications to those special exceptions that were filed or approved before October 30, 2014.
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- ⁸ October 30, 2014 changes to Zoning Ordinance remove new special exception (conditional use) applications from BOA jurisdiction. The Board continues to have jurisdiction over modifications to those special exceptions that were filed or approved before October 30, 2014.
- ⁹ County Code requires that the hearings for special exceptions be held not fewer than 60 days following issuance of written notice of the hearing, and that the hearing on any matter within the Board's jurisdiction be held in not fewer than 30 days. October 30, 2014 changes to Zoning Ordinance remove new special exception (conditional use) applications from BOA jurisdiction. The Board continues to have jurisdiction over modifications to those special exceptions that were filed or approved before October 30, 2014.
- ¹⁰ Board of Appeals Rule 9.1 requires issuance of special exception opinions within 30 days of close of record. October 30, 2014 changes to Zoning Ordinance remove new special exception (conditional use) applications from BOA jurisdiction. The Board continues to have jurisdiction over modifications to those special exceptions that were filed or approved before October 30, 2014.
- ¹¹ October 30, 2014 changes to Zoning Ordinance remove new special exception (conditional use) applications from BOA jurisdiction. The Board continues to have jurisdiction over modifications to those special exceptions that were filed or approved before October 30, 2014.

Program Contacts

Contact Barbara Jay of the Board of Appeals at 240.777.6604 or Jennifer Nordin of the Office of Management and Budget at 240.777.2779 for more information regarding this department's operating budget.

Program Descriptions

Zoning Related Hearings and Administrative Appeals

The Board of Appeals hears requests for variances and oral argument on conditional uses decided by the Hearing Examiner as provided in the Zoning Ordinance. The Zoning Ordinance requires that certain uses be considered for approval by the Hearing Examiner. Development standards for each zone are also set by the Zoning Ordinance. Variances from these standards require approval by the Board. The Board of Appeals also holds hearings and rules on appeals from administrative actions of certain governmental departments and agencies, as provided in the County Code. Finally, the Board considers modifications to those special exceptions that were filed or approved before the October 30, 2014 changes to the Zoning Ordinance.

Budget Summary

	Actual FY15	Budget FY16	Estimate FY16	REC FY17	%Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	403,966	399,425	408,894	411,303	3.0 %
Employee Benefits	137,981	138,191	112,772	134,892	-2.4 %
County General Fund Personnel Costs	541,947	537,616	521,666	546,195	1.6 %
Operating Expenses	39,026	51,809	42,441	48,077	-7.2 %
County General Fund Expenditures	580,973	589,425	564,107	594,272	0.8 %
PERSONNEL					
Full-Time	3	3	3	3	—
Part-Time	0	0	0	0	—
FTEs	3.50	3.50	3.50	3.50	—
REVENUES					
Board of Appeals Fees	216,451	306,334	306,334	306,334	—

	Actual FY15	Budget FY16	Estimate FY16	REC FY17	% Chg Bud/Rec
Other Charges/Fees	7,590	0	0	0	—
County General Fund Revenues	224,041	306,334	306,334	306,334	—

FY17 Recommended Changes

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY16 ORIGINAL APPROPRIATION	589,425	3.50
<u>Other Adjustments (with no service impacts)</u>		
Increase Cost: Annualization of FY16 Personnel Costs [Zoning Related Hearings and Administrative Appeals]	8,899	0.00
Increase Cost: FY17 Compensation Adjustment	4,957	0.00
Increase Cost: Group Insurance Adjustment	2,500	0.00
Increase Cost: FY17 Stipend for Board Members	706	0.00
Increase Cost: Printing and Mail	48	0.00
Shift: Telecommunications to the Telecommunications Non-Departmental Account	(3,780)	0.00
Decrease Cost: Retirement Adjustment	(8,483)	0.00
FY17 RECOMMENDED	594,272	3.50

Future Fiscal Impacts

Title	CE RECOMMENDED (\$000s)					
	FY17	FY18	FY19	FY20	FY21	FY22
COUNTY GENERAL FUND						
EXPENDITURES						
FY17 Recommended	594	594	594	594	594	594
No inflation or compensation change is included in outyear projections.						
Labor Contracts	0	4	4	4	4	4
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
Subtotal Expenditures	594	599	599	599	599	599