OLO REPORT 97-1 MARCH 11, 1997

A STUDY OF SERVICE STRUCTURES IN THE CENTRAL BUSINESS DISTRICTS AND OTHER URBAN AREAS

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EXECUTIVE SUMMARY

Over 150 years ago, local residents asked the state government what administrative and funding structures could be put in place to provide and fund the services needed to keep communities clean and safe and make them special places to live. In the 1990's, citizens in the unincorporated areas of Montgomery County are again asking the County government the same question. Many believe that incorporation as a municipality is the solution while others feel that a special taxing area modeled after the urban districts is more appropriate.

This report examines how the County uses urban districts to coordinate and fund services in the central business districts and what implications this model has for funding service delivery to communities outside the urban districts. For communities outside the urban districts, this report compares the applicability of the urban district model to the service structure of municipalities, common ownership communities and County government departments, including the Regional Service Centers.

This report recommends that the County redefine the services and funding structure for the urban districts. In particular, OLO recommends that the County determine the types of maintenance and promotional services to be included in the definition of "basic" County services for major commercial centers. The County should fund these baseline services out of the general fund and fund the remaining supplemental services out of each urban district fund. OLO recommends that the County substantially reduce the use of parking fees to fund urban district services. OLO also recommends that the County discuss replacing the urban district ad valorem property tax with a new tax or assessment financing mechanism based on land uses or square footages. This could create a more direct link between payment levels and benefits and remove these revenues from the charter restrictions on property tax increases.

For communities outside the urban districts, OLO recommends that the County develop a package of core services that identifies the baseline maintenance, security and promotional services that are provided countywide. OLO also recommends that the County develop a policy that addresses how the County government expects to respond to requests for enhanced services from local communities. This policy should address how the County will provide enhanced services within the structure of County government as well as through separate, independent service units.

Within the County government framework, OLO recommends that the County adopt a set of enhanced service area boundaries to help structure and coordinate the decisions and programs of various County departments at the community level. Outside the structure of County government, OLO recommends that the County continue to rely on independent organizations, including limited, general purpose special taxing areas, municipalities and common ownership communities. In light of the significant structural independence created through the establishment of new municipalities, OLO further recommends that the County limit the approval of new municipalities.

LIST OF EXHIBITS

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CHAPTER 1 INTRODUCTION

I. AUTHORITY

Council Resolution No. 13-602, Office of Legislative Oversight FY 1997 Work Program, adopted July 23, 1996.

II. SCOPE

This report traces the use of urban districts, the development of the service delivery structures in the County outside of the urban districts, and the methods the County government uses to determine service levels and administer reimbursement programs. The results of this project will serve as a resource to the County Council as it considers:

- service delivery budgets for central business districts (CBDs) and residential neighborhoods in unincorporated areas,
- funding for the municipal and homeowner association reimbursement programs, and
- incorporation requests for already developed or emerging future urban areas such as Germantown, Damascus and Olney.

III. TERMINOLOGY

Many of the words used in this report are common terms that have specific meanings in Montgomery County or in the context of this report. For example, a **central business district** (CBD) is a planning term that generally refers to the downtown area of a major city. In Montgomery County and in the context of this report, central business district refers only to the major commercial areas in Montgomery County that are defined as central business districts in the Zoning Ordinance, namely Silver Spring, Bethesda, Wheaton and Friendship Heights. Although Rockville and Gaithersburg have major business areas, they are not included in the definition of central business district because they have independent planning and zoning powers and thus, are not covered by the County's Zoning Ordinance.

Similarly, a **special district government** is one of the five types of local government recognized by the Census Bureau in its five year census of governments. (The other types are counties, municipalities, townships and school districts.) The Census Bureau defines a special district government as an "independent, special purpose governmental unit that exists as a separate entity with substantial administrative and fiscal independence from general purpose local governments."

In Montgomery County, the Census Bureau classifies the village of Drummond, the village of Friendship Heights, Battery Park and Oakmont as special district governments because each of these has a separately constituted governing body and because the district may levy property taxes and special assessments. Throughout this report, the term "special district government" is used to refer to these entities, notwithstanding that in Montgomery County these areas are frequently called **special taxing districts or special taxing areas**.

The Census distinguishes a **special taxing area** from a **special district government**, even though special taxing areas, like special district governments, are frequently referred to as districts or authorities. The Census Bureau uses the term special taxing area to refer to specifically defined geographic areas established by State or County governments for the purpose of providing specific improvements or services to that defined area. Special taxing areas may serve a portion of the parent jurisdiction and the parent government may levy a tax on the assessed value of the property within the area to pay for the services to the area. These special taxing areas are subordinate to the government that creates them and thus are also called "subordinate or dependent agencies." They are not considered separate government units by the Census Bureau.

In Montgomery County, the Census Bureau's classification of subordinate agencies includes: the Maryland-National Capital Park and Planning Commission, the Washington Suburban Sanitary District, the consolidated Montgomery County fire tax district, the parking lot districts, the recreation district and the suburban district (which was discontinued in 1996). Urban districts would also be included in this group although they are not specifically listed by the Census. This report uses the term **special taxing areas** to refer to this group of districts. See the glossary at the end of the report for definitions of other common terms and phrases.

IV. ORGANIZATION OF THE REPORT

The structure of the report is as follows:

Chapter 2 introduces the concepts of special taxing areas and business improvement districts, describes the use of special taxing areas in the County and examines how the County has used urban districts to deliver, fund and coordinate services in the Silver Spring, Bethesda and Wheaton CBDs.

Chapter 3 presents the authority, functions and revenues for municipalities and special district governments.

Chapter 4 describes the regulatory, administrative and financial frameworks that the County has established to provide roadway maintenance, special events and community development services in the non-municipal areas of the County outside of the urban districts.

Chapter 5 presents findings and recommendations.

V. METHODOLOGY

This project was conducted over a six month period from July 1996-January 1997 by Sue Richards, Program Evaluator, and Timothy Ammon and Jennifer Kimball, Public Administration Interns.

OLO reviewed written documents to understand the evolution of the administrative and financial frameworks that shape service delivery to the county's commercial and residential areas including: current and past state and county laws, master plans and other legislative records, financial and budget data provided by various Executive branch departments and the State Department of Fiscal Services and several task force reports on service administration and financing issues. OLO also conducted interviews with staff and citizens familiar with the operations of regional service centers, urban districts, common ownership communities and business improvement districts.

VI. ACKNOWLEDGMENTS

OLO received excellent cooperation and extensive assistance from everyone involved in this project. OLO appreciates the contributions of all who took time to explain the operations of their programs and discuss thoughtfully some of the "big picture" issues raised by this report. OLO especially appreciates the time contributed by Dee Metz and Bill Benoit of the Bethesda Urban Partnership, Bruce Blumberg and Craig Wilson of the Commission on Common Ownership Communities, Peter Kristian and Donna Zanetti of Montgomery Village Foundation, Brian Long and Bill O'Neal of Germantown and Cleo Tavani of the Taxpayer's League.

In the County government, OLO would like to thank Anise Key Brown, Natalie Cantor, Gail Nachman and Steve Poteat in the Government Service Centers, Bill Mooney, Assistant CAO, Joe Beach, Bryan Hunt and Paulette Bowles in the Office of Management and Budget; John Thompson, Linda Decker, and Millie Souders in the Department of Public Works and Transportation, Suzanne Anderson-Yopp, David Chikvashvili, Luann Corona, Tim Minerd, Miriam Sanders-Miller and Evan Johnson in the Department of Housing and Community Affairs and Chuck Beard in the Department of Recreation. OLO also received valuable data and information from Lembit Yogi and Wayne Kempel in the Research Division of the Montgomery County Park and Planning Department.

CHAPTER 2 SERVICE DELIVERY IN THE COUNTY'S CENTRAL BUSINESS DISTRICTS - THE URBAN DISTRICT MODEL

In June 1986, the Council enacted Bill 9-86 to authorize the establishment of special taxing areas in three of the County's four central business districts. As stated in the legislation, the purpose of an urban district was "to provide an administrative and financial framework" to maintain and enhance certain areas of the County planned for intense, mixed use development. [1]

Bill 9-86 stated that the County should maintain and enhance areas as prosperous, livable urban centers by:

- increasing the maintenance of the streetscape and its amenities,
- providing additional public amenities such as plantings, seatings, shelters and works of art,
- promoting the commercial and residential interest of these areas, and
- programming cultural and community activities.

The urban district legislation was based on the concept of business improvement districts, special taxing areas created by local governments that enable business owners to tax themselves to provide enhanced levels of services. Funding for the districts was to be self-supporting and come from three major sources:

- an ad valorem (urban district) property tax surcharge paid by owners of commercial and residential property in the district,
- a parking fee surcharge transferred from the parking lot district, and
- a maintenance assessment on optional method developers.

The legislation also authorized the Executive and Council to establish an Urban District Advisory Board (UDAB) in each district composed of business and neighborhood representatives. The UDAB was to meet monthly and advise the County on service delivery and budgeting issues. To help establish the independence of the County appointed advisory board, the law required the County Executive to review the urban district budget with the UDAB prior to its submission to the County and to include any UDAB comments on the budget in the transmittal of the budget to the County Council.

The establishment of the urban districts more than quadrupled expenditures in the CBDS from $467,000 in FY 85 to $2.5 million in FY 88. The urban district tax replaced the existing suburban district tax and rates were set at 7 cents per $100 of assessed value

[1] The County's Zoning Ordinance defines and designates the County's central business districts. The four central business districts are Friendship Heights, Silver Spring, Bethesda and Wheaton. An urban district was not established for Friendship Heights because the state had previously established a special taxing district in 1916. Urban districts were not established for Rockville or Gaithersburg because they have independent planning and zoning powers and are not covered by the County's Zoning Ordinance.

in Silver Spring and Bethesda and 9 cents per $100 of assessed value in Wheaton. Parking fee surcharges accounted for the biggest increase in revenues.

The establishment of urban districts represented the County's first use of a special taxing area to provide a collection of services to a small area with unique characteristics. The urban districts differed from the County and the state's previous use of special taxing areas in the following important ways:

- the establishment of the district and the service area boundaries were predicated on the unique characteristics and service demands of the business area,
- the district was responsible for providing a collection of related maintenance, security and promotional services instead of a single service,
- the district relied on multiple revenue sources instead of one ad valorem tax, and
- the legislation established an urban district advisory board to advise the Executive on the administration of services to the district.

Ten years after the enactment of the urban district legislation, this report reviews the operations of the urban district to understand how the County has used them to provide and fund enhanced services to central business districts and how the County's model compares to business improvement districts in other places.

This chapter describes the evolution and use of special taxing areas in Montgomery County, presents a brief introduction to business improvement districts and looks at urban districts in Montgomery County. Specifically, it describes changes made to Montgomery County's urban district legislation since its original enactment in 1986, proposed legislative changes under consideration in 1997, and the budgets, services, revenues, and funding history for the urban districts in the Silver Spring, Bethesda and Wheaton central business districts.

I. SPECIAL TAXING AREAS

Every five years, the Census Bureau takes a census of governments. In addition to the Federal government and the 50 state governments, the Census Bureau recognizes five types of local governments: counties, municipalities, townships, school districts and special district governments. (The category of special district governments includes all organized local entities not included in the other four categories with sufficient autonomy to qualify as separate governments.)

In its report on Government Organization, published as part of the five year census of governments, the Census Bureau distinguishes between special district governments and special taxing areas. In some states, both state and county governments are authorized in law to establish special taxing areas. In these areas, which typically serve a portion rather than all of the state or county, supplementary property taxes can be imposed to finance particular types of improvements or government services. According to the Census Bureau, in numerous instances, special taxing areas have been developed to supply urban-type services for unincorporated urban fringe portions of particular counties.

The Census Bureau classifies special taxing areas as subordinate or dependent agencies of a parent government. Although many special taxing areas, like many special district governments, are officially called districts or authorities, the Census Bureau does not include taxing areas in its count of separate special district governments because they are subordinate to the parent government.

In Maryland, the Census Bureau has classified some of the special tax districts in Montgomery County as governments (special district governments) and has classified other special taxing areas as subordinate agencies. Since urban districts fall under the classification of a special taxing area, the next section of this chapter describes the use of special taxing areas in Montgomery County. (The special district governments in Montgomery County are discussed in Chapter 3.)

A. THE TYPES OF SPECIAL TAXING AREAS IN MONTGOMERY COUNTY

Both the State and County governments have made extensive use of special taxing areas in Montgomery County to fund and define service area boundaries for a wide range of services. Before 1948, the state established two bi-county special taxing areas to provide water and sewer services and park and land development services to Montgomery and Prince George's counties. The state also established taxing areas in portions of Montgomery County to provide library, fire and street maintenance services.

Since 1948, the County government has established or passed enabling legislation for 12 types of special taxing areas. In addition to the bi-county districts, the first County code (published in 1950) identified taxing area boundaries and authorized tax levies for:

- the Bethesda, Cabin John, Chevy Chase, Damascus, Gaithersburg-Washington Grove, Hillandale, Hyattstown, Kensington, Rockville, Sandy Spring, Silver Spring and Upper Montgomery County Volunteer Fire Departments;
- the Bethesda and Silver Spring Public Libraries;
- parking in the Bethesda and Silver Spring business districts; and,
- leaf collection and other services in the Montgomery County suburban district.

Today, the Montgomery County Code authorizes the County to establish and/or collect funds for over a dozen different types of special taxing areas. Exhibit 1 summarizes some of the special taxing areas in Montgomery County.

EXHIBIT 1: A SAMPLE OF SPECIAL TAXING AREAS IN MONTGOMERY COUNTY

	Taxing Area Name	Year Est.	Created by	Purpose and Services	Revenue Sources	Rate/$100 of A.V.value
1.	Suburban District	1927	State	Leaf collection, street sweeping, roadway maintenance	Ad valorem property tax	2.8 cents (Discontinued in 1996)
2.	Regional District	1927	State	Land use planning and administration	Ad valorem property tax	6.3 cents
3.	Metropolitan District	1927	State	Park planning and development.	Ad valorem property tax	15.4 cents
4.	Washington Suburban Sanitary District	1928	State	Water supply and sewerage. Original services also included storm drainage and refuse collection.	Fees, front foot benefit assessments, system benefit charges.	N.A.
5.	Fire Tax Districts	1927-1991	State and County	Funding for volunteer fire companies	Ad valorem property tax	24.9 cents
	Parking Districts	1945, 1948	State and County	Development of parking lots and garages in the central business districts and Montgomery Hills	Ad valorem property tax, fees and fines	30 to 70 cents
6.	Recreation District	1952	County	Recreation programs and special events	Ad valorem property tax and user fees	4.9 cents
7.	Solid Waste Collection District	1980	County	Refuse collection, disposal, recycling, leaf vacuuming	System benefit charge	N.A.
8.	Share-A-Ride Districts	1985	County	Provide personalized ridesharing services.	Ad valorem property tax	10 to 20 cents
9.	Urban Districts	1986-87	County	administrative and financial framework for enhanced maintenance, security and special events	Ad valorem property tax, parking district transfers, fees	See text
10.	Transportation Management District	1988	County	Foster coordinated transportation mgmt.	Fee	N.A.
11.	Noise Abatement Districts	1991	County	Fund noise wall constr.	Ad valorem property tax	30 -40 cents
12.	Development Districts	1994	County	Construction of public infrastructure in priority development areas	Multiple	N.A.

Source: Montgomery County Code

B. THE EFFECT OF THE FAIRNESS IN TAXATION (FIT) CHARTER AMENDMENT ON THE USE SPECIAL TAXING AREAS

In 1991, Montgomery County voters approved an amendment to Section 305 of the County Charter. The Fairness In Taxation (FIT) amendment was enacted to help control the growth in the County's operating budget and to limit the contribution of property taxes to fund the County's operating budget.

Since at least 1978, the Charter has included a provision that limits the growth of aggregate operating budget to the rate of inflation unless six Councilmembers vote to approve a higher budget. The 1991 charter amendment set two limits in the process the Council uses to adopt budgets and set property tax rates.

- The first restriction requires the Council to set spending affordability guidelines and to approve a capital and operating budget that meets these guidelines, unless seven Councilmembers agree to approve a higher budget.
- The second restriction limits increases in the total amount of revenues from property taxes on existing real property to the rate of inflation, unless seven Councilmembers agree to set a rate that would raise total revenues by more than the rate of inflation.

1. HOW THE CHARTER RESTRICTIONS WORK

Under the Charter, the restriction on the aggregate operating budget ceiling explicitly excludes any enterprise fund[2], any grant for a specific purpose, the operating budget for the Washington Suburban Sanitary Commission and expenditures equal to tuition and tuition related charges for Montgomery College.

The restriction on property tax revenues combines revenues from all of the special taxing areas funded with ad valorem property taxes established by the County as well as the bi-county special taxing areas established by the State. The charter explicitly excludes revenues from any development district tax used to fund capital improvement projects. (Property taxes for municipalities and the special district governments are not affected by the charter restrictions because these taxes are levied by separate government units.)

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[2] An enterprise fund is an account used to record the fiscal transactions of government activities financed and operated in a manner similar to private enterprise, with the intent that the costs of providing goods and services, including financing, are wholly recovered through charges to consumers or users. Examples of enterprise funds include the Department of Liquor Control, the food service for the school system, and, most recently, the operating fund for the Department of Permitting Services. The Parking Districts in Bethesda, Silver Spring and Wheaton are also considered enterprise funds, even though their revenues include property taxes.

Each year the Council sets more than a dozen different property tax rates. The property tax rates affected by the charter restriction on property tax revenues include the general countywide property tax, the transit tax, the fire tax, the Maryland-National Capital Park and Planning Commission property taxes (the metropolitan, regional and Advanced Land Acquisition Revolving Fund taxes), the recreation tax, the storm drainage tax, the taxes for the Silver Spring, Bethesda and Wheaton urban districts, the parking district taxes for the Silver Spring, Bethesda, Wheaton and Montgomery Hills parking districts and the taxes for two noise abatement districts.

2. THE EFFECT OF SPENDING AFFORDABILITY ON THE ESTABLISHMENT OF SPECIAL DISTRICT TAX RATES IN THE BUDGET PROCESS

The charter limit on property tax revenues creates a link between the general fund and many special revenue funds and adds a step to the process the Council uses to set the ad valorem property tax rates. Before the charter amendment, the Council could set property tax rates for the general fund or each special revenue fund independently. For each fund, the Council would review the program budgets and the assessable base data for each taxing district, determine the property tax rate that would raise the amount of revenue to fund the budget and set that tax rate.

Since the adoption of the charter amendment, the Council uses the same process but, before adopting the tax rates, the Council must check to see that the property taxes do not exceed the spending affordability guideline set by the Council. The Council may set the guideline at the charter limit (i.e., the rate of inflation) or at an amount less than the rate of inflation. In the first three years following the adoption of the charter amendment, the County Council set the property tax rates at the charter limit which meant that total property tax revenues did not increase by more than the rate of inflation. The next year the Council set the property tax rate to hold the increase in property tax revenues to an amount below the rate of inflation. In the last two years, the Council has maintained the property tax at the current rates.

The law has had the following effects on the budgeting process:

- The County no longer has the option of increasing the tax rate in one special taxing area to fund a higher level of services for property owners in that district without considering the impact of the increase on the total amount of property taxes.

- If the Council approves increased spending for police or education services and wants to maintain property tax revenues at a constant level, it must offset the increase through a decrease in spending for other programs. These other programs may be programs funded out of the general fund or programs funded out of special revenue funds.

- If budgets increase due to growth (i.e., more students to serve or roadways to maintain) and the County wants to maintain total property tax revenues at the current level, the County must pay for the increases from savings in other programs or from revenue sources other than property taxes, namely revenues from other taxes, user fees, State/Federal aid, etc.

- The programs funded by the special taxing area property taxes included in the calculation of the aggregate operating budget must compete against each other in a budget process that is limited to the guideline the Council sets for the aggregate operating budget, notwithstanding the fact that some of these taxes are, in theory, for enhanced services and/or the taxes originally were imposed at the request of property owners to fund an enhanced level of service.

- Unlike the budgets for services provided by the County or the urban districts, the budgets for municipalities, the special district governments or common ownership communities are not affected by the County's spending affordability process. As a result, residents of municipalities, special district governments and common ownership communities in the County can still request and fund enhanced services, whereas residents in other areas of the County cannot.

II. AN INTRODUCTION TO BUSINESS IMPROVEMENT DISTRICTS

Business improvement districts (BIDs) are special districts (or special taxing areas) created by local governments that enable local property owners in downtown commercial areas to tax themselves to pay for physical improvements and management services. As described in a study by Siemon, Parson and Purdy, the original special district concept dates back to the heyday of special assessments in the fifties. Under limited legislative powers, early districts used special assessments and other funding sources to finance a single function such as parking or street sweeping within the district.

More recently, special districts have evolved to finance a broad range of management, maintenance and promotional services. Larger sophisticated districts may also fund capital improvements and major public private developments in commercial areas. According to one article, this second wave of special districts is, in part, a response to tax limitations imposed on general government functions which have forced governments to cut back on maintenance services. A special district funded with assessments that businesses impose on themselves creates an alternative revenue source and allows businesses to maintain necessary service levels.

According to the International Downtown Association, a non-profit organization dedicated to the revitalization of downtowns, the motivation of business owners to establish BIDs has been driven by the need to:

- improve sales,
- supplement city services to provide a high level of maintenance and security services, especially for newly redeveloped areas,

- create a voice for downtown businesses and establish a mechanism that enables individual business owners to create a managed downtown environment that competes successfully with suburban shopping centers, and
- establish a long term, substantial and equitable financing mechanism.

The benefits of a successful district are most often demonstrated through:

- a cleaner, safer and more attractive downtown,
- improved sales, higher property values, lower vacancy rates and lower crime rates,
- an adequate and predictable resource base, and
- entrepreneurial management that is more responsive to market and community needs.

The most often cited drawbacks of BIDs include mismanagement, widespread lack of oversight about district operations, and the extensive time and negotiations it takes to build political support for the local legislation required to implement a district.

A. ESTABLISHING BUSINESS IMPROVEMENT DISTRICTS

The establishment of a business improvement district is a multi-year process that requires a significant investment of time and resources. Members of the business community or property owners in a commercial area most often initiate the establishment of a special district. The key questions to be answered in establishing a BID include the following:

1. Why is the district needed?
2. What will the district do?
3. How much will it cost?
4. Who will control the money?
5. Where will it be?
6. How long will it last?

Typically, a majority of the business owners in a specific community submit a plan to the local government that identifies: proposed district boundaries, a list of needed programs and/or projects; the estimated project and program costs, and the anticipated assessment methodology and rate that would be needed to fund the organization.

Following a review of the district plan and adoption of the enabling legislation, one or more non-profit organizations are set up to manage the district and the government contracts with the non-profit to provide services to the district.

B. The Scope of BID Services

Since the origin of BIDs rests partly in revitalizing older downtown areas to compete with suburban shopping malls, the services provided by the districts focus on promotional and maintenance activities. The scope of services varies with the size and financial resources of the district. Smaller communities generally spend resources on hiring a downtown manager, organizing retailers or making small scale physical enhancements. Larger communities devote a higher portion of their budgets to supplementing city maintenance and security services. Exhibit 2 lists the categories of services districts typically provide.

C. The role of local governments in BIDs

Although a business improvement district reflects a willingness of the local business community to use their own resources to provide services, the establishment of a district takes place within the context of enabling legislation adopted at the state and local level. Thus, special improvement district are, in effect, a partnership between the property owners of an area and the local government.

The role a local government plays in the establishment of a business improvement district varies depending on the policy of the government, the resources and sophistication of the local business community and whether the district is established as a special district government or a special taxing area. In some places, government has taken the lead in organizing a district whereas in others the initiative comes largely from the business community. In addition to aiding in the establishment of a district, the roles of the local government in the BID process include:

- adopting legislation that formally establishes the district including the boundaries and the assessment rate;
- negotiating an agreement with the managing organization to specify the baseline level of services that the government will maintain and to address other operational issues;
- serving as the revenue collection agent and transmitting revenues to the managing organization;
- serving as an ex officio member on the board of the managing organization; and
- determining whether the contract with the managing organization should be renewed at the end of the period specified in the legislation.

Governments use the enabling legislation, annual agreements about baseline service levels, participation on the board of directors, and the re-negotiation of the contract with the service provider to provide appropriate oversight and budget controls. Finally, as private organizations, BIDs must comply with regulations governing land use, permitting, traffic and construction.

EXHIBIT 2: SUPPLEMENTAL SERVICES PROVIDED BY BUSINESS IMPROVEMENT DISTRICTS

Maintenance Providing extra maintenance workers -sweeping and cleaning sidewalks -removing snow -maintaining amenities Increasing frequency of trash pickup Providing more litter receptacles	**Improving Downtown Marketplace** Management of retail businesses -organizing retailers -organizing property owners -undertaking market analysis Develop retention/recruitment programs Developing leasing plans and providing funds
Security Providing additional security officers Coordinating public and private security Supporting mounted patrols Increasing activity programming Offering design assistance	**Vending/ Public Markets** Developing ordinances Managing street vending Organizing "stall" markets Establishing and managing farmers' markets Planning and organizing public markets
Assistance in Office Leasing Undertaking market analyses Coordinating leasing assistance Developing a business retention program	**Informing and Promoting** Communications and media management Programming events and activities Planning and managing arts and entertainment districts
Addressing Social Needs Homelessness Daycare Employment assistance	**Improving Access and Mobility** Parking management Employee/Employer transportation management assistance
Events and Activity Programming Sponsoring image events and festivals Sponsoring retail promotions events Organizing downtown worker events	**Physical Improvements** Streetscaping Signage and banners Lighting

Source: Richard Bradley, "Downtown Renewal: The Role of Business Improvement Districts," Public Management.

D. THE USE OF BUSINESS IMPROVEMENT DISTRICTS NATIONALLY AND IN MARYLAND

Forty nine states have passed legislation enabling the establishment of BIDs. As a result, an estimated 1,000 business improvement districts have been created across the U.S. The specific characteristics of the BID's, including the size, organization and operations, reflect the concerns and resources of the business and property owners in the area.

State law provides for the establishment of business improvement districts in Maryland. Article 25A, Section 5(FF) of the Annotated Code authorizes the governing bodies of incorporated municipalities and chartered counties to create special taxing areas called Commercial District Management Authorities (CDMA). The purpose of a CDMA is to fund special events, marketing, security, maintenance or amenities within the commercial district. These improvements are financed through fees or taxes charged directly to the business or property owners in the district. A local ordinance is required to establish the fund raising mechanism and fee rates and to define the membership and organizational structure. The state law provides great latitude in determining specific characteristics of CDMAs.

Since the legislation was enacted in 1984, 18 districts have been established across the state in addition to one established in Bethesda. Nine are in small to medium size cities, including Cumberland, Salisbury, Takoma Crossroads, College Park, Berlin, Hagerstown, Mt. Ranier, Oakland, and Pocomoke City. The membership ranges from 40 to 250 businesses and the annual budgets range from $3,500 to almost $180,000. All of the districts generate revenues through an annual fee imposed on businesses and/or property owners. Some areas charge a flat rate whereas others base the rate on the size and/or type of business. Charges typically fall in the range of $50 to $100 per business and the services focus on promotions, banners and decorations, maintenance services and security.

The remaining 9 CDMA districts are located in Baltimore City (York Road, Highlandtown, Market Center, Old Town Mall, Monument St., Pimlico, Hamilton, Federal Hill, Marketplace). The specific characteristics of these districts, referred to as retail business districts, vary. The annual fees range from 15 to 25 cents per square foot of business space. The City retains 5 percent of the collected revenues to cover administrative expenses and passes the remaining 95 percent through to the merchants association in each district to spend on programs and services provided in the district. Typical services include lighting, landscaping and promotions.

Baltimore also has a separate Downtown Management District called the Downtown Partnership. The Partnership encompasses 1,400 properties in a 113 block area around Baltimore's Inner Harbor. The annual budget of $2.4 million is funded through a tax on businesses, city and state grants, and donations from tax exempt properties within the district. The tax on business is 30.75 cents/$100 of assessed value and generates $1.8 million or 75% of the annual revenue. The tax is collected with the City's property tax bill at no charge to the Downtown Partnership. The Partnership provides a security and escort service, maintenance services and retail development.

In addition to these CDMAs, Montgomery County enacted legislation in 1993 to authorize the creation of an urban district corporations to operate a CDMA within an urban district. The County subsequently established the Bethesda Urban Partnership as a CDMA in 1994. Exhibit 3 summarizes the characteristics of the CDMAs in Maryland and compares them to the characteristics of Montgomery County's urban districts.

III. THE HISTORY OF MONTGOMERY COUNTY'S URBAN DISTRICT LEGISLATION

A. BACKGROUND

Montgomery County adopted legislation to establish urban districts in Silver Spring, Bethesda and Wheaton in 1986 and 1987; however, the issue of services to the County's major commercial centers had been under discussion for a few years before the urban districts were established. In 1982, the Office of Legislative Oversight (OLO) issued a report on the operations of the suburban district, a special taxing area established by the General Assembly to provide roadway maintenance and leaf collection services. The OLO report had found that the level of services in the suburban district had declined because their budget had not kept pace with inflation. In part, the report recommended modifying the suburban district legislation to provide more specialized services to the central business districts (CBDs).

In 1983, County Executive Gilchrist established a task force to provide specific recommendations and a plan of action. The task force relied on the OLO Report and interviews with County officials and business representatives to understand the types of service problems in the CBDs. The task force report noted that the major service complaints in the CBDs were litter collection, dying trees, dirty sidewalks, sidewalks left too long in a state of disrepair, and the lack of money to maintain street furniture installed as part of the Silver Spring revitalization program.

The task force considered the concept of taking the CBDs out of the suburban district and putting them into separate urban maintenance districts and concluded that this might yield some benefits in improved service levels. The task force recommended that the County discuss with the business community the advantages of the urban district concept and the possible use of some funds from the parking districts, based on a Payment in Lieu of Taxes (PILOT) proposal, since this proposal was also under discussion at that time.

Exhibit 3: A Comparison of Commercial District Management Authorities in Maryland and Urban Districts in Montgomery County

City	District Population	# of Blocks	# of Businesses	1997 Budget	Average Tax or Fee Per Business	Tax or Fee as ShareOf Total Budget (1)	Fee Structure
Cumberland	24,000	21	203	$ 178,269	$ 878	100%	$1.12 or $.65 per $100 assessed value
Salisbury	21,000	N/A	250	$ 45,000	$ 180	100%	$75 - $900 based on total square feet
Takoma Crossroads	17,000	N/A	150	$ 80,000	$ 533	100%	$.05 to $.67 per square foot
College Park	22,000	11	90	$ 25,000	$ 278	100%	$.10 per square foot
Berlin	2,656	6	242	$ 15,675	$ 65	100%	$5 per resid; $50 per bus; $100 per bank
Hagerstown	35,000	7	188	$ 30,000	$ 160	100%	$.75 per 1st floor sqft; $.35 per 2nd flr sqft
Mt. Ranier	8,000	N/A	115	$ 13,000	$ 113	100%	$100 per business
Oakland	1,750	5	180	$ 19,000	$ 106	100%	$50 per business and professional unit
Pocomoke City	4,000	12	40	$ 3,500	$ 88	100%	$50 - $100 based on total square feet
Baltimore (2)	N/A	N/A	N/A	N/A	N/A	N/A	$.15 - $25 per square foot
Balt. Dwntwn. Partner	(3)	113	1400	$ 2,400,000	$ 1,714	75%	$.31 per $100 assessed value
Silver Spring(4)	11,637	67	270	$ 1,378,400	Not available	29%	$.075 per $100 of assessed value
Bethesda	7,492	54	659	$ 1,436,720	Not available	19%	$.04 per $100 of assessed value
Wheaton (4)	4,235	17	125	$ 388,330	Not available	19%	$.05 per $100 of assessed value

Source: Maryland Department of Housing and Community Development, Interviews with CDMA Representatives, M-NCPPC documents, Approved County FY 97 Budget

(1) Salisbury, College Park, Oakland, Pocomoke City have also received some CDBG and/or Maryland Main Street Program funds in the past

(2) There are 9 retail business districts in Baltimore- York Road, Highlandtown, Market Center, Old Town Mall, Monument Street, Pimlico, Hamilton, and Federal Hill, Marketplace. Specifics vary from district to district.

(3) Estimate 15,000 residents and 120,000 employees.

(4) Silver Spring and Wheaton are urban districts but not CDMAs. (Bethesda is an urban district managed by an urban corporation which is a CDMA.)

B. BILL 9-86

In early 1986, the Executive sent legislation proposing the urban districts to the Council. The transmittal memorandum indicated the urban districts were needed because:

- the services to the CBDs provided through the suburban district at the time were inadequate to meet the needs of the central business districts, and
- it was incumbent on the County to protect the many millions of dollars expended for streetscape amenities by both the County and private developers.

Funding for the districts was to be self supporting, coming from three major sources:

- an ad valorem property tax surcharge to be paid by owners of commercial and residential property in the district,
- a parking fee surcharge transferred from the parking lot district, and
- a maintenance assessment on optional method developers.

The amount of the transfer from the parking district to the urban district was subject to two limits: the transfer from the parking district could not exceed 80 percent of the combined revenues from the parking district and the urban district tax AND it could not exceed the limit of approximately ten cents multiplied by the number of enforcement hours per parking space. Chapter 60 of County law was amended to provide for the transfer of parking district funds from the unencumbered balance of the parking district to each respective urban district after all the requirements of the parking district had been satisfied.

The Executive indicated that representatives of Bethesda and Silver Spring had indicated a willingness to pay for optimal levels of service but noted that unfortunately Wheaton did not have the financial resources to pay for more than the existing or slightly improved levels of service. The Executive proposed that field work in the districts be done by contracts with private companies, with the management handled by County employees. The legislation also authorized the establishment of an Urban District Advisory Board in each district, composed of business and neighborhood representatives.

Exhibit 4 shows service levels in the CBDs at three points in time: in FY 83 when the OLO report on suburban districts was issued, in FY 86 before the urban districts were established, and in FY 89 after the districts had been operational for one year.

EXHIBIT 4 COMPARISON OF CBD SERVICE LEVELS BEFORE (FY 83 AND FY 86) AND AFTER (FY 89) ESTABLISHMENT OF THE URBAN DISTRICTS

Services	Frequency FY 83	Frequency FY 86	Frequency FY 89
Litter Collection	1.5x/week	3x/week	5x/week
Street Sweeping	2x/week	3x/week	3x/week
Sidewalk Washing	Not available	2x/year	2x/year
Roadside Mowings	6-8x/year	6-8x/year	12x/year
Emptying Trash Receptacles	2x/week	2x/week	3x/week
Street Tree Maintenance	As needed	As needed	As needed
Leaf Collection	Minimal	2x/year	2x/year

Sources: A Report to the County Executive: Recommendations on the Suburban District, County Executive's Recommended FY 86 and FY 89 Operating Budgets.

The administration of the urban districts was placed in the Department of Transportation because the Director of Transportation had spearheaded the creation of the districts and because many of the maintenance services were provided by that department.[3]

C. BILL 41-92, URBAN DISTRICT CORPORATIONS

In October 1992, the Council introduced Bill 41-92, Urban District Corporations authorizing the creation of urban district corporations to perform certain functions for each district. The legislation was initiated at the request of the Bethesda Urban District Advisory Committee (BUD) which was frustrated that projects were not being implemented even though money was available and projects had been identified. The inability to obtain an Officer McGruff costume to use at local children's events or to provide a jitney service to link parking lots and businesses were examples of projects that led to an interest in more local control.

BUD testified that the legislation culminated more than 18 months of work. A working group had researched national models, identified management options and concluded that a non-profit management structure accountable to the Executive and the Council would best meet the needs of Bethesda. BUD believed that "the creation of a new not-for-profit corporation would establish a flexible management approach and organizational structure that would focus responsibility locally, ensure local orientation

[3] In FY 94 when the Bethesda Urban Partnership was established, the administration of services managed by BUP was moved to downtown Bethesda. In FY 97, the County government transferred the administration of the Silver Spring and Wheaton districts from the Department of Public Works and Transportation on-site to the Regional Service Center in each business district. In FY 98, the County will transfer administration of the remaining services in Bethesda managed by the County (lighting, concrete sidewalk repair and tunnel maintenance) from the Department of Public Works and Transportation to the Regional Service Center in downtown Bethesda.

and involvement, facilitate accessibility and viability, realize greater responsiveness, and enable a collection of private funds for special activities."

The legislation was supported by the Bethesda and the Wheaton Kensington Chambers of Commerce, the Bethesda, Wheaton and Silver Spring Urban District Advisory Boards and the Bethesda-Chevy Chase and Silver Spring Center Citizen's Advisory Board. Representatives from the Wheaton and Silver Spring Urban Advisory Boards noted that, while they were not yet ready to form a corporation, they favored legislation that would allow them to do so in the future.

The law provided for the establishment of a corporation to manage the urban district. The law specified that the board of directors for the corporation must have 11 members who would be appointed by the County Executive and confirmed by the County Council. The membership must include two members nominated by the chamber of commerce, three members representing the owners of optional method development properties, one member representing a small business, one member who lives in the urban district, two members who live in residential communities near the urban district, one member who belongs to the citizen advisory board, and an Executive designee who serves as a nonvoting member.

The law gave the corporation the authority to enter into agreements with optional method developers for the corporation to maintain streetscape amenities on private or public property or for optional method developers to maintain streetscape amenities on public rights of way.

The law also required the urban district corporation to prepare and submit an annual budget for review to the Office of Management and Budget. The County Council would consider and act on the County Executive's recommended budget in accordance with the budget adoption procedures of the County Charter. The law stated explicitly that the County could consider any non-County funding available to the corporation in deciding the amount of County funding to approve.

The law redefined the phrase "maintaining the streetscaping" to include streetscaping of the medians and street sweeping but <u>not</u> to include maintaining the roads or the curbs. The law noted that in an urban district with an urban district corporation, the department (County) would be responsible for maintenance inside the curbs but not for streetscaping of the medians and streetsweeping inside (between) the curbs.

The law added the term "non-standard pavement" to the list of streetscape amenities and provided that the urban district corporation would be responsible for brick or other "non-standard" sidewalk maintenance and the department would only be responsible for repair of standard concrete sidewalks.

Finally, the law increased the limit on the amount of money that could be transferred into an urban district fund managed by an urban corporation from the parking district from 80 to 90 percent of the combined revenues from the urban district tax and the parking fee transfer.

The Council enacted the bill on April 20, to be effective on July 28, 1993. On December 7, 1993, the Council adopted Resolution 12-1400 approving the creation of the Bethesda Urban Partnership, Inc. as an urban district corporation and the attached articles of incorporation and by-laws. On February 1, 1994, the Council adopted Resolution 12-1475 confirming the Executive's appointments to the Board of Directors.

D. EMERGENCY BILL 16-93, URBAN DISTRICT CORPORATIONS CLARIFICATION

On June 15, 1993, the Council introduced Bill 16-93 to clarify the legal status of urban district corporations. This bill amended Chapter 68A to clarify that as a commercial district management authority, each corporation is a "local government" as that phrase is used in the Local Government Claims Act. The bill was adopted on July 13, 1993 and became effective on July 28, 1993.

E. BILL 1-97, URBAN DISTRICT FUNDING

The County Council introduced Bill 1-97 on January 14 , 1997 at the request of the County Executive. The bill proposes changes to Chapter 68A that would apply to the Wheaton urban district.

The first change would modify the formula for calculating the amount of revenue from parking fees transferred to an urban district. The current formula multiplies the number of parking spaces in the urban district times the number of enforcement hours per year times 10 cents per space. In Wheaton, the rate would increase to 20 cents per space. The legislation also increases the limit on the combined urban district and parking revenues from 80 to 90 percent. According to the fiscal impact analysis, the legislation could double the maximum amount that could be transferred from $256,000 to $513,000.

The law also allows the Council to make a one time transfer of parking district fees from the parking district to the urban district to be used for capital projects or a programmatic purpose. An amount of up to 25 percent of the cash balance in the Wheaton parking lot district fund can be transferred to the urban district as long as there are no outstanding revenue bonds. According to the fiscal impact analysis, the maximum amount of a one time transfer could range from $1.5 to almost $2 million over the next six fiscal years, depending on when the transfer occurred.

F. BILL 2-97, SILVER SPRING URBAN DISTRICT FUNDING

This bill amends Chapter 68A-4, Funding, to allow the Council to transfer revenues from the County general fund to the Silver Spring urban district. The law requires that the transfer be subject to a condition of repayment. The Legislative Request Report indicates that the Silver Spring urban district will either face significant property tax increases or an erosion of services in the near future unless an outside funding source is identified. The report noted that the parking district had provided most of the funding for the district but is currently unable to provide funds because of fiscal constraints.

IV. THE USE OF URBAN DISTRICTS IN THE COUNTY'S CBDS

A. SILVER SPRING

Located in the southeast corner of Montgomery County, the Silver Spring CBD is the County's largest and oldest CBD. The CBD comprises 67 blocks (268 acres) and has roughly 6.2 million square feet of office space, 2 million square feet of retail space, 5,200 apartments and 80 single family homes.

The County government has maintained a sustained investment program in the public infrastructure needed to support Silver Spring. In addition to the 32,000 employees working in Silver Spring, another 29,000 people come to Silver Spring every day to catch a train or bus from the County's busiest transportation hub, (two bus terminals, a MARC commuter train station and a Metrorail station). The Silver Spring parking district manages roughly half (11,450) of the parking spaces in Silver Spring.

The infrastructure to support the business district has been provided by private development through optional method of development approval projects and by the County government through the capital budget. The County government recently completed a multi-million program of roadway, intersection and streetscape improvements. The Sector Plan approved in 1993 calls for additional improvements to extend and enhance the streetscape.

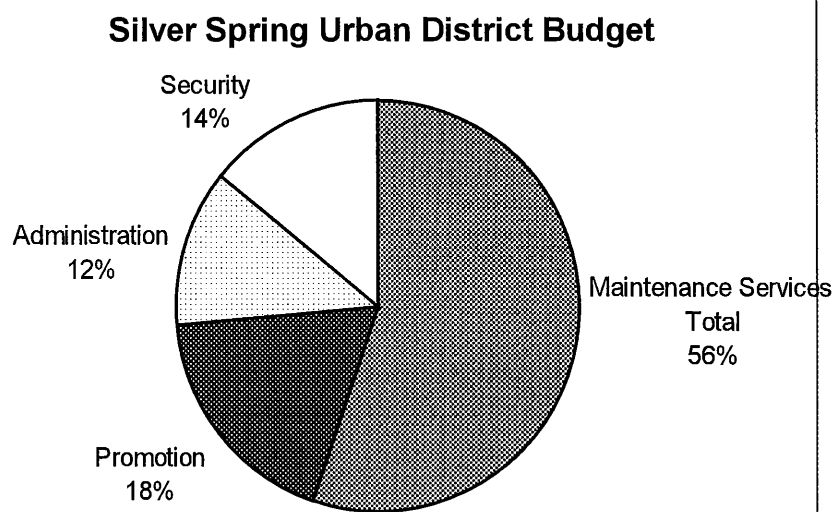
Notwithstanding significant investment from both the public and private sector, downtown Silver Spring is in a state of decline as reflected in the underutilization of parking spaces (less than half of the spaces in the parking district are full), a loss of sales and market share and a decline in the assessed value and tax base.

1. THE BUDGET OF THE SILVER SPRING URBAN DISTRICT

The FY 97 approved budget of the Silver Spring urban district is almost $1.4 million. Exhibit 5 shows the expenditures in the approved FY 97 budget by program category. Administration includes maintenance inspections, contract management, managing the promotions program plus staff time to support meetings of the Urban District Advisory Board.

EXHIBIT 5: FY 97 APPROVED BUDGET FOR THE SILVER SPRING URBAN DISTRICT

Program Element	Budget	Percent
Administration	169,720	12%
Promotion	250,000	18%
Sidewalk Maintenance	43,100	3%
Tree Maintenance	59,000	4%
Streetscape Maintenance	661,150	48%
Security	195,430	14%
TOTALS	$1,378,400	100%



Source: Approved FY 97 Budget

2. SERVICES PROVIDED BY THE SILVER SPRING URBAN DISTRICT

The Urban District program maintains the streetscape amenities in downtown Silver Spring and provides enhanced security and promotional programs.

- Maintenance services

The streetscape implemented as part of the adopted sector plan calls for special sidewalk treatments, streetlights, trash receptacles and street furniture. The maintenance of the business district funded through the urban district budget includes litter pickup, sidewalk cleaning and emptying trash receptacles.

Services paid for by the urban district that are similar to services funded countywide through the general fund include mowing, street sweeping, sidewalk repair and tree maintenance. In some cases, urban district services are provided more frequently or sooner than similar services provided by the County outside of the urban district. For example,

- In FY 97, funding is provided for 12 mowings compared to 8 to 9 mowings in most urban areas outside the urban district.
- The urban district funds the removal and replacement of concrete walks and curbs in the urban district. While this program is similar to the sidewalk repair program in the general fund; that program has a backlog whereas the urban district program does not.
- There are about 725 trees in the Silver Spring urban district. Funding in the FY 97 urban district budget provides for a one time maintenance of these trees whereas the schedule for tree maintenance outside the urban district results in tree pruning once every eight years. The FY 97 budget includes funds for replacement and maintenance but no new trees.

♦ Security Services

In the past, the urban district had provided partial funding for the salary of one police officer. In FY 97 the urban district pays for police overtime for special events.

♦ Promotional Services and Special Events

The urban district provides business and community promotion activities to bring shoppers to Silver Spring and to position the community as an important shopping, cultural recreational destination in the future. The program includes a mix of marketing materials as well as funding for special events. The urban district provides total or partial funding for activities such as the "dasher" holiday shuttle service, the look us over booklet, the First Night and Ethnic Heritage festivals, banners, summer concerts, and holiday lighting.

3. Urban District Revenues

The FY 97 assessable base for the Silver Spring urban district taxing area is $540 million or 12 percent of the County's commercial assessable base. The current urban district tax rate is 7.5 cents per $100 of assessed value.

The revenue sources for the urban district include the urban district tax, maintenance fees from Optional Method developers, investment income, miscellaneous revenues and contributions from the Parking District. As Exhibit 6 shows, the approved FY 97 revenues include: a $500,000 transfer from the parking district, $402,000 in urban district tax revenues, $86,000 in maintenance fees paid by owners of optional method development properties plus additional investment income and undesignated reserves.

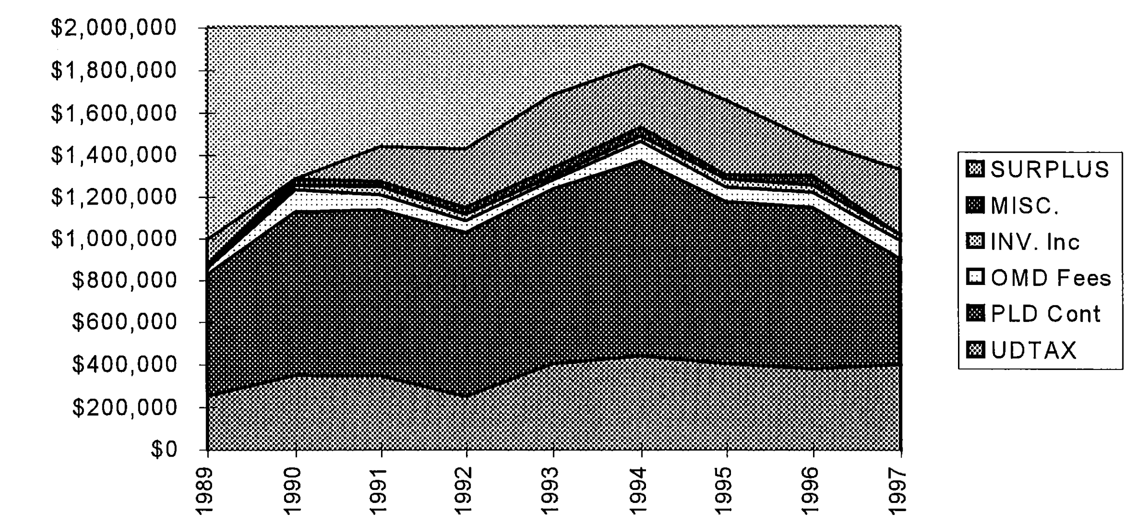
EXHIBIT 6: FY 97 REVENUES FOR THE SILVER SPRING URBAN DISTRICT

Revenue Source	Amount	Share
Urban District Property Tax	402,170	29%
Parking District Transfer	500,000	36%
Optional Method Development Fee	86,420	6%
Investment Income	30,000	2%
Undesignated Reserves	359,810	26%
Total Revenue	$1,378,400	100%

Source: Approved FY 97 Budget

Exhibit 7 shows the pattern of urban district revenue sources from FY 89 through FY 97. As the exhibit shows, from 1989 when the urban district was established through 1996, transfers from the parking district provided more than half of the funding for the urban district services.

EXHIBIT 7: SILVER SPRING URBAN DISTRICT REVENUES FYS 89-97



Source: Comprehensive Annual Financial Report.

4. THE URBAN DISTRICT AND THE PARKING DISTRICT

The Silver Spring parking district was established in the 1940's as a special taxing area at the request of Silver Spring businesses to acquire land and provide public parking facilities. A key mission of the parking district is to support the comprehensive development of the business area and promote its economic growth and stability. The major revenue sources that support the operations of the parking district include: an ad valorem property tax paid by property owners who choose not to provide their own parking, parking fees and parking fines. The current parking district tax rates are 70 cents per $100 of assessed value for improved property and 35 cents per $100 of assessed value for unimproved property. Additional revenue sources include investment income and miscellaneous income.

- The boundaries and membership of the parking and urban districts

The County deliberately established the boundaries of the urban district to substantially match the parking district; however, because participation in the parking district is voluntary, the membership of the urban district is not necessarily equivalent to the membership in the parking district. In Silver Spring the assessable base for the parking district is $437 million or 80 percent of the assessable base for the urban district, suggesting a strong overlap in the membership of the two districts.

- The relationship between the parking district transfer and the district tax rates

The transfer of $500,000 from the parking district to the urban district underwrites urban district services and affects the tax rates in each district. If the transfer from the parking district did not occur, the County would need to increase the urban district tax rate by 9.7 cents (to 17.2 cents) to raise the equivalent amount of revenue. (This would more than double the current urban district tax rate of 7.5 cents.) Alternatively, the $500,000 transfer is equivalent to 12 cents on the parking district tax rate. If this transfer did not occur, in theory, the County could decrease the parking district tax rate by 12 cents from the current rate of 70 cents for improved property and 35 cents for unimproved property.

- The effect of the transfer on the fiscal health of the parking district

Exhibit 8 shows a six year fiscal projection for the Silver Spring parking district prepared by the County. The projections assume: a small increase in the assessable base of the parking district over the six year period; a drop in urban district transfers from $500,000 to $350,000, and increases in operating expenditures at the rate of inflation. The projection also shows an expenditure reduction of $35,000 in FY 99 increasing to $750,000 in FY 2003.

The fiscal projection displays the debt service coverage ratios and the end of year General Purpose Account (GPA) Balance as a percent of the operating expenditures for the next fiscal year. The revenue bond covenants require the parking district to maintain net revenues at 125 percent of debt service or greater. County policy has been to maintain the GPA balance at 25 to 50 percent of the next year's fiscal operating expenditures.

The fiscal projections show that the debt service coverage ratio is 131 percent in FY 97 and will increase to 142 percent by FY 2003, even with the assumed operating expenditure reductions. The projections also show the end of year GPA balance at 60 percent in FY 97 dropping to 10 percent in FY 2003. The change in both of these ratios over the six year period suggests that the Silver Spring Parking district will not be able to sustain contributions to the urban district over the next six years.

SILVER SPRING PARKING LOT DISTRICT FISCAL PROJECTIONS FY 97-03

FY97-03 FISCAL PROJECTIONS	SILVER SPRING PARKING DISTRICT FUND							
FISCAL PROJECTIONS	FY97 ESTIMATE	FY98 PROJECTION	FY99 PROJECTION	FY2000 PROJECTION	FY2001 PROJECTION	FY2002 PROJECTION	FY2003 PROJECTION	FY98 to 03 CHANGE
ASSUMPTIONS								
Property Tax Rate - Improved	$ 0.70	$ 0.70	$ 0.70	$ 0.70	$ 0.70	$ 0.70	$ 0.70	0.0%
Property Tax Rate - Unimproved	$ 0.35	$ 0.35	$ 0.35	$ 0.35	$ 0.35	$ 0.35	$ 0.35	0.0%
Assessable Base - Improved	$ 413,000,000	$ 416,600,000	$ 420,800,000	$ 426,200,000	$ 431,500,000	$ 437,100,000	$ 442,800,000	6.3%
Assessable Base - Unimproved	$ 11,000,000	$ 11,300,000	$ 11,500,000	$ 11,700,000	$ 11,900,000	$ 12,100,000	$ 12,300,000	8.8%
CPI (Fiscal Year)	n/a	2.90%	3.10%	3.20%	3.30%	3.40%	3.50%	20.7%
TOTAL: BEGINNING CASH BAL. GPA	5,198,108	3,143,591	2,294,947	1,406,220	983,419	859,163	751,289	-76.1%
TOTAL: BEGINNING CASH BAL. RESTRICTED [1]	2,736,292	2,608,147	2,623,699	2,625,904	2,583,537	2,581,685	2,591,731	-0.6%
TOTAL: BEGINNING CASH BALANCE	**7,934,400**	**5,751,740**	**4,918,650**	**4,032,130**	**3,566,960**	**3,440,850**	**3,343,020**	**-41.9%**
REVENUES								
Property Taxes	2,908,990	2,935,060	2,964,950	3,003,180	3,040,710	3,080,340	3,120,650	6.3%
Parking Fees	4,052,000	4,052,000	4,052,000	4,052,000	4,052,000	4,052,000	4,052,000	0.0%
Parking Fines	1,200,000	1,317,000	1,330,170	1,343,470	1,356,900	1,370,470	1,384,170	5.1%
Miscellaneous	436,400	366,500	357,400	317,500	310,700	305,000	293,600	-19.9%
Subtotal Revenues	**8,597,390**	**8,670,560**	**8,704,520**	**8,716,150**	**8,760,310**	**8,807,810**	**8,850,420**	**2.1%**
INTERFUND TRANSFERS (NET/Non-CIP)								
Garage 5/55 Net Revenues to Mass Transit	(48,000)	(48,000)	(48,000)	(48,000)	(48,000)	(48,000)	(48,000)	0.0%
Indirect Cost Transfer	(154,350)	(170,220)	(175,500)	(181,110)	(187,090)	(193,450)	(200,220)	17.6%
Total Urban District	(500,000)	(350,000)	(350,000)	(350,000)	(350,000)	(350,000)	(350,000)	0.0%
TOTAL INTERFUND TRANSFERS	**(702,350)**	**(568,220)**	**(573,500)**	**(579,110)**	**(585,090)**	**(591,450)**	**(598,220)**	**5.3%**
TOTAL RESOURCES	**15,829,440**	**13,854,080**	**13,049,670**	**12,169,170**	**11,742,180**	**11,657,210**	**11,595,220**	**-16.3%**
CIP CURRENT REVENUE EXPENDITURES	**(2,314,000)**	**(1,023,000)**	**(1,006,200)**	**(580,000)**	**(576,500)**	**(609,500)**	**(606,300)**	**-40.7%**
APPROPRIATIONS/EXPENDITURES								
Operating Budget	(5,071,780)	(5,233,330)	(5,356,040)	(5,486,630)	(5,625,610)	(5,773,530)	(5,930,980)	13.3%
Expenditure Reductions	0	0	35,000	150,000	500,000	650,000	750,000	N/A
Debt Service: GO Bonds	(253,200)	(239,600)	(226,000)	(213,000)	(121,000)	(114,000)	(107,000)	-55.3%
Debt Service: Revenue Bonds	(2,438,722)	(2,439,500)	(2,464,300)	(2,472,580)	(2,478,220)	(2,467,160)	(2,479,810)	1.7%
Subtotal Appropriations	**(7,763,702)**	**(7,912,430)**	**(8,011,340)**	**(8,022,210)**	**(7,724,830)**	**(7,704,690)**	**(7,767,790)**	**-1.8%**
TOTAL USE OF RESOURCES	**(10,077,702)**	**(8,935,430)**	**(9,017,540)**	**(8,602,210)**	**(8,301,330)**	**(8,314,190)**	**(8,374,090)**	**-6.3%**
TOTAL: ENDING CASH BAL. GPA	**3,143,591**	**2,294,947**	**1,406,220**	**983,419**	**859,163**	**751,289**	**592,702**	-74.2%
TOTAL: ENDING CASH BAL. RESTRICTED	**2,608,147**	**2,623,699**	**2,625,904**	**2,583,537**	**2,581,685**	**2,591,731**	**2,628,430**	0.2%
TOTAL: ENDING CASH BALANCE	**5,751,738**	**4,918,650**	**4,032,130**	**3,566,960**	**3,440,850**	**3,343,020**	**3,221,130**	**-34.5%**
DEBT SERVICE COVERAGE RATIO [2]	**131%**	**128%**	**126%**	**126%**	**140%**	**143%**	**142%**	**10.6%**
END-OF-YEAR GPA AS A % OF NEXT FY OPERATING EXPENDITURES [3]	**60.1%**	**42.8%**	**25.6%**	**17.5%**	**14.9%**	**12.7%**	**10.0%**	**N/A**

THIS SCENARIO DOES NOT REPRESENT THE EXECUTIVE'S RECOMMENDED FY98 OPERATING BUDGET AND SIX YEAR PUBLIC SERVICE PROGRAM FOR THE PARKING DISTRICT. IT IS MERELY ONE SCENARIO WHICH DEPICTS WHAT THE PARKING DISTRICT FUND WOULD LOOK LIKE UNDER CERTAIN ASSUMPTIONS.

NOTES:

1: **Revenue Bond Covenants require the Parking District to maintain a reserve accounts at specified levels.**

2. **Revenue Bond Covenants require the Parking District to maintain net revenues at least at 125 percent of debt service. Net revenues = Current Revenues less Current Expenses.**

3. **The policy has been to maintain the GPA Balance at 25 to 50 percent of the next fiscal year's operating expenditures.**

The scenario above shows that, under the expenditure and revenue assumptions above, it would be necessary to begin making significant reductions in the costs of the Silver Spring Parking Program in FY99 and make additional expenditure reductions in FY2000 through FY2003.

Source: Montgomery County Office of Management and Budget, March 1997.

B. BETHESDA

The Bethesda CBD is located in the southwestern portion of Montgomery County at the intersection of three state highways: Wisconsin Avenue, East West Highway and Old Georgetown Road. The CBD comprises approximately 54 blocks (153 acres) and approximately 35,000 people work in downtown Bethesda daily.

The land use profile includes 6 million square feet of office space, 2 million square feet of retail uses, 1.3 million square feet of other uses, 5,200 apartments and 450 single family homes. An additional 1 million square feet of office space and 300,000 square feet of retail space is expected to be built in the next ten years. Approximately 3 million square feet of office space has been constructed since the redevelopment of downtown began ten years ago.

The retail shops in downtown Bethesda offer an eclectic mix of goods and services. Major retail categories include restaurants, home furnishings, women's apparel, electronics and gifts, auto services, professional services and neighborhood retail. Retail shops and are concentrated in the Woodmont Triangle, and along Arlington Road and Bethesda Avenue.

The redevelopment of downtown Bethesda has been accompanied by a public investment of more than $65 million in numerous public projects including parking facilities, road improvements and an extensive streetscaping program. Nearly 75 percent of the parking spaces in Bethesda are privately owned and operated. The Bethesda parking district provides 6,200 parking spaces in the CBD.

Future public investment will be guided by the Sector Plan approved by the Council. In part, the Plan recommends extending the Metro Core streetscape system along Wisconsin Avenue and Old Georgetown Road and installing underground utilities in targeted high priority areas. The plan states that the implementation should be staged and that private sector participation should be incorporated at the time of development. Implementing the streetscaping in part is carried out by extending the requirement for streetscape improvements to include standard method development projects.

1. THE FY 97 BUDGET FOR THE BETHESDA URBAN DISTRICT

The approved FY 97 budget for the Bethesda urban district is $1.4 million. Exhibit 9 shows the approved funding levels by program category. The services funded by the Bethesda urban district include streetscape maintenance, tree maintenance and business and community promotion activities.

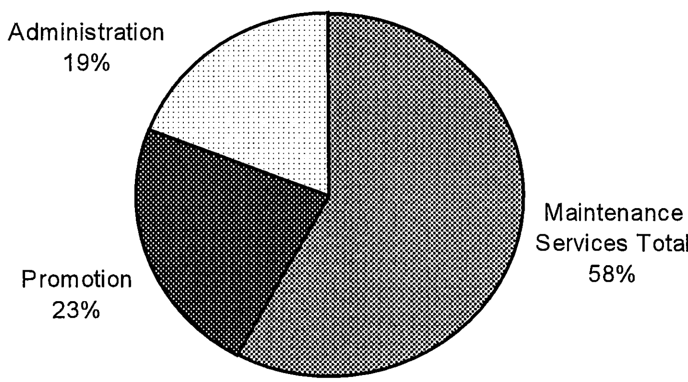
♦ Maintenance

The streetscape amenities in Bethesda include brick sidewalks, teak benches, metal trash cans and park furniture. Since taking over the management of services in the urban

EXHIBIT 9: BETHESDA URBAN DISTRICT FY 97 APPROVED BUDGET

Program Element	Budget	Percent
Administration	268,690	19%
Promotion	326,430	24%
Sidewalk Maintenance	50,000	4%
Tree Maintenance	78,000	6%
Streetscape Maintenance	713,600	48%
TOTAL	$1,436,720	100%

Bethesda Urban District Budget



Source: Approved FY 97 Budget

2. SERVICES PROVIDED IN THE BETHESDA URBAN DISTRICT

district, BUP has reconditioned the trash cans, implemented a biannual bench cleaning program, installed an additional 132 streetscape planters, and increased the number of flowers planted annually from 1,300 to 39,000.

The streetscape maintenance budget funds both basic and enhanced services. The enhanced services include daily litter pickups; emptying trash cans; cleaning the brick sidewalks and maintenance of the special landscape areas. Services comparable to those funded countywide in the general fund include street sweeping and street light maintenance.

The approved FY 97 funding level provides for litter pickup 5-6 times a week, emptying trash cans 4 days a week, streetsweeping of the main streets 3 times a week and the side streets once a week, and pressure washing the sidewalks twice a year.

The Partnership has planted 180 additional trees in the CBD since 1994 and increased the maintenance schedule from one to two times per year. The FY 97 funding level maintains this level of service.

- Promotions

The Bethesda Urban Partnership's promotion program includes a wide variety of publications and special events to promote businesses and serve Bethesda's residential communities. Some of the promotional activities programmed by the Partnership include the Taste of Bethesda, the Calendar of Events, walking art tours, 4th of July Fireworks, summer lunchtime concerts, and publication of the Bethesda guide to dining, shopping, cultural arts and services.

3. URBAN DISTRICT REVENUES

The FY 97 assessable base for the urban district is $685 million or roughly 15 percent of the commercial base for the County. The current urban district tax rate is 4 cents per $100 of assessed value.

The revenue sources for the urban district include the urban district tax, maintenance fees from optional method developers, investment income, miscellaneous revenues and contributions from the parking district. The approved FY 97 budget, (Exhibit 10) shows $400,000 in urban district revenues and a $1.1 million transfer from the parking district.

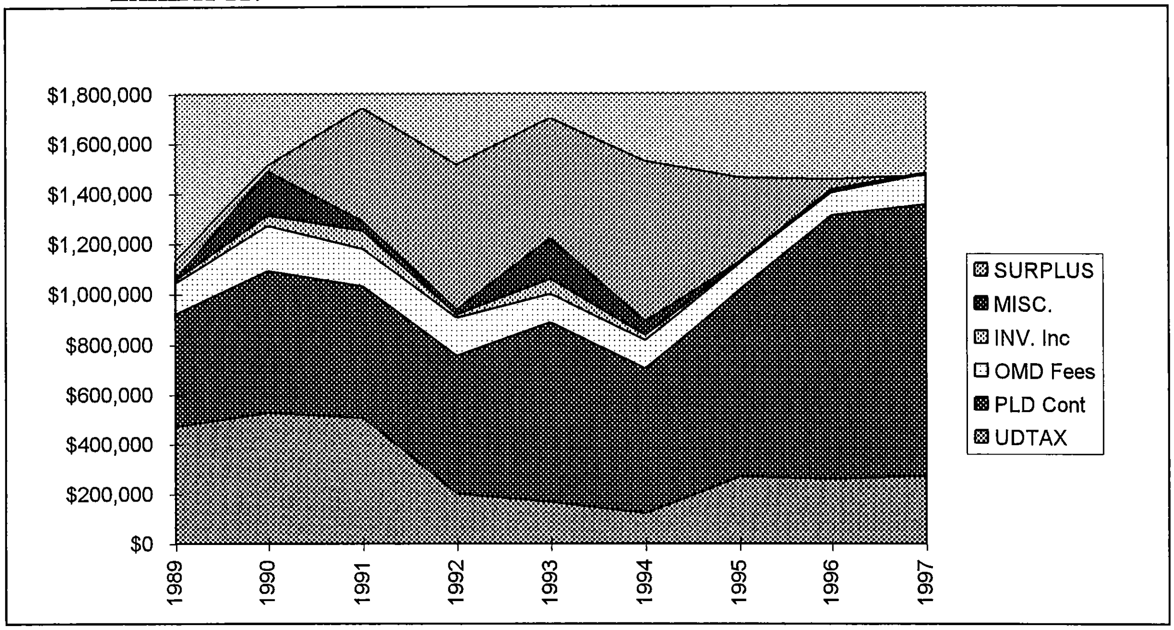
Exhibit 10 shows the pattern of urban district revenue sources from FY 89 through FY 97. Exhibit 11 shows that contributions from the urban district tax and parking district transfers were roughly equivalent when the urban district was established; however, over time, the urban district tax contributions have dropped while the share of funding from the parking district has increased.

EXHIBIT 10: FY 97 REVENUES FOR THE BETHESDA URBAN DISTRICT

Revenue Source	Amount	Share
Urban District Property Tax	272,080	18%
Parking District Transfer	1,081,030	73%
Optional Method Development Fee	122,400	8%
Investment Income	6,000	1%
Undesignated Reserves	0	0%
Total Revenue	$1,481,510	100%

Source: FY97 Approved Budget

EXHIBIT 11: BETHESDA URBAN DISTRICT REVENUES FYS 89-97



Source: Comprehensive Annual Financial Reports.

4. THE URBAN DISTRICT AND THE PARKING DISTRICT

The Bethesda parking district was established in the 1940's as a special taxing area at the request of businesses in Bethesda. The parking district, which is managed by the County, acquires land and provides public parking facilities. A key mission of the parking district is to support the comprehensive development of the business area and promote its economic growth and stability. The major revenue sources that support the operations of the parking district include: an ad valorem property tax paid by property owners who choose not to provide their own parking, parking fees and parking fines. The current parking district tax rates are 70 cents per $100 of assessed value for improved property and 35 cents per $100 of assessed value for unimproved property. Additional revenue sources include investment income and miscellaneous income.

♦ The boundaries and membership of the parking and urban districts

Like downtown Silver Spring, the County deliberately established the boundaries of the urban district in Bethesda to substantially match the parking district. Unlike Silver Spring, there is less participation in the parking district in Bethesda and there is a discrepancy in the memberships of the urban district and the parking district. Many of the older buildings in Bethesda belong to the parking district and pay the parking district tax whereas buildings developed more recently have provided their own parking. This produces a notable difference in the assessable bases for each district. In Bethesda, the assessable base for the parking district is $412 million or 60 percent of the assessable base for the urban district.

- The relationship between the parking district transfer and the district tax rates

The transfer of almost $1 million in FY 97 from the parking district to the urban district underwrites urban district services and affects the tax rates in each district. If the transfer from the parking district did not occur, the County would need to increase urban district tax rate by 16 cents (to 20 cents) to raise the equivalent amount of revenue. (This would quadruple the current urban district tax rate of 4 cents.) Alternatively, the $1 million transfer is equivalent to 27 cents on the parking district tax rate. If this transfer did not occur, in theory, the County could decrease the parking district tax rate by 27 cents from the current rate of 70 cents for improved property and 35 cents for unimproved property.

- The effect of the transfer on the fiscal health of the parking district

Exhibit 12 shows a six year fiscal projection for the Bethesda parking district prepared by the County. The projections assume: a small increase in the assessable base of the parking district over the six year period; an increase in urban district transfers from $1 million to $1.3 million in FY 2003, and increases in operating expenditures at the rate of inflation.

The fiscal projection displays the debt service coverage ratios and the end of year General Purpose Account (GPA) Balance as a percent of the operating expenditures for the next fiscal year. The revenue bond covenants require the parking district to maintain net revenues at 125 percent of debt service or greater. County policy has been to maintain the GPA balance at 25 to 50 percent of the next year's fiscal operating expenditures.

The fiscal projections show that the debt service coverage ratio is 155 percent in FY 97 and will increase to 178 percent by FY 2003. The projections also show the end of year GPA balance at 281 percent in FY 97 dropping to 78 percent in FY 2003. Although the change in both of these ratios over the six year period suggests that the Bethesda parking district would remain in compliance with the bond covenants and County fiscal policy, the projections do not assume any new capital projects. As stated in the notes, the Department of Public Works and Transportation is currently discussing two new projects with the community. Inclusion of these projects would alter the fiscal projections and could affect the amount of money the parking district could transfer to the urban district.

EXHIBIT 12

BETHESDA PARKING LOT DISTRICT FISCAL PROJECTION FY 97-03

FY97-03 FISCAL PROJECTIONS — BETHESDA PARKING DISTRICT FUND

FISCAL PROJECTIONS	FY97 ESTIMATE	FY98 PROJECTION	FY99 PROJECTION	FY2000 PROJECTION	FY2001 PROJECTION	FY2002 PROJECTION	FY2003 PROJECTION	FY98 to 03 CHANGE
ASSUMPTIONS								
Property Tax Rate - Improved	$ 0.70	$ 0.70	$ 0.70	$ 0.70	$ 0.70	$ 0.70	$ 0.70	0.0%
Property Tax Rate - Unimproved	$ 0.35	$ 0.35	$ 0.35	$ 0.35	$ 0.35	$ 0.35	$ 0.35	0.0%
Assessable Base - Improved	$ 365,800,000	$ 367,000,000	$ 368,800,000	$ 371,700,000	$ 374,400,000	$ 377,300,000	$ 380,300,000	3.6%
Assessable Base - Unimproved	$ 36,500,000	$ 36,400,000	$ 36,700,000	$ 37,100,000	$ 37,500,000	$ 37,900,000	$ 38,400,000	5.5%
CPI (Fiscal Year)	n/a	2.90%	3.10%	3.20%	3.30%	3.40%	3.50%	20.7%
TOTAL: BEGINNING CASH BAL. GPA	14,753,831	9,472,530	6,471,950	5,007,960	4,518,610	4,178,270	3,687,270	-61.1%
TOTAL: BEGINNING CASH BAL. RESTRICTED [1]	2,299,053	2,395,390	2,394,150	2,409,110	2,410,300	2,431,500	2,453,060	2.4%
TOTAL: BEGINNING CASH BALANCE	**17,052,880**	**11,867,920**	**8,866,090**	**7,276,080**	**6,641,659**	**6,171,837**	**5,546,114**	**-53.3%**
REVENUES								
Property Taxes	2,669,530	2,677,530	2,691,080	2,712,630	2,732,790	2,754,330	2,776,920	3.7%
Parking Fees	3,739,000	4,169,310	4,280,340	4,342,290	4,405,160	4,468,980	4,533,760	8.7%
Parking Fines	1,300,000	1,538,760	1,554,150	1,569,690	1,585,380	1,601,240	1,617,250	5.1%
Miscellaneous	854,400	645,100	589,100	527,400	519,900	497,200	469,800	-27.2%
Subtotal Revenues	**8,562,930**	**9,030,700**	**9,114,670**	**9,152,010**	**9,243,230**	**9,321,750**	**9,397,730**	**4.1%**
INTERFUND TRANSFERS (NET/Non-CIP)								
Indirect Cost Transfer	(124,360)	(137,160)	(141,410)	(145,930)	(150,750)	(155,870)	(161,330)	17.6%
Mass Transit Fine Surcharge	(642,000)	(783,880)	(791,720)	(799,640)	(807,640)	(815,720)	(823,880)	5.1%
Management of Alternative Transportation	(219,410)	(225,770)	(232,770)	(240,220)	(248,150)	(256,590)	(265,570)	17.6%
Bethesda Urban District	(1,081,030)	(1,112,380)	(1,146,860)	(1,183,560)	(1,222,620)	(1,264,190)	(1,308,440)	17.6%
TOTAL: INTERFUND TRANSFERS (NET/Non-CIP)	**(2,066,800)**	**(2,259,190)**	**(2,312,760)**	**(2,369,350)**	**(2,429,160)**	**(2,492,370)**	**(2,559,220)**	13.3%
TOTAL RESOURCES	**23,549,010**	**18,639,430**	**15,668,000**	**14,058,740**	**13,455,729**	**13,001,217**	**12,384,624**	**-33.6%**
CIP CURRENT REVENUE EXPENDITURES	**(5,066,000)**	**(3,076,080)**	**(1,575,040)**	**(533,000)**	**(505,000)**	**(549,000)**	**(493,000)**	**-84.0%**
APPROPRIATIONS/EXPENDITURES								
Operating Budget	(3,275,030)	(3,370,000)	(3,509,790)	(3,622,091)	(3,741,622)	(3,868,833)	(4,004,254)	18.8%
Expenditure Reductions	0	0	0	0	0	0	0	N/A
Debt Service: GO Bonds	(643,470)	(609,050)	(574,750)	(521,880)	(302,500)	(302,500)	(267,500)	-56.1%
Debt Service: Revenue Bonds	(2,696,590)	(2,718,210)	(2,732,340)	(2,740,110)	(2,734,770)	(2,734,770)	(2,757,590)	1.4%
Subtotal Appropriations	**(6,615,090)**	**(6,697,260)**	**(6,816,880)**	**(6,884,081)**	**(6,778,892)**	**(6,906,103)**	**(7,029,344)**	**5.0%**
TOTAL USE OF RESOURCES	**(11,681,090)**	**(9,773,340)**	**(8,391,920)**	**(7,417,081)**	**(7,283,892)**	**(7,455,103)**	**(7,522,344)**	**-23.0%**
TOTAL: ENDING CASH BAL. GPA	**9,472,530**	**6,471,950**	**5,007,960**	**4,518,610**	**4,178,270**	**3,687,270**	**3,136,100**	-51.5%
TOTAL: ENDING CASH BAL. RESTRICTED	**2,395,390**	**2,394,150**	**2,409,110**	**2,410,300**	**2,431,500**	**2,453,060**	**2,481,420**	3.6%
TOTAL: ENDING CASH BALANCE	**11,867,920**	**8,866,090**	**7,276,080**	**6,641,659**	**6,171,837**	**5,546,114**	**4,862,280**	**-45.2%**
DEBT SERVICE COVERAGE RATIO [2]	**155%**	**166%**	**169%**	**170%**	**181%**	**180%**	**178%**	**7.4%**
END-OF-YEAR GPA AS A % OF NEXT FY OPERATING EXPENDITURES [3]	**281.1%**	**184.4%**	**138.3%**	**120.8%**	**108.0%**	**92.1%**	**78.3%**	**N/A**

THIS SCENARIO DOES NOT REPRESENT THE EXECUTIVE'S RECOMMENDED FY98 OPERATING BUDGET AND SIX YEAR PUBLIC SERVICE PROGRAM FOR THE PARKING DISTRICT. IT IS MERELY ONE SCENARIO WHICH DEPICTS WHAT THE PARKING DISTRICT FUND WOULD LOOK LIKE UNDER CERTAIN ASSUMPTIONS.

NOTES:

1: Revenue Bond Covenants require the Parking District to maintain a reserve accounts at specified levels.

2. Revenue Bond Covenants require the Parking District to maintain net revenues at least at 125 percent of debt service. Net revenues = Current Revenues less Current Expenses.

3. The policy has been to maintain the GPA Balance at 25 to 50 percent of the next fiscal year's operating expenditures.

The scenario above shows that, under the stated revenue and expenditure assumptions, the Bethesda Parking District would remain in compliance with the Bond Covenant requirements while increasing expenditures at the projected CPI. The scenario however does not indicate the capacity of the fund to finance new capital projects with either cash reserves or through additional debt financing. The staff of the Department of Public Works and Transportation are currently discussing two potential major captial projects with the local community.

Source: Montgomery County Office of Management and Budget, March 1997.

C. WHEATON

Located at the crossroads of Georgia Avenue, University Boulevard and Viers Mill Road, the Wheaton CBD is the smallest of the three urban districts. The Wheaton CBD has 17 blocks (68 acres). In addition to Wheaton Plaza, there are approximately 500,000 square feet of office space, 440,000 square feet of retail uses, 512,000 square feet of other uses, 930 apartments and 860 single family homes. Almost 9,000 people work in Wheaton.

Unlike downtown Bethesda and Silver Spring, which redeveloped into major mixed use employment centers in the eighties, Wheaton has maintained its role as a diverse and vibrant regional retail center. Wheaton Marketplace is home to over 400 small shops and service businesses, many of whom have been in business since the end of World War II. Wheaton Plaza, the sixth largest mall in the country when it was built in 1954, today has 1 million square feet and 120 stores. Four major office buildings are located throughout the downtown area.

In 1990, the County adopted an amendment to the Wheaton CBD Sector Plan to implement a retail overlay zone designed to preserve the existing scale of development and retail nature of the Wheaton Marketplace. The Plan also provided urban design guidelines that reflected the work of the Wheaton Revitalization Strategy Committee and other informal working groups in the CBD which had been in place since 1982.

Public investment in downtown Wheaton includes construction of the Metro station, implementation of the streetscape plan, and a recently initiated project to refurbish the parking lot and make other improvements to the Marketplace area. The Wheaton parking district manages 1,470 public parking spaces or 25 percent of all the parking spaces downtown.

1. THE FY 97 BUDGET FOR THE WHEATON URBAN DISTRICT

The approved FY 97 budget for the Wheaton urban district is $388,000. Exhibit 13 shows the allocation of this budget by program area. Maintenance services comprise 44 percent of all expenditures followed by promotions at 34 percent and administration at 22 percent.

2. SERVICES PROVIDED IN THE WHEATON URBAN DISTRICT

The urban district provides streetscape maintenance, tree maintenance and promotional activities and funds a combination of basic and enhanced services.

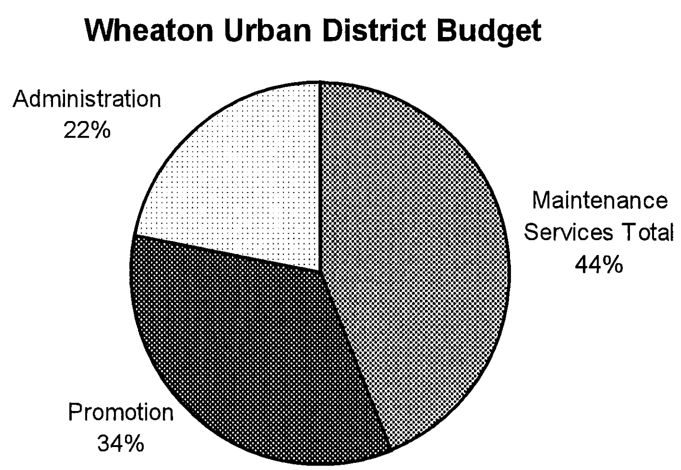
- Maintenance

The enhanced services in the streetscape maintenance budget include daily litter pickups, emptying trash cans, cleaning the brick sidewalks and maintenance of the special landscape areas. The approved FY 97 funding level provides for litter pickup, emptying trash receptacles, streetsweeping of the main streets and the side streets and pressure washing the sidewalks twice a year.

The basic services that are funded out of the general fund for other places in the county include street light maintenance, street sweeping and curb and gutter repair. Like Silver Spring and Bethesda, the frequency for some of these services is higher in Wheaton than it is for similar services provided elsewhere in the county. The urban district maintains 242 street trees in the CBD. The FY 97 funding provides for one pruning per year and some tree replacement.

EXHIBIT 13: WHEATON URBAN DISTRICT APPROVED FY 97 BUDGET

Program Element	Budget	Share
Administration	84,850	22%
Promotion	133,250	34%
Sidewalk Maintenance	18,480	5%
Tree Maintenance	20,000	5%
Streetscape Maintenance	131,750	34%
TOTALS	$388,330.00	100.00%



Source: FY 97 Approved Budget

- Promotions

The promotion program includes a wide variety of publications and special events to promote businesses and serve Wheaton's residential communities. The promotional activities funded in the FY 97 budget include fireworks, the Taste of Wheaton, a Sock Hop and publication of a community guide.

3. URBAN DISTRICT REVENUES

The FY 97 assessable base for the Wheaton urban district taxing area is $151 million or roughly 3 percent of the commercial base for the County. The current urban district tax rate is 5 cents per $100 of assessed value.

Revenue sources for the urban district include an urban district tax, revenues transferred from the Parking district plus investment and surplus income from the urban district fund. In FY 97, the district will receive $82,000 in urban district revenues (taxes and investment income) and a transfer of $256,000 from the parking district.

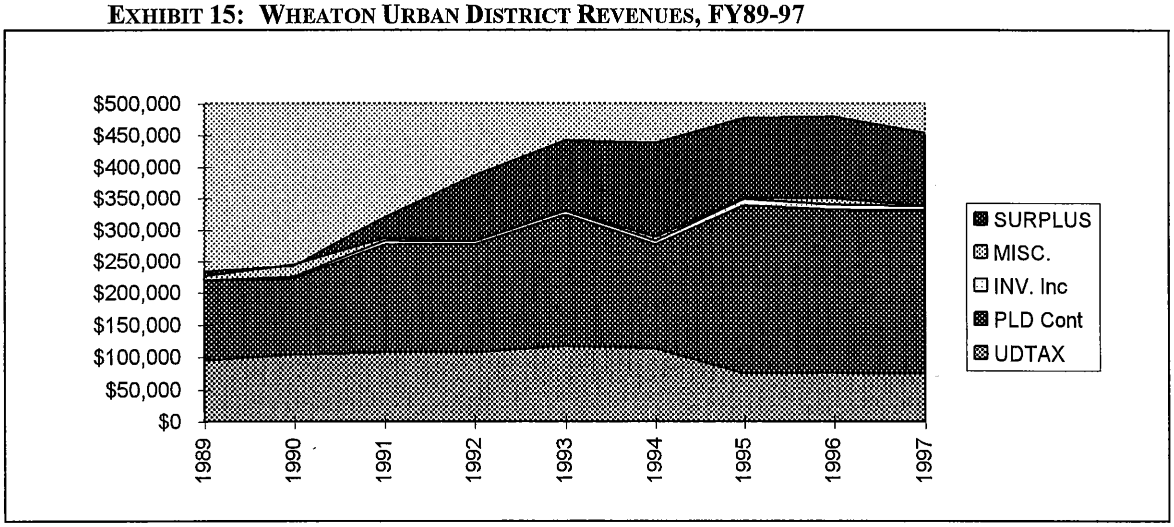
EXHIBIT 14: REVENUES FOR THE WHEATON URBAN DISTRICT

Revenue Source	Amount	Share
Urban District Property Tax	74,800	19%
Parking District Transfer	256,000	66%
Investment Income	7,000	2%
Undesignated Reserves	50,530	13%
Total Revenue	$388,330	100%

Source: FY 97 Approved Budget

Exhibit 15 shows the revenue contributions to the urban district from 1989 through 1997 and demonstrates how the revenue share from the parking district has increased over time.

EXHIBIT 15: WHEATON URBAN DISTRICT REVENUES, FY89-97



Source: Comprehensive Annual Financial Reports

4. THE URBAN DISTRICT AND THE PARKING DISTRICT

The Wheaton parking district was established in the 1940's as a special taxing area at the request of businesses in Wheaton. The parking district, which is managed by the County, acquires land and provides public parking facilities. A key mission of the parking district is to support the comprehensive development of the business area and promote its economic growth and stability. The major revenue sources that support the operations of the parking district include: an ad valorem property tax paid by property owners who choose not to provide their own parking, parking fees and parking fines. The current parking district tax rates are 60 cents per $100 of assessed value for improved property and 30 cents per $100 of assessed value for unimproved property. Additional revenue sources include investment income and miscellaneous income.

- The boundaries and membership of the parking and urban districts

Wheaton, like downtown Silver Spring and downtown Bethesda, has two special taxing areas: the urban district and the parking district. Wheaton Plaza is included in the urban district but does not participate in the parking district. The FY 97 assessable base for the parking district is $56 million which is 37 percent of the assessable base for the urban district.

- The relationship between the parking district transfer and the district tax rates

The transfer of $256,000 in FY 97 from the parking district to the urban district underwrites urban district services and affects the tax rates in each district. If the transfer from the parking district did not occur, the County would need to increase the urban district tax rate by 17 cents (to 22 cents) to raise the equivalent amount of revenue. (This would more than quadruple the current urban district tax rate of 5 cents.) Alternatively, the $256,000 transfer is equivalent to 47 cents on the parking district tax rate. If this transfer did not occur, in theory, the County could decrease the parking district tax rate by 47 cents from the current rate of 60 cents for improved property and 30 cents for unimproved property.

- The effect of the transfer on the fiscal health of the parking district

Exhibit 16 shows a six year fiscal projection for the Wheaton parking district prepared by the County. The projection assumes: a 10 to 13 percent increase in the assessable base of the parking district over the six year period; increases in urban district transfers from $256,000 in FY 97 to between $345,000 to $510,000, and increases in operating expenditures at the rate of inflation.

The fiscal projection displays the end of year General Purpose Account (GPA) Balance as a percent of the operating expenditures for the next fiscal year. County policy has been to maintain the GPA balance at 25 to 50 percent of the next year's fiscal operating expenditures.

The Wheaton parking district is in sound fiscal condition and will remain so over the six year period. The fiscal projections show the end of year GPA balance at 1,279 percent in FY 97 dropping to 952 percent in FY 2003. The parking district could continue to make transfers to the urban district with no negative effects on the fiscal health of the parking district.

EXHIBIT 16

WHEATON PARKING LOT DISTRICT FISCAL PROJECTIONS FY 97-03

FY97-03 FISCAL PROJECTIONS	WHEATON PARKING DISTRICT FUND							
FISCAL PROJECTIONS	FY97 ESTIMATE	FY98 PROJECTION	FY99 PROJECTION	FY2000 PROJECTION	FY2001 PROJECTION	FY2002 PROJECTION	FY2003 PROJECTION	FY98 to 03 CHANGE
ASSUMPTIONS								
Property Tax Rate - Improved	$ 0.60	$ 0.60	$ 0.60	$ 0.60	$ 0.60	$ 0.60	$ 0.60	0.0%
Property Tax Rate - Unimproved	$ 0.30	$ 0.30	$ 0.30	$ 0.30	$ 0.30	$ 0.30	$ 0.30	0.0%
Assessable Base - Improved	$ 51,700,000	$ 52,200,000	$ 53,100,000	$ 54,200,000	$ 55,300,000	$ 56,400,000	$ 57,500,000	10.2%
Assessable Base - Unimproved	$ 3,600,000	$ 3,700,000	$ 3,800,000	$ 3,900,000	$ 4,000,000	$ 4,100,000	$ 4,200,000	13.5%
CPI (Fiscal Year)	n/a	2.90%	3.10%	3.20%	3.30%	3.40%	3.50%	20.7%
TOTAL: BEGINNING CASH BALANCE 1	8,071,550	7,992,790	7,459,430	6,140,080	6,253,159	6,332,277	6,401,304	-19.9%
REVENUES								
Property Taxes	318,750	322,030	327,690	334,540	341,390	348,250	355,100	10.3%
Parking Fees	470,500	435,000	441,530	448,150	454,870	461,690	468,620	7.7%
Parking Fines	280,000	282,800	285,630	288,490	291,370	294,280	297,220	5.1%
Miscellaneous	431,300	427,800	414,400	376,200	400,100	406,500	411,900	-3.7%
Subtotal Revenues	1,500,550	1,467,630	1,469,250	1,447,380	1,487,730	1,510,720	1,532,840	4.4%
INTERFUND TRANSFERS (NET/Non-CIP)								
Indirect Cost Transfer	(26,350)	(28,840)	(29,730)	(30,690)	(31,700)	(32,780)	(33,920)	17.6%
Mass Transit Fine Surcharge	(124,000)	(125,240)	(126,490)	(127,750)	(129,030)	(130,320)	(131,620)	5.1%
Management of Alternative Transportation	(158,080)	(162,660)	(167,700)	(173,070)	(178,780)	(184,860)	(191,330)	17.6%
Wheaton Urban District	(256,000)	(480,000)	(510,000)	(345,000)	(360,000)	(370,000)	(375,000)	-21.9%
TOTAL: INTERFUND TRANSFERS (NET/Non-CIP)	(564,430)	(796,740)	(833,920)	(676,510)	(699,510)	(717,960)	(731,870)	-8.1%
TOTAL RESOURCES	9,007,670	8,663,680	8,094,760	6,930,950	7,041,379	7,125,037	7,202,274	-16.9%
CIP CURRENT REVENUE EXPENDITURES	(416,000)	(588,000)	(1,338,000)	(62,000)	(73,000)	(66,000)	(75,000)	-87.2%
APPROPRIATIONS/EXPENDITURES								
Operating Budget	(598,880)	(616,250)	(596,680)	(615,791)	(636,102)	(657,733)	(680,744)	10.5%
Expenditure Reductions	0	0	0	0	0	0	0	N/A
Debt Service: GO Bonds	0	0	0	0	0	0	0	N/A
Debt Service: Revenue Bonds	0	0	0	0	0	0	0	N/A
Subtotal Appropriations	(598,880)	(616,250)	(596,680)	(615,791)	(636,102)	(657,733)	(680,744)	10.5%
TOTAL USE OF RESOURCES	(1,014,880)	(1,204,250)	(1,934,680)	(677,791)	(709,102)	(723,733)	(755,744)	-37.2%
TOTAL: ENDING CASH BALANCE	7,992,790	7,459,430	6,160,080	6,253,159	6,332,277	6,401,304	6,446,530	-13.6%
END-OF-YEAR GPA AS A % OF NEXT FY OPERATING EXPENDITURES 2	1279.6%	1233.5%	988.4%	975.7%	960.0%	941.9%	952.8%	N/A

THIS SCENARIO DOES NOT REPRESENT THE EXECUTIVE'S RECOMMENDED FY98 OPERATING BUDGET AND SIX YEAR PUBLIC SERVICE PROGRAM FOR THE PARKING DISTRICT.
IT IS MERELY ONE SCENARIO WHICH DEPICTS WHAT THE PARKING DISTRICT FUND WOULD LOOK LIKE UNDER CERTAIN ASSUMPTIONS.

NOTES:

1. The Wheaton Parking District has no outstanding Revenue Bonds.
2. The policy has been to maintain the GPA Balance at 25 to 50 percent of the next fiscal year's operating expenditures.

The scenario above shows that, under the stated revenue and expenditure assumptions, the Wheaton Parking District would be in sound fiscal health while increasing expenditures at the projected CPI. The scenario however does not indicate the capacity of the fund to finance new capital projects with either cash reserves or through additional debt financing, however there are no identified major capital projects in the Wheaton Parking District.

Source: Montgomery County Office of Management and Budget, March 1997.

CHAPTER 3 THE MUNICIPAL AND SPECIAL DISTRICT GOVERNMENT FRAMEWORK FOR SERVICE DELIVERY

INTRODUCTION

Outside of the urban districts, three interrelated administrative and financial frameworks manage and deliver services to businesses and residents.

- The earliest framework consists of the 23 units created by the state between 1860 and 1937 which includes both municipalities and special taxing districts.
- The second framework consists of the special taxing areas and several County government departments serving the unincorporated areas of the County.
- The third framework consists of the more than 600 homeowners associations that manage services in common ownership communities.

This chapter reviews state and County laws to understand the powers, service responsibilities and revenue sources of the governmental units in each of these frameworks. This chapter describes the authority and revenue sources of municipal incorporations and special district governments (special taxing districts). The next chapter describes the administrative and financial framework for common ownership communities and communities in other non-municipal County service areas.

I. THE HISTORY OF LOCAL GOVERNMENTAL UNITS IN MARYLAND

From its earliest beginnings, the system of government in Maryland has centered around the creation and development of two types of local government units: counties and municipalities. Under Maryland law, counties and cities share a common legal status, but historically have had different roles and responsibilities and, for the most part, have served distinct communities.

A. THE ESTABLISHMENT OF COUNTIES, MUNICIPALITIES, SPECIAL TAXIING AREAS AND SPECIAL DISTRICT GOVERNMENTS

In 1637, the colonial Assembly established St. Mary's, the first county in the colony. The Assembly, which was the sole form of general purpose government at that time, established counties to provide for the local administration of certain governmental functions within broad geographic areas. Because the Assembly established county boundaries as large districts, they contained both clustered communities and sparsely settled areas; and, the scope of county services was generally not dependent on the location, density or special needs of the population. Over time, the Assembly allowed the role of counties to increase and they eventually began to serve as election, tax and school districts. Thus, the basic structure of county governments that exists today was entrenched in Maryland before the Assembly recognized the form of municipal government.

In 1683, with the passage of the Town Act, Maryland legislators acknowledged the need for a unit of local government that could provide governmental services requested by existing and emerging communities. Early municipal governments provided those services which area residents felt were necessary but which were not available through other existing offices of government, such as the County offices. These services - which still bear the name "municipal services" most often included:

- the regulation of public conduct and public health,
- the construction and maintenance of public thoroughfares and buildings, and
- the provision of limited fire and police services.

Since the creation of municipal governments was in response to local community needs, the Assembly established municipal corporations in areas where the population was clustered within a small geographic area. Organized cities formed slowly and by the Revolution the colony had several important cities including Baltimore and Annapolis. For the most part, however, the growth of cities in Maryland lagged behind the development of cities in other colonies.

After independence, the General Assembly of the state replaced the colonial Assembly and allowed the system of county governments to continue with little change. In 1867, the adoption process for the Maryland Constitution reflected the state's historic indifference to the growth of municipalities within the state. An early version of the constitution, drafted in 1864, had attempted to elevate the use of municipalities by stating that "the General Assembly shall provide by general law for the dividing of counties into townships or municipal incorporations and confiding to them all powers necessary for the management of their public concerns." However, this provision was deleted from the Constitution that was finally adopted in 1867.

Today, the entire state is divided into: 23 counties and the City of Baltimore, 156 independent municipalities, and a limited number of special taxing areas and special district governments. This collection of governmental units enables the state to establish two sets of service areas for the administration of its programs.

To administer programs with a statewide service area, the state uses one type of general purpose government unit, the 23 counties and Baltimore City, since this system of governmental units provides broad, uninterrupted coverage of the entire state. To deliver the traditional municipal services which are more dependent on the needs of the local population, the state relies on multiple government units, including counties, municipalities, special taxing areas and special district governments. This system of governmental units provides a uniform structure for statewide services but also permits a flexible structure for the delivery of local services.

The number of local governments units which participate in the delivery of municipal services and the responsibilities and relationships among them varies significantly from one county to the next. The fact that there are no municipalities in

Baltimore and Howard Counties has given these county governments responsibilities in municipal service delivery that normally would have rested with municipal governments. In Washington County, where the municipalities are widely scattered with only a few large incorporated areas adjacent to the municipalities, and the remaining area is largely rural, municipalities have the primary responsibility for the delivery of municipal services.

In addition to counties and municipalities, the state has established a limited number of special taxing areas. Some of these special taxing areas were large areas established to fund and deliver a particular functional program or service. In Prince George's and Montgomery County, which combined have almost one-third of the municipalities in the state, the state establishment of special taxing areas such as the Washington Suburban Sanitary district, the Regional district, the Metropolitan district and the suburban district in Montgomery County influenced the development of the municipal role and the scope of municipal services.

In addition to large special taxing areas, the state also established special taxing districts for small areas to provide a few general purpose functions to limited areas. The state established these smaller special taxing districts, with elected boards and the authority to levy taxes. Given the existence of a popularly elected board, today these special taxing districts are classified by the Census Bureau as special district governments. (This report uses the term special district governments or special taxing districts to distinguish them from the larger, dependent special taxing areas.)

B. THE HOME RULE MOVEMENT IN MARYLAND

Courts rigidly enforce the concept that there is no inherent right to local self-government and that for local government to act independently, the state has to affirmatively and clearly grant all local powers. In the late nineteenth and early twentieth century, the home rule movement developed in opposition to the problems created by this concept. Home rule, which connotes a measure of self-rule for local government units, was heralded as the cornerstone of a reform movement.

The home rule movement promoted bringing local government closer to the citizens it affected and freeing the state legislature from local matters so it could concentrate on state-wide issues. Nationally, the enactment of home rule was seen as a savior for cities and towns because it transferred some or all governmental power from the state to the local government unit and shielded local government from interference by the state legislatures.

In Maryland, given the statewide structure of county governments in place at the beginning of the century, home rule was first made available only to county government units. In 1915, Maryland voters ratified Article XI-A, the Home Rule Amendment to the state constitution. This amendment established the procedures that counties and Baltimore City could use to adopt home rule charters. By 1950, however, only Baltimore City and Montgomery County had adopted home rule charters. Given this lack of acceptance, the General Assembly commissioned a report to study methods to improve local government within the state. This commission suggested that the state give home rule to municipalities as well. In 1954, the voters ratified the Municipal Home Rule Amendment. (See the section on municipalities for a discussion of this amendment.)

II. THE AUTHORITY OF LOCAL GOVERNMENTAL UNITS

A. COUNTIES

Article 25A, Section 5, of the Annotated Code of Maryland identifies the express powers of charter counties. In addition to the express powers identified in Article 25A, various articles of the Annotated Code of Maryland assign certain responsibilities to counties such as the funding of an education budget, the establishment and funding of a community college, the establishment of a library system, and the funding of a county board of supervisors of elections, the State's Attorney, the sheriff, a board of license commissioners and certain circuit court support. Article 25A also provides that a county may not enact laws or regulations for incorporated municipalities within its boundaries on matters which municipalities are authorized to regulate for themselves.

B. MUNICIPALITIES

1. MUNICIPAL AUTHORITY BEFORE 1954

Prior to the ratification of the Municipal Home Rule Amendment in 1954, the state was responsible for all aspects related to the governance of municipal corporations in Maryland. The state closely supervised municipalities through municipal charters. The charters laid out in detail specific rules for each municipality including boundaries, organizational structure, voter qualifications, revenue raising powers, specific functional powers of the municipality and even the names of the initial commissioners. Local legislation by the General Assembly was required to incorporate a new municipality, grant a new charter, authorize municipal annexation, establish local offices and undertake additional programs.

Municipal governmental activities were confined to enacting and enforcing local ordinances and to administering local programs permitted within the scope and limitations of existing charter provisions. Changes to a charter could only be made if the General Assembly amended state law.

Between 1860 and 1937, the General Assembly established 13 municipalities in Montgomery County.

EXHIBIT 17: MUNICIPALITIES ESTABLISHED BY THE GENERAL ASSEMBLY

	Year Incorporated	Name	Land Area (Sq. Mi.)	Population (1990)	Number of Households
1	1860	Rockville	11.80	47,019	16,642
2	1867	Poolesville	3.30	4,743	1,431
3	1870	Takoma Park	2.20	11,815	4,950
4	1878	Gaithersburg	9.91	46,757	18,578
5	1888	Barnesville	0.40	177	64
6	1890	Brookeville	0.05	113	43
7	1892	Laytonsville	1.00	280	108
8	1894	Kensington	0.50	1,755	749
9	1898	Garrett Park	0.20	909	346
10	1904	Glen Echo	0.11	242	101
11	1906	Somerset	0.30	1,016	386
12	1914	Chevy Chase Village	0.05	2,134	718
13	1937	Washington Grove	0.30	455	186

Source: Department of Fiscal Services.

2. THE 1954 MUNICIPAL HOME RULE AMENDMENT

In 1954, the state General Assembly and the voters made a number of changes to the state Constitution and state law to restructure the creation and powers of municipal corporations. The enactment of Article XI-E clarified legislative municipal relations by transferring to municipal governments and voters substantial responsibility for their own charters. The Article also established uniform procedures to accomplish the incorporation, annexation and dissolution of municipalities at the local level rather than by the legislature. Specifically, the Article:

- authorizes each municipality to amend its own charter,
- authorizes the General Assembly to enact local laws limiting the property tax rate and amount of debt in a municipality,
- prohibits the General Assembly from enacting special or local legislation for specific municipalities, and
- prohibits any municipality from levying any type of tax, license fee, franchise tax or fee that was not in effect on January 1, 1954 unless so authorized by the General Assembly in a law applicable to all municipalities.

Article 23A of the Annotated Code of Maryland is the basic General Law pertaining to municipalities. Under Maryland state law, municipalities play a limited role in the delivery of many services, particularly those with a statewide service area boundary. For example, municipalities have no legal powers in education and almost no role in providing social and health services. However, under Article 23A, municipalities are empowered to do many things including any of the following:

- to establish and monitor a fire department and police force,
- to provide community and social services,
- to establish parks and recreation facilities,
- to zone land,
- to acquire property and erect and sell buildings,
- to regulate markets and license the sale of marketable commodities,
- to regulate buildings, signs, permits and establish a building code,
- to regulate the inspection of pipes, plumbing , electric wires, lines, drainage and sewer systems,
- to regulate disposal of trash, and
- to grant franchises.

Article 23A does not require a municipality to provide any municipal services. Thus, although the list of municipal powers is extensive, in practice, none of the municipalities exercises all of the express powers available to them or provides all governmental services to their inhabitants.

3. THE INCORPORATION PROCESS

Article 23A, Sections 20 -30, sets forth the procedural requirements for incorporation. To initiate the incorporation process, an area must have a minimum population of 300 residents, a proposed municipal charter, proposed boundaries and a petition signed by either 20 percent of all qualified voters and 25 percent of the property owners or 25 percent of all qualified voters (without a property owner requirement).

The citizens submit the petition to the County Council who validates the number of signatures and makes an initial decision to approve or reject the petition. If the Council approves the petition, it schedules a referendum of the voters of the proposed municipality. If a majority of the voters vote for incorporation, the County Council so certifies and the municipality is established.

If the Council rejects the petition, it must do so by resolution and provide the reasons for rejecting it in writing. The Council must then schedule a public hearing on reconsideration of the petition. After the public hearing, the Council may reaffirm its previous action or grant the petition and schedule a voter referendum.

The role of the county governing body in the incorporation process is significant. The law gives the county government the discretion to schedule a referendum or not and the county government ultimately must give its permission for a municipality to be incorporated. This procedure recognizes a county's vital interest in the physical and governmental development of land within its boundaries.

The law (Article 23A, Section 42) also provides that if the voters elect to terminate their corporate existence, the county council succeeds to full ownership, title and control of all municipal properties and assets and assumes full responsibility for all debts and obligations. In assuming these liabilities, the county must establish a special taxing district with boundaries that are the same as those of the former municipality. The county must levy a tax within this district and use the proceeds to pay off the obligations and debt of the municipality.

4. THE ANNEXATION PROCESS

Article 23A also describes the procedures a municipality must follow to annex land. Exhibit 18 summarizes the steps in the annexation process. Unlike the incorporation decision, annexation procedures are <u>not</u> dependent on approval by a higher level of government. Although only six municipalities have been created since 1954, ongoing annexations by existing municipalities have kept the state's municipal population at 15 percent since 1940.

5. ZONING AND PLANNING POWERS

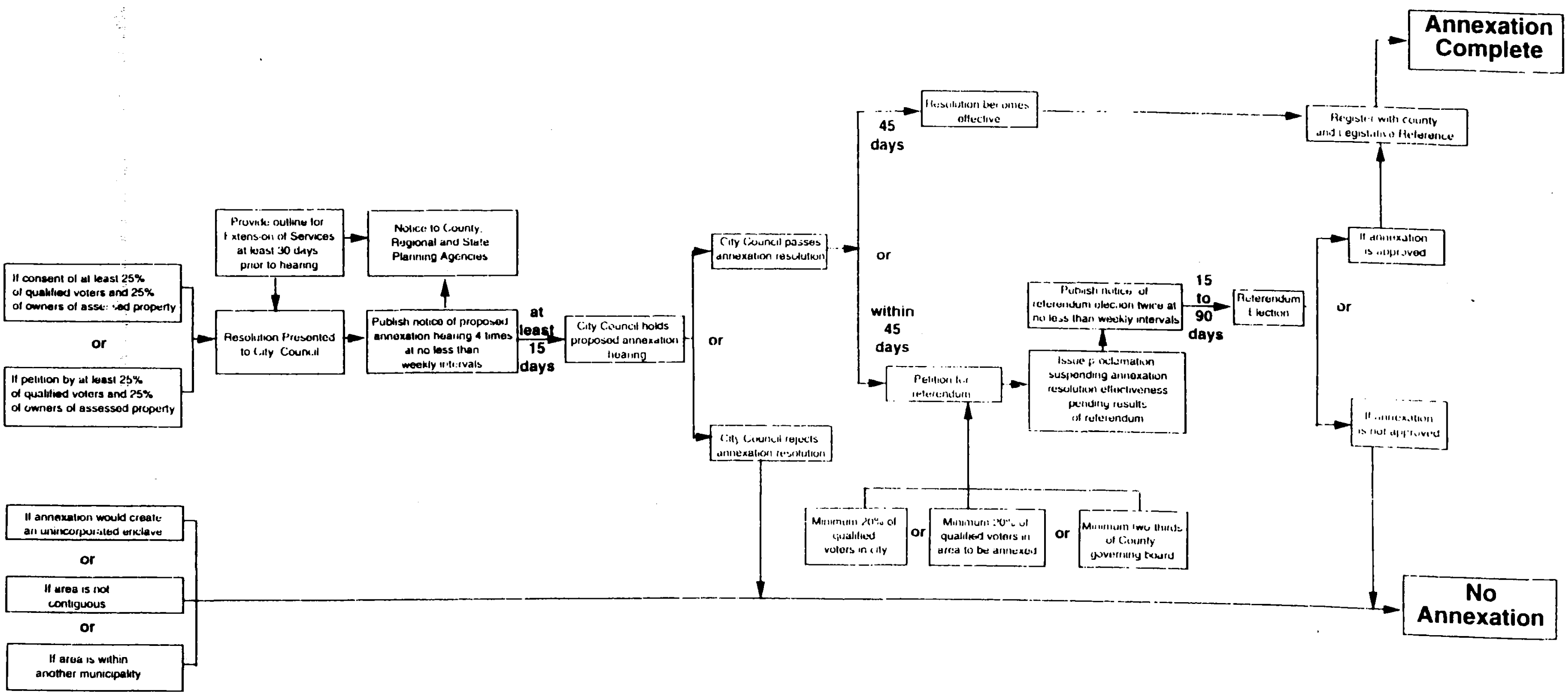
There are seven municipalities in Montgomery County that have independent planning and zoning powers. They are Barnesville, Brookeville, Gaithersburg, Laytonsville, Poolesville, Rockville and Washington Grove.

Prior to 1957, the regional district in Montgomery County (which identified the extent of the County's planning and zoning powers) consisted of property generally lying south of Rockville in the "lower district." Municipalities forming in the lower district were expressly precluded from exercising planning, zoning and subdivision power in favor of power vesting in the county government.

In 1957, the regional district was extended to the "upper district" of the County which included property generally north of Rockville. The law extending the regional district maintained the independent planning and zoning powers of the municipalities in the upper district that had been previously created by the state. However, given the practice already in place in the lower district, the law also prevented new municipalities that might be incorporated by the County from automatically receiving planning and zoning powers.

Today, if the County decides to incorporate a municipality, the planning and zoning powers remain with the County in the regional district unless action is taken to explicitly exclude the new municipality from the regional district. In part, this means that even though a new municipality can annex land outside its borders without County consent, the County, through its zoning powers, retains control over how that land would be used and developed.

Maryland Municipal Annexation Procedures



Source: Maryland Municipal League

C. SPECIAL TAXING DISTRICTS OR SPECIAL DISTRICT GOVERNMENTS

Compared to municipalities, special district governments have limited taxing and regulatory powers. The County must approve the tax rate for a special district government as well as any regulation that would have the force of law. Special district governments can only exercise those powers set forth in the act of the state legislature that created them. Specifically, they cannot annex land, exercise planning and zoning powers, or adopt any regulation without the consent of the County Council.

1. SPECIAL TAXING DISTRICTS ESTABLISHED BY THE GENERAL ASSEMBLY

Between 1910 and 1927, the state General Assembly established 10 special taxing districts in Montgomery County.

EXHIBIT 19: SPECIAL DISTRICT GOVERNMENTS ESTABLISHED BY THE GENERAL ASSEMBLY

	Year Established	Name	Land Area (Sq. Mi.)	Population	Number of Households
1	1910	Chevy Chase*	0.45	2,788	1,023
2	1914	Friendship Heights	0.10	4,942	3,218
3	1916	Drummond	0.10	83	42
4	1916	Chevy Chase Section 3*	0.11	771	273
5	1916	Martin's Addition *	1.00	869	325
6	1918	Chevy Chase Section 5*	0.80	647	228
7	1918	Oakmont	.10	151	57
8	1924	North Chevy Chase*	1.00	454	188
9	1924	Chevy Chase View*	0.50	842	308
10	1927	Battery Park	NA	486	185

Source: Montgomery County Code, 1950.
*Later approved for municipal incorporation by Montgomery County Council.

2. SPECIAL TAXING DISTRICTS APPROVED FOR MUNICIPAL INCORPORATION BY THE COUNTY

Since State law was amended in 1954, Montgomery County is the only county in the state that has established new municipalities. Of the six municipalities approved by the County Council between 1976 and 1995, all were previously state-created special district governments. Exhibit 20 lists the six municipalities that were previously special district governments. These municipalities, like the municipalities already established by the state, have all of the powers granted under Article 23A of the state constitution.

EXHIBIT 20. SPECIAL DISTRICTS APPROVED FOR MUNICIPAL INCORPORATION

	Name	Year of Incorporation
1	Chevy Chase	1976
2	Chevy Chase Sec. 3	1982
3	Chevy Chase Sec. 5	1982
4	Martin's Addition	1985
5	Chevy Chase View	1993
6	North Chevy Chase	1995

Source: Montgomery County Code

In addition to establishing these municipalities, the County Council has considered requests to incorporate Friendship Heights on two separate occasions. The first time, the County Council rejected the request for a referendum on the incorporation because the proposed boundary included properties that were not within the boundaries of the special taxing district and did not appear to share sufficient common interests with the residents of the special taxing district. The second time, the County Council approved the request for a referendum (based on different proposed boundaries) but the petition was defeated by the voters.

III. FUNCTIONS OF MUNICIPALITIES AND SPECIAL DISTRICT GOVERNMENTS

A. MUNICIPAL FUNCTIONS

While the state grants the municipality the powers and authority that it exercises over its affairs and the county decides whether the residents of an area may establish a municipality, each municipality determines which municipal services it will provide.

EXHIBIT 21: SERVICES PROVIDED BY THE COUNTY'S MUNICIPALITIES

Functions	Number of municipalities
Building/Housing Code Enforcement	8
Planning/Zoning	5
Fire	2
Police	4
Refuse	18
Street Lighting	17
Street Maintenance	18
Sewer	1
Water	2
Parks and Recreation	10

Source: Maryland Department of Fiscal Services

Exhibit 21 prepared from data collected by the Department of Fiscal Services, shows the services provided by the municipalities in Montgomery County. The table shows that the most common municipal services in Montgomery County are refuse collection, street lighting, and street maintenance, followed by parks and recreation services and building and housing code enforcement.

In addition to providing basic and enhanced housekeeping services, municipalities also provide important administrative services to their constituents. A 1974 report by the Maryland Municipal League identified the following four municipal roles.

1. <u>The municipality is a provider of basic services</u>. Municipalities have responsibilities in public safety, recreation, planning and zoning, public works and sanitation.

2. <u>The municipality as provider of special services</u>. Municipal governments have a flexibility and closeness to their citizens which larger units of governments can rarely hope to achieve.

3. <u>The municipality is the coordinator of the government network</u>. In every area of the state, a conglomeration of public agencies provides a variety of services or has regulatory or financing power for planning, land use and other public responsibilities. Municipalities are unique in this maze because they possess a general purpose orientation and concern with the overall impact of public policy on an identifiable community.

4. <u>The municipality is a community builder</u>. A municipality is more than a collection of departments. It is a political institution for channeling community desires into effective action to achieve community purposes. In an era when many are searching for community, the municipality is a focal point in this search for identity.

B. SPECIAL DISTRICT GOVERNMENT FUNCTIONS

The special taxing districts created by the General Assembly that exist in Montgomery County are Battery Park, Drummond, Friendship Heights and Oakmont. (As noted above, the Council has approved the incorporation of six special district governments which were originally established by the state.) The functions of these special district governments are determined by the state law that established them.

In 1914, the General Assembly established the <u>Friendship Heights and "The Hills" Special Tax District</u> in Chapter 131 of the laws of 1914. It is governed by a village council of seven members elected to two year terms. Its purpose is to regulate sanitation, care of property, snow or ice removal and police or health matters.

In 1916, the General Assembly created the Village of Drummond Special Tax District when it enacted Chapter 22 of the Public Laws of 1916. This district is governed by a citizen's committee of three members elected annually. Its purpose is to construct and maintain streets and to provide lighting , drainage, sewage, refuse, police and fire services.

In 1918, the General Assembly set up the Oakmont Special Tax District in Chapter 190 of the Public Laws of 1918. It is governed by a citizen's committee of three members elected to staggered three year terms. Its purpose is to construct streets and regulate sanitation, buildings and vehicles.

In 1927, the General Assembly set up the Battery Park Special Tax District in Chapter 711 of the Public Laws of 1927. The law authorizes an annual tax levy in the amount as may be necessary to produce the estimated annual budget of expenses of the Battery Park Citizens' Association. The money is to be used by the association exclusively for the acquisition, maintenance, operation and development of the Battery Park Community House and grounds.

IV. REVENUES FOR MUNICIPALITIES AND SPECIAL DISTRICT GOVERNMENTS

For revenue purposes, the state and County treat municipal governments and three of the four special district government units in Montgomery County (Drummond, Friendship Heights and Oakmont) as one group. Municipalities and these three special district governments levy property taxes, receive piggyback income taxes, receive state and county grants and collect user charges. In addition, municipalities can also levy a tax on entertainment and amusements and charge fees for various licenses and permits. (Battery Park levies an ad valorem property tax but does not receive piggyback income tax revenues from the state or municipal reimbursements from the County.)

A. PROPERTY TAXES

Municipalities and the four special district governments levy a property tax against real and personal property in their jurisdictions. Until the enactment of local income taxing authority in 1967, the property tax represented the only major source of local government tax revenues. Notwithstanding the intent of the General Assembly that local governments use the income tax to keep property tax rates low, property taxes have remained a significant source of revenues.

Local governments take several factors into account in setting property tax rates including: the assessable property wealth of the jurisdiction, the growth in the assessable base, limits on annual assessment increases, the public demand for services and the sources of revenue available to fund these services. The larger the assessable base in a municipality or a subarea within a county, the more revenue that can be derived with an increase in the property tax rate.

In 1995, the property tax share of revenues for municipalities and special district governments ranged 10.6 percent of Brookeville's total revenues to 56 percent of Rockville's total revenues. See the exhibits at the end of the chapter for examples of the property tax revenues for select municipalities.

B. INCOME TAXES

Whereas the county and municipalities have almost complete discretion in setting property tax rates, the General Assembly retains significant control over the local income tax structure. The General Assembly has consistently relied on income tax revenues to hold down local property tax rates. In 1939, the General Assembly enacted legislation that established the sharing of 25 percent of State income tax revenues with counties, Baltimore City and the municipalities. Over the next 25 years, the General Assembly amended the law periodically to change the calculations that determine the amount of state income taxes to be shared and, in the mid-sixties, to give counties the authority to impose a separate (piggyback) income tax.

- In 1966, the General Assembly temporarily permitted local governments to impose and collect a tax of 1 percent of taxable income.
- In 1967, the state passed legislation to authorize local governments to set a local income tax rate at not less than 20 percent of the State tax or multiples of 5 percent in an amount that would be greater than or equal to the amounts to be deducted from the local's share for the costs of the Public School Construction Program.
- In 1969, the state amended the law to establish the maximum local rate at 50 percent.
- In 1992, the General Assembly authorized the counties to increase their tax rate up to 60 percent.

The Maryland Code requires the state to distribute a portion of local income tax revenues to municipalities and special district governments within a county. These areas receive the higher amount of 8.5 percent of the state income tax liability, 0.37 percent of Maryland taxable income or 17 percent of the county income tax liability for the residents of the particular municipality or special district government. To be eligible to receive this distribution, special district governments must have received an income tax distribution in 1977.

This law maintains the sharing of income tax revenues with municipalities established in 1939 but simplifies the calculation to allow municipalities and special district governments to receive their distributions on a more timely basis. Although the state distributes this income tax, the share is taken out of the County's piggyback income tax.

The State collects the local income taxes, deducts a portion to cover the administrative costs and distributes payments to the County and municipalities on a quarterly basis. In FY 96, the 23 municipalities and special district governments in Montgomery County received a total of $11.8 million in piggyback income tax revenues passed through from the state.

In 1995, the income tax share of revenues for municipalities and special district governments ranged from 10 percent in Takoma Park to almost 60 percent in Barnesville. See the exhibits at the end of the chapter for examples from select municipalities.

C. FEDERAL FUNDS

Federal grants are a major source of funding in the areas of health and social services, community development, low income housing and education. They are a more limited funding source for roadway maintenance, public safety and recreation and those services typically provided by municipalities and special district governments. Municipalities may apply for and receive federal grants. For some programs, such as the Community Development Block Grants, the County provides assistance to the municipalities with their applications and distribution of the money.

D. STATE AID

The state provides direct grants for education, transportation, public safety, health and recreation. Over 80 percent of state grants are for education, health and library services. The major state aid programs for the municipalities include the Highway User Revenue program and Police Aid. In FY 95, state aid as a share of total municipal revenues ranged from 2.7 percent for Barnesville to 20.9 percent for Oakmont. See the exhibits at the end of the chapter for examples of state aid to select municipalities.

1. THE HIGHWAY USER REVENUE PROGRAM

State and local governments share responsibility for providing transportation services in Maryland. The state constructs and maintains most of the state's roads outside of Baltimore City. The counties and municipalities construct and maintain local roads. The state distributes aid for transportation to the County and municipalities and a limited number of homeowner associations through the Highway User Revenue program.

In 1970, the state created the Department of Transportation and the consolidated Transportation Trust Fund. As set forth in that legislation, the state shares with the counties and municipalities those revenues credited to the gasoline and Motor Vehicle Revenue Account in that fund. These "highway user" revenues include all motor fuel taxes, 80 percent of vehicle titling taxes, all registration fees and 1.6 percent of the state's corporate income tax. The state receives 70 percent of highway user revenues. Baltimore City receives 15 percent and the counties and municipalities receive 15 percent.

In order to qualify for highway user revenues, a county, municipality or Baltimore City must certify that the revenues will be used in compliance with all applicable laws. Municipalities are required to make a written request to SHA for their share of the funds at least six months prior to the state. The revenues may be used to repay debt service, construct and maintain county or municipal roads and for the cost of transportation facilities as defined by state law.

2. Public Safety

In 1967, the state established the State Aid for Police Protection Fund to provide financial grants to counties and qualifying municipalities to fund adequate police protection. The police aid formula distributes funds on a per capita basis. Municipalities may receive a share of these grants. To qualify for grants, a municipality must have a minimum expenditure for police protection of $5,000 annually and must employ at least one qualified full time police officer.

In Montgomery County, the state distributes four types of grants to the county, the municipalities and qualifying special district governments. The minimum and additional grants are apportioned between the county and its qualifying municipalities on the basis of relative police expenditures. Beginning in FY 97, the state will distribute funds directly to the municipalities instead of distributing the total amount to the County and relying on the County to make distributions to the municipalities.

E. Service Charges

Service charges or user fees are revenues local governments collect in return for certain specific services. Statewide, they are the second largest revenue source for municipalities and the third largest source for counties. For municipalities, water and sewer charges account for approximately 90 to 95 percent of all service charges. The remaining 5 to 10 percent are comprised of charges to support general government, public safety, highway and recreation charges.

F. Summary of Revenue Sources

The charts and exhibits at the end of the chapter provide information about revenues sources for each municipality and special district government in Montgomery County.

- Exhibit 25 shows that, with the exception of Brookeville, the four major revenue sources (property taxes, a share of the County's piggyback income tax, state aid and county reimbursements) provide between 70 and 90 percent of all revenues.
- Exhibit 26 shows that property taxes and/or the share of the County's piggyback income tax are the main sources of revenues for most places.
- Exhibits 27-38 show the revenue shares and expenditures for six sample municipalities.

V. THE MUNICIPAL REVENUE SHARING PROGRAM

Section 6-305 of the Tax Property Article of the Annotated Code of Maryland requires that eight counties in the state, including Montgomery County, meet annually with the governing bodies of municipal corporations to discuss the property tax rate to be set for assessments of property in the municipal corporation. If a municipal corporation performs services in lieu of similar county services and programs, state law requires the county to impose the county tax rate at a rate that is less than the general county property tax rate or, alternatively, to make a payment to the municipal corporation to "aid in funding municipal services or programs that are similar to county services or programs." This requirement for the county to take into account similar municipal programs funded by the property tax first appeared in the 1957 Annotated Code.

In determining the county property tax rate in a municipality, the county must consider:

- the programs performed by a municipal corporation instead of similar county programs, and
- the extent to which the similar services are funded by property tax revenues.

According to the State Department of Fiscal services, property tax set-offs compensate for the double taxation of municipal taxpayers which occurs when both municipal and county property taxes are levied to fund similar services. A tax rate differential takes the form of a reduced property tax rate within the boundaries of a municipal corporation, whereas a tax rebate is a direct payment to a municipality for providing the services or programs. The law allows the rate for the county property tax in a municipal corporation to differ from the county rate for other municipalities or to differ from the rate for a prior year.

If a County chooses to implement a tax differential program, it collects less property tax revenues from the property owners within a municipality and does not need to distribute money to the municipalities. Alternatively, under a rebate program, the County must decide when and how frequently to distribute the rebates to the municipalities

A. AN OVERVIEW OF MUNICIPAL REIMBURSEMENT PROGRAMS IN THE STATE

In FY 95, 15 of the 23 counties in Maryland had property tax set-offs for their jurisdictions. Of the eight remaining counties, one (Howard County) had no municipalities while the seven others (Baltimore, Dorchester, Garrett, Somerset, Talbot, Wicomico and Worcester counties) chose not to establish tax set-offs.

Seven counties provided tax rate differentials and ten counties returned rebates to municipalities. Two counties, Montgomery and Prince George's paid rebates and granted tax differentials to municipalities. The counties use different methodologies and formulas to provide tax rebates or set differential tax rates. See Appendix B for a summary of methodologies used in other counties and for information on how other Counties chose not to establish tax set-offs.

B. MONTGOMERY COUNTY'S MUNICIPAL REVENUE PROGRAM

Chapter 30A of the Montgomery County Code establishes the Montgomery County Municipal Revenue Program to reimburse municipalities for public services provided by municipalities that would otherwise be provided by the county government. The program was established in 1974 to provide tax rebates to the municipalities and special district governments in Montgomery County.

Under Section 30A-2 of the Montgomery County Code, municipalities are eligible for reimbursement from the county if the following conditions are met:

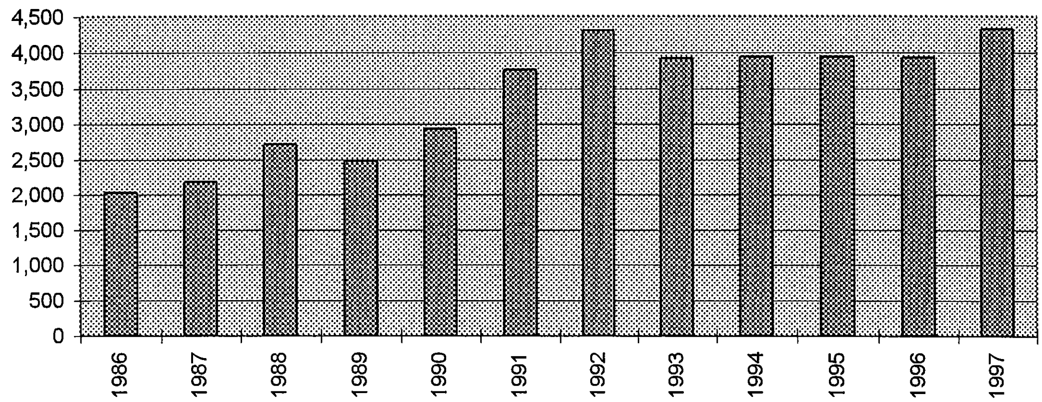
1. The municipality provides the services to its residents and taxpayers,
2. The service would be provided by the county if it were not provided by the municipality,
3. The service is not actually provided by the county within the municipality; and
4. The comparable county service is funded from tax revenues derived partially from taxpayers in the participating municipality.

In addition to addressing the problem created by overlapping property tax assessments, the County, at times has also used the reimbursement program to pass through state aid to municipalities and special district governments. As the state has changed its procedures to distribute aid directly to the municipalities, the County's use of the program for this purpose has declined.

1. EXPENDITURE HISTORY

Exhibit 22 shows the history of municipal reimbursements from 1987 to 1997. As the graph shows, reimbursements climbed steadily through 1992 and have leveled off since then at roughly $4 million per year.

EXHIBIT 22: REIMBURSEMENTS DISTRIBUTED TO MUNICIPALITIES UNDER THE MUNICIPAL REVENUE PROGRAM.



Source: Comprehensive Annual Financial Reports, 1986-1996, Municipal Reimbursement Task Force Report, 1996.

2. REIMBURSEMENT FORMULAS

Since the establishment of the program in 1974, the County has periodically changed the guidelines used to calculate reimbursements. Under each program, the factors taken into consideration have been:

- the definition of duplicative programs or services,
- the calculations of County expenditures for these programs, and
- the determination and effect of revenue offsets, i.e., revenues from other sources that would reduce County expenditures.

The most recent changes to the reimbursement program were made in the fall of 1996 following the report of a task force appointed by the County Executive. The task force, which included municipal and County representatives, met for over a year from April 1995 through May 1996 and published its Final Report in June 1996. A major goal of the task force was to make the reimbursement program equitable, efficient to administer and easily understood by the public. Another important objective was to assure that neither the County nor the municipalities receive a "windfall" from the new formulas, or conversely, that no jurisdiction suffer a large revenue loss.

The task force agreed to the following principles:

- the basis for the program should be the amount the County would spend to provide a duplicated service rather than the amount spent by the municipality to provide the service,
- the rebate to the municipalities should be based on the County's actual, net, property tax funded expenditures for a given service, and
- the reimbursement program should not include services provided by a municipality but not provided by the County.

The task force discussed reimbursement formulas for the following five categories of services: transportation, police, code enforcement, park maintenance; and other. For each category, the task force first addressed whether the services provided by municipalities were supplemental or duplicative. If the task force concluded the services were defined as duplicative, the task force further discussed changes to the reimbursement formula. The following major changes were made to the reimbursement program that had been in place.

The task force recommended eliminating the reimbursement for police aid. County law requires the Police Department to provide the same level of service to municipal and non-municipal residents except for Takoma Park, which under a 1949 agreement gives the City responsibility for dispatch and all calls for police assistance. In addition to Takoma Park, Gaithersburg, Rockville and the Village of Chevy Chase currently provide police services. The Task Force noted that calculating the reimbursement for services is complicated because the County has a different arrangement with each jurisdiction for responding to calls. The County dispatches officers from the Village of Chevy Chase to emergency calls unless there are no Village officers available. The County dispatches County officers to calls in Rockville although the City may also dispatch City officers. Finally, in Gaithersburg, the County dispatches City or County officers to calls.

The task force originally recommended a formula based on the Takoma Park formula. However, after it heard from the County that the County does not use the number of first responses by municipal officers in beat allocation decisions, the Task Force concluded that municipal police services were supplemental and not duplicative and that no duplication reimbursement was warranted. Specifically, the Task Force stated:

> If municipalities no longer provided police services to their residents, the County would expend the same dollar amount now expended countywide and provide a somewhat lower level of service countywide. That is, the County police would not necessarily provide the same level of service that either municipal or other County residents receive today. Using this reasoning, the municipal police services is supplemental rather than a duplicated service. Therefore, we recommend no duplication reimbursement at this time.

The task force stated that it would continue to monitor the issue and propose changes as needed.

- The task force recommended that reimbursement for code enforcement expenditures be discontinued after FY 98. The task force concluded that after FY 98 County programs will be funded through the use of an enterprise fund and thus there will be no overlap in property tax funding. Prior to FY 98, reimbursement for code enforcement should be based on the County's net dwelling or per parcel cost instead of the municipalities net cost.

- The task force recommended replacing the existing process for calculating transportation reimbursements to simplify the reimbursement formula for transportation expenditures.

  Reimbursements for roadway maintenance comprise about $2 million or roughly half of the total reimbursement program. There are approximately 291 miles of roadways in the municipalities and special taxing districts.

  According to the task force report, the new formula has two components:

  - the cost of road maintenance provided by DPWT, and
  - the percentage of County expenditures paid for with property tax revenues.

  Exhibits 23 and 24 from the task force report show the items included in the calculation of county maintenance cost factors and the development of the ratio of State Highway User Revenues/Total County Expenditures. Exhibit 23 shows that the County's maintenance cost is $13,024 per mile and Exhibit 24 shows that 61 percent of DPWT's eligible operating expenditures are funded out of non- State Highway User Revenue funds.

  The new reimbursement formula multiplies the miles in a special taxing district or municipality by the County's maintenance cost of $13,024 per mile and takes 61 percent of that result to arrive at the amount the County will reimburse the municipality.

  The effect of the new formula is to increase the reimbursement due to municipalities and special taxing districts from $2.1 to $2.4 million.

The task force recommended that the County replace the current practice of two payments to municipalities with one payment to be made by October 1 of each year. The task force felt that the reimbursement program should be predictable and stable and require as little paperwork as necessary and that there should be provisions for an annual re-evaluation of the program.

MUNICIPAL TAX DUPLICATION ROAD MAINTENANCE CALCULATION

Table 3
Municipal Tax Duplication
Road Maintenance Calculation
FY 95 County Maintenance Cost Factors

Roadway and Related Maintenance	$ 6,494	per mile
Storm Damage	$ 1,083	per mile
Roadway Resurfacing (CIP Projects)	$ 2,242	per mile
Main Roads (Asphalt)		
Residential Roads (Slurry)		
Curb and Gutter, Sidewalk		
Traffic Signs and Pavement Markings	$ 822	per mile
Traffic Light Maintenance	$ 103	per mile
Street Light Maintenance	$ 2,280	per mile
TOTAL	$ 13,024	per mile
PLUS		
Traffic Signal Maintenance	$ 2,000	per signal
Bridge Maintenance	$ 3,098	per bridge
Pedestrian Bridge	$ 713	per pedestrian bridge

Source: Report of the Task Force on Municipal Tax Duplication Reimbursement

MUNICIPAL TAX DUPLICATIONS TRANSPORTATION HUR AND REVENUE OFFSET CALCULATION

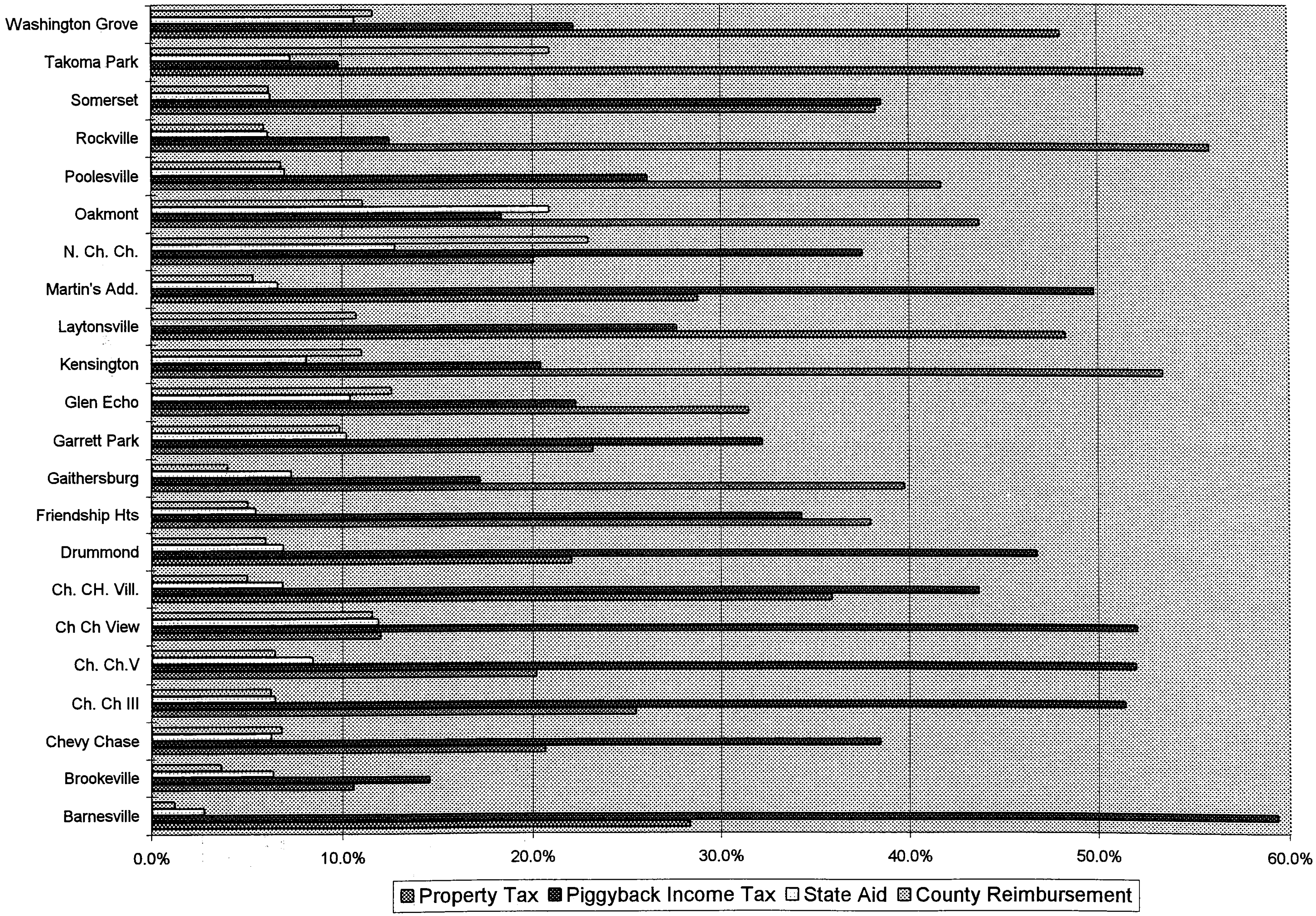
Table 4
Municipal Tax Duplication
Transportation HUR and Revenue Offset
Calculation and Formula

MC DPWT Tax Supported Operating Expenditures (1)	$ 24,021,040
Debt Service (2)	$ 37,380,590
MC DPTW Eligible Expenditures	$ 61,401,630
Subtract: Other Rev Sources (grants, fees, and charges)(3)	$ (6,286,361)
Equals: Total HUR Eligible DPTW Expenditures	$ 55,115,269
State Highway User Revenue (HUR) Received (4)	$ 21,086,402
Ratio of HUR to total expenditures (HUR Ratio)	38.26

1 Page 42-5 FY 97 Operating Budget
2 Page 13 FY 97 Recommended Operating Budget
3 Charges to Suburban District, DOT CIP projects, minus current revenue funding, and charges to mass transit, and parking/urban district
Calculated by Bryan Hunt, OMB 4-96
4 Page 42-5 FY 97 Operating Budget

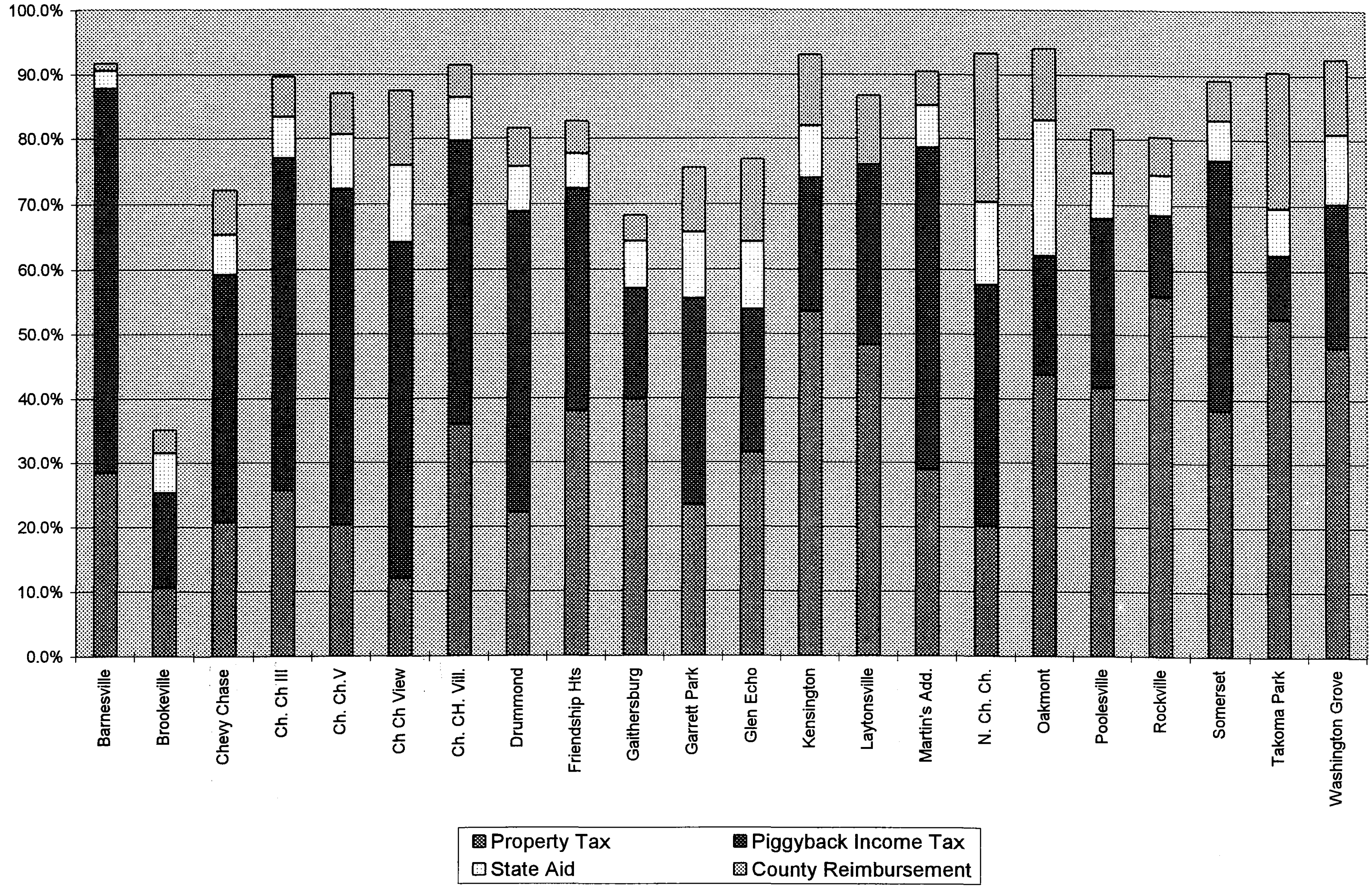
Source: Report of the Task Force on Municipal Tax Duplication Reimbursement

Exhibit 25: Municipal Revenue Shares



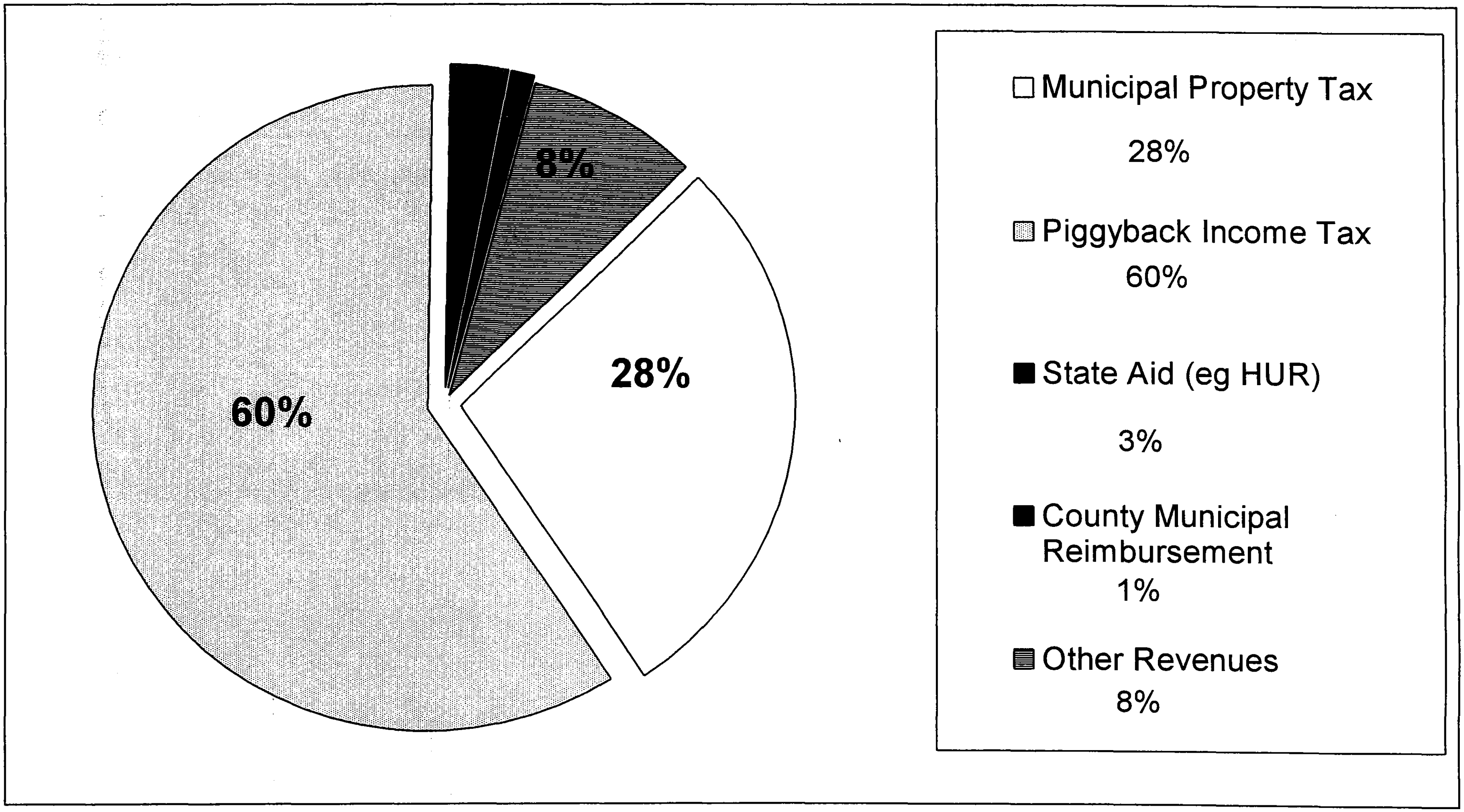
Source: Local Government Finances in Maryland, Maryland Department of Fiscal Services, FY 95
Note: Battery Park is not included because it does not receive any revenues other than its ad valorem property tax.

Exhibit 26: Comparison of Municipal Revenue Shares



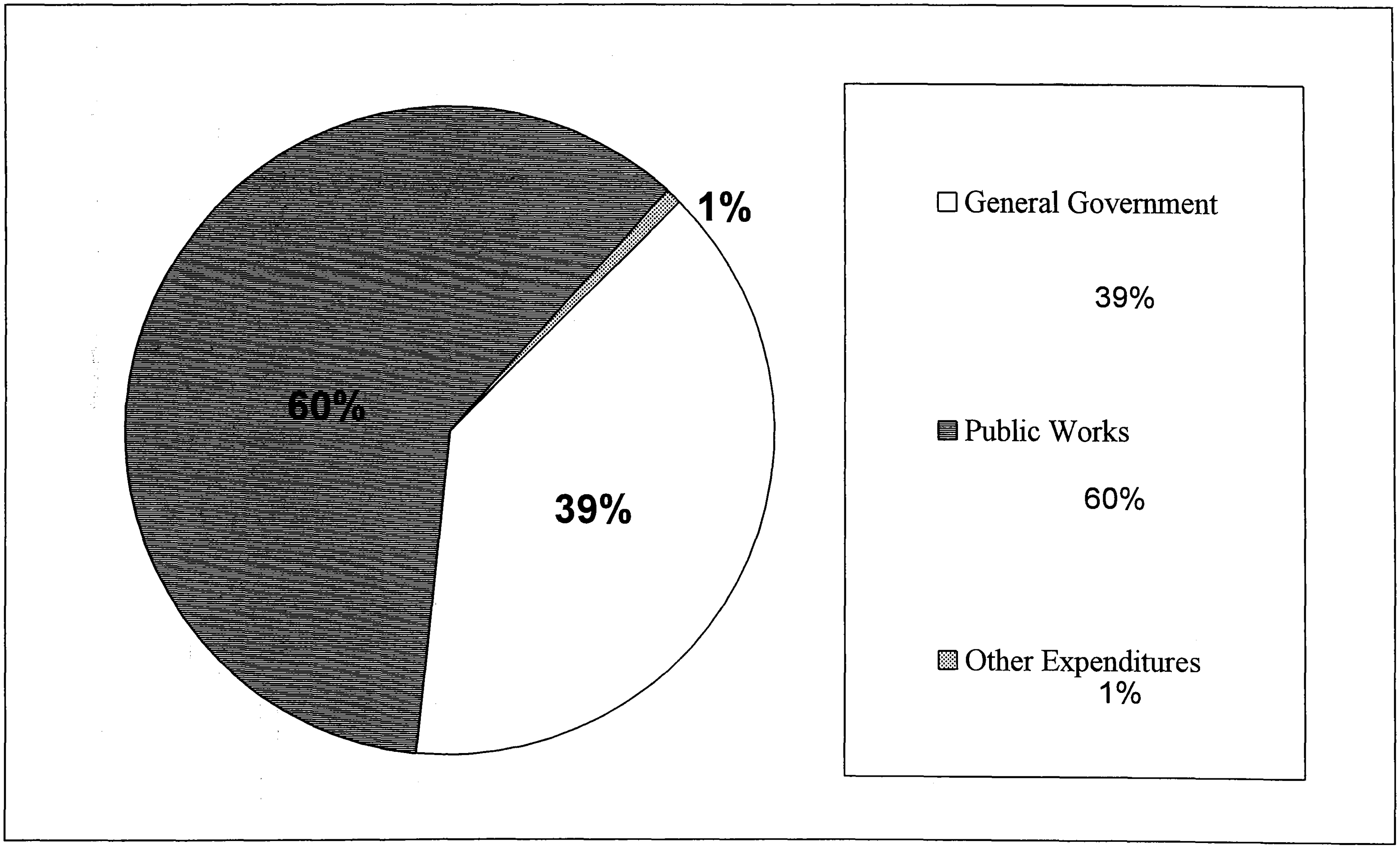
Source: Local Government Finances in Maryland, Maryland Department of Fiscal Services, FY 95
Notes: Battery Park is not included because it only receives property tax revenues.
Other revenues included service charges, license fees and federal grants.

EXHIBIT 27 REVENUES FOR BARNESVILLE (64 HOUSEHOLDS)



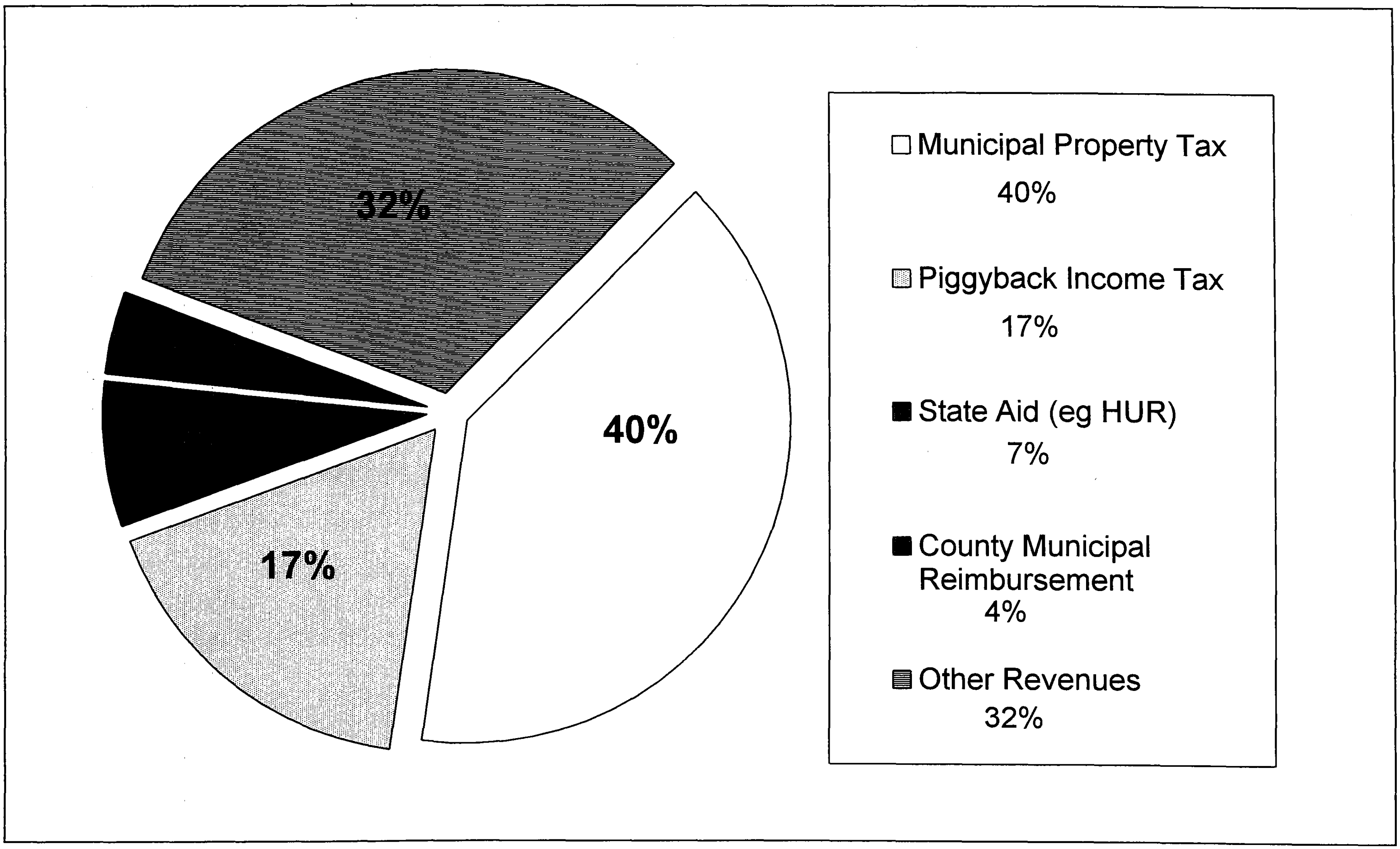
Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 28 EXPENDITURES FOR BARNESVILLE (64 HOUSEHOLDS)



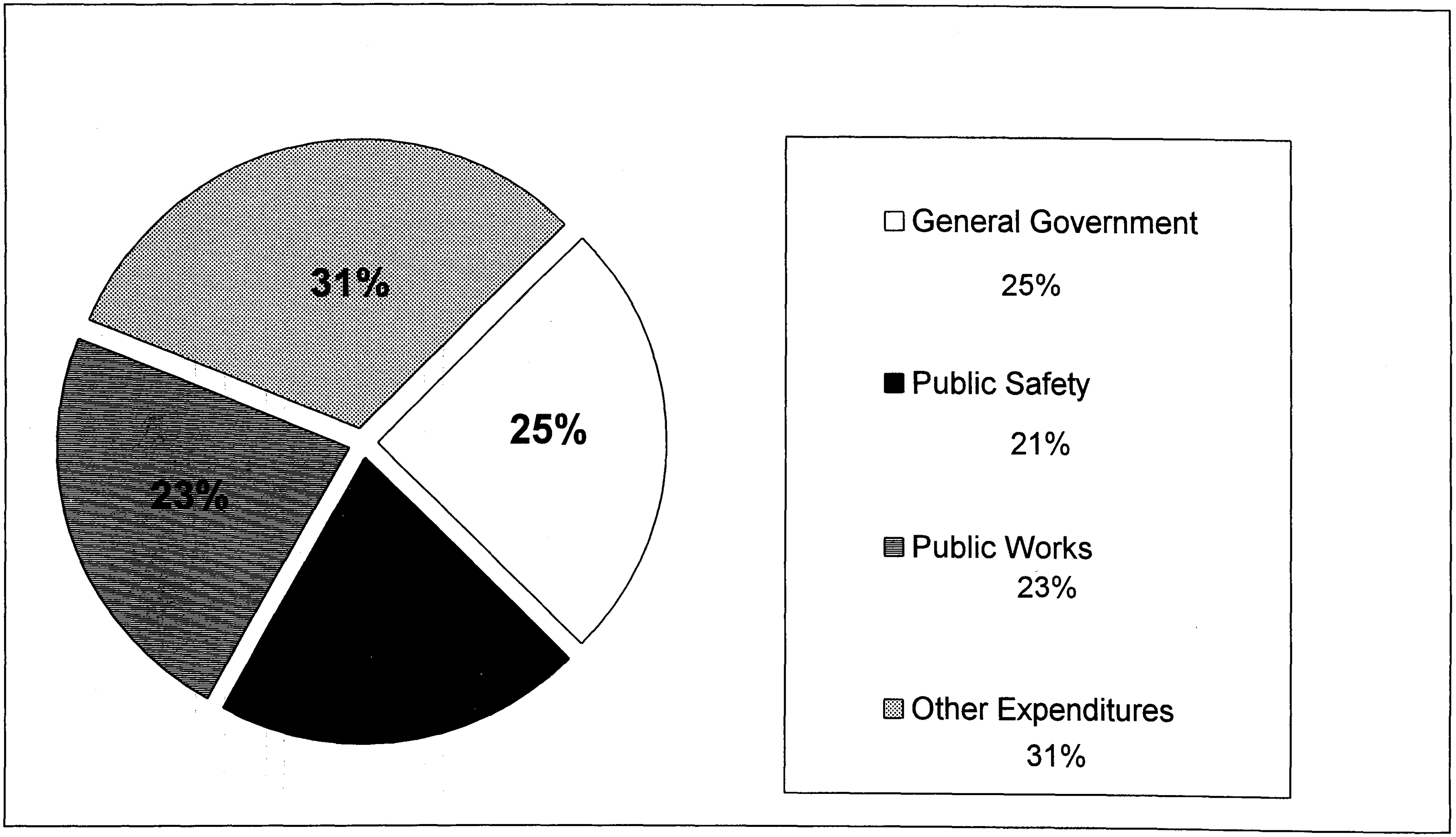
Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 29 REVENUES FOR GAITHERSBURG (18,045 HOUSEHOLDS)



Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 30 EXPENDITURES FOR GAITHERSBURG (18,045 HOUSEHOLDS)



Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 31 REVENUES FOR LAYTONSVILLE (104 HOUSEHOLDS)

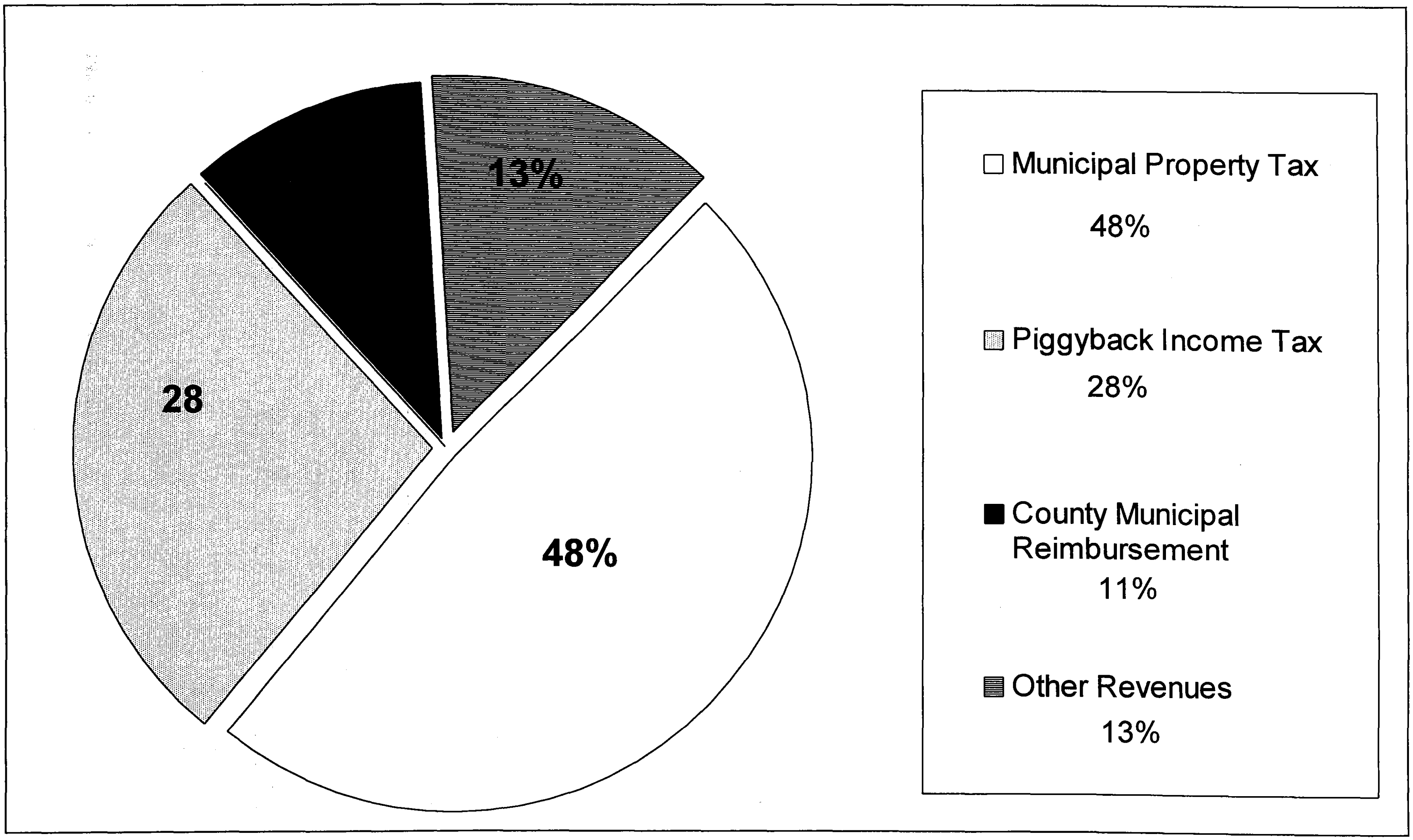
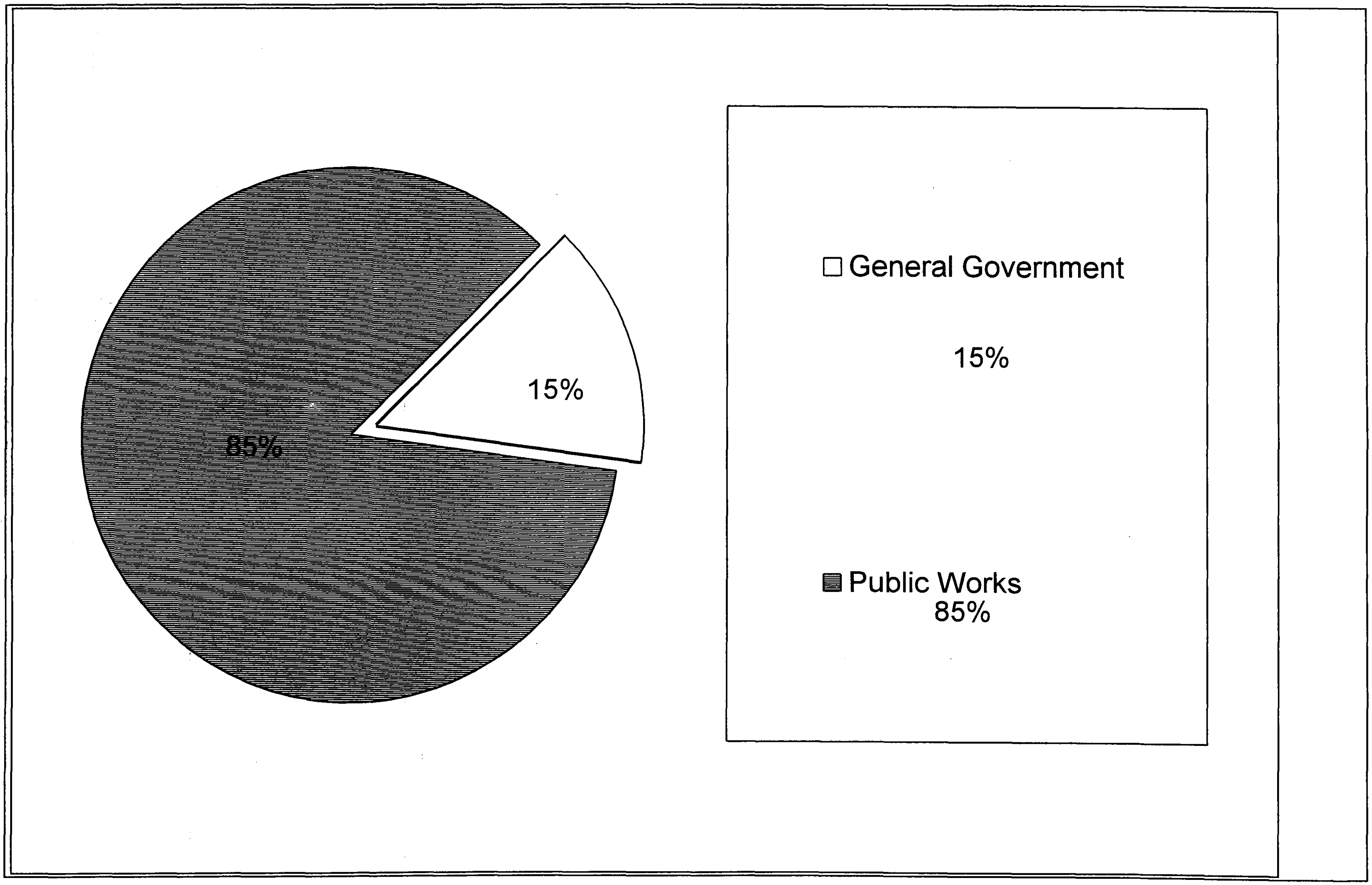
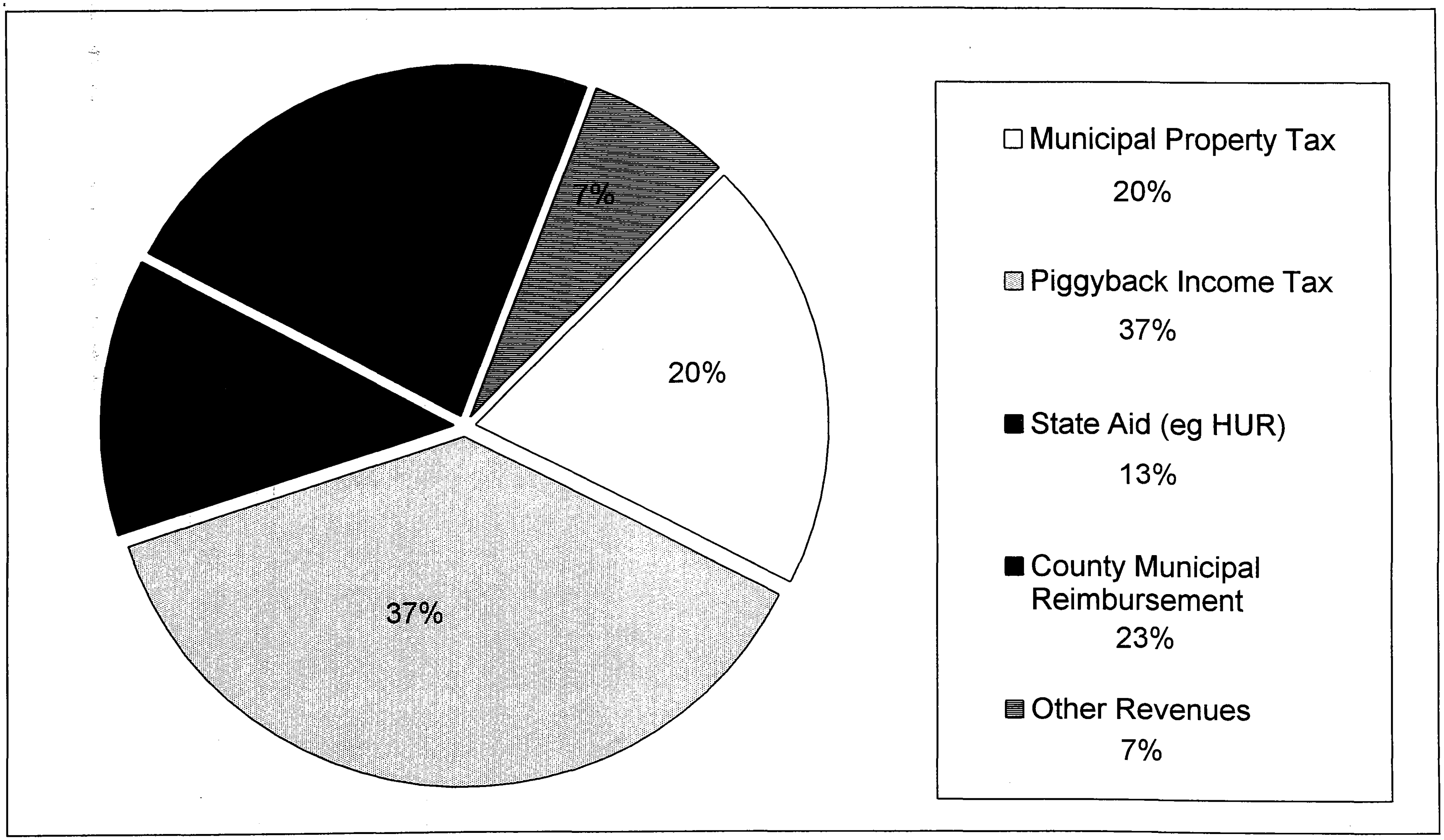


EXHIBIT 32 EXPENDITURES FOR LAYTONSVILLE (104 HOUSEHOLDS)



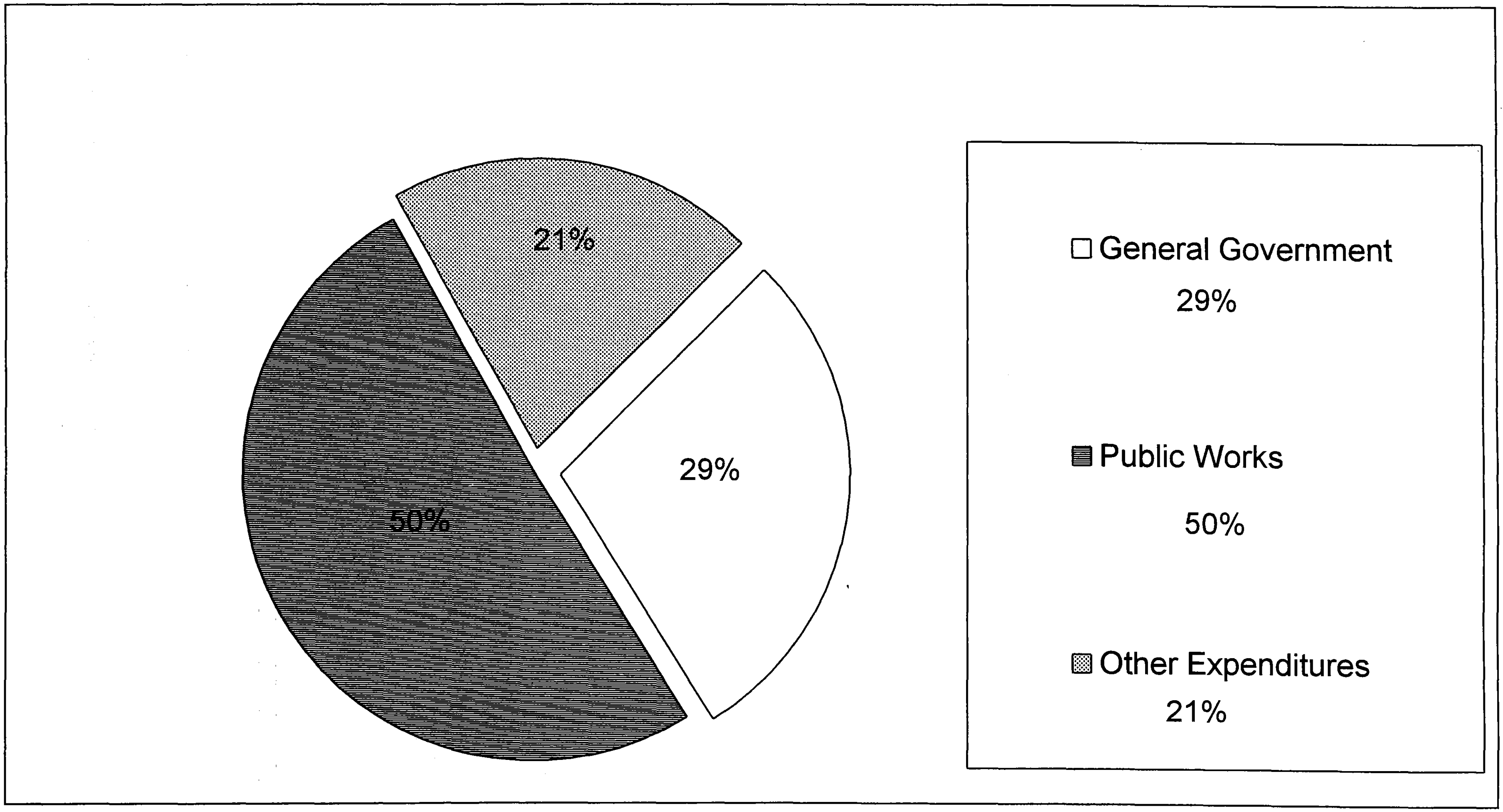
Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 33 REVENUES FOR NORTH CHEVY CHASE (188 HOUSEHOLDS)



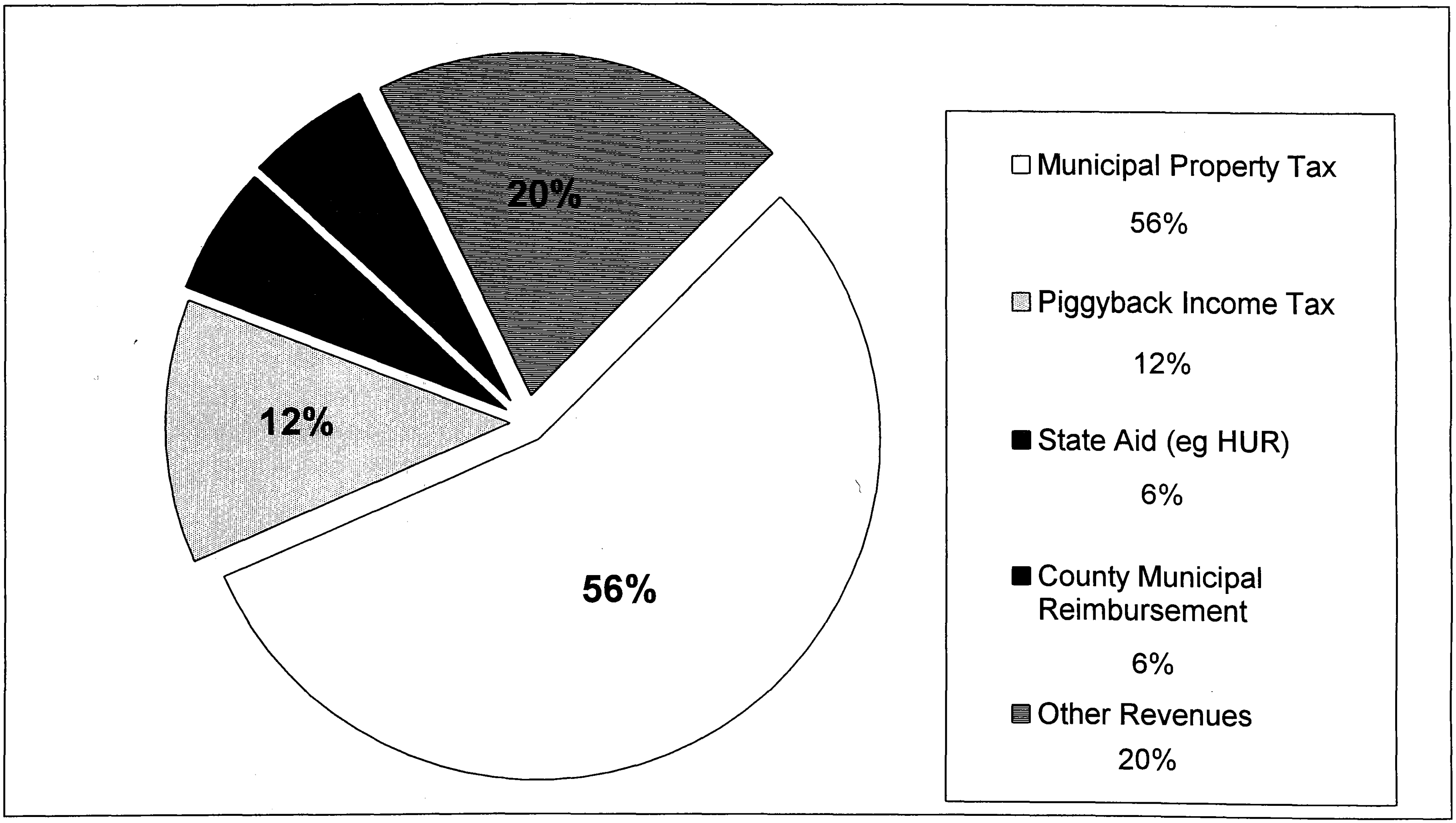
Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 34 EXPENDITURES FOR NORTH CHEVY CHASE (188 HOUSEHOLDS)



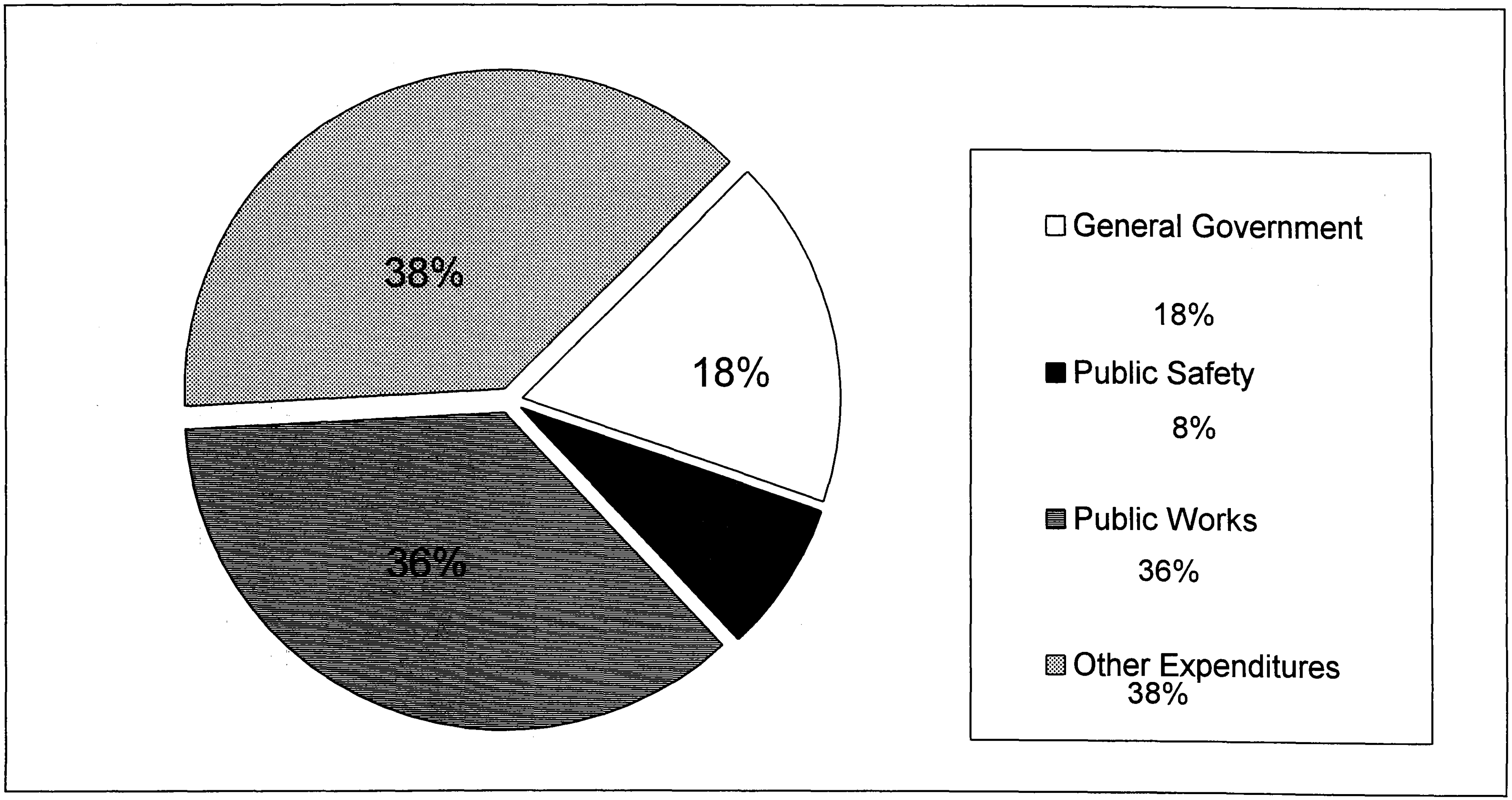
Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 35 REVENUES FOR ROCKVILLE (16,521 HOUSEHOLDS)



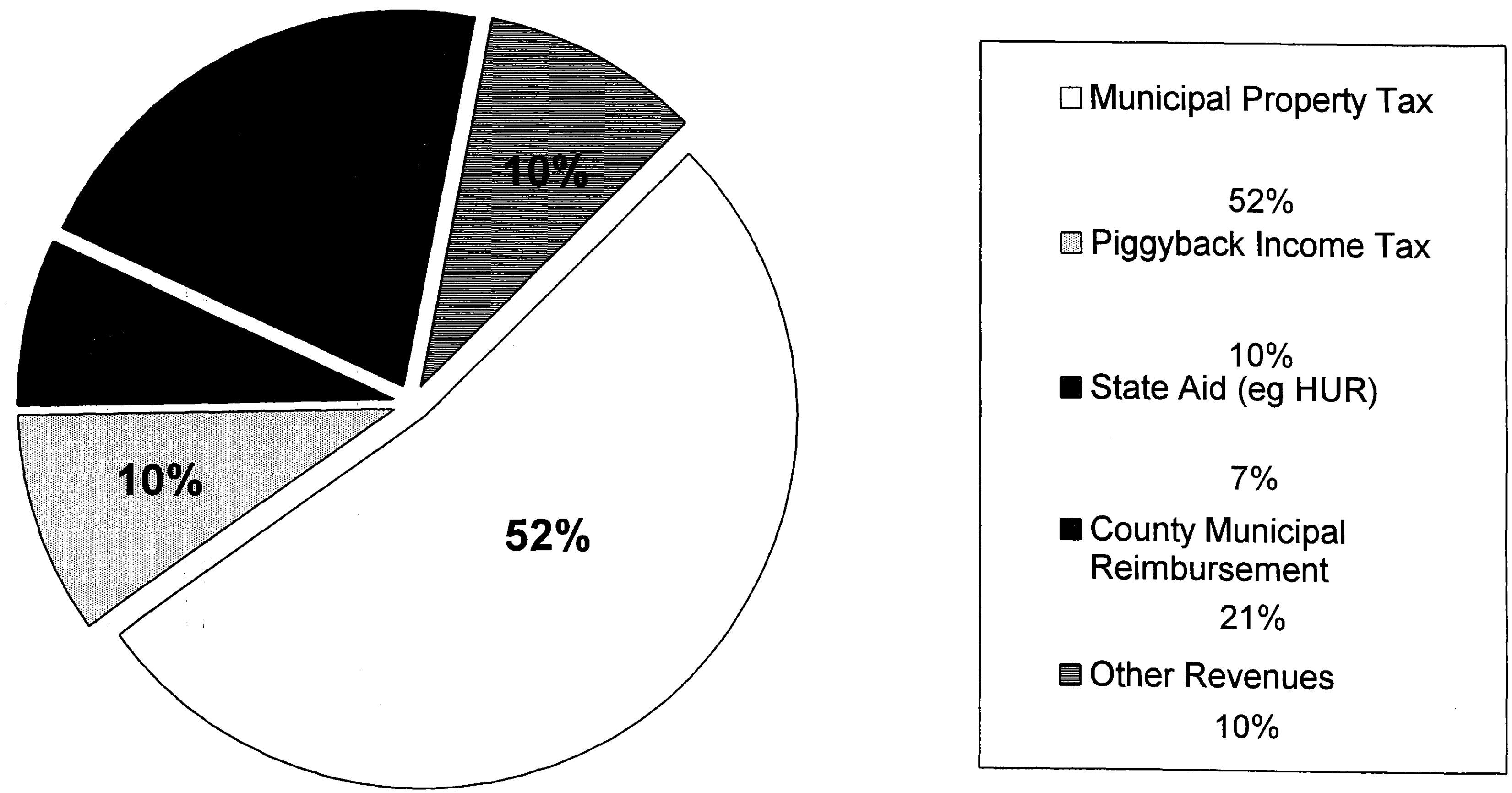
Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 36 EXPENDITURES FOR ROCKVILLE (16,521 HOUSEHOLDS)



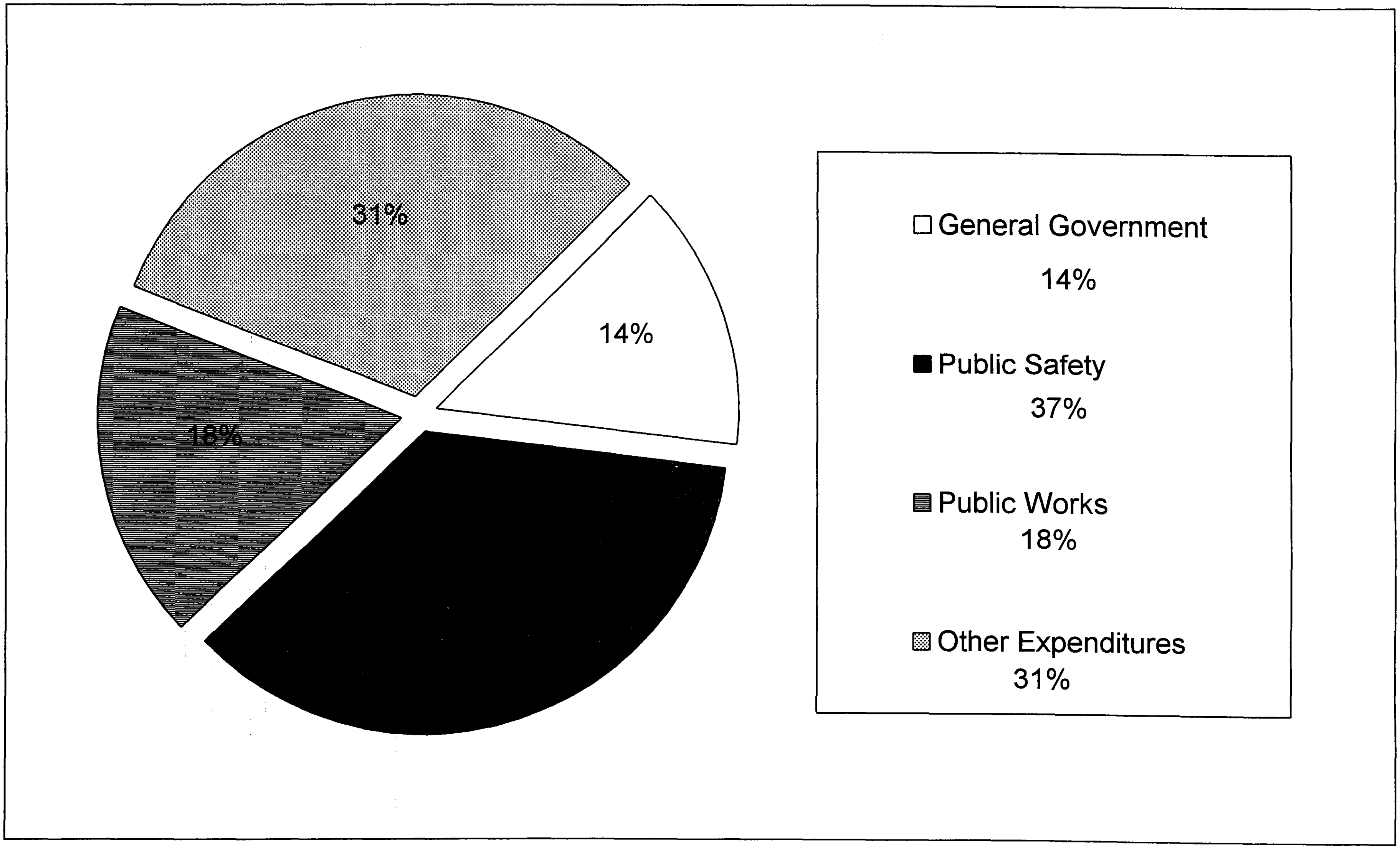
Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 37 REVENUES FOR TAKOMA PARK (4,950 HOUSEHOLDS)



Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

EXHIBIT 38 EXPENDITURES FOR TAKOMA PARK (4,950 HOUSEHOLDS)



Source: Department of Fiscal Services, Local Government Finances in Maryland, FY 95

CHAPTER 4 THE COUNTY GOVERNMENT FRAMEWORK FOR SERVICE DELIVERY IN THE NON-MUNICIPAL AREAS OF THE COUNTY

The frameworks for service delivery in the non-municipal areas of the County (outside the urban districts) are characterized by hundreds of homeowner associations for common ownership communities, multiple special taxing areas and a growing administrative and service coordination role for the County government. This chapter describes the regulatory, administrative, and financial framework established by the County government over the years. The chapter also presents the roadway maintenance, special event, and community development services funded by the County for communities outside of the urban districts and municipalities.

I. THE REGULATORY FRAMEWORK

A. THE DEVELOPMENT REVIEW PROCESS

Landowners wishing to build in the unincorporated areas of the county are required to submit development plans to the Montgomery County Planning Board for review and approval. The requirements for the approval are set forth in the subdivision regulations, adopted as Chapter 50 of the Montgomery County Code, and the Zoning Ordinance, adopted as Chapter 59 of the Montgomery County Code.

The subdivision regulations require the submission of a preliminary plan of subdivision that shows the proposed public improvements (such as streets, storm drains, pedestrian paths, street lights, stormwater management ponds) needed to support the new community. In addition to being in conformance with the subdivision regulations, plans must be consistent with the adopted master or sector plan for the area which may include illustrative streetscaping plans or other requirements or administrative guidelines adopted by the Planning Board. For example, in the late eighties, the Planning Board adopted recreation guidelines to establish criteria for recreation facilities and amenities to be dedicated by developers.

Section 50-38 of the subdivision regulations establishes the authority of the Board to vary from the requirements of the chapter in the case of hardship, large scale development or preservation of open space, and moderately priced developments. Section 50-39 presents the requirements for residential cluster subdivision. The law states that the purpose of the cluster method of subdivision is to permit a method of development in certain residential zones which will promote flexibility of layout and variety of housing types without sacrificing existing per acre dwelling densities or changing the character of the neighborhood while at the same time preserving open spaces of scenic and useful values for common enjoyment.

To achieve this goal, the law permits variations in lot sizes and lot dimensions and a greater variety of building types. The law also establishes procedures to ensure adequate maintenance and restricted use of common grounds and the adequate protection of existing neighborhoods in the immediate vicinity of the cluster development. The approval procedures state that "the plan shall be accompanied by a preliminary statement or proposal including specific documents showing the ownership, method of maintenance and utilization of the common ownership within the subdivision."

In addition to the subdivision regulations, certain sections of the Zoning Ordinance, (Article 59-D, Zoning Approval Procedures) also specify the contents of development, project or site plans. The Planning Department circulates the proposed development plans to County departments and agencies to solicit comments and prepares a staff recommendation. Frequently, a recommendation for approval is accompanied by a list of specific conditions.

The Planning Board meets in public session to review the staff recommendation and makes a final decision. Following the approval of the development plans by the Planning Board (or the District Council in the case of some zones), the subdivision plat and documents establishing the maintenance organization are recorded in the County land records. The Planning staff and County government use the project plan to inspect and monitor the development of the community.

B. THE RELATIONSHIP BETWEEN REGULATORY DECISIONS AND FUTURE COMMUNITY SERVICE REQUIREMENTS

Many of the decisions made during the regulatory review process lay the foundation for future community service and maintenance needs. The placement of stormwater management ponds and the requirements for street trees are two examples of regulatory decisions that have a significant future impact on the level and costs of maintenance services.

1. STORMWATER MANAGEMENT PONDS

The placement of the stormwater management pond is determined during the subdivision process by taking into account the topography of the land, the size of the proposed development and pre-existing needs for stormwater management in an area. According to the Department of Environmental Protection database of stormwater management facilities, there may be as many as 1,700 stormwater management facilities on private land.

During the regulatory review process, the stormwater ponds may be placed on land to be dedicated to the park system in which case significant renovations and upgrade costs are provided through the County's capital program. Alternatively, the facilities may be placed on land owned by a commercial property owner or a homeowner association in which case the maintenance becomes the responsibility of the homeowner association. As stated in a 1989 memorandum from former Planning Board Chairman Christeller "It is, of course, the sheer chance of geography and regulatory decisions that has determined whether a Homeowners Association or the Parks Department owns the land on which is located the stormwater management facility needed for a particular subdivision." (See Appendix C for a copy of the memorandum.)

In addition to maintenance funding being determined by sheer chance, an additional issue is the relationship between those who pay for maintenance and those who are served by the facility. For the most part, the boundaries of the drainage area served by the pond are not the same as the boundaries of the common ownership community. This results in a homeowner association paying for the maintenance of a facility whose benefits extend to properties beyond the association.

The costs of maintaining stormwater ponds can be significant. In an effort to educate homeowner associations on the magnitude of this responsibility, the Department of Environmental Protection (DEP) suggests that homeowner associations can use five percent of the total construction cost as a rough estimate of the average yearly maintenance cost. DEP emphasizes that these costs are estimates for typical facilities and that, in practice, the maintenance costs for each particular facility may vary widely. DEP is in the process of identifying how many of the 700 ponds on residential land are required to be maintained by homeowner associations.

2. STREET TREES

A second community feature that is determined at time of subdivision is the street trees that are placed along the roadways and paths of a subdivision. In April 1990, the Tree Ordinance Drafting Group published The Tree Report. The group had been appointed at the request of the County Council to study tree conservation issues. The group began meeting in October 1989 to review tree conservation needs and the adequacy of existing legal requirements and programs and to develop recommendations to achieve an effective tree conservation policy.

In explaining the magnitude of the tree maintenance responsibilities in the County, the report recognized that many street trees had been planted due to Maryland-National Capital Park and Planning Commission (M-NCPPC) site plan review requirements, with over 100,000 trees planted since 1980 alone. The report noted that the Planning Board required that developers be responsible for maintenance and survival only until the trees are inspected and accepted by the M-NCPPC. The report further noted that there are no requirements on homeowner's associations for ongoing maintenance. The report concluded that outside the suburban district there is a large and expanding population of street trees in need of maintenance.

C. COMMON OWNERSHIP COMMUNITIES - HOMEOWNER ASSOCIATIONS

Everyone who buys a housing unit in a common ownership community becomes a member of the homeowner association and is required to pay association dues. According to a report published by the Office of Planning Implementation, the typical homeowner association fee is $35 per month or $420 per year. Homeowner associations belonging to an umbrella organization may be required to pay two or three different assessment fees. For example, in Montgomery Village, each homeowner pays a Montgomery Village Foundation fee, a community center or pool/tennis fee and a homes corporation or condominium assessment.

Homeowner associations are governed by a board of directors that is elected annually. In addition to managing service delivery, the board enforces architectural covenants and other permitting requirements found in the associations' by-laws.

1. SERVICES

The typical budget for a homeowner association includes trash removal, snow removal and maintenance of the common areas including common open space, parking lots, driveways and streets. Typically, approximately half of the HOA budget goes for refuse collection services.

The services provided by a homeowner association vary widely from one association to the next. The services provided by small, self managed associations may include refuse collection, maintenance of parking lots and driveways (including snow removal), landscaping of common areas, tree maintenance, plantings of seasonal flowers, and maintenance of local recreation facilities such as tot lots, basketball and tennis courts, swimming pools and community centers.

The services provided by larger associations include those of the smaller associations (on a larger scale) plus roadway resurfacing and repair, storm drain maintenance, maintenance of stormwater management ponds, landscaping of roadway medians in addition to common areas, enhanced security patrols and the programming of pools and recreation facilities for residents of the area.

2. HOMEOWNER ASSOCIATIONS IN MONTGOMERY COUNTY

As part of this project, OLO compiled information from the files of the Consumer Affairs Division of the Department of Housing and Community Affairs to better understand the profile of common ownership communities in the County.

There are 616 homeowner associations registered with the County that manage common ownership communities. These associations manage over 96,000 housing units or approximately 37 percent of all of the housing units in the unincorporated area of the County. Approximately 75 percent of the units (73,000) are professionally managed.

Common ownership communities exist throughout the County. Exhibit 39 lists the number of HOAs and units located in the sub areas of the County. With the exception of Olney, most areas have at least 60 common ownership communities. Gaithersburg and Germantown have the largest share of all units in the County. An additional 38 HOAs (3,000 units) are located in smaller jurisdictions throughout the County.

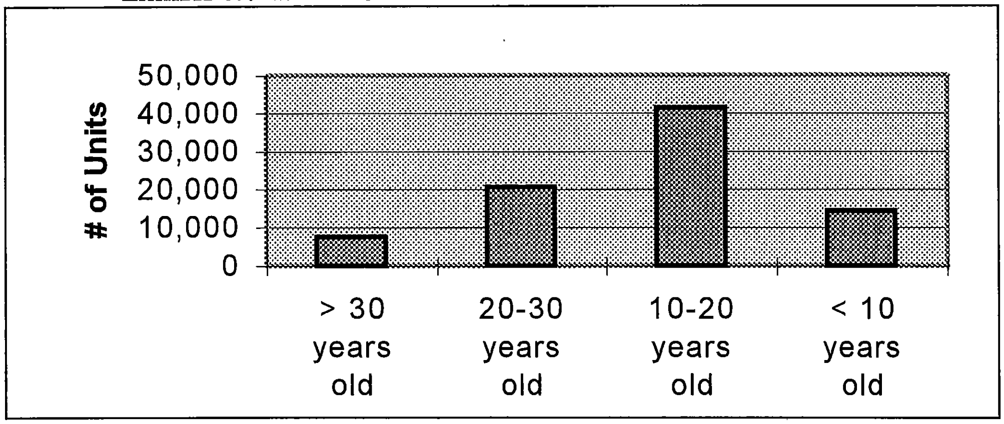
EXHIBIT 39: COMMON OWNERSHIP COMMUNITIES IN THE COUNTY

Area	# of HOAs	# of Units	% of units
Bethesda/C.C.	70	10,887	11%
Eastern MC	62	9,020	9%
Gaithersburg	86	19,010	20%
Germantown	67	14,947	16%
Olney (a)	36	6,579	7%
Potomac	63	7,672	8%
Rockville	61	8,623	9%
Silver Spring	69	5,678	6%
Wheaton	62	10,616	11%
Other (b)	38	3,012	3%
Missing info.	2	71	0%
Total	616	96,115	100%

Source: OLO and Consumer Affairs data.
(a) Includes Olney, Ashton, Brinklow, Brookville, and Sandy Spring
(b) Includes Cabin John, Damascus, Darnestown, Takoma Park, Kensington, Laytonsville, Derwood.

Over 76,000 (80 percent) of the units in common ownership communities have been built in the last thirty years. (Data is not available on the construction date for 10,000 of the HOA units. Many of the 7,500 units built before 1967 may be in buildings that were converted to cooperatives.) Exhibit 40 shows the breakdown by age of all registered units.

EXHIBIT 40: AGE OF UNITS IN COMMON OWNERSHIP COMMUNITIES



Source: Office of Legislative Oversight and Consumer Affairs data.

Common ownership communities vary widely in the total number of units per community. About one-third of the common ownership communities have 50 units or less; one-third have between 50 and 150 units, and the remaining one-third have from 150 units to over 1,000 units.

Approximately 23 percent of the 96,000 units in common ownership communities are single family detached houses, 40 percent are townhouses, and 27 percent of the units are in garden and high rise apartment buildings. Ten percent of the units have no housing type indicated).

D. UMBRELLA HOMEOWNER ASSOCIATIONS

There are 21 umbrella organizations for common ownership communities in Montgomery County and 110 homeowner associations that are members of an umbrella organization. Exhibit 41 lists the organizations identified as Umbrella Organizations in the Consumer Affairs database.

An umbrella homeowner association manages the services for a group of individual homeowner associations. About 27,500 units or almost one out of every three common ownership households belongs to an umbrella homeowner association. Umbrella homeowner associations are typically established by developers during the land development process, prior to the establishment of the individual HOAs. Some umbrella HOAs provide one service, such as recreational programs or stormwater management facility maintenance, whereas others coordinate the delivery of all services for individual HOA members.

EXHIBIT 41: UMBRELLA HOMEOWNER ORGANIZATIONS IN MONTGOMERY COUNTY

Umbrella Organizations	No. of Units
1. Cherrywood HOA	606
2. Churchill Community Foundation	1462
3. Churchill Village South	822
4. Environ Corporation	445
5. Fallstone HOA	132
6. Flower Hill Central Corp	1632
7. Georgian Colonies C.S.A.	453
8. Homeland Village C.A.	370
9. Leisure World Comm. Corporation	4187
10. Manchester Farms Comm. Assoc.	1133
11. Montgomery Village Foundation	9044
12. North Lake Village Federation Inc.	1752
13. Pembrook Community Assoc.	946
14. Potomac Crest HOA	52
15. Quincehaven HOA	629
16. Riverhill HOA	11
17. Sumner Village CA	483
18. Tanglewood HOA	495
19. Tuckerman Station HOA	313
20. Water's Landing Association	114
TOTAL Number of Units	25081

Source: Office of Legislative Oversight and Division of Consumer Affairs

II. THE COUNTY GOVERNMENT'S ADMINISTRATIVE FRAMEWORK

Montgomery County has a long standing tradition of citizen participation and community outreach. Open meetings, public hearings and open public committee worksessions, the use of civic associations and the establishment of regional service centers, departmental advisory boards and committees all offer citizens opportunities and access to participate in government decision making. These service structures established by the government work with many other private non-profit organizations including chambers of commerce and recreation clubs as well as many of the homeowners associations described above.

A. REGIONAL SERVICE CENTERS

Over the last 20 years, the County has established five Regional Service Centers in Silver Spring (1975), Wheaton (1978), Bethesda Chevy Chase (1979), the Upcounty (1988) and the East County (1991) to serve regions of the County. The Regional Service Centers promote community building, provide enhanced interaction between the County Government and its residents and render specialized local services on a regional basis. The Executive goals for the Centers are:

- to bring selected County services closer to the community,
- to increase citizen accessibility to government and participation of citizens in government,
- to improve the responsiveness of public services to community problems, and
- to coordinate public services in the region.

The service centers were established incrementally and differ significantly in terms of size of the area, number of people served as well as the demographic characteristics of population. The initial centers were located in densely populated areas in close proximity to a central business district at a site easily accessible by mass transportation. The locations were identified as regional centers by area residents. The location of the Upcounty and the East County Centers, which opened in 1988 and 1991 respectively, were based on demographics, citizen demands for services, community identity, regional need assessments by functional departments and other criteria. Following the realignment of service area boundaries in 1991, all areas of the County are included in a service area with the exception of Rockville.

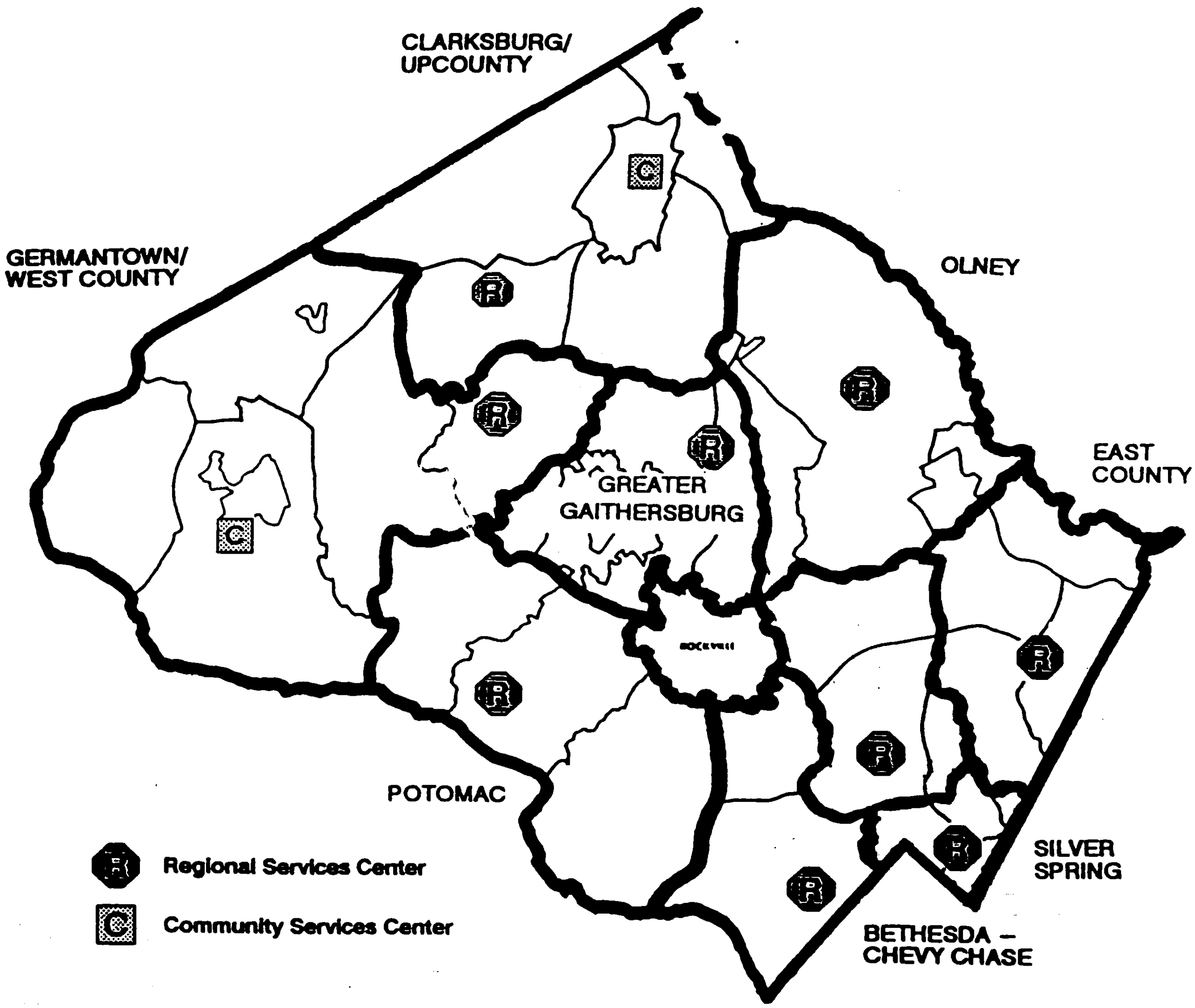
Each center provides a group of core services as well as a group of additional services based on the needs of the community. The core services include regional representation, community assistance, resident information and referral and service center administration. Tenant agencies are located in the centers based on regional needs and the desire to create one stop shopping for government services and related nonprofit services.

Each service center has a regional citizens advisory board to advise the County Executive, the County Council and other government officials and agencies on issues and concerns in the region. The CABs serve as liaisons between civic associations, community groups, business organizations and government representatives working in the region. They also advise the Center directors on emerging demographic, economic and social trends. Members are appointed by the County Executive and confirmed by the County Council. The Centers work to establish boards that represent the diverse interests of the service area. The size of the boards ranges from 15 to 20 members.

In 1995, the County conducted a 20 year Regional Services Centers Facility Strategic Plan to develop a uniform and comprehensive blueprint for the development of future centers. The study documented the existing service delivery system and proposed a twenty year plan. Based on an analysis of existing population and demographics, existing services, planning criteria and facility needs, the strategic plan proposes to divide the existing five regions into nine new regions over the next 20 years. The map on page 56 shows the future service area boundaries proposed in the Strategic Plan.

Exhibit 42

FUTURE SERVICE AREA BOUNDRIES FOR THE REGIONAL SERVICE CENTERS



Source: Regional Service Centers Draft Facilities Strategic Plan, Oct. 1995, Vitetta Group.

B. ADVISORY BOARDS, COMMISSIONS AND COMMITTEES

The County has over 70 boards, commissions and committees whose members are appointed by County Executive and confirmed by the County Council or appointed by the County Council. (See Appendix D) In addition to these formal boards, County departments use other formal and informal boards, groups and task forces to identify community needs and address service delivery issues. Below are descriptions of the groups that work in the areas of transportation, security, community development and recreation services.

1. THE DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION (DPWT)

The Community Outreach Program in the DPWT uses action groups as well as countywide groups for beautification, environmental issues, bicycles and traffic mitigation.

The DPWT action groups bring community people and staff from DPWT and State Highway together to address neighborhood transportation issues such as traffic, parking, and pedestrian safety. The first action group was started in the early eighties in Bethesda. Today there are five action groups whose names relate to the five regional service centers: the Bethesda, Silver Spring, Upcounty, Mid-County and East County Action Groups.

The groups provide a mechanism for citizens and DPWT to identify, address and resolve specific problems. The groups meet monthly or every other month. Citizens can fill out a form or call in to identify a concern. DPWT prepares a report that describes the item, identifies staff responsible for addressing the issue and tracks specific follow-up actions that are taken.

In addition to the action groups, DPWT staffs Keep Montgomery County Beautiful, Keep Montgomery County Moving, the Bicycle Action Group and the Environmental Advisory Group. These groups meet monthly to develop strategies and advocate for particular policies.

2. THE DEPARTMENT OF RECREATION COMMUNITY CENTER ADVISORY BOARDS

The County has four Recreation Advisory Boards, one to address countywide recreation issues and three boards for subareas of the County. In addition to these boards, the Director of Recreation appoints boards for the 13 Community Centers managed by the Recreation Department. In practice, some boards are more active than others and the more successful boards are generally associated with the larger recreation facilities. Some of the boards have incorporated as non-profit organizations and sponsor fund raising activities. For example, the Leland Center sponsors an antique fair each year and uses the proceeds to upgrade the community center. Money has been used to upgrade the weight room, to purchase new equipment and to make other improvements.

The five senior centers managed by the Recreation Department also have self appointed boards. The Recreation Department is working with one senior center now to incorporate the board.

3. THE COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

The federal regulations for the Community Development Block Grant (CDBG) program require that the County's decisions about CDBG funding include a citizen participation process and two public hearings. The County, through an Executive Order, has chosen to establish an Executive appointed Community Development Advisory Committee to meet the citizen participation requirement. The committee, which advises staff in the Department of Housing and Community Affairs on the County's allocation of CDBG funds, consists of 11 members who serve 3 year rotating terms. The Committee conducts a public hearing in October to solicit citizen input regarding community development needs and meets through December to meet with applicants and review applications. The Committee presents its recommendations to the Executive in late December.

C. CIVIC ASSOCIATIONS AND UMBRELLA CIVIC ASSOCIATIONS

Civic associations are organizations formed by citizens to address issues of concern to a particular neighborhood or broad issues of countywide interest. The Community Relations Office in the Montgomery County Park and Planning Commissioner's office develops and maintains a countywide Citizens/Homeowners Association Map and Index. This map shows the boundaries of all civic and umbrella homeowner associations plus the boundaries of the municipalities and special taxing districts.

The Planning staff and many other agencies use the map and index to ensure proper notification of associations about issues and decisions of public interest. An association may be included on the map and in the index by sending the president's name, the association mailing address and a map showing the boundaries of the association to the Commissioner's Office. There are no formal registration procedures.

III. SERVICES AND PROGRAMS FOR COMMUNITIES IN THE NON-MUNICIPAL AREAS OF THE COUNTY

To understand the interrelationship of the service structures established through the County's regulatory and administrative framework and to compare services inside and outside of the urban districts, this section describes the roadway maintenance, community development and special event services the County provides to non-municipal communities outside of the urban districts.

A. ROADWAY AND ROADSIDE MAINTENANCE PROGRAMS

Roadway and roadside maintenance services are those programs and activities that care for all the elements of the roadway system. The elements include the roadway pavement, bridges, storm drains, traffic signals, and curbs and gutters (between the curbs) and sidewalks, trash receptacles, gutters, streetlights, trees and other street furniture (outside the curbs).

Regular roadway and roadside maintenance helps to extend the useful life of a facility and keep down the associated costs of major repairs, replacement and debt service paid for major repairs. The federal DOT estimates that deferring $1 in highway resurfacing costs for 2 years can require $4 in reconstruction costs to repair the damage.

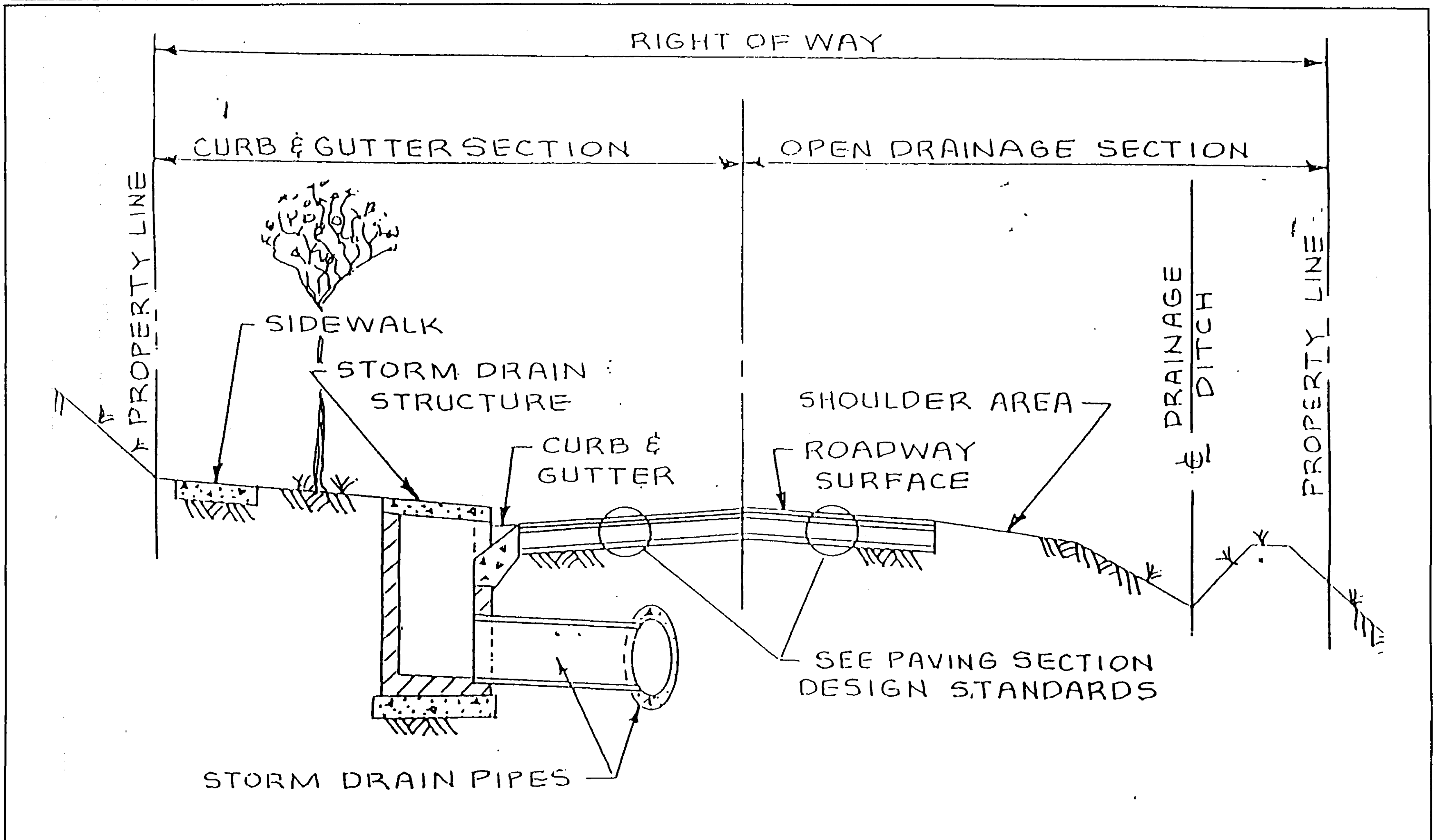
In the County, the Division of Highway Services and the Division of traffic and Parking Services in the Department of Public Works and Transportation administer the operating and capital programs that maintain the elements of the County owned roadway system. In FY 97, the County budgeted $22.4 million for roadway maintenance operating programs and $17.4 million for capital programs to maintain and repair roadway and roadside infrastructure. State aid provides over 97 percent of the revenues for the operating programs and general obligation bond proceeds will provide 85 percent of the revenues for the capital program.

Unlike other municipal services which use subdistricts to delineate service areas, the responsibility to provide maintenance service and the service level or frequency is determined by the ownership of the roadway and the roadway classification (and usage) of the facility.

DPWT administers the following maintenance programs funded through either the operating or capital budget. The County government provides the following maintenance services throughout the County in cooperation with the municipalities, urban districts, special district governments and homeowner associations. In some cases, municipal or homeowner association services fully substitute for the County program. In other cases, the local entity provides an enhanced level of service. An enhanced level of service may mean that the service is being provided in addition to the County service or that the service is being provided more frequently or sooner than it would be provided by the County.

Exhibit 43

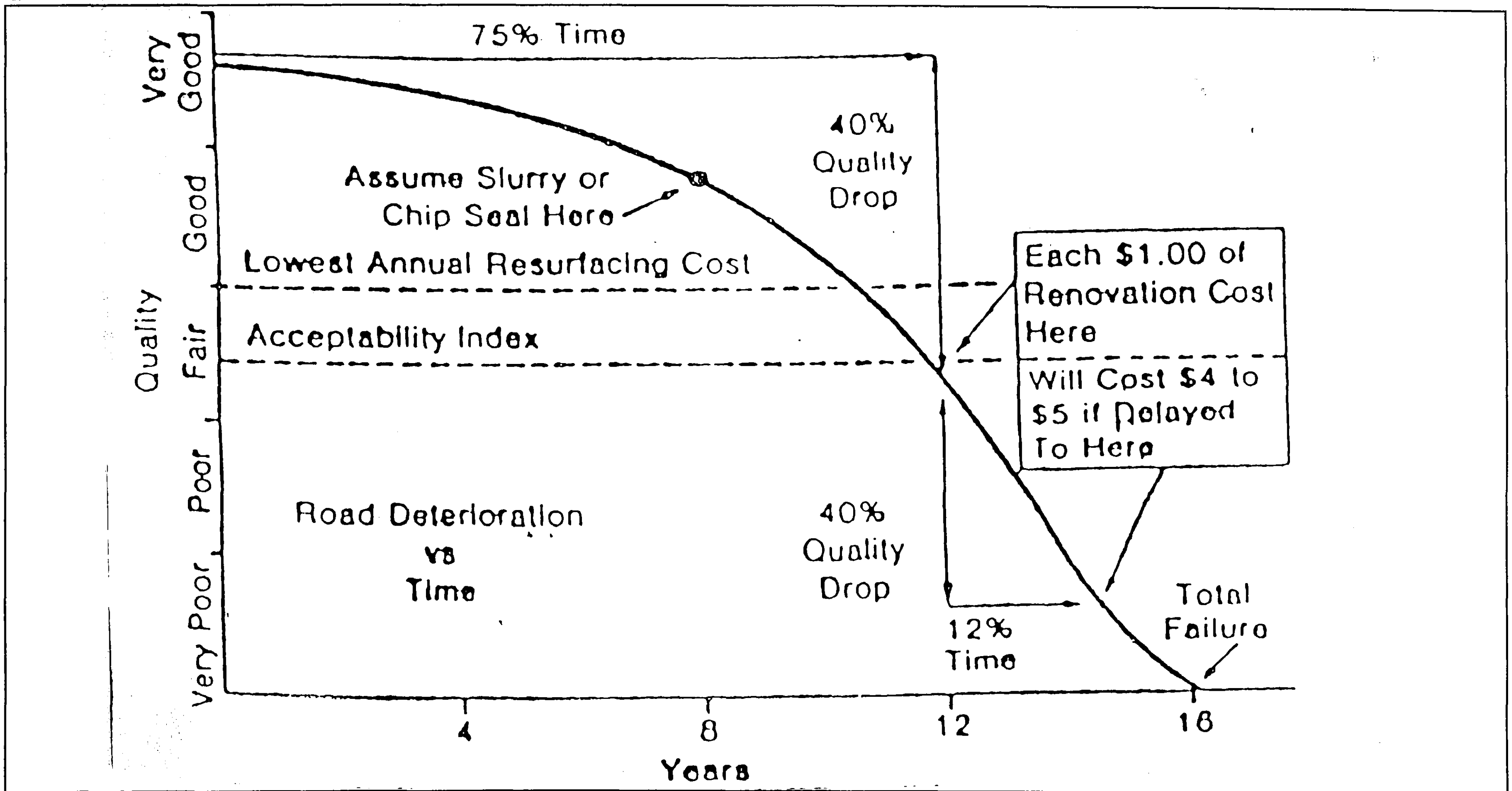
ELEMENTS OF A ROADWAY SYSTEM



Source: FY 97 Recommended Budget Department of Public Works and Transportation, Division of Public Works

Exhibit 44

ROADWAY MAINTENANCE AND REINVESTMENT COSTS



Source: FY 97 Recommended Budget Department of Public Works and Transportation, Division of Public Works

1. THE STORM PROGRAM

The Storm Program funds the removal of dangerous limbs out of roadways downed by wind and rain storms. The service area for this program includes all County maintained roadways. There is no backlog since this service is provided on an as needed emergency basis. The State and some municipalities, and homeowner associations and urban districts share in the delivery of these services on roads they own.

2. BRIDGE MAINTENANCE

The County maintains 185 bridges along county roadways. The approved funding for FY 97 provides minor repairs for 16 bridges and maintains a satisfactory level of services. Responsibility for this service is shared with some municipalities who receive money from the state for bridge maintenance.

3. ROADWAY PATCHING AND RESURFACING

These programs include emergency repairs (potholes) and resurfacing for the 2,315 miles of County owned roads. The county funds rural road resurfacing (i.e. roads with low traffic volumes) through the DPWT operating budget and provides for the resurfacing of residential, primary and arterial roadways through the capital budget. Industry standards for roadway resurfacing vary by the type of roadway as shown in Exhibit 45.

EXHIBIT 45: INDUSTRY STANDARDS FOR ROADWAY MAINTENANCE

Roadway Classification	Industry Standard	County Roads
Rural	Every 4 years	514 miles
Residential	Every 7 years	2,975 miles
Primary and Arterial Residential	Every 12 years	901 miles

Source: DPWT FY 97 Recommended Operating Budget

At the beginning of FY 97, the County had the following backlogs for roadway resurfacing:

- Rural Roads - 289 miles or 8 years;
- Residential Roads - Almost 1,000 miles or 4.4 years;
- Primary and arterial roads - 62 miles or under one year.

4. Curb and Gutter Maintenance

The County provides for the maintenance of asphalt and concrete curbs and gutters in residential and business areas in the County in the operating budget and funds the repair and replacement of curbs and gutters through the capital program. The County does not maintain curbs and gutters along State roads, in some municipalities and special districts and along privately maintained roads. Funding in the approved FY 97 budget provides for 16,100 linear feet whereas roughly 20,000 linear feet need to be repaired annually. At the end of FY 97, the projected backlog is expected to be 26,000 linear feet.

5. Curb and Gutter Replacement

This program funds the replacement of damaged or deteriorated curbs and gutters. To maintain a 50 year cycle, 36 miles need to be repaired annually at a cost of $2.6 million. The FY 97 approved budget funds 12 miles and DPWT projected a backlog of 400 miles by the end of FY 97.

6. Storm Drainage Program

This program provides for erosion repairs, roadway ditch/channel repairs, cleaning of enclosed storm drain systems, repairs of drainage pipe and paving of drainage ditches. The service area is countywide but does not include some municipalities. DPWT indicates that backlogs exist in various activities but a special inventory would be required to determine the extent of the backlog. The FY 97 approved funding level eliminated funding for ditch regrading and the reseeding or resodding of open ditches. The State, some municipalities and some homeowner associations provide storm drainage maintenance services for non-County maintained roads.

7. Shoulder Maintenance Program

This program includes the patching , reshaping, stabilization and resurfacing of shoulders to correct rutting, erosion and undermining of the roadway surface. There are approximately 500 outstanding service requests for regrading of shoulder areas. Funding in the approved FY 97 budget provides for only 16 percent of the amount needed to meet full service requirements. Shoulder maintenance on non-County maintained roads (including private roads) is provided by the State, some cities, some special district governments and some homeowner associations.

8. Roadside Maintenance

This program provides roadside care services such as mowing, clearing and grubbing, litter and chattel pickup, guardrail replacement and barricade replacement. Through FY 96, these services in the unincorporated areas of the County were funded through the general fund, the suburban district tax and the urban district tax. With the elimination of the suburban district tax in FY 96, the program is funded out of the general fund in FY 97 for areas outside the urban district and out of the urban district special revenue funds for services inside the urban districts. The County provides three levels of mowing services depending on the characteristics of an area:

> Landscape mowing, the highest level of service, is provided 12 to 15 times per year. No special equipment is needed. DPWT delivers the service through a combination of in house and contract services.
>
> Median mowing is provided 6 to 8 times per year in highway medians. This service requires larger equipment and thus has more initial start up costs. DPWT is in the process of contracting out this service because they have found that contractors can provide 1.5 times the service for 1 unit of DPWT cost.
>
> Roadside mowing is the mowing provided to rural areas 2 to 2.5 times per year.

The service area for this program includes all County maintained residential, primary and arterial roadways. It does not include municipal roadways and streets in some special district governments or homeowner associations. The FY 97 approved budget:

- eliminates funding for the litter pick up and clearing and grubbing services,
- reduces mowing in urban areas to 8-9 times per year, and
- reduces mowing along rural roads to 1.5 to 2 times per year.

DPWT plans to provide litter pickup using citizen volunteers through the adopt-a-road program.

9. SIDEWALK MAINTENANCE PROGRAM

This program provides maintenance for asphalt and concrete sidewalks in residential and business areas and the urban districts. This program has been operating at a minimal level for the past three fiscal years. In FY 97, the approved funding provides for only 35 percent of the needed sidewalk repairs.

10. SIDEWALK REPAIR AND REPLACEMENT

The County funds the sidewalk repair program which provides for temporary asphalt patching of concrete sidewalks through the operating budget and funds the replacement of damaged or deteriorated sidewalks through the capital program. There are 933 miles of County maintained concrete sidewalks. To maintain a 50 year cycle, 18 miles should be repaired annually at a cost of $1 million. At the end of FY 97 the backlog is projected to be 189 miles. The general fund pays for the repairs of standard sidewalks in the Bethesda and Silver Spring urban districts.

11. Tree Maintenance

The purpose of adequate tree maintenance is to provide safe use of public roadways, to maintain and improve the environmental benefits resulting from adequate tree cover, to provide aesthetically pleasing neighborhoods and roadways and to generally maintain the quality of life in Montgomery County. The County tree program includes maintenance of all trees on public rights-of-way. DPWT estimates there are approximately 300,000 trees along County maintained rights of way. An optimum program would include pruning for tree health and appearance, roadway clearance, and sign visibility once every four years. The approved FY 97 funding provides for pruning on an eight year cycle.

In FY 97, the service area for the tree maintenance program was expanded from the suburban district to the entire county. The service area excludes trees along State roads and public rights of way in some municipalities, special districts, in the urban districts and along roadways maintained by homeowner associations.

12. Snow Removal

This program provides funding for the activities and services needed to remove snow and ice on county maintained roads. The service area includes all County maintained roadways, including roads in the urban districts. The state, municipalities, special district governments and homeowners associations provide and fund snow removal services on other non-County maintained roads throughout the County. There is no backlog since this service is provided on an as needed emergency basis.

B. The Renew Montgomery Program

In FY 97, in response to the backlog of neighborhood infrastructure that needed to be repaired, the County initiated the Renew Montgomery program. The goals of the program are to:

- provide comprehensive, coordinated DPWT services within target neighborhoods,
- empower neighborhoods, and
- provide enhanced neighborhood improvements such as repaired sidewalks and streets, increased street lighting and better transit access.

DPWT selects neighborhoods for the Renew Montgomery program using assessments from Highway Services about the condition of infrastructure and the existing backlog of sidewalk, curb and gutter repair needs. After a particular area has been identified, DPWT determines whether other divisions in DPWT have pending projects in the same area.

In FY 97, the County added $2 million to the Sidewalk and Infrastructure Revitalization Project to fund the first year of the program. Additional funding for improvements may be provided through other capital projects, Keep Montgomery County Beautiful beautification grants, programs in other departments or donations of time and/or resources from businesses or community members.

The FY 97 target neighborhoods for Renew Montgomery include East Silver Spring, East Bethesda, Woodside Park, Viers Mill Village, Connecticut Avenue Estates, Brookmont, Longbranch, Tamarack Triangle and Bannockburn. As of December 1996, work had been completed in three neighborhoods, and was getting underway in two more.

As another aspect of community outreach, DPWT works closely with existing civic associations and residents of the neighborhoods to help identify and prioritize the needed improvements. Staff from other County departments, such as the Police and Housing and Community Affairs, frequently attend these meeting to address neighborhood issues that fall outside the scope of DPWT's responsibilities.

C. Special Events and Recreation Services

The County government offers community based recreation programs, special events programming and cultural arts education services through the Department of Recreation. The County's inventory of recreation facilities includes: 13 community recreation centers, 4 indoor pools, 5 outdoor pools and six senior centers located throughout the County.

The existing recreation centers are a mix of 7 small centers (5,000 to 10,000 square feet) built over 30 years ago and 6 larger, newer facilities (23,500 square feet). In the next two to three years, the County plans to renovate and enlarge the existing community center in Rosemary Hills, to construct a recreation center and outdoor pool in Germantown, and to build two new community centers in the East County.

In FY 97, the Recreation Department will provide aquatics, special events and cultural arts educational programs on a countywide basis as well as a core package of community recreation programs for each regional recreation area.

1. Special Events

The County provides special events on a countywide basis to enhance a sense of community, encourage family participation, promote multi-cultural interaction and provide a positive image for the communities. Special events funded in whole or in part out of the Recreation budget in FY 97 included fireworks and support for the Oktoberfest in Germantown and the First Night celebration and Ethnic Heritage Festival in Silver Spring.

The municipalities, special district governments, urban districts and some umbrella civic organizations also pay for special events programming in their communities.

2. Cultural Arts Education

The County provides performing arts, cultural and educational services through the Round House Theater located in the mid County. The services include mainstage productions, a series of children's shows, a theater school for children and adults and musical program offerings. Funding for the theater is being privatized over a six year period. Other performing arts services are provided by Rockville and Gaithersburg, the Strathmore Hall foundation and through other local schools.

3. Aquatics

The Department operates one small and three large indoor swim facilities as well as eight outdoor pools. Municipalities, special district governments, many homeowners associations and umbrella homeowner associations and many private swim clubs share in the delivery of aquatics services.

4. Community Recreation Programs

In FY 97 the Recreation Department reorganized to establish Recreation Service Center coordinators to advise each of the recreation areas and to create in house teams to provide services. The Recreation Service Center coordinators work as advocates, lobbyists and brokers of recreation programs and services. They function much like the directors of the regional service centers. The coordinators work with PTAs, civic groups and other community based organizations to identify new service needs or service improvements.

The in-house teams are organized around specific services including camps and playgrounds, recreation service center volunteers, senior adults, special events, sports, and the teens and therapeutic team. The teams are required to send representatives out to each of the three regional centers on a weekly basis.

Other entities responsible for the delivery of community based recreation include the municipalities, certain umbrella civic organizations, and many private recreational clubs and nonprofit organizations.

D. Commercial Revitalization and Community Development Services

The County provides commercial revitalization and community development services through the Department of Housing and Community Affairs. These programs are budgeted in the capital program and funded through a combination of general obligation bond proceeds and Community Development Block Grant funds received from the federal government.

1. COMMERCIAL REVITALIZATION PROGRAMS

The County provides streetscaping, facade easements and other commercial revitalization activities in the three central business districts as well as targeted local retail centers. In FY 97, the workyears allocated to the commercial revitalization program were transferred to CDBG funded projects.

The FY 97 Capital Program includes projects in the following areas:

Fenton Street Village This $2.7 million project leverages public streetscaping and facade easement purchases to induce private property owners and local business operators along Fenton Street in downtown Silver Spring to upgrade buildings and businesses. Funding is from the federal CDBG program.

Four Corners - The County approved $1.4 million to develop a comprehensive commercial revitalization strategy that will leverage funds to provide more attractive and safe shopping for nearby residents and to mitigate the impacts of roadway construction on the businesses. Funding will be provided from County General Obligation Bonds and General Fund current revenues.

Kensington - The County is programming almost $1 million to develop a comprehensive commercial revitalization strategy for Howard Avenue east of Connecticut, the main street of Kensington. The project will provide for streetscape construction and will focus on a partnership that provides financial and other resources from the Town of Kensington and the Kensington business community. Funding will be provided from County General Obligation Bonds and General Fund current revenues.

Rockville Town Center - The County is providing $6 million for infrastructure improvements related to the redevelopment of Rockville Mall and the town center area. Funding comes from County General Obligation bonds and current revenues plus the proceeds from the sale of land swapped with the City.

South Silver Spring Revitalization - This $785,000 project provides for streetscaping and utility relocation for a triangular area in Silver Spring bounded by Newell Street and Blair Mill Road on the northwest and B&O Railroad Right of way and the District of Columbia line on the southeast and southwest. Funding is from the federal CDBG program.

Wheaton Marketplace - This $2.3 million project funds a comprehensive public-private effort to revitalize the Wheaton Triangle area and to continue the revitalization efforts of the Wheaton business community and the County. The project will improve and enhance public parking facilities serving the area. to provide better circulation and access to retail businesses. The project is funded from current revenues in the Parking District and from Parking funds transferred to the Wheaton Urban District. According to the approved project description, the expenditure of these funds will require a change to County law.

2. THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The County's community development programs include housing code enforcement, housing development and loan programs, rehabilitation and weatherization of single family homes and various other activities funded through the Community Development Block Grant program. According to the County Executive's Recommended FY 97-02 Capital Program, the major problems areas include:

- maintenance of housing and public facilities in older urban and single family and multi family neighborhoods,
- a shortage of community facilities in low and moderate income neighborhoods, and
- the decline of older retail centers and central business districts.

The sources of funding for the Department's capital program include general obligation bonds, current revenues, federal Community Development Block Grants (CDBG), current revenue from the parking district and other housing funds.

The County's uses CDBG funds to develop viable communities by funding activities that provide local neighborhood improvements and decent housing in specific neighborhoods. The amount of CDBG money the County receives from the federal Department of Housing and Urban Development is set by a formula that takes into account the total population of the County, the age of the housing stock, and the percentage of the low and moderate income population. In general, the money must be used for projects that benefit low and moderate income communities.

DHCA works with a citizen's advisory committee and DHHS to allocate the County's share of funds between County funded programs and projects administered by nonprofit providers in a way that is consistent with HUD funding guidelines. In the last few years, the share of county funded programs has increased from 40 to 60 percent while the share of programs by non-profit providers has dropped accordingly.

In FY 97 the County expects to receive approximately $6.4 million in federal CDBG funds for both capital and non-capital community development activities. The County will pass through approximately $850,000 to the cities of Rockville, Gaithersburg and Takoma Park. (Note the City of Gaithersburg has allocated $168,410 for a building facade easement program and the City of Takoma Park is spending $91,500 for Takoma Park street improvements.)

The County's allocation of CDBG funds for capital projects is allocated between community development and recreation. In addition to the commercial revitalization and streetscaping programs identified above, the largest expenditure of the County's CDBG money in FY 97 is $800,000 to support construction of the East County Community Recreation Center.

In the past, the County had targeted the use of CDBG money for improvements in low and moderate income neighborhoods such as Emory Grove, Laytonsville, Summit Hills, Rosemary Hills, East Silver Spring, Quebec Longbranch and others. In FY 97, the County's allocation includes $200,000 for a Comprehensive Neighborhood Assistance program to re-establish this initiative. The program will target the Connecticut Avenue Estates neighborhood.

IV. THE FINANCIAL AND BUDGETARY SERVICE FRAMEWORK

The County uses both the operating and the capital budgets to program roadway and roadside maintenance activities and special events. Three County departments, the Department of Transportation and Public Works, the Department of Recreation and the Department of Housing and Community Affairs develop the operating and capital budgets. Capital improvements include community development projects, recreation facilities and some roadway maintenance and repair programs are programmed by department or function through the capital budget.

A. THE CAPITAL PROGRAM FACILITY PLANNING PROCESS

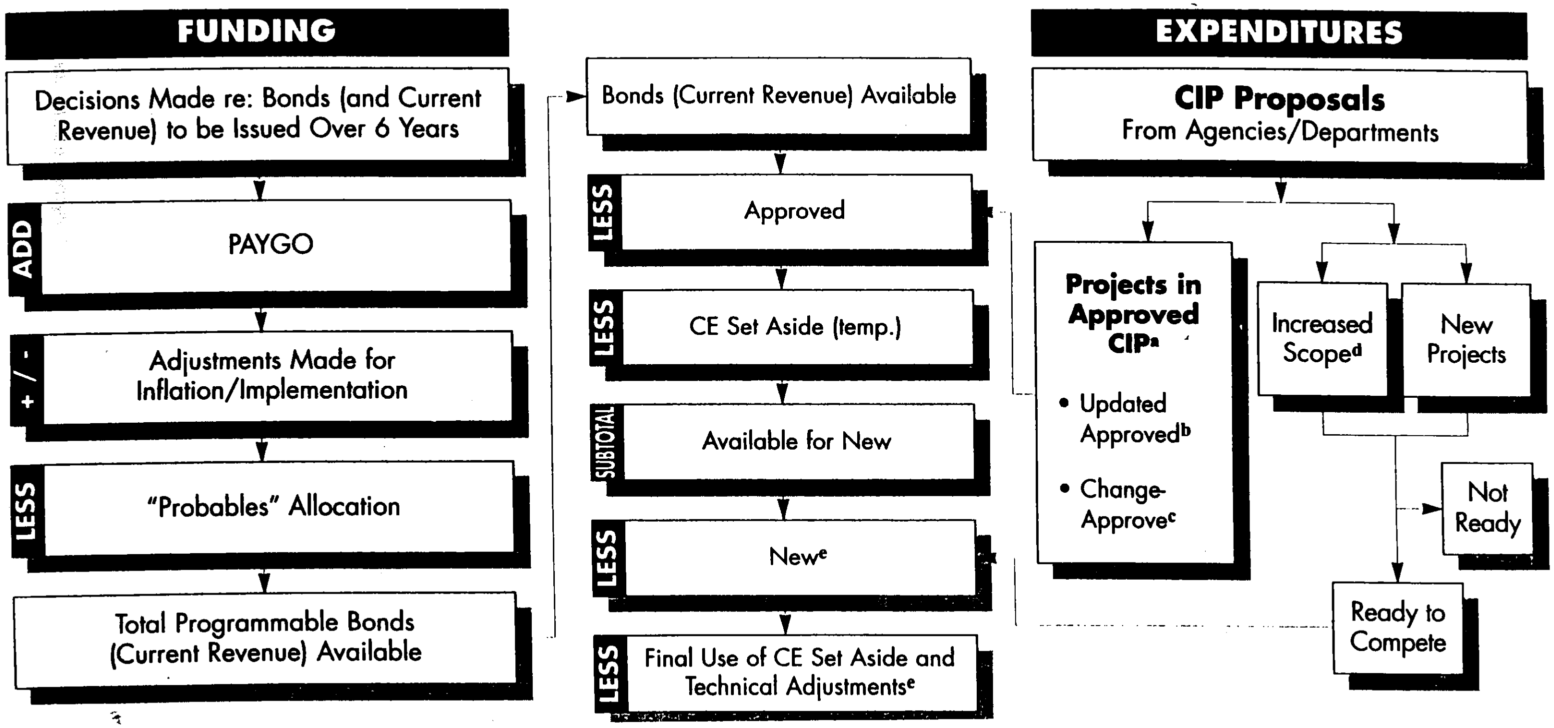
The capital programs for roadway maintenance, recreation and community development are budgeted by departmental program. The process for programming a capital project is shown on the diagram on page 71. As the diagram illustrates, a capital project goes through three major steps before it is included in the approved capital program: the concept phase, the facility planning phase and the resource competition phase.

Concepts for capital projects come from many sources including master plans, mandates, initiatives of the County Executive, the County Council or Park and Planning and citizens. In recent years, the County Executive has annually sponsored five capital facility need forums held in connection with the five regional Citizen Advisory Boards. The purpose of these forums was to identify citizen priorities for capital projects and convey these priorities to the County Executive and Department heads, prior to departmental project recommendations.

As described in the CIP, facility planning for capital projects is "an analytical tool and decision making process which generates a clear definition of need and scope, utilizing a documented program of requirements and developing a defined cost estimate that is

Capital Improvements Program
Resource Allocation Process

Process Used by OMB/County Executive to Allocate Bonds (and Current Revenue) Among Competing Proposals



Source: Office of Management and Budget

Notes a) All projects in Approved CIP are reviewed each year by OMB. b) Projects which are proceeding as approved in previous CIP. c) Projects which include minor, non-discretionary changes to approved CIP. d) Projects in Approved CIP already but department/agency proposes expansion of scope and/or other major change. e) Allocation of 6-year funds available does not always achieve affordable allocation by year. Timing needs to be adjusted.

subject to minimal change." Facility planning projects are umbrella programs that contain many projects in transition to the "ready to compete" stage. In the past few years, most County departments involved in the delivery of municipal service functions have instituted a facility planning process.

Following facility planning, after a project has a clearer program of requirements and a more realistic cost estimate, a project enters the resource allocation phase. A department or agency proposes the project for inclusion in the capital program and then the Office of Management and Budget, the County Executive, and the County Council each evaluate whether the County can afford to fund the project in the context of all other priorities. During this phase, the County Council holds a public hearing to receive testimony on the County Executive's Recommended Capital Program. The County Council must adopt a one year capital and operating budget by June 1.

B. THE OPERATING AND CAPITAL BUDGETS

Exhibit 47 shows the operating and capital budgets for the approved FY 97 operating budgets for roadway maintenance, special events and recreation programming, and community development. The approved FY 97 budgets total almost $72 million. For countywide services, $22.4 million is for roadway maintenance and $18.8 million is for recreation programs and special events.

EXHIBIT 47: APPROVED FY 97 OPERATING AND CAPITAL BUDGETS FOR ROADWAY MAINTENANCE, SPECIAL EVENTS AND SERVICE COORDINATION (000S)

Services	Operating Budget	Capital Budget	TOTAL
Roadway Maintenance	$22,450	$17,454	$39,904
Recreation/Special Events	$18,868	$9,450	$28,318
Community Development	0	$3,914	$3,914
TOTALS	$41,318	$30,818	$72,136.00

Source: Approved FY 97 Operating Budget

C. REVENUE SOURCES AND FUNDS

The revenue sources for roadway maintenance and other community services vary depending on whether the program budget is in the general fund, a special revenue fund or the capital program fund. The County uses the general fund to account for the roadway maintenance operating budget. The major revenue sources for the general fund include property taxes, income taxes, federal and state grants, service charges, fines and forfeits and miscellaneous revenues.

The County has established special revenue funds for many of the special taxing districts revenues. For example, the Recreation fund accounts for recreation programs and special events and separate urban district funds account for each urban district program budget in Silver Spring, Bethesda and Wheaton

Exhibit 48 shows the funds and revenues for the roadway maintenance, recreation and community development operating and capital programs. The table documents the following patterns:

- State aid funds almost 97 percent of the roadway maintenance operating programs and federal aid funds about half of the community development program.
- The major sources of revenue for the recreation fund are the recreation tax and user charges for recreation programs. Ad valorem recreation district taxes fund approximately two-thirds of the recreation program activities.
- General obligation bonds will provide $14.8 million in funding for the roadway maintenance and repairs and $6.5 million for the construction of new recreation facilities.

EXHIBIT 48: FUNDS AND REVENUES FOR ROADWAY MAINTENANCE, RECREATION, AND COMMUNITY DEVELOPMENT OPERATING AND CAPITAL PROGRAMS

Fund	Revenues	Roadway Maintenance	Recreation	Community Development
GENERAL FUND	Property and Income Taxes	$635		
	Fees	$98		
	Federal/State Aid	$21,717		
SPECIAL FUND	District Taxes		$12,809	
	Fees		$5,990	
			$502	
CAPITAL PROGRAM	Current Revenues	$1,448	$0	$75
	G.O. Bonds	$14,885	$6,583	$1,400
	Federal/State Aid	$939	$1,647	$1,629
	Other	$212	$1,220	$810

Source: Approved FY 97 Operating Budget

The County uses a debt service fund to account for fiscal activities related to the debt service on general obligation bond funded capital projects. This fund receives revenues from the general fund, the recreation special revenue fund as well as other special funds that need to pay debt service on related capital projects. Debt service on the transportation bonds is paid out of the general fund revenues whereas debt service on the recreation bonds is paid out of proceeds from the recreation district tax.

The County has allocated $3.2 million in federal community development block grant funds evenly between the community development infrastructure program and the recreation capital program and provided an additional $1.4 million in general obligation bonds for the community development capital program.

D. THE COUNTY'S HOA REIMBURSEMENT PROGRAM

In 1986, the County Council adopted legislation to establish a reimbursement program for homeowner's associations. Chapter 24B of the Montgomery County Code establishes a program to assist qualifying homeowners associations to maintain roadways that are continuously open to the public as if they were public roadways. The law states that the amount of assistance provided to qualifying associations is calculated by multiplying the average County cost of providing maintenance and street lights for a mile of County roadway during the previous year by the number of association roadway miles that qualify for assistance.

Currently, about 100 miles of association roadways qualify for reimbursement. To qualify for assistance, an association must:

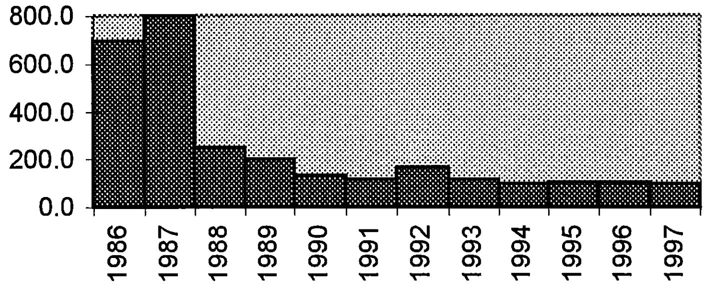
- have a least one-quarter mile of roadway
- maintain its association roadways at a level of service satisfactory to the County;
- finance the maintenance of the roadways with funds collected by the homeowner's association;
- have a bonded financial officer; and,
- agree to use the County's dispute resolution process to resolve homeowner disputes.

The expenditures of funds are subject to the limits of the funds appropriated by the County Council. If the Council does not appropriate enough funds, the amount of assistance per mile is reduced proportionately.

1. EXPENDITURE HISTORY

Exhibit 49 shows the funding levels that have been approved for the program since it began in 1986. As the exhibit shows, after fully funding the program for the initial two years, the level dropped steeply in 1988. The law specifically states that the program was subject to funding made available by the County and that if sufficient funding was not appropriated, the per mileage reimbursement would be reduced proportionately. The initial reimbursement was about $5,500 per mile whereas most recently the rate has been about $1,000 per mile.

EXHIBIT 49: FUNDING FOR THE HOMEOWNER ASSOCIATION REIMBURSEMENT PROGRAM



Source: Comprehensive Annual Financial Reports

2. EMERGENCY BILL 35-96

On November 26, 1996, the County Council enacted Emergency Bill 35-96 to amend Chapter 24B. The legislation established a classification for Private Maintenance Roads to allow the County to pass through State aid from the Highway User Revenue program to qualifying homeowner associations. The law was passed as emergency legislation to allow qualifying homeowner associations to meet the December 1 deadline used by the State to compile the list of eligible roads.

Under the new law, a private maintenance road means a road that:

- is owned by a homeowner's association
- has a right of way at least 30 feet wide (not including parking) and two travel lanes; and
- provides a direct or indirect general vehicular traffic connection to the County road system.

The legislation is expected to increase the reimbursement for maintenance expense from $1,000 to $4,000 per mile per year. If roadways are reimbursed with state revenues, they will no longer be eligible for reimbursement under the County program.

CHAPTER 5 FINDINGS AND RECOMMENDATIONS

In June 1986, the Council enacted Bill 9-86 to authorize the establishment of special taxing areas in three of the County's central business districts.* As stated in the legislation, the purpose of an urban district was "to provide an administrative and financial framework" to maintain and enhance certain areas of the County planned for intense, mixed use development.

This report has examined how the County uses urban districts to coordinate and fund services in the central business districts. This report has also addressed the applicability of the urban district model to provide "an administrative and financial framework" for service delivery to communities outside the urban districts, and compared this model to the existing municipalities and homeowner associations that currently provide services outside the urban districts.

This chapter is organized as follows:

- **Part A** presents General Findings and Recommendations
- **Part B** presents Specific Findings and Recommendations for the existing urban districts
- **Part C** presents Specific Findings and Recommendations for service structures to meet emerging community needs outside the urban districts.

A. GENERAL FINDINGS AND RECOMMENDATIONS

FINDINGS

The urban district legislation was based on the concept of business improvement districts, special taxing areas created by local governments that enable business owners to tax themselves to provide enhanced levels of services.

According to the legislation, funding for the districts was to be self-supporting and come from three major sources:

- an ad valorem (urban district) property tax surcharge paid by owners of commercial property in the district,
- a parking fee surcharge transferred from the parking lot district; and
- a maintenance assessment on optional method developers.

* The three central business districts with urban districts are Bethesda, Silver Spring, and Wheaton. The fourth central business district, Friendship Heights, is a special taxing district that was created by the state General Assembly.

While the County had established many special taxing areas, the establishment of urban districts represented the County's first use of special taxing areas to provide a collection of general purpose services to a concentrated commercial area with unique characteristics.

The urban districts differed from the County's previous use of special taxing areas in the following important ways:

- the establishment of the district and the service area boundaries were predicated on the unique characteristics of a business area,
- the district services crossed the functional responsibilities of several County departments providing maintenance, security and promotional services instead of providing services limited to one functional area or providing a single, limited service,
- the district relied on multiple revenue sources instead of one ad valorem tax,
- the funding structure linked the revenue sources of a mandatory district (the urban district) and a voluntary district (the parking district), and
- the legislation established an urban district advisory board to advise the Executive on the administration of services to the district.

Outside of the urban districts, this report found that communities receive and pay for services through combinations of three different administrative and financial frameworks.

- **The first framework consists of 23 municipalities or special district governments established by the General Assembly between 1860 and 1937.** The authority of the municipalities is determined by municipal charters and the authority of the special district governments was established by the state legislative act that created each one. The authority and powers of the special district governments are more limited than those of the municipalities. The revenues available to fund services are comparable for the special district governmentss and the municipalities. They include municipal or district property taxes, a share of the County's piggyback income tax revenues, user charges and revenue transfers from the federal, state, and County government. The municipalities and special district governments are governed by elected mayors and councils.

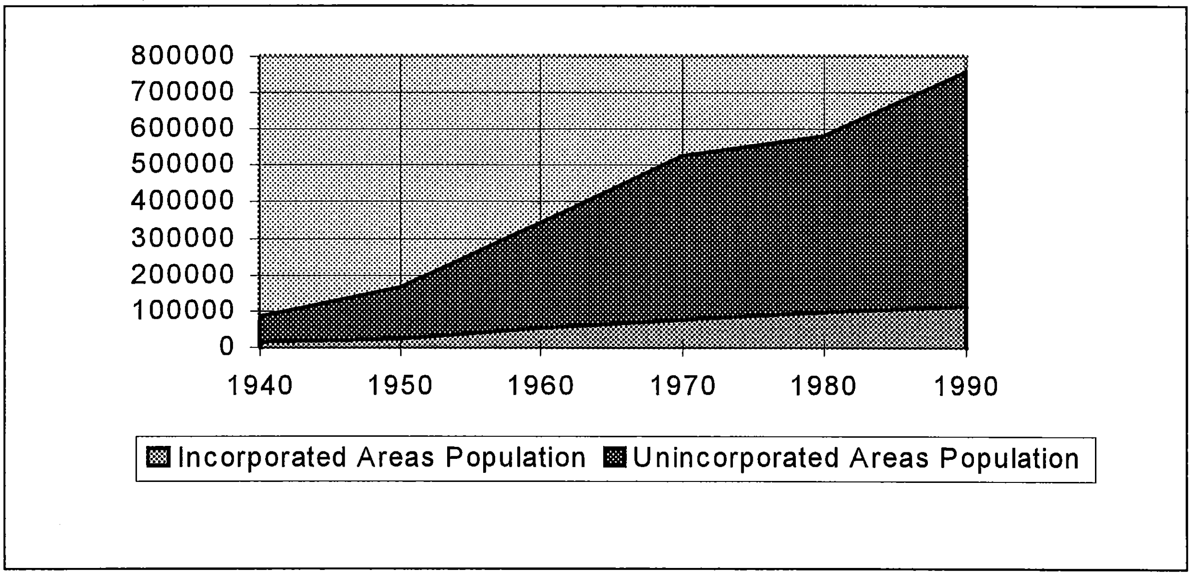
- **The second framework consists of a system of large area (bi-county or countywide), single purpose special taxing areas created by the state and/or County between 1927 and 1992 plus the services provided by certain County government departments.** The authority of taxing areas is set by the state and/or the County and the revenue sources include separate ad valorem property taxes, user fees and service charges. The services of the County departments are funded through general countywide property and income taxes and state aid.

- **The third framework consists of more than 600 homeowner associations established under County subdivision regulations to manage services in common ownership communities.** The authority of these associations is established by state law and the by-laws of each private non-profit organization. The revenues for services come largely from assessments paid by members of the homeowner associations and, in some cases, from user charges.

The establishment and boundaries of the service frameworks outside of the urban districts has not necessarily coincided with the population growth in the County. Exhibit 50 shows the relationship between the County's population growth and service structures over the last sixty years. Today, approximately

- 16 percent of the population (127,000 people) receive some services from a municipality or special district government,
- 31 percent (255,000 people) receive some services from a homeowner's association and/or umbrella homeowner association; and
- the remaining 53 percent (450,000) receive all services from the County government.

EXHIBIT 50: POPULATION COMPARISONS FOR INCORPORATED AND UNINCORPORATED AREAS



Source: Office of Legislative Oversight and the Montgomery Planning Department.

In the nineties, citizens in the unincorporated areas of the County are asking the County government the same question local residents asked the state 150 years ago, namely what administrative and funding structure can be put in place to provide and fund the services needed to keep communities clean and safe and make them special places to live. Many believe that incorporation as a municipality is the solution while others feel that a special taxing area modeled after the urban districts would be more appropriate.

RECOMMENDATIONS

There are three important points to keep in mind in thinking about how the County should structure the administration and financing of services to communities inside and outside of the urban districts.

First, notwithstanding the intent of the state-created structure for services, that countywide programs and services would be provided and funded by the County and locally needed services would be provided and paid for by municipalities, most of the population growth over the last sixty years has taken place outside of municipalities. As a result, the authority and funding resources of the state-created service framework are available to only 16 percent of the population.

Second, while the financial framework for municipalities, special district governments and privately established homeowner's associations has remained relatively stable, the 1990 Fairness in Taxation Charter amendment has changed the County's financial framework. This has affected service levels and funding in the urban districts and in the unincorporated areas outside the urban districts.

Before 1991, the structure of special taxing areas allowed the County to raise a tax rate to fund a service increase within a specific boundary. Since the Charter amendment, the County can no longer raise a property tax either countywide or in one district to respond to the service needs requested by that district without a compensating adjustment to another tax. As a result, those communities that receive all or some of the services from the County have seen an adjustment in service levels that reflects what the County can afford to pay on a countywide basis. Alternatively, municipalities, special district governments and common ownership communities retain the ability to raise fees to pay for a higher level of service.

Third, the service areas and funding sources for all three frameworks and the urban districts are intertwined because there are overlaps in services, service areas, taxes, and revenue sources.

The fact that all communities pay County taxes but do not receive the same types or levels of services has raised questions about the criteria the County uses to determine service area boundaries and service levels, and how these decisions relate to the reimbursement programs administered by the County.

In deciding how to structure the urban districts or how to respond to requests for more services from specific local communities, decision makers must balance the advantages of a system of community based, locally managed service structures with the increased complexities that result from a system with multiple types of providers and large numbers of service units.

B. SPECIFIC FINDINGS AND RECOMMENDATIONS FOR THE EXISTING URBAN DISTRICTS

FINDINGS

1. **An OLO evaluation of the Suburban District in 1983 found that, in the CBDs, maintenance between the curbs was satisfactory but there were many complaints about maintenance of the areas between the curbs and the building lines.** The complaints involved litter collection, trash receptacles, tree services, weed control, street furniture maintenance and sidewalks that were dirty or in a continual state of disrepair.

2. **As set forth in the legislation, the major purpose of the County's initial establishment of urban districts in the late 1980's was to establish an administrative and financial framework to provide streetscape maintenance services to the County's commercial areas.** A secondary purpose was to provide funding for programming special events and promotional activities.

3. **The establishment of special revenue funds and the preparation of annual budgets for the urban districts has helped the County focus on the administration, delivery and funding of services to the County's commercial centers.**

4. **There is widespread agreement that the recent change to establish on-site administration of the urban districts out of the Regional Service Centers in Silver Spring and Wheaton has strengthened the County's ability to identify and respond to district service concerns.**

5. **Today urban districts fund a combination of basic and enhanced services. Notwithstanding language in the law stating that the districts were created to** provide services that were " primarily of benefit to the property and persons within the urban district" and "in addition to services and facilities that the County provides generally," the legislation did not identify or establish what basic services the County was providing or should be providing to its major commercial centers.

6. **The transfer of parking fees to fund urban district services provided a major infusion of funds when the districts were established and has continued to be a major source of funding.**

   The concept of using increased parking fees to pay for maintenance in the CBDs was instituted partially in response to a proposal for a Payment in Lieu of Taxes (PILOT) program for the parking districts by Councilmember Potter. The theory behind the proposal was that if parking districts were to operate as self supporting enterprise funds, they should pay County property taxes (or an equivalent amount) as if they were a private business. At the time, advocates of the PILOT noted that only a 5 cent increase in parking rates would be needed to cover the cost while opponents of the proposal argued that a PILOT could hurt the financial stability of the parking districts over the long term when the additional construction or reconstruction of facilities might be needed.

7. **The table below shows that the use of parking district fees to fund urban district services has provided a substantial subsidy of the urban district tax rate in all of the districts, particularly in Bethesda and Wheaton.**

District	The FY 97 Parking District Transfer	Revenue raised by 1 cent on the Urban District tax rate	The Urban District tax rate equivalent to the Parking District transfer	The FY 97 Urban District tax rate
Silver Spring	$500,000	$51,140	9.7 cents	7.5 cents
Bethesda	$1,081,030	$66,420	16.3 cents	4.0 cents
Wheaton	$256,000	$14,810	17.3 cents	5.0 cents

Source: Approved FY 97 Budget

8. **The financial forecasts for the parking districts in Silver Spring and Bethesda suggest that a funding structure that continues to rely on a substantial contribution from the parking districts is not sustainable for Silver Spring and Bethesda in the short or the long term.**

9. **In Bethesda, the transfer of funds from the parking district to the urban district combined with the voluntary nature of the parking district participation has resulted in 60 percent of the taxpayers paying for 90 percent of the urban district budget. Urban district taxpayers provide less than 20% of the urban district budget and the difference is made up by parking fees.**

10. **In contrast to the urban districts, many of the business improvement districts in the country share the following characteristics**:

- the services are supplemental to the services provided by the government,
- the financing mechanisms use benefit zones or assessment structures that link the benefits received by a particular business to the payment level, and
- the revenues raised from assessments on the property owners or businesses in the district pay for most, if not all, of the budget for the district.

RECOMMENDATIONS

OLO recommends that the County recast the funding and administration of the urban districts to allow district businesses and property owners more opportunities to balance promotional and business interests with the maintenance purposes of the district. Specific recommendations to achieve this include the following:

1. **OLO recommends that the funding for basic County services in the urban districts be provided out of the County's general fund and that the funding for enhanced services be provided from urban district funds.**

   To accomplish this, the County must determine the types of maintenance and promotional services and service levels that should be included in the definition of "basic" County services for major commercial centers. OLO recommends that the County use the types and levels of maintenance services provided by the urban districts in FY 88 to define the County's basic maintenance service package for major commercial centers since this was when maintenance services in the central business districts first received adequate funding. (See chart)

2. **OLO recommends that the County substantially reduce the use of parking district fees to fund urban district services.** This should happen as soon as possible in Bethesda and Silver Spring where the financial projections for the parking districts indicate that continued transfers would put the fiscal health of the districts at risk. This could happen more gradually in Wheaton where the parking district is financially sound.

   The law currently permits the combined total of parking district revenues and urban district taxes to range from 20 to 80 percent of the revenues in Silver Spring and Wheaton and from 10 to 90 percent of the revenues in Bethesda. (Legislation recently enacted by the Council would increase the upper limit in Wheaton to 90 percent.) Historically, the contributions of the parking districts have stayed toward the upper limit. OLO recommends that in the approval of future urban district budgets, the County set the parking district contribution at the lower end of the range of 20 to 25 percent of the combined urban district and parking district revenues.

3. **OLO recommends that the County discuss with property owners and businesses in each district the merits of replacing the existing urban district ad valorem property tax with an assessment structure using land use categories, square footages or benefit zones and whether a new fee structure could also replace the maintenance fee for optional method of development projects.** This change could both establish a more direct link between those who pay and those who benefit from district services and remove these revenues from the restrictions on property tax revenues imposed by the charter.

4. **OLO recommends that Executive and Council staff prepare an enhanced services budget accompanied by a few alternative assessment structures, based on land use types and square footages, to help the district businesses, residents, property owners and the County decide which assessment structure would be most appropriate for each district.**

5. **OLO recommends that the urban district legislation be amended to add definitions for baseline and supplemental services and language that directs the County to enter into an annual agreements regarding the level of baseline services that will be maintained in the district.**

C. SPECIFIC FINDINGS AND RECOMMENDATIONS FOR NEW SERVICE STRUCTURES TO MEET EMERGING COMMUNITY NEEDS OUTSIDE THE URBAN DISTRICTS

FINDINGS

1. **The County's experience with municipalities, common ownership communities, the urban districts, and the urban management corporation in Bethesda, illustrates the advantages of locally based service structures to manage, fund and deliver services.**

   This suggests that a countywide system of locally based service structures is warranted to meet service needs outside the urban districts. As the County government's resources for services have become more constrained and countywide service levels have been adjusted accordingly, the services provided and funded by the independent organizations have provided an increasingly important mechanism to cushion the impacts of service cutbacks.

2. **The authority to establish each service structure type, i.e., municipalities, common ownership communities, special taxing areas, or more regional service centers, rests with the County Council.**

3. **In thinking about structural options for service delivery outside the urban districts, it is important to recognize that each of the service structure types that currently operates outside of the urban districts offers a different mix of advantages and disadvantages.**

   The advantages of the municipal model include :

   - an elected representative governing body,
   - local determination of the types and levels of service to be provided,
   - the deductability of municipal tax payments on federal taxes,
   - multiple revenue sources to fund services,
   - access to revenues not constrained by the County charter, and
   - the ability to navigate through the different levels of service providers and have access to other governmental service providers to address constituent concerns.

The disadvantages of the municipal model or a system of municipalities include:

- the loss of some County piggyback income tax revenues currently used to fund other county programs,
- the lack of control the County has to determine what services a municipality will provide,
- the increased administrative complexity the County faces in trying to operate from and deliver a countywide system of uniform service standards, and
- the complexities created by the annexation and regulatory powers granted to municipalities under state law.

The advantages of the common ownership community model include:

- the presence of an on-site service provider,
- the existence of an annually elected representative board, and
- the ability to increase assessments to provide higher services.

The disadvantages of a system of common ownership communities include:

- the availability of relatively few types of revenue sources (compared to the municipalities),
- the inability to deduct homeowner assessessments for federal tax purposes,
- the legal difficulties of establishing, after the fact, a foundation of common ownership communities to consolidate the service needs of many individual communities, and
- for some associations, the requirement to fund stormwater management services combined with the inability to assess all who benefit.

The advantages of the County government framework (that serves communities in the unincorporated areas of the County outside of municipalities and homeowner associations) include:

- the ability of individual County departments have to establish community outreach programs to identify and respond to citizen concerns,
- the resources County departments can bring to solve problems,
- the ability of the Regional Service Centers to coordinate services and address issues on a regional basis, and
- the charter limitations which limit the growth in property taxes to fund services.

The disadvantages of the County government framework include:

- the lack of an on-site service manager,
- the lack of integration among departmental outreach programs, particularly given the County's renewed interest in customer service,
- the ever increasing number of advisory boards, committees and service groups,
- the lack of a single, community based, elected representative body with easy access to governing officials to represent community concerns,

- the lack of a dedicated source of revenues to address local community needs, and
- the lack of a system that allows the community to identify and fund community priorities.

The concept of special taxing areas to fund a collection of community defined services does have promise, although the urban districts have many structural administrative and funding issues that limit the wholesale transfer of the urban district model to areas outside the district. The advantages of the special taxing area model include:

- the ability to tailor each district to local community needs while maintaining County control over the types of services that could be provided,
- the establishment of a mechanism that could use revenues for enhanced services that are not currently used by the County for other programs,
- the ability to provide an on-site service manager, if needed, and
- the ability to establish an elected representative management board, if appropriate.

The drawbacks of the special taxing area model include:

- the time and level of effort and resources it takes to formulate a service plan and present financing options,
- the difficulties associated with achieving political consensus,
- the potential risks that the government will not maintain funding for baseline services, and
- the concern that the structure will be established more often in wealthy communities thereby increasing the gaps in service between rich and poor communities.

RECOMMENDATIONS

1. **OLO recommends that, following the identification of baseline County services in the urban districts, the County similarly identify the baseline maintenance, security and promotional services for commercial and residential communities outside the urban districts in the unincorporated areas of the County. The definition of service levels should be based on the assumption that funding for these services will come from the general fund.**

Through the development of the operating budget, the County should identify a package of core services to address the real and perceived inequities in service levels and funding. This information is needed to help address the equity concerns that inevitably arise when communities receive services through different types of service providers with different administrative and financial funding structures. The countywide level of core services should be low enough that they are affordable but high enough to service all communities, particularly those with few enhanced services.

The County needs to inventory its current programs and define a package of core countywide services for those services that overlap the services provided by municipalities, the special district governments and homeowner associations. This package of core services should define specific program elements, service area boundaries or classification criteria, and service level frequencies or response times. It should state clearly whether the service is provided uniformly throughout the County or whether service levels are tied to criteria based on the characteristics of an area or facility. It should also address whether the service is provided solely by the County or whether the responsibility is shared with other service providers including the municipalities, the special district governments and homeowner associations.

The definition of core services must be based on those services the County expects to fund for the coming year given current budget constraints. The service impacts of the budget constraints must be clearly identified and explicitly stated in terms of service impacts to inform the administration of the County's reimbursement programs. If certain services will be discontinued or service levels will be adjusted, this needs to be clearly identified and taken into account in the calculation of reimbursements.

The definition of the core services package should address the County takeover of maintenance of stormwater management ponds or alternatively the development of a more equitable countywide funding base for ongoing maintenance.

The Department of Public Works and Transportation has done a good job of establishing countywide service levels and identifying the current backlogs in services due to funding constraints. DPWT needs to clarify the relationship between the service levels funded countywide and the comparable service levels funded by the municipalities and homeowner associations. The definition of the core service package also needs to address how to treat those services that have a serious backlog, such as tree maintenance.

Given the current budgeted service levels, DPWT should address whether taxpayers in homeowner associations are paying for services twice and whether municipal taxpayers are paying for comparable services which would require reimbursement or enhanced services which would not.

The Police Department needs to explain what service level indicators it uses in the budgeting process to ensure that it is providing the same level of service to municipal and non-municipal residents, as required by law. The Police Department also needs to clarify the relationship between the countywide services provided by the County police and the services provided by certain municipalities.

2. **OLO recommends that the County develop a policy that addresses how the County government will respond to requests for enhanced services from local communities.**

The opportunity to build communities through locally based, on-site service coordination is a major advantage of the urban districts, municipalities, special district governments and homeowner associations that serve a defined and limited geographic area.

An enhanced service policy should take into account the diversity of the communities outside the urban districts. The map of the County's communities and their service systems is very complex. Some communities may not want or be able to afford enhanced services. Other communities may have identified services and be willing to fund them. Still other communities may provide enhanced services through a system of private service providers. To account for this diversity, an enhanced service policy must address how to provide enhanced services within the current administrative and financial framework of the County government as well as the establishment of new independent structures (special taxing areas or municipalities) that could provide and fund enhanced services independently.

3. **OLO recommends that the County adopt an official set of enhanced service areas boundaries based on the future service areas identified in the Regional Services Center long range strategic plan. (See map)**

The purpose of the boundaries would be to provide an administrative and funding service framework that could be used to strengthen and build community identity, particularly in the unincorporated areas of the County. The boundaries would be particularly important for communities that may not request an independent service structure.

The County government, with the establishment of the Regional Service Centers, has moved towards coordinating services for a particular community; however, the County has stopped short of preparing budgets or programs for geographic sub-areas of the County. These actions would be designed to give residents of communities in the non-municipal parts of the County a way to identify and receive enhanced services, absent the separate structure of a municipality or special taxing area.

Within the boundaries, OLO recommends the County consider the following strategies:

- integrating the resources and outreach efforts of the community programs that are managed separately today by various departments such as the Department of Public Works and Transportation, the Police Department, and the Recreation Department,

- asking the Park and Planning Department, as part of its reorganization effort, to address how master plan and regulatory decisions could be tied to these boundaries,
- preparing operating and capital budgets for enhanced community services by area, and
- establishing special revenue funds for each service area that could receive one time contributions or exactions from decisions made in the regulatory process and/or an earmarked portion (two to five percent) of the County's piggyback income tax revenues from area residents to spend within the area.

4. OLO recommends that the County continue to establish and rely on locally based, independent service structures to deliver enhanced services.

The County's experience with the urban management corporation in Bethesda, common ownership communities, municipalities and special district governments, demonstrates that there is an important role for independent service structures in the delivery of enhanced services to local communities. The advantage is that the residents and businesses of these communities have an administrative framework to identify, fund and coordinate services to meet unique community needs.

From the County's perspective independent providers frequently bring new sources of funding for services. This not only cushions the impacts of County service changes due to budget constraints but also allows the County to extend resources to other places.

On the other hand, the County's experience also indicates it is difficult to operate with uniform service levels and ensure equitable budgeting and funding in a service system with more than 600 independent units. This suggests the County should proceed cautiously and deliberately with the establishment of new administrative and funding structures.

5. OLO recommends that the County consider re-creating the structural approach used by the state through the use and establishment of special taxing areas.

Like the state's approach in the first half of the century or the County's establishmment of the Bethesda Urban Partnership, the County could establish special taxing areas in areas of clustered development where communities choose to tax themselves to fund enhanced services. The County could enact enabling legislation patterned after the legislation used to establish business improvement districts in other places. This legislation should require an organization to prepare a district proposal that includes a service plan, a budget, and a funding proposal that supports the budget. The legislation should also require the organization to demonstrate a certain level of approval from the community before the government considers the establishment of a district. The funding structure for the area should rely mainly on assessments or taxes on the property owners in the area and limit the transfer of resources from other taxing areas. (If property taxes are the major revenue source, they should be excluded from the charter limit on property tax revenues.)

The governing structure for the taxing area could be a non-profit corporation with a locally elected board as has been used for business improvement districts elsewhere.

6. Given the complete structural independence created through municipal incorporation, OLO recommends that the County limit the approval of new municipal incorporations to those circumstances where there is a demonstrated, compelling need for local control over code enforcement, the exercise of annexation powers, or other powers unique to a municipality.

It is important to understand that the establishment of a new municipality by the County today creates a more independent entity than the previous establishment of a municipality by the state. Under the system in place in the first half of the century, the state exercised close control over all aspects of a municipality including its establishment, amendments to its charter, programming and budget changes, and the ability to annex land.

Under the system in place today, the County has the authority to decide whether incorporation should take place, but a more independent entity is created. After incorporation, the municipality (not the County) has the authority, for example, to amend its charter, to annex land from the County, to establish independent municipal services and functions, and to adopt and enforce regulations that differ from those in the County. In addition, the municipality has access to municipal revenues as defined in state law, including a portion of the County's piggyback income tax.

Exhibit 51

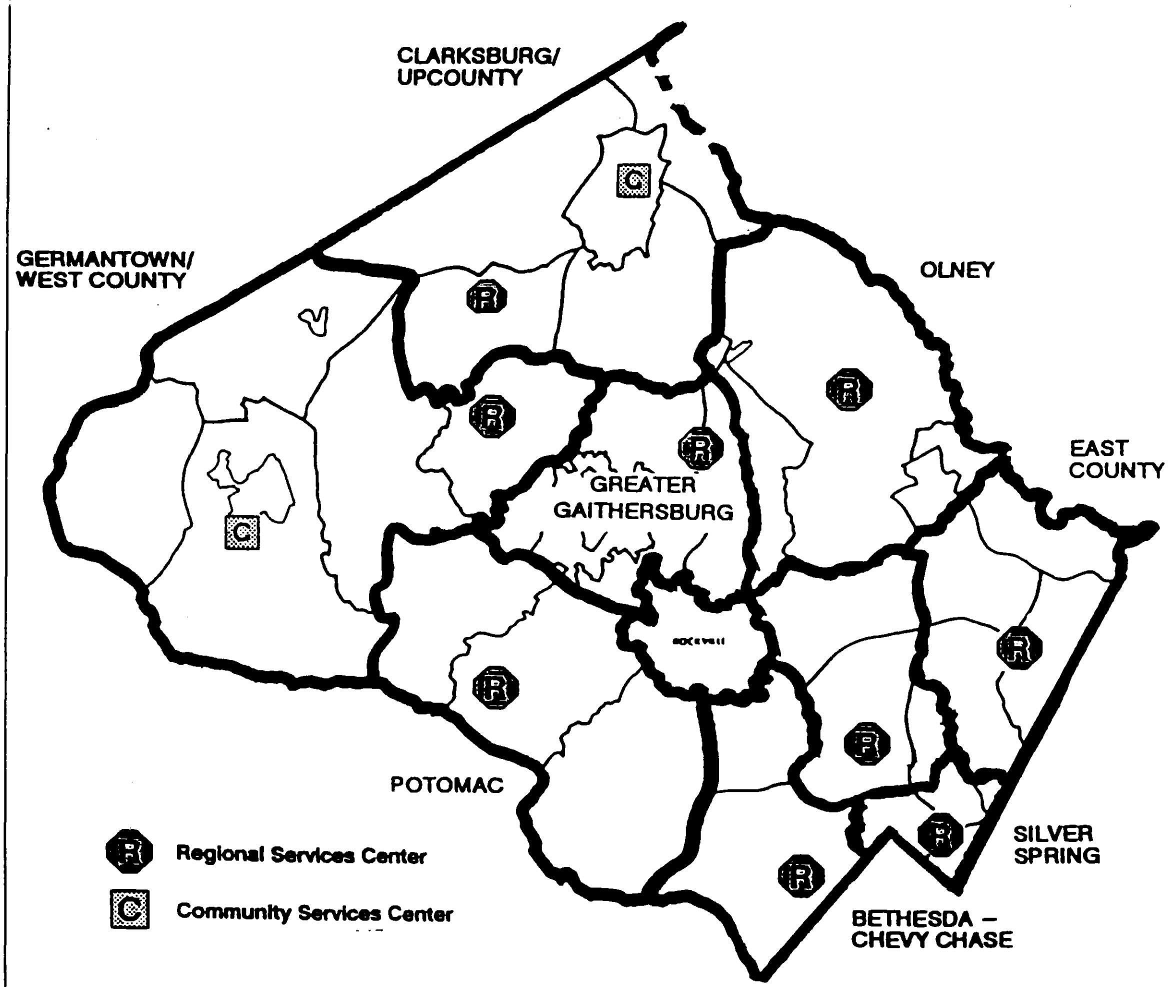
Recommended Allocation of Baseline and Enhanced Maintenance Services

Countywide Baseline Services[1]	Frequency	Enhanced Urban District Services[2]	Frequency
BETHESDA			
• Litter Collection	5x/week	• Litter Collection	3x/day 5 days/week
• Street Sweeping	3x/week		
• Sidewalk Washing	2x/year		
• Roadside Mowings	12x/year		
• Emptying Trash Receptacles	2x/week	• Empty Trash Receptacles	4x/week
• Street Tree Maintenance	as needed (on an 8 year cycle)	• Inspection, Mulching, Pruning, and Planting	daily inspections and semi-annual maintenance
SILVER SPRING			
• Litter Collection	5x/week	• Litter Collection	2x/day (Mon-Fri) 1x/day Sat.
• Street Sweeping	3x/week		
• Sidewalk Washing	2x/year		
• Roadside Mowings	12x/year		
• Emptying Trash Receptacles	2x/week	• Empty Trash Receptacles	4x/week
• Street Tree Maintenance	as needed (on an 8 year cycle)	• Mulching, Pruning, and Planting	annual maintenance
WHEATON			
• Litter Collection	5x/week		
• Street Sweeping	3x/week		
• Sidewalk Washing	2x/year		
• Roadside Mowings	12x/year		
• Emptying Trash Receptacles	2x/week	• Emptying Trash Receptacles	3x/week
• Street Tree Maintenance	As needed (on an 8 year cycle)	• Mulching, pruning, and planting	annual maintenance

[1] Baseline services are based on urban district services detailed in the FY 89 Recommended Operating Budget. Countywide baseline services shoud also include snow removal, lighting maintenance, and sidewalk and curb replacement.
[2] Enhanced services levels are based on urban district contracts and information provided by the Bethesda Urban Partnership.

Exhibit 52

FUTURE SERVICE AREA BOUNDRIES FOR THE REGIONAL SERVICE CENTERS



Source: Regional Service Centers Draft Facilities Strategic Plan, Oct. 1995, Vitetta Group.

CHAPTER 6 AGENCY COMMENTS

On February 10, the Office of Legislative Oversight circulated a draft of Report 97-1 to the Chief Administrative Officer, appropriate Executive Branch staff and the Chairman of the Montgomery County Planning Board. All technical corrections received orally or in writing are incorporated into this final report. Written comments received are included below in their entirety.

OFFICES OF THE COUNTY EXECUTIVE

Douglas M. Duncan
County Executive

MEMORANDUM

Bruce Romer
Chief Administrative Officer

March 3, 1997

TO: Sue Richards, Program Evaluator
Office of Legislative Oversight

FROM: Bruce Romer, Chief Administrative Officer

SUBJECT: Office of Legislative Oversight DRAFT OLO Report 97-1, A Study of Service Structures in the Central Business Districts and other Urban Areas

Thank you for the opportunity to comment on the DRAFT OLO Report 97-1, A Study of Service Structures in the Central Business Districts and other Urban Areas. This report provides an excellent overview of how the County uses urban districts to coordinate and fund services in the central business districts and what implications this model has for funding service delivery to communities outside the urban districts.

In response to this report, we are prepared to begin the process to define the "basic" County services to be provided Countywide and the revenue source to fund them. Recognizing the implications of the property tax charter limitations, as well as equity considerations, we must carefully consider alternative funding mechanisms. After decisions on the baseline service issues have been made, we will begin the process regarding "enhanced" or "supplemental" services including definitions, budgets and boundaries.

We support developing a policy for meeting the needs of emerging communities outside the urban districts and believe the Regional Services Centers are key elements in this process. Our vision for Regional Services Centers is that they should have broad responsibilities to oversee and coordinate service delivery in a comprehensive, pro-active, and result-oriented way. In addition to fostering efficient information flow within the community and to and from the County government, Regional Services Centers will assist the community in recapturing an identity, a sense of place, and pride.

Finally, municipal incorporation is a legal mechanism to be examined by the voters where there is a demonstrated, compelling desire for local control over code enforcement, the exercise of annexation powers, or other powers unique to a municipality. Our challenge is to demonstrate how County services and structures can address those and other needs and provide a cost efficient alternative to incorporation.

We appreciate the opportunity to comment on this draft report. We look forward to a continuing dialog with the Council on these services and revenue sources.

101 Monroe Street, Rockville, Maryland 20850
301/217-2500, TTY 217-6594, FAX 217-2517

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

(301) 495-4605

Montgomery County Planning Board
Office of the Chairman

March 3, 1997

Sue Richards
Office of Legislative Oversight
5th Floor - Stella B. Werner Council Office Building
Rockville, Maryland 20814

Dear ~~Ms. Richards~~ Sue:

Thank you for the opportunity to review the pre-publication draft of the Office of Legislative Oversight's "Study of the Service Structures in the Central Business Districts and Other Urban Areas." As you note in your letter, actions taken by the Planning Board (i.e., master plans and regulatory decisions) affect the scope and type of community services that the County must later provide. More to the point, perhaps, is that adequate service delivery is as important to achieving the desired future articulated in our plans as infrastructure and land use decisions.

Because of time constraints, the Park and Planning staff limited its review to identifying any aspects of the report that OLO might want to revisit prior to publication. Park and Planning staff did not identify any such issues. In addition, the limited amount of technical information staff was able to review is accurate.

Once the report is publicly released and distributed, the Planning Board may have comments addressing the substantive issues raised by the report. If so, Park and Planning staff will contact you to discuss how best to communicate the Board's suggestions to you and to the Council.

You and your staff are to be congratulated on the comprehensiveness of your analysis. I look forward to receiving the final report.

Sincerely,

Bill Hussmann

William H. Hussmann
Chairman

WHH:KWM

APPENDIX A

GLOSSARY

Ad Valorem Property Tax, (general property tax) - A tax imposed on all persons within the territorial limits according to the value of their property, in consideration of the protection , which the government affords alike to all.

Assessment - A tax levied occasionally as may be required upon a limited class of persons interested in local improvement, and who are presumed to be benefited by the improvement over and above the ordinary benefit which the community in general derives from the expenditure of the money. In the payment of the assessment thus made, the adjacent owner is supposed to be compensated by the enhanced value of his property arising from the improvement.

Assessed Value- an estimate of the value of a good for the purpose of taxation.

Business Improvement District- A special taxing district or area established on a public/private partnership basis for the physical improvement and enhancement of management services for downtown areas.

Central Business District (CBD) - Generally, the term central business district or CBD refers to the downtown area of a major city, for example, the central business district of Philadelphia. As development moved to the suburbs, the use of the term central business district was expanded to refer to a business area of concentrated, dense, commercial development - in contrast, for example, to a low density suburban office park. Under this definition, central business districts in Montgomery County include many of the commercial areas in the County's towns, such as Rockville, Gaithersburg, Kensington and Takoma Park, or development at many of the County's Metro stations including Silver Spring, Friendship Heights, Bethesda, Wheaton.

Since the early seventies, the County has used the term in the County's Zoning Ordinance to designate specific locations where the County wants to encourage "the development of mixed use and relatively high density centers of residential, commercial and office activity."

On June 22, 1971, the County Council adopted Resolution No. 7-270 which set forth County's policies for the development of its central business districts and created the Citizen's Advisory Committee to Study Zoning in Central Business Districts and Transit Station Areas. The County Council received the final report of the committee in January 1973 and implemented the committee's recommendations to create three central business district zones (CBD-1, CBD-2 and CBD-3) and to apply these zones through the adoption of master plans or sector plans. The Council established the boundaries for each central business district through the adoption of a zoning ordinance text amendment.

At one time, the Zoning Ordinance identified the Town of Kensington and Vicinity and West Chevy Chase and Vicinity as central business districts in addition to the four that exist today, namely Silver Spring, Bethesda, Wheaton and Friendship Heights.

Charter- The governing document of the County that establishes the structure and nature of the County government.

Commercial District Management Authority- A business improvement district authorized in Article 25A, Section 5(FF) of the Maryland Annotated Code that authorizes county or municipal governments to establish a special taxing area to fund special events, marketing, security, maintenance or amenities within a defined commercial area.

Common Ownership Community- A community planned, developed and marketed so that areas common to all unit owners are regulated by internal agreements and administered by owner elected associations.

County Government - Organized local governments authorized in State constitutions and statues and established to provide general government. One of three types of government the Census Bureau defines as a general purpose government. In many states county governments may include County-subordinate taxing areas. These are

Enterprise Fund - See **Fund.**

Fund - An accounting device established to control receipt and disbursement of income from sources set aside to support specific activities or attain certain objectives. An **enterprise fund** is a specific type of fund used to account for operations that are financed in a manner similar to private businesses where the intent is that the costs of providing a good or service on a continuing basis is to be recovered through the use of user charges. Examples of enterprise funds in Montgomery County include the Department of Liquor Control and the fund recently established for the Department of Permitting Services.

User Fee- A price charged for a publicly provided service that benefits specific individuals but still bears some resemblance to a public good. These fees are often charged so the government can recover the extra cost it incurs from providing the special service.

General Fund- The fund that provides for the ordinary operations of the government and is financed by property and income taxes and other general revenues.

Government - The Census Bureau, which must take a census of governments every five years, defines a government as "an organized entity which, in addition to having governmental character, has sufficient discretion in the management of its own affairs to distinguish it as separate from the administrative structure of any other governmental unit."

Existence of an organized entity is provided by the presence of some form of organization and the possession of some corporate powers such as perpetual succession, the right to sue and be sued, to make contracts and to acquire and dispose of property.

Governmental character is indicated where officers of the entity are popularly elected or are appointed by public officials. A high degree of responsibility to the public, demonstrated by public reporting requirements or accessibility of records for inspection is also considered critical evidence. Governmental character is also attributed to any entity having the power to levy taxes or issue debt.

The criteria of substantial autonomy is met where an entity has "considerable fiscal and administrative independence." Fiscal independence derives from the power to determine its budget without review and detailed modification, to determine taxes to be levied for support, or to issue debt without review. Administrative independence closely relates to the basis for the selection of the governing body.

Governmental Units or Types of Governments- The Census Bureau recognizes five basic types of local governments classified as either general purpose or special purpose governments. The three types of general purpose governments are county, municipal and township governments. The two types of special purpose governments are school district governments and special district governments. See municipal government and special district government

Homeowner Association- An organization created to preserve the design and character of a common ownership community and to operate and maintain the property and facilities shared by the residents. The association acts as a small quasi-government and business operating for the exclusive benefit of the residents.

Inside the Curbs- The area between curbs that generally includes the road and medians.

Maintenance Services- The cleaning, repairing, rehabilitating, and replacing of amenities in the streetscape.

Municipal Governments - Organized local governments authorized in State constitutions and statutes and established to provide government for a specific concentration of population in a defined area.

Optional Method of Development- A method of development and an approval procedure authorized in the County's Zoning Ordinance for development in the CBD zones. Under the optional method process, greater densities may be permitted and there are fewer specific standards but certain public facilities and amenities must be provided by the developer.

Greater densities (coupled with a minimum lot area requirements) are allowed as an incentive to encourage land assembly. Amenities are required to help create an attractive pedestrian environment linking major destinations into an integrated circulation system. In addition to paths, an integrated circulation system should include areas for repose, activity and enjoyment such as plazas, arcades and vest pocket parks, so that the whole complex provides an attractive and safe pedestrian environment.

Developers are required to provide both off-site and on-site amenities and the County's urban district law authorizes the County to collect a maintenance fee from property owners with buildings approved under the optional method of development.

Outside the Curbs- The area between the edges of a road and the buildings that generally includes sidewalks and the area where street trees and other streetscape amenities are located.

Own Source Revenues- Revenues raised within a jurisdiction that are intended for use in that jurisdiction. Examples of own source revenues include property taxes, "piggyback" income taxes, and service charges.

Parking Lot Districts- A special taxing area created by the Montgomery County government to provide for off-street parking for the use of the public within the district. The districts, which include the main business areas of Silver Spring, Bethesda, Wheaton and Montgomery Hills, are set forth geographically by law in the Montgomery County Code. Developers in these districts can choose whether they want to provide their own parking facilities or pay a tax to the County and have the County construct the facilities. When the County established urban districts, it amended the parking district law so that fees from each parking lot district may be transferred to the corresponding urban district to pay for urban district services.

Security Services- Additional security personnel provided for in an urban district to enhance the feeling of safety and security for both residents and businesses.

Special Revenue Fund- The proceeds of specific revenue sources that are legally or administratively restricted to expenditures for specific purposes.

Special District Governments - One of five types of government defined by the Census Bureau as part of its census of governments. The Census Bureau defines special district governments as "independent, special purpose governmental units that exist as separate entities with substantial administrative and fiscal independence from general purpose governments. Special district governments provide specific services that are not being supplied by existing general purpose governments. Most perform a single function but some provide several related services. While most special district governments are called districts or authorities, not all public agencies with that name represent separate governments. See subordinate or dependent agency..

Special Taxing Areas or County-subordinate Taxing Areas- Some counties are authorized by law to establish special taxing areas to provide specific improvements or services within a defined area to individually serve a portion rather than all of the county and to levy a tax on the assessed value of the property within the area to pay for such improvements or services. Frequently, taxing areas have been developed to supply urban-type services (water or sewer facilities, fire protection, streets or street lighting) for unincorporated urban fringe portions of particular counties.

Spending Affordability- A series of guidelines established by the County Council to set ceilings on property tax revenues and the aggregate operating budget. In setting the guidelines the Council considers inflation, employment levels, estimated tax revenues, demographic changes and the relative tax burden on the County taxpayers.

Streetscape Amenities- Items such as planters, fountains, pools, outdoor seating, functional and decorative lighting, non-standard pavement and works of art used to enhance the appearance and livability of an area.

Subordinate or dependent agencies - A Census Bureau classification that refers to those entities that are not counted as separate special district governments because, by law, they are so closely related to another government unit. The Census Bureau classifies entities as dependent agencies where one or more of the following characteristics is present:

- Control of the agency by a board composed wholly or mainly of parent government officials.
- Control by the agency over facilities that supplement, serve or take the place of facilities ordinarily provided by the creating government
- Provision that agency properties and responsibilities revert to the creating government after agency debt has been repaid
- Legislative or executive specification by the parent government as to the location and type of facilities the agency is to construct and maintain
- Dependence of an agency for all or a substantial part of its revenue on appropriations or allocations made at the discretion of another State, county, or municipal government
- Provision for the review and the detailed modification of agency budgets by another local government. However, county review of agency budgets in connection with statutory limitations on tax rates is not, by itself, sufficient to establish lack of fiscal autonomy.

Tax- a compulsory payment to a government based on holdings of a predetermined tax base.

Urban Districts- In Montgomery County special taxing areas established in Silver Spring, Bethesda and Wheaton to provide the administrative and financial framework to provide additional services to urbanized areas of the County. The services in an urban district may be managed by County staff or an **urban management corporation** which is a public/private non-profit corporation established to administer the services of the urban district. The Bethesda Urban Partnerships management of the Bethesda urban district is an example of this. The goals of these districts are to increase streetscape maintenance and amenities, provide additional amenities such as works of art or plantings, promote the commercial and residential interests in the areas, and develop cultural and community activities.

APPENDIX B

1995 MUNICIPAL PROPERTY TAX DIFFERENTIALS IN MARYLAND COUNTIES

Allegany County

In FY 95 Allegany County provided a tax rate differential to seven of its municipalities. The rates were determined by calculating the net property tax support of each area of service and dividing it by the amount of money generated by $1 of property tax levy.

Anne Arundel County

Anne Arundel set a tax rate differential for the City of Annapolis. This rate was calculated through several steps. First the spending was allocated into countywide and non-city categories. Next, all revenues, except property taxes, were allocated to offset the cost of either countywide or non-city services. Third, the offset costs were used to calculate property tax rates. The non-city property tax rate served as the tax differential for Annapolis.

Baltimore County

The County did not provide a tax rate differential or tax rebate in FY 95.

Calvert County

The County provided a tax rate differential for two municipalities that provided police protection, road maintenance, trash collection and street lighting.

Caroline County

The County provided tax rebates to its municipalities in FY 95 but no information was provided on the formula that was used.

Carroll County

The County provided tax rebates to its municipalities in FY 95. The formula used was to determine a per capita allocation amount and multiply it by the estimated population of the municipality. The grant was then adjusted according to an index that related each town's assessable base per capita to the average assessable base per capita of all the municipalities.

Cecil County

Cecil County offered a tax rebate to its municipalities for police protection, street maintenance and street lighting. The county also made payments to offset the cost of refuse and garbage collection.

Charles County

The County offered a tax rate differential to two of its three municipalities for services such as planning and zoning, police, parks and public works that were offered in lieu of county services. The rate was determined by calculating the expenditures funded by the property tax and dividing that total by the assessable base of the municipality.

Dorchester County

In FY 95 Dorchester County did not offer a tax differential or a rebate.

Frederick County

The County provided tax rebates to eleven of its twelve municipalities for police, parks and waste collection.

Garrett County

Garrett County did not issue a rebate or a tax differential in FY 95.

Harford County

The county provided a tax differential for road maintenance and other public works services. The rate was based on general fund support of expenditures related to those programs, population and assessment figures.

Howard County

There are no incorporated areas in Howard County.

Kent County

Kent County provided its municipalities with a tax rebate that was based on a five cent differential. These amounts were then prorated to benefit smaller municipalities.

Prince George's County

The county provided tax rebates for services that were provided by municipalities based on the degree to which the county services were provided by the municipality. These values were reduced by the municipalities' share of the local income tax surtax before being converted to a property tax rate.

Queen Anne's County

The County provided tax rebates for road services in FY 95.

St. Mary's County

The County made a payment to the Town of Leonardtown in lieu of property taxes for county owned buildings within the town. The amount of the payment was calculated based on a comparison of property tax revenues and the total assessable base for the Town to get an equivalent tax rate. The tax rate is then multiplied by the non-taxable real property assessment.

Somerset County

The County did not offer a rebate or differential in FY 95.

Talbot County

The County did not offer a rebate or differential in FY 95.

Washington County

The County provided a tax rebate to its municipalities for providing police protection, road services and park maintenance. The rebate was based on the assessable base, net taxable income, and population as it related to the County's assessable base.

Wicomico County

The County did not offer a rebate or differential in FY 95.

Worcester County

The County did not offer a rebate or differential in FY 95.

Source: Maryland Department of Fiscal Services, 1995 Report on Municipal Tax Differentials.

M. Knill

APPENDIX C

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760
495-4605
(301) ~~279-1000~~

March 6, 1989

MEMORANDUM

TO: Montgomery County Council

FROM: Norman L. Christeller
Chairman, MCPB

SUBJECT: Maintenance of Stormwater Management Facilities

In our overview of the CIP projects for stormwater management, we touched briefly on the need for a better maintenance program for all such facilities whether on private property, managed by DEP, or managed by the Parks Department. Our proposals, however, were not properly reflected in the document which was sent to the Council. This memorandum is intended to correct the record and provide a more complete description of a proposed new program for maintenance of stormwater management facilities.

A large number of stormwater management facilities have been built in the County over the past decade, and some are much older than that. The best estimate we have is that there may be as many as 1,800 stormwater facilities. Most such facilities have been built by developers of new subdivisions, either on land being dedicated to the park system or on private land becoming part of the open space controlled and managed by the homeowners association established for the subdivision. Many developers have, however, been granted waivers from the stormwater management facility requirement and required to pay a fee which helped finance regional facilities built under the aegis of DEP. Some of these are on stormwater management easements acquired by DEP and some are on parkland.

Whether on private land, County land, or parkland, such facilities are near streams in or leading to our stream valley parks. Since the primary purposes of the stream valley park system are to preserve stream quality and conserve the stream valleys, the Planning Board and the Department of Parks have strong reasons for wishing to assure that the stormwater management facilities are properly designed, constructed and maintained. To the extent that these facilities are not adequately maintained, their very purpose is being subverted. We are greatly concerned that there is not now in place an adequate inspection and maintenance program. We would summarize the current situation as follows:

<u>Parks Department Facilities</u>. Maintenance for stormwater management facilities on parkland is not separately budgeted within the Parks Department, but the responsibility for maintenance is assigned to each of the three parks regions. Maintenance is now being provided primarily on an as-needed basis derived from inspections. The facilities are now of an age that a more explicit maintenance schedule probably should be established.

County Facilities. Many of these facilities are relatively new, but they also appear to need a more regular maintenance schedule. In this program area, we are concerned that the operating budget is out of kilter with the CIP. In 1981, DEP estimated that yearly maintenance funding of $90,000 would be needed by FY 1989 to maintain stormwater management facilities under DEP's responsibility. The pending CIP shows that $39,000 will be needed for the FY90-95 facilities. As best we can determine, however, DEP has budgeted no more than $10,000 for such maintenance efforts and not all of this has been used, due to staff shortages.

Homeowners Association Facilities. The first two groups described above can be addressed properly by adequate operating budgets and management. The HOA facilities present a different problem. In a large development like Montgomery Village, the need for proper maintenance is clearly recognized by the residents because the stormwater facilities are within the community and many properties would be adversely affected by improperly functioning facilities. Smaller subdivisions tend not to recognize the need for maintenance because the stormwater facility is not protecting their residences or HOA property, being on the downstream side of the subdivision. The lack of motivation for HOA's to maintain stormwater facilities on their property is compounded by the apparent lack of a meaningful government inspection program to identify and require needed maintenance.

In all cases, the cost of maintenance of stormwater facilities is or will be a severe problem for which the Homeowners Associations are not well-prepared. Because the major costs -- dredging, repair of structures -- are not needed each year, reserves should be set aside each year to provide the resources that will be required intermittently over longer intervals. Most HOAs find it difficult to establish adequate reserves for repair and/or renovation of recreation facilities which directly serve the residents, therefore it is highly unlikely that adequate reserves will be established for stormwater facilities which are not perceived as serving the community. An ordinance requiring the establishment of such reserves would be resisted because HOA financing of such repair and maintenance is perceived as inequitable.

It is, of course, the sheer chance of geography and regulatory decisions that has determined whether a Homeowners Association or the Parks Department owns the land on which is located the stormwater management facility needed for a particular subdivision. If subdivision "A" is located near enough to a stream valley park for the Parks Department to have accepted dedication of parkland on which the developer built the stormwater facility and subdivision "B" has the stormwater management facility on HOA land, is it fair to require the homeowners of "B" to pay to maintain that facility while they, as taxpayers, also help pay to maintain the facility serving subdivision "A"?

The time has come when the County should recognize that it is inequitable and unreasonable to expect HOAs to absorb the cost of maintaining the proper functioning of the stormwater management facilities. These facilities are located in community open space, making it quite appropriate for the HOA to provide for the mowing of the grass and the maintenance of the landscaping, but they cannot be expected to have either the motivation or the technical expertise to provide for the dredging of silt and the proper functioning of outlet structures.

We think this disparity is akin to the disparity concerning street maintenance that has already been acknowledged and corrected by the County. In this case, however, we would not recommend a revenue-sharing solution because we are skeptical that the HOAs will be able to do an adequate maintenance job. We recommend instead that the County undertake the responsibility for such maintenance efforts, entering into agreements with the HOAs for access to the facilities and use of HOA land for the drying of spoils resulting from dredging. For the numerous small facilities, it is appropriate for the County to bear the full cost of stormwater facility maintenance, but some of the larger facilities also serve as recreational and/or scenic amenities for the community and it would probably be appropriate for those communities to share the maintenance cost.

Given the Parks Department's existing maintenance responsibility for stormwater management facilities on parkland, it might be appropriate for that agency to assume the physical responsibility for the broader program, but it should not be funded as a regular part of the Parks budget for two reasons. (1) The stormwater management facilities are beneficial to all our citizens, not just those who pay the Park tax. (2) Making this expanded function a part of the regular Parks budget means that it will compete with the funding of other Parks maintenance, conservation, and recreation functions.

We are prepared to offer to carry out this function in the following manner:

1. DEP would determine the schedule for such maintenance for <u>all</u> stormwater management facilities, whether on public or private land and budget for the costs, arranging for appropriate contributions from HOAs.

2. The Parks Department would establish a stormwater management maintenance project in the Enterprise Fund, to which the costs of maintenance will be charged and payments from DEP will be credited. (At the time this system is initiated, a reduction in the Parks Department budget in the amount of present stormwater facility maintenance costs would be appropriate.)

It is not necessary, of course, that the work be done by the Parks Department, but the work does fit in with the variety of skills within that staff. DEP could, however, assume this responsibility directly, either establishing a maintenance unit within its staff or arranging for work by contract, but we have the impression that the latter would be difficult because the HOAs are having trouble finding qualified contractors for this sort of work.

To us the most important aspect of this proposal is the recognition that regular inspection and maintenance is needed, and the establishment of a method for assuring that it will be done.

cc: County Executive
Mr. Menke
HOA Task Force (Knill)
Dept. of Parks
Planning Director

NLC:po

1997 LISTING OF BOARDS, COMMITTEES, AND COMMISSIONS

Appointments are made by the County Executive and Confirmed by the County Council Unless Otherwise Indicated

Adult Public Guardianship Review Board (11)
Airpark Liaison Committee (16)*
Commission on Aging (25)
Agricultural Advisory Committee (25)
Agricultural Preservation Advisory Board (5)
Alcohol and Other Drug Abuse Advisory Council (25)
Alcoholic Beverages Advisory Board (5)
Animal Matters Hearing Board (10)
Board of Appeals (5)*
Bethesda-Chevy Chase Citizens Advisory Board (15)
Bethesda Urban Partnership, Inc. Board of Directors (11)
Cable Communications Advisory Committee (19)
Charter Review Commission** (11)
Commission on Child Care (25)
Commission on Children and Youth (27)
Committee on Committees
Commission on Common Ownership Communities (21)
Community Action Board (39)
Interagency Coordinating Board for Community Use of Public Facilities (9)
Advisory Committee on Consumer Affairs (9)
Criminal Justice Coordinating Commission (26)
East County Citizens Advisory Board (18)
Board of Electrical Examiners (5)
Energy and Air Quality Advisory Committee (15)
Ethics Commission (5)
Committee for Ethnic Affairs (26)
Fire and Rescue Commission (7)
Commission on Health (19)
Committee on Hate/Violence (21)
Historic Preservation Commission (9)
Housing Opportunities Commission (7)
Human Relations Commission (15)
  HRC Panels: Employment (5), Real Estate (3), Public Accommodations (3)
Commission on the Humanities (15)
Board of Investment Trustees (9)
Juvenile Court Committee (29)
Commission on Landlord-Tenant Affairs (9)

Library Board (12)
Board of License Commissioners (5)
*Maryland-National Capital Park and Planning Commission**
Mental Health Advisory Committee (23)
Merit System Protection Board (3)*
Mid-County Citizens Advisory Board (15)
Noise Control Advisory Board (7)
Partnership Board for Victims of Hate/Violence (7)
Commission on People with Disabilities (34)
Property Tax Assessment Appeals Board (4)
Range Approval Committee (7)
Recreation Advisory Boards:
County-wide (31) Western Area (15)
Northern Area (15) Eastern Area (15)
Board of Registration for Building Contractors (5)
Revenue Authority (5)
Rustic Roads Advisory Committee (7)
Sign Review Board (3)
Silver Spring Center Citizens Advisory Board (15)
Silver Spring Transportation System Management Advisory Committee (16)
Solid Waste Advisory Committee (16)
Strathmore Hall Foundation Board of Directors (21)
Taxicab Service Advisory Committee (9)
Technology Innovation Fund Loan/Grant Committee (7)
Upcounty Citizens Advisory Board (20)
Victim Services Advisory Board (22)
Washington Suburban Sanitary Commission (WSSC) (3)
Washington Suburban Transit Commission (WSTC) (2)
Water Quality Advisory Group (18)
Wheaton Urban District Advisory Committee (6)
Commission for Women (15)

**County Council appointments*

**County Council and Executive appointments

(The number of members and alternates of each group is indicated in parentheses. For WSSC and WSTC, only Montgomery County members are counted.)

FOR FURTHER INFORMATION, PLEASE CALL (301) 217-2500