

MEMORANDUM

April 28, 2023

TO: Planning, Housing, and Parks (PHP) Committee

FROM: Logan Anbinder, Postgraduate Fellow
Naeem Mia, Legislative Analyst

SUBJECT: **FY24 Recommended Operating Budget Worksession:
Office of Zoning and Administrative Hearings (OZAH)**

PURPOSE: Review and make recommendations for Council consideration – vote expected.

Expected Participants:

- Lynn Robeson Hannan, Director, OZAH
- Sara Behanna, Administrative Specialist, OZAH
- Katherine Bryant-Higgins, Fiscal and Policy Analyst, Office of Management and Budget (OMB)

A. Summary of Staff Recommendations

- 1) Approve the County Executive’s recommended FY24 Operating Budget request for OZAH.

B. Fiscal Summary

Office of Zoning and Administrative Hearings	FY23 Approved	FY24 CE Recommended	Change from FY23 Approved
General Fund	\$705,001	\$755,988	7.2%
Personnel Costs	\$624,176 4.00 FTEs	\$685,088 4.00 FTEs	9.8% 0.00 FTEs
Operating Costs	\$80,825	\$70,900	-12.3%
Total Expenditures (all funds)	\$705,001 4.00 FTEs	\$755,988 4.0 FTEs	7.2% 0%

C. About OZAH

1. OZAH Overview

The mission of the Office of Zoning and Administrative Hearings is to conduct due process hearings in land use and other administrative matters in a manner that protects the rights of the participants, provides a complete record in each case, results in a thorough and balanced report or decision and serves the public interest.¹ OZAH’s duties and powers are described in the County Charter,² the County Code,³ and the Zoning Ordinance.⁴ The office comprises 4 FTEs: one Director/Hearing Examiner, a second Hearing Examiner, and two Administrative Specialists.

2. Racial Equity and Social Justice Review

After reviewing OZAH’s submission for the FY24 Operating Budget Equity Tool, the Office of Racial Equity and Social Justice (ORESJ) issued a rating of ★★ (two stars) on a scale of zero to three stars, indicating that the department-level budget **demonstrates a commitment** to advancing racial equity and social justice in Montgomery County. ORESJ provided the following justification for its rating:

“The department indicated commitments across each major area of the GARE [Government Alliance on Race and Equity] framework and explained how it is allocating resources towards activities involved with these commitments. The department—like other departments—indicated that it does not collect demographic data to avoid the perception of bias, however it is impossible to detect bias without an analysis that includes demographic information. Assessing the extent to which there are inequities or bias in access, proceedings, or outcomes will require the collection and or assessment of demographic data.”

As part of its efforts to promote racial equity and social justice, OZAH staff has conducted significant research into demographic data collection practices by judicial and quasi-judicial bodies in other jurisdictions. OZAH has suggested that ORESJ’s feedback could be addressed by having another, independent, County office track or verify participants’ race through publicly available records. OZAH also recommends that any policies or procedures that are implemented to address ORESJ’s feedback be developed jointly and applied consistently across the County’s quasi-judicial bodies, including the Legislative Branch’s Board of Appeals and the Merit System Protection Board.

¹ <https://www.montgomerycountymd.gov/OZAH/aboutOzah.html>

² [Montgomery County Charter, §512](#)

³ [Montgomery County Code, Article X, §2-140](#)

⁴ [Montgomery County Zoning Ordinance, §59.7.6.2](#)

3. Hybrid Hearings

OZAH has conducted fully virtual hearings since the COVID-19 pandemic, which it has found has correlated with increased participation. The OZAH hearing room is in the process of being outfitted for the capability to conduct hybrid hearings. The Council intends to allocate \$23,738 in FY24 from the Legislative Branch Communications Outreach Non-Departmental Account (NDA) for a part-time, contract position to moderate hybrid meetings. This funding will be allocated jointly to OZAH and the Board of Appeals, which share a hearing room.

4. Staffing Updates

OZAH has been fully staffed since August 1, 2022, and has no vacancies.

D. Public Testimony

There were no speakers or testimony related to the Office of Zoning and Administrative Hearings during the Council’s April 2023 operating budget public hearings.

E. Major Budget and Key Discussion Items for FY24

1. Personnel and Technical Adjustments (County Executive recommendation: +\$50,987)

OZAH’s FY24 recommended budget includes personnel and technical adjustments to reflect updated personnel costs from the approved FY23 and proposed FY24 compensation agreements, retirement adjustments, and printing and mail costs.

No vote is needed on this item since these issues are being addressed separately by the Government Operations & Fiscal Policy (GO) Committee and full Council.

Overall Council staff recommendation: Approve the County Executive’s recommended operating budget request for OZAH.

This packet contains: _____ © Page #

FY24 Recommended Operating Budget: OZAH.....	©1-3
Council staff report on OZAH Operating Budget for FY23.....	©4-6
Video of PHED Committee worksession on OZAH FY24 operating budget (May 5, 2022)	



Zoning and Administrative Hearings

RECOMMENDED FY24 BUDGET

\$755,988

FULL TIME EQUIVALENTS

4.00

LYNN R. HANNAN, DIRECTOR

MISSION STATEMENT

The mission of the Office of Zoning and Administrative Hearings (OZAH) is to conduct quasi-judicial trial-type hearings that are fair, understandable, and accessible to all participants regardless of race, ethnicity, disability, and financial income. OZAH is committed to establishing policies, processes, and internal training to minimize unconscious bias, remove barriers for non-English speaking or disabled participants, and mitigate barriers for those without financial resources to expend on the hearing process.

BUDGET OVERVIEW

The total recommended FY24 Operating Budget for the Office of Zoning and Administrative Hearings is \$755,988, an increase of \$50,987 or 7.23 percent from the FY23 Approved Budget of \$705,001. Personnel Costs comprise 90.62 percent of the budget for four full-time position(s) and no part-time position(s), and a total of 4.00 FTEs. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating Expenses account for the remaining 9.38 percent of the FY24 budget.

COUNTY PRIORITY OUTCOMES

While this program area supports all seven of the County Executive's Priority Outcomes, the following is emphasized:

Effective, Sustainable Government

PROGRAM CONTACTS

Contact Lynn R. Hannan of the Office of Zoning and Administrative Hearings at 240.777.6664 or Katherine Bryant-Higgins of the Office of Management and Budget at 240.777.2764 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Zoning and Administrative Hearings

The Hearing Examiner receives applications for certain zoning matters decided by the County Council; schedules and conducts public hearings; prepares and issues reports and recommendations for County Council action; receives applications, hears and

decides conditional use cases; schedules and conducts hearings in contested cases referred by other departments, such as the Commission on Human Rights; adjudicates objections and waivers associated with accessory apartment license applications; maintains administrative records for public inspection; collects application fees; responds to public inquiries on zoning and conditional use cases; and works with other County agencies in the preparation, revision, and review of procedural rules, fee schedules, and zoning text amendments.

BUDGET SUMMARY

	Actual FY22	Budget FY23	Estimate FY23	Recommended FY24	%Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	479,457	497,132	512,504	546,941	10.0 %
Employee Benefits	115,524	127,044	109,118	138,147	8.7 %
County General Fund Personnel Costs	594,981	624,176	621,622	685,088	9.8 %
Operating Expenses	41,971	80,825	24,782	70,900	-12.3 %
County General Fund Expenditures	636,952	705,001	646,404	755,988	7.2 %
PERSONNEL					
Full-Time	4	4	4	4	—
Part-Time	0	0	0	0	—
FTEs	4.00	4.00	4.00	4.00	—
REVENUES					
Other Charges/Fees	1,100	0	0	0	—
Zoning Fees	74,357	65,000	65,000	65,000	—
County General Fund Revenues	75,457	65,000	65,000	65,000	—

FY24 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY23 ORIGINAL APPROPRIATION	705,001	4.00
<u>Other Adjustments (with no service impacts)</u>		
Increase Cost: Annualization of FY23 Personnel Costs	28,352	0.00
Increase Cost: FY24 Compensation Adjustment	18,751	0.00
Increase Cost: Annualization of FY23 Compensation Increases	14,816	0.00
Increase Cost: Printing and Mail	75	0.00
Decrease Cost: Retirement Adjustment	(1,007)	0.00
Decrease Cost: Elimination of One-Time Items Approved in FY23	(10,000)	0.00
FY24 RECOMMENDED	755,988	4.00

FUNDING PARAMETER ITEMS

CE RECOMMENDED (\$000S)

Title	FY24	FY25	FY26	FY27	FY28	FY29
COUNTY GENERAL FUND						
EXPENDITURES						
FY24 Recommended	756	756	756	756	756	756
No inflation or compensation change is included in outyear projections.						
Labor Contracts	0	18	18	18	18	18
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
Subtotal Expenditures	756	774	774	774	774	774

MEMORANDUM

May 2, 2022

TO: Planning, Housing, and Economic Development (PHED) Committee

FROM: Naem M. Mia, Legislative Analyst

SUBJECT: **FY23 Recommended Operating Budget – Office of Zoning and Administrative Hearings (OZAH)**

PURPOSE: Vote on recommendations for the Council’s consideration

Expected Attendees:

- Lynn Robeson Hannan, Director, OZAH
- Julie Knight, Fiscal and Policy Analyst, Office of Management and Budget (OMB)

A. Summary of Staff Recommendations

1) *Approve the Executive’s recommended FY23 Operating Budget request for OZAH.*

B. Fiscal Summary

Zoning and Administrative Hearings	FY22 Approved	FY23 CE Recommended	Change from FY22 Approved
General Fund	\$681,382	\$705,001	3.5%
Personnel Costs	\$546,283 4.00 FTEs	\$563,519 4.00 FTEs	0.6% 0.00 FTEs
Operating Costs	\$60,754	\$80,825	33.0%
Total Expenditures (all funds)	\$681,382 3.50 FTEs	\$705,001 3.50 FTEs	3.5% 0%

C. Public Testimony

There were no speakers or testimony related to the Office of Zoning and Administrative Hearings during the Council's April 2022 operating budget public hearings.

D. Major Budget and Key Discussion Items for FY23

1. Increase Cost of Operating Expenses (+ \$20,000)

The CE is recommending a total increase of \$20,000 (or 33% above the FY22 Approved budget) for operating expenses, including \$10,000 for transcription services and \$10,000 for software costs. These additions are to the base budget.

The request for the additional money for transcription costs is due to a historical increase in activity over the last several years. In addition, new software is needed to allow for remote/hybrid meetings.

Council staff recommendation: Approve as requested by the County Executive.

2. Personnel and Technical Adjustments (+ \$3,619)

OZAH's FY23 recommended budget includes several personnel and technical adjustments to reflect updated personnel costs from the approved FY22 and proposed FY23 compensation agreements, retirement adjustments, and print and mail chargebacks.

Council staff recommendation: Approve as requested by the County Executive.

3. Hybrid Meetings

OZAH has been working to transition to hybrid hearings. The office has found that a hybrid option increases participation and also may reduce the cost to applicants when bringing in-out-of-state witnesses (although that decision is left to the applicant at their discretion).

OZAH received approval to install the necessary equipment in the OZAH/BOA hearing room to enable remote hearings from the COB Renovation CIP. Depending on the availability of parts, that all necessary equipment may be installed in the next several months.

Currently, the Hearing Examiner performs most of the work in remote hearing, but the hybrid set-up has additional components that a single staff member may not be able to perform. Staff with technical experience would greatly enhance the ability to conduct these meetings and permit the hearing examiner to focus on conducting the hearing.

At present, OZAH anticipates that staffing would be part-time (only on hearing days), although it would have to be structured to accommodate a variable hearing schedule.

Council staff recommendation: *Coordinate with existing Council IT staff to determine if current staff or contractor resources can accommodate this additional scope of work for OZAH. If additional resources are needed, return to the Committee in mid-FY23 to determine options.*

4. Staffing Updates

OZAH staff currently has one vacant hearing examiner position. The former hearing examiner left as of March 4, 2022. The department is currently in the process of hiring someone to fill his position.

This packet contains:

1. FY23 Recommended Publication– OZAH

Circle Page #

1-4