



Committee: Directly to Council
Committee Review: N/A
Staff: Ludeen McCartney-Green, Legislative Attorney
Christine Wellons, Senior Legislative Attorney
Purpose: Final action – vote expected

Agenda Item #1
December 12, 2022
Worksession/Action

SUBJECT

2023 State Legislative Session Review of Montgomery County Local and Bi-County Bills, Cont'd

EXPECTED ATTENDEES

Melanie Wenger, Director, Office of Intergovernmental Relations (OIR)
Kathleen Boucher, Deputy Director, OIR
Leslie Frey, Legislative Analyst, OIR
Sara Morningstar, Federal Relations Coordinator and Legislative Analyst, OIR
Jeff Zyontz, Acting Chair, Planning Board
WSSC representatives
M-NCPPC representatives

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Review and obtain positions on local and bi-county bills sponsored by one or more members of the Montgomery County Delegation.

DESCRIPTION/ISSUE

On December 6, 2022, the Council held a discussion and took positions on the following local bills (see, staff report [here](#) for further details):

- Support (MC 4-23; MC 5-23; MC 6-23; MC 15-23; and MC 16-23);
- Hold (MC 1-23; MC 8-23; and MC 13-23).

The Council will continue its review of the remaining local and bi-county bills for the upcoming 2023 Maryland General Assembly and may choose to take a position on each bill.

The Montgomery County Delegation has public hearings scheduled for December 8 and December 15 for local and bi-county bills. Additional details can be found at: <http://montgomerycountydelegation.com/legislation.html>. Delegation worksessions on the bills are scheduled for January 2023. [Calendar \(montgomerycountydelegation.com\)](#).

SUMMARY OF KEY DISCUSSION POINTS

- Determine whether to support, support with amendments, take no position on, hold, or oppose the following local bills: [MC 3-23](#); [MC 7-23](#); [MC 10-23](#); [MC/PG 101-23](#); [MC/PG 103-23](#); [MC/PG 104-23](#); [MC/PG 105-23](#); [MC/PG 106-23](#); [MC/PG 107-23](#); [MC/PG 109-23](#).

This report contains:

Legislative Chart of Local and Bi-County Bills (with Council Staff recommendations)	©1
Memorandum from OIR re: Local and Bi-County Bills	©9
Supplemental Memo from OIR re: MC/PG 105-23 and MC/PG 109-23	©16
Memorandum from HOC re: MC 10-23	©20

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Chart of 2023 Local and Bi-County Bills – Prepared by Council Staff – December 12, 2022

Bill Number and Title	Sponsor(s) and Public Hearing Date	Category	Description	Council Staff Notes / Recommendation	County Executive Position
MC 3-23 Montgomery County – Voting Methods	Delegate Palakovich-Carr Hearing: Dec. 15	Voting	The bill would be enabling legislation for the County to enact a law providing for “ranked choice” or “approval rating” voting systems in elections for the County Executive, County Council, Circuit Court Judges, Sheriff, State’s Attorney, and Board of Education Members.	The bill authorizes but does not require the Council to pass a law regarding ranked choice voting. The majority of the costs to implement such a voting system would be paid for by the County. Council Staff recommendation: Support (Mia)	Supports
MC 7-23 Voting Systems – Ranked Choice Voting and Inclusion of City of Takoma Park Municipal Elections on the State Ballot	Delegates Moon, Charkoudian, & Wilkins Hearing: Dec. 15	Voting	The bill would prohibit the State Board of Elections from certifying a voting system unless (among other requirements) the voting system is capable of tabulating ballots in ranked choice voting. The bill also would provide that, if the City of Takoma Park uses ranked choice voting, the State Board would provide additional voting machines in the City, and the City would not be required to reimburse the State or the County for the machines.	The Council might wish to receive information from the Board of Elections regarding how many voting machines would be required for Takoma Park and the associated costs. The fiscal impact of this bill is unknown at this time. Some key factors that may impact the cost of transitioning to RCV include labor, outreach to educate voters, whether any existing equipment needs to be replaced or supplemented, and the size of the jurisdiction. Council staff recommendation: Hold (Jeong)	No position at this time

Chart of 2023 Local and Bi-County Bills – Prepared by Council Staff – December 12, 2022

Bill Number and Title	Sponsor(s) and Public Hearing Date	Category	Description	Council Staff Notes / Recommendation	County Executive Position
MC/PG 106-23 Montgomery County – Off-Street Parking Requirements Near Mass Transit Stations	Delegates Moon, Korman, & Stewart Hearing: Dec. 8	Off-Street Parking	The bill would prohibit Montgomery County from enacting or enforcing any local law that requires the creation of new off-street parking for a residential development located within a 0.25-mile radius of an existing or planned Metro Line or Purple Line station.	Council staff is concerned that this bill would restrict the authority of the County government regarding the provision of off-street parking. The opportunity to make decisions regarding land use and zoning matters related to parking should not be taken from the Council. Further, this bill may affect existing parking lot district (PLDs) agreements at Bethesda, Silver Spring, or Wheaton. Council staff recommendation: Oppose (Orlin)	Opposes

Chart of 2023 Local and Bi-County Bills – Prepared by Council Staff – December 12, 2022

<p>MC/PG 101-23 Washington Suburban Sanitary Commission – Minority Business Enterprise Utilization Program – Revisions and Extension</p>	<p>Chair on behalf of Washington Suburban Sanitary Commission Hearing: Dec. 15</p>	<p>WSSC</p>	<p>The bill would revise the minority business enterprise utilization program of WSSC. Among other revisions, it would clarify that the purpose of the program is to remedy discrimination. In addition, the bill would extend WSSC’s MBE program for five years.</p>	<p>WSSC Water had to get a one-year extension on its MBE program last year due to its latest disparity study being delayed a year. Now with that study recently completed, WSSC is seeking the normal 5-year extension to the program.</p> <p>The 2022 disparity study¹ found: “statistical evidence of the presence of business discrimination against M/WBEs in both the private and public sector within the WSSC Water’s marketplace. Additionally, to add to the statistical evidence, MGT [WSSC’s contractor] conducted qualitative and anecdotal activities to understand the discriminatory experiences of vendors in the marketplace. The results of these activities were also consistent with the presence of discrimination against M/WBEs in the marketplace.”</p> <p>Council staff recommendation: Support</p> <p>(Levehenko)</p>	<p>Supports</p>
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¹ [https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/1651491/WSSC Water 2022 Disparity Study Final Report.pdf](https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/1651491/WSSC_Water_2022_Disparity_Study_Final_Report.pdf)

Chart of 2023 Local and Bi-County Bills – Prepared by Council Staff – December 12, 2022

Bill Number and Title	Sponsor(s) and Public Hearing Date	Category	Description	Council Staff Notes / Recommendation	County Executive Position
MC 10-23 Montgomery County Housing Opportunities Commission – Collective Bargaining Agreement Implementation – Impasse Arbitration	Senator Kramer Hearing: Dec. 15	HOC / Collective Bargaining	The bill would allow the HOC or its employees’ bargaining representative to declare an impasse in the bargaining process and to seek appointment of an arbitrator-mediator. The mediator-arbitrator would require the parties to follow a certain process, and the mediator-arbitrator would choose a final and best offer of one of the parties.	The Council might wish to obtain bargaining representatives’ views of this legislation. Council staff have asked MCGEO if they would like to share any input with the Council. The HOC has issued a letter in opposition to the legislation, which is enclosed. Council staff recommendation: Hold (Jeong / Wellons)	Supports with clarifying amendment(s)
MC/PG 103-23 Maryland-National Capital Park and Planning Commission – Collective Bargaining Agreement Implementation – Dispute Resolution	Senator Kramer Hearing: Dec. 15	MNCPPC / Collective Bargaining	The bill would allow the HOC or its employees’ bargaining representative to declare an impasse in the bargaining process and to seek appointment of an arbitrator-mediator. The mediator-arbitrator would require the parties to follow a certain process, and the mediator-arbitrator would choose a final and best offer of one of the parties.	The Council might wish to obtain the MNCPPC’s and bargaining representatives’ views of this legislation. MNCPPC representatives will attend the December 12 th Council meeting to answer any questions. Council staff has asked MCGEO to share any input as well. Council staff recommendation: Hold (Wellons)	Supports with clarifying amendments

Chart of 2023 Local and Bi-County Bills – Prepared by Council Staff – December 12, 2022

<p>MC/PG 104-23 Montgomery County - Maryland-National Capital Park and Planning Commission Restructuring Task Force – Establishment</p>	<p>Senator Kramer Hearing: Dec. 15</p>	<p>MNCPPC</p>	<p>The bill would establish a task force to study the feasibility of transferring the Montgomery County-specific duties of the MNCPPC to the Montgomery County government.</p>	<p>The taskforce established by the bill would be staffed by the County Executive and would consist mainly of County Executive appointees and advisors. Nine members of the task force would be selected by the Executive or be Executive department heads, and only 3 members would be directly selected by the Council.</p> <p>Staff notes that the task force would be charged with studying the feasibility – as opposed to the advisability – of transferring duties. Thus, it appears that the task force would presuppose that the transfer of duties should be accomplished.</p> <p>Council staff also notes that there has been a long history of respecting the separation of the Commission from the County government. In 1986, a Blue Ribbon Committee, established by Montgomery County Executive Gilchrist to study the County’s planning and development processes, recommended that Planning Board and Chair be appointed by the County Executive (CE). Yet only 5 years later in 1991, the County Council established a new task force to re-examine the</p>	<p>Supports</p>
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Chart of 2023 Local and Bi-County Bills – Prepared by Council Staff – December 12, 2022

Bill Number and Title	Sponsor(s) and Public Hearing Date	Category	Description	Council Staff Notes / Recommendation	County Executive Position
				<p>planning and development process. This committee recommended restoring the appointment and planning processes that existed prior to the 1986 amendments.</p> <p>Council staff recommendation: Oppose</p> <p>(Dunn)</p>	

Chart of 2023 Local and Bi-County Bills – Prepared by Council Staff – December 12, 2022

Bill Number and Title	Sponsor(s) and Public Hearing Date	Category	Description	Council Staff Notes / Recommendation	County Executive Position
<p>MC/PG 105-23 Montgomery County – Maryland–National Capital Park and Planning Commission – Commissioner Requirements and Open Meetings (Montgomery County Planning Trust and Transparency Act of 2023)</p>	<p>Senator Kramer Hearing: Dec. 15</p>	<p>MNCPPC</p>	<p>The bill would provide that the County Executive – and not the Council – would appoint the chair of the Planning Board. It would also require the consent of the County Executive in order for the Council to discipline or remove a Planning Board member.</p> <p>The bill would prohibit Planning Board members from engaging in certain political activities, including volunteering for any campaign.</p> <p>The bill also would mandate that the Council holds public hearings on its appointments to the Board.</p> <p>Finally, the bill would require agendas and a summary of any “finalized documents” of the Planning Board to be posted 72 hours in advance of meetings.</p>	<p>The bill would diminish the authority of the County Council to appoint and remove members of the Planning Board.</p> <p>In addition, the bill would impose open meetings requirements on MNCPPC that do not exist for other public bodies. Thus, open meetings requirements would be inconsistent across the state, which could create confusion. Council staff also notes that the requirement to post “finalized documents” is unclear.</p> <p>Council staff recommendation: Oppose</p> <p>(Dunn)</p>	<p>Supports</p>

Chart of 2023 Local and Bi-County Bills – Prepared by Council Staff – December 12, 2022

Bill Number and Title	Sponsor(s) and Public Hearing Date	Category	Description	Council Staff Notes / Recommendation	County Executive Position
MC/PG 107-23 Prince George’s County – Maryland– Washington Regional District – Standing to Request Review of Zoning and Land Use Decisions	Delegates Lehman and Pena-Melnyk Hearing: Dec. 15	MNCPPC	The bill would alter requirements, in Prince George’s County only, regarding the circumstances in which a party may appeal certain zoning determinations.	The bill affects Prince George’s County only. Council staff recommendation: No position (Wellons)	Not reviewed at this time.
MC/PG 109-23 Maryland–National Capital Park and Planning Commission – Members	Delegate Foley Hearing: Dec. 15	MNCPPC	The bill would eliminate the requirement that not more than three Planning Board members may be of the same political party.	The Planning Board membership should represent the diversity of the County. The current requirement regarding political party representation, however, is not reflective of the County and overly restricts the search for qualified Planning Board members. Council staff believes it would be preferable for the membership to reflect the racial, ethnic, gender, political, and geographic diversity of the County overall, without a requirement for a specific number of members to represent various political parties. Council staff recommendation: Support (Wellons)	No position at this time.



OFFICE OF INTERGOVERNMENTAL RELATIONS

Marc Elrich
County Executive

Melanie Wenger
Director

November 22, 2022

MEMORANDUM

TO: Montgomery County Council

FROM: Melanie L. Wenger, Director, Office of Intergovernmental Relations *MLW*

SUBJECT: 2023 State Legislative Session Preparation

The purpose of the Office of Intergovernmental Relation’s meeting with the County Council scheduled for 12:30 p.m. on Monday, November 28, 2022, is to review the local and bi-county bills introduced by individual Montgomery County State Delegation members and three local bills requested by Montgomery County Alcoholic Beverage Services. The State Delegation will hold public hearings on these bills on December 8th and 15th, in preparation for their introduction in the 2023 State Legislative Session. Summaries of the bills follow:

LOCAL BILLS

MC 3-23 – *Montgomery County - Voting Methods* (Delegate Palakovich Carr)

This bill is a reintroduction of House Bill 362 (MC 13-22) from 2022, which was supported by both the County Executive and County Council. It authorizes the County to adopt a local law establishing a “ranked choice” or “approval rating” voting system for elections to County Executive, County Council, Circuit Court Judge, State’s Attorney, Register of Wills, Sheriff, and Board of Education. “Ranked choice voting” means a method of casting and tabulating votes in which voters rank candidates in order of preference and votes are tabulated in a manner that reflects voter preference. “Approval voting” means a method of casting and tabulating votes in which voters may choose any number of candidates and the candidate chosen most often is elected. House Bill 362 (MC 13-22) received a favorable report from the Delegation last year but never received a vote in the House Ways and Means Committee.

County Executive supports this bill.

MC 4-23 – *Montgomery County - Alcoholic Beverage Services - Advisory Board* (Chair on behalf of Montgomery County Government)

This bill authorizes the Alcohol Beverage Services director and the Chief of Police to each designate another person to serve in their respective places as members of the eight-member Alcoholic Beverages Advisory Board.

County Executive supports this bill.

MC 5-23 – *Montgomery County - Alcoholic Beverages - Board of License Commissioners - Qualifications* (Chair on behalf of Montgomery County Government)

This bill substitutes the requirement that not more than three members of the Board of License Commissioners may be members of the same political party with language requiring the County Executive to consider, when evaluating Board applicants, the need for geographic, political, racial, ethnic, and gender diversity. The statutes for Prince George’s County and Baltimore City reflect this approach.

County Executive supports this bill.

MC 6-23 – *Montgomery County - Speed Monitoring Systems - Authorized Highways* (Delegate Solomon)

The Maryland Transportation Article limits the placement and use of automated traffic enforcement units (ATEUs) to highways in residential districts with a maximum posted speed of 35 miles per hour. This bill authorizes Montgomery County to place ATEUs on all roadways in the County with a maximum posted speed limit of 45 miles per hour. Justification for the placement of ATEUs will continue to be determined through data analyses of speed surveys and collisions.

County Executive supports this bill.

MC 7-23 – *Voting Systems - Ranked Choice Voting and Inclusion of City of Takoma Park Municipal Elections on the State Ballot* (Delegate Moon)

Under current law, the State Board of Elections may not certify a voting system unless the system: (1) protects secrecy of the ballot; (2) protects security of the voting process; (3) counts and records all votes accurately; (4) accommodates any ballot form required under State law; (5) protects voter rights; (6) is capable of paper record of all votes; and (7) provides a voter-verifiable paper record. The bill adds an eighth factor by requiring that the system be capable of tabulating ballots cast in an election conducted using ranked choice voting without the necessity of modifying or upgrading the voting system to achieve that capability.

With a few exceptions, municipal elections are not conducted under, or subject to, the State Election Law. So, while the County would need to obtain express State enabling authority to require ranked choice voting for specified offices, a municipality does not need that express authority. Under current law, a municipality may request that the State Board include on a ballot the office and questions to be voted on in a municipal election. However, the municipality must reimburse the State Board and the applicable local board for any additional costs incurred as a result of including the municipal offices and questions on the ballot.

The bill adds several requirements that would be triggered if the State Board approves a request from the City of Takoma Park to include municipal offices or questions on the ballot subject to ranked choice voting. Specifically, the State must acquire additional voting machines for the Montgomery County Board of Elections to be used in Takoma Park to mitigate additional time added to the voting process by ranked choice voting and independent software to tabulate ranked choice voting results. The bill also specifies that Takoma Park is not required to reimburse the State or local board for the additional costs associated with ranked choice voting.

County Executive has no position on this bill at this time.

MC 8-23 – *Montgomery County - Speed Monitoring Systems - Maryland Route 200 (Intercounty Connector)* (Senator Kramer)

This bill requires the Maryland Department of Transportation Authority and Montgomery County to enter into a memorandum of understanding that requires the County to implement and administer speed monitoring systems placed and used on the Intercounty Connector, between the exit ramps on Shady Grove Road and Route 29. The legislation requires the placement of four systems, of which no more than two could be operational at a given time.

MC 8-23 is a reintroduction of a proposal from the 2022 Session that suffered from significant drafting and other technical deficiencies. After substantial amendments, the bill was passed by the House and Senate Delegations but was given an unfavorable report in the House Environment and Transportation Committee. The Executive supported the first draft of the bill in concept; the Council never took a position.

County Executive supports this bill.

MC 10-23 – *Montgomery County Housing Opportunities Commission - Collective Bargaining Agreement Implementation - Impasse Arbitration* (Senator Kramer)

This bill establishes a process to utilize a mediator-arbitrator during collective bargaining that occurs “out-of-cycle” – i.e., during the term of an existing collective bargaining agreement (CBA). The bill mirrors provisions of current State law that apply to “in-cycle” collective bargaining – i.e., when a new CBA is negotiated before an existing CBA terminates. The bill authorizes either party to a CBA to declare an impasse and request the services of a mediator-arbitrator and also authorizes the parties to jointly agree to request the services of a mediator-arbitrator without declaring an impasse. The bill establishes a binding arbitration process to be followed when the mediator-arbitrator determines that the parties are in a bona fide impasse. The bill includes requirements that: (1) the Labor Relations Administrator appoint a mediator-

arbitrator if the parties are unable to agree on one; (2) the mediator-arbitrator hold a nonpublic hearing on each party's last final offer; and (3) the mediator-arbitrator choose the final offer that is more reasonable when viewed as a whole.

The bill includes language that mirrors State law governing in-cycle collective bargaining under which certain economic provisions are subject to funding by the Montgomery County Housing Opportunities Commission (HOC). The HOC may accept or reject all or part of any term or condition regarding wages that requires an appropriation of funds or the adoption of regulations that may have a fiscal impact on the Commission. An existing provision of State law that is not included in the bill but nonetheless would apply in the circumstances addressed in the bill indicates that the County Council has final authority as to whether to appropriate funds for wages or other terms or conditions that may have a fiscal impact.

The procedures established in this bill are similar to existing provisions of County law that apply to out-of-cycle bargaining by employee unions. The Office of the County Attorney noted that it would be much simpler, from a bill drafting perspective, to simply add language to the existing State law governing impasse and arbitration for in-cycle bargaining to make those provisions applicable to out-of-cycle bargaining, rather than creating a new statutory section that restates the in-cycle mediation-arbitration process as applicable to out-of-cycle bargaining. OIR has discussed this technical issue with the sponsor, who indicated that he would consult with the Department of Legislative Services on a potential amendment.

The Office of Intergovernmental Relations has requested input from HOC but has not yet received feedback.

County Executive supports this bill with the technical and clarifying amendment referenced above.

MC 13-23 – Montgomery County Collective Bargaining for Sheriff's Office Employees - Binding Arbitration Procedures (Senator Kramer)

This bill makes existing provisions of County law that apply to the County and its unions regarding impasse and binding arbitration applicable to both in-cycle and out-of-cycle collective bargaining conducted by the Sheriff and its unions. County law allows either party to declare an impasse and request a mediator/arbitrator or both parties to jointly request a mediator/arbitrator before an impasse is declared. The County Council may accept or reject any term or condition that requires an appropriation or the enactment or adoption of a County law or regulation that would have a fiscal impact on the County. On November 22, 2022, Acting Sheriff Max Uy submitted a memorandum to the County Executive (copy attached) that outlines his opposition to the bill on the grounds that it violates the Maryland Constitution, primarily the separation of powers doctrine, because it imposes collective bargaining requirements on an independent official in the State judicial branch of government.

County Executive has no position on this bill at this time.

MC 15-23 – Montgomery County - Village of Friendship Heights Special Taxing District - Procurement (Delegate Korman)

This bill increases from \$5,000 to \$20,000 the maximum amount that the Friendship Heights Village Council can spend without competitively bidding for the purchase of the materials or work. The legislation also creates an exception, which would allow the Council to exceed the \$20,000 limit if the conditions under which a contract would be entered into is in response to an “emergency” as defined in the bill and is supported by a majority vote of the Council.

County Executive supports this bill.

MC 16-23 - Montgomery County - Alcoholic Beverages - Holders of Class B-BWL (Clubhouse/Lodge) License and Class 7 Micro-Brewery License (Chair on behalf of Montgomery County Government)

This bill removes Montgomery County from the application of a Statewide restriction in the Alcoholic Beverages Article that would prohibit the Montgomery County Revenue Authority (MCRA) from holding more than one Class B-BWL (clubhouse/lodge) license and a Class 7 micro-brewery license at the same time. Years ago, Montgomery County created a Class B-BWL (clubhouse/lodge) license, which may only be issued to the MCRA. Nine such licenses have been issued to the MCRA, one each for the nine golf courses it operates in the County. Legislation passed during the 2022 Session allowed the MCRA to be issued a Class 4 limited winery license and a Class 7 micro-brewery license, both issued by the State. The combination of these two licenses would allow the MCRA to produce wine (Class 4) and cider (Class 7) at its Crossvines project located at the Poolesville Golf Course. This existing restriction in current law prohibiting a licensee from holding more than one Class B-BWL license and a Class 7 micro-brewery license, however, was overlooked, until the MCRA applied for the Class 7 license. Passage of MC 16-23 will resolve this issue by allowing the MCRA to obtain a Class 7 micro-brewery license and hold its Class B-BWL (clubhouse/lodge) licenses at the same time.

County Executive supports this bill.

BI-COUNTY BILLS

MC/PG 101-23 – Washington Suburban Sanitary Commission - Minority Business Enterprise Utilization Program - Revisions and Extensions (Chair on behalf of Washington Suburban Sanitary Commission)

This bill, which has been requested by Washington Suburban Sanitary Commission (WSSC Water) in order to “update, modernize, streamline, and strengthen” State law governing WSSC Water’s Minority Business Enterprise (MBE) Utilization Program, including extending authority to implement an MBE program for five (5) years, ending on June 30, 2028. Current authority to conduct this program sunsets on June 30, 2023.

Authorization for WSSC Water’s MBE program is based on a disparity study conducted every five years. The disparity study determines the utilization and availability of minority and women owned firms within WSSC Water’s market area for construction, architectural and engineering, goods and services, and professional services. The study determines whether disparities exist and provides the factual predicate necessary to meet the legal requirements for the continuation of the MBE program. The latest disparity study was released in November 2022 and covers fiscal years 2015 through 2019.

Under current law, the MBE program is administered by WSSC Water’s Office of Supplier Diversity and Inclusion (OSDI), which facilitates the participation of certified MBEs in solicitations for goods and services and design/build construction contracts. The bill consolidates all procurement categories under one MBE program, clarifies that WSSC Water’s certification requirements must substantially duplicate State certification requirements, and modernizes the language of the statute to reflect current MBE best practices and legal requirements.

The bill includes legislative “findings” based on the disparity study, including a finding that there are substantial and statistically significant adverse disparities that are strong evidence of discrimination against minorities and nonminority women in wages, business formation, business owner earns, and access to capital in the same geographic markets and industry categories in which WSSC Water does business and a finding that WSSC Water will become a passive participant in private sector racial and gender discrimination if the authority to conduct its MBE Utilization Program is not extended.

County Executive supports this bill.

MC/PG 103-23 – Maryland-National Capital Park and Planning Commission - Collective Bargaining Agreement Implementation - Dispute Arbitration (Senator Kramer)

This bill is similar to ***MC 10-23 – Montgomery County Housing Opportunities Commission - Collective Bargaining Agreement Implementation - Impasse Arbitration***. It creates mostly identical binding arbitration procedures for collective bargaining that occurs “out-of-cycle” at the Maryland-National Capital Park and Planning Commission (M-NCPPC). The major difference is that the bill incorporates language taken from existing State law governing in-cycle bargaining at M-NCPPC that provides that the economic provisions of the final agreement are subject to funding by the Montgomery County Council and Prince George’s County Council. The same bill drafting issue discussed above regarding MC 10-23 applies to this bill. The Office of Intergovernmental Relations has requested input from M-NCPPC but has not yet received feedback.

County Executive supports this bill with the technical and clarifying amendment referenced under the discussion of MC 10-23.

MC/PG 104-23 – *Montgomery County - Maryland-National Capital Park and Planning Commission Restructuring Task Force - Establishment* (Senator Kramer)

This bill creates the Maryland-National Capital Park and Planning Commission (M-NCPPC) Restructuring Task Force and requires the Task Force to: (1) study the feasibility of transferring duties of the Montgomery County Planning Board, Planning Department, and Parks Department from M-NCPPC to County government; and (2) make recommendations on restructuring M-NCPPC to no longer include Montgomery County. The Task Force must submit a report to the County Executive, County Council, and State Delegation by December 1, 2024. The County Executive must provide staff for the Task Force and the Task Force may hire consultants.

The Task Force would include eighteen members or their designees: (1) one member appointed by Senate President; (2) one member appointed by the House Speaker; (3) Planning Board Chair; (4) County Executive; (5) County Council President; (6) Director of the Department of Permitting Services; (7) Director of the Parks Department; (8) Director of the Planning Department; (9) Director of the Department of Recreation; (10) Director of Office of Management and Budget; (11) President of the UFCW Local 1994 MCGEO; (12) two members of the public appointed by the County Executive; (13) one land use attorney appointed by the County Executive; (14) two members of the public appointed by the County Council; (15) one representative of the Maryland Building Industry Association; and (16) one representative of the Apartment and Office Building Association of Metropolitan Washington.

County Executive supports this bill.

MC/PG 106-23 – *Montgomery County - Off-Street Parking Requirements Near Mass Transit Stations* (Delegate Moon)

This bill prohibits the Montgomery County District Council from adopting or enforcing a local law that requires the creation of new off-street parking for a residential development that is located within a 0.25 radius of a present or planned Metro or Purple Line Station.

County Executive opposes this bill. The County has historically opposed any effort by the State to intrude on local autonomy over land use and zoning matters.



OFFICE OF INTERGOVERNMENTAL RELATIONS

Marc Elrich
County Executive

Melanie Wenger
Director

December 7, 2022

MEMORANDUM

TO: Montgomery County Council

FROM: Melanie L. Wenger, Director, Office of Intergovernmental Relations ^{MLW}

SUBJECT: 2023 State Legislative Session Preparation

The purpose of this memo is to provide summaries of two local bills that had not been introduced in time for summaries to be included in the Office of Intergovernmental Relations November 22nd memo. Summaries of the bills follow:

NEW BI-COUNTY BILLS

MC/PG 105-23 – Montgomery County - Maryland-National Capital Park and Planning Commission - Commissioner Requirements and Open Meetings (Montgomery County Planning Trust and Transparency Act of 2023) (Senator Kramer)

This bill makes a variety of changes to State law governing the five Commissioners of the Maryland-National Capital Park and Planning Commission (M-NCPPC) who serve on the Montgomery County Planning Board (“Planning Board members”), including appointment process, term limits, removal and discipline of members, designation of Chair, salaries, outside employment, political activities, revolving door policy, open meetings, and training.

Appointment process

Under current law, Planning Board members are appointed by majority vote of the County Council subject to approval by the County Executive. The Council may appoint a member over the disapproval of the County Executive by unanimous vote. The bill changes this process to require: (1) the County Executive to appoint the member who will serve as the

Planning Board Chair; and (2) the Council to appoint the remaining members by a supermajority vote of eight Councilmembers (2/3 Council vote), subject to the same County Executive approval/disapproval process that exists under current law. The bill also requires the County Council to hold public hearings on all appointments.

Term Limits

Except for the Planning Board Chair, members are currently prohibited from serving more than two consecutive terms. A member serving as the Planning Board Chair during a second consecutive term may be appointed for a third consecutive term. The bill repeals the language of current law authorizing a third term in that situation.

Removal and Discipline

Under current law, the County Council, by majority vote, may remove a member before the expiration of the member's term after holding a public hearing and issuing a written statement outlining the cause for removal. The bill makes the Council's removal authority subject to approval of the County Executive and authorizes the discipline of a member using the same process. In addition, the bill gives the County Executive authority, with the approval of eight Councilmembers, to remove or discipline a member. The County Council must also hold a public hearing and issue a written statement outlining the cause for removal or discipline. A member subject to potential removal or discipline may not participate in the public hearing.

Salaries

The current rules governing salaries for Planning Board members are divided into two parts: (1) first, for service in their capacity as M-NCPPC Commissioners (§15-108 Land Use Article); and (2) second, for service in their capacity as Montgomery County Planning Board members (§20-208 Land Use Article).

For service as the Chair of M-NCPPC, an individual is entitled to a salary of \$6,100. Other Commissioners are entitled to a salary of \$5,600. With the approval of the County Executive, the County Council may authorize a supplementary salary for the Commissioner who serves full-time as Montgomery County Planning Board Chair. If the Executive fails to approve the supplementary salary authorized by Council within 30 days, the Council may, by a vote of eight members, authorize the salary without the Executive's approval. Regular members of the Planning Board may receive a salary for their service on the Planning Board as provided in the County budget and/or County law.

In a confusing manner, the bill changes the law governing the salary of a Montgomery County Commissioner serving as M-NCPPC Chair. It specifies that this individual is entitled to an annual salary set by the County Executive with the approval of the County Council (§15-108 (a)(1)(iii) – page 8). If the Council does not act on the County Executive's authorization within 30 days, the Executive may authorize the salary without the approval of the County Council. The bill also specifies that the County Executive may authorize a supplementary salary for the Commissioner appointed to serve as Planning Board Chair (§15-108 (b)(1) – page 8).

Outside Employment

The bill prohibits the Planning Board Chair from engaging in other employment. The term “employment” is defined to mean engaging in an activity for compensation, including the active sale or promotion for sale of intellectual property produced by the Chair.

Political Activities

The bill prohibits Planning Board members from engaging in the following political activities for the benefit of a State or local elected official or candidate: (1) soliciting or transmitting a political contribution from any person, including a political committee; (2) serving on a fundraising or political committee; (3) acting as treasurer for a candidate or official or as treasurer or chair of a political committee; (4) organizing or establishing a political committee for the purpose of soliciting or transmitting contributions from any person; (5) forwarding tickets for fund-raising activities, or other solicitations for political contributions, to a potential contributor; and (6) openly campaigning or volunteering for a campaign. Planning Board members are also prohibited from being a candidate for public office.

Revolving Door

The bill prohibits a former Planning Board member, for one year after the member leaves office, from assisting or representing another party for compensation in a matter that was the subject of an action before the Planning Board while the member served on the Board.

Training

The bill requires all Commissioners to complete: (1) training on the requirement of the Open Meetings Act; (2) a course relating to harassment; and (3) a course on diversity, equity, inclusion, and the impacts of implicit bias.

Meetings – agenda and related materials

The bill expands on existing requirements in the Land Use Article of the Maryland Code (these provisions are not a part of the Open Meetings Act, which applies to all public bodies in the State) that require the Planning Board to: (1) stream live video or live teleconference audio for each open meeting and maintain archives of the video and audio recordings on its website; (2) prepare minutes of its meetings as soon as practicable after the meeting; and (3) publish and maintain on its website the minutes of each open meeting. The bill adds provisions to the Land Use Article that require the Board to provide 72-hours advance notice of a meeting agenda, together with a summary of any finalized documents, written testimony from the public, or other materials that the board will vote on at the meeting. For emergency meetings, the agenda and materials must be posted as far in advance as is practicable.

Meetings – Minutes

Under the Open Meetings Act, a public body is not required to prepare minutes of an open meeting if live and archived video or audio streaming of the meeting is available or the

body votes on legislation and the individual votes taken by each member of the body are posted promptly on the internet. However, there is currently a separate provision in the Land Use Article of the Maryland Code that requires the Planning Board to prepare minutes of each open meeting as soon as practicable and publish copies of the minutes on its website. The bill adds language that requires the Planning Board to approve meeting minutes in a timely manner and include on each open meeting agenda consideration of the minutes from the most recent open meeting (except in emergency situations).

The County Executive supports this bill.

MC/PG 109-23 – *Maryland-National Capital Park and Planning Commission - Members*
(Delegate Foley)

Under current law, there are ten members of the Maryland-National Capital Park and Planning Commission, five each from Montgomery County and Prince George’s County. Of the Commissioners from each county, no more than three can be from the same political party. This bill repeals that prohibition, allowing all five members to be of the same political party.

The County Executive has not yet taken a position on this bill.



10400 Detrick Avenue
Kensington, MD 20895-2484
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December 7, 2022

Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Dear Council President Glass and Members of the Council:

I am writing on behalf of the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”) to express the Commission’s **opposition to MC 10-23 - Montgomery County Housing Opportunities Commission - Collective Bargaining Agreement Implementation - Impasse Arbitration**. HOC strongly supports collective bargaining and is proud to have a strong and productive partnership with our employees and their union. This bill proposes an unnecessary change that will actually have a negative impact on the negotiation process. It subjects HOC to restrictions that do not exist for most agencies in Maryland, delegates critical decisions to arbitrators without any check and balance on their determinations, and risks creating unaffordable new costs for the Commission.

Since 1999, HOC has had a successful bargaining relationship with United Food and Commercial Workers, Local 1994, Municipal and County Government Employees Organization (“MCGEO”). Since HOC negotiated its first collective bargaining agreement in 2000, the parties have successfully reached agreement during each subsequent round of negotiations. HOC and MCGEO have never needed to utilize interest arbitration and rarely even required the assistance of a mediator to reach agreement. Given this history, MC 10-23’s proposed interest arbitration changes are not necessary.

Current law provides for interest arbitration when there is full term bargaining. Full term bargaining is when the parties are negotiating an entirely new collective bargaining agreement. MC 10-23 would impose mandatory interest arbitration during all mid-term bargaining. Mid-term bargaining can occur due to an agreed upon wage reopener or when a new and unforeseen subject arises.

With full term bargaining, the statute imposes a 5-month window during which good faith negotiations must occur. It is only after a specific date (February 1) that either party can force unresolved issues into the interest arbitration process. Full term bargaining is also subject to the pressures of the annual budget cycle, requiring a specific timeline to reach agreement. Unlike the existing standards, MC 10-23 would permit a party to unilaterally declare impasse at any time. The lack of any minimum period of negotiation during mid-term bargaining could result in a party declaring impasse long before a good faith effort has been made to resolve differences. Premature declarations of impasse will delay and interfere with good faith negotiations. Impasse should not be used as a negotiation tactic. Expanding the scope of interest arbitration without building in a required minimum amount of negotiation time will negatively impact the collective bargaining process.

MC 10-23 ultimately threatens to remove critical policy decisions from HOC’s appointed Commissioners and delegates those decisions to arbitrators. Many of these arbitration rulings will never

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receive any final approval from the Commission, and arbitration rulings are exceedingly difficult to challenge in court. While MC 10-23 would permit the Commission to approve or reject wage related terms or conditions of employment, mid-term bargaining often involves subjects other than wages. For instance, when parties agree to a future wage reopener, they often include other topics such as health insurance or retirement benefits. Mid-term bargaining can also be caused by the emergence of a new and unforeseen topic, which almost never involve wages. Addressing the impact of the COVID-19 Pandemic was a very important issue. If MC 10-23 had been in place, disagreements would have been decided by an interest arbitrator. The arbitrator's decision would not have been reviewable by HOC's Commissioners because addressing the Pandemic does not involve a wage related term or condition of employment.

HOC cannot predict all the new and unforeseen events that will trigger future negotiations. Nevertheless, such events will occur. When they do and when negotiations reach impasse, the Commissioners must have the final authority to accept or reject an interest arbitrator's decision. MC 10-23 gives final, unreviewable authority to an interest arbitrator. When the next state of emergency is declared, HOC's Commissioners must have the discretion to make the final decision.

HOC is a quasi-governmental agency that was created by the State of Maryland. The use of interest arbitration to the degree called for by the Bill subjects HOC to a process different from most other negotiations controlled by State level. In fact, aside from the requirements prescribed under Md. CODE ANN. HOUSING & COMM. DEV. § 16-310, HOC can find only two other instances in the Maryland Code where interest arbitration is required. The first applies to the Maryland-National Capital Park and Planning Commission, Md. CODE ANN. LAND USE § 16-309 and the second governs collective bargaining negotiations for the Washington Suburban Sanitary Commission, Md. CODE ANN. EDUC. § 18-208. Neither statute imposes the stringent conditions that are being proposed in MC 10-23. Adopting these requirements for HOC would create the most restraining collective bargaining conditions in the entire Maryland Code.

Finally, HOC currently faces severe budgetary constraints tied to dramatically increased rental delinquencies, eviction prohibitions, and limitations on the ability to increase the rents charged to County residents. Expanding the scope of interest arbitration could increase agency costs at a time when it is least affordable.

HOC has a very complex business model and receives revenue from many sources. Historically, funding from Montgomery County has been in the range of two to four percent (2-4%) of the agency's operating budget. Most HOC revenue comes from the payment of rents by tenants living in agency properties. HOC always experiences some rental delinquency challenges. However, during the COVID-19 pandemic, rental delinquencies doubled. Even though many people were receiving additional federal relief funding, rental delinquencies spiked to \$7.5 million and have remained elevated for more than twelve months. Agency projections forecast that this will continue to be a problem for the foreseeable future.

HOC appreciates the opportunity to explain its opposition to MC 10-23. This legislation is likely to reduce the ability of the appointed Commissioners to make critical policy decisions, weigh critical tradeoffs when managing the agency's resources and lead to less good faith bargaining. Again, the Commission is very proud of the positive relationship we have with our employees and ask that we not attempt to fix a system and potentially cause friction in a relationship that is working well.

Sincerely,

A handwritten signature in black ink that reads "Chelsea J. Andrews". The signature is written in a cursive, flowing style.

Chelsea Andrews

Executive Director

ADDENDUM

Agenda Item #1
December 12, 2022
Worksession/Action

MEMORANDUM

December 9, 2022

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney
Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Review of Local & Bi-County Bills - 2023

PURPOSE: Worksession and potential action

As an addendum to the Council staff report regarding state legislation dated December 8, 2022, enclosed are position statements and information from the Maryland-National Capital Park and Planning Commission regarding:

- MC/PG 103-23 (opposition statement)
- MC/PG 104-23 (opposition statement)
- MC/PG 105-23 (letter of information)
- MC/PG 109-23 (letter of information)

This packet contains:

MNCPPC position statement on MC/PG 103-23
MNCPPC position statement on MC/PG 104-23
MNCPPC letter re: MC/PG 105-23
MNCPPC letter re: MC/PG 109-23

Circle #

A1
A4
A6
A9



POSITION STATEMENT

Bill: MC/PG 103–23 Maryland–National Capital Park and Planning Commission – Collective Bargaining Agreement Implementation – Dispute Arbitration

Position: OPPOSE

Date: December 15, 2022

Contact: Debra Borden, General Counsel
Jordan Baucum Colbert, Government Affairs Liaison

What the Bill Does: Authorizes the parties to a collective bargaining agreement for employees of The Maryland-National Capital Park and Planning Commission (the “Commission”) to request the services of a mediator–arbitrator during the term of a certain collective bargaining agreement under certain circumstances.

The Commission appreciates the opportunity to respond to the Montgomery County Council’s request for its views on MC/PG 103-23. The Commission is concerned that these changes are not needed, will interfere with the good faith negotiation process, and will take critical policy decisions away from Commissioners appointed by elected officials, transferring those decisions to third-party arbitrators who have not been elected or appointed by duly elected officials from the counties we serve.

No Change is Needed.

The Commission is a bi-county agency accountable to both the Montgomery and Prince George’s County Councils. Since 1996, the Commission has had a productive bargaining relationship with United Food and Commercial Workers, Local 1994, Municipal and County Government Employees Organization (“MCGEO” or “Union”). MCGEO represents Commission employees within its Service/Labor, Trades, and Office bargaining units.

In more than twenty-five years of working together, the parties have successfully reached agreement on eighteen (18) collective bargaining agreements and wage reopeners, as well as myriad memoranda of understanding, related to wages, retirement benefits, health insurance, and many other terms and conditions of employment. Of the eighteen (18) negotiated collective bargaining agreements and reopeners, seventeen (17) were achieved without any need for the use of interest arbitration. Since its introduction, interest arbitration has only been used once, in 2004, and then only to address a single issue of disagreement. This history of successful

negotiations speaks both to the Commission's good faith approach to the bargaining process and the fact that the process works as intended.

Prince George's County utilizes interest arbitration; however, their interest arbitration process for comparable employees is non-binding. This means that the Prince George's County Council retains the authority to accept or reject interest arbitration recommendations. The proposed changes in MC/PG 103-23 further expand the gap between the Counties by stripping the Montgomery County Council of its authority to accept or reject interest arbitration recommendations. As an entity chartered by the State of Maryland, it is notable that no other state agency is mandated to utilize interest arbitration in their union negotiations.

These Changes Will Interfere With Good Faith Negotiations and Promote Undesirable Gamesmanship.

With its long track record of honoring the principles of collective bargaining, the Commission opposes the proposed interest arbitration changes because those changes will actually interfere with the collective bargaining process. On multiple occasions since interest arbitration was added to the labor law, MCGEO has prematurely declared impasse. Frustrated in the moment by the challenges of negotiating certain difficult issues, the Union has prematurely walked away from the bargaining table, calculating that it could achieve a better result in mediation.

MC/PG 103-23 will increase the frequency with which premature impasse declarations will be used as a tactic to avoid true good faith negotiation. Although an interest arbitrator can send the parties back to the table, such premature declarations will delay negotiations and incentivize the use of such gamesmanship to avoid the obligation to bargain in good faith.

Negotiation is difficult work. Changes which encourage gamesmanship over good faith bargaining are both unnecessary and counterproductive.

MC/PG 103-23 Improperly Delegates Critical Policy Making to Third Parties that have not been elected or appointed.

The proposed bill specifically applies to situations caused by new and unforeseen events. In the near term, some agencies may need to grapple with questions like employees returning from telework to the workplace due to a pandemic or the workplace impact of the legalization of marijuana. Both the Montgomery and Prince George's County Councils appoint Commissioners to the Commission and other agencies to respond to these types of issues. These appointees are specifically charged to defend, create and uphold the policy that advances the mission of the Commission. Their authority should not be delegated to a third party who is not accountable to the County Councils, County Executives or to the voters who elect their county officials. Further, not only would this legislation allow the decisions of the arbitrator to be binding, the decisions of an arbitrator are based on the experiences of that individual and there is no obligation for the arbitrator to adhere to the values or mission of the Commission.

Hidden within MC/PG 103-23 is a fundamental flaw which removes critical policy decisions from Commissioners appointed by elected officials in the counties we serve and transfers those decisions to un-elected, un-appointed third-party arbitrators without any final approval of the outcome by elected officials or their appointees. This should not occur.

It places the Commission in a far worse position compared to Montgomery County, Prince George's County or the State of Maryland. This alone warrants rejection of the bill.

The changes contained in MC/PG 103-23 are not needed and will interfere with the good faith negotiation process. They will remove critical policy decisions from appointed Commissioners and transfer those decisions to un-elected, un-appointed third-party arbitrators without any final approval by elected officials or their appointees. In addition, arbitration decisions are exceedingly difficult to challenge in court, such that for all intents and purposes, these arbitrators will determine major policies with little or no oversight or accountability. For these reasons, we urge the County Council to decline to support MC/PG 103-23.



POSITION STATEMENT

Bill: MC/PG 104-23 Montgomery County – Maryland-National Capital Park and Planning Commission Restructuring Task Force – Establishment

Position: Oppose

Date: December 15, 2022

Contact: Debra Borden, General Counsel
Jordan Baucum Colbert, Government Affairs Liaison

What the Bill Does: This bill would establish a task force to study the feasibility of transferring the duties of Montgomery County Planning Board, the Planning Department, and the Parks Department to the Montgomery County government, which currently fall under The-Maryland National Capital Park and Planning Commission (the “Commission”). It also requires the task force to make recommendations on restructuring the Commission to no longer include Montgomery County.

Why We Oppose: The Commission opposes this bill because it presumes there is a problem at Park & Planning that requires a legislative fix. The Planning Department and Parks Department are both award-winning and highly productive departments that are nationally-recognized for their innovative practices in land use planning and parks management. Additionally, both departments are leaders in the state in advancing equitable planning, parks services, and community engagement to Montgomery County’s diverse residents. While the Commission acknowledges that continual improvement of our operations and governance are essential, the appropriate inquiry for change should not dismantle the Commission as a foregone conclusion. In fact, restructuring the Commission to no longer include Montgomery County would abolish the Commission entirely, and the study as currently outlined, is unlikely to produce useful data, would only create uncertainty among Commission employees, decrease employee productivity and increase high turnover rates amongst our workforce in a significantly challenging job market.

The Commission was established in 1927 to provide regional long-range planning and park acquisition and development. Since its formation, the Commission has become one of the most recognized leaders in land use planning, parks and recreation, achieving countless awards for innovation and stewardship. The Commission regularly evaluates its practices and is held responsible for its actions by elected officials in the counties it serves. The integrity of our mission to improve the well-being of over 2-million residents in both counties remains intact specifically because of the way the Commission is structured.

The common conclusions of multiple prior studies to dismantle M-NCPPC include: the upfront cost of any merger is very high in terms of funding and disruption, initially purported efficiencies and cost savings are not confirmed, and that the independent oversight of Parks & Planning has multiple benefits that have yielded impressive results for many decades.

We have serious concerns that the task force is no more than a battle over political power waged at the expense of Montgomery and Prince George's County residents who rely on the Commission's innovative community planning, collaborative development review, outstanding parks, and inclusive recreational programs, just to name a few. This battle may also come at the expense of the Commission's workforce and its retirees, due to serious impacts on our Employees Retirement Systems (ERS). It is not a battle that will be fought as a contest of competing ideas. As proposed by the bill, this battle will be waged by County Executive-aligned representatives as opposed to Council or Commission representatives.

Most importantly, the checks and balances inherent in the current structure of the Commission are effective as the Commission is held responsible for its actions by elected officials in the Counties we serve. Our bi-county Planning Board composition, public appointment and removal process gets the results Montgomery County residents deserve. Thus, the Commission continues to remain intact with integrity as it has done for nearly 100 years.



LETTER OF INFORMATION

Bill: MC/PG 105-23 Montgomery County - Maryland–National Capital Park and Planning Commission – Commissioner Requirements and Open Meetings (Montgomery County Planning Trust and Transparency Act of 2023)

Contact: Debra Borden, General Counsel
Jordan Baucum Colbert, Government Affairs Liaison

Date: December 15, 2022

Re: Letter of Information

Dear Chair Julie Palakovich Carr:

The Maryland-National Capital Park and Planning Commission (the “Commission”) has elected not to take a position on this issue at this time. However, due to the nature of the proposed bill, the Commission respectfully requests that the Montgomery County Delegation consider this information and include it in the record.

What the Bill Does

This bill would change the current Montgomery County (County) Planning Board (Board) appointment process, salary authorization process and terms for commissioners appointed to the Commission. If enacted this bill would change the current number of terms Commissioners can serve from three full terms to no more than two consecutive full terms. This bill would change the number of votes to approve an appointment to the Commission by the Montgomery County Council (County Council) to eight members, a super-majority. This bill would allow the Montgomery County Executive (County Executive) to appoint one member to serve as Chair of the Planning Board and chair or vice chair of the Commission. This bill would also require County Council to hold public hearings on each appointment to the Commission and accept public testimony at hearings. The bill would also require a unanimous vote of County Council to appoint a Commissioner over the disapproval of the County Executive. This bill requires a public hearing for both removal and disciplinary actions of Commissioners. It also requires cause for both removal and disciplinary actions to be described in writing. This bill further includes language which prohibits Commissioners appointed by the County Executive as chair of the Planning Board from engaging in any other employment while serving on the Board and from engaging in various activities not specifically prohibited under current law. These

activities include, but are not limited to, soliciting or transmitting a political contribution from anyone and serving on a fund-raising or political committee.

This bill includes language which requires a Commissioner to successfully complete training related to harassment, diversity, equity, and inclusion and the impacts of implicit bias during the first year of each term. The bill further requires the Board to publish and maintain on its website the agenda of open meetings, a summary of any finalized documents, written testimony from the public and other materials that the Board will vote on at the opening meeting. Meeting minutes would require approval within a timely manner and each open meeting agenda should include consideration of the meeting minutes from the most recent meeting.

I.

Trust and Transparency

The Commission was established in 1927 to provide regional long-range planning, park acquisition and development. The Commission consists of two planning boards, one for Montgomery County and one for Prince George's County, comprised of five members each. Since its formation, the Commission has grown to become one of the most recognized leaders in land use planning, parks and recreation, all while achieving countless awards for innovation and stewardship. The Commission regularly evaluates its practices and is held responsible for its actions by elected officials in the counties it serves. The integrity of our mission to improve the well-being of over 2-million residents in both counties remains intact specifically because of the way the Commission is structured.

The Montgomery County Planning Board serves as citizen representatives for their communities in helping to plan, shape and maintain livable neighborhoods in the County. Under current law, five members of the Montgomery County Planning Board are appointed for staggered, four-year terms for no more than two full terms. Currently, the County Council appoints all of the board members and the County Executive confirms the appointments. While the Commission acknowledges that continual improvement of our governance is essential, we are not aware of the specific problem a change in the appointment authority purports to resolve.

In the past, when governance issues have arisen, the County Council has taken necessary steps to ensure the Montgomery County Planning Board operates effectively. The proposed bill if enacted may add procedural complexity that is unwarranted if it not designed to address a specific issue related to the appointment authority welded by the County Council.

Under current law, a public interview process is required for all applicants. Each applicant must be interviewed under oath about information and interests corresponding to all sources of income, specific business ventures and financials interest. It is unclear what additional complexity will add to the checks and balances that are already in place for the current appointment process.

The proposal that requires a summary of any finalized document is vague and could be quite disruptive to the work of the Planning and Parks Departments. If the departments are literally required to summarize every document considered by the Planning Board (which might include a Master or Sector Plan), even though the documents are posted on the website under the corresponding agenda item, the sheer volume of work that potentially adds to both departmental work programs could be quite significant. Documents generally speak for themselves and, as such, a summary that necessarily contains an element of editorial choice is the opposite of transparent. It is unclear what problem this proposal seeks to address. Summarizing every document likely to be expensive to implement, and very likely to impede the Parks and Planning Departments' efforts to be more transparent. We will prepare and submit a more detailed fiscal note addressing this issue at the appropriate time.

Additionally, the changes to proposed Section 20-202(e) requiring a summary of "finalized documents, written testimony from the public, and other materials" at "least 72-hours before each meeting" is stifling public comment because the Planning Board currently accepts testimony up to 24 hours before the meeting. This would unnecessarily push that back to 72 hours and would make the process more taxing for citizens trying to participate.

II.

Continuous Professional Development

Awareness and understanding are integral to the Commission. To help our staff reduce exposure to business related risks, the Commission offers current programs and trainings in risk management, workplace safety and equal employment free from intimidation and harassment. In addition to risk management, workplace safety and equal employment, the Commission also offers equity, diversity and inclusion workshops and trainings for all employees to promote greater awareness, while utilizing effective strategies to improve cross-cultural communication. The Commission welcomes any effort to increase training and awareness by all stakeholders, including Commissioners, as that can only benefit the Commission as a whole.



LETTER OF INFORMATION

Bill: MC/PG 109-23 Maryland–National Capital Park and Planning Commission – Members

Contact: Debra Borden, General Counsel
Jordan Baucum Colbert, Government Affairs Liaison

Date: December 15, 2022

Re: Letter of Information

Dear Chair Julie Palakovich Carr:

The Maryland-National Capital Park and Planning Commission (the “Commission”) has elected not to take a position on this issue at this time. However, the Commission respectfully requests that the Montgomery County Delegation consider this information and include it in the record.

What the Bill Does

The purpose of this bill is to repeal the requirement that not more than three members of the Commission from each county be members of the same political party.

The Commission was established in 1927 to provide regional long-range planning, park acquisition and development. The Commission consists of two planning boards, one for Montgomery and one for Prince George’s, comprised of five members each. The appointment procedures in each county differ slightly, however this proposed bill would apply equally in both counties we serve.

The Commission’s focus on long-range planning, park acquisition and development and in Prince George’s, recreation does not lend itself to any modern iteration of the partisan political divide. Generally, advocates for affordable housing, trails, bike and pedestrian improvements, active urban spaces, and/or smart growth principles can be aligned with any or no political affiliation. While we encourage and appreciate diversity in the Commission and on our Planning Boards, we ask the Montgomery County Delegation to consider the advantages and disadvantages of repealing or sustaining the political affiliations party requirement for Commission members. On one

hand, the current law offers different viewpoints among Board members, while on the other-hand, removing the political party affiliation requirement may offer a modern approach with less political restrictions.

We are also aware that the current law poses practical challenges in the appointment process in both Montgomery and Prince George's Counties. We welcome the discussion regarding this bill and hope we can be of assistance.