

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: November 17, 2020

SUBJECT: Report on Bill 23-233, the “Diverse Washingtonians Commemorative Works Amendment Act of 2020”

The Committee of the Whole, to which Bill 23-233, the “Diverse Washingtonians Commemorative Works Amendment Act of 2020” was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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I. BACKGROUND AND NEED

Bill 23-233, the “Diverse Washingtonians Commemorative Works Amendment Act of 2020,” was introduced by Councilmember Kenyan McDuffie and Councilmembers Grosso, Allen, T. White, Todd, R. White, Nadeau, and Bonds on April 2, 2019. As introduced, Bill 23-233 would amend the commemorative works process by: 1) allowing the Council to sponsor a commemorative work; 2) require the Commemorative Works Committee to commission specific works in each ward; and 3) require an implementation report. The committee print makes amendments to the commemorative works process to achieve these same goals.

When the Council adopted the Commemorative Works on Public Space Amendment Act of 2000,¹ it mirrored the Federal process for review and approval of national memorials on Federal land in the District.² At the time, the National Capital Planning Commission had just released for public review and comment a proposed Memorials and Museums Master Plan. The proposed Master Plan identified approximately 100 potential sites for future national memorials

¹ D.C. Law 13-275, effective April 4, 2001 (D.C. Official Code § 9-204.11 *et seq.*).

² Commemorative Works Act of 1986, Pub. L. No. 99-652, 40 U.S.C. 1001 *et seq.* (1986).

outside of the Monumental Core, with 13 sites on District land and 8 sites on private land in the District.³ The local Commemorative Works Act would have set up a local review process for any commemorative works – whether sponsored by the Federal government or a private entity – to ensure local control, and adequate local public participation, over the development of commemorative works on public space that is owned or controlled by the District government.⁴ The committee report for the local Commemorative Works Act recognized the importance of setting aside local sites for local commemoration:

“The District also needs to ensure that the most pre-eminent non-Federal sites in the District are not reserved exclusively for national memorials but could be available for commemorations of local history or culture or for other economic development desired by District residents.”⁵

Under the local Commemorative Works Act, a sponsor may submit a proposed commemorative work to encourage and evaluate the Commemorative Works Committee (“CWC”). The CWC would then advise and recommend to the Mayor and the Council a disposition of each application to place a commemorative work on public space. If the recommendation is to move forward with the commemorative work, it must be voted on by the Council. The Commemorative Works Committee is comprised of 3 citizen members appointed by the Mayor and confirmed by the Council, and 9 *ex-officio* agency officials. The CWC is supposed to take into account whether the proposed location of the commemorative work is compatible; if the proposed work is situated appropriately, and whether the work is constructed of durable materials. An approved commemorative work application should have a plan – including funding – for maintenance.

Unfortunately, the process developed in 2000 has not had the intended effect of an orderly way to evaluate proposed commemorative works on District property. Instead, the District has had an *ad hoc* approach to commemorative works. All four commemorative works approved by the CWC have been District-initiated works whereby the CWC has seemed to be an afterthought. The first three commemorative works proposed by the Mayor in 2014 came to the Council without having obtained all of the other necessary reviews from other boards and commissions, including the National Capital Planning Commission and the Commission on Fine Arts.⁶ Even in these cases where the CWC did weigh in with a recommendation to the Council, key parts of the process were not followed. After the required review were completed, the Council approved each of the works which was funded by the District. The fourth and most recent commemorative work approved by the Council was for the statue of Marion Barry outside of the John A. Wilson Building.⁷ That statue was well into the design and placement process before it was even referred to the CWC for its review.

³ Committee Report for Bill 13-697 at 2.

⁴ *Id* at 3.

⁵ *Id* at 3.

⁶ D.C. Act 20-414, Chuck Brown Memorial Commemorative Work Emergency Act
D.C. Act 20-431, Carter G. Woodson Memorial Commemorative Work Emergency Approval Act of 2014
D.C. Act 20-546, Legacy Memorial Park Commemorative Work Emergency Approval Act of 2014

⁷ Resolution 22-304, Mayor Marion Barry, Jr. Memorial Statue Commemorative Works Approval Resolution of 2017

In 2017, Councilmember Kenyan McDuffie introduced the Charles Hamilton Houston and Other Diverse Washingtonians Commemorative Works Amendment Act of 2017.⁸ That legislation would have clarified that the Council could be the sponsor of a proposed commemorative work. Besides proposing a monument to honor Charles Hamilton Houston,⁹ the bill called for the CWC to create a plan for a minimum of 8 statues to honor a combination of women and minorities who are native Washingtonians. The intent of the legislation was excellent – proposing a commemoration for deserving individuals with a focus on classes of people who are underrepresented in the memorials that exist today. In fact, the testimony on creation of commemorative works for minorities and women was overwhelmingly positive. However, the bill also revealed a failure of the existing commemorative works process – that ideas advanced, in this case by a Councilmember, could find no easy way to propose commemorative works through the existing CWC.

In 2018, the Council included funding in the budget of the Commission on the Arts and Humanities to commission a Charles Hamilton Houston statue in lieu of any application for the work or any CWC process. That statue has yet to be cast, and as of the time of this report, there is no site identified and confirmed to place the statue. This is a result of an insufficient process that should have been able to let a sponsor apply to the CWC to evaluate the proposed work rather than the Council trying to jumpstart the process absent a sponsor. The idea has languished.

The committee print for Bill 23-233 seeks to address the current inadequate process for submitting proposed commemorative works to allow proposed works – like the Charles Hamilton Houston statue – to be considered and erected. First, the Committee believes that the CWC should consist of additional citizen members and fewer executive officials. The current structure of the existing has 3 appointed citizen members, and 9 agency directors or board chairs making it agency-heavy and cumbersome. The committee print removes several of the *ex officio* agency members, removes one Mayoral appointment and adds three Council appointments of citizen members. The remaining Mayoral appointments would not need to be confirmed by the Council. The committee print retains the Director of the Office of Planning as Chair of the CWC, and would have the Director of the Department of Public Works, the Chair of the Historic Preservation Review Board, and the Chair of the Commission on the Arts and Humanities (or their designees) as the only four *ex officio* members of the CWC. Limiting members of the CWC fewer less agency officials and more citizen members will encourage a diversity of views on commemorative works that are not driven by a majority of *ex officio* members under the Mayor.

Second, the committee print amends the Commemorative Works Act of 2001 to create a clear process for creating commemorative works in the District. It establishes that applications by sponsors for a commemorative work are submitted to the Office of Planning (OP). OP would act as the managing agency and would process and forward the application to the CWC. The committee print specifies that the Mayor must develop an intake procedure for applications that details minimum application requirements. To encourage proposals for commemorative works

⁸ Bill 22-346, Introduced June 27, 2017. A public hearing was held on October 5, 2017.

⁹ "... a remarkable native Washingtonian and champion of civil rights who... laid the legal foundation responsible for dismantling the American system of segregation."

from the public, the committee print requires that the Office of Planning solicit recommendations for commemorative works that may be appropriate to be sponsored privately or by the District. Finally, if a District agency submits an application as a sponsor of a commemorative work – as has been the case with the four commemorative works approved by the CWC since its inception – that agency must consult with the Commission on the Arts and Humanities on the design work. It is the Committee's intent that any entity – be it a private sponsor of a proposed commemorative work, an agency (including the Council), or a member of the public – be able to suggest works that will be reviewed by the CWC.

Commemorative works that honor aspects of our history and individuals are important for later generations to understand for what purpose the person or event is being honored or commemorated. Particularly in the District, where there are so many monuments and commemorative works to individuals of national importance – as there should be in the Nation's capital – it is also imperative for our local history that we seek to honor native Washingtonians or people who made Washington their home, and for events important to local residents.

The Committee encourages more sponsorship of commemorative works by private sector entities, which is the case for many Federal commemorative works including most Federal memorials. A clear application process and solicitations should help. But also, the committee print tasks the University of the District of Columbia with submitting to the Mayor and Council a report of possible commemorative works honoring diverse native Washingtonians or people who made Washington their home, where such works could be placed, and which works should be prioritized. It is the intent of the Committee that UDC take a multidisciplinary approach to examining our local and national history, identify worthy native Washingtonians who made a positive impact in our history, and suggesting commemorations that could then be sponsored as a commemorative work by the District government or a private entity. The recommendations would need sponsors, and these could then be considered by the CWC through the improved process created under the committee print. This reflects the intent of Bill 23-233 as introduced – that an entity thoughtfully considers diverse Washingtonians for memorialization.

The Committee believes that the CWC is not the best entity to develop those recommendations. The purpose of the CWC is to weigh proposals for commemoration, not to develop the ideas independently. This is akin to several other review agencies that exist for similar purposes including the Commission on Fine Arts and the National Capital Planning Commission. Both of those entities work with applicants to ensure a proposed project meets the goals of their respective originating legislation, not to develop projects on their own. The Committee further believes that UDC, which is the District's only public higher education institution, and an Historical Black College and University (HBCU), has the capability to consider commemorations objectively. The Committee intends that the Council transfer the small amount of funding (\$30,000) that the University has indicated that it will need.

It is the hope of the Committee that after adoption of the changes proposed in the committee print, that the Office of Planning will develop a robust infrastructure for intake of suggested commemorative works, and that those applications will be thoroughly vetted by the CWC so that the District may expand commemoration of Washingtonians, especially diverse minorities, and others deserving of memorialization.

The Committee of the Whole recommends the approval of Bill 23-233 the “Diverse Washingtonians Commemorative Works Amendment Act of 2020” as amended in the committee print.

II. LEGISLATIVE CHRONOLOGY

- June 27, 2017 Bill 22-346, the “Charles Hamilton Houston and Other Diverse Washingtonians Commemorative Works Amendment Act of 2017” is introduced by Councilmember McDuffie and Councilmember Robert White and is referred to the Committee of the Whole.
- October 5, 2017 A Public Hearing is held on Bill 22-346 by the Committee of the Whole.
- April 2, 2019 Bill 23-233, the “Diverse Washingtonians Commemorative Works Amendment Act of 2019” is introduced by Councilmember McDuffie and Councilmembers Grosso, Allen, T. White, Todd, R. White, Nadeau, and Bonds, and is referred to the Committee of the Whole.
- April 5, 2019 Notice of Intent to Act on Bill 23-233 is published in the *Register*.
- December 27, 2019 Notice of a Public Hearing on Bill 23-233 is published in the *Register*.
- January 16, 2020 A Public Hearing is held on Bill 23-233 by the Committee of the Whole.
- November 17, 2020 The Committee of the Whole marks up Bill 23-233. The Committee also marks up Bill 23-234 concerning review of current commemorative works.

III. POSITION OF THE EXECUTIVE

Andrew Trueblood, Director, Office of Planning, testified that the Executive supports the concept of honoring remarkable Washingtonians with commemorative works. He also stated that any future commemorative works should consider not only individuals but important events or social movements, and noted that commemorations other than statues could be considered. He also stated that it can take years to plan a siting for a single monument because of the several review or approval bodies that most commemorations have to go through.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee received no testimony or comments from any Advisory Neighborhood Commission on Bill 23-233.

V. SUMMARY OF TESTIMONY

The Committee of the Whole held a Public Hearing on Bill 23-233, the “Diverse Washingtonians Commemorative Works Amendment Act of 2019” on January 16, 2019. The testimony summarized below is from that hearing. Copies of testimony are attached to this report.

Rosie Rios, CEO and Founder, EMPOWERMENT 2020, testified in support of the purpose behind Bill 23-233, but pointed out that as drafted, the legislation could preclude prominent figures who were important to the District, but not born here, from consideration for commemoration. However, she acknowledged that a statue in each ward for a native Washingtonian could be a floor for commemoration and not a ceiling.

Frank Smith, Former Councilmember & Director, African American Civil War Museum, testified in support of Bill 23-233. He discussed the opportunity to represent more Washingtonians, including women, and that the District is unique as both a local jurisdiction and the seat of the Federal government. He pointed out that many visitors to the District never leave the monumental core and that the legislation could lead to additional local commemoration throughout the District.

Andrew Trueblood, Director, Office of Planning, provided testimony with suggestions for improvements to the legislation and other considerations that should be taken in to account with regard to formulating and erecting commemorative works.

The Committee received no testimony or written comments in opposition to Bill 23-233.

VI. IMPACT ON EXISTING LAW

Bill 23-233, would amend the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01 *et seq.*) to clarify the definition of a commemorative work; reorganize the membership of the Commemorative Works Committee; clarify the process for proposing a commemorative work.

VII. FISCAL IMPACT

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the provisions of the proposed legislation. The report from the University of the District of Columbia would require \$30,000 to complete. A copy of the November 16, 2020 Fiscal Impact Statement is attached to this report.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1

States the short title of the Bill 23-233.

<u>Section 2</u>	Amends the procedures for applying for commemorative works.
<u>Section 3</u>	Requires the University of the District of Columbia to issue a report of suggested commemorations of diverse Washingtonians.
<u>Section 4</u>	States that section 3 of the bill is subject to appropriations.
<u>Section 5</u>	Adopts the Fiscal Impact Statement.
<u>Section 6</u>	Establishes the effective date by stating the standard 30-day congressional review language.

IX. COMMITTEE ACTION

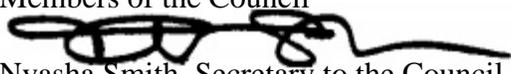
X. ATTACHMENTS

1. Bill 23-233 as introduced.
2. Written testimony and comments.
3. Fiscal Impact Statement.
4. Legal Sufficiency Review.
5. Comparative Print for Bill 23-233.
6. Committee Print for Bill 23-233.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : 
Nyasha Smith, Secretary to the Council

Date : April 03, 2019

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, April 2, 2019. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Diverse Washingtonians Commemorative Works Amendment Act of 2019", B23-0233

INTRODUCED BY: Councilmembers McDuffie, Grosso, Allen, T. White, Todd, R. White, Nadeau, and Bonds

CO-SPONSORED BY: Councilmember Evans

The Chairman is referring this legislation to the Committee of the Whole.

Attachment

cc: General Counsel
Budget Director
Legislative Services

1 BT
2 Councilmember Brandon T. Todd

3 [Signature]
4 Councilmember Robert C. White, Jr.

5 [Signature]
6 Councilmember Brianne K. Nadeau

7 [Signature]
8 Councilmember Anita Bonds

[Signature]
Councilmember Kenyan R. McDuffie

[Signature]
Councilmember David Grosso

[Signature]
Councilmember Charles Allen

[Signature]
Councilmember Trayon White, Sr.

13 A BILL

15 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

18 To amend the Street and Alley Closing and Acquisition Procedures Act of 1982 to include
19 the Council as among those that may sponsor a commemorative work on public
20 space, and to require the Commemorative Works Committee to commission specified
21 works that honor persons who have made significant contributions to American
22 culture or history, to have at least one such commemorative work erected in each
23 Ward by a date certain, and to develop a written plan to achieve the purposes of this
24 act, and to require the Mayor to submit the plan to the Council for its approval.

26 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
27 act may be cited as the "Diverse Washingtonians Commemorative Works Amendment Act of
28 2019".

30 Sec. 2. Part B of Title IV of the Street and Alley Closing and Acquisition Procedures
31 Act of 1982, effective April 4, 2001 (D.C. Law 13-275; D.C. Official Code § 9-204.11 *et seq.*), is
32 amended as follows:

33 (a) Section 411(3) (D.C. Official Code § 9-204.11(3)) is amended by striking the phrase
34 "means a Federal" and inserting the phrase "means the Council, a Federal" in its place.

35 (b) A new section 413a is added to read as follows:

36 “Sec. 413a. Commemorative works to be commissioned.

37 “(a) In accordance with section 415, the Commemorative Works Committee shall
38 commission works to honor remarkable native Washingtonians who left positive indelible marks
39 on American culture or history, including Charles Drew, Rose Ishbel Greely, Mary P. Burrill,
40 and the Shaed sisters: Alice, Helen, Dorothy, Eunice, and Ernestine, and those socially
41 disadvantage migrants from other countries who made the District their home and who, like the
42 native Washingtonians, made a positive significant impact on American culture or history.

43 “(b)(1) The Commemorative Works Committee shall create a written plan to erect a
44 minimum of 8 statues that honor a combination of men, women, and migrants as described in
45 subsection (a) of this section. The plan shall include:

46 “(A) A list detailing 8 initial honoree recommendations;

47 “(B) A recommended geographical location for each statue;

48 “(C) Recommendations from residents, industry
49 professionals, academic professionals, and cultural organizations on who should be honored with
50 a commemorative work, including their rationale for the recommendation; and

51 “(D) The steps and timeline to have, at a minimum, one
52 statue erected in each Ward and by no later than January 1, 2030, for every Ward to have a
53 statue.

54 “(2) Within 60 days after the effective day of the Diverse Washingtonians
55 Commemorative Works Amendment Act of 2019, as introduced on April 2, 2019 (Bill 23-___),
56 the Mayor shall submit the written plan required by this subsection to the Council for its review
57 and approval.

58 “(c) For the purposes of this section, the term “socially disadvantaged” means individuals
59 who were subjected to racial or ethnic prejudice or cultural bias within American society because
60 of their identities as members of groups and without regard to their individual qualities.”

61 Sec. 4. Fiscal impact statement.

62 The Council adopts the fiscal impact statement in the committee report as the fiscal
63 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
64 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

65 Sec. 5. Effective date.

66 This act shall take effect following approval by the Mayor (or in the event of veto by the
67 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
68 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
69 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
70 Columbia Register.

**Written Testimony Submitted to the Committee of the Whole on Bill 23-233,
Diverse Washingtonian Commemorative Works Amendment Act of 2019,
Bill 23-234, Advisory Committee on Monuments, Markers and Symbols
Establishment Act of 2019 for the Public Hearing on
Thursday, January 16, 2020
by Rosie Rios, 43rd Treasurer of the United States**

Dear Council Chairman Phil Mendelson and Members of the Committee of the Whole:

First of all, I would like to thank Councilmember McDuffie and his staff for inviting me to testify at the hearing and provide my written testimony. I would also like to commend the DC Council for even taking the very bold step to even consider Bills 23-233 and 23-234, as making structural changes to what we see every day is not an easy process. We have a real opportunity to make a difference with these bills, and I humbly request that you consider Harriet Tubman as one of your initial statues.

As you may know, I initiated and led the efforts to place the portrait of a woman on our Federal Reserve notes for the first time in U.S. history, an initiative that took almost the full eight years of the Obama administration just to make the announcement. It was during my time in office that made me ask a very simple question: We value what we see every day, but do we see what we value? Currency, of course, is one common way that countries around the world institutionalize their history, yet at the time I had this idea to redesign our currency in 2008, there were almost 30 countries that had women on their modern day currency, and of course, the U.S. was not one of them. Even today, of the developed nations, we still share this same distinction with Saudi Arabia.

When I left the administration in 2016 following our historic announcement of our plans to place Harriett Tubman on the \$20 bill, I took a good look around me as I was walking through the District one day and realized that like currency, statues are another way that we honor our history. That weekend, I did some research and learned that in our nation's capital, there are only two statues of real historical American women outdoors in the public domain identified by name: Eleanor Roosevelt (at her husband's memorial) and Mary McLeod Bethune at Lincoln Park. In fact, I took my research a step further and looked at the top ten cities in the U.S. to find out if their downtown or main parks included female statues. Of the top ten cities and also including the District and my hometown of San Francisco, there are less than half a dozen statues total of real historical American. I started a non-profit to include a statue initiative with the goal of having statues in all twelve cities completed or underway by 2026, the 250th anniversary of our nation's founding. Central Park and San Francisco are already well underway. On August 26, 2020, which is also the 100th anniversary of the 19th amendment granting women the right to vote, a statue of Sojourner Truth,

Susan B. Anthony and Elizabeth Cady Stanton will be unveiled in Central Park. In San Francisco, plans are in place to unveil a statue of Maya Angelou in front of the public library.

While I greatly support the proposal to honor people from the District and specifically from each of the Wards, I think it misses the bigger point. People come to DC from all over the world to see what we value and whom we value in our history. If we are missing representation of 51% of the population, it is all of our responsibility to make that change, not just on behalf of the District, but on behalf of our country, especially as the capital of the Free World and the leader of democracy. I am troubled that someone like Harriett Tubman would not qualify as a native of the District and thus would not be considered as one of the eight statues even though her influence permeates the region. I understand per Councilmember McDuffie that the eight proposed statues representing people from each of the Wards is the floor, not the ceiling, but as I have personally experienced, making one single change is hard enough - waiting in line for eight statues beforehand seems unrealistic. With the provincial mindset that DC history is more important than what DC represents as the focus of entire nation's history, especially for women of color, is a lost opportunity to inspire our young girls (and boys). ***If this same legislation proposed for the District was in place for New York City or San Francisco, the women depicted in the statues underway would not have qualified as they were not natives of those immediate areas. That would also be the case for the current DC statues of Eleanor Roosevelt and Mary McLeod Bethune.*** Women had to wait 50 years between the passage of the 16th amendment granting all men the right to vote and the 19th amendment granting women the right to vote. And for many women of color, the wait was even longer. We should not have to wait anymore to be seen.

Women have not been represented in the history of our country and that oversight impacts what we think is possible for our future. Our daughters need *Inspirations for Aspirations*, real role models from our past who can influence their own dreams. They need people who look like them and can inspire them same to pursue every possibility. I will continue to actively advocate for Washington DC to take a leadership role in this effort whether it is through the federal government, a private entity or the DC Council. Rest assured, it will happen, and I hope the Council finds the courage to reflect our entire country's history and values by gracing all of us and our future generations with a statue of Harriet Tubman.

Thank you.



Rosie Rios

January 2020

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Planning



Public Hearing
On
Bill 23-233, the “Diverse Washingtonians Commemorative Works Amendment Act of 2019”
and
Bill 23-234, the “Advisory Commission on Monuments, Markers, and Symbols Establishment Act of
2019”

Testimony of
Andrew Trueblood
Director, DC Office of Planning
Chair, Commemorative Works Committee

Before the
Committee of the Whole
Chairman Phil Mendelson

John A. Wilson Building
Room 120
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

January 16, 2020
10:30 a.m.

Good morning, Chairman Mendelson and members and staff of the Committee of the Whole. I am Andrew Trueblood, Director of the DC Office of Planning. Today I am pleased to testify on Bill 23-233, the “Diverse Washingtonians Commemorative Works Amendment Act of 2019” and Bill 23-234, the “Advisory Commission on Monuments, Markers, and Symbols Establishment Act of 2019.” Relevant to these bills, I note that as the Director of the Office of Planning, I serve as Chairman of the Commemorative Works Committee. These bills reflect a recognition that commemorative works, and other forms of historic recognition, play a vital role in helping current and future DC residents, as well as visitors to our city, understand our history and culture, but that such works can also reflect a history that we do not wish to celebrate.

The timing of both bills is fortuitous, because it could align with current planning efforts. First, Mayor Bowser recently released the DC Cultural Plan, which emphasizes the rich and unique cultural history of the District of Columbia. Second, the Office of Planning is participating in the National Capital Planning Commission’s current work to update its Memorials and Museums Master Plan. Finally, the Commemorative Works Committee met in December 2019 to initiate a process that will include considering how to better achieve the goals of the original Commemorative Works Act, including reimagining what “commemoration” means, how the District of Columbia identifies subjects and locations for commemoration, and how those subjects are commemorated.

Diverse Washingtonians Commemorative Works Amendment Act of 2019 (B23-233)

First, I will speak to Bill 23-233, the “Diverse Washingtonians Commemorative Works Amendment Act of 2019”, which would direct the Commemorative Works Committee to

commission works to honor remarkable native Washingtonians and socially disadvantaged migrants who made Washington home and to prepare a written plan to erect no fewer than eight statues honoring these remarkable individuals throughout the city.

In directing the Commemorative Works Committee to commission works, this bill would expand the Committee's role from one of review, to include execution and implementation. Such an expansion in role and authority would have potentially significant budget and staffing implications that we have not studied.

The Bill would also require the Committee to prepare a plan to erect no fewer than eight statues honoring remarkable Washingtonians. The plan is to include recommended locations for each statue and identify the steps to have at least one statue erected in each Ward by January 1, 2030. In preparing the plan, the Committee is to consider input from residents, academics, cultural organizations, and other professionals. And the plan is to be submitted for Council review no later than 60 days from the date the Bill becomes effective.

The Bill's goal of honoring the remarkable achievements of Washingtonian's with commemorative works throughout the city is important and one on which we would very much like to work with the Council. For the purposes of today, I note that the budget and staffing implications of having the Commemorative Works Committee commission works requires careful attention. As currently drafted, the Bill is ambiguous as to whether the Committee would be required to commission statues for eight named individuals or whether those names are included for illustrative purposes. This should be clarified. It is also worth considering whether the bill should limit the subjects of commemorative works to individuals or be expanded to allow recognition of important events, social movements, or political achievements. Similarly, it is worth considering whether the commemorative works should be limited to statues or allowed to

include such works as monuments, landscape features, murals, and others. The Bill should also consider the increased resources, in terms of budget and staffing, required to prepare the commemorative works plan. Finally, I note that while it may be possible to erect eight new commemorative works by 2030, the 60-day turnaround for the Committee to solicit input and prepare a detailed commemorative works plan is unrealistic and would be impossible to meet. A useful and well-informed plan would require at least a year to complete. Who should be commemorated and specific locations for commemoration are complex topics on which the Committee will receive significant input and want to thoughtfully consider. Finally, it should be noted that plans to locate a single local or federal memorial or monument often takes years to complete.

Advisory Commission on Monuments, Markets, and Symbols Establishment Act of 2019

(B23-234)

Next, I will turn to the Bill 23-234, the “Advisory Commission on Monuments, Markers, and Symbols Establishment Act of 2019.” Bill 23-234 would direct the Mayor to establish a new Commission to study and make recommendations about what to do with monuments, markers, and symbols located on District property that are oppressive or inconsistent with DC values, within 120 days. After issuing the report, the Commission would disband.

As mentioned in my earlier testimony, the District has an established Commemorative Works Committee charged with developing “criteria to be used to review, evaluate, approve, or deny applications for placement of commemorative works” and to “review each application for . . . appropriateness of the . . . subject matter.” For future commemorative works, there are no explicit guidelines in existing law requiring the Committee to assess the subject of each

application to ensure it is consistent with District of Columbia values, but the current legislation authorizes the Committee to make this assessment.

As there is significant overlap between the Committee's District agency membership and the membership of the new commission contemplated in the Bill, a more efficient and effective approach may be for the Commemorative Work Committee to conduct the contemplated review, possibly with a special working group. Doing so would still require appropriate resources, but would benefit in time and content from an established institutional infrastructure and knowledge base. Additionally, whereas the new commission contemplated by this Bill would produce a report and then immediately sunset, the Commemorative Works Committee could revisit these issues periodically. However, regardless of who conducts the review, the 120-day period for public engagement, study, and delivery of recommendations to the Mayor and Council is unrealistic and would be impossible to meet. Additionally, should the Council decide to move forward with a separate commission, the requirement of Council consent for each ward representative makes the 30-day establishment of the Commission unrealistic.

I stand ready to work with the Committee of the Whole to identify the most appropriate District agency to undertake this study and the body to make recommendations to Council and the Mayor so that a more realistic timeline for completing the work can be developed.

This concludes my testimony. Again, I thank the Committee for the opportunity to appear before you today. I am happy to answer any questions.

Part B. Commemorative Works.

§ 9-204.11. Definitions.

For the purposes of this subchapter, the term:

(1)(A) “Commemorative work” means any statue, monument, sculpture, streetscape or landscape feature, including a garden or memorial grove, or other structure, which is located on public space and which ~~the primary purpose of the work is is designed~~ to perpetuate in a permanent manner the memory of an individual, group, event, or other significant element of international, national, or local culture or history.

(B) “Commemorative work” does not mean any statue, monument, sculpture, streetscape or landscape feature, including a garden or memorial grove, or other structure, which is (i) located within the interior of a structure that is not itself a commemorative work; (ii) a structure that is used primarily for other purposes; or (iii) intended to be displayed for only a limited period of time that does not exceed one year.

(C) “Commemorative work” does not mean the naming of an existing public space, a plaque, or a wayside or wayfinding sign or commemorative feature incorporated within ordinary walkway paving.

(2)(A) “Public space” means any public street, alley, circle, bridge, building, park, other public place or property owned by or under the administrative control or jurisdiction of the District of Columbia.

(B) “Public space” does not include property that is both owned by the Federal government and under the administrative control or jurisdiction of the National Park Service, the General Services Administration, the Department of Defense, or other federal agency.

(3) “Sponsor” means a Federal or District agency, or an individual, group, or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of the Internal Revenue Code, and which is authorized by the Mayor and Council to establish a commemorative work on public space in the District of Columbia.

§ 9-204.12. Commemorative Works Committee.

(a) There is established a District of Columbia Commemorative Works Committee (“Committee”) to advise and recommend to the Mayor and the Council a disposition of each application to place a commemorative work on public space in the District of Columbia.

(b)(1) The Committee shall be composed of ~~12~~9 voting members, ~~3~~5 of whom shall be citizen members and ~~9~~4 of whom shall be ex officio members.

~~(2) The 3 citizen members shall each be appointed by the Mayor with the advice and consent of the Council for a 3-year term.~~

~~(3) 3 citizen members shall be appointed by the Chairman of the Council for a 3-year term.~~

(4) The following government officials, or their designated representatives, shall serve as the ex officio members:

~~(A)~~ (1A) The Director of the Office of Planning, who shall serve as chairperson of the Committee;

~~(B)~~ (2B) The Director of the Department of Parks and Recreation;

~~(3) The Director of the Department of Public Works;~~

~~(4) The Chief Property Management Officer;~~

~~(5) The Executive Director of the Commission on the Arts and Humanities;~~

~~(C)~~ (6C) The Chairperson of the Historic Preservation Review Board; and

~~(D) The Chairperson of the Commission on the Arts and Humanities.~~

~~(7) The Secretary of the District of Columbia;~~

~~(8) The Director of the Department of Consumer and Regulatory Affairs; and~~

~~(9) The Director of the Department of Housing and Community Development.~~

(c) Each citizen member appointed to the Committee shall be a person who has displayed an active interest or ability in the visual arts, architecture, urban planning, civic design, or history.

(d) The Mayor shall establish rules and procedures for the administration of the Committee.

§ 9-204.13. Authority of the Committee.

(a) The Committee shall act in an advisory capacity to the Mayor and the Council to:

(1) Develop criteria to be used to review, evaluate, approve, or deny applications for placement of commemorative works on public space in the District;

(2) Review each application for placement of a commemorative work on public space in the District, by considering: the appropriateness of the location, subject matter, and design of the commemorative work, including the aesthetic, environmental, traffic and parking, and financial impacts of the proposal upon the surrounding community and the District; and the sufficiency of the sponsor to fund the construction and maintenance of the commemorative work;

(3) Refer each application for a commemorative work on public space in the District for review and comments by affected advisory neighborhood commissions, by affected District agencies and public utilities, by the Commission on Fine Arts if required by law, by the National Capital Planning Commission if required by law, and by the National Capital Memorial Commission; and

(4) Recommend to the Mayor and the Council a disposition of each application for placement of a commemorative work on public space in the District.

(b) The recommendations of the Committee shall not be inconsistent with:

(1) The Comprehensive Plan for the National Capital (10 DCMR);

(2) The District of Columbia Home Rule Act;

(3) The Zoning Regulations of the District of Columbia (11 DCMR); and

(4) The Public Space and Safety Regulations of the District of Columbia (24 DCMR).

§ 9-204.14. Applications for commemorative works.

(a) Any sponsor may propose the placement of a commemorative work on public space in the District. Any proposal for a commemorative work on public space in the District shall be accompanied by a completed application to the Committee office of Planning by a sponsor. ~~The Mayor shall develop a procedure for receiving applications for commemorative works. The Mayor shall publish in the D.C. Register the application procedure, including all information required for the application to be complete. Each application shall, at a minimum, include:~~

“(1) A conceptual description of the proposed commemorative work;

“(2) The proposed location of the commemorative work;

“(3) For a commemoration of a person, the primary reason or reasoning that the person is proposed to be commemorated; and

“(4) An explanation of how the commemorative work will be funded and maintained.

“(b) The Office of Planning shall develop a procedure for receiving applications from a sponsor of a proposed commemorative work and transmitting such applications to the Committee.

“(c) The Office of Planning shall accept from any member of the public recommendations for commemorative works to be considered for sponsorship by a District agency and shall share such recommendations with the Commemorative Works Committee.

“(d) If a District agency is the sponsor of a commemorative work, it shall consult with the Commission on the Arts and Humanities on conceptual design for the commemorative work before submitting an application.”

§ 9-204.15. Guidelines for consideration of applications.

(a) Commemorative works on public space that are proposed for commemoration of local individuals, groups, events, or other significant elements of District of Columbia culture or history generally should be given priority over other commemorative works, especially when the subject is a member of a minority group who is a native Washingtonian or person who made Washington their home.

(b) Subjects to be memorialized by commemorative works on public space in the District should be of long-term historic importance and shall generally not be any living person, any

deceased person who has been deceased less than 10 years, nor any event that has occurred within 10 years of the application for placement of the commemorative work on public space.

(c) In considering a proposed commemorative work on public space, the Mayor, the Council, and the Committee shall be guided by the following criteria, in addition to any other criteria set forth in this subchapter, and any other criteria not inconsistent with this subchapter developed by the Mayor and published in the D.C. Register:

(1) To the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to and compatible with the subject of the commemorative work.

(2) A commemorative work shall be situated in a manner that prevents interference with or encroachment upon any existing commemorative work, and that protects and enhances, to the maximum extent practicable, open space, existing public and private uses, and cultural and natural resources. Placement should be encouraged in those areas with limited access to public art” in its place.

(3) A commemorative work shall be constructed of durable material suitable to the outdoor environment, and any landscape features of a commemorative work shall be compatible with the climate.

§ 9-204.16. Easements for commemorative works.

Following approval of a commemorative work by the Mayor and the Council pursuant to § 9-204.01, the Mayor shall provide an easement to the sponsor of the commemorative work for the use of District public space for the purpose of constructing and maintaining the approved commemorative work. The term of the easement shall be for a maximum of 25 years and may be automatically renewable for successive 25 year terms in perpetuity unless cancelled in writing by the Mayor for good cause. The Mayor shall establish the rules for termination of an easement granted for a commemorative work. The Mayor shall require each sponsor of an approved commemorative work to provide for all of the financing necessary to develop, construct, and maintain the commemorative work. A sponsor of an approved commemorative work shall be financially responsible for the perpetual maintenance of the commemorative work.

§ 9-204.17. Issuance of permits.

Prior to issuing a permit for the construction of a commemorative work on public space in the District, the Mayor shall determine that:

(1) The sponsor, site, subject matter, and design of the proposed commemorative work have been approved by the Mayor and Council pursuant to § 9-204.01;

(2) The proposed commemorative work complies with requirements set forth in subchapter I of Chapter 11 of Title 6 and subchapter V of Chapter 1 of Subtitle A of Title 8;

(3) Knowledgeable persons qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the proposed commemorative work;

(4) The sponsor authorized to construct the commemorative work has submitted contract documents for the construction of the commemorative work to the Mayor; and

(5) The sponsor authorized to construct and maintain the commemorative work has sufficient funds to complete construction of the project and to provide for the ongoing maintenance of the commemorative work.

§ 9-204.18. Deposit for maintenance of commemorative work.

(a) In addition to the criteria set forth in § 9-204.17, no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated either an amount that is equal to 10% of the total estimated cost of the construction or another amount determined by the Mayor to offset the costs of perpetual maintenance and preservation of the commemorative work.

(b) All proceeds received pursuant to subsection (a) of this section shall be deposited in a nonlapsing account of the District government and shall be available for the nonrecurring repair and maintenance of the sponsor's commemorative work pursuant to the provisions of this section.

(c) The sponsor shall be required to submit to the Mayor an annual report of operations prior to and during construction of the commemorative work, including financial statements audited by an independent certified public accountant, paid for by the sponsor authorized to construct the commemorative work.

(d) The provisions of this section shall not apply to a commemorative work that is constructed by a Federal or District agency and where less than 50% of the funding for the construction is provided by private sources.

§ 9-204.19. Expiration of approval of commemorative work.

Approval of a commemorative work pursuant to § 9-204.01, and any easement granted pursuant to the approval, shall expire at the end of a 7-year period beginning on the effective date of the approval unless:

(1) The Mayor issues a construction permit for the commemorative work during that period; or

(2) Prior to the end of the 7-year period, the Mayor:

(A) Determines that all regulatory approvals other than the construction permit for the commemorative work have been obtained and not less than 75% of the amount estimated to be required to construct the commemorative work has been raised; and

(B) Submits a proposed resolution that is approved by the Council to extend the 7-year authority for the commemorative work for a period not to exceed 3 years, at the end of which period the approval shall expire if a construction permit has not been issued for the commemorative work.

5
6 A BILL

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9 23-233

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11
12 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
13
14 _____
15

16
17 To amend the Street and Alley Closing and Acquisition Procedures Act of 1982 to clarify the
18 definition of a commemorative work, to change the composition of the Commemorative
19 Works Committee, to clarify what approvals commemorative works may require from
20 other agencies, to require a fiscal impact statement for a proposed commemorative work,
21 to clarify procedures for recommending a commemorative work, and to encourage more
22 commemorative works honoring diverse native Washingtonians and local history.
23

24 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
25 act may be cited as the “Diverse Washingtonians Commemorative Works Amendment Act of
26 2020”.

27 Sec. 2. The Street and Alley Closing and Acquisition Procedures Act of 1982, effective
28 March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01 *et seq.*) is amended as follows:

29 (a) Section 411(1)(A) (D.C. Official Code § 9-204.11(1)(A)) is amended by striking the
30 phrase “is designed” and inserting the phrase “the primary purpose of the work is” in its place.

31 (b) Section 412(b) (D.C. Official Code § 9-204.12(b)) is amended to read as follows:

32 “(b)(1) The Committee shall be composed of 9 voting members, 5 of whom shall be
33 citizen members and 4 of whom shall be ex officio members.

34 “(2) 2 citizen members shall be appointed by the Mayor for a 3-year term.

35 “(3) 3 citizen members shall be appointed by the Chairman of the Council for a 3-
36 year term.

37 “(4) The following government officials, or their designated representatives, shall
38 serve as the ex officio members:

39 “(A) The Director of the Office of Planning, who shall serve as
40 chairperson of the Committee;

41 “(B) The Director of the Department of Parks and Recreation;

42 “(C) The Chairperson of the Historic Preservation Review Board; and

43 “(D) The Chairperson of the Commission on the Arts and Humanities.”

44 (c) Section 413(a)(3) (D.C. Official Code § 9-204.13(a)(3)) is amended by striking the
45 phrase “public utilities” and inserting the phrase “public utilities, by the Commission on Fine
46 Arts if required by law, by the National Capital Planning Commission if required by law” in its
47 place.

48 (d) Section 414 (D.C. Official Code § 9-204.14) is amended to read as follows:

49 “§ 9-204.14. Applications for commemorative works.

50 “(a) Any sponsor may propose the placement of a commemorative work on public space
51 in the District. Any proposal for a commemorative work on public space in the District shall be
52 accompanied by a completed application to the Office of Planning by a sponsor. Each
53 application shall, at a minimum, include:

54 “(1) A conceptual description of the proposed commemorative work;

55 “(2) The proposed location of the commemorative work;

56 “(3) For a commemoration of a person, the primary reason or reasoning that the
57 person is proposed to be commemorated; and

58 “(4) An explanation of how the commemorative work will be funded and
59 maintained.

60 “(b) The Office of Planning shall develop a procedure for receiving applications from a
61 sponsor of a proposed commemorative work and transmitting such applications to the
62 Committee.

63 “(c) The Office of Planning shall accept from any member of the public
64 recommendations for commemorative works to be considered for sponsorship by a District
65 agency and shall share such recommendations with the Commemorative Works Committee.

66 “(d) If a District agency is the sponsor of a commemorative work, it shall consult with the
67 Commission on the Arts and Humanities on conceptual design for the commemorative work
68 before submitting an application.”

69 (d) Section 415 (D.C. Official Code § 9-204.15) is amended as follows:

70 (1) Subsection (a) is amended by striking the phrase “other commemorative
71 works” and inserting the phrase “other commemorative works, especially when the subject is a
72 member of a minority group who is a native Washingtonian or person who made Washington
73 their home” in its place

74 (2) Subsection (c)(2) is amended by striking the phrase “natural resources” and
75 inserting the phrase “natural resources. Placement should be encouraged in those areas with
76 limited access to public art” in its place.

77 (3) A new subsection (d) is added to read as follows:

78 “(d) Where the Commemorative Works Committee recommends approval of a proposed
79 commemorative work, such approval shall be accompanied by a statement of the primary
80 reasoning for the commemoration.

81 Sec. 3. Commemoration of diverse Washingtonians.

82 (a) The University of the District of Columbia, by December 31, 2021, shall furnish to
83 the Mayor and the Council a report recommending up to 12 proposed commemorative works to
84 honor remarkable diverse native Washingtonians or persons who made Washington their home

85 who left positive indelible marks on American or District culture or history. The individuals
86 shall reflect diversity of culture, race, gender or gender identity, sexual orientation, or disability
87 status.

88 (b) The report shall:

89 (1) Detail the individual or group recommended for commemoration and the
90 reasoning for the commemoration;

91 (2) Provide a recommended geographical location for the commemoration, and
92 why the location is being recommended, taking into consideration the goal of geographic
93 diversity; and

94 (3) Recommend the order of precedence of each of the recommended
95 commemorative works.

96 Sec. 4. Applicability.

97 This act shall apply upon the inclusion of its fiscal effect in an approved budget and
98 financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in
99 a certification published by the Council in the District of Columbia Register.

100 Sec. 5. Fiscal impact statement.

101 The Council adopts the fiscal impact statement in the committee report as the fiscal
102 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
103 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

104 Sec. 6. Effective date.

105 This act shall take effect following approval by the Mayor (or in the event of veto by the
106 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
107 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
108 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
109 Columbia Register.