

May 16, 2023

Montgomery County Council  
100 Maryland Avenue, 6th Floor  
Rockville, MD 20850

Dear Council President Glass and Councilmembers:

We are writing to express our strong support for funding the Office of the People's Counsel (OPC) and our opposition to Bill 18-23, which would replace the OPC with a technical assistance office unequipped to meet residents' needs. We agree with the position of the County Executive and the assessment of the Office of Racial Equity and Social Justice that the Council should fund the OPC under the current statute and reject Bill 18-23.

OPC opponents allege flaws in the current statute as their primary justification for defunding or weakening the OPC and point to a 2008 report of the Office of Legislative Oversight (OLO) as the source of their concerns. Yet, in fact, the OLO report cited OPC's many benefits and suggested ways to strengthen the OPC and clarify its mission. The report described OPC's purpose as protecting the **public interest**, promoting full and fair administrative proceedings, to "address the disparity that exists between the resources available to developers and those available to the residential community," and to reduce "difficulty that citizens have in understanding land use issues."

The criticisms offered by OPC opponents have been meritless. [The 2008 OLO report](#), which largely praises the agency, has been misrepresented. Most respondents to a survey cited in the OLO report supported continuing the OPC as a neutral party that represents the public interest. Many respondents praised the OPC's explanations of the land use decision process in advance of hearings, which better prepared residents to participate, to present relevant and legally significant testimony, and even to develop suggestions that influence the final design or conditions placed on land use approvals. Land use attorneys noted OPC's success in promoting a complete record, his moderating influence on hearing participants, and success in making proceedings go more smoothly. Some believed the Office should be expanded to allow the People's Counsel to represent specific parties in a proceeding. Nowhere does the report suggest not funding or weakening the law.

Although OPC's two-person staff operated only between 1999 and 2008, the OLO report shows that it accomplished a great deal. From 2002 to 2007, the OPC participated in 267 land use proceedings and provided 18,281 instances of technical assistance on 135 different subjects, as well as 47 mediation sessions. Martin Klauber, the first People's Counsel, prided himself on de-escalating conflicts and solving problems amicably. "I really believe people can sit down and negotiate their differences. It's one of the things I try to encourage," he said.

The OLO report undercuts critics' claims that OPC would favor residents at the expense of other parties. The OPC's charge, as the statute makes clear, is to serve the public interest—not the County nor petitioners nor residents involved in the process. A report from 2007 showed the OPC "most often appeared in support of an application or remained neutral" (p. 21). Therefore, the fears of OPC working on behalf of residents who want to "stop projects" are baseless.

A racial equity/social justice (RESJ) impact statement just issued (04/19/23) by the OLO stressed the OPC's power to enhance racial and economic equity. "As advocates for the public's interest in land use decisions, Office of the People's Counsel can be uniquely positioned to advocate for the interests of BIPOC and low-income constituents not typically represented in land use decisions," the statement said. It also noted that passage of Bill 18-23 would keep in place or exacerbate racial inequity in the land use process. OLO urged fully funding the OPC and requiring RESJ reviews for all land use proposals.

The OPC's funding is negligible--a mere \$250,000, or .0004% of the FY 23 budget. Yes, there is a budget crunch. But Councilmembers are proposing to spend \$300,000 on further media outreach, on top of their \$25 million media budget and up to \$300,000 on canvassing, when current agencies such as the Planning Board (with a \$25.4 million budget last year) have millions to spend on outreach. The currently unfunded OPC should be a priority to make resident and citizen input meaningfully represented in the land use process.

The argument offered by Council opponents and developer lobbyists – that taxpayer funds should not be used to “advocate” for citizens – is both mistaken and wrongheaded. By that logic, we would not have a robust Montgomery County Office of Consumer Protection, ethics commissions, inspectors general, or any of the many local and federal governmental functions (such as the SEC, the FTC, and the EEOC) that exist to serve and protect the public interest.

Equally wrongheaded is the Council's recent insistence that the County Executive, not the Council, propose language to strengthen the OPC statute, in response to the OLO report's recommendations. The OLO report repeatedly charged the Council, not the Executive, with that responsibility, which is clearly a legislative function. Although the Executive's office is willing to work with the Council on new language, OPC approval should not hinge on the Executive's acceptance of this legislative responsibility.

Failure to fund the OPC would signal the Council's opposition to a gentle leveling of a land use playing field that, in Montgomery County, is always heavily tilted toward developers. A failure to fund the OPC fully and retain the current statutory framework for the Office would disadvantage low-income and BIPOC communities the most. We urge you to fully fund the OPC.

Sincerely,

Aspen Hill Civic Association, Jamison Adcock

Cherrywood Homeowners Association, Inc, Olney, Paul Jarosinski, President

Citizens Coordinating Committee for Friendship Heights, David Forman, Chair

Edgemoor Citizens Association, David Barnes, President

Montgomery Countryside Alliance, Caroline Taylor

Montgomery County Civic Federation, Alan Bowser

Montgomery County Taxpayers League, Esther Wells

North Bethesda Neighborhoods Association, Paula Bienenfeld

Northwood-Four Corners Civic Association, Mario Emanuel Perez, President

Parents Coalition of Montgomery County, Janis Zink Sartucci

Town of Somerset, Mayor Jeffrey Slavin

Sheri Arnell, Montgomery County  
Michelle Bailey, Silver Spring  
Jacquie Bokow, Silver Spring  
Stephen Brown, Bethesda  
Sharon Campbell, Silver Spring  
Joan and Steve Cohen, Rockville  
John Coyle, Silver Spring  
Peggy Dennis, Potomac  
Dorothy Ann Dykers, Silver Spring  
Amanda Farber, East Bethesda  
Brenda Freeman, Silver Spring  
Cheryl Gannon, Silver Spring  
Christina Ginsberg, Rockville  
Jeff Griffith, Kensington  
Michael Gurwitz, Silver Spring  
Kathryn Hopps, Silver Spring  
Dedun Ingram, Chevy Chase  
Peter James, Gaithersburg  
Pat and David Johnson, Kenwood  
Elizabeth Joyce, Silver Spring  
Sondra Katz, Silver Spring  
Kerry Korpi, Silver Spring  
Susan Labin, Bethesda  
Cary Lamari, Silver Spring  
Paul Lang, Chevy Chase West  
Suzy and Sol Levy, Montgomery County  
Kira Lueders, Kensington  
Katya Marin, East Bethesda  
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Indira Martell, Silver Spring

Daniel Meijer, Silver Spring

Anna Olsson, Silver Spring

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Sue Present, Silver Spring

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Jane Ford Salzano, Silver Spring

Maria Schmit, Silver Spring

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Joel Teitelbaum, Silver Spring

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William Wydro, Potomac

Roberta Faul-Zeitler, Silver Spring