



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

November 21, 2018

10:00 a.m. – 12:00 noon

PRA

Auditorium

6600 Kenilworth Avenue

Riverdale, MD 20737

ITEM 1

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION MEETING
Wednesday, November 21, 2018
PRA (Auditorium)
10:00 a.m. – 12 noon

		<u>ACTION</u>	
		Motion	Second
1.	Approval of Commission Agenda	(+*) Page 1	
2.	Approval of Commission Minutes a) Open Session – October 17, 2018	(+*) Page 3	
3.	General Announcements a) National American Indian Heritage Month b) Prince George’s Department of Parks and Recreation Winter Festival of Lights – Watkins Regional Park – November 23 through January 1 c) Montgomery Parks Department Winter Garden Walk Through Holiday Light Display – Brookside Gardens – November 16 through January 1 d) One-Commission Holiday Event – December 14 at Silver Spring Convention Center		
4.	Committee Minutes/Board Reports (For Information Only) a) Executive Committee Meeting – Open Session – November 7, 2018 b) Executive Committee Meeting – Closed Session – November 7, 2018 c) Employees’ Retirement System Board of Trustees Meeting September 11, 2018 d) Employees’ Retirement System Board of Trustees Special Meeting October 2, 2018	(+) Page 7 (++) (+) Page 10 (+) Page 13	
5.	Closed Session Items <i>Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7), a closed session is proposed to consult with counsel for legal advice.</i> a) Discussion of ERS Budget Change Resolution (Rose) b) Discussion of ERS Employer Contribution (Zimmerman)	(++) (++)	
6.	Action and Presentation Items a) Resolution 18-37 Ratification of the Appointment of Acting Executive Director b) GFOA Distinguished Budget Presentation Award for FY2019 (Kroll) c) Resolution 18-36 Recommendation to Approve the Employer Contribution for Fiscal Year 2020 (Rose/Boomershine) d) Acknowledge Melissa D. Ford as the Prince George’s County Open Trustee to the Employees’ Retirement System Board of Trustees (Rose) e) Required Reporting for Healthy Vending Machine Policy (for information only) (Spencer/McDonald) f) Artificial Sweeteners and Sugar Substitutes Effects on Health (for information only) (Spencer/McDonald) g) Presentation of Semi-Annual Report, Montgomery Planning and Montgomery Parks (Wright/Riley)	(+*)Page 17 (+*)Page 19 (+) Page 40 (+) Page 41 (+) Page 47 (H)	
7.	Officers’ Reports a) Executive Director’s Report (for Information Only) Employee Evaluations Not Completed by Due Date (October 2018) b) Secretary Treasurer (for Information Only) Investment Report (August) c) General Counsel Litigation Report (for Information Only)	(+) Page 55 (+) Page 57 (+) Page 63	

(+) Attachment (++) Commissioners Only (*) Vote (H) Handout (LD) Late Delivery

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
Open Session Minutes
October 17, 2018

The Maryland-National Capital Park and Planning Commission met at the Montgomery Regional Office Auditorium in Silver Spring, Maryland.

PRESENT

Prince George’s County Commissioners

Elizabeth M. Hewlett, Vice-Chair (arrived 10:16)
Dorothy Bailey
William Doerner
Manuel Geraldo

Montgomery County Commissioners

Casey Anderson, Chair
Gerald Cichy
Norman Dreyfuss
Natali Fani-Gonzalez
Tina Patterson

NOT PRESENT

A. Shuanise Washington

Chair Anderson convened the meeting at 10:09 a.m.

ITEM 1 APPROVAL OF COMMISSION AGENDA

Chair Anderson added “Resolution 18-36 – Resolution of Appreciation for Patricia Colihan Barney” to the agenda (Item 5c).

ACTION: Motion of Fani-Gonzalez to approve the amended Commission agenda
Seconded by Bailey
8 approved the motion

ITEM 2 APPROVAL OF COMMISSION MINUTES

Open Session – September 26, 2018
Closed Session – September 26, 2018

ACTION: Motion of Fani-Gonzalez to approve the Commission minutes
Seconded by Geraldo
8 approved the motion

ITEM 3 GENERAL ANNOUNCEMENTS

- a) Breast Cancer Awareness Month – October
- b) American Indian Festival October 20 at Patuxent River Park
American Indian Heritage Month – November
- c) Upcoming Prince George’s County Department of Parks and Recreation Winer Festival of Lights at Watkins Park, Upper Marlboro. M-MNCPPC Employee Day will be held November 19.
- d) Upcoming Montgomery County Department of Parks Winter Garden Walk Through Holiday Light Display at Brookside Gardens, Wheaton
- e) M-NCPPC Service Recognition Ceremony (at Brookside Gardens, following October Commission Meeting)

The following announcements were added late in the meeting by Vice-Chair Hewlett (after Item 5a):

- f) Polish American Heritage Month – October
- g) Domestic Violence Awareness Month’s Shatter the Silence Run/Walk at 7:30 a.m., on Saturday, October 27 at Watkins Regional Park
- h) Disability Employment Awareness Month – October

ITEM 4

COMMITTEE MINUTES/BOARD REPORTS (For Information Only)

- a) Executive Committee – Open Session – October 8, 2018

ITEM 5

ACTION AND PRESENTATION ITEMS (taken out of order)

- b) Resolution #18-32 Recommendation for Adoption of Employees’ Retirement System Plan Documents Amendments Effective July 1, 2018 and October 1, 2018 (Rose)
Approved without discussion. Executive Director Barney noted that the changes had already been described to the Commission and discussed during its September 2018 meeting, and this Resolution was simply to adopt the language.

ACTION: Motion of Cichy to approve Resolution #18-32
Seconded by Doerner
8 approved the motion

- a) I-495/I-270 Managed Lanes Update (Rubin/Borden)
Special Project Manager Carol Rubin introduced Principal Counsel Debra Borden, Transportation Engineer Stephen Aldrich and Planning Supervisor Tom Masog. Ms. Rubin discussed the background and timeline of the project, sharing that it had an extremely aggressive schedule as set forth in the memorandum to the Commission dated October 11, 2018.

Ms. Rubin stated staff will make certain the State Highway Administration (SHA) remains cognizant of the M-NCPPC’s role as both a regulatory agency and a steward of natural and cultural resources in Montgomery and Prince George’s Counties. All four operating departments and the Legal Department are working closely together on this project. Rubin praised the staff from all departments participating in this project.

Ms. Rubin explained that the Inter-Agency Work Group (IAWG) monthly meetings held by the SHA, with Lead, Sponsoring, Cooperating and Participating agencies throughout Maryland, allow involved agencies to collaborate, identify and resolve environmental issues in an open and frank discussion among themselves. Since MDOT SHA considers these meetings part of their deliberative process, the discussions and materials presented therein remain confidential. During the November 14 IAWG meeting, SHA will present their recommended Alternatives Retained for Detailed Study (ARDS) to the participating agencies. Agencies owe their comments to the SHA by December 12. The SHA is looking for agency concurrence by January 23, after which it will release the ARDS selection to the public. Therefore, staff sought guidance from the Commissioners based on information that is publicly available.

Ms. Rubin reported that The National Capital Planning Commission encouraged the SHA to consider retaining sustainable transportation options and to limit the impact to Capper-Crampton land.

Ms. Rubin and the team presented their recommendations on which alternatives should be abandoned and which should be advanced. Ms. Rubin stressed they were *not* currently

asking Commissioners to consider whether, and to what a degree, there will be impact on parkland and other environmental and cultural resources. This analysis focuses on function over form and to influence SHA's decision-making process in ARDS selection. The team reviewed the alternatives under the view of the National Environmental Policy Act (NEPA) and best practices, and based on those factors, as reflected in the attached Power Point presentation, eliminated eleven alternatives 3, 5, 6, 7, 8, 9, 10 without modification, 11, 12a, 12b, and 15), and recommended advancing the following alternatives (1, 2, 4, 10 as modified, 13A, 13B, and 14A-C with more specific detail).

Ms. Borden noted one of the issues with selecting an option is that the transit system being studied is so large and so varied. Multiple options might be considered for the project, as different alternatives may work better in certain segments, depending upon current infrastructure.

Commissioner Doerner shared concerns that it appeared the SHA had not examined immediate or long-term environmental impacts brought up by the Purpose & Needs (P&N) Statement. Ms. Rubin stated staff at both Parks, and Parks and Recreation departments are looking at this closely. Commissioner Doerner recommended that Planning staff should be included in the process. Mr. Aldridge indicated that Planning staff will be included and will reiterate some of the critical environmental impact issues identified in the P&N Statement when making their ARDS recommendation. Ms. Rubin stressed that a greater environmental impact study would be made on the ARDS after they are selected by SHA. Mr. Aldridge added they will not want to constrain the P3 contractor from innovating transportation alternatives such as vertical separation, tunnels, bridges, etc. and the P3 contractor will be required to address environmental impact concerns.

Chair Anderson inquired how anyone would know the environmental impact of a project without knowing the footprint of the project as laid out by the P3 contractor. While the geometric constraint will affect the P3 contractor's options to innovate, in some ways the solution could be worse than the problem it solves. Moreover, how will the environmental impacts be known or anticipated before the P3 contractor even has an opportunity to submit design plans? Ms. Rubin responded that staff has requested strong and broad language in our P&N comments to ensure the P3 contractor addresses those impacts.

Commissioner Cichy agreed, stating the environmental impact should be defined within the relationship with the P3, the review, and participation in the process. Ms. Rubin shared staff will push the environmental impact mitigation as an absolute requirement. She added that Department Heads would be meeting in mid-November with the Maryland Transportation Secretary and the SHA Administrator to discuss these issues in relation to the alternatives.

Commissioners raised various concerns in relation to specific roadways and interchanges. Ms. Borden stated staff included the concerns of Commissioners in their comments submitted to the SHA. Staff listed upcoming and proposed projects in both counties for the purpose of letting the SHA consider helping integrate these other projects with this one, through funding, design tie-in, or other efforts to make sure these projects are aligned with the managed lanes project. Mr. Aldridge added that a combination of alternatives may work depending upon existing conditions.

Commissioner Dreyfuss asked what input Commissioners have, if they disagreed with the recommendation of staff as to whether an alternative should be advanced to the ARDS level. Ms. Rubin suggested contacting her and Ms. Borden after the meeting to address concerns.

Ms. Rubin said they will continue to meet and work, with the IAWG. On Jan 23, SHA wants concurrence or concurrence with comment on the ARDS prior to public release. She reiterated that discussing the alternatives in detail during the Commission meeting takes the discussion public before the SHA is ready to do so, and therefore asked if the comments collected during the Commission meeting could be used to inform the recommendations staff will present to the SHA on the ARDS.

ACTION: Motion of Hewlett to approve authorizing Staff to concur or concur with comment to with the ARDS recommendations by SHA as proposed by staff and based on the Commissioners' comments.

Seconded by Geraldo
9 approved the motion

- c) Resolution #18-36 Resolution of Appreciation for Patricia Colihan Barney
Chair Anderson introduced the Resolution for retiring Executive Director Barney, which Vice-Chair Hewlett read, thanking her for her leadership and service over a 35-year career. Executive Director Barney thanked Commissioners, adding that the agency has been an amazing place to work and thanked all of the people she worked with for their support and engagement.


ACTION: Motion of Chair Anderson to approve Resolution #18-36
Seconded by Vice-Chair Hewlett
9 approved the motion

ITEM 6

OFFICERS' REPORTS

- a) Executive Director's Report (for information only)
Employee Evaluations Not Completed by Due Date (September 2018)
- b) Secretary Treasurer (for information only)
- c) General Counsel (for information only)
Litigation Report (July and August)

There being no further business to discuss, the meeting ended at 11:53 a.m.


James F. Adams, Senior Administrative Specialist


Patricia Colihan Barney, Executive Director



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

EXECUTIVE COMMITTEE MEETING MINUTES

November 7, 2018

On November 7, 2018, the Maryland-National Capital Park and Planning Commission’s Executive Committee met in the 4th floor Executive Director conference room of the Executive Office Building in Riverdale, MD. Present were Chair Casey Anderson, Vice-Chair Elizabeth M. Hewlett, and Acting Executive Director Anju A. Bennett. Also present were:

Department Heads

- Andree Green Checkley, Director, Prince George’s County Planning (via Teleconference)
- Darin Conforti, Acting Director, Prince George’s County Parks and Recreation
- Adrian Gardner, General Counsel
- Mike Riley, Director, Montgomery County Parks
- Gwen Wright, Director, Montgomery County Planning (via Teleconference)
- Joseph Zimmerman, Secretary-Treasurer

Presenters/Staff

- Mazen Chilet, Chief Information Officer
- William Spencer, Human Resources Director
- Mike Beckham, Policy Manager
- Lisa Dupree, Senior Management Analyst
- Jennifer McDonald, Benefits Manager
- Amberlace Moore, Wellness Coordinator

Chair Anderson convened the meeting at 10:06 a.m.

ITEM 1a – APPROVAL OF EXECUTIVE COMMITTEE AGENDA

Discussion	The agenda was adopted with one addition: Item 4a ERS Funding (closed session).
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ITEM 1b – APPROVAL OF COMMISSION MEETING AGENDA for November 21, 2018

Discussion	<ul style="list-style-type: none"> • Add discussion on Pension Contribution to closed session • Add American Indian Heritage Month under General Announcements • Make the following items for information only: <ul style="list-style-type: none"> - Update on the implementation of the Healthy Vending Machine policy for vending contracts - Research on artificial sweeteners
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ITEM 1c – ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS

Discussion	<p>Items to be added/clarified/modified to the Rolling Agenda:</p> <ul style="list-style-type: none"> • December: Add specific dates to Festival of Lights/Garden of Lights Events • December: Add EOB Feasibility Study Update; closed session may be needed • December: Add GFOA Award for FY19 Budget • December: I-95/495 Managed Lanes Study Update – item not needed in December; move to January • January: Formula 40 – move to February
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	<ul style="list-style-type: none"> • January: Remove Collective Bargaining Update; keep for February • February: Acting Executive Director to verify with Diversity Council on timing of One-Commission Diversity Event • March: Financial Disclosure Filing Requirements reminder – move up to February
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ITEM 2 – MINUTES	
For information only	October 8, 2018 Executive Committee Meeting Open Session – accepted without changes.

ITEM 3a – Required Reporting on Healthy Vending Machine Policy (Spencer/McDonald)	
Discussion	Ms. McDonald provided an updated report as required by Resolution 17-02 – Adoption of Healthy Vending Machine Policy, reflected in the packet. The Executive Committee suggested Benefits staff give a status update to the Commission as an information item. General Counsel Gardner noted the M-NCPPC’s policy is consistent with the policies established by both counties, and suggested staff stress that in the information memo.

ITEM 3b – Artificial Sweeteners and Sugar Substitutes Effects on Health (Spencer/McDonald)	
Discussion	Ms. Moore presented findings on research on published studies concerning sugar substitutes, indicating that the data were inconclusive. Staff recommended that offerings in agency vending machines should permit snacks with artificial sweeteners until research findings are more consistent in showing long-term health issues. Acting Executive Director Bennett commented that studies appear to address the long-term effects of sugar substitutes; while vending machines are not intended to provide regular meals. The Executive Committee recommended that Benefits staff share the item with the Commission for information purposes.

ITEM 3c – Approval of Proposed Amendments to M-NCPPC Administrative Practice 3-31, Fraud, Waste and Abuse (Bennett/Beckham)	
Discussion	<p>Mr. Beckham explained that the Fraud, Waste and Abuse policy draft was being brought back to address concerns identified by the Executive Committee during its earlier review. The draft had the support of Department Heads, and most changes had been supported by the Executive Committee – other than a few items which were being returned for review and approval. Chair Anderson stated that the policy draft appeared to address some areas. However, the draft did not fully address concerns expressed by the Executive Committee.</p> <p>During the discussion, Policy staff was asked to revisit the draft to clarify that while the Inspector General receives all concerns of Fraud, Waste and Abuse, it has the authority and prosecutorial discretion to determine when a matter should be referred to another party which is better situated to review the matter. In some cases, the Office of the Inspector General may not be not the most appropriate party to review the matter, and entities such as the State’s Attorney, Ethics Commission or others may have more appropriate jurisdiction or resources to address concerns.</p>

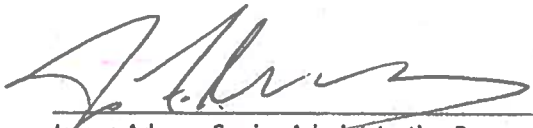
	Acting Executive Director Bennett asked the Policy team to make the necessary changes and send adjusted drafts to the Executive Committee. General Counsel Gardener added that including this option would allow a better allocation of resources to execute the Audit Plan.
Action	Policy Office will draft new language and send to Executive Committee.

ITEM 3d – Investment Report – August 2019 (Zimmerman)	
Discussion	No discussion.

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7) & (9), Vice-Chair Hewlett moved to go into closed session to consult with counsel for legal advice. Acting Executive Director Bennett seconded. The Executive Committee Meeting moved into closed session at 10:50 a.m.

Open session resumed at 11:05 a.m.

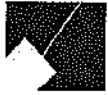
There being no further business to discuss, the meeting adjourned at 11:05 a.m.



 James Adams, Senior Administrative Program Specialist



 Anju A. Bennett, Acting Executive Director



**REGULAR BOARD OF TRUSTEES MEETING
MINUTES**

Tuesday, September 11, 2018; 9:00 A.M.
ERS/Merit Board Conference Room

The Maryland-National Capital Park and Planning Commission Employees' Retirement System Board of Trustees met in the ERS/Merit Board Conference Room at its office in Riverdale, Maryland on Tuesday, September 11, 2018 and was called to order at 9:12 a.m. by CHAIRMAN HEWLETT.

Board Members Present:

- | | |
|--|----------------|
| 1. Elizabeth M. Hewlett, Board of Trustees Chairman, Prince George's County Commissioner (via conference call) | Out 11:08 a.m. |
| 2. Patricia Colihan Barney, CPA, M-NCPPC Executive Director, Ex-Officio | |
| 3. Rick Liu, Montgomery County Open Trustee | |
| 4. Sheila Morgan-Johnson, Prince George's County Public Member | Out 11:23 a.m. |
| 5. Barbara Walsh, Bi-County Open Trustee | |
| 6. Joseph C. Zimmerman, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio | |
| 7. Gerald R. Cichy, Board of Trustees Vice Chairman, Montgomery County Commissioner | In 9:21 a.m. |
| 8. Pamela F. Gogol, Montgomery County Public Member | In 9:25 a.m. |
| 9. Amy Millar, MCGEO Represented Trustee | In 9:35 a.m. |
| 10. Howard Brown, FOP Represented Trustee | In 9:42 a.m. |

ERS staff present: Andrea L. Rose, Administrator; Heather D. Brown, Senior Administrative Specialist; and, Sheila S. Joynes, Accounting Manager.

Presentations by: Groom Law Group - David N. Levine, Principal and Alexander P. Ryan, Of Counsel; and, Wilshire Associates - Bradley A. Baker, Managing Director and Martell McDuffy, Senior Analyst.

1. CONSENT AGENDA

The following items are to be approved or accepted by vote on one motion unless a Board member requests separate consideration:

- A. Approval of the September 11, 2018 Board of Trustees Meeting Agenda
- B. Minutes of Regular Meeting, July 10, 2018
- C. Minutes of Closed Session, July 10, 2018
- D. Disbursements Granted Reports – June and July 2018
- E. Transfer of \$29,500,000 to Cover Administrative Expenses and Benefit Payments for September to December 2018

ACTION: MS. BARNEY made a motion, seconded by MS. WALSH to approve the Consent Agenda, as submitted. The motion PASSED unanimously (6-0). (Motion #18-37)

CHAIRMAN HEWLETT moved the Manager Reports and Presentations as the last item on the Agenda.

2. CHAIRMAN'S ITEMS

- A. Board of Trustees Conference Summary
 - i. Public Summit East Conference Report by Rick Liu

3. MISCELLANEOUS

No miscellaneous reported.

4. REPORT OF THE ADMINISTRATOR

Presentation by Administrator, Andrea L. Rose

A. Administrator's Report dated August 29, 2018

i. Recommendation for Renewal of Cyber Liability Insurance

Andrea Rose presented the Administrator's Report dated August 29, 2018.

Travelers Insurance provided a quote for renewal of the Cyber Liability Insurance Policy for the policy term of, November 1, 2018 – November 1, 2019, with a limit of liability of \$2,000,000, a \$10,000 deductible, and a premium of \$4,954.

ACTION: MS. BARNEY made a motion, seconded by MS. WALSH to approve the renewal of the Cyber Liability Insurance Policy with Travelers Insurance for the term of November 1, 2018 to November 1, 2019 with a limit of liability of \$2,000,000, a \$10,000 deductible, and a premium of \$4,954. The motion PASSED unanimously (6-0). (Motion #18-38)

VICE CHAIRMAN CICHY arrived at 9:21 a.m.

5. CLOSED SESSION

The Board will meet in Closed Session, pursuant to the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(9) to consider matters that relate to collective bargaining negotiations.

At 9:22 a.m. CHAIRMAN HEWLETT requested a motion to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Sections 3-305(b)(9) to discuss amendments to the active member death benefits for Plans B and E with a presentation by Patricia Barney, M-NCPPC Executive Director.

ACTION: VICE CHAIRMAN CICHY made the motion, seconded by MS. WALSH to go into Closed Session. The motion PASSED unanimously (7-0). (Motion #18-39)

MS. GOGOL arrived at 9:25 a.m.

During Closed Session, the Board of Trustees discussed the following matters:

1. The M-NCPPC Executive Director, Patricia Barney, reported on the Commission's Resolution 18-21 regarding amendments to surviving spouse benefits for represented and non-represented existing and new employees in Plans B and E.
2. The Board approved a Special Meeting of the Board of Trustees on October 2, 2018.

MS. MILLAR arrived at 9:32 a.m.

At 9:40 a.m. CHAIRMAN HEWLETT requested a motion to leave Closed Session.

ACTION: MS. BARNEY made the motion, seconded by MS. GOGOL to leave Closed Session. The motion PASSED unanimously (9-0). (Motion #18-41)

ACTION: MS. BARNEY made the motion, seconded by MS. WALSH to ratify the actions taken in Closed Session. The motion PASSED unanimously (9-0). (Motion #18-42)

MR. BROWN arrived at 9:42 a.m.

6. MANAGER REPORTS/PRESENTATIONS

A. The Groom Law Group

Presentations by David N. Levine, Principal and Alexander P. Ryan, Of Counsel

i. ESG Investing: A Fiduciary Perspective; September 11, 2018

MINUTES, AS APPROVED, AT THE NOVEMBER 6, 2018 REGULAR BOARD OF TRUSTEES MEETING

David Levine and Alex Ryan presented an educational session titled ESG Investing: A Fiduciary Perspective. The presentation included an ESG Background, ESG Fiduciary Standards and ESG in Governmental Plans.

CHIARMAN HEWLETT and MS. MORGAN-JOHNSON left the meeting at 11:23 a.m.

B. Wilshire Associates

Presentations by Bradley A. Baker, Managing Director and Martell McDuffy, Senior Analyst

- i. Executive Summary of Investment Performance; as of June 30, 2018
- ii. Fixed Income Education Session Update
- iii. Manager Comparison - 3yr and 5yr Rolling Returns; as of June 30, 2018
- iv. Summary of Investment Performance; June 30, 2018
- v. Wilshire's Climate Change: Evolving Risks and Opportunities for Asset Owners; May 13, 2016
- vi. Maryland Pension Plan Embraces ESG
- vii. MSRA Responsible Investing; February 20, 2018
- viii. Principles for Responsible Investment – Addressing ESG Factors Under ERISA

Bradley Baker reported on the fund's performance for the quarter ending June 30, 2018. The ERS' total fund return was 1.09% (net of fees) for the quarter, outperforming the actual policy index return of 0.68%. The ERS fund return was 7.94% for the one-year ended, 7.26% for the three-years ended, and 7.41% for the five-years ended June 30, 2018 versus the actual policy index which returned 7.16%, 6.38% and 6.90%, respectively. The total market value through June 30, 2018 was \$922.0 million.

MS. GOGOL left the meeting at 12:00 p.m.

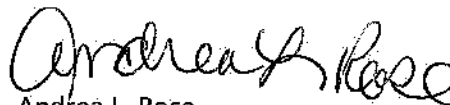
Mr. Baker presented the Fixed Income Education Session Update which provided an analysis related to the ERS' fixed income portfolio structure and optimization analysis. Wilshire concluded the ERS' current fixed income portfolio is well diversified and efficient given the current exposure to multiple fixed income segments globally yet it suggests the portfolio could benefit from implementing a dedicated Emerging Market Debt allocation and/or increasing the allocation to Bank/Senior Loans. The Board referred this to the Investment Monitoring Group for further review and recommendation.

The Board of Trustees meeting of September 11, 2018 adjourned at 12:32 p.m.

Respectfully,



Heather D. Brown
Senior Administrative Specialist



Andrea L. Rose
Administrator



EMPLOYEES' RETIREMENT SYSTEM
The Maryland-National Capital Park and Planning Commission

Item 4d

SPECIAL BOARD OF TRUSTEES MEETING
MINUTES
Tuesday, October 2, 2018; 10:00 A.M.
ERS/Merit Board Conference Room
or Teleconference

The Maryland-National Capital Park and Planning Commission Employees' Retirement System Board of Trustees met via Teleconference or in-person in the ERS/Merit Board Conference Room at its office in Riverdale, Maryland on Tuesday, October 2, 2018 and was called to order at 10:00 a.m. by CHAIRMAN HEWLETT.

Board Members Present:

1. Elizabeth M. Hewlett, Board of Trustees Chairman, Prince George's County Commissioner (via teleconference)
2. Patricia Colihan Barney, CPA, M-NCPPC Executive Director, Ex-Officio
3. Rick Liu, Montgomery County Open Trustee (via teleconference) In 10:01 a.m.
4. Sheila Morgan-Johnson, Prince George's County Public Member (via teleconference) In 10:01 a.m.
5. Joseph C. Zimmerman, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio
6. Gerald R. Cichy, Board of Trustees Vice Chairman, Montgomery County Commissioner (via teleconference)
7. Pamela F. Gogol, Montgomery County Public Member (via teleconference)
8. Amy Millar, MCGEO Represented Trustee (via teleconference) In 10:03 a.m.
9. Howard Brown, FOP Represented Trustee Out 10:05 a.m.

Board Members Not Present:

1. Barbara Walsh, Bi-County Open Trustee

ERS staff present: Heather D. Brown, Senior Administrative Specialist; Sheila S. Joynes, Accounting Manager; and, Antonia Lanier, Member Relations Manager.

Presentations by: M-NCPPC - Patricia Barney, Executive Director and M-NCPPC Legal Department – LaTonya Reynolds, Senior Counsel.

1. Approval of the October 2, 2018 Special Board of Trustees Meeting Agenda

ACTION: MS. BARNEY made a motion, seconded by MR. ZIMMERMAN to approve the October 2, 2018 Special Board of Trustees Meeting Agenda, as submitted. The motion PASSED unanimously (6-0). (Motion #18-43)

MRS. MORGAN-JOHNSON and MR. LIU joined the meeting via teleconference at 10:01 a.m.

2. Amendments to the Employees' Retirement System Plan Document
Presentations by M-NCPPC - Patricia Barney, Executive Director and LaTonya Reynolds, M-NCPPC Senior Counsel
 - i. Memo dated September 20, 2018 Re: Recommendation to Approve Amendments to the Employees' Retirement System Plan Document

Patricia Barney presented amendments to the Employees' Retirement System Plan Document, which reflect recent plan design changes for Plans B and E adopted by the Commission at its July 18, 2018 and September 26, 2018 meetings under Commission Resolutions 18-21, 18-31 and 18-26.

MS. MILLAR joined the meeting via teleconference at 10:03 a.m.

The amendments for Plan B modify the spousal benefits for existing employees and future employees who, as a result of prior employment, re-enter Plan B and are effective July 1, 2018. They are as follows:

- Non-vested Participants are provided a choice of a lifetime annuity equal to 25% of final annual base pay, or a lump sum of 50% of average annual earnings plus contributions and interest;
- Vested Participants are provided a choice of a lifetime annuity equal to 25% of final annual base pay, or a benefit paid had the deceased retired and selected a 100% joint and survivor benefit;
- Spouses are provided 60 calendar days from the date of notification to make an election; otherwise, the spouse receives the applicable default benefit; and
- Clarifying language provides these benefits to certain employees who do not make active contributions to the ERS.

MR. BROWN left the meeting at 10:05 a.m.

The amendments for Plan E modify the spousal benefits for existing employees hired on or before September 30, 2018 and new employees hired on or after October 1, 2018. They are as follows:

- Non-vested Participants hired on or before September 30, 2018 are provided a choice of a lifetime annuity equal to 25% of final annual base pay, or a lump sum of 50% of average annual earnings plus contributions and interest;
- Non-vested Participants hired on or after October 1, 2018 are provided a lump sum of 50% of average annual earnings plus contributions and interest;
- Vested Participants are provided a lifetime annuity based on the benefit paid had the deceased retired and selected a 100% joint and survivor benefit;
- Spouses are provided 60 calendar days from the date of notification to make an election; otherwise, the spouse receives the applicable default benefit; and
- Clarifying language provides these benefits to certain employees who do not make active contributions to the ERS.

The Commission also approved extending the same provisions for the purchase of credited service to non-represented employees, that are currently offered to represented employees, participating in Plans B and E effective October 1, 2018. Ms. Barney highlighted these amendments in the Plan Document. They are as follows:

- Effective October 1, 2018, non-represented employees will be allowed a one-time option to purchase up to five (5) years of credited service for certain qualifying time on the same terms and conditions as the MCGEO-represented employees with two exceptions as follows:
 - Non-represented employees hired or appointed prior to January 1, 2019 will be able to exercise the option to purchase credited service one time either during the period between January 15, 2019 – February 14, 2019 or during the window which is at least 31 but not more than 60 days immediately prior to retirement; and
 - Non-represented employees (re) hired or appointed on or after January 1, 2019, who enter Plan E or re-enter Plan B, will be able to exercise the option to purchase credited service one time either within 45 days of (re) hire or during the window which is at least 31 but not more than 60 days immediately prior to retirement.
- Non-represented employees who exercise the option to purchase credited service are required to pay to the ERS 100% of the full cost of the credited service as determined by the actuaries in either a lump sum or in equal payments not to exceed five (5) years.

The amended Plan Document was drafted and reviewed by M-NCPPC Legal Department's LaTonya Reynolds and the Groom Law Group's David Levine and Kimberly Boberg and they recommend approval of the plan amendments.

ACTION: MS. BARNEY made a motion, seconded by VICE CHAIRMAN CICHY to approve the amendments to the Employees' Retirement System Plan Document, which reflect recent plan design changes for Plans B and E adopted by the Commission at its July 18, 2018 and September 26, 2018 meetings under Commission Resolutions 18-21, 18-31 and 18-26. The motion PASSED unanimously (8-0). (Motion #18-44)

CHAIRMAN HEWLETT congratulated Patricia Barney on her retirement from the Maryland-National Capital Park and Planning Commission ("Commission") and recognized her stellar work with the Commission and the ERS for 35 years. Mrs. Barney's dedication and passion will truly be missed by the entire Commission family.

There being no further business, the Board of Trustees meeting of October 2, 2018 adjourned at 10:17 a.m.

Respectfully,

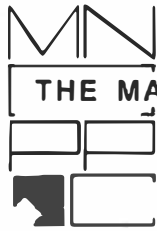


Heather D. Brown
Senior Administrative Specialist



Sheila S. Joynes
Accounting Manager

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC RESOLUTION NO. 18-37

RATIFICATION OF THE APPOINTMENT OF ACTING EXECUTIVE DIRECTOR

WHEREAS, the Maryland Annotated Code, Land Use Article, §15-109 and §16-102, establish and provide for the public office of Executive Director of the Maryland-National Capital Park and Planning Commission ("Commission"); and

WHEREAS, with the retirement of Patricia Colihan Barney effective as of November 1, 2018, a vacancy occurred in the office of Executive Director; and

WHEREAS, the Commission requires an appointed Executive Director to lead its Department of Human Resources and Management, participate as member of the Executive Committee, and execute the other important responsibilities of that office arising in the ordinary course; and

WHEREAS, the Chair and Vice-Chair of the Commission have determined that Anju A. Bennett, an individual who currently holds the Merit System position of Chief of the Corporate Policy and Management Operations Division, within the Department of Human Resources and Management, is qualified, ready, willing and able to serve as Executive Director on an interim basis until such time as a permanent replacement shall be identified and hired; and

WHEREAS, Anju A. Bennett is intimately familiar with the Commission, and maintains a reputation for prudent leadership and impeccable public service; and


WHEREAS, the Prince George's County Planning Board has concurred with Bennett's appointment, as provided in its Resolution No. 18-112 duly adopted during such Board's regular meeting held on November 8, 2018, and which resolution is duly acknowledged and accepted by these presents; and

WHEREAS, the Montgomery County Planning Board has concurred with Bennett's appointment, as provided in its Resolution No. 18-119 duly adopted during such Board's regular meeting held on November 15, 2018, and which resolution is duly acknowledged and accepted by these presents.

NOW THEREFORE, BE IT RESOLVED, that the Maryland-National Capital Park and Planning Commission does hereby ratify, concur and approve the appointment of **Anju A. Bennett** to the office of Executive Director on an acting basis, effective November 1, 2018, it being understood that Bennett shall be vested and entitled as the **Acting Executive Director** to

execute the all the lawful and customary powers and authorities of the office until further Commission action and notice.

BE IT FURTHER RESOLVED, that the proper officers and agents of the Commission shall promptly arrange to procure from a surety authorized in Maryland such that Bennett shall be bonded unto the Commission as required by law.

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC Legal Department
Date 11/15/18

MEMORANDUM



EMPLOYEES' RETIREMENT SYSTEM
 The Maryland-National Capital Park and Planning Commission
 6611 Kenilworth Avenue, Suite 100
 Riverdale, Maryland 20737

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 (301) 454-1413 - Facsimile
<http://ers.mnccppc.org>

Andrea L. Rose
 Administrator

TO: The Commission DATE: November 13, 2018

VIA: Elizabeth M. Hewlett *EMH*
 Chairman, Board of Trustees

FROM: Andrea L. Rose *AR*
 ERS Administrator

Subject: **Resolution #18-36 - Recommendation to Approve an Employer Contribution in the Amount of \$19,244,687 for Fiscal Year 2020**

RECOMMENDATION

At its November 6, 2018 meeting, the Employees' Retirement System (ERS) Board of Trustees ("Board") accepted the July 1, 2018 Actuarial Valuation presented by Boomershine Consulting Group and approved an employer contribution of \$19,245,489. An adjustment in the final report resulted in an employer contribution of \$19,244,687 which will be amended at the Board's December 4, 2018 meeting. As a result, we recommend the Commission approve Resolution #18-36 which adopts an employer contribution in the amount of \$19,244,687 (12.3% of covered payroll) for fiscal year 2020.

BACKGROUND

In accordance with the ERS' Plan Document, Section 2.3(g), the Board shall recommend to the Commission the contributions to be made by the Commission under the provisions of the ERS.

Each year the ERS has an independent actuarial valuation performed to determine the funding requirements for the ERS. The actuarial valuation is designed to measure the current and future cost of retiree benefits based on employee demographics, assets and liabilities, plan provisions, and actuarial assumptions and methods. The actuary recommends an employer contribution in order to ensure sufficient assets are available for future benefits.

A pension plan is well funded when it has enough money in reserve to meet all expected future obligations to participants. The ERS' funding objective is to meet long-term benefit promises through employee and employer contributions that remain approximately level as a percent of member payroll. The July 1, 2018 actuarial valuation indicated a funded ratio (based on the actuarial value of assets) of 94.9%, which is up from 90.7% in 2017.

The July 1, 2018 actuarial valuation includes: 1) a change in the investment return assumption from 6.95% to 6.90%, which is consistent with industry trends and was approved earlier this year following an annual review by Boomershine Consulting Group and 2) changes to the active member death benefits for employees in Plans B and E, which the Commission approved earlier this year by Resolution No. 18-21, 18-31, and 18-32.

To meet the ERS' funding objectives, the recommended employer contribution of \$19,244,687 (12.3% of covered payroll) is payable July 1, 2019 for fiscal year 2020. The recommended employer contribution decreased from \$24,792,093 (16.4% of covered payroll) as of July 1, 2017 primarily due to an actuarial error in the ERS' favor.

Boomershine Consulting Group's David S. Boomershine, Senior Consulting Actuary will present the attached presentation at the Commission's November 21, 2018 meeting.

Thank you in advance for your consideration.

Attachment



M-NCPPC RESOLUTION NO. 18-36

RECOMMENDATION TO APPROVE AN EMPLOYER RETIREMENT CONTRIBUTION IN
THE AMOUNT OF \$19,244,687 FOR FISCAL YEAR 2020

WHEREAS, the Maryland-National Capital Park and Planning Commission (the "Commission") as Plan Sponsor entered into a Pension Trust Agreement as of July 26, 1972 and amended on June 13, 1979 ("the Agreement") with the Employees' Retirement System of the Maryland-National Capital Park and Planning Commission ("ERS" or the "Plan"); and

WHEREAS, the "FIRST" section the Agreement states that the Board of Trustees shall be responsible for the collection of contributions to the Plan; and

WHEREAS, Section 2.3(g) of the ERS Plan Document states that the Board of Trustees shall recommend to the Commission the contributions to be made by the Commission under the provisions of the Retirement System; and

WHEREAS, the Board of Trustees engaged Boomershine Consulting Group, L.L.C. ("the Actuary") to prepare an ERS Actuarial Valuation as of July 1, 2018; and

WHEREAS, the ERS Actuarial Valuation as of July 1, 2018 projected a Fiscal Year 2020 Plan Sponsor contribution in the amount of \$19,244,687.

NOW THEREFORE, BE IT RESOLVED, that the Commission as Plan Sponsor approves a \$19,244,687 payment to the ERS Trust Fund; and

BE IT FURTHER RESOLVED, that the Maryland-National Capital Park and Planning Commission does hereby authorize the Executive Director and other officers to take action as may be necessary to implement this resolution.



**Employees' Retirement System
Actuarial Review as of July 1, 2018
Commissioners Meeting
November 2018**



Demographic Highlights

	7/1/2017	7/1/2018	% Change
Number of Members			
Active	2,102	2,144	2.0%
Terminated Vested	260	252	(3.1%)
Terminated Non-Vested	379	397	4.7%
Retirees, Disableds and Beneficiaries	<u>1,461</u>	<u>1,532</u>	<u>4.9%</u>
Total	4,202	4,325	2.9%
Active Participants			
Annual Compensation	\$150,820,889	\$156,444,006	3.7%
Average Annual Compensation	\$72,860	\$74,462	2.2%
Average Age	47.76	47.47	(0.6%)
Average Service	12.48	12.13	(2.8%)

Market Value of Assets Changes

Market Value of Assets as of 7/1/2017		\$892,978,117
Employer Contributions for 2017 Plan Year	\$24,822,301	
Less Receivable for 2017 Plan Year	(24,822,301)	
Employee Contributions	7,201,130	
Net Investment Income	70,470,948	
Benefit Payments	(48,088,129)	
Administrative Expenses	<u>(1,810,777)</u>	
Market Value of Assets as of 6/30/2018		\$920,751,289
Receivable Contribution as of 7/1/2018		\$24,792,093
Market Value of Assets as of 7/1/2018		\$945,543,382

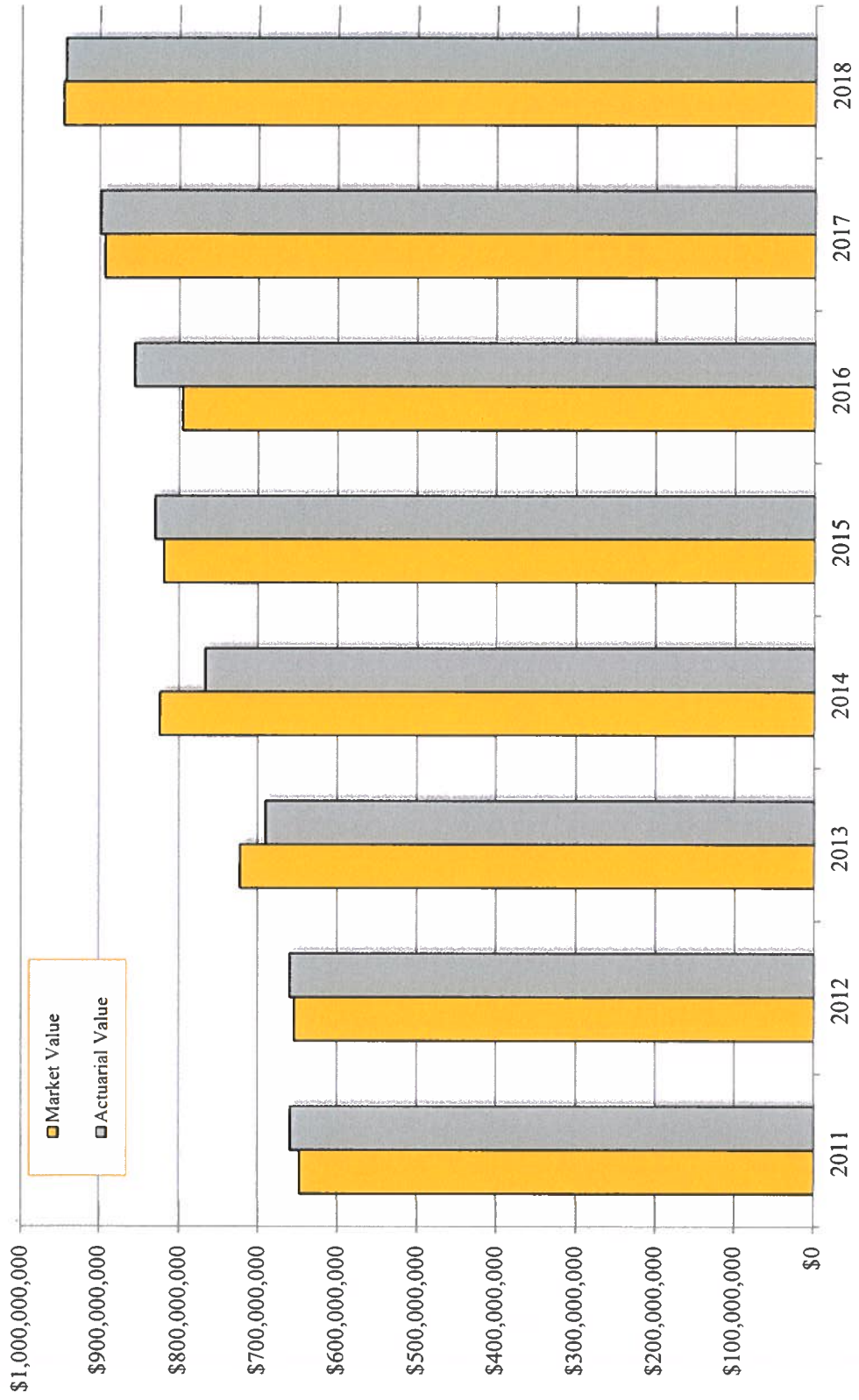
Plan Assets: Market Value and Actuarial Value

	7/1/2017	7/1/2018
Market Value	\$892,978,117	\$945,543,382
Investment Return	14.37%	8.08%
Actuarial Value	\$899,336,519	\$943,070,635
Investment Return	6.97%	7.02%

5-Year Compound Return

	7/1/2017	7/1/2018
Market Value	7.95%	7.30%
Actuarial Value	7.88%	8.22%

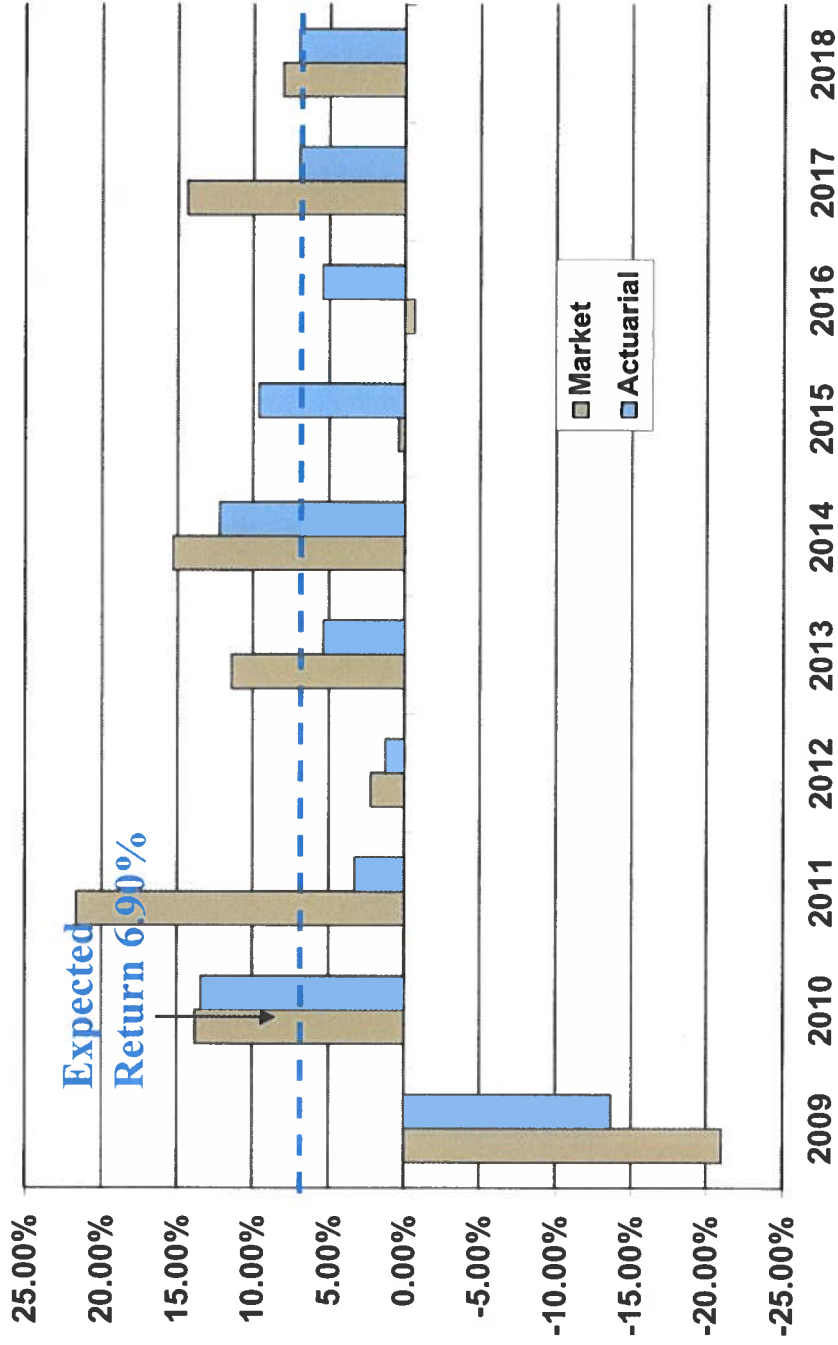
8-Year History of Plan Asset Values



Year End June 30

4

Rates of Return on Plan Asset Values



Year end June 30

2018 Valuation Assumptions

Note: Separate assumptions for Police and Non-Police:

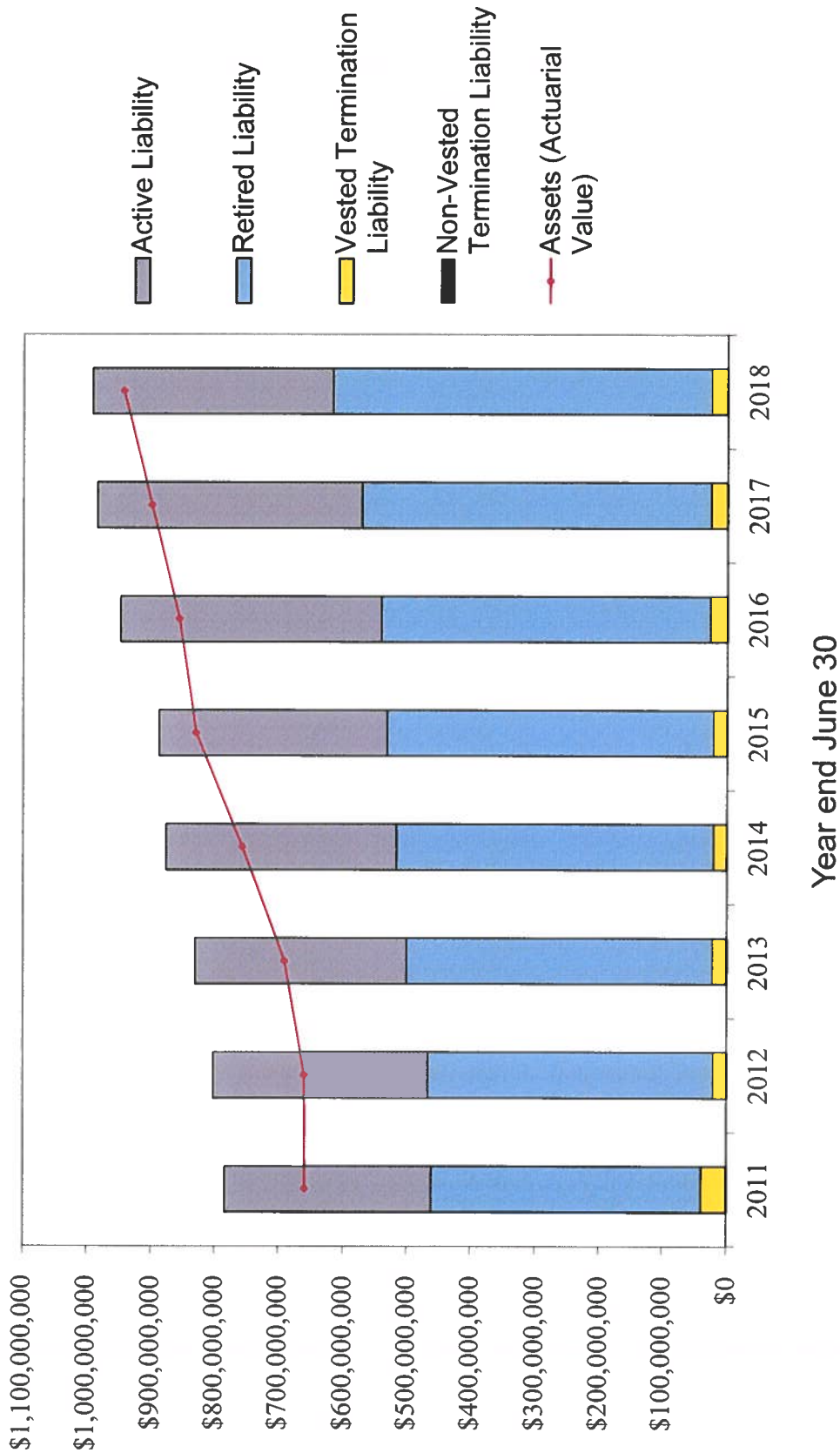
Investment Return	6.90% (Last Year – 6.95%)
Unused Sick Leave	0.03 additional months per year of service
Salary Increases	2.50% per year plus additional merit increases for 2018 and later
Retirement Age	Rate of Retirement based on years of service
Mortality	RP 2000 (+1M, +2F) with Generational Scale BB factors
Disability	Table based on age
Withdrawal	Table based on years of service
Spouses	90% of males and 50% of females assumed married
Post Retirement Adjustment	2.40% compounded annually for benefits based on credited service accrued until July 1, 2012, and sick leave accrued until January 1, 2013, 2.0% compounded annually thereafter
Expenses	0.2% of total liability
Asset Valuation	5 year asset return smoothing method*

* Based on 80%/120% corridor around market value

Total Funded Status

Ongoing Basis	7/1/2017	7/1/2018 Before any changes	7/1/2018 Change in Discount rate	7/1/2018 Change in Plan Benefits
Actuarial Accrued Liability	\$991,624,737	\$983,417,591	\$989,087,190	\$993,322,340
Actuarial Value of Assets	899,336,519	943,070,635	943,070,635	943,070,635
Unfunded Actuarial Accrued Liability	92,288,218	40,346,956	46,016,555	50,251,705
Funded Ratio (AVA/AAL)	90.7%	95.9%	95.3%	94.9%

8-Year History of Funded Status



Net Actuarial (Gain)/Loss at July 1, 2018

	July 1, 2018 Amount	% of Liability/Assets
Salary Increases More than Expected	\$1,682,477	0.2%
New Hires	401,175	0.0
New Terminations, Retirements, Beneficiaries	961,557	0.1
Cost of Living Increase less than Expected	(1,271,302)	(0.1)
Non Vested Terminations (Payables)	119,374	0.0%
Other Changes	(48,969,805)	(4.9%)
Total Demographic/Liability (Gain)/Loss	(47,076,524)	(4.8%)
Actuarial Asset Value (Gain)/Loss	(619,659)	(0.1%)
Net Actuarial (Gain)/Loss	(\$47,696,183)	

Past Valuation Issue

- Detailed programming oversight recognized this year – concerning mortality assumption
- Impacts 2017 and 2016 Valuations
- Adjustment results in reducing actuarial liabilities and normal cost by 5% to 7%
- Annual costs are reduced by 27% - See next slide
- Treat adjustments as pre-payments for 2016 and 2017

2017/2016 Prepayment Adjustment Summary

2017/2016 Prepayment Adjustment

	<u>2017 Valuation</u>	<u>2017 Report</u>	(\$ in millions) <u>Adjusted</u> <u>Valuation</u>	<u>Difference</u>
Actuarial Liability	\$991.6	\$945.3	\$945.3	\$46.3
Assets	899.3	899.3	899.3	-
Unfunded Liability	92.3	46.0	46.0	46.3
Amortization Cost	9.4	4.7	4.7	4.7
Gross Normal Cost	20.4	18.9	18.9	1.5
Employee Contributions	(6.7)	(6.7)	(6.7)	-
Net Normal Cost	13.7	12.2	12.2	1.5
Total Contribution	23.2	16.9	16.9	6.2
-end of year	24.8	18.1	18.1	6.6
2016 Valuation Prepayment				<u>5.4</u>
Total Prepayment				\$12.0

Total Recommended Commission Contribution

	2017	2018	Change
Net Normal Cost	\$13,736,623	\$12,873,822	<u>2017 --> 2018</u> (\$862,801)
Normal Cost as a % of Payroll	9.1%	8.2%	(0.9%)
Amortization of Unfunded	9,444,389	5,128,690	(4,315,699)
Total Recommended Contribution Payable at the Beginning of the Year	23,181,012	18,002,512	(5,178,500)
As a % of Payroll	15.4%	11.5%	(3.9%)
Total Recommended Employer Contribution Payable at the End of the Year	\$24,792,093	\$19,244,687	(\$5,547,406)
As a % of Payroll	16.4%	12.3%	(4.1%)

Commentary

- Funded Ratios
 - Increase on Funding Basis using Actuarial Value of Assets
 - 90.7 % to 94.9%
 - Increase on an Accrued Benefit Basis using Market Value of Assets
 - 100.8% to 102.5%
- Recommended Contribution
 - Percent of Pay cost decreased from 16.4% to 12.3% (based on payment at end of year)

6-Year Contribution Projection

M-NCPPC: Baseline for 3 Years and Updated Mortality Tables after 3 Years

Payable July 1	Prior Year Participant Payroll	Employer Normal Cost	Amortization of Unfunded	Interest to End of Year	Total Employer Cost	Employer Cost as a % of Payroll
2019	\$156.44	\$12.87	\$5.13	\$1.24	\$19.25	12.3%
2020	\$160.36	\$13.20	\$6.10	\$1.33	\$20.62	12.9%
2021	\$164.36	\$13.45	\$5.77	\$1.33	\$20.55	12.5%
2022	\$168.47	\$14.32	\$6.34	\$1.43	\$22.09	13.1%
2023	\$172.68	\$14.60	\$5.91	\$1.42	\$21.92	12.7%
2024	\$177.00	\$14.88	\$5.67	\$1.42	\$21.97	12.4%
2025	\$181.43	\$15.16	\$5.45	\$1.42	\$22.02	12.1%

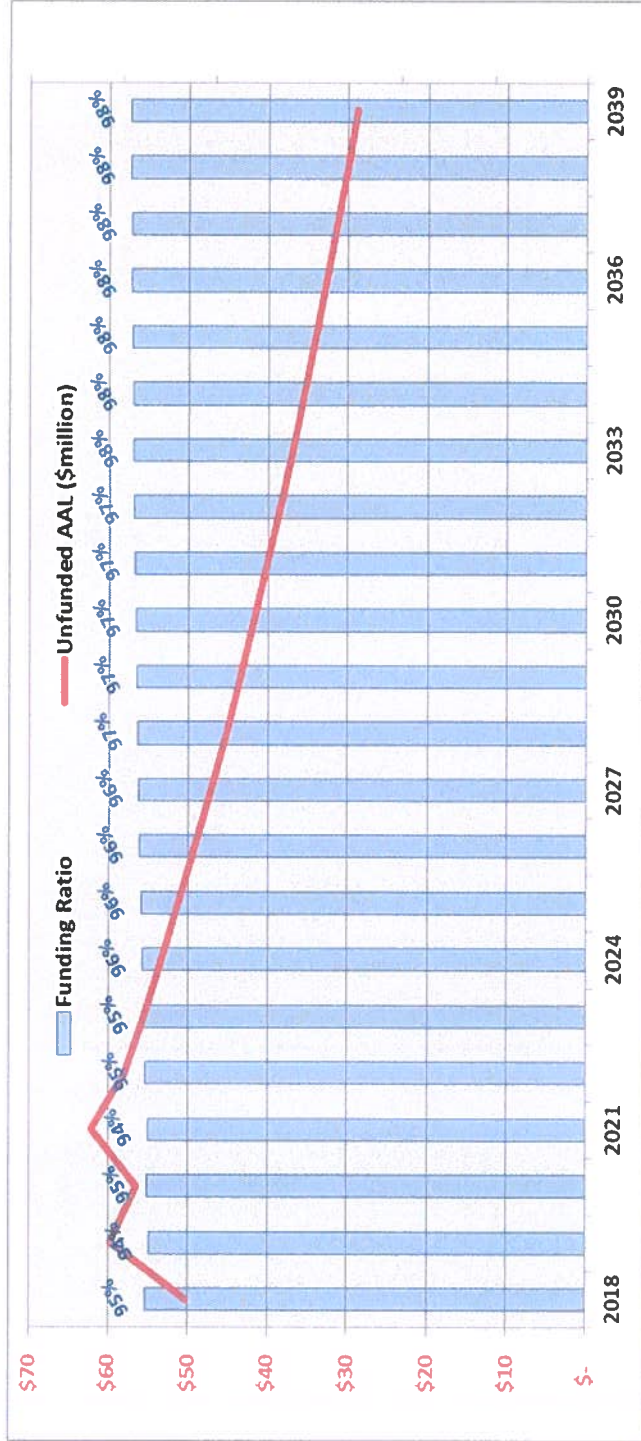
Assumptions

- Future investment returns = 6.90%
- Payroll increases = 2.5%
- No future gains or losses

Funding Outlook

M-NCPPC: Baseline for 3 Years and Updated Mortality Tables after 3 Years

M-NCPPC Employees' Retirement System 20 Year Projection of Funding Progress



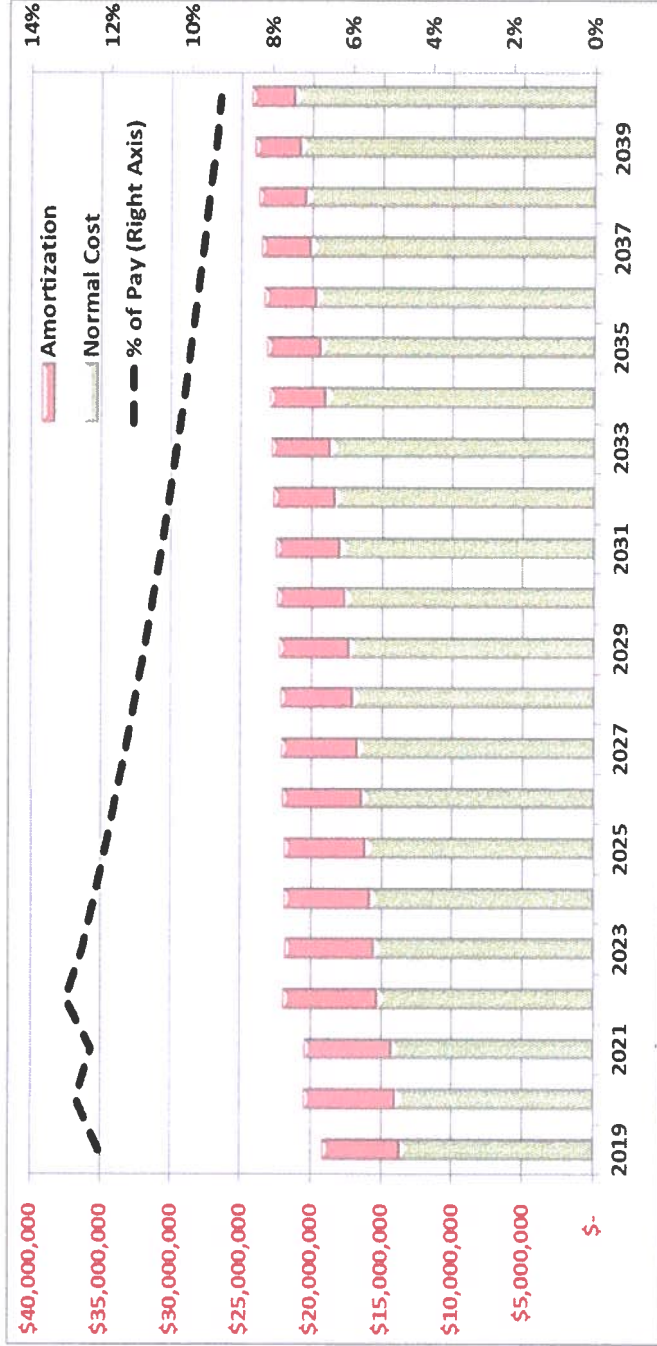
Assumptions

- Future investment returns = 6.90%
- Payroll increases = 2.5%
- No future gains or losses

Contribution Projection

M-NCPPC: Baseline for 3 Years and Updated Mortality Tables after 3 Years

M-NCPPC Employees' Retirement System
20 Year Projection of Funding Progress



- Assumptions**
- Future investment returns = 6.90%
 - Payroll increases = 2.5%
 - No future gains or losses

Total Contribution = Normal Cost + Amortization



Questions?

MEMORANDUM



EMPLOYEES' RETIREMENT SYSTEM
 The Maryland-National Capital Park and Planning Commission
 6611 Kenilworth Avenue, Suite 100
 Riverdale, Maryland 20737

(301) 454-1415 - Telephone
 (301) 454-1413 - Facsimile
<http://ers.mncppc.org>

BOARD OF TRUSTEES

Chairman Elizabeth M. Hewlett
 Vice Chairman Gerald R. Cichy

Andrea L. Rose
 Administrator

Howard Brown
 Rick Liu
 Sheila Morgan-Johnson
 Joseph C. Zimmerman, CPA

Pamela F. Gogol
 Amy Millar
 Barbara Walsh

To: The Commission Date: November 6, 2018

Via: Elizabeth M. Hewlett,
 Chairman, ERS Board of Trustees *[Signature]*

From: Andrea L. Rose, ERS Administrator *[Signature]*

Subject: Acknowledge Melissa D. Ford as the Prince George's County Open Trustee to the Board of Trustees of the term ending June 30, 2021

RECOMMENDATION

On behalf of the Board of Trustees ("Board") of the Maryland-National Capital Park and Planning Commission ("Commission") Employees' Retirement System ("ERS"), I respectfully request the Commission acknowledge Melissa D. Ford as the Prince George's County Open Trustee for the term ending June 30, 2021.

BACKGROUND

There has been a vacancy since July 2018 in the Prince George's County Open Trustee seat due to Alicia Hart's resignation from the Commission. In accordance with election procedures, three Notices of Election were placed in Update, on the ERS' and the Commission's websites with applications due in the ERS Office, August 24, 2018, September 21, 2018, and October 19, 2018, respectively. No applications were received for the first and second Notices of Election. Melissa D. Ford submitted an application following the third Notice of Election. No other applications were received. Ms. Ford is determined to have won by acclamation. At its November 6, 2018 meeting, the Board acknowledged Ms. Ford as the Prince George's County Open Trustee for the remainder of the term ending June 30, 2021.

Ms. Ford has worked for the Prince George's County Department of Parks & Recreation for eight years and is presently the Acting Budget Manager. Ms. Ford currently attends the University of Maryland and is a candidate for graduation this December with a graduate degree in Financial Management.

Thank you for your action.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

November 21, 2018

TO: The Maryland-National Capital Park and Planning Commission

VIA: Anju Bennett, Acting Executive Director
William Spencer, Human Resources Director

FROM: Jennifer McDonald, Benefits Manager
AmberLace Moore, Corporate Wellness Coordinator

SUBJECT: Reporting on Healthy Vending Machine Policy (Information Purposes Only)

Background

On March 15, 2017, the Maryland-National Capital Park and Planning Commission (Commission) adopted Resolution 17-02 (Attachment A) for the purpose of regulating food and beverage vending machines located on Commission property. The Resolution established a Healthy Vending Machine Policy (Policy) that meets certain nutritional standards and reporting requirements. The policy is consistent with policies adopted in both Prince George’s and Montgomery Counties. Section III (a) of the Policy states that all new vending machine service contracts and all vending machine service contract renewals entered into after July 1, 2017 shall comply with the requirements. Section VI (b) further states that each Department shall monitor compliance and issue a report to the Commission on the first anniversary of the Resolution, March 17, 2018. The Departments were charged with implementing this Policy upon entering into a new contract or renewing an existing contract and reporting on progress made to date.

This memo is provided for information purposes at this time as the assigned committee is continuing to implement contract requirements. We will provide an update as the committee finalizes requirements for vendor contracts. Meanwhile, should Commissioners desire further discussion of this item, staff can return to provide a briefing.

Reporting Compliance

Section VI (b) of the Policy states that the first report to the Commission shall include:

- (1) An assessment of Department compliance with this Policy;
- (2) Successes, challenges, and barriers experienced in implementation; and
- (3) Recommendations for improvement of the standards and compliance.

A committee consisting of the individuals who manage the various vending machine contracts and representatives from CAS-Purchasing, CAS-Legal and CAS-DHRM have had discussions about implementing the new standards. The focus of those discussions was on conducting a Commission-wide Request for Proposal (RFP) and developing language to include in existing and new contracts. Although some of the current contracts are month to month, the healthy vending requirements have not been incorporated into any existing contracts. However, it has been reported that the vending companies have been voluntarily including healthy items in their offerings. A separate work group, consisting of representatives from each Department, was established on July 26, 2018 to explore options for entering into new contracts. The members of the work group are, Donna Calcote (Legal Department), Jana Harris (Purchasing Division), Nakiia Buyck (Prince George's Parks and Recreation), Christine McGrew (Montgomery County Planning), Bryan Anthony (Prince George's Parks and Recreation), and David Alexander (Montgomery County Parks).

Reporting Updates

The goal of the Work Group was to:

1. Identify all active vending contracts that are subject to Resolution 17-02;
2. Identify methods to procure vendors (i.e. competitive or non-competitive solicitation);
3. Develop a contract template incorporating Resolution 17-02 healthy vending standards;
4. Negotiate with vendors for new contracts, incorporating healthy vending standards.

The group met on several occasions, with the last meeting occurring on Wednesday October 24th, to work toward meeting the above referenced goals. The Work Group has:

- Identified all active vending contracts that are subject to Resolution 17-02;
- Identified methods to procure vendors;
 - Conduct our own solicitation;
 - Bridge/ride an existing contract/solicitation;
 - Enter into direct contracts with vendors
- Developed a contract template that incorporates Resolution 17-02 healthy vending standards;

The Work Group has decided to bridge the existing contracts that Prince George's County Government has with two vending machine companies, Compass Vending d/b/a Canteen vending Services and Royale Dining Services. These contracts will cover vending machines in both Prince George's and Montgomery counties. The Purchasing Division anticipates scheduling meetings shortly with these vendors to discuss the process of implementing the new healthy standards machines throughout Commission facilities. Contracts with the companies that service the ice cream vending machines will be exempt from the healthy vending standards.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC RESOLUTION NO. 17-02

ADOPTION OF HEALTHY VENDING MACHINE POLICY

WHEREAS, According to the Centers for Disease Control and Prevention, 112,000 Americans die each year due to diseases such as heart disease, cancer, stroke and diabetes – diseases linked to poor nutrition, excess weight, and lack of physical activity; and

WHEREAS, One-third of all White children and half of all African-American and Latino children born today will likely develop type 2 diabetes in their lifetimes, according to the Centers for Disease Control and Prevention. Undiagnosed or uncontrolled diabetes can lead to debilitation, blindness, serious heart and kidney complications, amputations, and even death; and

WHEREAS, According to the American Academy of Pediatrics, the percentage of teenagers who were diagnosed with type 2 diabetes or pre-diabetes soared from 9% in 1999 to 23% in 2008; and

WHEREAS, Prevention and management of chronic disease is essential for improving the overall health, life expectancy, and quality of life for all patrons and employees of the Maryland-National Capital Park and Planning Commission (“M-NCPPC”); and

WHEREAS, M-NCPPC spends \$25 million each year to fund its employee health insurance program and invests additional dollars in its employee wellness program. Reducing chronic diseases through improvements to M-NCPPC’s food environment may help improve employee health and reduce taxpayer costs; and

WHEREAS, According to the Centers for Disease Control and Prevention and other health experts, small steps, like making healthier food and beverages more widely available in vending machines, can help reduce Type 2 diabetes, obesity, and other chronic diseases; and

WHEREAS, the Commission desires to adopt a policy that promotes healthy eating by requiring healthy choices be included in vending machines on M-NCPPC property.

NOW THEREFORE, BE IT RESOLVED that the Maryland-National Capital Park and Planning Commission hereby adopts a policy setting goals and standards for the availability of healthy choices in vending machines on M-NCPPC property as reflected in ATTACHMENT 1 attached hereto; and

BE IT FURTHER RESOLVED that the Commission does hereby authorize the Executive Director and Department Directors to take action as may be necessary to implement this resolution.

HEALTHY VENDING MACHINE POLICY**I. Universal Vending Machine Requirements**

- (a) The following criteria must be met by all items offered in vending machines.
- (1) Any packaged food and beverage item offered shall contain no more than:
- (A) 0.5 grams of trans-fat per serving; and
 - (B) 200 milligrams of sodium per package.
- (2) Any beverage container offered shall contain no more than:
- (A) 250 calories; and
 - (B) 20 fluid ounces.

II. Healthy Vending Standards

- (a) Healthy Food Choices shall meet the following specifications:
- (1) Individual healthy food choices offered in vending machines must meet the following criteria:
- (A) No more than 200 calories per package;
 - (B) Less than 35% of total calories from fat except for foods containing 100% nuts or seeds with no added fats;
 - (C) Less than 10% of calories from saturated fat; and
 - (D) No more than 35% of calories from total sugars except for 1%, 2%, or non-fat dairy products, non-dairy milk products, fruits and vegetables.
- (2) At least one healthy food choice offered must meet the Food and Drug Administration’s definition of “low sodium” (<140 mg per serving).
- (3) Sugarless chewing gum and mints also meet healthy food choices specifications.
- (b) Healthy Beverage Choices shall meet the following specifications:
- (1) Individual Healthy Beverage Choices offered in vending machines must contain fewer than 40 calories per serving unless specified below.
- (2) The following beverages also meet Healthy Beverage Choices nutritional standards even though they exceed 40 calories per serving: Fat-free milk; 1% low fat dairy milk; Calcium or vitamin D fortified soy milk with less than 200 calories per container; packages containing 12 ounces or less of 100% fruit juice, vegetable juice

or fruit juice combined with water with no added caloric sweeteners and no more than 200 milligrams of sodium per container.

(3) Vegetable juice must contain <230 milligrams of sodium per serving.

III. Healthy Vending Contract Requirements

- (a) All new vending machine service contracts and all vending machine service contract renewals entered into after July 1, 2017 shall require that:
 - (1) At least 50% of the food and beverage items offered in vending machines meet the requirements listed in Section (II) above.
- (b) The agency will strive to increase the 50% (percentage) in subsequent years.

IV. Product Placement

- (a) Healthy Food or Beverage Choices shall:
 - (1) Be displayed in a way that is easily distinguishable from food and beverages that do not meet Healthy Vending Standards listed in Section (II) above; and
 - (2) Be stocked in positions with highest selling potential.
- (b) Water without added caloric sweeteners is required to be stocked in beverage machines.
- (c) Beverages that do not meet the Healthy Vending Standards listed in Section (II) above shall be placed in positions with the lowest selling potential.

V. Pricing and Labeling

- (a) Food and beverage items that meet the Healthy Vending Standards in Section (II) must be comparatively priced or less expensive than products that do not meet the standards.
- (b) All vending machines shall display nutritional labeling that, at a minimum, complies with the standards for nutritional labeling set forth in 21 CFR, sections 101 and 109, as may be amended from time to time.

VI. Compliance, Evaluation and Reporting

- (a) To assist and oversee the implementation of the nutrition and procurement standards required by this policy, each Department Head shall designate a staff person within the

Department to disseminate information and train M-NCPPC staff and vendors on the standards to support compliance.

(b) Each Department shall monitor compliance and issue a report to the Commission on the first anniversary of this Resolution and at least every other year. The report shall include:

- (1) An assessment of Department compliance with this policy;
- (2) Successes, challenges, and barriers experienced in implementation; and
- (3) Recommendations for improvement of the standards and compliance.

(c) Future requests for bids and contracts for the procurement or provision of covered food and beverages shall incorporate the requirements of this policy. To facilitate monitoring and compliance with the requirements of this policy, future requests for bids and contracts for covered food and beverages shall require accurate and timely financial reports from vendors, provide for periodic reviews or audits of financial records, and include specific breach of contract and enforcement provisions relating to the requirements of this policy.

(d) Evaluation and reporting shall meet the following:

(1) At the end of the first year, June 30, 2018, the M-NCPPC will evaluate the results of the program and will assess what the new goals and standards should be, effective July 1, 2019.

(2) Before July 1, 2019, the M-NCPPC will provide a report to the Commission on the assessment of the program. Depending on the results of the assessment, the agency will strive to increase the healthy vending product requirements to a percentage greater than 50%.

(3) The agency will conduct a study of the number of products in vending machines that have artificial sweeteners and provide research data on the long-term effects of the use of artificial sweeteners. Depending on the results of the research, requirements regarding the use of artificial sweeteners may be added to the Healthy Vending Machine policy. A report will be presented to the Commission by July 1, 2018.

(e) From time to time but at least once every five (5) years, the Health and Benefits Office shall review, and if necessary, update the Healthy Vending Standards in Section (II) to reflect advancements in nutrition science, dietary data, new product availability, and/or updates to the Dietary Guidelines for Americans.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

DATE: November 21, 2018

TO: The Maryland-National Capital Park & Planning Commission

VIA: Anju A. Bennett, Acting Executive Director
William Spencer, HR Director

FROM: AmberLace Moore, Corporate Wellness Coordinator
Jennifer McDonald, Benefits Manager

SUBJECT: Artificial Sweeteners and Sugar Substitute Effects on Health (Information Purposes Only)

Background:

During the presentation in March 2017, Commissioner Geraldo requested that research be conducted on the effects of the use of sugar alternatives and substitutes. The purpose of the research was to determine if we need to amend the Healthy Vending Policy to address the use of artificial sweeteners. Currently, at least 50% of the food and beverage items offered in vending machines must meet the requirements listed in Section (II) of the Healthy Vending Machine Policy (See Attachment 1). The following is a summary of our findings.

Findings:

Based on our review of published research there are no consistent findings on the use of artificial sweeteners related to the effects on health. Furthermore, the FDA has approved the use of six artificial sweeteners including Saccharin (Sweet'N Low), Aspartame (Equal), Acesulfame Potassium (Sunnet), Sucralose (Splenda), Neotame (Newtame) and Advantame in food products. We suggest that offerings in our vending machines should not exclude snacks with artificial sweeteners until research findings are more consistent in showing negative effects on health.

Research was conducted on published studies issued on the long-term effects of artificial sweeteners on the body. Studies spanning the past 40 years have suggested alternately that sugar-substitutes may be 'potentially *helpful*,' 'potentially *harmful*,' or have 'unclear effects' regarding health. Evidence states that people who *frequently* consume sugar substitutes may be at an increased risk health issues (Scutti, 2013). Dr. Heather Tick (2016), explains that artificial

sweeteners are very addictive when consumed on a frequent basis. At this consumption level artificial sweeteners also cause inflammation, increase your insulin response, and can make you eat more and lead to obesity (Tick, 2016).

The FDA considers artificial sweeteners to be safe especially when consuming the acceptable daily intake (ADI). The FDA has established an “acceptable daily intake” (ADI) for each of the products. This represents the amount of a food ingredient that can be used safely daily over a lifetime without risk (Cleveland Clinic Health, 2013). Sugar substitutes are beneficial to individuals with type 2 diabetes. These individuals may choose to consume foods and beverages containing artificial sweeteners vs. those with added sugars as these sweeteners will affect blood sugars to a much smaller extent (Cleveland Clinic Health, 2013).

When exceeding the ADI, long-term effects that *may* occur after frequent consumption (1 beverage per day) of artificial sweeteners, include a negative effect on the brain, diabetes 2, hypertension and cardiovascular disease, weight gain and weight loss. Short term effects which may occur, include addiction, anxiety, dizziness, headaches, memory loss, mood swings, acne, bladder problems, bloating, stomach pain, migraines, muscle pain, skin rashes, and swelling (Scutti, 2013).

Research supporting that artificial sweeteners may cause long-term effects:

- Written in The Nutrition Source, artificial sweeteners affect the body’s ability to gauge how many calories are being consumed. The human brain responds to sweetness with signals to eat more. Therefore, giving the body sweetness without any calories (zero calories) **this causes humans to crave more sweet foods and drinks which leads to excess calories and weight gain.**
- Similarly, research suggest that artificial sweeteners may prevent humans from associating sweetness with caloric intake. Therefore, we may crave more food and less nutritious foods. Holly Strawbridge (2018) of Harvard Health also supports this factor, stating that research suggests that artificial sweeteners may prevent humans from associating sweetness with caloric intake. **As a result, we may crave more sweets, tend to choose sweet food over nutritious food, and gain weight.**

For more detail on weight gain see the video Artificial Sweeteners are Linked to Weight Gain not Weight Loss on Time Health <http://time.com/4859012/artificial-sweeteners-weight-loss/>

- According to, Harvard T.H. Chan, School of Public Health, artificial sweeteners cause the following effects on health:

- Sugary drinks (containing artificial sweeteners) **increase the risk of type 2 diabetes, heart disease and other chronic conditions**
- People who consume 1 to 2 cans per day of sugary drinks (containing artificial sweeteners) have a 26% greater risk of developing type 2 diabetes.
- A study of men who averaged one or more cans of artificial sugary drinks per day for two decades had a **20% higher risk of having a heart attack or dying from a heart attack** than men who rarely consumed artificial sugary drinks.
- According to Dr. Michael F. Jacobson some people develop **headaches** after consuming foods sweetened with **aspartame**. Research conducted by Tandel (2011), shows that aspartame has seizure-promoting activity in animals.
- **There is some ongoing controversy over whether artificial sweeteners usage poses health risks.** A study done in 2005 by the University of Texas Health Science Center at San Antonio showed that, rather than promoting weight loss, the use of diet drinks was a **marker for increasing weight gain and obesity**. Those who consumed diet soda were more likely to gain weight than those who consumed naturally-sweetened soda. **Animal studies have convincingly proven that artificial sweeteners cause body weight gain.**
- Sugar substitutes also affects dental care. It is shown that sugary drinks containing sugar substitutes such as sucrose can lead to dental decay. (Tandel, 2011).

Research supporting that artificial sweeteners may not cause long-term effects:

- According to The Nutrition Source, 2011 findings from the American Heart Association and American Diabetes Association conclude that **when used judiciously**, artificial sweeteners, low calorie sweeteners and non-calorie sweeteners **“might”** help with weight loss and could have beneficial metabolic effects.
- According to the National Cancer Institute there’s **no scientific evidence** that any of the artificial sweeteners approved for use in the U.S. cause cancer
- Sucralose is **considered safe** for all segments of the population including people with chronic health problems such as diabetes. (Tandel, 2011)

According to Tandel (2011), in 1998, acesulfame K was approved by the US Food & Drug Administration for use in liquid non-alcoholic beverages and in 2003, general use approval was granted. The Joint Expert Committee on Food Additives (JECFA), the scientific advisory body to the World Health Organization and Food and Agriculture Organization of the United Nations, reviewed the available research on acesulfame K and stated that it is safe. Commonly found in chewing gum, beverages, marinades, ice cream, toothpaste, mouthwash and more.

References

Cleveland Clinic Health. (2013). Diabetes, sugar substitutes and nonnutritive sweeteners. Posted on February 11, 2013. Retrieved from <https://my.clevelandclinic.org/health/articles/15166-diabetes-sugar-substitutes--nonnutritive-sweeteners>

Scutti, S. (2013). “4 Dangerous effects of artificial sweeteners on your health”. Posted on July 10, 2013. Retrieved from <https://www.medicaldaily.com/4-dangerous-effects-artificial-sweeteners-your-health-247543>

Strawbridge, H. (2018). “Artificial sweeteners: Sugar free, but at what cost?” Harvard Health Publishing. Harvard Medical School. Posted July 16, 2012. Updated January 08, 2018. Retrieved from <https://www.health.harvard.edu/blog/artificial-sweeteners-sugar-free-but-at-what-cost-201207165030>

Swithers, S. (2016). Not-so-healthy sugar substitutes?. *Current opinion in behavioral sciences*, 9, 106-110. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4846275/>

Tandel, K. R. (2011). Sugar substitutes: Health controversy over perceived benefits. *Journal of Pharmacology & Pharmacotherapeutics*, 2(4), 236–243. Retrieved from <http://doi.org/10.4103/0976-500X.85936>

The Nutrition Source. (n.d): Artificial Sweeteners. Retrieved from <https://www.hsph.harvard.edu/nutritionsource/healthy-drinks/artificial-sweeteners/>

Tick, H. (2016). Severe side effects of artificial sweeteners. Posted on November 21, 2016. Retrieved from <http://heathertickmd.com/severe-side-effects-of-artificial-sweeteners/>

HEALTHY VENDING MACHINE POLICY**I. Universal Vending Machine Requirements**

- (a) The following criteria must be met by all items offered in vending machines.
- (1) Any packaged food and beverage item offered shall contain no more than:
- (A) 0.5 grams of trans-fat per serving; and
 - (B) 200 milligrams of sodium per package.
- (2) Any beverage container offered shall contain no more than:
- (A) 250 calories; and
 - (B) 20 fluid ounces.

II. Healthy Vending Standards

- (a) Healthy Food Choices shall meet the following specifications:
- (1) Individual healthy food choices offered in vending machines must meet the following criteria:
- (A) No more than 200 calories per package;
 - (B) Less than 35% of total calories from fat except for foods containing 100% nuts or seeds with no added fats;
 - (C) Less than 10% of calories from saturated fat; and
 - (D) No more than 35% of calories from total sugars except for 1%, 2%, or non-fat dairy products, non-dairy milk products, fruits and vegetables.
- (2) At least one healthy food choice offered must meet the Food and Drug Administration’s definition of “low sodium” (<140 mg per serving).
- (3) Sugarless chewing gum and mints also meet healthy food choices specifications.
- (b) Healthy Beverage Choices shall meet the following specifications:
- (1) Individual Healthy Beverage Choices offered in vending machines must contain fewer than 40 calories per serving unless specified below.
- (2) The following beverages also meet Healthy Beverage Choices nutritional standards even though they exceed 40 calories per serving: Fat-free milk; 1% low fat dairy milk; Calcium or vitamin D fortified soy milk with less than 200 calories per container; packages containing 12 ounces or less of 100% fruit juice, vegetable juice

or fruit juice combined with water with no added caloric sweeteners and no more than 200 milligrams of sodium per container.

(3) Vegetable juice must contain <230 milligrams of sodium per serving.

III. Healthy Vending Contract Requirements

- (a) All new vending machine service contracts and all vending machine service contract renewals entered into after July 1, 2017 shall require that:
 - (1) At least 50% of the food and beverage items offered in vending machines meet the requirements listed in Section (II) above.
 - (b) The agency will strive to increase the 50% (percentage) in subsequent years.

IV. Product Placement

- (a) Healthy Food or Beverage Choices shall:
 - (1) Be displayed in a way that is easily distinguishable from food and beverages that do not meet Healthy Vending Standards listed in Section (II) above; and
 - (2) Be stocked in positions with highest selling potential.
- (b) Water without added caloric sweeteners is required to be stocked in beverage machines.
- (c) Beverages that do not meet the Healthy Vending Standards listed in Section (II) above shall be placed in positions with the lowest selling potential.

V. Pricing and Labeling

- (a) Food and beverage items that meet the Healthy Vending Standards in Section (II) must be comparatively priced or less expensive than products that do not meet the standards.
- (b) All vending machines shall display nutritional labeling that, at a minimum, complies with the standards for nutritional labeling set forth in 21 CFR, sections 101 and 109, as may be amended from time to time.

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- (a) To assist and oversee the implementation of the nutrition and procurement standards required by this policy, each Department Head shall designate a staff person within the

Department to disseminate information and train M-NCPPC staff and vendors on the standards to support compliance.

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**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE
BY DEPARTMENT AS OF OCTOBER 2018**

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	Sep-18	Oct-18	Sep-18	Oct-18	Sep-18	Oct-18	Sep-18	Oct-18
CHAIRMAN, MONTGOMERY COUNTY	0	0	0	0	0	0	0	0
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	1	1	0	0	0	0	1	1
OFFICE OF INSPECTOR GENERAL	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	1	0	0	0	0	0	1	0
LEGAL DEPARTMENT	1	3	1	1	0	0	2	4
FINANCE DEPARTMENT	1	1	0	0	0	0	1	1
PRINCE GEORGE'S PLANNING	5	2	1	1	0	1	6	4
PRINCE GEORGE'S PARKS & RECREATION	15	17	2	9	0	0	17	26
MONTGOMERY COUNTY PARKS	12	8	0	6	1	1	13	15
MONTGOMERY COUNTY PLANNING	7	5	1	0	0	0	8	5
DEPARTMENT TOTAL BY DAYS LATE	43	37	5	17	1	2		
COMMISSION-WIDE TOTAL							49	56

**DEPARTMENTS WITH RATINGS MORE THAN 60 DAYS LATE HAVE BEEN CONTACTED.

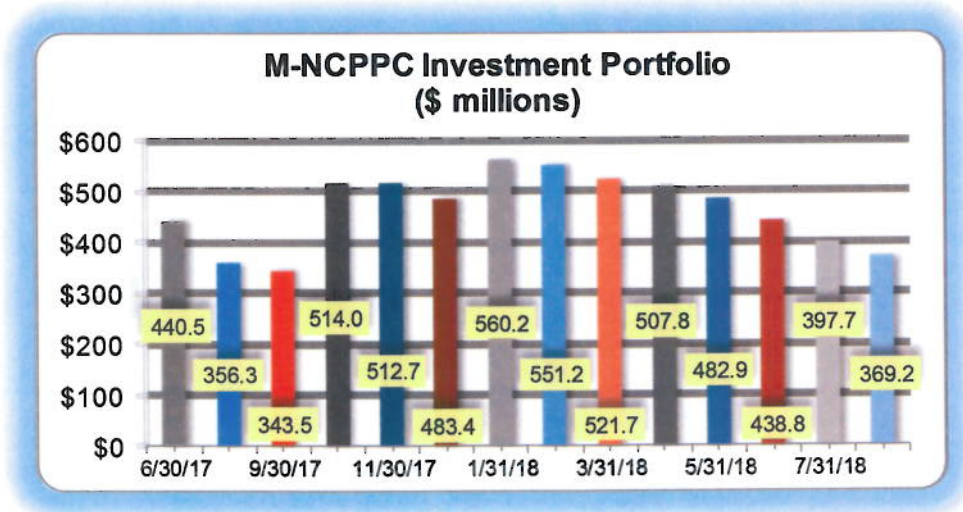
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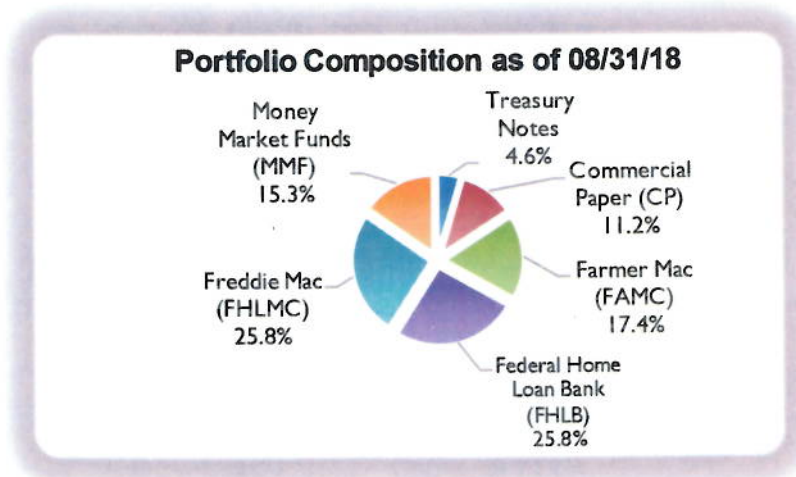
MEMO

TO: Commissioners
VIA: Joseph Zimmerman, Secretary-Treasurer
FROM: Abbey Rodman, Finance Manager
DATE: 10/12/2018
SUBJECT: Investment Report – August 2018

The Commission’s pooled cash investment portfolio totaled \$369.2 million as of August 31, 2018, with a 7.9% decrease from July 31, 2018. Details are as follows:

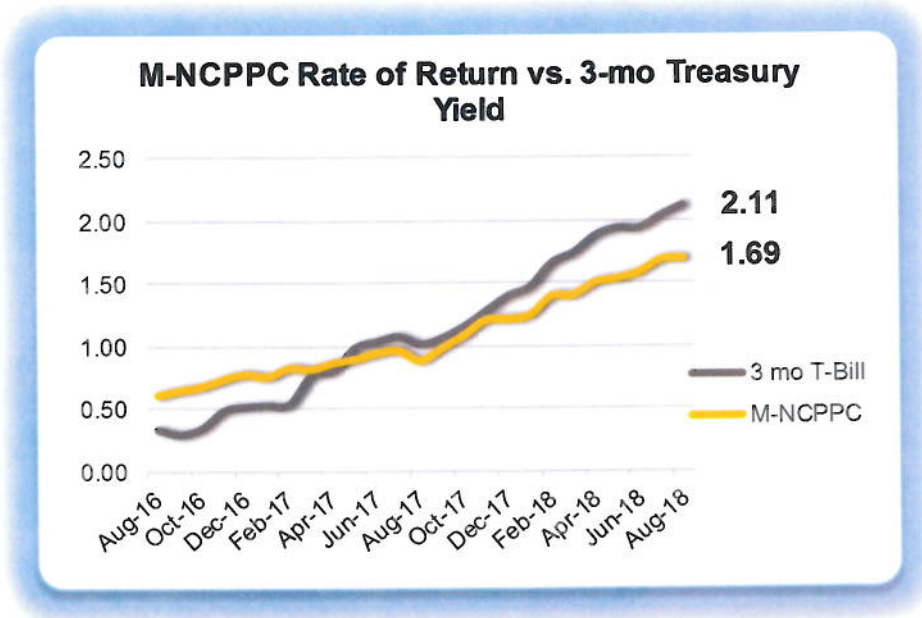


The composition of the pooled cash portfolio as of August 31, 2018 is summarized below:

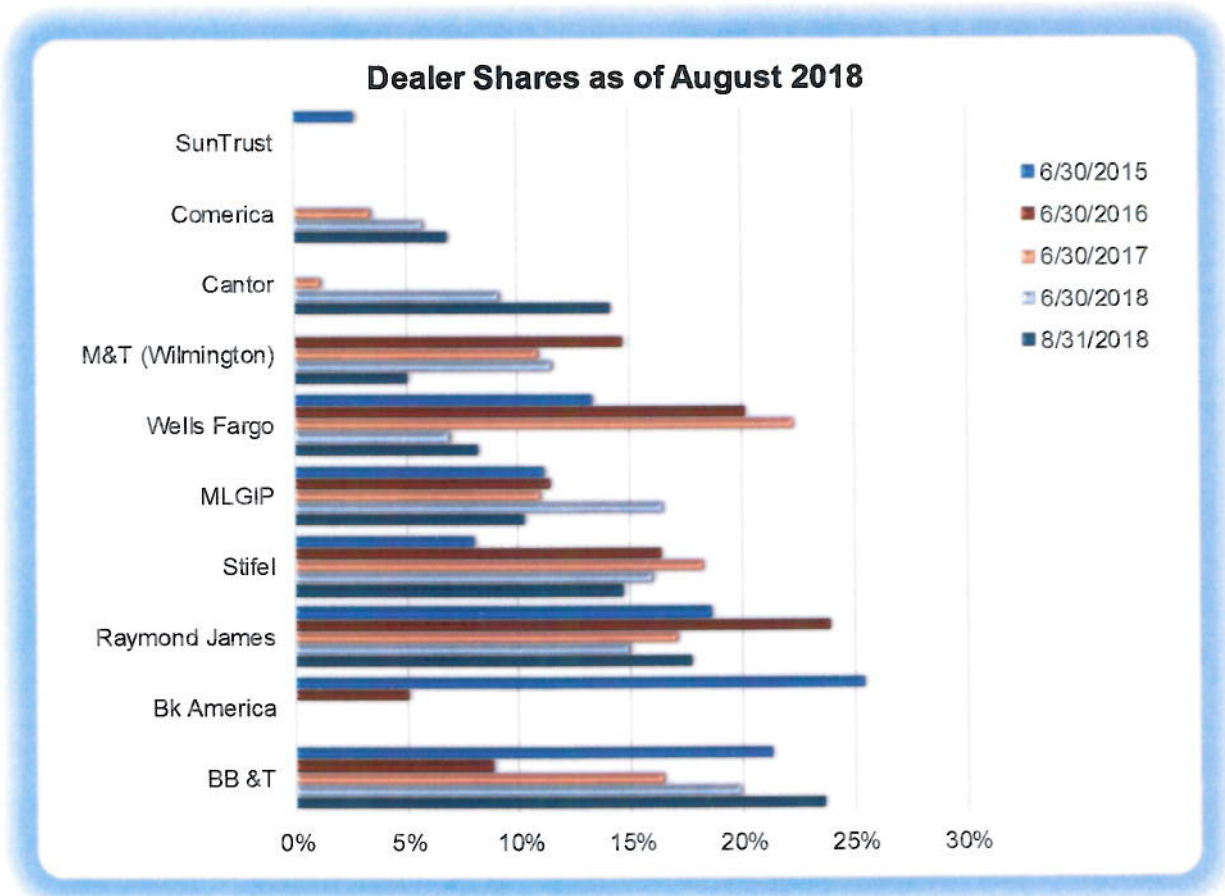


Current Investment Portfolio - August 2018				
Instrument	Policy Limit	Actual	Par Value	Wtd. Avg. Return (B/E)
Federal Home Loan Banks	20%	26%	\$ 95,000,000	1.60%
Freddie Mac	20%	26%	95,000,000	1.49%
Famer Mac	20%	17%	64,000,000	1.72%
Money Funds	25%	15%	56,193,465	n/a
Commercial Paper	10%	11%	42,000,000	2.74%
Treasury Notes	100%	5%	17,000,000	1.07%
Federal Farm Credit Bureau	20%	0%	-	
Fannie Mae	20%	0%	-	
Certificates of Deposit	50%	0%	-	
Bankers Acceptances	50%	0%	-	
Repurchase Agreements	60%	0%	-	
			\$ 369,193,465	1.69%

The pooled cash portfolio complied with all policy limits with regard to product types and proportions throughout the month.



In addition to the product limits, portfolio purchases also adhered to the 30% limit per dealer. Dealer participation is shown below:



The market values of unspent debt balances (invested by T. Rowe Price) were as follows:

Market Value - August 2018	
Prince George's County (PGC-2017A)	\$ 16,522,355
<u>\$ 16,522,355</u>	

The Commission had no debt service payments during the month.

Details by issue of debt outstanding as of August 31, 2018 appear below:

Debt Balances - August 2018					
	Initial Par	Amount Outstanding	% Outstanding	Issue Date	Maturity Date
Bi-County					
Total Bi-County	\$ -	\$ -	0%		
Prince George's County					
NN-2 (Refunded Z-2)	14,080,000	4,070,000	29%	Mar-10	May-21
PGC-2012A (Refunded P-2, M-2, EE-2)	11,420,000	5,225,000	46%	Jun-12	Jan-24
PGC-2014A	26,565,000	22,400,000	84%	May-14	Jan-34
PGC-2015A (Refunded JJ-2)*	24,820,000	23,135,000	93%	Oct-15	Jan-36
PGC-2017A	33,000,000	31,350,000	95%	Jul-17	Jan-37
Total Prince George's County	\$ 109,885,000	\$ 86,180,000	78%		
Montgomery County					
LL-2	8,405,000	1,710,000	20%	May-09	Nov-20
MM-2	5,250,000	525,000	10%	May-09	Nov-19
MC-2012A (Refunded CC-2, FF-2)	12,505,000	9,185,000	73%	Apr-12	Dec-32
MC-2012B	3,000,000	2,375,000	79%	Apr-12	Dec-32
MC-2014A	14,000,000	11,970,000	86%	Jun-14	Jun-34
MC-2016A	12,000,000	11,140,000	93%	Apr-16	Nov-35
MC-2016B (Refunded FF-2, II-2, MM-2)	6,120,000	5,940,000	97%	Apr-16	Nov-28
MC-2016C (Refunded FF-2 ALA of 2004)	1,075,000	885,000	82%	Apr-16	Nov-24
MC-2017A	8,000,000	7,600,000	95%	Apr-17	Nov-36
Total Montgomery County	\$ 70,355,000	\$ 51,330,000	73%		
Total	\$ 180,240,000	\$ 137,510,000	76%		

ATTACHMENT A

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 REPORT ON COMPLIANCE TO INVESTMENT POLICY Approved March 21, 2012
 FISCAL YEAR 2019 - August 31, 2018

OBJECTIVES			Met Objective	Within Limits	Comments
Protection of principal			Yes		
Limiting types and amounts of securities	Limit			Yes	
US Government		100%			
US Federal Agencies - combined		60%			
US Federal Agencies - each		20%			
Repurchase Agreements		60%			
.					
CD's and Time Deposits		50%			
Commercial Paper		10%			
Money Market Mutual Funds		25%			
MD Local Gov't Investment Pool		25%			
Investing Bond Proceeds:					
State and local agency securities		100%			
Money Market Mutual Funds		10%			
Bond Proceeds:					
Highly-rated state / local agency securities				Yes	T. Rowe Price managed all funds within limits
Highly-rated money market mutual funds					
(Max. 10% in lower-rated funds)					
Pre-qualify financial institutions, broker/dealers, intermediaries and advisers				Yes	All firms must meet defined capital levels and be approved by the Secretary-Treasurer
Ensure competition among participants		30%		Yes	No dealer share exceeded 30%
Competitive Bidding				Yes	All purchases awarded competitively.
Diversification of Maturities					
Majority of investments shall be a maximum maturity of one (1) year. A portion may be as long as two years.				Yes	All maturities within limits
Require third-party collateral and safekeeping, and delivery-versus-payment settlement				Yes	M&T Investments serves as custodian, monitoring compliance daily
Maintain sufficient liquidity			Yes		Sufficient funds available for all cash requirements during period
Attain a market rate of return			No		Less than market by 42 basis points
The pro-rated rates of return for the portfolio and T-bills were 2.11% and 1.69%, respectively.					

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MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

FROM: Adrian R. Gardner
General Counsel

RE: Litigation Report for October 2018 – FY 2019

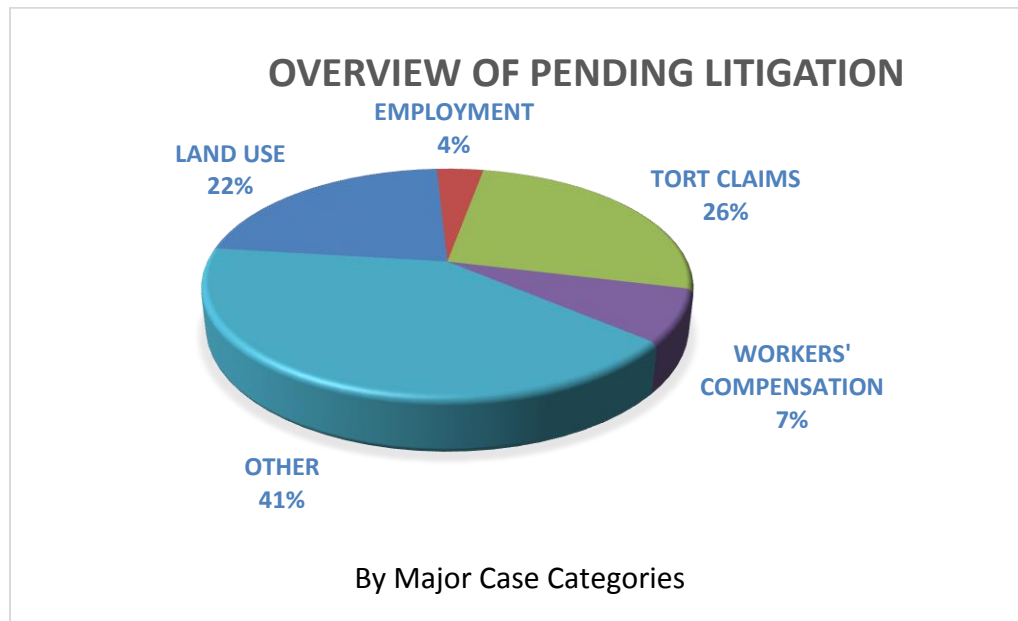
Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, November 21, 2018. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

Table of Contents – September 2018 – FY 2019 Report

Composition of Pending Litigation.....	Page 01
Overview of Pending Litigation (Chart).....	Page 01
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Litigation Report Ordered by Court Jurisdiction	Page 09

October 2018
Composition of Pending Litigation
(Sorted By Subject Matter and Forum)

	State Trial Court	Federal Trial Court	Maryland COSA	Maryland Court of Appeals	Federal Appeals Court	U.S. Supreme Court	Subject Matter Totals
Admin Appeal: Land Use	2	-	3	1	-	-	6
Admin Appeal: Other	-	-	-	-	-	-	-
Land Use Dispute	-	-	-	-	1	-	1
Tort Claim	7	-	-	-	-	-	7
Employment Dispute	-	-	1	-	-	-	1
Contract Dispute	2	-	1	1	-	-	4
Property Dispute	-	-	1	-	-	-	1
Civil Enforcement	-	-	-	-	-	-	-
Workers' Compensation	2	-	-	-	-	-	2
Debt Collection	-	-	-	-	-	-	-
Bankruptcy	-	-	-	-	-	-	-
Miscellaneous	1	-	2	1	-	1	5
Per Forum Totals	14	-	8	3	1	1	27



October 2018 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2018			
	Pending In Sept. 2018	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
Admin Appeal: Land Use (AALU)	2	4		3	4	1	6
Admin Appeal: Other (AAO)	-			0			-
Land Use Disputes (LD)	1			1			1
Tort Claims (T)	7			6	1		7
Employment Disputes (ED)	1			1			1
Contract Disputes (CD)	5		1	6	1	3	4
Property Disputes (PD)	2		1	2		1	1
Civil Enforcement (CE)	-			0			-
Workers' Compensation (WC)	2			2			2
Debt Collection (D)	-			0			-
Bankruptcy (B)	-			0			-
Miscellaneous (M)	5			4	1		5
Totals	25	4	2	25	7	5	27

**INDEX OF YTD NEW CASES
(7/1/2018 TO 6/30/19)**

A. <u>New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Gaspard v. Montgomery County Planning Bd.	MO	AALU	July 18
West Montgomery Citizens Association v. Montgomery County Planning Bd.	MO	AALU	July 18
State Farm v. Barney, et al.	MC	Tort	Aug 18
B. <u>New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Bradley Boulevard Citizens Assn., Inc. v. Montgomery County Planning Board	MO	AALU	July 18
Town of Forest Heights v. Commission	PG	Misc.	July 18
Brooks v. Commission	PG	AALU	Aug 18
URS v. Commission	PG	CD	Aug 18
C. <u>New Supreme Court of the U.S. Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>

**INDEX OF YTD RESOLVED CASES
(7/1/2018 TO 6/30/19)**

<u>A. Trial Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Sauer, Inv. v. Commission	PG	CD	July 18
Commission v. D.L. Boyd	PG	CD	Aug 18
<u>B. Appellate Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Brooks v. Commission	PG	AALU	July 18
URS Corporation v. Commission	PG	CD	July 18
Rounds v. Montgomery County, MD, et al	MC	PD	Aug 18

Disposition of FY19 Closed Cases Sorted by Department		
CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources & Management		
Montgomery County Department of Planning		
Rounds v. Montgomery County, MD, et al.	Appeal from dismissal of claim for violations of the Maryland Constitution and declaratory relief concerning alleged Farm Road Easement	08/24/18 – Judgment of Circuit Court affirmed
Montgomery County Department of Parks		
Montgomery County Park Police		
Montgomery County Planning Board		
Prince George's County Department of Parks and Recreation		
Commission v. D.L. Boyd	Commission filed complaint for property damage to Commission property (mansion)	08/17/18 Case settled and dismissed.
Sauer, Inc. v. Commission	Plaintiff filed complaint for alleged delays and damages associated with the expansion of the Palmer Park Community Center in Prince George's County.	07/23/18 – Case settled and dismissed.
URS Corporation v. Commission	URS appealed the Circuit Court Decision entering judgment in favor of the Commission as a result of URS breach of duty to defend	07/06/18 – Judgment of Circuit Court affirmed
Prince George's County Planning Department		

Prince George's County Planning Board	Brooks v. Commission	Plaintiff appealed Planning Board ruling granting the departure from design standards in Prince George's County.	07/20/18 – Judgment of Circuit Court affirmed.
Prince George's Park Police			
Office of Internal Audit			

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DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Arnold v. Napier

Case No. 0502-0014579-2018 (Tort)

Lead Counsel: Foster
Other Counsel:

Abstract: Defense of claim for personal injury involving vehicle owned by Commission.

Status: In discovery.

Docket:

05/09/18	Complaint filed
06/07/18	Notice of Intention to Defend filed
09/07/18	Complaint Dismissed
09/10/18	Notice of 3-506 Dismissal

Commission v. McCoy

Case No. 0502-0025950-2017 (CD)

Lead Counsel: Foster
Other Counsel:

Abstract: Complaint for property damage to Commission's golf cart.

Status: Case stayed.

Docket:

08/31/17	Complaint filed
11/17/17	Case stayed pending settlement negotiations

Rivers v. Fitts

Case No. 0502-0009015-2018 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim for personal injury involving vehicle owned by Commission.

Status: Judgment for Plaintiff.

Docket:

03/22/18	Complaint filed
05/01/18	Answer to Complaint by Commission
05/03/18	Trial Postponed
07/5/18	Consent Motion to Postpone trial granted
09/26/18	Judgment for Plaintiff - \$23,183.89 plus costs

DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

State Farm Fire & Casualty Co. A/S/O Yuenyee Lee v. Barney, et al.

Case No. 0602-0008051-2018 (Tort)

Lead Counsel: Adams
Other Counsel:

Abstract: Defense of claim for property damage to home from tree on Commission property.

Status: Case settled.

Docket:

08/11/18	Complaint filed
08/14/18	Notice of Intent to Defend filed

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Bundu v. Bowman

Case No. CAL17-28259 (Tort)

Lead Counsel: Adams
Other Counsel:

Abstract: Defense of claim for personal injury involving motor vehicle accident in Prince George's County.

Status: In discovery.

Docket:

10/12/17	Complaint filed
11/02/17	Service of complaint on Commission
11/17/17	Answer to Complaint filed by Commission
03/28/18	Pretrial Conference continued
06/01/18	Pretrial Conference cancelled
06/04/18	Request to schedule two-day trial
01/22/19	Trial

Commission v. Clean Air Mechanical Inc., et al

Case No. CAL18-00211 (CD)

Lead Counsel: Adams
Other Counsel:

Abstract: Commission files complaint for breach of contract, fraud and misrepresentation arising out of purchase order for installation of three DDU units at Cabin John and Wheaton Ice rinks.

Status: In discovery.

Docket:

01/03/18	Case transferred to Circuit Court Prince George's County from Montgomery County (438017-V)
01/16/18	Answer to complaint and Motion to Dismiss and/or Motion for Summary Judgment filed by Defendants
02/02/18	Voluntary dismissal of Hudgins and Hardesty; Opposition to Motion for Summary Judgment filed; Amended Complaint filed
03/06/18	Motion to Dismiss, or in the Alternative, for Summary Judgment and Request for Hearing denied as Moot; matter shall continue in due course
05/14/18	Pretrial conference held
07/11/18	Counsel for Defendant's Motion to Withdraw appearance
07/30/18	Motion to Withdraw by Plaintiff's Counsel granted and Notice to Employ new counsel
02/11/19	Trial

Commission v. Ferrante
Case No. CAL 18-09401 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Appeal from WCC Order requiring MNCPPC to pay indemnity benefits corresponding to medical treatment.

Status: In discovery.

Docket:

04/17/18	Petition for Judicial Review filed
05/07/18	Commission files response to Petition for Judicial Review
06/19/18	Pretrial date rescheduled by consent
06/26/18	Order of Court rescheduling Pretrial Conference
07/09/18	Pretrial Conference cancelled
02/20/19	Trial

Diggs v. Robinson, et al
Case No. CAL17-40851(Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim for personal injury following an automobile accident.

Status: In discovery.

Docket:

12/20/17	Complaint filed
01/08/18	Defendant Robinson served via certified mail
01/29/18	Plaintiff files Amended Complaint
02/02/18	Answer to Complaint filed
04/02/18	Plaintiff's Expert Designation filed
06/21/18	Pretrial Conference held
01/04/19	Alternate Dispute Resolution Conference
03/06/19	Trial

Gutierrez v. Commission
Case No. CAL18-15226(Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim for personal injury following an automobile accident.

Status: In discovery.

Docket:

05/22/18	Complaint filed
06/15/18	Commission served
07/12/18	Commission filed Information Sheet
07/24/18	Answer filed
08/06/18	Scheduling Order filed
11/27/18	Pretrial Conference

Ross v. Commission
Case No. CAL18-12424 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant filed for judicial review of WCC Order.

Status: Pending trial.

Docket:

04/23/18	Petition for Judicial Review filed
05/04/18	Commission responds to Petition for Judicial Review
05/14/18	Commission's Cross-Petition for Judicial Review
06/01/18	WCC Notice of Cross Appeal
07/16/18	Commission's Motion for Partial Summary Judgment filed
07/24/18	Opposition to Motion for Partial Summary Judgment filed
09/06/18	Pretrial Conference
09/20/18	Motion for Partial Summary Judgment granted for additional credit. Trial remains set on issues of permanent total disability.
04/01/19	Trial

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Gaspard v. Montgomery County Planning Board

Case No. 451996-V (AALU)

Lead Counsel: Mills

Abstract: Petition for Judicial Review filed appealing the Planning Board's approval of Preliminary Plan 120160180 Glen Mill – Parcel 833

Status: Appeal noted.

Docket:

07/31/18	Petition(s) for Judicial Review filed
08/01/18	Notice of Filing
08/10/18	Commission's Response to Petition
08/14/18	Scheduling Order
08/31/18	Response of S. Vazer to Petition for Judicial Review
09/04/18	Motion to Consolidate with Case 452024-V
09/21/18	West Montgomery Citizens Association's response to Motion to Consolidate

Global Lifesci Development Corporation v. Montgomery County, et al.

Case No. 444115-V (Misc.)

Lead Counsel: Foster

Other Counsel: Dickerson

Abstract: Complaint for Declaratory Judgment, Quiet Title and Injunctive Relief.

Status: In discovery.

Docket:

03/12/18	Complaint filed
03/12/18	Motion for Summary Judgment filed
04/27/18	Commission served
06/07/18	Commission Answer filed
06/07/18	M-NCPPC response to Motion for Summary Judgment filed
06/29/18	Amended Complaint filed
06/29/18	Motion for Summary Judgment filed
08/14/18	Summary Judgment hearing removed
12.05/18	Summary Judgment hearing

Melara, et al. v. Evans

Case No. 439733-V(Tort)

(originally filed in District Court of Montgomery County 0601-0011991-2017)

Lead Counsel: Harvin
Other Counsel:

Abstract: Claim for personal injury following an automobile accident.

Status: In discovery.

Docket:

11/08/17	Case transferred from District Court
04/19/18	Pretrial conference held
05/24/18	Pre-trial/settlement conference held
05/24/18	Case Consolidated with Case No. 439733-V
05/25/18	Order of Consolidation – All future filings to be in this case
06/01/18	Answer of Erie Insurance and demand for Jury trial
07/02/18	Commission's Answer to Counter-Complaint
07/09/18	Substitution of Counsel for Defendant Evans
08/22/18	Pre-trial Statement filed by Commission
11/01/18	Pre-trial Conference
01/14/19	Trial

West Montgomery Citizens Association v. Montgomery County Planning Board

Case No. 452024-V (AALU)

Lead Counsel: Mills

Abstract: Petition for Judicial Review filed appealing the Planning Board's approval of Preliminary Plan 120160180 Glen Mill – Parcel 833

Status: Appeal noted.

Docket:

07/31/18	Petition(s) for Judicial Review filed
08/01/18	Notice of Filing
08/06/18	Commission's Response to Petition
08/15/18	Scheduling Order
08/31/18	Response of S. Vazer to Petition for Judicial Review
09/04/18	Motion to Consolidate with Case 451996
09/06/18	West Montgomery Citizen's Association's Opposition to Motion to Consolidate

MARYLAND COURT OF SPECIAL APPEALS

Bradley Boulevard Citizens Assn, Inc. v. Montgomery County Planning Board

September Term 2018, No. 1034 (AALU)
(Originally filed under 436463-V in Montgomery County)

Lead Counsel: Sorrento

Abstract: Petitioner appealed Montgomery County Circuit Court June 4, 2018 Order affirming the Planning Board's approval of WMAL Preliminary Plan 120160290.

Status: Scheduling Order pending.

Docket:

07/03/18	Civil Information Report filed
10/26/18	Order Appeal to proceed without a prehearing conference or ADR

Burnette v. Commission

September Term 2017, No.2258 (ED)
(Originally filed under CAL16-35180 in Prince George's County)

Lead Counsel: Adams
Other Counsel:

Abstract: Former park police officer appealed Circuit Court ruling affirming Administrative Hearing Board decision to terminate.

Status: Appeal filed.

Docket:

01/23/18	Notice of Appeal
05/29/18	Appellant's Brief filed
06/26/18	Commission filed Brief
02/21/19	Oral Argument

Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board

September Term 2017, Case No. 2568 (AALU)
(Originally filed under 433722-V in Montgomery County)

Lead Counsel: Mills

Abstract: Petitioner appealed Montgomery County Circuit Court January 29, 2018 Order affirming the Planning Board's approval of RCCG Jesus House Preliminary Plan 120160040.

Status: Appeal filed

Docket:

03/01/18	Civil Information Report filed
03/23/18	Order Appeal to proceed without a prehearing conference or ADR
05/17/18	Scheduling Order
05/21/18	Docket entries for Circuit Court case
05/29/18	Stipulated Briefing Schedule
09/18/18	Appellant's Brief and Record Extract filed
12/14/18	Appellee and Intervenor Briefs due
02/15/19	Reply Brief of Appellants Due
03/19/19	Oral Argument

Fort Myer Construction Corporation v. Commission

September Term 2017, No. 1684 (CD)
(Originally filed under 399804-V in Montgomery County)

Lead Counsel: MarcusBonsib, LLC (Bruce L. Marcus)
Other Counsel: Dickerson

Abstract: Plaintiff appealed Circuit Court ruling granting dismissal of complaint for alleged delays and damages associated with the erection of a steel girder pedestrian bridge in Montgomery County.

Status: Appeal filed.

Docket:

10/26/17	Notice of Appeal
12/03/18	Oral Argument

Pletsch, et al v. Commission

September Term 2017, No. 2518 (AALU)
(Originally filed under CAL17-12150 in Prince George's County)

Lead Counsel: Mills
Other Counsel: Borden

Abstract: Two separate appeals filed. The Citizens filed an appeal of order affirming the underlying decision and resolution. The developer filed an appeal of the denial of the motion to dismiss for lack of standing. The Commission did not join in the appeal of the denial of the motion to dismiss.

Status: Appeals filed.

Docket:

02/16/18	Notice of Appeal filed by Pletsch, et al.
02/23/18	Notice of Appeal filed by St. John Properties, Inc.
09/10/18	Scheduling Order issued
05/01/19	Oral Argument no earlier than this date

Price, et al v. Prince George's County, et al

September Term 2017, No. 2489 (Misc.)
(Originally filed under CAE16-37806 in Prince George's County)

Lead Counsel: Gardner
Other Counsel: Dickerson

Abstract: Plaintiffs below filed a lawsuit for injunctive relief questioning validity of certain personal tax enactments involving the Commission and Prince George's County. The Commission did not file a brief in this matter.

Status: Appeal filed.

Docket:

02/12/18	Notice of Appeal filed
03/01/18	Court issued show cause for inquiry as to why Pre-hearing Information Report not filed
03/08/18	Court accepts Pre-hearing Information Report for filing
03/13/18	Order entered to proceed without Pre-hearing Conference
05/10/18	Briefing Order issued
07/06/18	Letter instructing Appellant to correct brief on or before 7/23/18
03/2019	Oral Argument

Rounds v. Montgomery County, MD, et al

September Term, 2017, No.1561 (PD)

(Originally filed under #430530-V in Montgomery County)

Lead Counsel: Gardner
Other Counsel: Dickerson
Harvin

Abstract: Appeal from dismissal of claim barred by res judicata concerning alleged Farm Road easement.

Status: Appeal filed.

Docket:

09/25/17	Notice of Appeal filed
10/19/17	Court issued show cause for inquiry as to why Pre-hearing Information Report not filed
11/15/17	Court accepts Pre-hearing Information Report for filing
12/12/18	Oral Argument

The Town of Forest Heights v. Commission

September Term 2017, No 2538 (Misc.)

(Originally filed under CAL 16-29110 in Prince George's County)

Lead Counsel: Borden
Other Counsel:

Abstract: Commission below filed a declaratory judgment against the Town of Forest Heights. The Town appealed.

Status: Appeal filed.

Docket:

02/23/18	Notice of Appeal filed
03/16/18	Order to Proceed w/out Pre-hearing Conference
05/31/18	Stipulation to Extend time for filing Brief
03/2019	Oral Argument

MARYLAND COURT OF APPEALS

Brooks v. Commission

September Term 2016, No. 02295 (AALU)
(Originally filed under CAE16-25941 in Prince George's County)

Lead Counsel: Mills
Other Counsel: Borden

Abstract: Plaintiff appealed Planning Board ruling granting the departure from design standards in Prince George's County.

Status: Decision rendered.

Docket:

08/21/18	Writ of Cert filed by Brooks
09/04/18	Mandate of the Court of Special Appeals
09/10/18	Commission's Response to Petition for Writ of Cert.

The Town of Forest Heights v. Commission

September Term 2018, Petition No. 105 (Misc.)

Lead Counsel: Borden
Other Counsel:

Abstract: Commission below filed a declaratory judgment against the Town of Forest Heights. The Town appealed.

Status: Appeal filed.

Docket:

05/10/18	Writ of Cert filed by the Town of Forest Heights
05/15/18	Commission Answer to Petition for Writ of Cert
06/07/18	Stipulation to Extend time for Filing Brief
07/24/18	Town of Forest Heights Brief filed
08/31/18	Commission Brief filed
08/31/18	Amicus Curiae in Support of Appellant filed by The Maryland Municipal League, Inc.
09/20/18	Town of Forest Heights Reply Brief filed
10/04/18	Oral Argument

URS Corporation v. Commission
September Term 2018, Petition No. 288 (CD)

Lead Counsel: MarcusBonsib, LLC (Bruce L. Marcus)
Other Counsel: Dickerson

Abstract: URS appeals the Circuit Court Decision entering judgment in favor of Commission as a result of URS breach of duty to defend.

Status: Cert Petition filed.

Docket:

08/22/18	Petition for Writ of Certiorari filed by URS Corporation
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U.S. DISTRICT COURT OF MARYLAND

No Pending Cases

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT

Pulte Home Corporation, et al v. Montgomery County, et al

Case No. 17-2112 (LD)

(Originally filed under Case No 8:14-cv-03955)

Lead Counsel: Outside Counsel-Whiteford Taylor and Preston
Other Counsel: Gardner/Dickerson/Adams

Abstract: Plaintiff filed appeal following dismissal of complaint in U. S. District Court for alleged delays and damages associated with the construction of a residential development in Clarksburg, Maryland.

Status: Awaiting decision.

Docket:

09/25/17	Notice of Removal and Complaint filed
10/10/17	Court files Briefing Order
11/20/17	Brief filed by Appellant Pulte Home Corporation
12/19/17	Response Brief filed by Commission
01/02/18	Reply brief filed by Pulte Home Corporation
09/25/18	Oral Argument held.

SUPREME COURT OF THE UNITED STATES

Commission v. American Humanist Association, et al

Case No. 17A1175 (Misc.)
17-1717 (American Legion)
18-18 (M-NCPPC)
(Appeal from Case No. 15-2597)

Lead Counsel: Hogan Lovells (Neal Kmar Katyal & Mitchell P. Reich)
Other Counsel: Gardner
Dickerson
Harvin

Abstract: The Commission intends to seek review by the Supreme Court of the decision of the Court of Appeals for the Fourth Circuit finding violation of establishment clause of Constitution.

Status: Petition for Writ of Certiorari to be filed by extended deadline.

Docket:

04/24/18	Commission's Application to extend the time to file a Petition for Writ of Certiorari
04/30/18	American Legion's Application to extend time to file a Petition for Writ of Certiorari
05/03/18	American Legion's Application to extend time granted
05/09/18	Commission's Application to extend time granted
06/25/18	American Legion's Petition for Writ of Cert. filed
06/29/18	Commission's Petition for Writ of Cert. filed
07/12/18	Blanket Consent filed by Respondents, The American Legion, the American Legion Department of Maryland, and The American Legion Colmar Manor Post 131
07/13/18	Blanket Consent filed by Petitioner, M-NCPPC
07/25/18	Amicus Brief American Center for Law and Justice
07/26/18	Amicus Brief Military Order of the Purple Heart
07/27/18	Amicus Brief 109 United States Senators and Members of the United States House of Representatives
07/27/18	Amicus Brief Major General Patrick Brady and Veterans Groups Erecting and Maintaining War Memorials
07/27/18	Amicus Brief The Town of Taos, New Mexico
07/27/18	Amicus Brief The Islam and Religious Freedom Action Team of the Religious Freedom Institute
07/27/18	Amicus Brief International Municipal Lawyers Association
07/27/18	Amicus Brief Veterans of Foreign Wars of the United States
07/27/18	Amicus Brief Medal of Honor Recipients
07/27/18	Amicus Brief Maryland Elected Officials
07/27/18	Amicus Brief State of West Virginia, 27 Other States & the Governor of Kentucky
07/27/18	Amicus Brief Retired Generals and Flag Officers
07/27/18	Amicus Brief Jewish Coalition for Religious Liberty
07/27/18	Amicus Brief The Becket Fund for Religious Liberty

08/01/18	Amicus Brief Foundation for Moral Law
08/02/18	Amicus Brief State of Maryland
08/02/18	Amicus Brief Veterans in Defense of Liberty
08/02/18	Amicus Brief Prince George's County, Maryland
08/02/18	Amicus Brief The Rutherford Institute
08/21/18	Reply of Commission
08/22/18	Distributed for Conference of 9/24/18