

REVISED

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION MEETING  
 Wednesday, September 16, 2015 (9:30 a.m. – 11:30 a.m.)  
 Montgomery Regional Office, Silver Spring, Maryland

			ACTION	
			Motion	Second
1.	<b>Approval of Commission Agenda</b>	(+*) Page 1		
2.	<b>Approval of Commission Minutes</b>			
	a) Open Session – July 15, 2015	(+*) Page 3		
	b) Closed Session – July 15, 2015	(+*)		
3.	<b>General Announcements</b>			
	a) National Hispanic Heritage Month			
	- Hispanic Heritage Festival – September 20, 2015 (Lane Manor Park – 12:00 p.m. – 6:00 p.m.)			
	- One Commission Hispanic Heritage Celebration (October 2, 2015 – Newton White Mansion – 11:00 a.m. – 1:00 p.m.)			
	b) Upcoming Breast Cancer Awareness Month (October)			
	c) October Kinderfest (October 4, 2015)			
	d) Upcoming Commission-wide Service Awards Luncheon Honoring Employees with 25 or More Years of Service (October 21, 2015 – Newton White Mansion)			
4.	<b>Committee Minutes/Board Reports (For Information Only):</b>			
	a) Executive Committee Meeting – Open Session September 2, 2015	(+) Page 7		
	b) Executive Committee Meeting – Closed Session September 2, 2015	(++)		
	c) Minutes of the Regular Employees’ Retirement System Board of Trustees Meeting – June 2, 2015	(+) Page 13		
5.	<b>Action and Presentation Items</b>			
	a) Resolution #15-16, Affordable Care Act -- Benefits for Contract Employees for 2016 (Legal/McDonald)	(+*) Page 21		
	b) Resolution #15-17, Family Medical Leave Act (Program Update) (Bennett/Thom-Grate)	(+*) Page 23		
	c) Resolution #15-18 Prince George’s Bond Resolution (Zimmerman)	(+*) Page 27		
	d) CAS – Cost Allocation (Kroll)	(+*) Page 61		
	e) Minimum Wage Pay Schedule Adjustments (Spencer/King)	(+*) Page 67		
	f) Open Enrollment and Benefit Plans Proposed Rates 2016 (Spencer/McDonald)	(+*) Page 75		
	g) Personnel Management Review (Spencer/Glover)	(+) Page 79		
	h) Update to Smoking Policies (Practice 2–22) (Bennett/Thom-Grate)	(+*) Page 105		
6.	<b>Open Session - Officers’ Reports</b>			
	a) <b>Executive Director</b> – (For Information Only) Employee Evaluations Not Completed by Due Date – (July/August 2015)...(+)	Page 136		
	b) <b>Secretary-Treasurer</b> – (For Information Only)			
	1) Enterprise Resource Planning (ERP) Briefing			
	2) MFD 4 <sup>th</sup> Quarter Report .....	(+) Page 137		
	c) <b>General Counsel</b> – (For Information Only) Litigation Report – (July/August 2015).....	(+) Page 151		

7. **Closed Session**

Pursuant to Section 3-305(b)(1)(i)(ii), (b)(7), and (b)(9) of the General Provisions Article of the Annotated Code of Maryland, a closed session is proposed to discuss (b)(1)(i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction; or (1)(ii) any other personnel matter that affects one or more specific individuals; (b)(7) to consult with counsel to obtain legal advice, and (b)(9) to conduct collective bargaining negotiations or consider matters that relate to the negotiations.

- Vendor Transition Briefing (King/G. Butler, PFM, Inc.) (+)

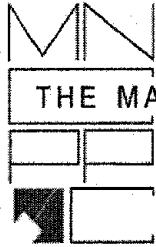
(+) Attachment

(++) Commissioners Only

(\*) Vote

(H) Handout

(LD) Late Delivery



## ITEM 2a

### THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting  
Open Session Minutes  
July 15, 2015

The Maryland-National Capital Park and Planning Commission met on July 15, 2015, at 9:30 a.m. at the Parks and Recreation Auditorium in Riverdale, Maryland.

#### PRESENT

##### Prince George's County Commissioners

Elizabeth M. Hewlett, Chair  
Dorothy Bailey  
Manuel Geraldo

##### Montgomery County Commissioners

Casey Anderson, Vice-Chair  
Natali Fani-Gonzalez  
Amy Presley

#### ABSENT

John Shoaff  
A. Shuanise Washington

Norman Dreyfuss  
Marye Wells-Harley

Chair Hewlett convened the meeting at 9:44 a.m.

#### ITEM 1 APPROVAL OF COMMISSION AGENDA

Closed Session Item 7 – Recommendations for Benefit Changes for Calendar Year 2016 was moved to follow Item 5b – Strategy for Building a Culture of Wellness.

ACTION: Motion of Geraldo to approve the agenda

Seconded by Presley

6 Approved the motion

#### ITEM 2 APPROVAL OF COMMISSION MINUTES

June 17, 2015 – Open Session

ACTION: Motion of Bailey to approve the minutes

Seconded by Geraldo

6 Approved the motion

ITEM 3 GENERAL ANNOUNCEMENTS

Chair Hewlett made the following announcements:

- Hispanic Heritage Month is observed each year from September 15<sup>th</sup> through October 15<sup>th</sup>. M-NCPPC is planning festivities to commemorate the histories, cultures and contributions of Hispanic and Latino Americans who have positively influenced and enriched our nation and society. The date(s) of the celebration(s) will be announced.
- Birthday greetings were extended to Commissioner Amy Presley, as well as to Commissioner Norman Dreyfuss in absentia.

ITEM 4 COMMITTEE/BOARD REPORTS – (For Information Only)

- a) Minutes – Executive Committee Open Session – June 26, 2015
- b) Minutes – Executive Committee Closed Session – June 26, 2015

ITEM 5 ACTION AND PRESENTATION ITEMS

- a) Resolution #15-14 – Land Disposal from the Commission (Brandywine Road Park) to Mattawoman Energy to convey a permanent easement over 1.9 acres for a gas pipeline for their planned power generating facility  
ACTION: Motion of Geraldo to approve the Resolution  
Seconded by Bailey  
6 Approved the motion

Not Included on Agenda

Corporate Policy and Corporate Records Manager Janis Thom-Grate introduced Senior Policy Specialist Nissa Copemann and Records Management Specialist Brian Coburn as new members to the Policy and Records Management team.

- b) Strategy for Building a Culture of Wellness (McDonald/Hawkins)  
Benefits Manager Jennifer McDonald introduced Wellness Coordinator Juanita Hawkins as the newest member to the Health and Benefits team. Ms. Hawkins provided a high-level presentation on the framework for implementing a robust wellness program that will attempt to change M-NCPPC's culture to one of wellness, as contained in the meeting packet.

Commissioner Geraldo asked what programs are planned to encourage employee participation. Ms. McDonald responded that program participants will be rewarded for reaching benchmarks; however, the goal is for employees to participate because they desire a healthy lifestyle, and not just for the incentives. Ms. Hawkins emphasized the importance of changing the wellness culture in the organization. She shared that it is necessary for middle managers to engage in the programs and encourage employees to participate. Ms. McDonald shared that a pilot program is being developed for a small group of employees to use Fitbit Energy Trackers on a trial basis. If the program is successful, it will be rolled out to the entire organization. In developing M-NCPPC's Wellness Program, the agency will utilize best practices from the Centers for Disease Control and Prevention (CDC) Worksite Health ScoreCard (HSC) and benchmarking with

other similar organizations. Ms. McDonald noted that M-NCPPC did not score very high on the CDC's Health ScoreCard.

At 9:59 a.m., Chair Hewlett requested a motion to move to closed session.

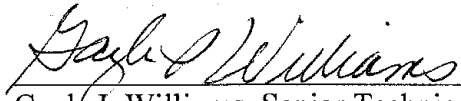
- ITEM 7 Pursuant to Section 3-305(b)(1), (b)(7) and (b)(9) of the General Provisions Article of the Annotated Code of Maryland, at 9:59 a.m., Chair Hewlett requested a motion to move to closed session to discuss (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction; or (ii) any other personnel matter that affects one or more specific individuals; to consult with counsel to obtain legal advice; and to conduct collective bargaining negotiations or consider matters that relate to the negotiations.
- ACTION: Motion of Geraldo  
Seconded by Bailey  
6 Approved the motion

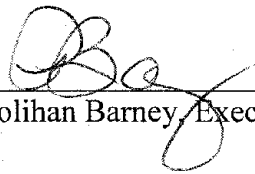
The Commission reconvened the open session at 11:03 a.m.

- ITEM 5 c) RECOMMENDATIONS FOR BENEFIT CHANGES FOR CALENDAR YEAR 2016 (Spencer/McDonald)  
ACTION: Motion of Geraldo to approve recommendations for the benefit changes for Calendar Year 2016 that were discussed in closed session  
Seconded by Bailey  
6 Approved the motion

- ITEM 6 OFFICERS' REPORTS
- a) Executive Director (Barney)  
Employee Evaluations Not Completed by Due Date (June 2015) (For Information Only)  
Executive Director Barney noted that evaluations are being submitted.
- b) Secretary-Treasurer (Zimmerman) (For Information Only)  
Enterprise Resource Planning (ERP) Briefing  
On behalf of Secretary-Treasurer Zimmerman, Executive Director Barney stated that the ERP team is continuing to meet weekly and by phone with the consultant's highest level staff to resolve issues. The challenge with the Employees' Retirement System contribution has been tested and resolved. This component was moved to production. There are still a number of areas that need to be corrected. The consultant is coming in at the end of July to focus on issues related to the Human Capital Management (HCM) module. The team continues to work in the Enterprise Financial Management (EFM) module. The reports have improved and the Budget module is being implemented. The Budget module will be used for the FY17 budget cycle.
- c) General Counsel (Gardner)  
1) Litigation Report - (March 2015) (For Information Only)  
No comments were made.

Chair Hewlett thanked everyone for their hard work and wished all a good summer. There being no further business to discuss, the meeting adjourned at 11:07 a.m.

  
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Gayla I. Williams, Senior Technical Writer/  
Senior Management Analyst

  
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Patricia Colihan Barney, Executive Director





**EXECUTIVE COMMITTEE MEETING MINUTES**

**September 2, 2015**

The Maryland-National Capital Park and Planning Commission's Executive Committee met at 9:30 a.m., in the Executive Director's Conference Room, at the Executive Office Building in Riverdale, Maryland. Present were Chair Hewlett (via conference call), Vice-Chair Casey Anderson and Executive Director Patricia C. Barney. Also present were:

Department Directors/Deputies/Presenters/Staff

- Adrian Gardner, General Counsel
- Joe Zimmerman, Secretary-Treasurer
- Ronnie Gathers, Director, Prince George's County Parks and Recreation
- Mike Riley, Director, Montgomery County Parks
- Gwen Wright, Director, Montgomery County Planning
- William Dickerson, Principal Counsel, Office of the General Counsel
- Rose Krasnow, Deputy Director, Montgomery County Planning (for Gwen Wright)
- Anju Bennett, Corporate Policy and Management Operations (CPMO) Division Chief
- John Kroll, Budget Manager
- William Spencer, Human Resources Director
- Boni King, Human Resources Manager
- Jennifer McDonald, Benefits Manager
- Janis Thom-Grate, Corporate Policy and Records Manager (CPMO)

New Pay Plan for Vendor Transition (for presentation of Item 4c only)

Greg Butler, Senior Managing Consultant, Public Financial Management, Inc.

Executive Director Barney convened the meeting at 9:34 a.m.

**ITEM 1a - APPROVAL OF EXECUTIVE COMMITTEE AGENDA (Executive Director Patricia Barney)**

Discussion	<p>The following topic was added to the agenda:</p> <ul style="list-style-type: none"> <li>• Minimum Wage and Schedule Adjustments for Seasonal, Intermittent, and Aquatic Employees</li> </ul>
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**ITEM 1b - APPROVAL OF COMMISSION MEETING (Executive Director Patricia Barney)**

Discussion	<p>Executive Director Barney adjusted the September Commission agenda, and added:</p> <ul style="list-style-type: none"> <li>• Minimum Wage and Schedule Adjustments for Seasonal, Intermittent, and Aquatic Employees and Pay Plans</li> <li>• Bond Resolution</li> </ul> <p>Chair Hewlett inquired whether the announcement for the October 2<sup>nd</sup> One-Commission Hispanic Heritage Celebration has been circulated to employees. Executive Director Barney stated the notice has not yet been distributed as this celebration and others are driven by teams from various departments, and not the agency's Diversity Council. Executive Director Barney will ask Jim Adams to send out a reminder regarding the e Hispanic Heritage Celebration. Ms. Barney shared that the One-Commission Black History Event is being planned, but a date has not yet been determined. In</p>
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the future, the teams responsible for the One-Commission events will be asked to coordinate and disseminate the notices.

Montgomery County Planning Deputy Director Rose Krasnow reminded the Executive Committee that the second part of the Information Technology retreat is scheduled for October 2<sup>nd</sup> as well.

**ITEM 1c - ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS (Taken out of order)**  
(Executive Director Patricia Barney)

Discussion

Executive Director Barney reviewed the Rolling Commission Agenda for the upcoming four months. She also requested any additional items for the Rolling Commission Agenda be forwarded.

The following was noted:

- Kinderfest occurring October 4<sup>th</sup> should be added to the September agenda's General Announcements.

October 2015

- Family Medical Leave Act (FMLA) Policy Changes (Merit/Contract Employees) (Bennett/Thom-Grate) - Executive Director Barney and CPMO Chief Bennett explained that a preliminary policy on FMLA amendments will be presented in September to the Commission for adoption. Concurrently, policy staff will be working with the Merit System Board on its review of specific implementation policy. That work is scheduled for presentation at the October 21<sup>st</sup> Commission meeting; however, the specific timing will depend on the Merit System Board's completion of its review.
- Collective Bargaining Update (Barney/Spencer) - Executive Director Barney may move this topic to the January 2016 agenda, as it may be premature to discuss FOP wages.

November 2015

- Recommendation to Approve an Employer Contribution for Pension Plan – Executive Director Barney stated that she attended a meeting with the Employees' Retirement System's Board of Trustees, yesterday. She further stated that due to changes in the market, the M-NCPPC did not earn the actuarial-assumed 7.3%; and that M-NCPPC's FY17 pension contribution rate is expected to be higher than the projection from last year. Executive Director Barney spoke with Dave Boomershine from Boomershine Consulting to obtain an actuarial estimate of that contribution even though the valuation will not be done.
- Policy Review – CPMO Chief Bennett stated that Practice 2-15, Use of Commission Resources may be added to the December meeting agenda as it will be worked on with Practice 3-10, Expense Reimbursement for Travel, Meetings and Conferences. Executive Director Barney may revise the December agenda to re-distribute the large number of discussion items.

ITEM 2 – MINUTES	
Provided for Information	<p>June 26, 2015 Executive Committee Minutes</p> <p>a) Open session</p> <p>b) Closed Session</p>
ITEM 3 – DISCUSSION/REPORTS/PRESENTATIONS	
Discussion	<p><u>Literacy Program</u> (not listed on the agenda)</p> <p>Chair Hewlett inquired about the Literacy Program. She noted that the past program was very successful and that this current program should be marketed with enthusiasm. Vice-Chair Anderson also supports the program and stated he emailed the announcement to the Parks management team to distribute to employees who could benefit from this program. He commented that there would be a benefit to having small group, one-on-one conversations about the program. Chair Hewlett stated the agency needs to be effective in reaching out to employees in a way that explains the benefit and not embarrass those who could benefit from it the most.</p> <p>CPMO Chief Bennett shared that her Division has been working with members of the Diversity Council, M-NCPPC training coordinators, and the Montgomery County Literacy Council to develop a marketing campaign for the Literacy Program. A brochure has been developed and distributed, and the Montgomery County Literacy Council will visit different sites to meet with and deliver information to managers and employees. Chief Bennett stated that there are two pieces included in this training program: Literacy/reading for English speakers, and English as a Second Language. Vice-Chair Anderson suggested compiling talking points for managers and supervisory level staff to use as guidance when discussing the program with employees who would benefit from it. Chair Hewlett and Vice-Chair Anderson stated they felt very strongly about this program, as it can change and benefit lives within and outside of the agency. Ms. Bennett agreed encouragement from the managers is advantageous to the program and suggested that information could go in the newsletter, and also a letter could be developed to be signed by the Chair and Vice-Chair to encourage participation in the program. The Executive Committee agreed that a letter should be sent under their signatures to the management team to encourage employee participation in the Literacy Program.</p> <p><b>a) Enterprise Resource Planning (ERP) Briefing (Zimmerman)</b></p> <p>Secretary-Treasurer Zimmerman stated that the pension withholding calculations have been corrected. There are approximately 700 employees who have discrepancies with their pension contribution that range from a couple of hundred dollars to a few pennies. The agency might owe money to approximately 150 employees.</p> <p>Executive Director Barney noted that the net difference to rectify the claims is around \$20,000, or approximately \$28 per employee. Secretary-Treasurer Zimmerman stated the ERP team will be resolving the problem over the coming weeks and months. He stated that when the Park Police Cost of Living Adjustment (COLA) was added, the system did not update properly to the deduction number. The issue has been identified and will be resolved in</p>

time for calculating the major COLA. Secretary-Treasurer Zimmerman is working with Ann McCosby from the Employees' Retirement System on service credits to get the annual statements out in November. Executive Director Barney stated that with the amount being small, there most likely will not be a service credit impact.

Secretary-Treasurer Zimmerman stated that payroll reporting is going well and the close out of the 2015 fiscal year has gone smoother than the prior year. He will meet with consultant INFOR this afternoon to discuss the "orphan" commitment problem on requisitions.

**b) FY 2014 Personnel Management Review (PMR) Summer Report  
(Spencer/Glover)**

This item was not presented. Executive Director Barney stated that the FY 2014 PMR is contained in the Executive Committee's meeting packet for information only, and will be presented to the Commissioners at the meeting on September 16<sup>th</sup>. If the Executive Committee members have any questions, they should contact Human Resources Director William Spencer.

**c) CAS – Labor Cost Allocation Analysis for the FY17 Budget (Kroll)**

Budget Manager John Kroll presented updates to the labor cost percentages used to allocate CAS department budgets between Montgomery and Prince George's Counties for the FY17 proposed budget. He stated the analysis is completed based on timecard entries for the majority of employees as well as added cost-drivers for Accounts Payable, Payroll, Purchasing, Treasury, Employee Records, and Recruitment. Mr. Kroll noted that the cost shares have had a minor shift between Montgomery and Prince George's Counties on the cost-drivers and overall. He stated cost shares for DHRM, Finance and Legal operations shift toward Prince George's County; and Audit's cost share shift to Montgomery County. He noted that Risk Management was reviewed this year. The analysis supports a continued allocation of 50/50.

When using FY16 budget numbers, the revised allocation would shift approximately \$114,000, or 0.5% of the funding for CAS operations to Prince George's County from Montgomery County.

**d) Open Enrollment and Benefit Plans Proposed Rates – 2016  
(Spencer/McDonald)**

Benefits Manager Jennifer McDonald presented the Open Enrollment and Benefit Plans Proposed Rates for 2016, as contained in the meeting packet. She presented details of the proposed rates and explained that as in the past, AON Consulting developed the Self-Insured Rates for M-NCPPC's medical and prescription plans. She outlined the items that AON used to develop the rates. Ms. McDonald requested the Executive Committee review the recommended rates for 2016 in preparation for the Commission meeting on September 16, 2015.

Ms. McDonald reported that the rates for the agency's medical plans are increasing on average, by 2.9%. The individual plan increases are from 0% to 11.8%, and rates for the agency's prescription plan are increasing by 20.7%. She added that had the agency not implemented cost savings programs on

the prescription plan in 2014, 2015 and those approved for 2016, the increase would have been higher.

Premiums for stop loss coverage increased for all plans.

The premiums for the fully insured plans remained flat for 2016 as they are all still within a guaranteed rate period.

Ms. McDonald reported that the Group Insurance Fund has an unreserved balance which can be used to reduce the proposed increases. AON Consulting is estimating costs in time for the Commission meeting. Executive Director Barney stated that M-NCPPC may have to have a discussion with the unions about using the Group Insurance Fund. She will discuss using the funds for the budget in closed session.

Ms. McDonald shared that M-NCPPC sent out a Request for Proposal (RFP) for a new Legal Services Plan vendor. A decision is expected before the September 16<sup>th</sup> Commission meeting.

The Executive Committee approved the recommendations as presented. The recommendations will be shared at the upcoming Commission meeting for adoption. Executive Director Barney and Human Resources Director Spencer will meet with the Unions before the September 16<sup>th</sup> Commission meeting.

**e) Increase in Minimum Wage (Spencer/King)** (added to the agenda)  
Executive Director Barney reminded the Executive Committee that a Resolution was approved last year to move the minimum wage at the same rate as Montgomery and Prince George's Counties. As a result, the salary scales need to be adjusted to make the minimum wage fit with the other grades within that scale.

Human Resources Manager King presented a request to approve the Seasonal/Intermittent Pay Schedule (Attachment 1) and the Aquatics Seasonal/Intermittent Pay Schedule (Attachment 2). She provided background on the change in the agency's pay schedules moving the beginning rates to reflect the new minimum wages over the next few years, as contained in the hand-out. The minimum wage will increase to \$9.55 per hour in October 2015 and will penetrate seven grades in the Seasonal/Intermittent pay schedule and three or four grades within the Seasonal Aquatics Pay Schedule. She explained that the maximums of the pay grades would also be adjusted to minimize compression that would be created if only a change in minimum wage was implemented.

Ms. King also explained there has never been a position in Grade A01 in the Aquatics pay schedule since the schedule was created. The Department Directors and Classification and Compensation recommend removing the first grade (A01) in the Seasonal Aquatic pay schedule.

Executive Director Barney summarized the recommendation stating

	<p>that M-NCPPC moved to the \$9.55 minimum, adjusted the minimum-maximum, and adjusted the grades to enable a variance between grades. The memorandum will be scanned to Chair Hewlett.</p> <p>The Executive Committee supported these recommendations and the issue will be taken to the Commission in September for adoption.</p> <p>Human Resources Manager King noted that next year the minimum wage will increase to \$10.75 in 2016, and to \$11.50 in 2017. A recommendation for approval will be presented to the Department Directors, the Executive Committee, and the Commission next year.</p>
<p>Follow Up/Action Items</p>	<p><u>Literacy Program</u> (not listed on the agenda)</p> <ul style="list-style-type: none"> <li>• Directors to direct division chiefs and supervisors to hold conversations with staff regarding the program.</li> <li>• CPMO Chief Bennett's office will develop the following: <ul style="list-style-type: none"> <li>○ List of talking points to be developed for managers to use when meeting with their staff, encouraging participation.</li> <li>○ Articles in newsletters and small group discussions with managers will be planned by Ms. Bennett's team.</li> <li>○ Letter to be drafted for Executive Committee signature addressed to the management team to encourage participation in the program.</li> </ul> </li> </ul> <p><u>Item 3d) Open Enrollment and Benefit Plans Proposed Rates – 2016</u></p> <ul style="list-style-type: none"> <li>• Executive Director Barney and Human Resources Director Spencer will meet with MCGEO to get their approval on the plan before the September 16<sup>th</sup> Commission meeting.</li> </ul> <p><u>Item 3e) Increase in Minimum Wage</u></p> <ul style="list-style-type: none"> <li>• A copy of the Minimum Wage memo will be scanned to Chair Hewlett</li> </ul>

The meeting adjourned for closed session at 10:24 a.m.

  
Gayla Williams, Senior Management Analyst/  
Senior Technical Writer

  
Patricia Colihan Barney, Executive Director



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

**REGULAR BOARD OF TRUSTEES MEETING  
MINUTES**

**Tuesday, June 2, 2015; 10:00 A.M.**  
**ERS/Merit Board Conference Room**

The regular meeting of the Board of Trustees convened in the ERS/Merit Board Conference Room on Tuesday, June 2, 2015 at 10:00 a.m. Voting members present were: Josh Ardison, Howard Brown, Richard H. Bucher, Ph.D., Jenetha Facey, Pamela F. Gogol, Elizabeth M. Hewlett, Barbara Walsh, and Joseph C. Zimmerman, CPA. Marye Wells-Harley arrived at 10:28 a.m. Khalid Afzal and Patricia Colihan Barney, CPA, were absent.

ERS staff included: Andrea L. Rose, Administrator and Heather D. Brown, Senior Administrative Specialist.

Presentations by Boomershine Consulting Group - Gregory M. Stump, FSA, EA, MAAA, FCA, Vice President and Senior Actuary and Wilshire Associates - Bradley A. Baker, Vice President.

**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 June 2, 2015 Board of Trustees Meeting Agenda
- B. Minutes of Regular Meeting, April 7, 2015
- C. Closed Session Minutes of Meeting, April 7, 2015 (Confidential)
- D. Disbursements Granted Reports – March & April 2015
- E. Transfer of \$12,800,000 to Cover Administration Expenses and Benefit Payments for June 2015 – August 2015
- F. Minutes of Special Meeting, April 22, 2015
- G. Closed Session Minutes of Special Meeting, April 22, 2015 (Confidential)

The Consent Agenda was revised to remove Item 1.C. Closed Session Minutes of Meeting, April 7, 2015 and add Items 1.F. Minutes of Special Meeting, April 22, 2015 and 1.G. Closed Session Minutes of Special Meeting, April 22, 2015.

DR. BUCHER made a motion, seconded by MR. ARDISON to approve the Consent Agenda, as revised. The motion PASSED unanimously (8-0). (Motion #15-30)

**2. CHAIRMAN'S ITEMS**

- A. Board of Trustees Conference Summary
- B. Election of ERS Board Chairman & Vice Chairman for term ending June 30, 2017

MR. ZIMMERMAN made a motion, seconded by DR. BUCHER to approve Elizabeth M. Hewlett as the Chairman and Marye Wells-Harley as the Vice Chairman for the term ending June 30, 2017. The motion PASSED unanimously (8-0). (Motion #15-31)

- C. Acknowledge Khalid Afzal as the Montgomery County Open Trustee for the term ending June 30, 2018

The term for the Montgomery County Open Trustee serving on the Board of Trustees expires June 30, 2015. In accordance with election procedures, a Notice of Election was placed in Update, on the ERS' and the Commission's websites in April 2015. Applications were due in the ERS Office, April 24, 2015 by 5:00 p.m. The incumbent, Khalid Afzal, applied for re-appointment for the Montgomery County Open Trustee. No other applications were received. Mr. Afzal is determined to have won by acclamation.

DR. BUCHER made a motion, seconded by MS. WALSH to acknowledge Khalid Afzal as the Montgomery County Open Trustee for the term ending June 30, 2018. The motion PASSED unanimously (8-0). (Motion #15-32)

CHAIRMAN HEWLETT noted Mr. Afzal has been a long time member of the ERS Board and is doing a great job on behalf of the ERS membership.

- D. Acknowledge Jenetha Facey as the Prince George's County Open Trustee for the term ending June 30, 2018

The term for the Prince George's County Open Trustee serving on the Board of Trustees expires June 30, 2015. In accordance with election procedures, a Notice of Election was placed in Update, on the ERS' and the Commission's websites in April 2015. Applications were due in the ERS Office, April 24, 2015 by 5:00 p.m. The incumbent, Jenetha Facey, applied for re-appointment for the Prince George's County Open Trustee. No other applications were received. Ms. Facey is determined to have won by acclamation.

MS. WALSH made a motion, seconded by MS. GOGOL to acknowledge Jenetha Facey as the Prince George's County Open Trustee for the term ending June 30, 2018. The motion PASSED unanimously (8-0). (Motion #15-33)

CHAIRMAN HEWLETT said Ms. Facey "hit the ground running" since joining the Board a few months ago and is also doing a great job.

- E. Acknowledge Howard Brown as the Fraternal Order of Police Represented Trustee for term ending June 30, 2016

In April 2015, Tracy Lieberman, the former FOP Represented Trustee was promoted to lieutenant and is no longer eligible to be the representative on the ERS Board. In accordance with Section 2.1.5(b) of the Plan Document, Howard Brown was selected to represent the FOP on the ERS Board for the remainder of the term ending June 30, 2016.

DR. BUCHER made a motion, seconded by MR. ARDISON to Acknowledge Howard Brown as the Fraternal Order of Police Represented Trustee for term ending June 30, 2016. The motion PASSED unanimously (8-0). (Motion #15-34)

CHAIRMAN HEWLETT noted Mr. Brown's 15 years' experience on the Anne Arundel County Pension Board will be an asset to the ERS Board.

F. Resolution in Honor of former Fraternal Order of Police Represented Trustee, Tracy Lieberman

CHAIRMAN HEWLETT recognized Tracy Lieberman for her dedication to the Board and willingness to learn by never hesitating to ask questions. A Resolution in Honor of Tracy Lieberman will be sent to her for appreciation of all her efforts and to wish her well in all her future endeavors.

MS. GOGOL made a motion, seconded by DR. BUCHER to approve a Resolution in Honor of Tracy Lieberman for appreciation of all her efforts and to wish her well in all her future endeavors. The motion PASSED unanimously (8-0). (Motion #15-35)

### 3. MISCELLANEOUS

No Miscellaneous items were reported.

### 4. MANAGER REPORTS/PRESENTATIONS

A. Reduction of Investment Return Assumption from 7.3% to 7.25%

Presentations by Boomershine Consulting Group - Gregory M. Stump, FSA, EA, MAAA, FCA, Vice President and Senior Actuary and Wilshire Associates - Bradley A. Baker, Vice President

- i. Boomershine Consulting Group – Employees' Retirement System Assumption Review; June 2015
- ii. Wilshire Associates – 2015 Actuarial Interest Rate Assumption

At its November 4, 2014 Board of Trustees Meeting, Boomershine Consulting Group recommended the Board consider reduction of the economic assumptions, specifically including reduction of the investment return assumption from 7.3% to 7.25% for the July 1, 2015 Actuarial Valuation. The Board agreed to consider the recommendation prior to the 2015 Actuarial Valuation and requested Gregory Stump, Boomershine Consulting Group, and Bradley Baker, Wilshire Associates, present information in support of the recommendation at the June meeting.

The current economic assumptions are as follows: Investment Return – 7.3%; Salary Increases – 2.8% + service based rates; and Post Retirement Adjustment – 2.8%\* compounded annually for benefits based on credited service accrued until July 1, 2012, 2.5% compounded annually thereafter. Mr. Stump explained a 0.05% decrease in the above assumptions is consistent with broad market expectations and will increase the actuarial liability and cause a slight decrease in the funding ratio. Both cost components of the employer contribution (normal cost and amortization) will increase, resulting in a slight increase in the employer contribution. The long-term impact is a change in the normal cost by 0.25%; however, each year's experience can potentially change the longer-term outlook.

Mr. Baker discussed Wilshire's 2015 Actuarial Interest Rate Assumption analysis which was also presented at the March 3, 2015 meeting and can be used in support of a reduction in the investment return assumption.

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\*Refer to Meeting Minutes of September 1, 2015 for Clarification/Additional Information on Post Retirement Assumption and Recommendation.



The expected rate of return for the ERS' asset mix policy is estimated at 6.39% without active management and 7.11% with active management. The expected return is 80-90% driven by asset allocation and 10% by active management; and, according to Wilshire's 2015 *Report of State Retirement Systems: Funding Levels and Asset Allocation*, the median actuarial interest rate reported was 7.5%.

MS. GOGOL made a motion, seconded by MR. ZIMMERMAN to approve a 0.05% reduction in the economic assumptions effective for the July 1, 2015 Actuarial Valuation as follows: Investment Return – 7.25%; Salary Increases – 2.75% + service based rates; and Post Retirement Adjustment – 2.75% compounded annually for benefits based on credited service accrued until July 1, 2012, 2.50% compounded annually thereafter. The motion PASSED unanimously (9-0). (Motion #15-36)

B. Wilshire Associates

Presentation by Bradley A. Baker, Vice President

- i. Executive Summary of Investment Performance; as of March 31, 2015
- ii. Private Real Assets Review
- iii. Chicago Equity Partners Investment Guidelines
- iv. Manager Comparison - 3yr and 5yr Rolling Returns; as of March 31, 2015
- v. Summary of Investment Performance – Gross of Fees; Qtr. Ending March 31, 2015

VICE CHAIRMAN MARYE WELLS-HARLEY arrived at 10:28 a.m.

Bradley Baker reported on the fund's performance for the quarter ending March 31, 2015. The ERS' total return was 3.82% (net of fees) for the one-year ending March 31, 2015. The total fund underperformed the policy index return of 4.34%. The ERS fund return was 8.23% for the three-years ended March 31, 2015 and 8.84% for the five-years ended March 31, 2015 versus the policy index which returned 8.55% and 8.94%, respectively. The total market value through March 31, 2015 was \$802.3 million. Individual manager performance was discussed with no concerns. Mr. Baker announced two retirements on Capital Guardian's portfolio team, noting no concerns as these were planned events.

Mr. Baker reported Aberdeen Asset Management will acquire FLAG Capital Management, in a deal that will expand Aberdeen's presence in the US market. Wilshire considers this a positive for FLAG, providing more opportunities to raise capital in an ever competitive environment and expanding FLAG's exposure to the non-US market. Mr. Baker noted that integration of the two firms will be key.

Mr. Baker presented a Private Real Assets Review to discuss additional commitments for the real assets program. The real assets model projected three scenarios for consideration: 25%, 30% and 35% of the target allocation. Implementation options and potential fund providers were outlined. Given the complexity and analysis required, DR. BUCHER requested the Investment Monitoring Group (IMG) review the implementation options and provide a recommendation to the Board. CHAIRMAN HEWLETT agreed with this request and moved this item to the IMG for further review and recommendation.

Mr. Baker presented the Chicago Equity Partners Investment Guidelines. The mission of Chicago Equity Partners is to provide the ERS with a strategic allocation to the small capitalization segment of the domestic equity market through a value equity portfolio. The portfolio is designed to add value through active management decisions.

DR. BUCHER made a motion, seconded by MS. FACEY to approve Chicago Equity Partners Investment Guidelines. The motion PASSED unanimously (9-0). (Motion #15-37)

**5. REPORT OF THE ADMINISTRATOR**

Presentation by Administrator, Andrea L. Rose

There was no Report of the Administrator this month.

**6. COMMITTEE REPORTS/RECOMMENDATIONS**

**A. Investment Monitoring Group**

Presentation by Committee Chairman, Patricia Barney, CPA

**i. Regular Report of May 19, 2015**

In MS. BARNEY'S absence, Andrea Rose presented the regular report for the Investment Monitoring Group's (IMG) meeting of May 19, 2015 highlighting noteworthy points.

The IMG met with J.P. Morgan's Eileen Cohen, Managing Director and Client Portfolio Manager, Greg Pittenger, Executive Director and Client Advisor, and Janet Yearwood, Executive Director and Client Portfolio Manager for a performance review of J.P. Morgan's Large Cap Core 130/30 mandate and reviewed Wilshire Associates' Manager Review of the strategy which shows strong absolute and relative performance, as well as, strong performance relative to peers for J.P. Morgan. Since inception, June 30, 2008, the strategy posted an 11.71% return versus 9.74% for the S&P 500 Index, and ranked in the 11<sup>th</sup> percentile versus Wilshire's large cap core universe.

The IMG met with Neuberger Berman's Elizabeth Jamieson, Vice President, Jennifer Michel, Vice President, and Daniel Doyle, High Yield Portfolio Manager, for a performance review of Neuberger Berman's High Yield Income Fund and reviewed Wilshire Associates' Manager Review of the strategy which illustrates rolling 3-year performance above the 50<sup>th</sup> percentile. Since its June 30, 2010 inception, the strategy returned 8.81% versus the Merrill Lynch High Yield II Constrained Index, and ranked in the 52<sup>nd</sup> percentile versus Wilshire's high yield fixed income universe.

The IMG reviewed Wilshire Associates' Manager Review for the Loomis Sayles High Yield strategy which shows strong performance in the 3-years, 5-years and since-inception periods that can be attributed to tactical plays. Since inception, June 30, 2006, the strategy returned 8.34% versus 7.84% for the Merrill Lynch High Yield BB/B Index, and ranked in the 41<sup>st</sup> percentile versus Wilshire's high yield fixed income universe.

The IMG reviewed Wilshire Associates' Manager Review for the Western Asset Global Multi-Sector Fixed Income strategy which reflects strong performance results versus the benchmark and relative to peers. The strategy is diversified across multiple segments of the global fixed income market. Its policy index is comprised of the following underlying indexes: 50% Barclays Global Aggregate Bond Index; 25% JP Morgan Emerging Markets Bond Index Plus Index; and 25% Barclays US Corporate High Yield 2% Issuer Cap Index. Since inception, March 31, 2013, the strategy returned 1.68% versus that of its blended policy index of 1.04%.

In response to several questions from the IMG regarding Wilshire's manager research process, Mr. Baker presented Wilshire's Manager Research Review. The review details the manager research

process and resources, asset class committee responsibilities, the manager selection and evaluation process, investment due diligence and the manager research database.

Mr. Baker presented Wilshire's recommendation to transition assets to Chicago Equity Partners without the utilization of a transition manager. This recommendation is based on a number of factors which include similar asset class size and style, short-term time period of transition and manageable asset size. The IMG agreed with Wilshire's recommendation and authorized staff to transition the assets once the legal agreement with Chicago Equity Partners is executed.

B. Administration & Personnel Oversight Committee

Presentation by Committee Chairman, Richard H. Bucher, Ph.D.

i. Regular Report of May 19, 2015

- a. Recommendation to Approve a Proposed Memorandum of Understanding for Technology Support
- b. Recommendation to Approve Renewal of the Fiduciary Liability Insurance with a limit of liability for \$7,500,000 with a \$50,000 deductible and premium of \$34,630 for the July 1, 2015 – July 1, 2016

DR. BUCHER presented the regular report for the Administration & Personnel Oversight Committee meeting of May 19, 2015.

The Personnel Committee discussed the Memorandum of Understanding for Technology Support between the Maryland-National Capital Park and Planning Commission ("Commission") and the Employees' Retirement System with edits from Andrea Rose and the Commission's Technology Division Chief, Joe Bistany. The Personnel Committee recommended an automatic renewal each year with no expiration period and periodic review.

MS. GOGOL made a motion, seconded by VICE CHAIRMAN WELLS-HARLEY to approve renewal of the Memorandum of Understanding between the Maryland-National Capital Park and Planning Commission and the Employees' Retirement System for Technology Support. The motion PASSED unanimously (9-0). (Motion #15-38)

The Personnel Committee reviewed renewal options for the fiduciary liability insurance policy and recommended the Board renew the ERS' existing fiduciary liability insurance policy with a \$7,500,000 limit of liability and a \$50,000 deductible with Chubb for a premium of \$34,630 for the term July 1, 2015 – July 1, 2016. This includes the Waiver of Recourse Endorsement for trustees and select staff.

DR. BUCHER made a motion, seconded by MS. WALSH to approve the renewal of the fiduciary liability insurance with a limit of liability of \$7,500,000 with a \$50,000 deductible and premium of \$34,630 for the term July 1, 2015 – July 1, 2016. The motion PASSED unanimously (9-0). (Motion #15-39)

DR. BUCHER noted the NCPERS Annual Conference Report prepared by Andrea Rose contained several relevant and timely issues for additional review by the Personnel Committee. DR. BUCHER urged trustees to read the Report.

**7. CLOSED SESSION**

The Board will meet in Closed Session, Pursuant to the General Provisions Article of the Annotated Code of Maryland 3-305(b)(7) to Consult with Legal Counsel.

VICE CHAIRMAN WELLS-HARLEY made a motion, seconded by MS. FACEY to go in to Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(7) to consult with legal counsel. The motion PASSED unanimously (9-0). (Motion #15-40)

DR. BUCHER made a motion, seconded by VICE CHAIRMAN WELLS-HARLEY to ratify the actions taken in Closed Session. The motion PASSED unanimously (9-0). (Motion #15-43)

The Board of Trustees meeting of June 2, 2015 adjourned at 11:41 a.m.

Respectfully,



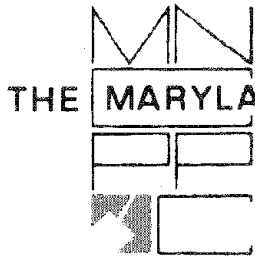
Heather D. Brown  
Senior Administrative Specialist



Andrea L. Rose  
Administrator







THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC

RESOLUTION NO 15-16

**AUTHORIZATION TO ESTABLISH BENEFITS PROGRAM**

WHEREAS, the Affordable Care Act (“ACA”), the law commonly known as health care reform, was signed into law on March 23, 2010 and is codified at 26 U.S.C. 5000A, et seq., and

WHEREAS, starting in 2015, the ACA requires large employers (50 or more employees) to offer health care coverage to at least 70% of employees who work, on average, 30 hours or more per week (the “hour threshold”) or pay a penalty; and

WHEREAS the Commission met the 70% coverage requirement and therefore was not required to expand coverage in 2015 to contract employees who worked on average, 30 hours or more per week; and

WHEREAS, starting in 2016, the ACA requires large employers (50 or more employees) to offer health care coverage to at least 95% of employees who work, on average, 30 hours or more per week (the “hour threshold”) or pay a penalty; and

WHEREAS, there are contract employees in the Commission’s workforce who have met the hour threshold who are not currently offered health coverage and will be eligible for coverage in accordance with the ACA in 2016 with the 95% coverage requirement; and

WHEREAS, the Commission needs to adopt a program to comply with requirements and new thresholds of the ACA that are being phased in this coming year; and

WHEREAS, the Commission can comply with the ACA requirements by offering coverage to all employees who meet the hour threshold;

NOW THEREFORE, BE IT RESOLVED that the Maryland-National Capital Park and Planning Commission will comply with the ACA by offering coverage to eligible employees and authorizes the establishment of a benefits program for employees that meet the hourly threshold in accordance with the requirements of the ACA.

APPROVED AS TO LEGAL SUFFICIENCY

*[Handwritten Signature]*

M-NCPPC Legal Department

Date 9/4/2015



M-NCPPC  
Resolution 15-17

**AMENDMENTS TO THE FAMILY MEDICAL LEAVE ACT PROGRAM:  
CALCULATION OF 12-MONTH ELIGIBILITY PERIOD**

WHEREAS, the Family and Medical Leave Act (FMLA), as amended, establishes employer mandates for unpaid, job-protected leave for specified family and medical reasons;

WHEREAS, the Maryland National Capital Park and Planning Commission (“M-NCPPC”) policy provisions implementing the requirement under the FMLA are contained in Chapter 1600 of the Merit System Rules and Regulations, LEAVE STATUS PROGRAMS: LEAVE-WITHOUT-PAY, PARENTAL LEAVE, FAMILY AND MEDICAL LEAVE, AND ABSENCE-WITHOUT-LEAVE for Merit System employees, and in Administrative Practice 2-16, SEASONAL/INTERMITTENT, TEMPORARY, and TERM EMPLOYMENT for contract employees.

WHEREAS, an employee that qualifies for FMLA protected leave is eligible for up to 12 weeks of leave during a defined, 12-month time period (the “Eligibility Period”) and the FMLA allows employers to choose between four different methodologies for the calculation of this time period;

WHEREAS, the selected calculation method must be applied uniformly to the entire workforce;

WHEREAS, the current M-NCPPC policy for the calculation of the Eligibility Period is the “calendar-year” method;

WHEREAS, the FMLA allows an employer to change the calculation method with at least 60-day notice to employees;

WHEREAS, the Commission has supported moving to the FMLA model that calculates the Eligibility Period using a 12-month rolling or “look-back” period effective January 1, 2016; and

WHEREAS, the proposed change to the calculation method of the Eligibility Period was negotiated and accepted by the representatives of both of M-NCPPC’s bargaining units, the Fraternal Order of Police (FOP) and the Municipal and County Government Employees Organization (MCGEO).

NOW THEREFORE, BE IT RESOLVED that the Commission does hereby approves the change in calculation method effective January 1, 2016.

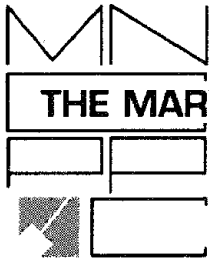
BE IT FURTHER RESOLVED that the Commission hereby authorizes the Executive Director to take action as may be necessary to develop policy and guidelines to implement this Resolution.

APPROVED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
M-NCPPC Legal Department

Date 9/15/2015





**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

6611 Kenilworth Avenue Riverdale, Maryland 20737

TO: Maryland-National Capital Park and Planning Commission

FROM: Joseph C. Zimmerman, CPA

SUBJECT: Prince George's bond sale

DATE: September 9, 2015

The staff of the Finance Office is currently moving forward with the issuance of Park Acquisition and Development Project and Refunding Bonds for projects authorized in the Capital Improvement Program.

This issuance is in accordance with the Capital Improvement Budget as approved by the Prince George's Planning Board and the Prince George's County Council. The proceeds of the bonds will reimburse the Capital Projects fund for monies previously expended as well as provide cash for projects currently in progress. Additionally, there is the possibility of effecting savings by refunding a portion of previously issued debt. Authorization to do so is included in this resolution.

The Bonds, which will be general obligations of the Commission and guaranteed by Prince George's County, are scheduled to be sold on October 15, 2015. Ms. Hewlett, Ms. Barney, and I are scheduled to meet with the rating agencies in New York on September 28<sup>th</sup> and 29<sup>th</sup> to update their staff and provide information to support their rating. We fully expect to maintain our AAA rating with all agencies. We are assisted in this effort by Davenport and Company LLC, Financial Advisors, and McGuireWoods LLP, Bond Counsel.

In order to move forward with this effort, it is necessary for the Commission to adopt a resolution authorizing the issuance of the bonds. To that end, the necessary Resolution has been drafted for your consideration.

The actual approval of bids and document execution will be undertaken by the Prince George's Planning Board, with final closing scheduled for October 29, 2015.

Thank you for your consideration of this matter.



**RESOLUTION NO. 15-18**

**\$28,360,000  
Prince George's County  
General Obligation  
Park Acquisition and Development Project and Refunding Bonds,  
Series PGC-2015A**

**RECITALS**

The Maryland-National Capital Park and Planning Commission (the "Commission") has determined to authorize the issuance of one or more series of its Prince George's County General Obligation Park Acquisition and Development Project and Refunding Bonds, Series PGC-2015A in an aggregate amount not to exceed \$28,360,000 (collectively, the "Bonds"), pursuant to Sections 18-201 through 18-211, inclusive, of the Land Use Article of the Annotated Code of Maryland (2012 Replacement Volume and 2014 Supplement) (the "Land Use Article"). The Commission is authorizing the issuance of the Bonds (1) to finance and refinance the cost of certain park acquisition and development projects in Prince George's County, Maryland (the "Projects"), (2) to refund all or a portion of certain outstanding principal maturities of certain series of its outstanding Prince George's County General Obligation Park Acquisition and Development Project Bonds, as described in Exhibit C to this Resolution (the "Refunded Bonds"), for the purpose of refinancing the cost of certain park acquisition and development projects in Prince George's County, Maryland, and (3) to pay the costs of issuance related to the Bonds.

The Commission has determined that the interest rates for municipal obligations are currently favorable and that there is the potential to realize a savings on the cost of borrowing to the Commission by refunding the Refunded Bonds with proceeds from the Bonds.

The Bonds may be issued in the form of serial bonds, term bonds, commercial paper, variable rate demand bonds or such other form as the Commission or its authorized designee may

may determine is advisable in consultation with the financial advisor to the Commission and its bond counsel.

**BE IT RESOLVED BY THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION:**

**Section 1: Authorization of Bonds.** Acting pursuant to the authority of Sections 18-201 through 18-211, inclusive, of the Land Use Article, the Commission hereby authorizes the borrowing of a sum not to exceed \$28,360,000 and the evidencing of such borrowing by the issuance of one or more series of its Bonds in like aggregate principal amount, to be designated “Prince George’s County General Obligation Park Acquisition and Development Project and Refunding Bonds, Series PGC-2015A”, or as further designated by the Secretary-Treasurer. The Bonds are being issued in order to provide funds (i) to pay the costs of the Projects, (ii) to pay the principal of and interest and premium, if any, on all or a portion of certain maturities of certain series of its outstanding Prince George’s County General Obligation Park Acquisition and Development Project Bonds, as described in Exhibit C to this Resolution (the “Refunded Bonds”), and (iii) to pay, at the discretion of the Secretary-Treasurer, all or a portion of the costs of issuance of the Bonds.

Notwithstanding the foregoing, the Chairman or the Vice Chairman and the Secretary-Treasurer of the Commission may determine, in consultation with its bond counsel and financial advisor, to refund all, some or none of the Refunded Bonds.

**Section 2: Terms of the Bonds.**

(a) General Provisions. The Bonds shall be issued as fully registered bonds. The Commission hereby authorizes the Chairman, or Vice Chairman and the Secretary-Treasurer of the Commission, in consultation with its bond counsel and financial advisor, to determine and approve on behalf of the Commission the denominations, the form, terms and conditions, the method of determining the interest rates (variable or fixed), the aggregate principal amount of the Bonds to be issued, the maturity schedule, the redemption provisions, if any, the amount of the good faith deposit, if any, the dates and the terms and conditions of the sale and delivery of the

Bonds, and all other terms, conditions and provisions relating to the issuance, sale and delivery of the Bonds, in accordance with the provisions of this Resolution.

The Bonds shall be numbered from No. R-1 upward, shall be dated and mature (subject to the right of prior redemption, if any) as determined by the Secretary-Treasurer, in the principal amounts approved by the Chairman or Vice Chairman and the Secretary-Treasurer of the Commission, at or prior to the sale of the Bonds; provided however, that in no event shall the Bonds mature later than 50 years from the date of issue as required by Section 18-203(e) of the Land Use Article.

(b) Book-Entry. The Bonds shall initially be maintained under a book-entry system with The Depository Trust Company, New York, New York, or other securities depository, and shall be registered in the name of the nominee of such securities depository, all as more fully set forth in an official statement or offering memorandum with respect to the issuance and sale of the Bonds, *provided* the Secretary-Treasurer does not determine that it is in the best interest of the Commission to initially maintain the Bonds under a system other than the book-entry system. The Secretary-Treasurer is hereby authorized to take all action necessary or appropriate to provide for the issuance of the Bonds in book-entry form, including (without limitation) execution of letters of representations with The Depository Trust Company, or such other securities depository. If in the judgment of the Secretary-Treasurer it is in the best interests of the Commission to maintain the Bonds or any series of the Bonds under a system other than the book-entry system or to discontinue the maintenance of the Bonds or any series of the Bonds under a book-entry system, the Secretary-Treasurer is hereby authorized to provide for the termination of the book-entry system, if necessary, and the delivery of printed certificates for such Bonds in lieu thereof. The Secretary-Treasurer may designate a different securities depository.

(c) County Guarantee. The Bonds shall be guaranteed as to payment of principal and interest by Prince George's County, Maryland ("Prince George's County"), as required by Section 18-204(d) of the Land Use Article, and such guaranty shall be endorsed on each bond



certificate in the manner hereinafter provided as required by Section 18-204(d) of the Land Use Article.

(d) Interest Provisions. The Chairman or Vice Chairman and the Secretary-Treasurer shall determine and approve the method for setting the rates of interest for the Bonds. The rates of interest for the Bonds shall be as determined and approved by the Chairman or Vice Chairman and the Secretary-Treasurer to be in the best interest of the Commission. If the Bonds are competitively sold, the Bonds shall bear interest at the rate or rates for each maturity named by the successful bidder for the Bonds, in accordance with the terms of the Notice of Sale hereinafter adopted. Interest shall be payable on the dates (each an "Interest Payment Date") and in the manner determined by the Secretary-Treasurer. The Bonds shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, or from their date if no interest has been paid on the Bonds.

(e) Redemption Provisions. The Bonds may be subject to redemption at the times, upon the terms and conditions and at the redemption prices approved by the Chairman or Vice Chairman and the Secretary-Treasurer in consultation with the Commission's financial advisor and bond counsel, at or prior to the sale of the Bonds.

**Section 3: Execution.** The Bonds shall be signed by the manual or facsimile signature of the Chairman of the Commission and shall be attested by the manual or facsimile signature of the Secretary-Treasurer of the Commission. There shall be printed on each of the Bonds a facsimile of the seal of the Commission. In case any officer of the Commission whose manual or facsimile signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, or in the case that any such officer shall take office subsequent to the date of issue of any such Bond, such signature or facsimile shall nevertheless be valid and sufficient for the purposes herein intended.

**Section 4: Authentication.** No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until a certificate of authentication of such Bond substantially in the form hereinafter adopted shall have been duly

executed by the Registrar (hereinafter defined) and such executed certificate of the Registrar on such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Resolution. The Registrar's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer or signatory of the Registrar. It shall not be necessary that the same officer or signatory of the Registrar sign the certificate of authentication for all the Bonds issued hereunder.

**Section 5: Payment of Bonds.** The principal of, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America at the time of payment. So long as the Bonds or any series of the Bonds are maintained under a book-entry system with The Depository Trust Company, principal of and premium, if any, and interest on such Bonds shall be payable to Cede & Co., as nominee of The Depository Trust Company, all as described in an official statement or offering memorandum related to such Bonds. If the book-entry system for the Bonds or any series of the Bonds shall be discontinued in accordance with this Resolution, the principal of and premium, if any, on such Bonds shall be payable upon presentation thereof at a designated corporate trust office of a bank or other entity hereafter to be determined by the Secretary-Treasurer, which bank or other entity, or any successor thereof, shall be designated as paying agent for such Bonds (the "Paying Agent"). Interest on such Bonds shall be payable by wire transfer, check or draft mailed by the Paying Agent to the registered owners thereof as of the record date immediately preceding each Interest Payment Date (the "Record Date") at their addresses as they appear on the Bond Register (hereinafter defined) or to such other address as is furnished to the Paying Agent by a registered owner. The Secretary-Treasurer may determine that the Office of the Secretary-Treasurer of the Commission will act as the Paying Agent or designate a Paying Agent as provided in this Resolution. Such designation by the Secretary-Treasurer may be done at any time and from time to time.

When there is no existing default in the payment of interest on the Bonds, the person in whose name any Bond is registered on the Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date (unless such Bond

has been called for redemption on a redemption date which is prior to such Interest Payment Date) notwithstanding the cancellation of such Bond upon any registration of transfer or exchange thereof subsequent to such Record Date and prior to such Interest Payment Date.

Any interest on any Bond which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner of the Bond on the relevant Record Date by virtue of having been such owner; and such Defaulted Interest shall be paid by the Paying Agent to the person in whose name the Bond is registered at the close of business on a date (the "Special Record Date") which shall be fixed by the Secretary-Treasurer in consultation with the Paying Agent and bond counsel. Defaulted Interest shall be paid to the persons in whose names the Bonds are registered on such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under this Resolution upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

**Section 6: Registration, Transfer or Exchange of Bonds.** The Commission shall cause to be kept at a designated corporate trust office of a bank or another designated entity hereafter to be determined by the Secretary-Treasurer, which shall be appointed the Registrar for the Bonds (the "Registrar"), a register (the "Bond Register") for the registration of the transfer or exchange of any Bonds. The Secretary-Treasurer may determine that the Office of the Secretary-Treasurer of the Commission will serve as the Registrar or the Secretary-Treasurer may appoint a Registrar as provided in this Resolution. Such designation by the Secretary-Treasurer may be done at any time and from time to time. Each Bond shall be registered and transferred or exchanged in accordance with the terms and conditions with respect thereto set forth on the face of such Bond, the form of which is hereinafter adopted.

**Section 7: Cancellation of Bonds.** The Bonds paid at maturity or upon prior redemption shall be canceled and destroyed by the Bond Registrar in accordance with practices

that are commonly used in the marketplace at that time and certificates of such action shall be transmitted to the Commission.

**Section 8: Form of Bonds.** The Bonds hereby authorized shall be in substantially the form attached hereto as Exhibit A, with appropriate insertions as therein set forth, which is hereby adopted by the Commission as the approved form of the obligations to be incurred by it, and all the covenants, conditions and representations contained in said form are hereby declared to be binding on the Commission and to constitute contracts between the Commission and the holders from time to time of the Bonds, said contracts to become binding when the Bonds are executed and delivered as herein authorized. Such form may be modified by the Secretary-Treasurer in accordance with the provisions of this Resolution, including but not limited to, modifications for the issuance of bonds in the form of serial bonds, term bonds, commercial paper, variable rate demand bonds or such other form as the Secretary-Treasurer may determine advisable in consultation with the financial advisor to the Commission and its bond counsel and modifications to reflect the maintenance of the Bonds under a book-entry system or the termination of a book-entry system as provided herein.

**Section 9: Negotiated Sale.** The Secretary-Treasurer is hereby authorized to sell the Bonds or any series of the Bonds by private negotiated sale on behalf of the Commission as authorized by Section 18-203(f) of the Land Use Article. The Chairman or Vice Chairman and the Secretary-Treasurer of the Commission, in consultation with bond counsel and the financial advisor to the Commission, are hereby authorized to determine on behalf of the Commission the method for conducting such private negotiated sale. The Secretary-Treasurer is hereby authorized to solicit and accept proposals for the sale of such Bonds on a private, negotiated basis. The Secretary-Treasurer of the Commission is hereby authorized to negotiate an agreement for the purchase of such Bonds (the "Bond Purchase Agreement"), to be approved by the Secretary-Treasurer in consultation with the Planning Board of Prince George's County, in accordance with the limitations set forth in this Resolution.

**Section 10: Public Sale; Notice of Sale.** The Secretary-Treasurer is hereby authorized to sell the Bonds or any series of the Bonds by public competitive sale. In the event of a public sale, the Secretary-Treasurer is hereby authorized to advertise such sale by any electronic medium or financial journal or to publish a notice of sale or a summary thereof calling for bids for such Bonds in such other manner as the Secretary-Treasurer shall deem appropriate, such publication to be at least five days before the date for the receipt of bids. The Secretary-Treasurer is authorized to offer the Bonds or any series of the Bonds for sale by competitive bid and accept bids, including but not limited to electronic bids via such service provider as the Secretary-Treasurer deems appropriate and is approved by bond counsel to the Commission or the financial advisor to the Commission. Said notice of sale shall be substantially in the form of Exhibit B attached hereto, subject to such changes, insertions (including without limitation the insertion of the appropriate amounts and dates in the respective spaces provided therefor in such form and receipt of bids) and amendments as the Secretary-Treasurer deems necessary and approves upon the advice of bond counsel and the financial advisor to the Commission, the Secretary-Treasurer's publication of such notice to constitute conclusive evidence of the approval of the Secretary-Treasurer of all changes from the form set forth in Exhibit B. In lieu of publishing the entire notice of sale as set forth in Exhibit B in a financial journal or by electronic medium as above specified, the Secretary-Treasurer, upon the advice of the financial advisor to the Commission, may determine to publish a summary of said notice of sale.

**Section 11: Official Statement; Guaranty.**

(a) The Secretary-Treasurer may prepare a private placement memorandum, a preliminary official statement, a final official statement or another form of offering memorandum (collectively, the "Official Statement") and a notice of sale with respect to the issuance and sale of any series of the Bonds, including any financial and other information about the Commission, Prince George's County and Montgomery County, Maryland deemed appropriate by the Secretary-Treasurer.

(b) The Secretary-Treasurer is hereby authorized and directed to make all arrangements for the printing, execution and delivery of the Official Statement and certificates for any series of the Bonds.

(c) The Secretary-Treasurer is hereby authorized and directed to arrange with the County Executive of Prince George's County for the endorsement on the Bonds of the guarantee of the payment of the principal thereof and interest thereon, as herein outlined and as required by law. The Bonds shall not be delivered until after the endorsement of such guaranty thereon.

**Section 12: Use of Bond Proceeds.** The proceeds of the sale of the Bonds (i) shall be used to pay the costs of the Projects and the principal of and interest and premium, if any, on the Refunded Bonds, and (ii) may be used to pay all or a portion of the issuance costs of the Bonds.

**Section 13: Tax Pledge.** The Commission hereby pledges its full faith and credit and the proceeds of the taxes required to be levied and collected for the Commission by Prince George's County under Section 18-304 of the Land Use Article, to the payment of the principal of and premium and interest on the Bonds as they become due.

The Commission covenants with each and every holder, from time to time, of the Bonds issued hereunder to allocate the proceeds of said taxes, as received, *pari passu*, to debt service on all outstanding bonds and notes issued by it, including this issue of Bonds, payable from said taxes, subject only to the prior rights of the holders of bonds of the Commission which are secured by a pledge of a specific portion of said tax. The Commission further covenants not to issue any additional bonds or notes payable from said taxes in excess of the limits prescribed, from time to time, by Section 18-203(d) of the Land Use Article.

With respect to the Bonds hereby authorized, the Commission covenants with the holders thereof annually to submit to Prince George's County a budget requesting the impose of said taxes to produce the revenues to pay the debt service to which the revenues from said taxes is pledged hereby, and to take all action it legally can take to compel Prince George's County to impose taxes at rates sufficient for the purpose and to fulfill and perform its guarantee of the payment, when due, of the principal of and interest on the Bonds.

**Section 14: Tax and Arbitrage Covenants.** The Chairman or the Vice Chairman and the Secretary-Treasurer shall be the officers of the Commission responsible for the issuance of the Bonds within the meaning of the Arbitrage Regulations (defined herein). The Chairman or the Vice Chairman and the Secretary-Treasurer shall also be the officers of the Commission responsible for the execution and delivery (on the date of issuance of the Bonds) of a certificate of the Commission (the "Section 148 Certificate") which complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended ("Section 148"), and the applicable regulations thereunder (the "Arbitrage Regulations"), and such officials are hereby directed to execute the Section 148 Certificate and to deliver the same to bond counsel on the date of the issuance of the Bonds.

The Commission shall set forth in the Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bonds, or of any moneys, securities or other obligations to the credit of any account of the Commission which may be deemed to be proceeds of the Bonds pursuant to Section 148 or the Arbitrage Regulations (collectively, "Bond Proceeds"). The Commission covenants that the facts, estimates and circumstances set forth in the Section 148 Certificate will be based on the Commission's reasonable expectations on the date of issuance of the Bonds and will be, to the best of the certifying officials' knowledge, true and correct as of that date.

The Commission covenants and agrees with each of the holders of any of the Bonds that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond Proceeds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 and the Arbitrage Regulations. The Commission further covenants that it will comply with Section 148 and the regulations thereunder which are applicable to the Bonds on the date of issuance of the Bonds and which may subsequently lawfully be made applicable to the Bonds.

The Commission further covenants that it shall make such use of the proceeds of the Bonds, regulate the investment of the proceeds thereof, and take such other and further actions as

may be required to maintain the excludability from gross income for federal income tax purposes of interest on the Bonds. All officers, employees and agents of the Commission are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bonds, as may be necessary or appropriate from time to time to comply with, or to evidence the Commission's compliance with, the covenants set forth in this Section.

The Chairman or Vice Chairman and the Secretary-Treasurer, on behalf of the Commission, may make such covenants or agreements in connection with the issuance of the Bonds issued hereunder as such official shall deem advisable in order to assure the registered owners of the Bonds that interest thereon shall be and remain excludable from gross income for federal income tax purposes, and such covenants or agreements shall be binding on the Commission so long as the observance by the Commission of any such covenants or agreements is necessary in connection with the maintenance of the exclusion of the interest on the Bonds from gross income for federal income tax purposes. The foregoing covenants and agreements may include such covenants or agreements on behalf of the Commission regarding compliance with the provisions of the Internal Revenue Code of 1986, as amended, as the Chairman or Vice Chairman and the Secretary-Treasurer shall deem advisable in order to assure the registered owners of the Bonds that the interest thereon shall be and remain excludable from gross income for federal income tax purposes, including (without limitation) covenants or agreements relating to the investment of the proceeds of the Bonds, the payment of rebate (or payments in lieu of rebate) to the United States, limitations on the times within which, and the purpose for which, such proceeds may be expended, or the use of specified procedures for accounting for and segregating such proceeds.

**Section 15: Appointment of Trustee and other Service Providers.** The Secretary-Treasurer is hereby authorized to engage the services of a trustee, a registrar, a paying agent, an escrow deposit agent, a credit facility provider, a broker-dealer, a placement agent, a remarketing agent, an underwriter, a verification agent, a liquidity facility provider and such other service



providers as the Secretary-Treasurer deems appropriate from time to time with respect to the Bonds.

**Section 16: Approval, Execution and Delivery of Documents.** The Secretary-Treasurer may prepare, as appropriate and shall submit for the approval of the Chairman or the Vice Chairman any agreement with a registrar, a paying agent, a trustee, an escrow deposit agent, a credit facility provider, a placement agent, a broker-dealer, a remarketing agent, an underwriter, a verification agent, a liquidity facility provider and such other service providers as the Secretary-Treasurer deems appropriate from time to time with respect to the Bonds or any series of the Bonds (collectively, the "Transaction Documents"). The Chairman or Vice Chairman is hereby authorized to execute and deliver, as appropriate, such Transaction Documents. The Chairman, Vice Chairman, Secretary-Treasurer and all other authorized officers of the Commission are hereby authorized to execute and deliver such other and further documents, certifications and forms as may be necessary, appropriate or advisable in order to effectuate the transactions authorized by this Resolution.

**Section 17: Continuing Disclosure Agreement.** The Secretary-Treasurer is expressly authorized to approve the form of, and execute and deliver on behalf of the Commission, a continuing disclosure agreement or certificate to assist bidders and/or underwriters in complying with the requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**Section 18: Award of Bonds.** The Chairman or the Vice Chairman with prior consultation with the Planning Board of Prince George's County, and the Secretary-Treasurer are hereby authorized with respect to the Bonds or any series of the Bonds to accept the best bid for such Bonds, reject all other bids for such Bonds, set the interest rates of such Bonds and set the aggregate principal amount, the maturity schedule and terms of redemption of the Bonds, in accordance with the limitations set forth in this Resolution.

I, JOSEPH C. ZIMMERMAN, the duly appointed, qualified and acting Secretary-Treasurer of The Maryland-National Capital Park and Planning Commission, do hereby certify that the foregoing is a true copy of Resolution No. 15-\_\_\_, adopted by said Commission at a regular meeting thereof duly called and held on September 16, 2015.

I do further certify that Commissioners Anderson, Bailey, Dreyfuss, Fani-Gonzalez, Geraldo, Hewlett, Presley, Shoaff, Washington and Wells-Harley were present. A motion to adopt was made and seconded. The Resolution was adopted unanimously.

I do further certify that said Resolution has not been amended and is still in force and effect on the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of The Maryland-National Capital Park and Planning Commission, this 16th day of September, 2015.

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Secretary-Treasurer

This is to certify that the foregoing is a true and correct copy of Resolution No. 15-\_\_\_ adopted by The Maryland-National Capital Park and Planning Commission on motion of Commissioner \_\_\_\_\_ seconded by Commissioner \_\_\_\_\_, with Commissioners Anderson, Bailey, Dreyfuss, Fani-Gonzalez, Geraldo, Hewlett, Presley, Shoaff, Washington and Wells-Harley voting in favor of the motion, and Commissioners \_\_\_\_\_ absent during the vote, at its meeting held on Wednesday, September 16, 2015, in Riverdale, Maryland.

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Patricia Colihan Barney  
Executive Director



Exhibit A  
UNITED STATES OF AMERICA  
STATE OF MARYLAND

No. R- \_\_\_\_\_ \$ \_\_\_\_\_

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Prince George's County  
General Obligation  
Park Acquisition and Development Project and Refunding Bond,  
Series PGC-2015A

<u>Dated Date</u>	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>CUSIP</u>
_____, 2015	___% per annum	_____, 20__	_____

Registered Owner: Cede & Co.

Principal Amount: \_\_\_\_\_ DOLLARS

The Maryland-National Capital Park and Planning Commission (the "Commission"), a public body corporate, organized and existing under the laws of the State of Maryland, hereby acknowledges itself indebted for value received and, upon presentation and surrender hereof, promises to pay to the Registered Owner shown above, or his registered assigns, on the Maturity Date shown above, unless this bond shall have been called for prior redemption and payment of the redemption price made or provided for, the Principal Amount shown above, and to pay interest on the outstanding principal amount hereof from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for, or, if no interest has been paid on this bond, from the date of this bond, at the annual rate of interest set forth above, payable semi-annually on \_\_\_\_\_ and \_\_\_\_\_ each year, beginning \_\_\_\_\_, 201\_\_ (each an "Interest Payment Date") until payment of such Principal Amount shall be discharged as provided in the Resolution (hereinafter defined), by wire transfer or check mailed by the Commission or banking institution or other entity designated as paying agent by the

Commission (the "Paying Agent"), or any successor thereto, to the person in whose name this bond is registered on the registration books maintained by the Registrar (identified herein) at the close of business on the [first day of the month in which such Interest Payment Date occurs] [fifteenth day of the month immediately preceding such Interest Payment Date] (the "Record Date"). Notwithstanding the preceding sentence, interest on this bond which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date shall forthwith cease to be payable to the owner of this Bond on the relevant Record Date by virtue of having been such owner and such interest shall be paid by the Paying Agent to the person in whose name this bond is registered at the close of business on a Special Record Date for the payment of such interest, which shall be fixed as provided in the Resolution.

Principal of, premium, if any, and interest on this bond are payable in lawful money of the United States of America, at the time of payment. Principal and premium, if any, hereon will be payable upon presentation and surrender of this bond by the registered owner hereof in person or by his duly authorized attorney, at the designated office of the Paying Agent.

This Bond is a general obligation of the Commission and of Prince George's County, Maryland (the "County"), to the payment, in accordance with its terms, of the principal of and interest on which the Commission and the County hereby each pledge their respective full faith and credit and taxing power.

The principal of and premium and interest on this bond are payable in the first instance from mandatory limited annual ad valorem property taxes which the County is required by Section 18-304 of the Land Use Article of the Annotated Code of Maryland (2012 Replacement Volume and 2014 Supplement) (the "Land Use Article") to impose at a fixed rate against all property assessed for the purposes of county taxation in the portion of the Maryland-Washington Metropolitan District (the "District") established by Title 19 of the Land Use Article located in the County. Section 18-209 of the Land Use Article provides that, if said mandatory tax is insufficient to pay the principal of and interest on this bond, the County shall impose an additional tax upon all assessable property within the portion of the District in the County, and, if

the proceeds of such additional tax are still inadequate for such purposes, upon all assessable property within the corporate limits of the County, to pay such deficiency. By the guaranty endorsed hereon, the full faith and credit of the County is pledged to the payment, when due, of the principal of and interest on this bond.

This bond is one of an issue of bonds in the aggregate principal amount of \$ \_\_\_\_\_ (the "Bonds") each of a par value of \$5,000 or an integral multiple thereof, numbered from No. R-1 upwards, all dated as of the Dated Date and all known as: "The Maryland-National Capital Park and Planning Commission Prince George's County General Obligation Park Acquisition and Development Project and Refunding Bonds, Series PGC-2015A". Unless previously redeemed as herein provided, the Bonds mature and are payable in consecutive annual installments on \_\_\_\_\_ in each of the years \_\_\_\_\_ through \_\_\_\_\_, and bear interest payable on each \_\_\_\_\_ and \_\_\_\_\_, commencing \_\_\_\_\_, 201\_\_\_\_, until their respective maturities or prior redemption. The Bonds are issued pursuant to the authority of Sections 18-201 through 18-211, inclusive, of the Land Use Article and in accordance with the Resolution of the Commission duly adopted on \_\_\_\_\_, 2015 (the "Resolution").

The Bonds which mature on or after \_\_\_\_\_, 20\_\_\_\_, are subject to redemption prior to their respective maturities at any time on or after \_\_\_\_\_, 20\_\_\_\_, at the option of the Commission, in whole or in part in any order of their maturities, at the redemption price of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption.

If less than all of the Bonds are called for redemption, the particular maturities to be redeemed shall be selected by the Commission. If less than all of the Bonds of any one maturity are called for redemption, the particular Bonds to be redeemed from such maturity shall be selected by lot or other random means by the Paying Agent in such manner as the Paying Agent in its discretion may determine, provided that each \$5,000 of the principal amount of any Bond shall be treated as a separate Bond for this purpose.

Notice of call for redemption shall be delivered to the Depository (as defined herein) prior to the date fixed for redemption in accordance with the Depository's procedures. If the book-entry system is discontinued for the Bonds, a notice calling for redemption of the Bonds to be redeemed shall be mailed by the Commission as Paying Agent, postage prepaid, at least thirty (30) days prior to the date fixed for redemption (the "Redemption Date"), to all registered owners of Bonds to be redeemed, at their last addresses appearing on the registration books kept by the Registrar. Failure to deliver or mail any such notice, or any defect in such notice, or in the delivery or mailing thereof, shall not affect the validity of any redemption proceedings. Such notice shall specify the issue, the numbers and the maturities of the Bonds to be redeemed, which statement of numbers may be from one number to another, inclusive, the Redemption Date and the redemption price, any conditions to such redemption, and shall further state that on such date the Bonds called for redemption will be due and become payable at the offices of the Paying Agent, and that, from and after such date, interest thereon shall cease to accrue.

From and after the date fixed for redemption, if notice has been given as herein provided, and the funds sufficient for payment of the redemption price and accrued interest shall be available therefore on such date, the Bonds so designated for redemption shall cease to bear interest. Upon presentation and surrender in compliance with such notice, the Bonds so called for redemption shall be paid by the Paying Agent at the redemption price. If not so paid on presentation thereof, such Bonds so called shall continue to bear interest at the rates expressed therein until paid.

This bond shall be registered as to principal and interest in the owner's name on the registration books kept for that purpose at the office of the Secretary-Treasurer or a designated office of the banking institution or other entity, or any successor thereto, designated by the Secretary-Treasurer (the "Registrar").

The transfer of this Bond is registerable by the registered owner hereof in person or by his attorney or legal representative at the designated office of the Registrar upon surrender and cancellation of this Bond together with a duly executed assignment in the form attached hereto

and satisfactory to the Registrar. Upon any such registration of transfer the Registrar shall authenticate and deliver in exchange for this Bond a registered Bond or Bonds registered in the name of the transferee of authorized denomination or denominations, in the aggregate principal amount equal to the principal amount of this Bond or the unredeemed portion hereof, of the same maturity and bearing interest at the same rate. Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, bearing interest at the same rate, of other authorized denominations, at the designated office of the Registrar. The Commission and the Registrar may make a charge for every such exchange or transfer sufficient to reimburse it for any tax, fee, or other governmental charge, shipping charges and insurance required to be paid with respect to such exchange or transfer, and in addition, may charge a sum sufficient to reimburse them for expenses incurred in connection with such exchange or transfer. All Bonds surrendered in such exchange or registration of transfer shall forthwith be canceled by the Registrar. The Registrar shall not be required to register the transfer of this bond or make any such exchange of this bond after the mailing of notice calling this bond or any portion hereof for redemption.

So long as all of the Bonds shall be maintained in Book-Entry Form with The Depository Trust Company or another securities depository (the "Depository"): (1) in the event that fewer than all Bonds of any one maturity shall be called for redemption, the Depository, and not the Registrar, will select the particular accounts from which Bonds or portions thereof will be redeemed in accordance with the Depository's standard procedures for redemption of obligations such as the Bonds; (2) in the event that part, but not all, of this bond shall be called for redemption, the holder of this bond may elect not to surrender this bond in exchange for a new bond in accordance with the provisions hereof and in such event shall make a notation indicating the principal amount of such redemption and the date thereof on the Payment Grid attached hereto; and (3) payments of principal or redemption price of and interest on this bond shall be payable to the Depository or its assigns in accordance with the provisions of the Resolution. For all purposes, the principal amount of this bond outstanding at any time shall be equal to the lesser



of (A) the principal sum shown on the face hereof and (B) such principal sum reduced by the principal amount of any partial redemption of this bond following which the holder of this bond has elected not to surrender this bond in accordance with the provisions hereof. The failure of the holder hereof to note the principal amount of any partial redemption on the Payment Grid attached hereto, or any inaccuracy therein, shall not affect the payment obligation of the Commission hereunder. THEREFORE, IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER A PART OF THE PRINCIPAL OF THIS BOND HAS BEEN PAID.

It is hereby certified and recited that each and every act, condition and thing required to exist, to be done, to have happened and to be performed precedent to and in the issuance of this bond, does exist, has been done, has happened and has been performed, in full and strict compliance with the Constitution and laws of the State of Maryland and the proceedings of the Commission and of the County, and that the issue of bonds of which this bond is one, together with all other indebtedness of said Commission, and of the County, is within every debt and other limit prescribed by the Constitution and laws of said State.

IN WITNESS WHEREOF, The Maryland-National Capital Park and Planning Commission, in the State of Maryland, has caused this bond to be signed in its name by the signature of its Chairman and attested by the signature of its Secretary-Treasurer and has caused the facsimile of its corporate seal to be imprinted hereon, all as of Dated Date set forth above.

ATTEST:

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

\_\_\_\_\_  
Secretary-Treasurer

By: \_\_\_\_\_  
Chairman

(CORPORATE SEAL)

GUARANTY

The payment of interest when due, and of the principal on maturity, is guaranteed by Prince George's County, Maryland.

ATTEST:

PRINCE GEORGE'S COUNTY,  
MARYLAND

\_\_\_\_\_  
Clerk

By: \_\_\_\_\_  
County Executive

(CORPORATE SEAL)

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds issued under the provisions of and described in the within mentioned Resolution of The Maryland-National Capital Park and Planning Commission.

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Registrar

By: \_\_\_\_\_  
Authorized Officer

Date of Authentication: \_\_\_\_\_

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto  
(Please Insert Social Security or Other Identifying Number of Assignee) \_\_\_\_\_

\_\_\_\_\_  
(Print or Type Name and Address, Including Zip Code of Assignee)

\_\_\_\_\_  
the within bond and all rights thereunder, and does hereby constitute and appoint \_\_\_\_\_  
\_\_\_\_\_ attorney to transfer the within bond on the books kept for the registration thereof,  
with full power of substitution in the premises.

\_\_\_\_\_  
NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

\_\_\_\_\_  
(Signature of registered owner)  
NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.



NOTICE OF SALE

§ \_\_\_\_\_  
**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**Prince George's County**  
**General Obligation**  
**Park Acquisition and Development Project and Refunding Bonds,**  
**Series PGC-2015A**

**Electronic Bids only will be received until 11:00 a.m.,  
Local Baltimore, Maryland Time, on \_\_\_\_\_, 2015**

by The Maryland-National Capital Park and Planning Commission (the "Commission"), for the purchase of the above-named issue of bonds (the "Bonds") of the Commission, to be dated as of the date of their delivery and to be issued pursuant to the authority of Sections 18-201 through 18-211, inclusive, of the Land Use Article of the Annotated Code of Maryland (2012 Replacement Volume and 2014 Supplement) (the "Land Use Article") and a Resolution of the Commission adopted on \_\_\_\_\_, 2015. The Bonds will bear interest from the date of their delivery payable on each \_\_\_\_\_ and \_\_\_\_\_, commencing \_\_\_\_\_, 201\_\_ until maturity or prior redemption.

The payment of the principal of and interest on all of the Bonds will be unconditionally guaranteed by Prince George's County, Maryland (the "County").

**Book-Entry System:** The Bonds shall be issued only in fully registered form without coupons. One bond certificate representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such bond certificate shall be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof. Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The successful bidder, as a condition to delivery of the Bonds, will be required to deposit the bond certificates representing each maturity with DTC.

**Maturities:** The Bonds will be separately numbered from No. R-1 upward, and will mature, subject to prior redemption, in consecutive annual installments in the amounts and years set forth in the following table:

**MATURITY SCHEDULE**

<u>Year of Maturity</u>	<u>Principal Amount*</u>	<u>Year of Maturity</u>	<u>Principal Amount*</u>
-----------------------------	------------------------------	-----------------------------	------------------------------

\$

\$

\*Preliminary, subject to adjustment as provided herein.

**Adjustments.** The aggregate principal amount and the principal amount of each maturity of the Bonds are subject to adjustment by the Commission, both before and after the receipt of bids for their purchase. Changes to be made prior to the sale will be announced through TM3 News Service not later than 9:30 a.m. local time on the date of sale (or as soon thereafter as is reasonably practical) and will be used to compare bids and select a winning bidder. Changes to be made after the sale and the maturity schedule for the Bonds will be communicated to the successful bidder by 5:00 p.m. local time on the date of the sale, will be made only as necessary to effect the refunding, and will not reduce or increase the aggregate principal amount of the Bonds by more than \_\_\_% from the amount bid upon. The dollar amount bid for principal and any amount bid for premium by the successful bidder will be adjusted proportionately to reflect any reduction or increase in the aggregate principal amount of the Bonds, but the interest rates specified by the successful bidder for all maturities will not change. The successful bidder may not withdraw its bid as a result of any changes made within these limits.

**Registrar and Paying Agent:** The Maryland-National Capital Park and Planning Commission will act as Registrar and Paying Agent for the Bonds.

**Security:** All of the Bonds will be general obligations of the Commission and of the County for the payment, in accordance with their terms, of the principal of and interest on which the Commission and the County will each pledge their respective full faith and credit and taxing power.

The Bonds will be payable as to both principal and interest first from limited ad valorem property taxes which the County is required by law to impose in the portion of the Maryland-Washington Metropolitan District (the "District") established by Title 19 of the Land Use Article located in the County and remit to the Commission. By its guarantee of the Bonds, the full faith and credit of the County is pledged, as required by law, for the payment of the principal thereof and interest thereon. To the extent that the aforesaid taxes imposed for the benefit of the

Commission are inadequate in any year for the payment of such principal and interest, Section 18-209 of the Land Use Article provides that the County shall impose an additional tax upon all assessable property within the portion of the District in the County, and, if the proceeds of such additional tax are still inadequate for such purposes, upon all assessable property within the corporate limits of the County, to pay such deficiency.

**Redemption:** The Bonds which mature on or after \_\_\_\_\_, 20\_\_, are subject to redemption prior to their respective maturities at any time on or after \_\_\_\_\_, 20\_\_, at the option of the Commission, in whole or in part in any order of maturities, at a redemption price of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption.

**Electronic Bids:** Notice is hereby given that electronic proposals will be received via *[PARITY]*, in the manner described below, until 11:00 a.m., local Baltimore, Maryland time, on \_\_\_\_\_, 2015.

Bids may be submitted electronically pursuant to this Notice until 11:00 a.m., local Baltimore, Maryland time, but no bid will be received after the time for receiving bids specified above. To the extent any instructions or directions set forth in *[PARITY]* conflict with this Notice, the terms of this Notice shall control. For further information about *[PARITY]*, potential bidders may contact *[PARITY]* at (212) 849-5021.

As promptly as reasonably possible after the bids are received, the Chairman, the Vice Chairman or Secretary-Treasurer of the Commission will notify the bidder to whom the Bonds will be awarded, if and when such award is made, and such bidder, upon such notice, shall advise the Chairman or the Vice Chairman or the Secretary-Treasurer of the Commission of the initial reoffering prices to the public of each maturity of the Bonds (the "Initial Reoffering Prices"). THE SUCCESSFUL BIDDER SHALL MAKE A BONA FIDE PUBLIC OFFERING OF THE BONDS AT THE INITIAL OFFERING PRICES AND SHALL PROVIDE THE RELATED CERTIFICATION DESCRIBED BELOW.

**Disclaimer:** Each prospective electronic bidder shall be solely responsible to submit its bid via *[PARITY]* as described above. Each prospective electronic bidder shall be solely responsible to make necessary arrangements to access *[PARITY]* for the purpose of submitting its bid in a timely manner and in compliance with the requirements of the Notice of Sale. Neither the Commission nor *[PARITY]* shall have any duty or obligation to provide or assure access to *[PARITY]* to any prospective bidder, and neither the Commission nor *[PARITY]* shall be responsible for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, *[PARITY]*. The Commission is using *[PARITY]* as a communication mechanism, and not as the Commission's agent, to conduct the electronic bidding for the Bonds. The Commission is not bound by any advice and determination of *[PARITY]* to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their submission of bids via *[PARITY]* are the sole responsibility of the bidders; and the Commission is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in submitting, modifying, or withdrawing a bid for the Bonds, the prospective bidder should telephone *[PARITY]* at (212) 849-5021 and notify



the Commission's Financial Advisor, Davenport & Company LLC, by facsimile at (866) 932-6660.

**Electronic Bidding Procedures:** Electronic bids must be submitted for the purchase of the Bonds (all or none) via *[PARITY]*. Bids will be communicated electronically to the Commission at 11:00 a.m. local Baltimore, Maryland time, on \_\_\_\_\_, 2015. Prior to that time, a prospective bidder may (1) submit the proposed terms of its bid via *[PARITY]*, (2) modify the proposed terms of its bid, in which event the proposed terms as last modified will (unless the bid is withdrawn as described herein) constitute its bid for the Bonds or (3) withdraw its proposed bid. Once the bids are communicated electronically via *[PARITY]* to the Commission, each bid will constitute an irrevocable offer to purchase the Bonds on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on *[PARITY]* shall constitute the official time.

**Bid Specifications:** Proposals for purchase of the Bonds must be for all of the Bonds herein described and must be submitted electronically pursuant to this Notice until 11:00 a.m., local Baltimore, Maryland time on \_\_\_\_\_, 2015. Bidders must pay not less than par and not more than \_\_\_\_% of par. In their proposals, bidders are requested to specify the annual rate or rates of interest to be borne by the Bonds. Bidders are requested to name the interest rate or rates in multiples of 1/8 or 1/20 of 1%. Bidders may specify more than one rate of interest to be borne by the Bonds, but all Bonds maturing on the same date must bear interest at the same rate. Bonds on successive maturity dates may bear the same interest rate. No Bond shall bear more than one rate of interest, which rate shall be uniform for the life of the Bond and no interest rate may be named that exceeds \_\_\_\_%. The difference between the highest and lowest interest rates may not exceed \_\_\_\_%.

**Award of Bid:** The successful bidder will be determined based on the lowest interest cost to the Commission. The lowest interest cost shall be determined in accordance with the true interest cost (TIC) method by doubling the semi-annual interest rate, compounded semi-annually, necessary to discount the debt service payments from the payment dates to the date of the Bonds, and to the price bid. Where the proposals of two or more bidders result in the same lowest interest cost, the Bonds may be apportioned between such bidders, but if this shall not be acceptable, the Commission shall have the right to award all of the Bonds to one bidder. The Commission reserves the right to reject any or all proposals and to waive any irregularities in any of the proposals. The Secretary-Treasurer's judgment shall be final and binding upon all bidders with respect to the form and adequacy of any proposal received and as to its conformity to the terms of this Notice of Sale. Any award of the Bonds may be made as late as 4:00 p.m. on the sale date. All bids shall remain firm until an award is made.

No proposal to purchase the Bonds at a price less than par will be entertained.

**Good Faith Deposit:** A good faith deposit in the amount of \$\_\_\_\_\_ (the "Good Faith Deposit") is required of the successful bidder. The successful bidder for the Bonds is required to submit such Good Faith Deposit payable to the order of the Commission in the form of a wire transfer in federal funds as instructed by the Commission. The successful bidder shall submit the Good Faith Deposit not more than two hours after the verbal award is made. The successful bidder should provide as quickly as it is available, evidence of wire transfer by

providing the Commission the federal funds reference number. If the Good Faith Deposit is not received in the time allotted, the bid of the successful bidder may be rejected and the Commission may direct the next lowest bidder to submit a Good Faith Deposit and thereafter may award the sale of the Bonds to the same. If the successful bidder fails to comply with the Good Faith Deposit requirement as described herein, that bidder is nonetheless obligated to pay to the Commission the sum of \$\_\_\_\_\_ as liquidated damages due to the failure of the successful bidder to timely deposit the Good Faith Deposit.

***Submission of a bid to purchase the Bonds serves as acknowledgement and acceptance of the terms of the Good Faith Deposit requirement.***

The Good Faith Deposit so wired will be retained by the Commission until the delivery of the Bonds, at which time the Good Faith Deposit will be applied against the purchase price of the Bonds or the Good Faith Deposit will be retained by the Commission as partial liquidated damages in the event of the failure of the successful bidder to take up and pay for such Bonds in compliance with the terms of this Notice of Sale and of its bid. No interest on the Good Faith Deposit will be paid by the Commission. The balance of the purchase price must be wired in federal funds to the account detailed in the closing memorandum, simultaneously with delivery of the Bonds.

**CUSIP Numbers; Expenses of the Bidder:** It is anticipated that CUSIP numbers will be assigned to each maturity of the Bonds, but neither the failure to type or print such numbers on any of the Bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds. The policies of the CUSIP Service Bureau will govern the assignment of specific numbers to the Bonds. The successful bidder will be responsible for applying for and obtaining, subject to the CUSIP Service Bureau policy and procedures, CUSIP numbers for the Bonds promptly upon award of the bid. All expenses of typing or printing CUSIP numbers for the Bonds will be paid for by the Commission; provided the CUSIP Service Bureau charges for the assignment of the numbers shall be the responsibility of and shall be paid for by the successful bidder.

All charges of DTC and all other expenses of the successful bidder will be the responsibility of the successful bidder for the Bonds.

**Official Statement:** Not later than seven (7) business days after the date of sale, the Commission will deliver to the successful bidder an Official Statement, which is expected to be substantially in the form of the Preliminary Official Statement referred to below. If so requested by the successful bidder for the Bonds at or before the close of business on the date of the sale, the Commission will include in the Official Statement such pricing and other information with respect to the terms of the reoffering of the Bonds by the successful bidder therefor, if any, as may be specified and furnished in writing by such bidder (the "Reoffering Information"). If no such information is specified and furnished by the successful bidder, the Official Statement will include the interest rate or rates on the Bonds resulting from the bid of such successful bidder. The successful bidder shall be responsible to the Commission and its officials for such Reoffering Information furnished by such bidder, and for all decisions made by such bidder with respect to the use or omission of the Reoffering Information in any reoffering of the Bonds. The successful bidder will also be furnished, without cost, with a reasonable number of copies of the

Official Statement as determined by the Secretary-Treasurer (and any amendments or supplements thereto).

**Legal Opinion:** The Bonds described above will be issued and sold subject to approval as to legality by McGuireWoods LLP, Bond Counsel, whose approving opinion will be delivered, upon request, to the successful bidder for the Bonds without charge. Such opinion will be substantially in the form included in Appendix \_\_ to the Preliminary Official Statement referred to below.

**Continuing Disclosure:** In order to assist bidders in complying with SEC Rule 15c2-12, the Commission will execute and deliver a continuing disclosure certificate on or before the date of issuance of the Bonds pursuant to which the Commission will undertake to provide certain information annually and notices of certain events. A description of this certificate is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

**Delivery and Payment:** It shall be a condition of the obligation of the successful bidder to accept delivery of and pay for the Bonds, that, simultaneously with or before delivery and payment for the Bonds, said bidder shall be furnished, without cost, with a certificate of the Secretary-Treasurer of the Commission to the effect that, to the best of his knowledge, the Official Statement and any amendment or supplement thereto (except for the Reoffering Information provided by the successful bidder, as to which no view will be expressed) does not contain, as of the date of sale and as of the date of delivery of the Bonds, any untrue statement of a material fact, required to be stated or necessary to be stated, to make such statements, in light of the circumstances under which they were made, not misleading.

**SIMULTANEOUSLY WITH OR BEFORE DELIVERY OF THE BONDS, THE SUCCESSFUL BIDDER SHALL FURNISH TO THE COMMISSION A CERTIFICATE ACCEPTABLE TO BOND COUNSEL TO THE EFFECT THAT (I) THE SUCCESSFUL BIDDER HAS MADE A BONA FIDE PUBLIC OFFERING OF THE BONDS AT THE INITIAL REOFFERING PRICES, (II) AS OF THE DATE OF THE SALE OF THE BONDS, THE SUCCESSFUL BIDDER REASONABLY EXPECTED TO SELL A SUBSTANTIAL AMOUNT OF EACH MATURITY OF THE BONDS AT THE APPLICABLE INITIAL REOFFERING PRICES, AND (III) A SUBSTANTIAL PORTION OF EACH MATURITY OF THE BONDS WERE SOLD TO THE PUBLIC (EXCLUDING BOND HOUSES, BROKERS AND OTHER INTERMEDIARIES) AT SUCH INITIAL REOFFERING PRICES. Bond Counsel advises that (i) such certifications shall be made based on actual facts known to the successful bidder as of the sale date and (ii) a substantial portion of the Bonds is at least 10% in par amount of each maturity of the Bonds. If the successful bidder cannot deliver the certificate as described above, the County's bond counsel will be required to evaluate the facts and circumstances of the offering and sale of the Bonds to confirm compliance with statutory requirements of avoiding the establishment of an artificial price for the Bonds.**

Delivery of the Bonds, without expense, will be made by the Commission to the purchaser within thirty (30) days from the date of sale, or as soon as practicable thereafter, through the facilities of DTC in New York, New York, and, thereupon, said purchaser will be required to accept delivery of the Bonds purchased and pay the balance of the purchase price

thereon in federal or other immediately available funds. The Bonds will be accompanied by the customary closing documents including a no-litigation certificate effective as of the date of delivery.

**Contacts:** A preliminary official statement, which is in a form “deemed final” as of its date by the Commission for purposes of SEC Rule 15c2-12 (the “Preliminary Official Statement”) but is subject to revision, amendment and completion in the final official statement (the “Official Statement”), together with this Notice of Sale, may be obtained from Joseph C. Zimmerman, Secretary-Treasurer, The Maryland-National Capital Park and Planning Commission, 6611 Kenilworth Avenue, Riverdale, Maryland 20737, (301) 454-1540 or Davenport & Company LLC, 8600 LaSalle Road, Suite 324, Towson, Maryland 21286-2011, (410) 296-9426.

**Right to Change Notice of Sale and Postpone Offering:** The Commission reserves the right to change this Notice of Sale and to postpone, from time to time, the date established for the receipt of bids. In the event of a postponement, the new date and time of sale will be announced via TM3 News Service at least 24 hours prior to the time proposals are to be submitted. On any such alternative sale date, bidders may submit electronic bids for the purchase of the Bonds in conformity with the provision of this Notice of Sale, as modified, including the change of the date of sale and the changes described in the next sentence. If the date fixed for receipt of bids is postponed, the expected date of delivery of the Bonds and the date of the Bonds also may be postponed. Such changes, if any, will be announced via TM3 News Service at the time any alternative sale date is announced.

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

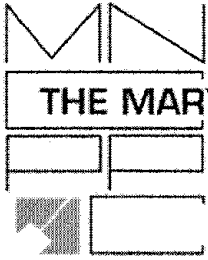
By: Elizabeth M. Hewlett  
Chairman

Refunded Bonds

Prince George's County General Obligation  
 Park Acquisition and Development Bonds, Series JJ-2

<b>Maturing</b>		<b>Rate of</b>	<b>Redemption</b>
<b><u>May 1</u></b>	<b><u>Principal</u></b>	<b><u>Interest</u></b>	<b><u>Price</u></b>
2016	\$355,000	4.50 %	N/A
2017	355,000	5.00	N/A
2018	535,000	5.00	100%
2019	535,000	4.125	100
2020	535,000	4.125	100
2021	535,000	4.25	100
2022	535,000	4.25	100
2023	535,000	4.25	100
2024	535,000	4.25	100
2025	535,000	4.25	100
2026	535,000	4.25	100
2027	535,000	4.25	100

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**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**


6611 Kenilworth Avenue Riverdale, Maryland 20730

**DRAFT**

Date: August 19, 2015

To: The Maryland-National Capital Park and Planning Commission

Via: Patricia C. Barney, Executive Director  
John Kroll, Corporate Budget Manager 

From: Melinda Duong, Senior Budget Analyst 

Subject: CAS Labor Cost Allocation Analysis for the FY17 Budget

**Recommendation:**

It is recommended that the Commission adopt the update to the labor cost percentages used to allocate CAS department budgets between Montgomery and Prince George's counties for the FY17 Proposed Budget.

**Background**

Developed annually, this analysis looks at the 6 CAS departments/units providing services to the two counties to determine what percentage of time and hence budget should be charged to which funding sources.

Three CAS functions are not addressed in this analysis: Group Insurance – labor costs are factored into the rates set for the employer and employee/retiree, and, since FY14, no longer allocated and charged directly to the operating departments in each county. CIO – Labor costs are allocated by the percentage of subscriptions to the Cloud and included in the two Capital Equipment Fund budgets. Risk Management – in the past the administrative costs have been allocated 50/50. After analyzing staff time records for the three-year period from FY13 to FY15, even though the allocation is slightly different each year, the annualized allocation for Risk Management remains 50/50.

**Methodology**

Fiscal year data is extracted from the time card system. For those divisions for which cost drivers are not applied, work hours are classified as Montgomery County, Prince George's County or Bi-county, according to the description of the labor codes used. If the labor code does not indicate a specific county for the work/leave hours, the hours are classified as Bi-county. Bi-county hours are allocated 50/50 between the two counties.

For Accounts Payable, Treasury/Investments, Payroll and Purchasing units of the Finance Department, and Employee Records and Recruitment units of the Department of Human Resources and Management, the labor cost allocations are done using cost drivers, i.e., work

hours are classified and distributed as Montgomery or Prince George's according to the Cost Driver table below. For Accounts Payable and Payroll the driver is number of payments issued; for Purchasing the driver is total document volume (including PO's, contracts and purchase card transactions); for Treasury the driver is the number of cash receipts and deposits; for Employee Records the driver is the number of PA2's processed; for Recruitment the driver is the number of applications.

Whether utilizing the labor hour allocations or the cost drivers, the results are then factored into a three year moving average to smooth individual year variations.

Two CAS departments do not utilize either of these methodologies. The Merit System Board is assumed that the decisions they render are applicable to the Commission as a whole. Therefore, their budget is allocated on a 50/50 basis.

Support Services – Historically allocated on a 50/50 basis, beginning with FY15 these expenses are allocated based upon the three year labor allocation average of the CAS departments/units that are supported.

## Results

Cost drivers were updated for FY15 by Finance and DHRM and these results are shown below along with the drivers used for prior periods.

Cost Drivers	FY11-FY13		FY13		FY14		FY15		% shift in Share	
	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC
Accounts Payable	32%	68%	32%	68%	30%	70%	31%	69%	1%	-1%
Payroll	26%	74%	25%	75%	22%	78%	24%	76%	2%	-2%
Purchasing	39%	61%	45%	55%	47%	53%	46%	54%	-1%	1%
Treasury/Investment	28%	72%	20%	80%	35%	65%	30%	70%	-5%	5%
Employee Records	30%	70%	19%	81%	19%	81%	21%	79%	2%	-2%
Recruitment	42%	58%	40%	60%	40%	60%	43%	57%	3%	-3%

Using the labor hour splits for some divisions, the cost driver calculations for other divisions, and the assumptions noted above under Methodology for Merit Board and Support Services resulted in the allocation percentages shown below.

	FY16		FY17 Proposed		Change from FY16	
	MC	PGC	MC	PGC	MC	PGC
DHRM	42.9%	57.1%	42.1%	57.9%	-0.8%	0.8%
Finance	42.9%	57.1%	42.7%	57.3%	-0.2%	0.2%
Legal	53.8%	46.2%	51.9%	48.1%	-1.9%	1.9%
Internal Audit	30.9%	69.1%	34.7%	65.3%	3.8%	-3.8%
Merit System Board	50.0%	50.0%	50.0%	50.0%	0.0%	0.0%
Support Services	44.7%	55.3%	44.2%	55.8%	-0.5%	0.5%
<b>Total CAS Before Chargebacks</b>	<b>44.7%</b>	<b>55.3%</b>				

Below is an expanded summary showing the budgeted allocations from FY11 through FY16

ALLOCATION OF CAS BUDGET TO EACH COUNTY FY11 TO FY16

	FY11		FY12		FY13		FY14		FY15		FY16		FY17 Proposed		Change from FY16	
	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC
DHRM	47.2%	52.8%	42.5%	57.5%	42.5%	57.5%	42.5%	57.5%	43.7%	56.3%	42.9%	57.1%	42.1%	57.9%	-0.8%	0.8%
Finance	46.5%	53.5%	43.4%	56.6%	43.4%	56.6%	43.4%	56.6%	42.7%	57.3%	42.9%	57.1%	42.7%	57.3%	-0.2%	0.2%
Legal	49.9%	50.1%	54.2%	45.8%	56.3%	43.7%	57.4%	42.6%	56.1%	43.9%	53.8%	46.2%	51.9%	48.1%	-1.9%	1.9%
Internal Audit	0.0%	0.0%	31.3%	68.7%	32.1%	67.9%	32.4%	67.6%	32.4%	67.6%	30.9%	69.1%	34.7%	65.3%	3.8%	-3.8%
Merit System Board	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	0.0%	0.0%
Support Services	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	45.1%	54.9%	44.7%	55.3%	44.2%	55.8%	-0.5%	0.5%
<b>Total CAS Before Chargebacks</b>	<b>47.5%</b>	<b>52.5%</b>	<b>46.1%</b>	<b>54.9%</b>	<b>45.7%</b>	<b>54.3%</b>	<b>46.0%</b>	<b>54.0%</b>	<b>45.4%</b>	<b>54.6%</b>	<b>44.7%</b>	<b>55.3%</b>	<b>44.7%</b>	<b>55.3%</b>		



This table provides the divisional labor allocation in detail, including the 3 year average which forms the basis for each year's proposed allocation.

	FY 11			FY 12			FY 13			FY 14			FY 15		
	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total	MC	PGC	Total
<b>30 - Dept Human Resources &amp; Mgmt</b>	<b>43.4%</b>	<b>56.6%</b>	<b>100%</b>	<b>45.1%</b>	<b>54.9%</b>	<b>100%</b>	<b>41.7%</b>	<b>58.3%</b>	<b>100%</b>	<b>42.0%</b>	<b>58.0%</b>	<b>100%</b>	<b>42.6%</b>	<b>57.4%</b>	<b>100%</b>
OFFICE OF THE EXEC. DIR.	49.1%	50.9%	100%	49.5%	50.5%	100%	48.6%	51.4%	100%	50.4%	49.6%	100%	50.0%	50.0%	100%
BUDGET DIVISION	49.5%	50.5%	100%	50.9%	49.1%	100%	49.3%	50.7%	100%	48.8%	51.2%	100%	47.7%	52.3%	100%
CLASSIFICATION COMPENSATION	51.4%	48.6%	100%	47.0%	53.0%	100%	53.0%	47.0%	100%	56.1%	43.9%	100%	52.6%	47.4%	100%
CORP. POLICY & MGMT SVCS	51.5%	48.5%	100%	52.4%	47.6%	100%	50.1%	49.9%	100%	49.9%	50.1%	100%	50.1%	49.9%	100%
EMPLOYEE LABOR RELATIONS	40.7%	59.3%	100%	49.5%	50.5%	100%	59.2%	40.8%	100%	57.9%	42.1%	100%	52.9%	47.1%	100%
HRIS/EMP. RECORDS	35.0%	65.0%	100%	35.0%	65.0%	100%	19.0%	81.0%	100%	19.0%	81.0%	100%	21.0%	79.0%	100%
RECRUITMENT	45.2%	54.8%	100%	42.2%	57.8%	100%	40.0%	60.0%	100%	40.0%	60.0%	100%	43.3%	56.7%	100%
<b>31 - Legal</b>	<b>57.7%</b>	<b>42.3%</b>	<b>100%</b>	<b>55.5%</b>	<b>44.5%</b>	<b>100%</b>	<b>53.4%</b>	<b>46.6%</b>	<b>100%</b>	<b>52.6%</b>	<b>47.4%</b>	<b>100%</b>	<b>49.7%</b>	<b>50.3%</b>	<b>100%</b>
<b>32 - Finance Department</b>	<b>42.6%</b>	<b>57.4%</b>	<b>100%</b>	<b>43.0%</b>	<b>57.0%</b>	<b>100%</b>	<b>42.9%</b>	<b>57.1%</b>	<b>100%</b>	<b>42.7%</b>	<b>57.3%</b>	<b>100%</b>	<b>42.6%</b>	<b>57.4%</b>	<b>100%</b>
ACCOUNTING	48.9%	51.1%	100%	49.2%	50.8%	100%	48.8%	51.2%	100%	44.5%	55.5%	100%	45.6%	54.4%	100%
ACCOUNTS PAYABLE	31.8%	68.2%	100%	31.8%	68.2%	100%	32.0%	68.0%	100%	29.6%	70.4%	100%	31.0%	69.0%	100%
ADMINISTRATIVE SERVICES	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	49.9%	50.1%	100%
INVESTMENTS	32.1%	67.9%	100%	32.1%	67.9%	100%	20.0%	80.0%	100%	35.0%	65.0%	100%	30.0%	70.0%	100%
IT DIVISION	50.1%	49.9%	100%	50.5%	49.5%	100%	50.1%	49.9%	100%	49.8%	50.2%	100%	49.8%	50.2%	100%
OFFICE OF THE SEC.-TREAS.	50.4%	49.6%	100%	49.0%	51.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%
PAYROLL	26.1%	73.9%	100%	26.1%	73.9%	100%	25.0%	75.0%	100%	22.0%	78.0%	100%	23.5%	76.5%	100%
PURCHASING	36.6%	63.4%	100%	35.6%	64.4%	100%	45.0%	55.0%	100%	45.5%	54.5%	100%	45.9%	54.1%	100%
<b>52 - Internal Audit</b>	<b>36.2%</b>	<b>63.8%</b>	<b>100%</b>	<b>24.6%</b>	<b>75.4%</b>	<b>100%</b>	<b>36.9%</b>	<b>63.1%</b>	<b>100%</b>	<b>30.1%</b>	<b>69.9%</b>	<b>100%</b>	<b>37.2%</b>	<b>62.8%</b>	<b>100%</b>
<b>Total CAS</b>	<b>45.6%</b>	<b>54.4%</b>	<b>100%</b>	<b>45.3%</b>	<b>54.7%</b>	<b>100%</b>	<b>44.5%</b>	<b>55.5%</b>	<b>100%</b>	<b>44.2%</b>	<b>55.8%</b>	<b>100%</b>	<b>43.9%</b>	<b>56.1%</b>	<b>100%</b>

Notes:

- 1) Highlighted rows represents labor cost allocations are done with cost drivers
- 2) Result include chargeback positions based on time card records
- 3) FY11, FY12 and FY13 include FY14 new dedicated position in Legal

	3 Year Average			3 Year Average			3 Year Average			3 Year Average vs FY16 Budget					
	FY 11 - MC	FY 11 - PGC	FY 11 - Total	FY 12 - MC	FY 12 - PGC	FY 12 - Total	FY 13 - MC	FY 13 - PGC	FY 13 - Total	FY 16 Budget - MC	FY 16 Budget - PGC	FY 16 Budget - Total	3 Year Average vs FY16 Budget - MC	3 Year Average vs FY16 Budget - PGC	3 Year Average vs FY16 Budget - Total
<b>30 - Dept Human Resources &amp; Mgmt</b>	<b>43.4%</b>	<b>56.6%</b>	<b>100%</b>	<b>42.9%</b>	<b>57.1%</b>	<b>100%</b>	<b>42.1%</b>	<b>57.9%</b>	<b>100%</b>	<b>42.9%</b>	<b>57.1%</b>	<b>100%</b>	<b>-0.8%</b>	<b>0.8%</b>	<b>0.0%</b>
OFFICE OF THE EXEC. DIR.	49.1%	50.9%	100%	49.5%	50.5%	100%	49.7%	50.3%	100%	49.7%	50.3%	100%			
BUDGET DIVISION	49.9%	50.1%	100%	49.7%	50.3%	100%	48.6%	51.4%	100%	48.6%	51.4%	100%			
CLASSIFICATION COMPENSATION	50.5%	49.5%	100%	52.0%	48.0%	100%	53.9%	46.1%	100%	53.9%	46.1%	100%			
CORP. POLICY & MGMT SVCS	51.3%	48.7%	100%	50.8%	49.2%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%			
EMPLOYEE LABOR RELATIONS	49.8%	50.2%	100%	55.5%	44.5%	100%	56.7%	43.3%	100%	56.7%	43.3%	100%			
HRIS/EMP. RECORDS	29.7%	70.3%	100%	24.3%	75.7%	100%	19.7%	80.3%	100%	19.7%	80.3%	100%			
RECRUITMENT	42.5%	57.5%	100%	40.7%	59.3%	100%	41.1%	58.9%	100%	41.1%	58.9%	100%			
<b>31 - Legal</b>	<b>55.5%</b>	<b>44.5%</b>	<b>100%</b>	<b>53.8%</b>	<b>46.2%</b>	<b>100%</b>	<b>51.9%</b>	<b>48.1%</b>	<b>100%</b>	<b>53.8%</b>	<b>46.2%</b>	<b>100%</b>	<b>-1.9%</b>	<b>1.9%</b>	<b>0.0%</b>
<b>32 - Finance Department</b>	<b>42.8%</b>	<b>57.2%</b>	<b>100%</b>	<b>42.9%</b>	<b>57.1%</b>	<b>100%</b>	<b>42.7%</b>	<b>57.3%</b>	<b>100%</b>	<b>42.9%</b>	<b>57.1%</b>	<b>100%</b>	<b>-0.2%</b>	<b>0.2%</b>	<b>0.0%</b>
ACCOUNTING	48.9%	51.1%	100%	47.5%	52.5%	100%	46.3%	53.7%	100%	46.3%	53.7%	100%			
ACCOUNTS PAYABLE	31.9%	68.1%	100%	31.1%	68.9%	100%	30.9%	69.1%	100%	30.9%	69.1%	100%			
ADMINISTRATIVE SERVICES	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%			
INVESTMENTS	28.1%	71.9%	100%	29.0%	71.0%	100%	28.3%	71.7%	100%	28.3%	71.7%	100%			
IT DIVISION	50.2%	49.8%	100%	50.1%	49.9%	100%	49.9%	50.1%	100%	49.9%	50.1%	100%			
OFFICE OF THE SEC.-TREAS.	49.8%	50.2%	100%	49.7%	50.3%	100%	50.0%	50.0%	100%	50.0%	50.0%	100%			
PAYROLL	25.7%	74.3%	100%	24.4%	75.6%	100%	23.5%	76.5%	100%	23.5%	76.5%	100%			
PURCHASING	39.4%	60.6%	100%	42.7%	57.3%	100%	45.8%	54.2%	100%	45.8%	54.2%	100%			
<b>52 - Internal Audit</b>	<b>32.6%</b>	<b>67.4%</b>	<b>100%</b>	<b>30.6%</b>	<b>69.4%</b>	<b>100%</b>	<b>34.7%</b>	<b>65.3%</b>	<b>100%</b>	<b>30.9%</b>	<b>69.1%</b>	<b>100%</b>	<b>3.8%</b>	<b>-3.8%</b>	<b>0.0%</b>
<b>Total CAS</b>	<b>45.1%</b>	<b>54.9%</b>	<b>100%</b>	<b>44.7%</b>	<b>55.3%</b>	<b>100%</b>	<b>44.2%</b>	<b>55.8%</b>	<b>100%</b>	<b>44.7%</b>	<b>55.3%</b>	<b>100%</b>	<b>-0.5%</b>	<b>0.5%</b>	<b>0.0%</b>

## Multi-Year Change Summary

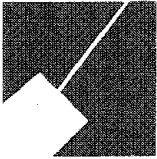
The table below shows the change from year to year, including the proposed change for FY17.

	Change from Prior Year											
	FY12		FY13		FY14		FY15		FY16		FY17	
	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC	MC	PGC
DHRM	-4.7%	4.7%	0.0%	0.0%	-0.1%	0.1%	1.2%	-1.2%	-0.9%	0.9%	-0.8%	0.8%
Finance	-3.2%	3.2%	0.0%	0.0%	0.0%	0.0%	-0.6%	0.6%	0.2%	-0.2%	-0.2%	0.2%
Legal	4.3%	-4.3%	2.1%	-2.1%	1.2%	-1.2%	-1.3%	1.3%	-2.3%	2.3%	-1.9%	1.9%
Internal Audit	31.3%	68.7%	0.8%	-0.8%	0.3%	-0.3%	-0.1%	0.1%	-1.5%	1.5%	3.9%	-3.9%
Merit System Board	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Support Services	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	-4.8%	4.8%	-0.4%	0.4%	-0.5%	0.5%
<b>Total CAS Before Chargebacks</b>	<b>-2.4%</b>	<b>2.4%</b>	<b>0.5%</b>	<b>-0.5%</b>	<b>0.3%</b>	<b>-0.3%</b>	<b>-0.6%</b>	<b>0.6%</b>	<b>-0.7%</b>	<b>0.7%</b>		

## Recommendation

The recommendation is to adopt the results of this year's analysis and direction be given to staff to utilize in developing the FY17 Proposed Budget. Using FY16 budget numbers, this would shift approximately \$114,000 to Prince George's County from Montgomery County.




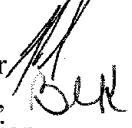


**Department of Human Resources and Management**  
**Maryland-National Capital Park and Planning Commission**

OFFICE OF THE HUMAN RESOURCES DIRECTOR  
 6611 Kenilworth Avenue, Suite 404  
 Riverdale, Maryland 20737  
 Office: (301) 454-1706

TO: Commission September 4, 2015

VIA: Patricia Colihan Barney,   
 Executive Director

FROM: William Spencer, HR Director  
 Boni King and Robin Cannon,   
 Classification and Compensation

SUBJECT: Increase in Minimum Wage

**REQUESTED ACTION:**

The Commissioners are asked to support the attached FY16 Seasonal/Intermittent (Attachment 1) and Aquatics Seasonal/Intermittent (Attachment 2) Pay Schedules.

On October 22, 2014, the Commission directed that the Agency's pay schedules be reflective of the minimum wage rates consistent with that approved by both Montgomery and Prince George's Counties. The attached FY16 pay schedules reflect the next phased-in approach scheduled for October 2015 of \$9.55 per hour.

In addition, the pay schedules represent a change in the lower levels of each pay schedule to ease compression that would be created if only the change in minimum wage were implemented. These changes in rates represent a minimal amount of growth within the grades in order to recognize employees as they increase their knowledge, skills, and abilities when they progress in the job through either merit increases or steps (range spread). The adjustments also maintain a difference between pay grades (grade variance) as employees are promoted into higher level positions. These adjustments strive to maintain a difference in range spread and grade variance that is consistent with the same range spread and grade variances that existed after the implementation of minimum wage changes in FY15.

A further recommendation is to remove the A01 grade from the Aquatic Seasonal/Intermittent Pay Schedule as we do not currently utilize this grade; nor do we anticipate utilizing this grade.

**BACKGROUND:**

The Commission approved on October 22, 2014 a change to the Agency's pay schedules to reflect new minimum salaries as follows over the next few years:

November 2014 - \$8.40 per hour  
 October 2015 - \$9.55 per hour  
 October 2016 - \$10.75 per hour  
 October 2017 - \$11.50 per hour

When this information was presented last year, Department Heads advised that not adopting the Counties' minimum wages could adversely impact the organization's ability to attract and retain

staff as a large majority of Agency employees live and work in either Prince George's or Montgomery Counties. Raising the minimum wage equal to the Counties would reduce our turnover rate and would reduce our costs of training new workers. In addition, it was recommended that we pay consistent with the Counties who fund our Agency.

These rates are consistent with that approved by both Montgomery County Council and Prince George's County Council. These rates were to be paid to its employees through calendar year 2017 unless preempted by State of Maryland or Federal law.

The Commission authorized the Executive Director to take action necessary to implement these changes.

Applying only this change in wages to our existing pay schedules without additional adjustments, would impact our ability as an Agency to attract and retain workers at these critical positions.

The FY15 Seasonal/Intermittent Pay Schedule (Attachment 3) has a range spread between 15.0% and 55.0% with a grade variance between 6.0% and 15.0%. Without the proposed changes, the FY16 range spread would be reduced to 1.6% and the grade variance would remain at 6.0%. The FY15 Aquatics Seasonal/Intermittent Pay Schedule (Attachment 4) has a range spread between 9.1% and 17.1% and a grade variance between 10.1% and 15.1%. Without the proposed changes, the FY16 range spread would be reduced to 5.7% and the grade variance would remain at 10.1%.

The minimum wage of \$9.55 in October 2015 will increase our direct labor costs by approximately \$436,595 (includes FICA increase) for the remaining months in FY16. This cost was included in our FY16 adopted budget. The cost is somewhat minimized due to our reduced labor force over the Fall, Winter and Spring months. Future fiscal estimated costs are shown in Attachment 5.

Staff, Department Heads and the Executive Committee support these changes to the pay schedules effective the first full pay period in October 2015.

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
 Seasonal/Intermittent Pay Schedule  
 Effective First Full Pay Period in October 2015  
 Minimum Wage Update

	GRADE	MINIMUM	MIDPOINT	MAXIMUM	INSTRUCTORS	Current Pay Schedule		Prior Pay Schedule	
						Range Spread	Grade Variance	Range Spread	Grade Variance
PFA I - 2001	N01	\$9.55	\$10.27	\$10.98	2003	15.0%		15.6%	
PFA II - 2018	N02	\$9.60	\$10.57	\$11.53		20.1%	5.0%	22.6%	6.1%
PFA III - 2042	N03	\$9.65	\$10.88	\$12.11		25.5%	5.0%	31.5%	7.2%
PFMA I - 2047	N04	\$9.70	\$11.21	\$12.71	2045	31.1%	5.0%	40.8%	7.1%
PFMA II - 2051	N05	\$9.75	\$11.55	\$13.35		36.9%	5.0%	52.5%	8.3%
PFMA III - 2059	N06	\$9.80	\$11.91	\$14.02		43.0%	5.0%	55.0%	9.0%
	N07	\$9.85	\$12.32	\$14.80		50.2%	5.6%	55.0%	6.0%
Help Desk Rep I-2080	N08	\$10.12	\$12.90	\$15.69	2065	55.0%	6.0%	55.0%	6.0%
	N09	\$10.73	\$13.68	\$16.63		55.0%	6.0%	55.0%	6.0%
	N10	\$11.37	\$14.50	\$17.62		55.0%	6.0%	55.0%	6.0%
Intern I/Playground Manager	N11	\$12.28	\$15.66	\$19.03	2067	55.0%	8.0%	55.0%	8.0%
Help Desk Rep II-2081	N12	\$13.26	\$16.91	\$20.56		55.0%	8.0%	55.0%	8.0%
Intern II/Help Desk Rep III-2082	N13	\$15.25	\$19.45	\$23.64	2069	55.0%	15.0%	55.0%	15.0%
	N14	\$17.54	\$22.36	\$27.19		55.0%	15.0%	55.0%	15.0%
	N15	\$20.17	\$25.72	\$31.26	2071	55.0%	15.0%	55.0%	15.0%

**Note:**  
 1. On the first full pay period following October 1, 2015, employees will receive appropriate adjustments to grade minimums.

The Maryland-National Capital Park and Planning Commission  
 Aquatics Seasonal/Intermittent Pay Schedule  
 Effective First Full Pay Period in October 2015  
 Minimum Wage Update

<u>Grade</u>	<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>
A01			
A02	\$9.55	\$10.27	\$10.98
A03	\$10.40	\$11.26	\$12.08
A04	\$11.45	\$12.41	\$13.40
A05	\$12.68	\$13.71	\$14.82
A06	\$14.58	\$15.76	\$17.06
A07	\$16.77	\$18.13	\$19.61

<u>Current Pay Schedule</u>	
<u>Range Spread</u>	<u>Grade Variance</u>
15.0%	
16.2%	10.0%
17.0%	10.9%
16.9%	10.6%
16.9%	15.1%
17.0%	15.0%

<u>Prior Pay Schedule</u>	
<u>Range Spread</u>	<u>Grade Variance</u>
9.1%	
15.0%	10.1%
17.0%	11.0%
17.1%	15.1%
16.9%	14.9%
16.9%	15.1%
17.0%	15.0%

**Note:**  
 1. On the first full pay period following October 1, 2015, employees will receive appropriate adjustments to grade minimums.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 Seasonal/Intermittent Pay Schedule  
 Effective First Full Pay Period in November 2014  
 Minimum Wage Update

	GRADE	MINIMUM	MIDPOINT	MAXIMUM	INSTRUCTORS	Range Spread	Grade Variance
PFA I - 2001	N01	\$8.40	\$8.59	\$9.71	2003 I	15.6%	
PFA II - 2018	N02	\$8.40	\$8.91	\$10.30		22.6%	6.1%
PFA III - 2042	N03	\$8.40	\$9.29	\$11.04		31.5%	7.2%
PFMA I - 2047	N04	\$8.40	\$9.72	\$11.82	2045 II	40.8%	7.1%
PFMA II - 2051	N05	\$8.40	\$10.54	\$12.81		52.5%	8.3%
	N06	\$9.01	\$11.48	\$13.96		55.0%	9.0%
PFMA III - 2059	N07	\$9.55	\$12.17	\$14.80		55.0%	6.0%
Help Desk Rep I-2080	N08	\$10.12	\$12.90	\$15.69	2065 III	55.0%	6.0%
	N09	\$10.73	\$13.68	\$16.63		55.0%	6.0%
	N10	\$11.37	\$14.50	\$17.62		55.0%	6.0%
Intern I/Playground Manager	N11	\$12.28	\$15.66	\$19.03	2067 IV	55.0%	8.0%
Help Desk Rep II-2081	N12	\$13.26	\$16.91	\$20.56		55.0%	8.0%
Intern II/Help Desk Rep III-2082	N13	\$15.25	\$19.45	\$23.64	2069 V	55.0%	15.0%
	N14	\$17.54	\$22.36	\$27.19		55.0%	15.0%
Camp Health Supv-941	N15	\$20.17	\$25.72	\$31.26	2071 VI	55.0%	15.0%

Approved by the Commission on October 22, 2014  
 Updated 5/6/15 to include new Camp Health Supervisor specification

B1 effective 11/9/14  
 B2 effective 11/2/14



**The Maryland-National Capital Park and Planning Commission  
Aquatics Seasonal/Intermittent Pay Schedule  
Effective First Full Pay Period in November 2014  
Minimum Wage Update**

<u>Grade</u>	<u>First Year</u>	<u>Second Year</u>	<u>Third Year</u>	<u>Range Spread</u>	<u>Grade Variance</u>
A01	\$8.40	\$8.58	\$9.17	9.1%	
A02	\$8.78	\$9.43	\$10.09	15.0%	10.1%
A03	\$9.58	\$10.37	\$11.21	17.0%	11.0%
A04	\$11.01	\$11.93	\$12.90	17.1%	15.1%
A05	\$12.68	\$13.71	\$14.82	16.9%	14.9%
A06	\$14.58	\$15.76	\$17.06	16.9%	15.1%
A07	\$16.77	\$18.13	\$19.61	17.0%	15.0%

Approved by Commission on October 22, 2014

B1 effective 11/9/14

B2 effective 11/2/14

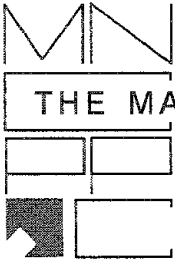
MINIMUM WAGE CHANGE IMPACTS  
(August 31, 2015)

	FY16	FY17	FY18
	\$9.55	\$10.75	\$11.50
Total Montgomery and CAS	\$47,092	\$169,119	\$312,027
FICA	\$3,603	\$12,938	\$23,870
Total Prince George's and CAS	\$358,477	\$1,214,830	\$2,092,805
FICA	\$27,423	\$92,935	\$160,100
Total Commission	\$405,569	\$1,383,950	\$2,404,832
FICA	\$31,026	\$105,872	\$183,970

## Notes:

- 1) These impacts are based on the analysis initially completed in 2014 and revisited last year utilizing FY13 data.
- 2) Data provided by the Budget Manager






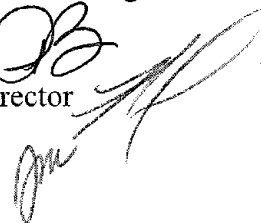
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

September 16, 2015

TO: The Maryland-National Capital Park and Planning Commission

VIA: Patricia C. Barney, Executive Director   
William Spencer, Human Resources Director

FROM: Jennifer McDonald, Benefits Manager 

SUBJECT: Open Enrollment and Benefit Plans Proposed Rates for 2016

**Action Requested**

Approve recommended rates for 2016. All recommendations were supported by the Department Heads and the Executive Committee.

**Summary of Rate Changes**

***Self-Insured Plans***

AON Hewitt Consulting developed premium rates for our self-insured medical and prescription plans incorporating the following:

- Enrollment and plan utilization for the most recent 12 month period, ending June 30, 2015;
- Health care trends;
- Prescription plan design changes that were implemented for 2014, 2015 and 2016;
- Overhead expenses from our group insurance fund; and
- Costs and fees resulting from the Affordable Care Act (ACA).

Rates for the agency's medical plans are increasing, on average, by 2.9%. The individual plan increases range from 0% to 11.8% and are detailed later in the memo. Rates for the agency's prescription plan are increasing by 20.7%. The primary cost drivers impacting the 2016 projected plan costs include:

- Prescription drug utilization, trend, and specialty drug spend;
- General trend;
- High cost claims for one of the health plans; and
- The ACA fees and cost of Health Care Reform mandated benefits.

### ***Fully Insured Plans***

The premiums for the fully insured plans remained flat for 2016 as they are all still within a guaranteed rate period.

### **Details of Proposed Self-Insured Rates**

The self-insured rates for the medical plans increased, on average, by 2.9%, while the premiums for the prescription plan increased by 20.7%.

- Caremark Prescription – 20.7% increase
  - Increase in specialty drug spend is the major cost driver;
  - Cost per employee per year for specialty drugs increased by 27.7%;
  - Overall cost for specialty drugs increased from \$2.3 million in 2013 to \$3 million in 2014, and continues to rise;
  - New specialty drugs to treat high cholesterol also expected to have significant cost impact;
  - Montgomery County Government's prescription rate increase is 30% and Montgomery County Public Schools is 25%. Waiting to hear from Prince George's County Government.
  - If the agency did not implement cost savings programs in 2014, 2015 and those approved for 2016, the increase would have been higher;
  - Increased utilization and increased adherence result in a corresponding decrease in medical plan spend.
- UnitedHealthcare (UHC) EPO – 0% increase
  - Reduced claims utilization resulted in rates remaining flat;
  - Increase for 2015 was also 0%
- UHC POS – 1.0% increase
  - Reduced claims utilization resulted in rates remaining almost flat;
  - Increase in stop loss rates accounted for the increase;
  - Increase for 2015 was 5.6%.
- UHC Medicare Complement – 10.3% increase
  - There was one large claim that was not protected by stop loss in 2014;
  - Even though we added stop loss for 2015, the claims experience used for this projection includes the second half of 2014;
  - Increase for 2015 was 25.7%.
- Cigna EPO – 11.8% increase
  - There were 4 large claims exceeding the stop loss of \$125,000;
  - There is volatility in rates for this plan because of the small enrollment;
  - The increase for 2015 was 0%.

### **Details of Proposed Stop Loss Insurance Levels**

The stop loss premiums increased for all plans. The proposed premium rates discussed above include the stop loss rate increases. The proposed levels of stop loss are:

- Cigna EPO's Individual Stop Loss (ISL) – Keep at \$125,000.
  - Stop Loss premiums increased by 15.0% for the ISL and 0% for the Aggregate Stop Loss (ASL);
  - AON advised that this ISL level is appropriate for a group this size;

- UHC EPO, POS and Medicare Complement ISL – Increase to \$275,000 from the current \$225,000.
  - Stop Loss premiums increased by 9.50% for the ISL and 1.3% for the Aggregate Stop Loss (ASL);
  - AON advised that the proposed ISL level of \$275k is appropriate for a group this size;
  - If we were to increase the ISL to \$275,000, we would need nine individuals to exceed the ISL to erode the premium savings. We had three individuals who exceeded the \$225,000 within the last 12 months;
  - The rates would decrease slightly for the UHC POS plan if we increase the ISL to \$275,000;
  - The rates would decrease slightly for the UHC Medicare Complement plan if we increase the ISL to \$275,000;
  - There is no change to the rate for the UHC EPO;
- The aggregate stop loss (ASL) is 125% of total estimated claims for all plan participants and will remain at this level for all plans.

### **Details of Fully-Insured Premiums**

- There are no increases for the fully insured premiums:
  - “Advice to Pay” for the Sick Leave bank – 0% (Guaranteed through 12/31/2016)
  - CIGNA Long Term Disability (LTD) – 0% (Guaranteed through 12/31/2016)
  - Minnesota Life Insurance and AD&D – 0% (Guaranteed through 12/31/2018)
  - United Concordia Dental - 0% (Guaranteed through 12/31/2016)
  - Vision Service Plan – 0% (Guaranteed through 12/31/2017)

### **Recommendations**

The group insurance fund has a significant unreserved fund balance which can be used to reduce the proposed increases. We believe that the MCGEO collective bargaining agreement permits this use of the reserves as it allows the use for “stabilizing health benefit rate increases”. If the Commission adopts this recommendation, we will notify the MCGEO president. The recommendation is to reduce the increases for the Cigna and prescription drug plan by two percent. The estimated cost of the 2% offset is \$341,932. The Health & Benefits Staff recommends the following changes to the rates and premiums for the 2016 calendar year.

### ***Self-Insured Rates***

- Approve the 18.7% premium increase for the prescription plan;
- Approve the 9.8% premium increase for the Cigna EPO plan;
- Approve the 0% premium increase for the UHC EPO plan;
- Approve the 0% premium increase for the UHC POS plan;
- Approve the 8.3% premium increase for the UHC POS plan;
- Approve maintaining the ISL for the Cigna EPO at \$125,000;
- Approve the increase of the ISL for the UHC plans to \$275,000;
- Keep the current aggregate stop loss at 125% of projected claims.

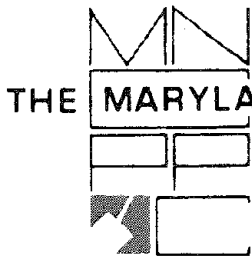
***Fully Insured Premiums***

- Approve the 0% rate increase for the Cigna “Advice to Pay” for the Sick Leave bank;
- Approve the 0% premium increase for the CIGNA Long Term Disability plans;
- Approve the 0% premium increase for the Minnesota Life Insurance and AD&D;
- Approve the 0% premium increase for the United Concordia Dental;
- Approve the 0% premium increase for the Vision Service Plan.

**For Informational Purposes**

***Request for Proposal (RFP) for Legal Services Plan***

The Agency conducted a request for proposal process for the legal services plan. We have selected a new provider, U.S. Legal Services, replacing Legal Resources, effective January 1, 2016. More information about the new provider will be announced during the upcoming open enrollment period.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

September 16, 2015

TO: Commission

VIA: Patricia Colihan Barney, Executive Director  
William Spencer, Human Resources Director

FROM: *Jeannette R. Glover*  
Jeannette R. Glover, MSM, Program Manager

SUBJECT: Personnel Management Review (PMR) FY14 Summary Report

Attached is the Personnel Management Review Summary Report for FY2014. The report provides selected highlights and trends regarding the Commission's workforce to include changing demographics, turnover, recruitment fill times, hires and promotions, as well as salary and grade information, among other things.





**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

**PERSONNEL MANAGEMENT REVIEW**

**TRENDS**

1. Between FY15 and FY19, 36.5% of current employees will reach normal retirement eligibility. For Officials/Administrators that figure is 75.7%. This is a 5.1% increase from FY14 projections and a major succession planning issue.
2. Over the past five years, there have been small incremental changes in the Commission's demographics.

**Five-Year Demographic Distribution  
2010-2014**

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>Asian</b>	3.6%	4.0%	3.6%	3.6%	3.8%
<b>Hispanic</b>	5.1%	5.0%	5.7%	6.2%	6.1%
<b>Black</b>	36.7%	36.0%	37.0%	37.7%	37.6%
<b>White</b>	53.9%	54.0%	53.0%	52.0%	51.9%
<b>American Indian</b>	0.7%	1.0%	0.6%	0.6%	0.5%
<b>Women</b>	39.5%	39.2%	39.0%	39.0%	38.4%
<b>Men</b>	60.5%	60.8%	61.0%	61.0%	61.6%
<b>Total Population</b>	2,107	2,019	1,977	1,994	2,002

3. During FY13, 44.3% of the workforce was 50 to 60+ years old and in FY14, 46.7% were 50 to 60+ years old.
4. The higher average turnover rates in FY10 and FY11 were due to retirement incentive programs to reduce overall costs during economic downturn.
- 5.

**M-NCPPC Average Annual Turnover  
FY10 to FY14**

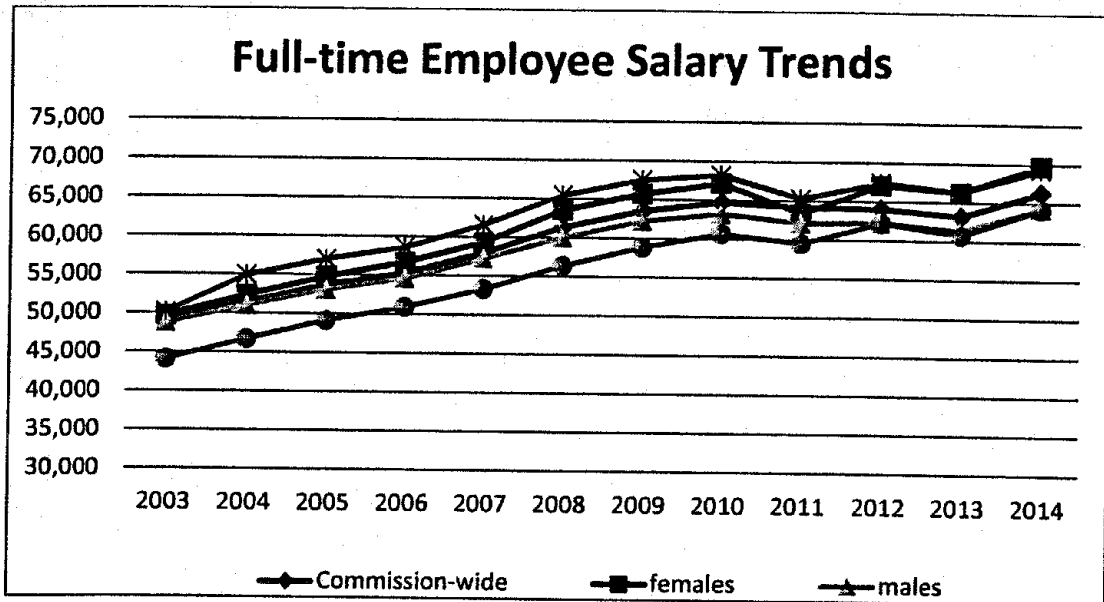
<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
7.4%	8.0%	6.0%	6.8%	6.5%

6.

**Five-Year Normal Retirement  
2010-2014**

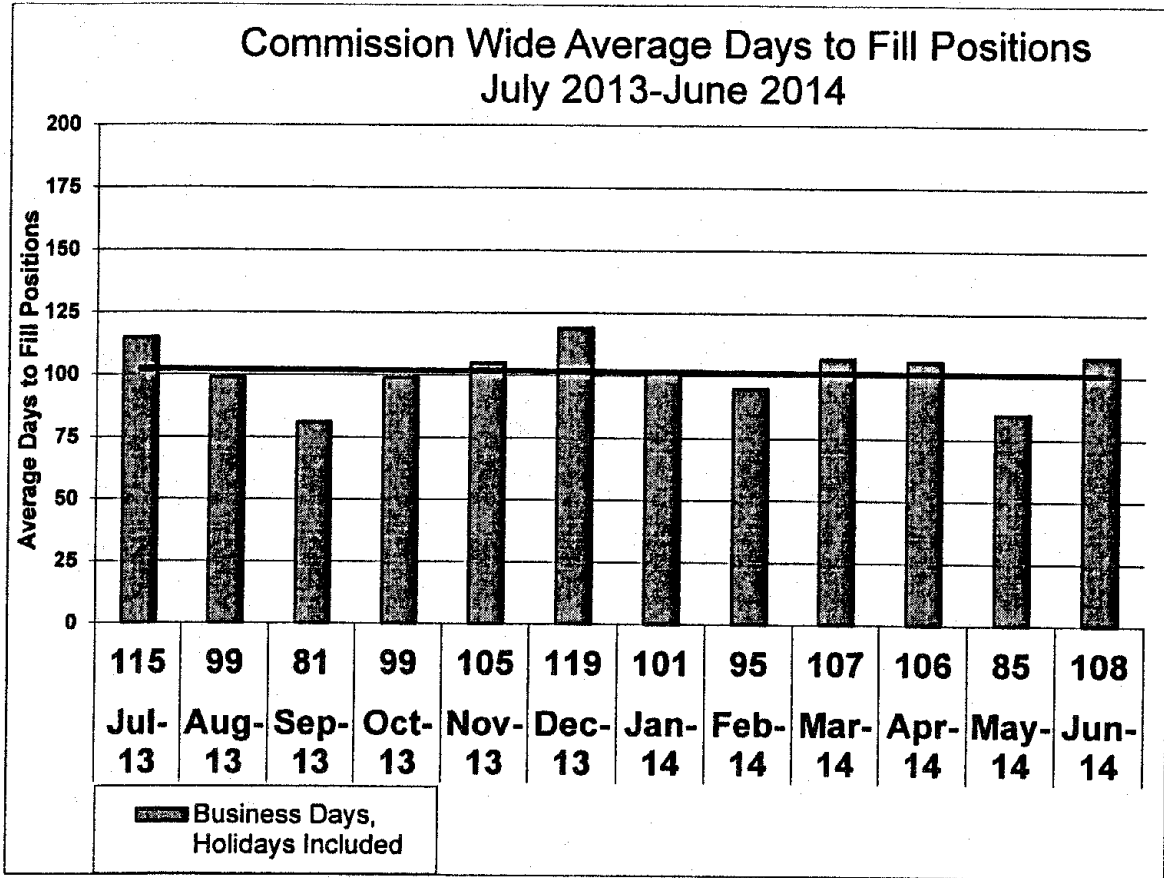
FY10	FY11	FY12	FY13	FY14
79 4.0%	75 4.0%	38 2.0%	58 3.0%	45 2.0%

7. This fiscal year, the Commission's average salary increased from \$64,100 to \$66,311 or 3.5% for females, males, whites and minorities. Whites and females average salaries continue to be higher than minorities and males. The average salary for whites is 7.9% higher than minorities, and the average salary for females is 8.4 higher than males. Average salary for males is -3.0% below the Commission-wide average salary and the average salary for minorities is -3.2% below Commission-wide average salary.

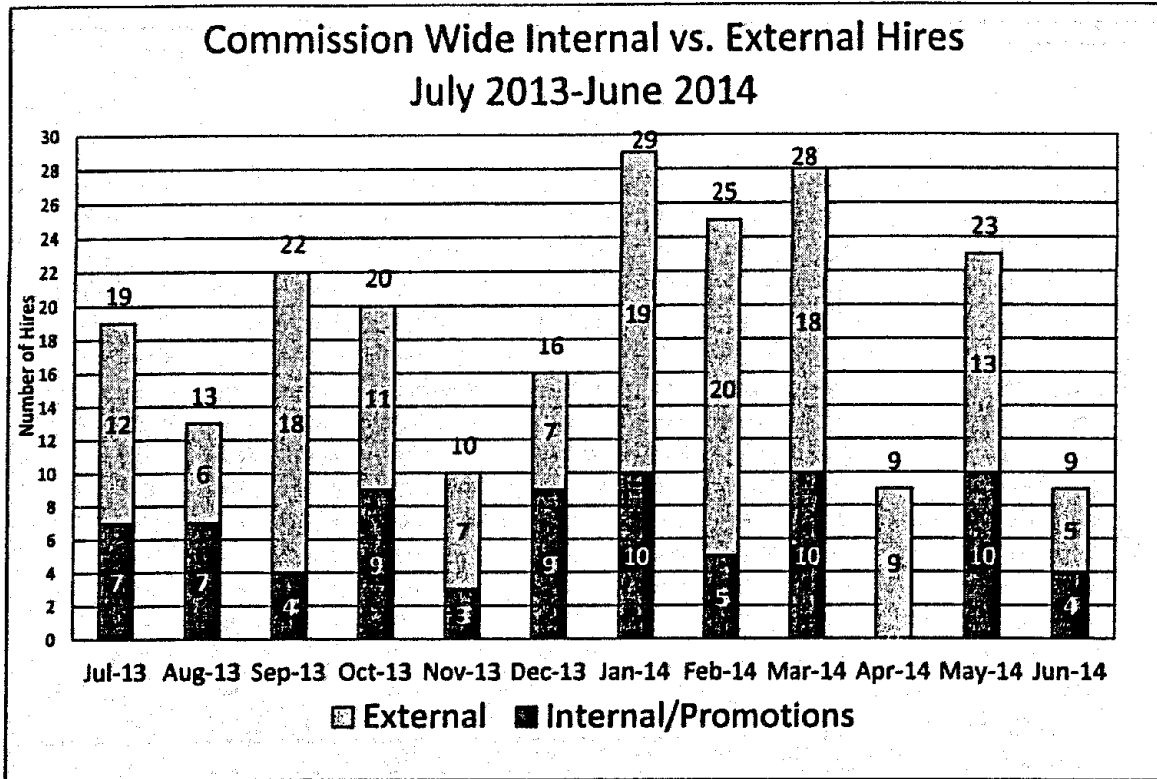


8. Average salary is for career full-time employees.

9. The Recruitment and Selection Services unit's utilization of NEOGOV, an automated on-line applicant tracking system had improved the recruitment process significantly when implemented in FY09. Since coming out of the recession, days to fill positions have increased over the past year. In FY13, it took 90 days to fill a position. In FY14, that increased to 102 days, a 13.3% increase. The expectation in FY15 is that number of days to fill positions will trend up slightly and then drop off in FY16 as recruitments begin to decline due to budgetary constraints.



10. From July 2013 to June 2014 there were 223 new hires which is up from 212 new hires from the prior year.



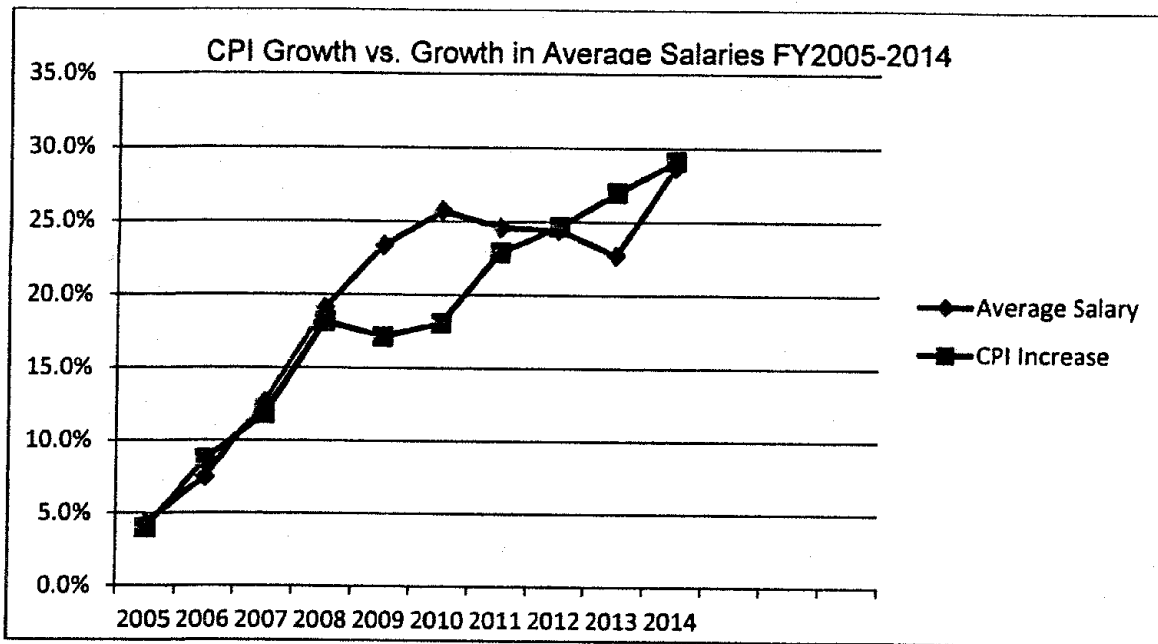
11. The dip in employees at top of grade in FY09 is a result of the Retirement Incentive Program and the dip in FY13 is primarily the result of 58 employees retiring. The increase in FY14 is due to 20% of career employees have been employed 20 to 30+ years.

**Top of Grade**

FY09	FY10	FY11	FY12	FY13	FY14
211	311	286	248	226	401
9.7%	14.8%	14.2%	13.0%	11.3%	20.0%

12. The Commission has 36.95% of its employees in unions which is slightly higher than the 35.7% for union membership in the public-sector and lower than local government workers at 41.9%. Source: U.S. Department of Labor Bureau of Labor Statistics, Economic News Release, Union Members, 2014.

13. In 2014, Commission cumulative average salary growth and the cumulative growth of the Consumer Price Index (CPI) are both at 29.0%.



Source: U.S. Department of Labor Consumer Price Index, Urban Consumer Series, Baltimore-Washington Metropolitan Area.

**14. Workers' Compensation Cost Per \$100 of Payroll**

<b>Agency</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
<b>Montgomery County</b>	<b>2.55</b>	<b>2.81</b>	<b>3.16</b>	<b>3.05</b>	<b>3.16</b>	<b>3.50</b>
<b>MC Public Schools</b>	<b>0.50</b>	<b>0.52</b>	<b>0.53</b>	<b>0.60</b>	<b>0.55</b>	<b>0.51</b>
<b>M-NCPPC</b>	<b>2.12</b>	<b>2.30</b>	<b>2.22</b>	<b>2.67</b>	<b>2.07</b>	<b>1.58</b>
<b>City of Gaithersburg</b>	<b>0.91</b>	<b>0.97</b>	<b>1.03</b>	<b>1.02</b>	<b>1.26</b>	<b>2.62</b>
<b>Revenue Authority</b>	<b>0.99</b>	<b>1.04</b>	<b>1.03</b>	<b>1.18</b>	<b>1.19</b>	<b>5.73</b>

**NA= No longer Participate**

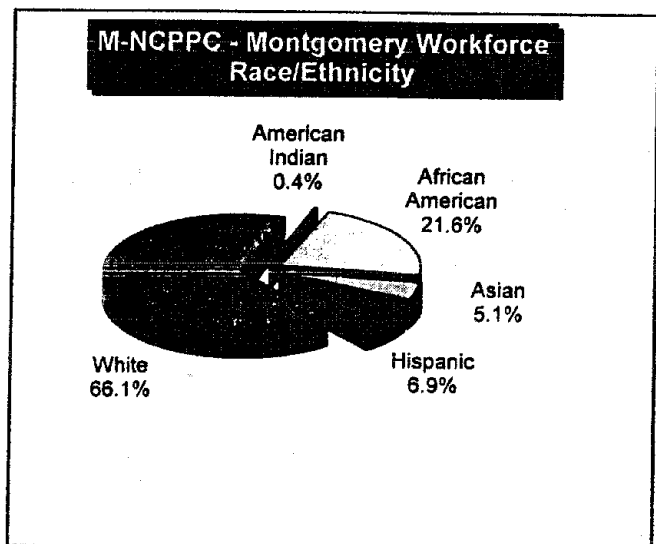
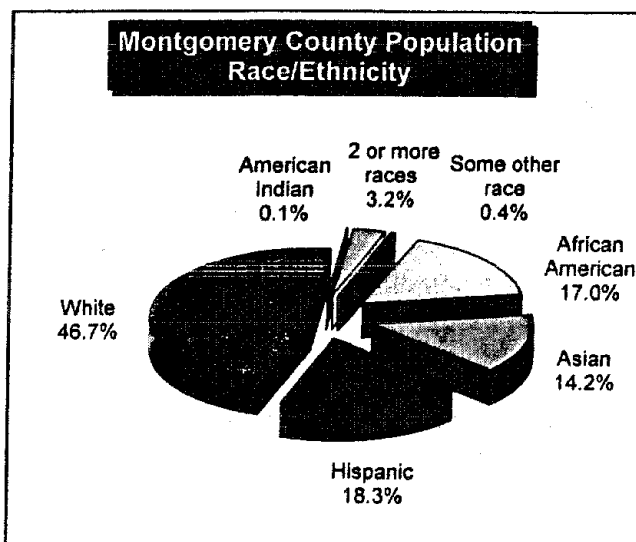
# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

## PERSONNEL MANAGEMENT REVIEW SELECTED HIGHLIGHTS: Workforce Profile

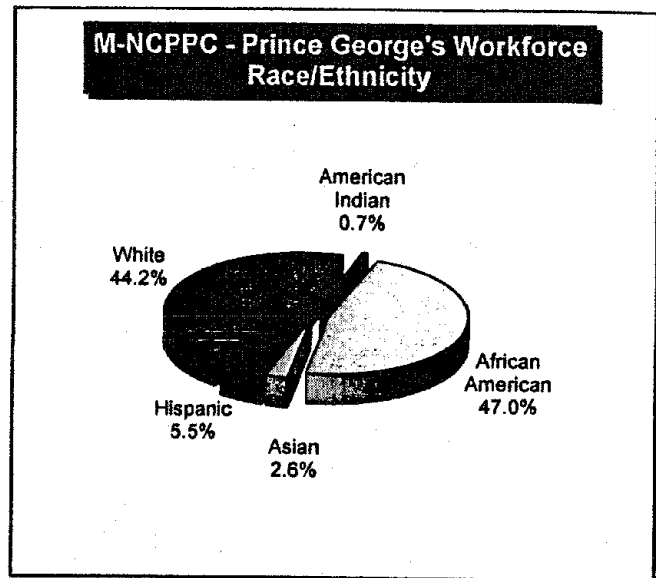
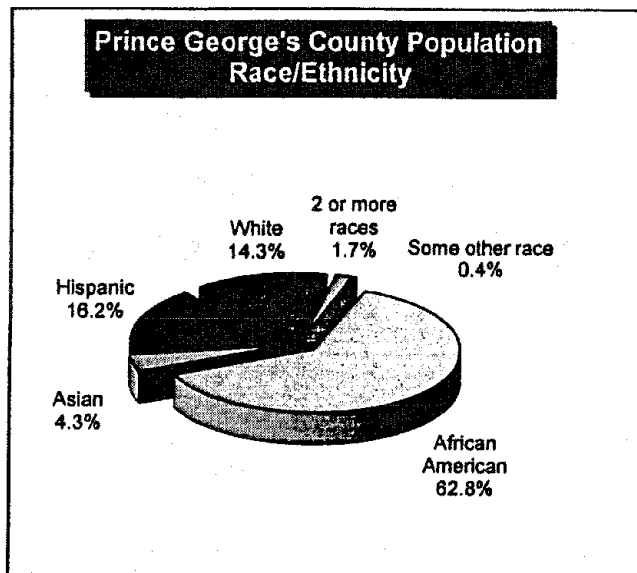
July 1, 2013 - June 30, 2014  
(Fiscal Year 2014)

### Composition - Career

- The total career workforce at June 30, 2014 is 2,002. This includes 1,959 full-time career and 43 part-time career employees.
- Between FY13 and FY14, the Commission's career workforce increased by 0.4% or a total of 8 employees. The gender and racial composition remained about the same as in FY13.
- The career employee population by gender is 1,234 or 61.6 % male and 768 or 38.4% female.
- The racial/ethnic composition of the workforce is 1,039 or 51.9% white and 963 or 48.1% minority. The minority workforce as a percentage of the total workforce is 37.6% African American, 3.8% Asian/Pacific, 6.1% Hispanic, and 0.5% American Indian.
- The racial/ethnic demographics of the Commission workforce compared to the populations of the respective Counties are reflected in the charts that follow:







**Source for County Demographics: U.S. Census 2013 American Community Survey 1 year data series; Research and Technology Center, Montgomery County Planning Department, March 2014. M-NCPPC workforce does not include Central Administrative Services. These charts are not meant to be a one for one comparison since the county statistics include all ages and persons otherwise not in the labor market such as retirees and students.**

- In FY14, the largest number and percent of employees at the Commission falls into the Professional category with 894 employees or 44.7% of the workforce and the Service Maintenance with 409 employees or 20.4% of the workforce. The greatest number of minority employees are in the Professional and Service Maintenance employment categories. Of the 963 minority employees, 43.4% or 418 are in the Professional category and 25.4% or 245 are in the Service/Maintenance category.
- The number of employees by job category is as follows:

	FY14	FY13	Change from FY13
Officials/Administrators	70	68	2.9%
Professionals	894	883	1.2%
Technicians	108	107	0.9%
Protective Service <sup>1</sup>	148	152	-2.6%
Para-Professional	79	79	0.0%
Office Clerical	120	121	-0.8%
Skilled Craft	174	172	1.2%
Service/Maintenance	409	412	-0.7%

- The majority of female employees are in the Professional and Office Clerical employment categories. Of the 768 female employees, 59.9% or 460 are in the Professional category and 12.5% or 96 are in the Office Clerical category.
- By job category, the percent of positions held by minorities and females is as follows:

Job Category	Minorities (%)	Females (%)
Officials/Administrators	31.4	40.0
Professional	46.7	51.5
Technicians	37.0	38.0
Protective Service	45.3	19.6
Para-Professional	62.0	84.8
Office Clerical	62.5	80.0
Skilled Craft	27.0	0.6
Service Maintenance	59.9	11.3

Note: Minority females will appear in both categories.

The definition of the Protective Services is found in the guidelines from the Equal Employment Opportunity Commission (EEOC). Under these guidelines, Officers in the ranks of Park Police Officer Candidate, Park Police Officer I through Park Police Officer IV are defined as Protective Services. EEOC defines the rank of Sergeant as Technical, Lieutenant and Captain are defined as Professional and the Commander is an Official/Administrator. These definitions differ from the rank determinations in the Land Use Planning Article, which delineates members of the Park Police Collective Bargaining Unit as Park Police Officer 1 through IV, and Sergeant.

## Tenure

- The average length of service is 12.5 years; 47.1% of the employees have been here 9 years or less.
- The length of service for females is 12.5 and for males is 12.5 years. The average length of service is 13.6 years for whites, 11.0 years for Asian/Pacific, 11.7 for African Americans, 14.5 years for American Indians, and 10.2 years for Hispanic employees.
- The average age of career employees in FY14 is 47 years.
- Using the current employee population, 382 or 19.1% of the employees will have reached normal retirement eligibility in FY15. From FY15 through FY19, 730 or 36.5% of the employees will be eligible for normal retirement. (For explanation of normal retirement eligibility, see Benefits Section of these Highlights.)

## **Collective Bargaining**

- In FY14, 36.96% of the career full-time employees have an exclusive representative for the purposes of collective bargaining.
- In FY14, the Fraternal Order of Police Lodge #30 represented 157 Park Police officers. This is 8.01% of the full-time workforce.
- The United Food & Commercial Workers, Local 1994/Municipal and County Government Employees Organization is the exclusive representative for the Service/Labor, Trades and Office bargaining units. Composition of the units is:

The Service/Labor Unit is composed of 320 employees or 16.33% of the full-time workforce.

The Trades Unit is composed of 135 employees or 6.89% of the full-time workforce.

The Office Unit is composed of 112 employees or 5.72% of the full-time workforce.

## **Salaries**

- The Commission's pay schedule for General Service Employees is built on 12 grades, with minimum, midpoint and maximum steps for each grade. The pay scale was installed in mid FY98 and reduced by half the number of pay bands. Additionally, there are pay schedules for Park Police, the Service/Labor, the Office Clerical and Trades bargaining units that are designed to accommodate the collective bargaining agreements. There are also pay schedules for Information Technology. Copies of pay schedules are included in the Appendix.
- The average salary for full-time Commission employees is \$66,311. The actual distribution of full-time employees by pay range indicates that approximately 45.8% earn between \$30,000 and \$59,000; and 54.2% earn \$60,000 or more.
- A special pay scale was established in FY01 for Information Technology. Average salary for employees on the Information Technology pay scale is \$89,057.
- The average salary for female employees is \$69,704. The average salary for male employees is \$64,295. The average salary for white employees is \$69,271 and the average salary for minority employees is \$64,217.

- The average salaries for represented employees are as follows:

FOP:	\$67,640
Trades:	\$54,526
Office Clerical:	\$50,388
Service/Labor:	\$42,294

### **Budget Allocations**

- Operating budget spent on group insurance is 7.38% for the General Fund.
- Percentage of budget allocated to employees' salaries and benefits is 70.04% for the General Fund.

### **Promotions and Cost of Living Adjustments**

- In FY14, 90 career and seasonal employees received promotions. Of that 34 or 37.8% were females and 56 or 62.2% were males; and 51 or 56.7% were white and 39 or 43.3% were minority. There were 12 promotions in the Protective Service category and 49 in the Professional category.
- In FY14, there were 401 or 20.5% of full-time career employees at top of grade. Last year there were 226 or 11.6% full-time career employees at top of grade. This is an increase of 8.9%.
- In FY14, full-time non-union career employees whose base salary was at or within 2.999% of top of grade received a 3.0% COLA and full-time career employees whose base salary was not at or within 2.999% of top of grade received two 1.5% COLAs, one in October 2013 and one in January 2014.
- From FY05 through FY15, there has been a cumulative COLA of 20.00% for non-represented M-NCPPC employees as compared with a cumulative COLA of 25.75% for non-represented employees of Montgomery County Government; and 16.50% for non-represented employees of Prince George's County Government.
- From FY05 through FY15, M-NCPPC Park Police Officers have received a cumulative COLA of 26.25%. During the same period of time, police in Montgomery County received a cumulative COLA of 24.45%, and police in Prince George's County received a cumulative COLA of 13.50%.

- From FY05 through FY15, M-NCPPC Service/Labor, Trades, and Office have received a cumulative COLA of 19.50%. In FY14, MCGEO members received a 2.5% COLA compared to the 3.0% provided to non-represented employees. This lower COLA offsets the higher 3.5% merit given to union membership relative to the lower 3.0% merit provided to non-represented employees. MCGEO members at top of grade received a 2.75% COLA in FY14. During the same period of time, Office, Professional and Technical & Service, Labor, Trades in Montgomery County received a cumulative COLA of 23.75%, and Service/Labor, Trades, and Office in Prince George's County received a cumulative COLA of 18.00%.

### **Health Benefits – Career and Term Contract**

- Career Employees may select from three medical plans for health insurance coverage. These include a Point of Service Plan (POS), UnitedHealth care Choice Plus POS, and two Exclusive Provider Organizations (EPO), UnitedHealthcare Select EPO and CIGNA OAPIN (Open Access Plus In Network) EPO. Term contract employees may enroll in the EPO's, but are not eligible to enroll in the POS plan.
- The Commission also offers career employees vision, prescription, and dental plans; life, accidental death and dismemberment (AD&D), long term care, a sick leave bank, and long term disability insurance (LTD); employee assistance program (EAP), deferred compensation, access to legal services, and flexible spending accounts. Term contract employees are only eligible for long term care, deferred compensation, and flexible spending accounts. MCGEO members have a choice of Sick Leave Bank or a Sick Leave Donor Program.
- The UnitedHealthcare Choice Plus POS (UHC POS) allows more flexibility as members can choose to use in-network providers or non-network providers. Members do not have to select a primary care physician (PCP), but it is recommended. Most services are covered in full with some requiring a co-payment if in-network providers are used. Referrals to specialists are not required, but members should make sure that the specialists are participating in the Choice Plus POS Network to avoid higher out-of-pocket costs. Covered services rendered by a non-network provider are subject to an annual deductible and coinsurance.
- The UnitedHealthcare Exclusive Provider Organization (UHC EPO) allows members to use any provider in the network without a referral. A Primary Care Physician (PCP) may be selected. Most services are covered in full with some requiring a co-payment. Visits to a specialist are covered subject to the office visit co-payment as long as the

specialist is a participating provider in the UnitedHealthcare Select EPO Network. There are no out-of-network benefits if you use a non-network provider.

- CIGNA OAPIN allows members to use any provider in the Open Access Plus Network without a referral. A Primary Care Physician (PCP) is not required. Most services are covered in full with some requiring a co-payment. Visits to a specialist are covered subject to the office visit co-payment as long as the specialist is a participating provider in the CIGNA Open Access Plus Network. There are no out-of-network benefits.
- Distribution by Medical plan participation is 44.71% in the UHC POS, 30.47% in the UHC EPO, 11.74% in the CIGNA OAPIN. There are 13.09% career employees who elected not to participate in any medical plan.

#### **Retirement Benefits – Career**

- The Commission offers a retirement system which has been mandatory since 1979 and is composed of five defined benefit plans:
  1. Defined Benefit Plan A is non-integrated with Social Security and has been closed to membership since December 31, 1978; 0.40% of the full and part-time career employees are in Plan A.
  2. Defined Benefit Plan B is integrated with Social Security; 79.11% of full and part-time employees are in Plan B.
  3. Normal retirement for employees in both Plan A and Plan B is age 60 with at least five years of credited service or 30 years of credited service regardless of age.
  4. Defined Benefit Plans C and D are the retirement plans for the Park Police and account for 9.5% of the retirement plan participation. Plan C has 177 or 8.9% participants and Plan D has 12 or 0.6%.  
  
Normal retirement for Plan C is 25 years of credited service or age 55 with at least five years of service.  
  
Normal retirement for Plan D is 22 years of credited service or age 55 with at least five years of service; Plan D was closed to new membership in 1993.

5. Plan E is mandatory for all full-time and part-time career Merit

System employees (except Park Police), for individuals employed by Employees' Retirement System, Appointed Officials, and employees exempted from the Merit System who are employed or appointed on or after January 1, 2013. Plan E is 177 or 8.9%.

A member may retire with full benefits at age 62 with at least 10 years of credited service, or 30 years of credited service regardless of age.

- At retirement from Commission employment, accumulated sick leave is converted to service in the employee's defined benefit plan. Employees may use 14 months toward qualifying for early/normal retirement.

### **General Benefits**

- In calendar year 2014, the Commission granted 10 Holidays and 3 personal days.
- In FY14, 52 employees utilized the Tuition Assistance Program, which is about the same as last year.
- 6,888 hours were contributed to the Sick Leave Bank in the 2014 calendar year. Contribution of hours was not waived for employees.
- 2,885 hours of the sick leave bank were used during calendar year 2014.

### **Turnover – Career**

- The turnover rate in FY14 was 6.5% or 131 employees. The average turnover rate for the past five fiscal years is 6.8%.
- In FY14, of the 131 employees leaving, 57.3% were male and 42.7% were female.
- In FY14, the composition of exiting employees was 49.6% white, 48.1% minority, and 2.3% did not identify their race.
- Of the employees leaving, the highest turnover occurred in the Professional employment category at 53.44% followed by 19.08% in Service/Maintenance. This is not out of line since the ratios fairly represent the percent of employees in the respective job categories.
- In FY14, the most common reasons for leaving were normal retirement, personal reasons, and new job.

### **Composition - Non-Career**

- In FY14, the non-career workforce numbered 4,578. Of this number, 98.95% were seasonal or intermittent.
- Of the non-career employees, 90.78% work in the Prince George's County Department of Parks and Recreation and 7.24% work in Montgomery County Department of Parks.
- In FY14, 39 or 0.85% of non-career employees were classified as Term contract employees. These employees work at least 30 hours per week on a year-round basis. The average length of employment is two years. These employees receive a limited benefit package. As a percent of non-career employees, 0.2% were Temporary. Temporary employees work on projects or programs for a specified duration not to exceed 1365 hours. Contracts for temporary employees may not be renewed. A temporary employee is eligible for employment under a new contract after 90 calendar days have elapsed.
- The gender make-up of non-career employees is 53.7% female and 46.3% male.
- The racial/ethnic make-up of non-career employees is 79.36% minority, 19.75% white, 0.76% not specified, and 0.13% other. The largest group is African American with 73.77%.
- Of non-career employees, 54.79% are 29 years of age or younger.





**AUDIT COMMITTEE ACTIVITY REPORT**

**FY2015 (July 1, 2014 – June 30, 2015)**

Prepared by the Audit Committee for the Commission Chair and Vice-Chair, and  
Submission to the Full Commission

**Report Date:** September 16, 2015

**Audit Committee Members (FY15):**

John P. Shoaff, Prince George's County Planning Board  
Norman Dreyfuss, Montgomery County Planning Board  
Rhea R. Reed, Public Member



## INTRODUCTION

The Audit Committee serves as a forum, separate from management, in which auditors and other interested parties may identify and discuss concerns related to financial reporting and internal controls.

Maryland-National Capital Park and Planning Commission (M-NCPPC) Practice No. 1-31, *Organization and Functions of the Audit Committee*, governs the establishment, composition and function of the Audit Committee. The Practice also requires the Audit Committee to submit the following annual reports:

- A written report that addresses how the Committee discharged its duties and met its responsibilities.
- A summary of significant audit findings as prepared by the Internal Auditor.
- Evaluation of the adequacy of internal controls; the agency's adherence to financial regulations/policies; and any other significant concerns/complaints that were filed with or identified by the Audit Committee.

The Audit Committee hereby submits its written annual report of our activity and findings for fiscal year 2015 (July 1, 2014 – June 30, 2015) per the requirements detailed above.

## DISCHARGE OF DUTIES

### Audit Committee Meetings and Communications

The Audit Committee (AC) is required to hold at least four meetings during each calendar year to discuss proposed audits and investigations. To meet this requirement, informal meetings are held as needed, mornings of the M-NCPPC bi-county Commission meetings. Other participants (e.g. Secretary-Treasurer, Legal Counsel, Chief Internal Auditor and/or External Auditor) participate as needed. In addition to the informal meetings, the AC convened:

- 10/22/14 – The AC met with the Chief Internal Auditor to discuss the Commission's compliance with Payment Card Industry – Data Security Standards (PCI-DSS). Completion of a PCI-DSS review was included in the FY15 Audit Plan. The AC and the Chief Internal Auditor discussed alternatives to a performance audit as the Commission was still reviewing systems/applications and implementing controls to ensure full compliance with PCI-DSS. In lieu of a full performance audit, the Office of Internal Audit (OIA) was asked to review the Commission's "plan" for ensuring compliance with the standards.
- 04/17/15 – The AC met with the Chief Internal Auditor to discuss:
  - the status/completion of the FY15 Audit Plan;
  - key risk factors impacting the Commission's ability to meet objectives and protect their assets; and
  - strategy for the completion of the FY16 risk assessment.

### External Auditors

The Audit Committee is responsible for appointment, compensation, retention, and oversight of the work of any external auditor engaged for the purpose of performing independent audit services, reviews or attest services.

- Each fiscal year, the Office of the Secretary-Treasurer submits a Comprehensive Annual Financial Report (CAFR), in accordance with the Land Use Article of the Annotated Code of Maryland. In conjunction with the CAFR, State statute requires an annual audit by independent certified public accountants. The Commission selected the accounting firm of Clifton Larson Allen LLP to complete the FY15 external review. The AC met with the external auditors on June 17, 2015 to discuss the scope and objectives for the FY15 external review.
- The Commission engaged the services of the “Association of Local Government Auditors” to complete a peer review of the Office of Internal Audit (OIA). The objective of the peer review was to review the internal quality control system of the OIA to determine whether the internal quality control systems operated to provide reasonable assurance of compliance with *Government Auditing Standards*. The ALGA concluded that the OIA’s internal quality control system was suitably designed and operating effectively to provide reasonable assurance of compliance with *Government Auditing Standards* for audits and attestation engagements during the fiscal year ended June 30, 2014.

Mr. Dreyfuss spoke with the peer review team on August 27, 2014. The purpose of the meeting was to discuss the internal quality control system of the OIA, the Audit Committee’s roles and responsibilities; and the overall peer review process.

### Internal Auditor

The Audit Committee provides technical and substantive oversight and direction for the internal audit program lead by Ms. Renee Kenney, Chief Internal Auditor.

- Review and Approval of Internal Audit Plan – In June 2014, the AC formally approved the FY15 Audit Plan submitted by Ms. Kenney. The results of the Commission wide risk assessment were used to develop the plan. With input from Commission management, the OIA identified 47 auditable units. Auditable units were defined as departments, facilities, processes, and information technology (IT) systems/applications. Commission management then ranked the inherent risks associated with each auditable unit by likelihood and impact. The top 19 auditable units were included in the FY15 plan.

## **SUMMARY OF SIGNIFICANT AUDIT FINDINGS**

The Chief Internal Auditor submitted the “Fiscal Year 2015 Annual Report” to the Audit Committee on June 30, 2015. The report included a summary of all high risk audit findings and recommendations. The OIA identified opportunities to strengthen internal controls in the following areas/programs:

- Active Directory Network security
- Development of Commission IT security procedures
- Strengthening management oversight (vehicle usage, facility usage, etc.)
- Petty cash
- Completion and reconciliation of fixed assets

The Annual Report also contained a summary of the Fraud, Waste, and Abuse audits completed in FY15. Nine of the 10 completed FWA reviews resulted in a conclusion of fraud, waste, or abuse. However, none of the reviews resulted in significant financial or reputational loss to the Commission.

## **ADEQUACY OF INTERNAL CONTROLS**

The Audit Committee is pleased to acknowledge that overall the design and implementation of the Commission's fiscal internal controls appear to be effective. However, the OIA has identified weaknesses in the Commission's information technology (IT) controls. The AC will require periodic updates from the Chief Internal Auditor on management's ability to satisfactorily implement recommended IT internal controls and resolve any audit findings.

## **OTHER CONCERNS AND COMPLAINTS**

As part of their reporting requirements, the Audit Committee is required to advise the Commission Chair and Vice-Chair of any Committee concerns arising from any audit/investigation reports. No concerns were raised in FY15.

## OIA INITIATIVES (Past and Future)

Last year, the Chief Internal Auditor identified four key initiatives for fiscal year 2015. The OIA successfully met 3 of the 4 defined initiatives.

1. Recruit and train for the two vacant positions within the OIA to achieve full staffing level. The vacant IT Auditor position was filled August 17, 2014 and the Senior Auditor position was filled September 29, 2014. In addition to internal training, the IT Auditor attended a week training session entitled “Beginning Auditor Tools and Techniques” offered through the Institute of Internal Auditors. Note: The IT Auditor resigned effective March 29, 2015 to accept an external position. The position has since been offered and accepted by a Certified Information System Auditor (CISA) with experience in large system implementations. The candidate is scheduled to start on August 31, 2015.
2. Successful completion of the FY15 Audit Plan. The FY15 Audit Plan included 21 performance audits, follow-up reviews, management advisories, fraud, waste & abuse audits (employee and hotline complaints) and various special projects. The OIA completed 15 performance audits in FY15, 6 less than planned. The variance to plan is primarily due to an increase in fraud, waste, and abuse reviews coupled with IT auditor staffing vacancies. In addition, 1 of the planned audits (Construction Contract Change Orders) was completed/counted as a non-audit advisory. In addition to the performance audits, the OIA completed 10 fraud, waste, and abuse audits, 7 management advisories, 14 follow-up reviews, and 5 non-audit advisories.
3. Completion of a Commission Risk Assessment. The Office of Internal Audit completed risk assessment interviews with Commission management throughout May and June, 2015. The purpose of the interviews was to identify key risks throughout the organization. The results of the interviews were used to develop the FY16 Audit Plan. The FY16 Audit Plan was formally approved by the AC in July 2015.
4. Continued training and other advisory services. During FY15, the OIA presented a 2 hour training on ethics and financial stewardship to the following departments and divisions:
  - Prince George’s County, Department of Parks and Recreation, Information Technology and Communications Division
  - Central Administrative Services, Information Technology Division
  - Prince George’s County, Department of Planning, Information Management Division
  - Montgomery County, Department of Planning, Information Technology Division

- o Prince George's County, Department of Parks and Recreation, Central Area Operations.

In addition, the OIA completed numerous petty cash training courses throughout FY15. A copy of the presentation is also available on "Insite.mncppc" for all Commission employees.

For FY16, The OIA is charged with the following initiatives and goals:

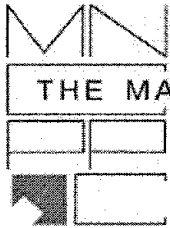
1. Successful completion of the FY16 Audit Plan. It is understood that the annual audit plan is a fluid document. The Chief Internal Auditor may be required to substitute reviews depending on identified risk factors. Significant changes should be communicated to the AC.
2. Completion of a Commission wide risk assessment to be used as the basis for the FY17 Audit Plan.
3. Implement a process/procedure to track past audit topics to inform gaps and future audits.
4. Increase awareness of internal controls, fiscal best practices, and internal audit functions, (e.g. posting of top ten audit findings on "Insite.mncppc").

## **CONCLUSION**

The Audit Committee once again recognizes continued compliance with existing policies and timely corrective action by management in response to the audit findings. M-NCPPC's leaders at all levels (i.e. executive through division management) continue to demonstrate their commitment to hold themselves as financial stewards for the Commission.










## THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

September 9, 2015

To: The Commission

Via: Patricia C. Barney, Executive Director From: Anju Bennett, Chief   
Janis Thom-Grate, Policy and Corporate Records Manager   
Corporate Policy & Management Operations Division

Subject: Recommended Updates to Administrative Practice 2-22, No Smoking in M-NCPPC Offices, Facilities, and Vehicles

**Requested Action**

The Commission is asked to consider adoption of proposed amendments to the agency's no smoking policy. This policy is contained in Administrative Practice 2-22, No Smoking in M-NCPPC Offices, Facilities, and Vehicles. The proposed amendments, which are presented in Attachment A, incorporate:

- Prohibitions on e-cigarettes in enclosed facilities, vehicles, and any other location that is specifically designated by the agency similar to our existing prohibitions on the use of tobacco products.
- Recently-passed State law which enacts a broader ban on the use of lighted tobacco products on all property under the M-NCPPC governance.

The recommended policy updates have been reviewed and are supported by Department Directors and the Executive Committee. The proposed amendments are being presented to the Commission for final adoption. This packet provides staff analysis and the Executive Committee's recommendations for changes to Administrative Practice 2-22, No Smoking in M-NCPPC Offices, Facilities, and Vehicles.

**Overview of Policy Amendments**

Existing M-NCPPC policy, Practice 2-22, was adopted by the Commission to prohibit the use of any tobacco product in/at:

- Enclosed agency offices and facilities;
- Vehicles; and
- Designated outdoor facilities where signs are specifically posted by departments.

Over the past several months, the Corporate Policy and Management Operations (CPMO) Division has worked with Department Directors to consider research and analysis to support two key amendments to the existing policy. On September 2, these policy amendments were presented to the Executive Committee which supported the policy proposals as summarized below.

**Policy Amendments Related to Broadened Prohibitions on Use of Lighted Tobacco (Effective June 30, 2016)**

On April 13, 2015, the Maryland General Assembly passed House Bill 585 (Attachment B). The new State law requires M-NCPPC to broaden its current policy by banning smoking of lighted tobacco products (e.g., cigarettes, pipes, cigars, etc.) on all M-NCPPC property. The impact of

this law is significant, as the agency must now enact a blanket prohibition on the use of lighted tobacco products on all agency property including all outdoor areas (e.g., parking areas, parks, picnic areas, etc.). Our current policy restricts the use of lighted tobacco in all enclosed buildings, in all vehicles, and only those outdoor areas specifically designated by the departments.

The law provides for limited exceptions from the blanket prohibition in that it authorizes the M-NCPPC to identify and exempt certain revenue-generating facilities (e.g., rental facilities). The law does not address e-cigarettes or other forms of non-lighted tobacco products (e.g. chewing tobacco, snuff, etc.).

The law goes into effect October 1, 2015. However, it allows the M-NCPPC until June 30, 2016 to implement the prohibition through the issuance of regulations, notice to the public, and postings of signage. Department Directors and the Executive Committee supported an implementation date of June 30, 2016, in order to meet all communication and posting requirements. Additional details are described in the section of this memo titled Additional Background on the Timing and Scope of Amendments.

#### **Proposed Amendments Related to E-Cigarettes (Effective December 1, 2015)**

E-cigarettes are battery-powered devices that provide the user with inhaled doses of a vapor, which may or may not contain nicotine. They are inhaled as an alternative to lighted tobacco products such as cigarettes, cigars, or pipes, thus eliminating tobacco smoke. E-cigarettes are often marketed as a smoking cessation device. However, there is greater attention being placed on the long-term safety of e-cigarette use, as well as health effects of indirect vapor exposure.

The use of e-cigarettes has raised a number of challenges in the workplace as well as in our recreation programs. While there is no federal or Maryland state law prohibiting the use of e-cigarettes in workplaces/organizations, staff research of municipalities and recreation-based organizations revealed a number of agencies have begun to enact restrictions on their use. This research is presented in greater detail in Attachment C.

This research and organizational concerns were presented to Directors and the Executive Committee. As a result of work sessions, both groups support amending the existing policy to prohibit the use of e-cigarettes in:

- All enclosed offices and facilities;
- All vehicles (regardless of passengers); and
- Any outdoor space specifically designated by the departments (including, but not limited to, playgrounds, ball fields, other recreation areas, etc.).

This restriction is recommended for a December 1, 2015, effective date. The proposed prohibition is reflected in an MOU with the Municipal and County Government Employees Organization (MCGEO) Union. Preliminary discussions with the Fraternal Order of Police (FOP) President indicated no issue with the policy change. It also was shared with the non-represented workforce during a 30-day policy review period. Nine (9) comments were received from non-represented employees and managers. All but one commenter supported the prohibition. Comments received during the policy review period are all outlined in Attachment D.

#### **Additional Background on the Timing and Scope of Amendments**

Maryland House Bill 585 was passed into law effective October 1, 2015. This law, which must be implemented by June 30, 2016, prohibits the smoking of lighted tobacco products on all M-NCPPC property (enclosed and outdoor). The law exempts venues or facilities that generate admission fees, rental fees, or similar charges for use of M-NCPPC property.

Currently, there are no federal/state laws mandating prohibitions of e-cigarettes or non-lighted tobacco products (e.g., chewing tobacco, snuff, etc.) on M-NCPPC property. However, M-NCPPC already bans the use of all tobacco products in its enclosed buildings, vehicles, and outdoor areas specifically designated by the agency. Department Heads and the Executive Committee recommend that the M-NCPPC amend its policy to address restrictions on the use of e-cigarettes.

Department Heads and the Executive Committee were asked to consider the desired scope and timing of policy amendments. Some areas taken under advisement included operational and workplace productivity concerns.

- Once the new State law is implemented, employees and patrons no longer will be permitted to use lighted tobacco on any agency property. This will pose some challenges when individuals wish to take smoking breaks. For example, employees will be required to leave M-NCPPC property in order to smoke lighted tobacco products. Management is concerned that this may increase the time spent away from productive work. This concern is compounded when employees are assigned to work in groups using a shared agency vehicle.
- If the agency decides to implement a blanket prohibition on the use e-cigarettes and non-lighted tobacco in the same fashion as a lighted tobacco, the use of these products also would require employees to leave M-NCPPC property to use these products.
- A number of wellness initiatives are being planned to help employees quit smoking. However, it is recognized some individuals will use alternatives such as e-cigarettes or non-lighted tobacco products to help quit smoking. While management supports restricting these products in enclosed facilities/vehicles/designated outdoor areas, it did not feel it was feasible to implement a blanket ban in all outdoor areas. Collective bargaining discussions thus far, are in line with this position.

As a result of work sessions, four policy recommendations were made with respect to implementation of amendments:

(1). **Policy Recommendation: Implement State Law Effective June 30, 2016**

Department Heads and the Executive Committee support a June 30, 2016, effective date for implementation of the State law that prohibits the use of lighted tobacco products on all M-NCPPC property. This implementation date will permit adequate time to:

- Communicate the prohibition to employees and the public.
- Develop signage and post notice throughout agency facilities.
- Permit education and smoking cessation programs to be implemented for the workforce.
- Hold management work sessions to establish criteria for identification of revenue-generating facilities without undermining the intent of the law.
- Update M-NCPPC's Park Rules that are used to communicate responsibilities to users.

(2). **Policy Recommendation: Incorporate E-Cigarette Prohibitions Effective December 1, 2015**

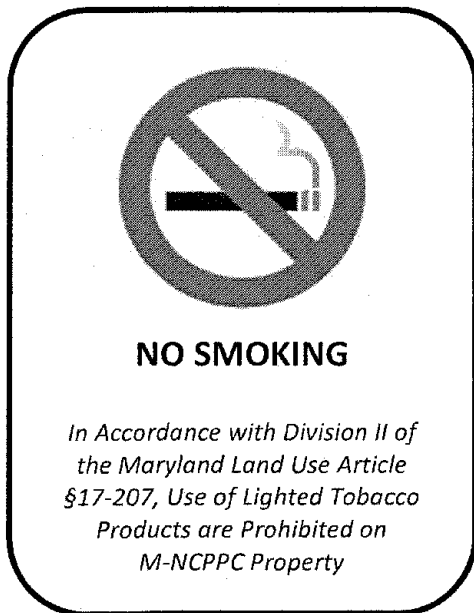
Department Heads and the Executive Committee supported adding a prohibition on the use of e-cigarettes in enclosed facilities, all vehicles, and outdoor areas that are specifically designated by Department Heads. These restrictions would mirror the existing policy on non-lighted tobacco products and recently-negotiated collective bargaining provisions. A blanket prohibition on the use of e-cigarettes in outdoor areas was not supported.

It is recommended that the e-cigarette prohibition become effective December 1, 2015 to allow for adequate communication of this standard to the workforce.

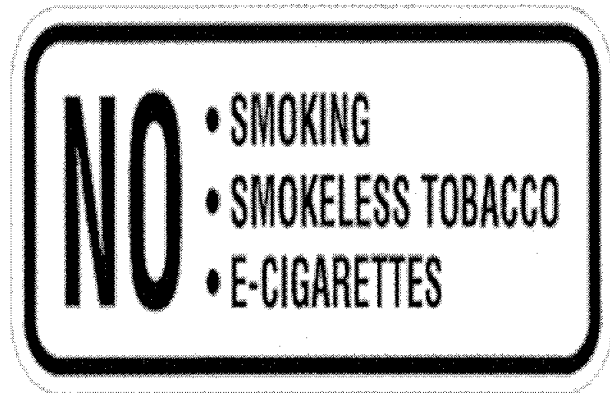
(3). **Policy Recommendation: Use of Signage**

Department Heads and the Executive Committee supported the use of separate signage to address prohibitions on lighted tobacco, the use of e-cigarettes, and non-lighted tobacco.

**Signage Implementing the new State Law Extending Prohibition on the Use of Lighted Tobacco at Outdoor Property**



**Signage for Enclosed Facilities/Offices, Vehicles and other areas designated by the department. Note: Pursuant to Practice 2-22, E-cigarettes and tobacco use can be restricted in outdoor areas specifically designated by a Department Head.**



(4). **Policy Recommendation: Minimum Distance Standard from Entrances/Windows/Ventilation Systems of Facilities**

During the 30-day policy comment period, a number of reviewers requested the agency establish a minimum distance from the entrance of indoor/outdoor facilities where smoking and the use of e-cigarettes are prohibited.

A minimum distance standard is moot for lighted tobacco products, as these will soon be banned on all outdoor M-NCPPC areas. Department Heads and the Executive Committee did not support a standard minimum distance, as a uniform standard may not work well at all facilities. Management supported the following language be included in the policy:

*“The use of e-cigarettes and lighted tobacco shall not be permitted near entrances, operable windows, and ventilation systems of agency offices/facilities. Signs will be clearly posted at entrances to agency offices/facilities and at locations reasonably calculated to inform employees of the prohibition.”*

The Executive Committee supported an initiative proposed by Department Heads to form a work group to review agency facilities and establish appropriate distance guidelines.

**Attachments:**

- A: Proposed Amendments to Administrative Practice 2-22, No Smoking in M-NCPPC Offices, Facilities, and Vehicles
- B. Maryland State Law: House Bill 585
- C: Policy Staff Research: No Smoking/E-cigarette Laws/Regulations Currently in Effect (including Montgomery County Council Bill 56-14)
- D: Analysis of Comments Submitted During the Departmental Review Practice 2-22, No Smoking in M-NCPPC Offices, Facilities, and Vehicles



**Proposed Amendments to  
Administrative Practice 2-22, Prohibitions on No Smoking, Use of Tobacco Products and Electronic Cigarettes  
on ~~in~~ M-NCPPC Property, Offices, Facilities, and Vehicles**

**Key to Proposed Policy Amendments:**

Double-underlined: Proposed amendments

~~Strikeout~~: Recommended deletions

**AUTHORITY**

This Administrative Practice was initially approved by the Commission on May 9, 1984. This Practice was ~~last~~ amended by the Commission on April 18, 2012 \_\_\_\_\_.  
(*Note to Draft Reviewer: adoption date of amendments will be inserted*).

**PURPOSE-AND  
BACKGROUND**

This Practice recognizes the agency's compliance with applicable laws governing smoking ~~in the workplace and enclosed public areas, on M-NCPPC property, and the~~ increased public health concern regarding use of other forms of tobacco products and e-cigarettes. ~~It also recognizes prohibition in park and recreation areas in which non-smoking signage is specifically posted.~~

This Practice was developed May 9, 1984, to strengthen the agency's commitment to promoting a healthful workplace environment for employees and patrons. Since initial issuance, the Commission has adopted the following amendments to the Practice:

- 1987 and 1991: Incorporated State regulatory references and prohibited smoking in closed and open office areas.
- April 16, 2003: Updated policy to ensure compliance with new State regulations and clarified the consequences of handling of policy violations and responsibilities for implementation of the policy.
- April 18, 2012: Updated policy to ensure compliance with the Annotated Code of Maryland, COMAR 09.12.23 (Regulation .01B(1)(b)) which strengthened prohibitions against involuntary exposure to environmental tobacco smoke in vehicles, regardless of the number of employees in the vehicle.
- To be inserted -- date of Commission adoption: Amended to incorporate State law amendments on use of tobacco products and agency prohibitions on the use of electronic cigarettes.

**REFERENCES**

- Annotated Code of Maryland: Title 09 – Department of Licensing and Regulation, Subtitle 12 – Division of Labor and Industry, Prohibition on Smoking in an Indoor Workplace (COMAR 09.12.23)
  - Maryland Clean Indoor Act of 2007, Health-General Title 24, Subtitle 5
  - Division II of the Land Use Article, Section 17-207, (2015 Maryland General Assembly, House Bill 585, effective October 1, 2015)
- The M- NCPPC Rules and Governing Use of Commission Parks and Recreation Facilities in Prince George's and Montgomery Counties (Chapter V, Section 3 – Alcohol/Tobacco,



- Controlled Substances)
- M-NCPPC Merit System Rules and Regulations
- M-NCPPC Administrative Practice 2-16, "Seasonal/Intermittent, Temporary, and Term Employment"
- Collective Bargaining Agreements

**Note to Draft Reviewer:** *The Definition section has been moved to follow the Reference section, to standardize with other agency policies.*

## DEFINITIONS

**The Commission:** The governing body of the Maryland-National Capital Park and Planning Commission (M-NCPPC) which is comprised of the five members from each of the agency's two Planning Boards for Montgomery County and Prince George's County.

**Electronic Cigarettes (e-cigarettes):** Electronic device that delivers vapor for inhalation, including any refill, cartridge, or any other component of an electronic cigarette.

**Indoor Workplace:** Any M-NCPPC enclosed office or facility; or agency-owned or leased vehicle used in the course of employment.

**The Maryland-National Capital Park and Planning Commission (M-NCPPC):** For purposes of this Practice the terms "M-NCPPC" or "agency" shall be used to reference the entity acting in its organizational capacity.

**Smoking:** "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter of substance that contains tobacco. For purposes of signage in enclosed facilities and vehicles, the use of "no smoking" shall be interpreted to include the use of lighted tobacco products, other non-lighted tobacco products, or electronic cigarettes as identified on the signage.

**Tobacco:** All forms of tobacco including, but not limited to: cigarettes, cigars, shisha, pipes, water pipes (hookahs); as well as all forms of smokeless tobacco, including, but not limited to: chew, snus, snuff, sticks, strips, orbs.

## APPLICATION

This Practice applies to all M-NCPPC offices. The Policy establishes prohibitions as they relate to M-NCPPC property (including but not limited to, enclosed buildings, parks, outdoor facilities, community centers, buildings in a developed park areas), buildings-consisting of totally-enclosed structures, and vehicles. This Practice also applies to third-party property that is leased or operated by the M-NCPPC. (Note to Draft Reviewer: Suggested amendments incorporate the new Maryland law (House Bill 585—Attachment B) and respond to Submitted Policy Review Comment #2 in Attachment D.) This Practice does not apply to park rental houses.

1 (Note to Draft Reviewer: The Legal Department recommended removing references to  
2 specific County Codes (below), as these can evolve. Additionally, the Reference Section of the  
3 policy adequately addresses applicable regulations.

4 (For M-NCPPC owned, leased, or operated restaurants or snack bars, the requirements of  
5 Montgomery County Code Sec. 24-9A and Prince George's County Code Division 5, Smoking  
6 Regulations and Restrictions, Sec. 19-151-159 shall apply respectively.  
7

8 **POLICY**

9 It is the policy of the Maryland-National Capital Park and Planning Commission (M-NCPPC) to  
10 provide and maintain a safe and healthy work environment for all employees and patrons.  
11 The M-NCPPC shall comply with all applicable State and local laws pertaining to prohibitions  
12 on smoking. Pursuant to State law and this policy, smoking, or other use of tobacco, and the  
13 use of cigarettes is prohibited as follows: in all indoor workplaces including:

14 1. The use of e-cigarettes\* and all forms of tobacco products (lighted and non-lighted)  
15 is prohibited in:

- 16 • Enclosed offices and facilities. This includes any workplaces that are leased  
17 or operated by M-NCPPC. (Note to Draft Reviewer: While this language is  
18 new to this Section, the applicability of leased/operated property is a  
19 standard that already exists in the Responsibilities Section of this Policy. It  
20 has been added to this section for clarification.)
- 21 • Owned or leased M-NCPPC vehicles used in the course of employment  
22 regardless of the number of employees in the vehicle.
- 23 • Any other M-NCPPC property (enclosed or outdoor) which is designated by  
24 the Department Head through the use of signage. In accordance with the  
25 "M-NCPPC Rules and Regulations Governing Use of Commission Parks and  
26 Recreation Facilities in Prince George's and Montgomery Counties" Smoking,  
27 also is prohibited in other types of park and recreation facilities in which  
28 notice is posted.

29 \*Prohibitions on the use of e-cigarettes are effective December 1, 2015.

30 2. Use of Lighted Tobacco on Outdoor Property: Pursuant to agency policy and State  
31 law, smoking of lighted tobacco products is also prohibited on outdoor property  
32 under the M-NCPPC's jurisdiction unless specifically excluded consistent with the  
33 law. (See subsection titled "Property Excluded from Smoking Prohibitions".) This  
34 restriction on all outdoor property will go into effect June 30, 2016.

35 Property Excluded from Smoking Prohibitions

36 Consistent with State law, the prohibition on the use of lighted tobacco products  
37 excludes any designated venue or facility reasonably determined by the M-NCPPC  
38 to be appropriate for the purpose of generating admission fees, rental fees, or  
39 similar charges for use of M-NCPPC property. (Note to Draft Reviewer: This  
40 amendment above is consistent with the exclusion in the new Maryland law.)  
41

1  
2 3. Signage

3 Signs shall be posted on agency property to inform employees and patrons of the  
4 tobacco and e-cigarette prohibitions of this policy. (See Appendix A to this  
5 Practice.)

6  
7 The applicable “No Smoking” sign shall be visibly posted at each property that falls  
8 within the scope the specific policy restrictions. At a minimum, signs shall be posted:

- 9 • At each entrance to and within facilities/offices covered by this policy; and
- 10 • Within each M-NCPPC vehicle;
- 11 • Outside each park area; and
- 12 • At any other property identified by the agency.

13  
14 4. Minimum Distance Restrictions

15 The use of e-cigarettes and lighted tobacco shall not be permitted near  
16 entrances, operable windows, and ventilation systems of agency  
17 offices/facilities. Signs will be clearly posted at entrances to agency  
18 offices/facilities and at locations reasonably calculated to inform employees of  
19 the prohibition.

20  
21  
22 **RESPONSIBILITIES**

23 The Department of Human Resources and Management is responsible for ensuring that  
24 Federal/State and local regulatory requirements are implemented through applicable policy  
25 and safety standards.

26 The Department Head or his/her designee is responsible for:

- 27 • ~~Designating all M-NCPPC owned, operated and leased departmental offices, enclosed~~  
28 ~~buildings, and vehicles as “no smoking” areas.~~
- 29 • Ensuring:
  - 30 ○ Signs prohibiting smoking and the use of e-cigarettes and other forms of  
31 tobacco products are appropriately posted throughout departmental  
32 property/facilities/offices/vehicles in accordance with this policy.
  - 33 ○ Consistent application and compliance with this policy.
- 34 • Reviewing and approving any disciplinary actions related to violations of policy by  
35 employees.

36  
37 Supervisors are responsible for:

- 38 • Ensuring that each employee under his/her supervision understands prohibitions  
39 outlined in the Practice; and
- 40 • Enforcing the provisions of this Practice when there are violations by employees.
- 41 • Employment actions involving discipline must be authorized by the Department Head.

42  
43 Park Police is responsible for:

44 Enforcement of State laws and Park Rules pertaining to the use of tobacco and e-cigarettes  
45 on M-NCPPC property.

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**Employees** are responsible for:

- Complying with this policy and all other applicable workplace laws and regulations; and
- Immediately reporting any violations of policy. Concerns regarding violations should be directed to the immediate supervisor or Department Head.

**VIOLATIONS** Violations of this policy will result in disciplinary action up to, and including, termination. Disciplinary actions are to be handled in accordance with the applicable employment provisions of the Merit System Rules and Regulations; collective bargaining agreements; and M-NCPPC Administrative Practice 2-16, Seasonal/Intermittent, Temporary, and Term Employment. Violations also may result in applicable fines under State/local laws and prosecution by external safety compliance agencies.

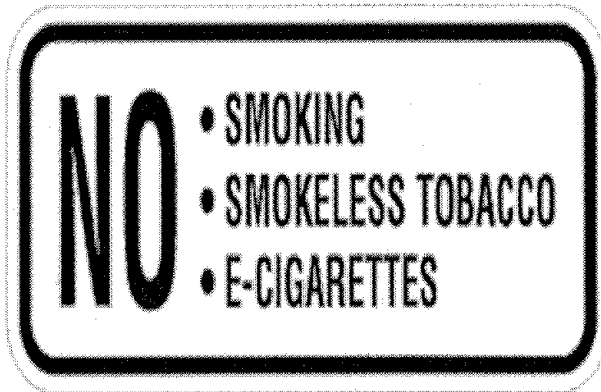
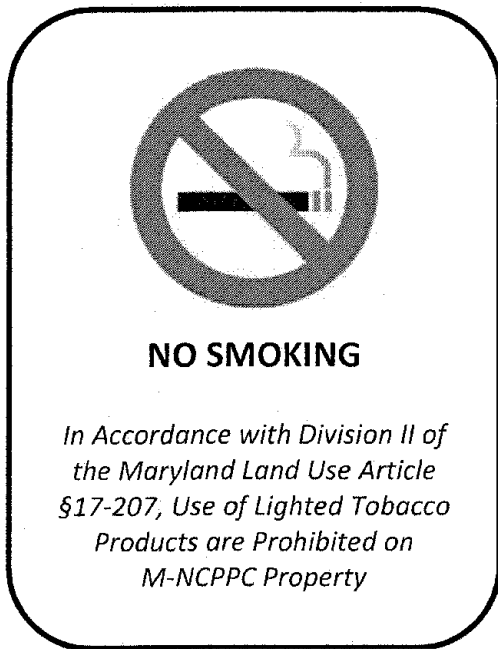
***Note to Draft Reviewer:** House Bill 585 imposes fines of warnings and \$25 for second infractions. However other laws related to workplace safety, and the Clean Workplace Act also impose consequences, which may evolve. Therefore, it is not recommend inclusion of specific fines in the policy.*

Appendix A to Administrative Practice 2-22  
No Smoking Signage (New document)

The following signage includes standard language that will be used to identify prohibitions on the use of tobacco and e-cigarettes.

Signage Implementing the new State Law  
Extending Prohibition on the Use of Lighted  
Tobacco at Outdoor Property

Signage for Enclosed Facilities/Offices,  
Vehicles and other areas designated by  
the department. Note: Pursuant to  
Practice 2-22, E-cigarettes and tobacco  
use can be restricted in outdoor areas  
specifically designated by a Department  
Head.



HOUSE BILL 585

L5

(5lr0435)

ENROLLED BILL

— Economic Matters/Finance —

Introduced by Montgomery County Delegation and Prince George's County Delegation

Read and Examined by Proofreaders:

Proofreader. Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this day of at o'clock, M. Speaker.

CHAPTER

- 1 AN ACT concerning
2 Maryland-National Capital Park and Planning Commission - Regulations to
3 Prohibit Smoking
4 MC/PG 109-15
5 FOR the purpose of requiring the Maryland-National Capital Park and Planning
6 Commission to adopt regulations, on or before a certain date, to prohibit on property
7 under its jurisdiction the smoking of certain tobacco products; providing for a certain
8 exemptions and exclusions exclusion; requiring that the regulations provide that
9 certain penalties be imposed for certain infractions; and generally relating to
10 regulations by the Maryland-National Capital Park and Planning Commission.
11 BY repealing and reenacting, with amendments,
12 Article - Land Use

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.
Italics indicate opposite chamber/conference committee amendments.



1 Section 17-207  
 2 Annotated Code of Maryland  
 3 (2012 Volume and 2014 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 5 That the Laws of Maryland read as follows:

6 **Article - Land Use**

7 17-207.

8 (a) The Commission may adopt regulations for the use of any property under its  
 9 jurisdiction.

10 (b) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON OR  
 11 BEFORE JUNE 30, 2016, THE COMMISSION SHALL ADOPT REGULATIONS TO  
 12 PROHIBIT ~~THE SMOKING OF A CIGARETTE, A CIGAR, OR ANY OTHER TOBACCO~~  
 13 ~~PRODUCT~~ ON PROPERTY UNDER ITS JURISDICTION THE SMOKING OF:

14 (I) A CIGARETTE;

15 (II) A CIGAR; OR

16 (III) ANY OTHER TOBACCO PRODUCT.

17 (2) THE REGULATIONS ADOPTED IN ACCORDANCE WITH THIS  
 18 SUBSECTION:

19 (I) MAY:

20 ~~(I) EXEMPT ANY COMMISSION EMPLOYEE WHO IS ENTITLED TO~~  
 21 ~~SMOKE UNDER THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR OTHER~~  
 22 ~~WORKPLACE RULE OF GENERAL APPLICABILITY; AND~~

23 ~~(II) EXCLUDE FROM THE PROHIBITION ANY DESIGNATED VENUE~~  
 24 ~~OR FACILITY REASONABLY DETERMINED BY THE COMMISSION TO BE APPROPRIATE~~  
 25 ~~FOR THE PURPOSE OF GENERATING ADMISSION FEES, RENTAL FEES, OR SIMILAR~~  
 26 ~~CHARGES FOR USE OF COMMISSION PROPERTY; AND~~

27 (II) SHALL PROVIDE THAT THE FOLLOWING PENALTIES BE  
 28 IMPOSED:

29 I. FOR A FIRST INFRACTION, A WARNING; AND

30 2. FOR A SECOND OR SUBSEQUENT INFRACTION, A \$25  
 31 FINE.

1           **[b)] (C)**   (1)   The Commission shall:

2                           (i)   post the regulations outside each park headquarters building,  
3 community center, recreation center, or similar building in a developed park area; and

4                           (ii)   after posting the regulations, publish them at least three times  
5 within 60 days in one or more newspapers of general circulation published in the  
6 metropolitan district.

7                   (2)   The posting and publication of the regulations shall be sufficient notice  
8 to all persons.

9                   (3)   The sworn certificate of a commissioner as to the posting and  
10 publication of the regulations is prima facie evidence of posting and publication.

11           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2015.

Approved:

\_\_\_\_\_ Governor.

\_\_\_\_\_ Speaker of the House of Delegates.

\_\_\_\_\_ President of the Senate.





**Policy Staff Research: No Smoking/E-cigarette Laws Currently in Effect, Existing M-NCPPC Policy, and Significant Events**

**A. Laws Currently in Effect**

• ***Federal Requirements:***

As of date, there is no system-wide federal regulation which bans the use of e-cigarettes in public places. However, individual federal agencies, parks or states may impose their own restrictions.

- The Food & Drug Administration (FDA) is preparing to issue nation-wide regulations on e-cigarettes; however this focus is limited to restrictions on the sale - similar to what is in place for tobacco products. Final action by the FDA was expected in June of 2015, but has not occurred yet. The regulation, if approved, would address: minimum age of purchase; prohibition on free samples; health warnings; prohibition of certain vending machine sales; and report to the FDA product and ingredient listings.
- The National Park Service is in the process of developing an e-cigarette policy that will apply service-wide to all parks that fall within its service. The policy was drafted last spring/early summer, but has not yet been finalized or approved.
- The Smithsonian Institution (which is not part of the National Park Service) does not include e-cigarettes in their no-smoking policy.
- The U.S. Department of Transportation planned on issuing a ban on e-cigarettes, stating that it interprets the federal regulations that prohibit smoking on airplanes to apply to e-cigarettes. That ban has been pending since 2011.

• ***State-Wide Laws:***

At the state level, twenty-nine states, including Maryland and the District of Columbia, have laws prohibiting the use of tobacco in the workplace and public facilities. Most bans apply to “smoking,” which means “inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant.” E-cigarettes, however, do not burn tobacco. These states also have comprehensive clean indoor air laws which restrict the use of lighted tobacco products in indoor public places such as bars, restaurants, and office buildings.

- Three states (Utah, North Dakota, and New Jersey) have extended these provisions to restrict the use of e-cigarettes everywhere that smoking is banned (e.g., indoor public places or workplaces).
- Fifteen states (including Maryland) have local laws restricting e-cigarette use in other venues.
- Last year, during the February 2014 legislative session, Maryland lawmakers considered a bill that would prohibit the use of e-cigarettes wherever traditional cigarettes are banned. The bill died in the Senate.

• ***Local Agencies/Municipalities***

- 274 local municipalities have laws restricting e-cigarette use in venues that have 100% smoke-free environments.
- Nine major municipalities (including Baltimore City and Washington, D.C.) have included electronic cigarettes as part of their no smoking policy in public spaces (e.g., workplaces, schools, museums and parks, restaurants, stores, hospitals, etc.).

- **In Maryland**

- **Montgomery County:**

- Montgomery County passed Bill No. 56-14 on March 3, 2015, which prohibits the use of electronic cigarettes in certain public places (enclosed buildings, restaurants, health care facilities, rail transit stations, etc. (Attachment C-1).
- Montgomery County Public Schools includes e-cigarettes in its no smoking policy.

- **Prince George's County** does not have a County-wide policy pertaining to use of e-cigarettes.

However:

- Prince George's County Public Schools includes e-cigarettes in its no smoking policy.

- Five (other) Maryland school districts (Boards of Education) prohibit the use of e-cigarettes in the same manner they restrict the use of tobacco products: Anne Arundel County, Calvert County, Garrett County, Queen Anne's County, and Talbot County. The counties, in which they reside however, do not have County-wide policies pertaining to use of e-cigarettes.

- ***Private Parks/Stadiums***

- Six Flags over Texas and Six Flags Magic Mountain have provisions that e-cigarettes may only be used in designated smoking areas.
- Ten public parks and 35 NFL and major league baseball stadiums have included the use of e-cigarettes in their no smoking policies.

Bill No. 56-14  
Concerning: Health and Sanitation -  
Smoking - Electronic Cigarettes  
Revised: 1/29/2015 Draft No. 5  
Introduced: November 25, 2014  
Enacted: March 3, 2015  
Executive: March 13, 2015  
Effective: June 12, 2015  
Sunset Date: None  
Ch. 8, Laws of Mont. Co. 2015

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

By: Councilmember Floreen, Council Vice President Leventhal, and  
Councilmembers Branson, Navarro, Rice, Elrich, Riemer, Katz, Hucker and Berliner

---

**AN ACT to:**

- (1) prohibit the use of electronic cigarettes in certain public places;
- (2) restrict the sale of certain liquid nicotine or liquid nicotine containers in retail outlets unless the nicotine is in a container considered child resistant packaging;
- (3) restrict the accessibility of certain tobacco products in retail settings, and require retail sellers of those products to take certain actions;
- (4) prohibit the use of electronic cigarettes by minors; and
- (5) generally amend County law regarding smoking, electronic cigarettes, and health and sanitation.

**By amending**

Montgomery County Code  
Chapter 24, Health and Sanitation  
Section 24-9

**By adding**

Chapter 24, Health and Sanitation  
Sections 24-13 and 24-14

**By renumbering**

Chapter 24, Health and Sanitation  
Sections 24-2, 24-3, 24-4, 24-5, 24-6, 24-7, 24-8, 24-9B, 24-9C, 24-9D, 24-10, 24-11,  
24-11A

**By repealing**

Chapter 24, Health and Sanitation  
Section 24-9A

**By renaming**

Chapter 24, Health and Sanitation  
Article II

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



29 Electronic cigarette means [[an electronic device that delivers vapor  
 30 for inhalation, including any refill, cartridge, or any other component  
 31 of an electronic cigarette. Electronic cigarette does not include any  
 32 product approved by the Food and Drug Administration for sale as a  
 33 drug or medical device.]] any product containing or delivering  
 34 nicotine or any other substance intended for human consumption that  
 35 can be used by a person to simulate smoking through inhalation of  
 36 vapor or aerosol from the product. The term includes any such device,  
 37 whether manufactured, distributed, marketed, or sold as an e-cigarette,  
 38 e-cigar, e-pipe, e-hookah, or vape pen, or under any other product  
 39 name or descriptor.

\* \* \*

40  
 41 Smoking or smoke means the act of lighting, smoking, or carrying a  
 42 lighted or smoldering cigar, cigarette, or pipe, of any kind.

\* \* \*

43  
 44 Vape shop means any store that primarily sells electronic cigarettes.  
 45 Vape shop does not include an area of a larger store in which  
 46 electronic cigarettes are sold.

47 Vaping or vape means the act of using an electronic cigarette.

48 (b) Smoking and [[using an electronic cigarette]] vaping are prohibited in  
 49 certain public places. A person must not smoke or use any electronic  
 50 cigarette in or on any:

\* \* \*

51  
 52 (c) Exceptions. Smoking or [[using an electronic cigarette]] vaping is not  
 53 prohibited by this Section:

54 (1) In a tobacco shop or a vape shop:

\* \* \*

55

56 (3) When smoking or [[using an electronic cigarette]] vaping is  
57 necessary to the conduct of scientific research into the health  
58 effects of tobacco smoke and is conducted at an analytical or  
59 educational laboratory;

60 \* \* \*

61 (d) Notwithstanding paragraph (b)(11), the Director of the Department of  
62 Health and Human Services may designate an outside area on  
63 property that is owned or leased by the County where smoking or  
64 [[using an electronic cigarette]] vaping is allowed if the Director finds  
65 that a complete prohibition on that property would impede a  
66 program's mission or effective delivery of services.

67 (e) *Posting signs.*

68 (1) Except as provided in paragraph (e)(4), signs prohibiting or  
69 permitting smoking or [[using an electronic cigarette]] vaping,  
70 as the case may be, must be posted conspicuously at each  
71 entrance to a public place covered by this Section.

72 (2) Where smoking or [[using an electronic cigarette]] vaping is  
73 prohibited by this Section, the sign either must read "No  
74 smoking or [[using an electronic cigarette]] vaping by order of  
75 Montgomery County Code § 24-9. Enforced by (department  
76 designated by the County Executive)" or be a performance-  
77 oriented sign such as "No Smoking or [[Using an Electronic  
78 Cigarette]] Vaping" or "This is a Smoke Free Establishment."  
79 The international no-smoking symbol may replace the words  
80 "No smoking."

81 \* \* \*



82 (f) *Duty to prevent smoking in certain areas.* The owner or person in  
83 control of a building or area covered by this Section must refuse to  
84 serve or seat any person who smokes or vapes where smoking or  
85 [[using an electronic cigarette]] vaping is prohibited, and must ask the  
86 person to leave the building or area if the person continues to smoke  
87 or vape after proper warning.

88 \* \* \*

89 (k) *Enforcement and penalties.*

90 (1) Any violation of this [Section] Article is a class C civil  
91 violation. Each day a violation exists is a separate offense.

92 (2) The County Attorney or any affected party may file an action in  
93 a court with jurisdiction to enjoin repeated violations of the  
94 Section.

95 (3) The County Executive must designate by Executive order one  
96 or more County departments or agencies to enforce this Article.

97 (4) The Director of the Department of Health and Human Services  
98 may suspend a license issued under Chapter 15 for up to 3 days  
99 if the Director finds, under the procedures of Section 15-16,  
100 that the operator of an eating and drinking establishment has  
101 knowingly and repeatedly violated any provision of this  
102 Section.

103 [24-9A. Reserved.]

104 **24-[9B]10. Availability of tobacco products to minors.**

105 \* \* \*

106 **24-[9C]11. Distribution of tobacco products to minors.**

107 \* \* \*

108 **24-[9D]12. Tobacco and electronic cigarette [Products – Placement] products**  
 109 **= placement.**

110 (a) Placement. A retail seller of any tobacco or electronic cigarette  
 111 product must not display or store the product in any place that is  
 112 accessible to buyers of the product without the intervention of the  
 113 seller or an employee of the seller.

114 (b) Definitions. *Tobacco product* means any substance containing  
 115 tobacco, including cigarette, cigars, smoking tobacco, snuff, or  
 116 smokeless tobacco.

117 (c) Applicability. This Section does not apply to:

118 (1) the sale of any tobacco or electronic cigarette product from a  
 119 vending machine that complies with all requirements of state  
 120 law; and

121 (2) any store where only or primarily tobacco or electronic  
 122 cigarette products are sold.

123 [(d) Enforcement. The County Executive must designate by Executive  
 124 order one or more County departments or agencies to enforce this  
 125 Section.]

126 [24-12 – 24-21. Reserved.]

127 **24-13. Use of electronic cigarettes by minors prohibited.**

128 A person under 18 years old must not use an electronic cigarette.

129 **24-14. Child Resistant Packaging of Liquid Nicotine Container Required.**

130 (a) Definitions. In this Section, the following words have the meanings  
 131 indicated:

132 Child resistant packaging means packaging that is:

133 (1) designed or constructed to be significantly difficult for children  
 134 under 5 years of age to open or obtain a toxic or harmful

135 amount of the substance contained therein within a reasonable  
136 time; [[and]]

137 (2) not difficult for normal adults to use properly; and

138 (3) tested in accordance with the method described in Code of  
139 Federal Regulations, Title 16, Section 1700.20, as in effect on  
140 March 3, 2015.

141 Child resistant packaging does not mean packaging which all such  
142 children cannot open or obtain a toxic or harmful amount within a  
143 reasonable time.

144 Liquid nicotine container means a container that is used to hold liquid  
145 containing nicotine in any concentration.

146 (b) Child resistant packaging required. A retail seller of any liquid  
147 nicotine or liquid nicotine container must not sell, resell, distribute,  
148 dispense, or give away:

149 (1) any liquid or gel substance containing nicotine unless the  
150 substance is in child resistant packaging; or

151 (2) any nicotine liquid container unless the container constitutes  
152 child resistant packaging.

153 (c) Exceptions. This Section does not apply to a liquid nicotine container  
154 that is sold, marketed, or intended for use in an electronic cigarette if  
155 the container is prefilled and sealed by the manufacturer and not  
156 intended to be opened by the consumer.

157 24-15 – 24-21. Reserved.

158





## Analysis of Comments Submitted During the Departmental Review Practice 2-22, No Smoking in M-NCPPC Offices, Facilities, and Vehicles

This document outlines departmental comments submitted during the policy review period. Policy comments were requested through the respective Department Head to ensure they have been reviewed by management. During this review, comments were submitted on a departmental, division, and individual basis. Comments are listed by the source department, but may or may not reflect the position the department from which they were sent. Nine comments were submitted, all of which have been presented.

Submitted comments are outlined by relevant section of the policy document, along with Policy Staff research and recommendations for policy amendment, if appropriate.

### Section: Purpose and Background

#### 1. **Comment/Question Submitted by Prince George's Parks and Recreation:**

- a. Is there a need to ban e-cigarettes in a vehicle with only one person?

***Policy Staff Response/Recommendation:*** *The treatment of e-cigarettes is the same as any tobacco product as it is being incorporated into the overall no smoking policy. The use of tobacco products and electronic cigarettes are all prohibited in any M-NCPPC offices, buildings consisting of totally enclosed structures, vehicles, and areas designated as "No-Smoking" zones, regardless of occupancy. The number of occupants in a vehicle or facility is not relevant. Staff does not recommend a policy amendment.*

- b. E cigarettes policy would be strengthened if we specify facilities that are NO SMOKING areas for the public. Additionally, the smokeless tobacco piece should be pulled out and emphasized as being included in this policy.

***Policy Staff Response/Recommendation:*** *The Policy already provides for signage designating "No Smoking areas." The policy amendments also clarify prohibitions on e-cigarettes and all forms of tobacco.*

### Section: Application

2. **Comment/Question Submitted by Prince George's Parks and Recreation:** We need to be absolutely clear that the policy also includes LEASED space that houses M-NCPPC offices and/or facilities. As it reads now, that is not clear.

***Policy Staff Response/Recommendation:*** *The commenters' concern is already addressed in the Responsibilities section as indicated below.*

*The Department Head or his/her designee is responsible for:*

- *Designating all M-NCPPC owned, operated and leased departmental offices, enclosed buildings, and vehicles as "no smoking" areas.*

*For additional clarification, the Application Section of the policy will also include this clarification.*

## Section: Policy

3-6. The next four comments were grouped together in that they pose similar comments regarding bans at specific activities/ facilities and imposing minimum distance requirements which must be maintained to limit smoking from entrances to buildings/ball fields, etc. The comments are being grouped together, with a single response below.

3. **Comment/Question Submitted by Prince George's Parks and Recreation:**

- 1) In favor of outdoor smoking bans at designated facilities—at a minimum where children gather, such as playgrounds, pools, and ballfields.
- 2) Please add a prohibition against smoking within X number of feet of an entrance to an indoor facility. It is not right to force nonsmoking staff and patrons to walk through a cloud of smoke as they enter or exit.

4. **Comment/Question Submitted by Prince George's Planning:** "I like all the proposed amendments. One possible addition would be to prohibit smoking within a certain distance of the entrance(s) to areas/buildings covered by these no smoking rules. (This would allow people to avoid having to "run the gauntlet" through clouds of smoke when entering or leaving such places.)"

"Thanks, yes I saw this part. The trouble is, how far away from such a posted sign (say, at an entrance) do you have to be before you can smoke? Sometimes the wind carries smoke inside as the door opens and closes. The question is, does an external "no smoking" sign apply at all to the area outside the entrance, or is it just a warning that you can't smoke inside the building?"

"For park lands, how many signs would you need to post to cover everywhere on a large parcel? Line of sight?"

"There is also a concern about folks smoking outside next to or underneath windows. In my office, the windows can be opened and the breeze easily blows in the cigarette smoke from people standing outside. How/if to regulate such activity is a question, unless smoking is simply banned everywhere inside and outside a building."

"As for policy and entrance signage - I don't think the prohibition on smoking inside a Commission facility is dependent on an entrance sign. Such signs, plus more inside, are required for purpose of notification, but the use of tobacco and so on is still prohibited. A lack of signage might make it more difficult to enforce, but the rule is still there. Thanks"

5. **Comment/Question Submitted by Prince George's Planning:** "As far as my opinion goes, MNCPPC staff should not be allowed to smoke on county property, inside or outside ... or on park [M-NCPPC] property."
6. **Comment/Question Submitted by Prince George's Planning:** "Good idea. I wish it could be prohibited in the front of the building on the lower level as well! "

***Policy Staff Response/Recommendations to Comments #3-6:*** *The reviewers recommend blanket prohibitions apply to outdoor venues and minimum distance requirements from enclosed facilities/events.*

***Update:*** *Subsequent to the initial review of this comment, The Maryland General Assembly passed House Bill 585 to prohibit the use of lighted tobacco on indoor and outdoor M-NCPPC property. This law which will need to be implemented by June 2016, expands the existing policy by apply to outdoor areas more fully. With respect to e-cigarettes, one set of uniform minimum distance restrictions will not work across all agency facilities. However, Department Directors will to establish guidelines on*

appropriate minimum distances by reviewing facility operations. Meanwhile, policy amendments on the use of e-cigarettes are also being made to incorporate prohibitions on the use near entrances, operable windows, and ventilation systems of agency offices/facilities.

## **GENERAL COMMENTS**

7. **Comment/Question Submitted by Prince George's Planning:** The Senior Management Team as well as the employees agrees to support Administrative Practice-22.

**Policy Staff Response/Recommendation:** *Comment has been noted, and will be shared with Department Heads.*

8. **Comment/Question Submitted by Prince George's Planning (individual employee):** I totally support the proposed amendments. Enclosed commission spaces are not the place to have smoke of any kind. I would recommend, however, that the proposed amendments be modified to include all smoking products, including marijuana, unless M-NCPPC's regulations already prohibit use of marijuana-derived smoking products because of its current federal status as a controlled substance.

**Policy Staff Response/Recommendation:** *M-NCPPC Administrative Practice 2-26, Controlled Substance and Alcohol-Free Workplace, prohibits the manufacture, distribution, sale, presence, or use of controlled substances and alcohol in the workplace, M-NCPPC vehicles, and other agency property.*

9. **Comment/Question Submitted by Prince George's Planning (individual employee):** I am not in favor.

**Policy Staff Response/Recommendation:** *Comment has been noted and will be shared with Department Heads.*



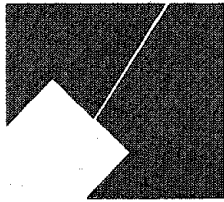


THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE  
 BY DEPARTMENT AS OF AUGUST 2015

	31 - 60 DAYS	61 - 90 DAYS	91 + DAYS	DEPARTMENT TOTALS
	07/15	08/15	07/15	08/15
CHAIRMAN, MONTGOMERY COUNTY	0	0	1	1
CHAIRMAN, PRINCE GEORGE'S COUNTY	0	0	0	0
OFFICE OF CIO	0	0	0	0
INTERNAL AUDIT	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	0	0	0	0
LEGAL DEPARTMENT	0	0	1	1
FINANCE DEPARTMENT	2	0	0	2
PRINCE GEORGE'S PLANNING	1	0	0	1
PRINCE GEORGE'S PARKS & RECREATION	2	0	0	2
MONTGOMERY COUNTY PARKS	1	0	1	2
MONTGOMERY COUNTY PLANNING	2	0	0	2
**DEPARTMENT TOTAL BY DAYS LATE**	8	0	2	10
<b>COMMISSION WIDE TOTAL:</b>				<b>15</b>

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



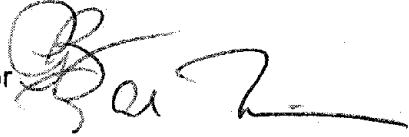


**The Maryland-National Capital Park & Planning Commission**  
**Department of Finance - Purchasing Division**

6611 Kenilworth Avenue, Suite 300 • Riverdale, Maryland 20737 • 301-454-1600 Fax: 301-454-1606

September 2, 2015

TO: Commissioners

VIA: Patricia C. Barney, Executive Director 

FROM: Joseph C. Zimmerman, Secretary/Treasurer

SUBJECT: MFD Purchasing Statistics— Fourth Quarter FY15

The Commission's procurement policy (Practice 4-10, Purchasing) includes an anti-discrimination component which assures that fair and equitable vendor opportunities are made available to minority, female or disabled owned firms (MFDs). This program is administered jointly by the Office of the Executive Director and the Purchasing Division and includes a price preference program and an MFD subcontracting component based on the Commission procurement practices and the available MFD vendors in the marketplace. The price preference program has been suspended until a MFD study is conducted to provide evidence that the price preference is/is not needed. This report is provided for your information and may be found on the Commission's intranet.

Some of the observations of this FY15 report include:

- Attachment A indicates that through the fourth quarter of FY15, the Commission procured approximately \$124 million in goods, professional services, construction and miscellaneous services. Approximately 25.7% or \$31.9 million was spent with minority, female and disabled (MFD) owned firms.
- Attachment B indicates that in the fourth quarter MFD utilization was 21.2%.
- Attachment C represents the MFD participation by type of procurement. The MFD participation for construction through the fourth quarter of FY15 was 35%. Attachment C also indicates that the largest consumers of goods and services in the Commission are the Prince George's County Department of Parks and Recreation and the Montgomery County Department of Parks. These programs significantly impact the Commission's utilization of MFD firms. The MFD cumulative utilization numbers for these departments through the fourth quarter are 19.1% and 35.2%, respectively.
- Attachment D presents the FY15 activity for the Purchase Card program totaling approximately \$13.3 million of which 2.2 % was spent with minority, female and disabled (MFD) firms. The amount of procurement card activity represents approximately 10.7% of the Commission's total procurement dollars. One reason for lower MFD participation on the purchase card is that the cards are used with national retail corporations when a

quick purchase for a maintenance job is needed. The purchase cards are also used for training registration in order to guarantee attendance.

- Attachment E portrays the historic MFD participation rates, and the total procurement from FY 1991 to fourth quarter FY15.
- Attachments F and G shows the MFD participation in procurements at various bid levels to determine if MFD vendors are successful in obtaining opportunities in procurements that require informal bidding and formal bidding. Based on the department analysis, MFD vendors do appear to be participating, at an overall rate of 17.4% in informal (under \$30,000) and 29.3% in the formal (over \$30,000) procurements. In the newest delegation for transactions under \$10k, MFD participation is 15.6%. MFD vendors are participating at an overall rate of 31.3% in transactions over \$250,000.
- Attachment H presents the total amount of procurements and the number of vendors by location. Of the \$124 million in total procurement, approximately \$76 million was procured from Maryland vendors. Of the \$31.9 million in procurement from MFD vendors, \$25 million was procured from MFD vendors located in Maryland.
- Attachment I compares the utilization of MFD vendors by the Commission with the availability of MFD vendors. The results show under-utilization in the following categories: African American, Asian, Native American and Females. The amount and percentage of procurement from MFD vendors is broken out by categories as defined by the Commission's Anti-Discrimination Policy. The availability percentages are taken from the most recent State of Maryland disparity study dated July 5, 2013.
- Attachments J and K are prepared by the Department of Human Resources and Management and show the amount and number of waivers of the procurement policy by department and by reason for waiver. Total waivers were approximately 2.1% of total procurement.

For further information on the MFD report, please contact the Office of Executive Director at (301) 454-1740.

Attachments

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**MFD PROCUREMENT STATISTICS**  
**FY 2015**  
**FOR TWELVE MONTHS ENDED JUNE 30, 2015**

**Attachment A**

	<u>Procurement</u>		<u>Waivers</u>		<u>Procurement</u>	
	<u>Total \$</u>		<u>Total \$</u>	<u>Total #</u>	<u>MFD \$</u>	<u>%</u>
<b><u>Prince George's County</u></b>						
Commissioners' Office	\$ 173,688	\$	30,000	1	\$ 39,651	22.8%
Planning Department	2,834,388		162,042	4	975,427	34.4%
Parks and Recreation Department	66,809,784		1,012,160	27	12,752,646	19.1%
Total	69,817,860		1,204,202	32	13,767,724	19.7%
<b><u>Montgomery County</u></b>						
Commissioners' Office	44,865		-	-	22,440	50.0%
Planning Department	3,536,353		59,140	2	504,973	14.3%
Parks Department	47,757,178		187,895	5	16,820,218	35.2%
Total	51,338,396		247,035	7	17,347,631	33.8%
<b><u>Central Administrative Services</u></b>						
Dept. of Human Resources and Mgt.	933,709		597,080	5	250,631	26.8%
Finance Department	1,846,598		240,216	5	468,553	25.4%
Legal Department	199,844		322,000	4	80,107	40.1%
Merit Board	1,272		25,000	1	-	0.0%
Office of Chief Information Officer	19,469		-	-	206	1.1%
Office of Internal Auditor	24,988		-	-	8,709	34.9%
Total	3,025,880		1,184,296	15	808,206	26.7%
Grand Total	\$ 124,182,136	\$	2,635,533	54	\$ 31,923,561	25.7%

Note: The "Waivers" columns report the amount and number of purchases approved to be exempt from the competitive procurement process, including sole source procurements.

Prepared by Finance Department  
August 26, 2015

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

**MFD PROCUREMENT STATISTICS**

FY 2015

**MFD STATISTICS - CUMULATIVE AND ACTIVITY BY QUARTER**

**Attachment B**

**CUMULATIVE BY QUARTER**

	SEPTEMBER	DECEMBER	MARCH	JUNE
<b><u>Prince George's County</u></b>				
Commissioners' Office	15.2%	35.5%	25.4%	22.8%
Planning Department	51.3%	43.7%	29.5%	34.4%
Parks and Recreation Department	11.7%	16.5%	18.4%	19.1%
Total	<u>12.6%</u>	<u>17.2%</u>	<u>18.7%</u>	<u>19.7%</u>
<b><u>Montgomery County</u></b>				
Commissioners' Office	0.0%	53.8%	52.3%	50.0%
Planning Department	11.7%	9.8%	11.9%	14.3%
Parks Department	58.4%	43.9%	38.8%	35.2%
Total	<u>57.1%</u>	<u>43.1%</u>	<u>38.0%</u>	<u>33.8%</u>
<b><u>Central Administrative Services</u></b>				
Dept. of Human Resources and Mgt.	38.6%	29.6%	28.5%	26.8%
Finance Department	12.7%	25.6%	24.4%	25.4%
Legal Department	11.0%	9.5%	28.1%	40.1%
Merit Board	0.0%	0.0%	0.0%	0.0%
Office of Chief Information Officer	1.5%	1.5%	1.5%	1.1%
Office of Internal Auditor	0.0%	19.0%	17.5%	34.9%
Total	<u>19.7%</u>	<u>25.7%</u>	<u>25.8%</u>	<u>26.7%</u>
Grand Total	<u>29.0%</u>	<u>28.8%</u>	<u>27.2%</u>	<u>25.7%</u>

**ACTIVITY BY QUARTER**

	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER	TOTAL
<b><u>Prince George's County</u></b>					
Commissioners' Office	15.2%	48.4%	7.0%	6.3%	22.8%
Planning Department	51.3%	31.2%	3.1%	39.4%	34.4%
Parks and Recreation Department	11.7%	25.2%	25.2%	21.2%	19.1%
Total	<u>12.6%</u>	<u>25.5%</u>	<u>24.1%</u>	<u>22.5%</u>	<u>19.7%</u>
<b><u>Montgomery County</u></b>					
Commissioners' Office	0.0%	67.5%	29.0%	0.0%	50.0%
Planning Department	11.7%	7.1%	14.7%	15.5%	14.3%
Parks Department	58.4%	31.3%	16.8%	18.7%	35.2%
Total	<u>57.1%</u>	<u>31.0%</u>	<u>16.6%</u>	<u>18.0%</u>	<u>33.8%</u>
<b><u>Central Administrative Services</u></b>					
Dept. of Human Resources and Mgt.	38.6%	19.3%	25.5%	24.8%	26.8%
Finance Department	12.7%	58.5%	19.5%	26.1%	25.4%
Legal Department	11.0%	5.7%	57.2%	51.3%	40.1%
Merit Board	0.0%	0.0%	0.0%	0.0%	0.0%
Office of Chief Information Officer	1.5%	0.0%	0.0%	0.0%	1.1%
Office of Internal Auditor	0.0%	23.9%	0.0%	69.8%	34.9%
Total	<u>19.7%</u>	<u>36.8%</u>	<u>26.3%</u>	<u>27.5%</u>	<u>26.7%</u>
Grand Total	<u>29.0%</u>	<u>28.6%</u>	<u>21.1%</u>	<u>21.2%</u>	<u>25.7%</u>

Prepared by Finance Department  
August 26, 2015

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
MFD PROCUREMENT STATISTICS  
BY MAJOR PROCUREMENT CATEGORY  
FY 2015  
FOR TWELVE MONTHS ENDED JUNE 30, 2015

**ATTACHMENT C**

	Grand Total	Montgomery Planning	Montgomery Parks	Pr. Geo. Parks & Recreation	Pr. Geo. Planning	Dept. of Human Res. & Mgt.	Legal Department	Finance Department
<b>Goods:</b>								
Total \$	\$ 37,361,174	\$ 842,956	\$ 13,280,940	\$ 21,878,185	\$ 457,193	\$ 180,689	\$ 10,131	\$ 711,080
MFD\$	\$ 4,518,757	\$ 164,933	\$ 892,612	\$ 2,899,343	\$ 88,591	\$ 102,187	\$ 8,534	\$ 362,587
Percentage	12.1%	19.6%	6.7%	13.3%	19.4%	56.6%	84.2%	51.0%
<b>Miscellaneous Services:</b>								
Total \$	\$ 17,354,175	\$ 1,782,084	\$ 4,364,040	\$ 8,316,865	\$ 1,231,278	\$ 434,492	\$ 147,833	\$ 1,077,583
MFD\$	\$ 3,661,882	\$ 154,426	\$ 1,181,916	\$ 1,941,576	\$ 131,210	\$ 115,503	\$ 51,516	\$ 85,735
Percentage	21.1%	8.7%	27.1%	23.3%	10.7%	26.6%	34.8%	8.0%
<b>Professional Services:</b>								
Total \$	\$ 9,359,730	\$ 826,046	\$ 3,442,179	\$ 3,639,162	\$ 1,073,424	\$ 284,814	\$ 41,880	\$ 52,225
MFD\$	\$ 2,743,977	\$ 180,520	\$ 871,322	\$ 908,882	\$ 744,656	\$ 750	\$ 20,057	\$ 17,790
Percentage	29.3%	21.9%	25.3%	25.0%	69.4%	0.3%	47.9%	34.1%
<b>Construction:</b>								
Total \$	\$ 59,842,775	\$ 85,267	\$ 26,670,019	\$ 32,975,572	\$ 72,493	\$ 33,714	\$ 0	\$ 5,710
MFD\$	\$ 20,927,939	\$ 5,094	\$ 13,874,368	\$ 7,002,845	\$ 11,000	\$ 32,191	\$ 0	\$ 2,441
Percentage	35.0%	6.0%	52.0%	21.2%	15.2%	95.5%	0.0%	42.7%
<b>SUBTOTAL</b>								
Total \$	\$ 123,917,854	\$ 3,536,353	\$ 47,757,178	\$ 66,809,784	\$ 2,834,388	\$ 933,709	\$ 199,844	\$ 1,846,598
MFD\$	\$ 31,852,555	\$ 504,973	\$ 16,820,218	\$ 12,752,646	\$ 975,427	\$ 250,631	\$ 80,107	\$ 468,553
Percentage	25.7%	14.3%	35.2%	19.1%	34.4%	26.8%	40.1%	25.4%
<b>Pr. Geo. Commissioners' Office</b>								
Total \$	\$ 173,688							
MFD\$	\$ 39,651							
Percentage	22.8%							
<b>Mont. Commissioners' Office</b>								
Total \$	\$ 44,865							
MFD\$	\$ 22,440							
Percentage	50.0%							
<b>Merit Board</b>								
Total \$	\$ 1,272							
MFD\$	\$ 0							
Percentage	0.0%							
<b>Office of Chief Information Officer</b>								
Total \$	\$ 19,469							
MFD\$	\$ 206							
Percentage	1.1%							
<b>Office of Internal Auditor</b>								
Total \$	\$ 24,988							
MFD\$	\$ 8,709							
Percentage	34.9%							
<b>GRAND TOTAL \$</b>	\$ 124,182,136							
<b>MFD\$</b>	\$ 31,923,561							
<b>Percentage</b>	25.7%							

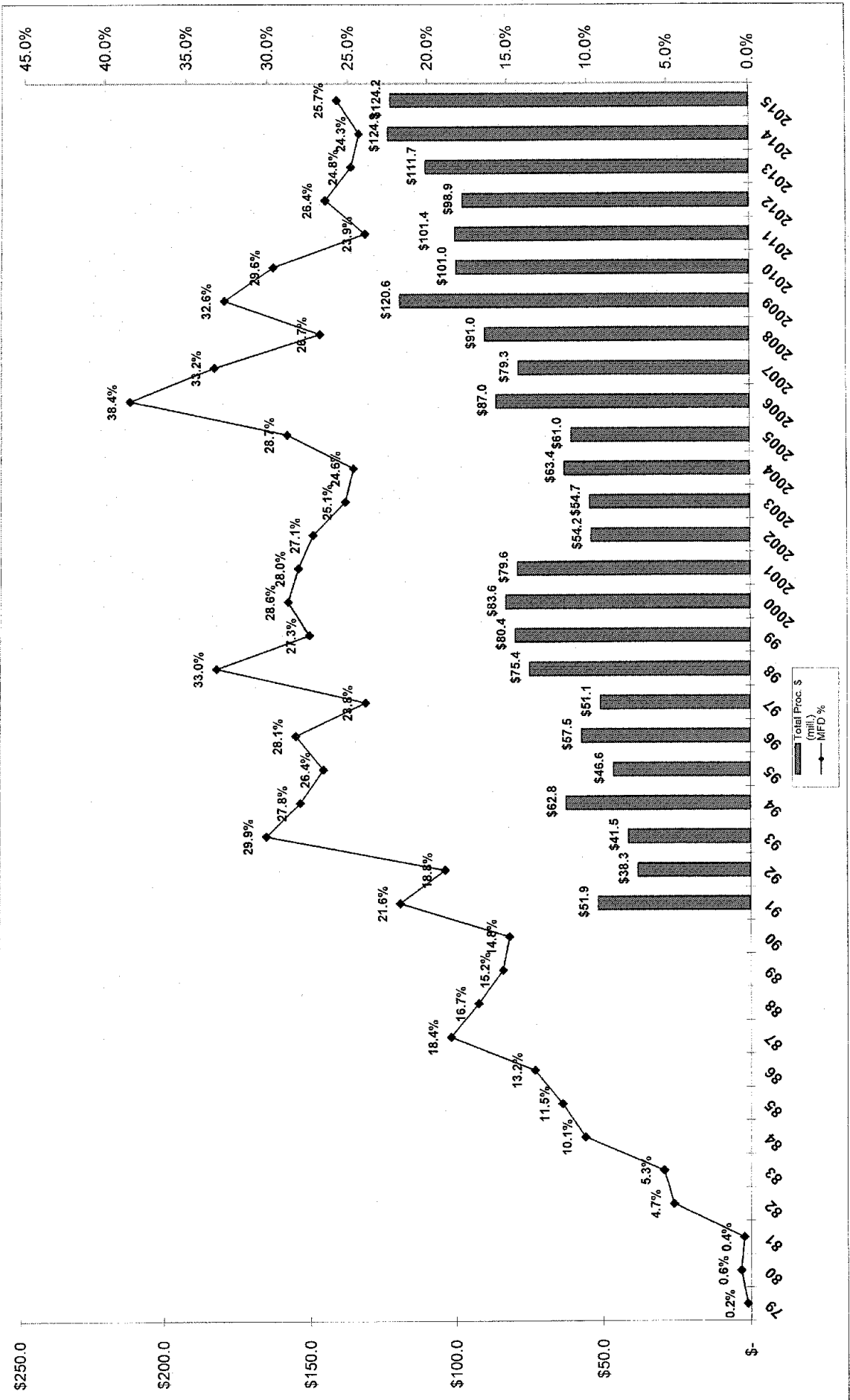




# THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

## MFD PROCUREMENT RESULTS and TOTAL PROCUREMENT (millions)

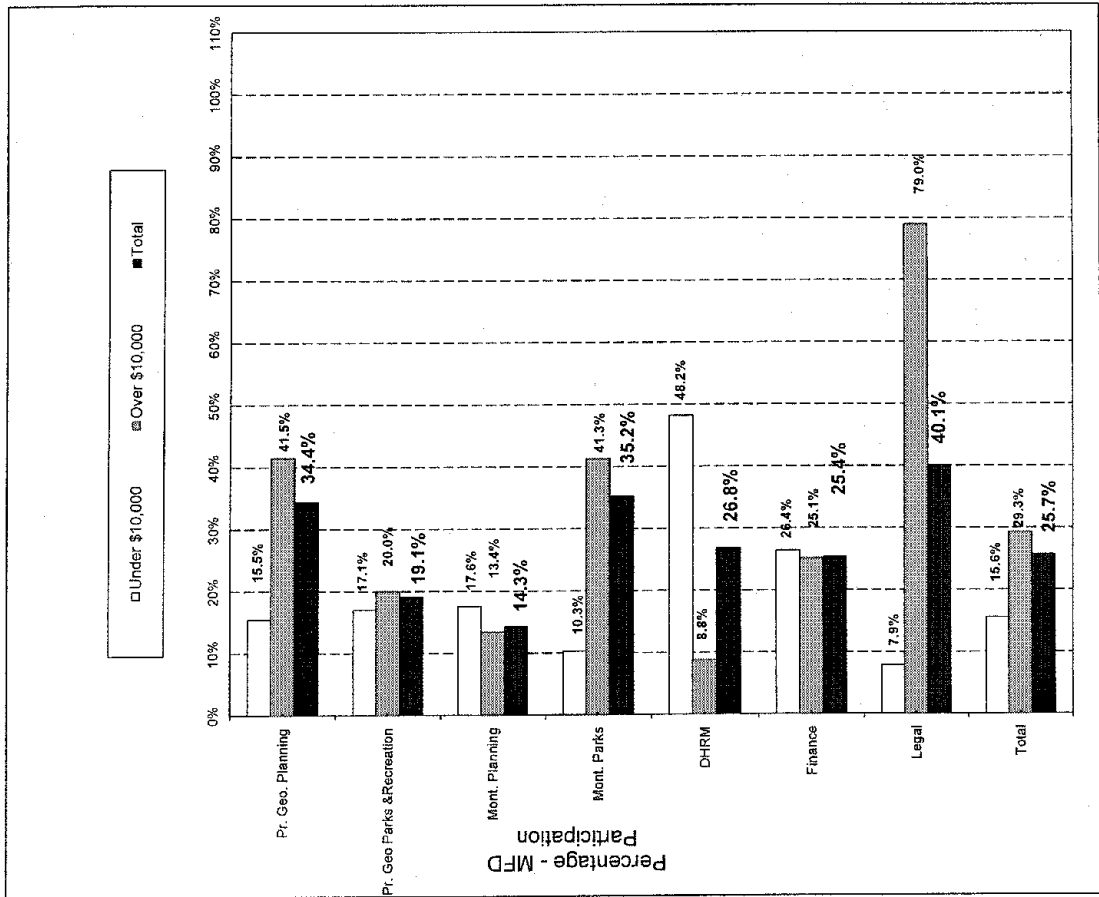
### Attachment E



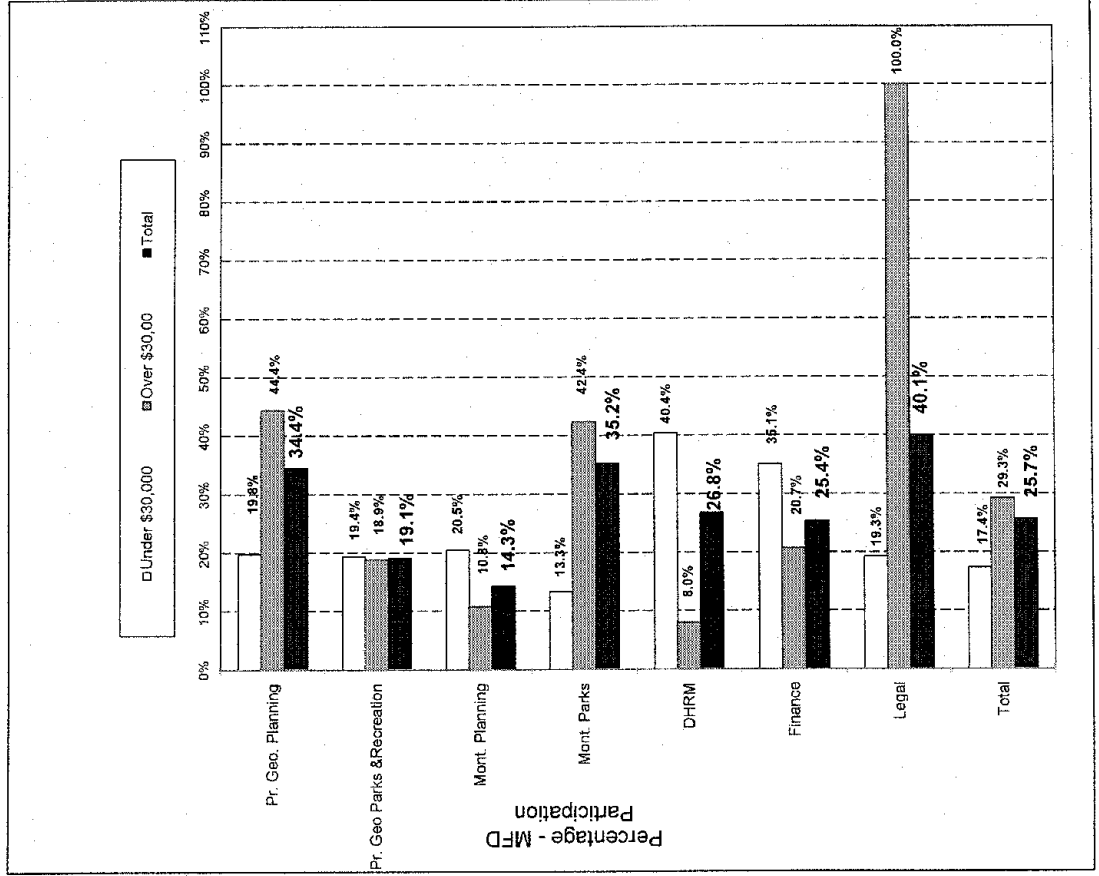
Prepared by Finance Department  
August 26, 2015

The Maryland-National Capital Park and Planning Commission  
 MFD Procurement Statistics - Transactions Under/Over \$10,000 & \$30,000 plus Total %  
 FY 2015

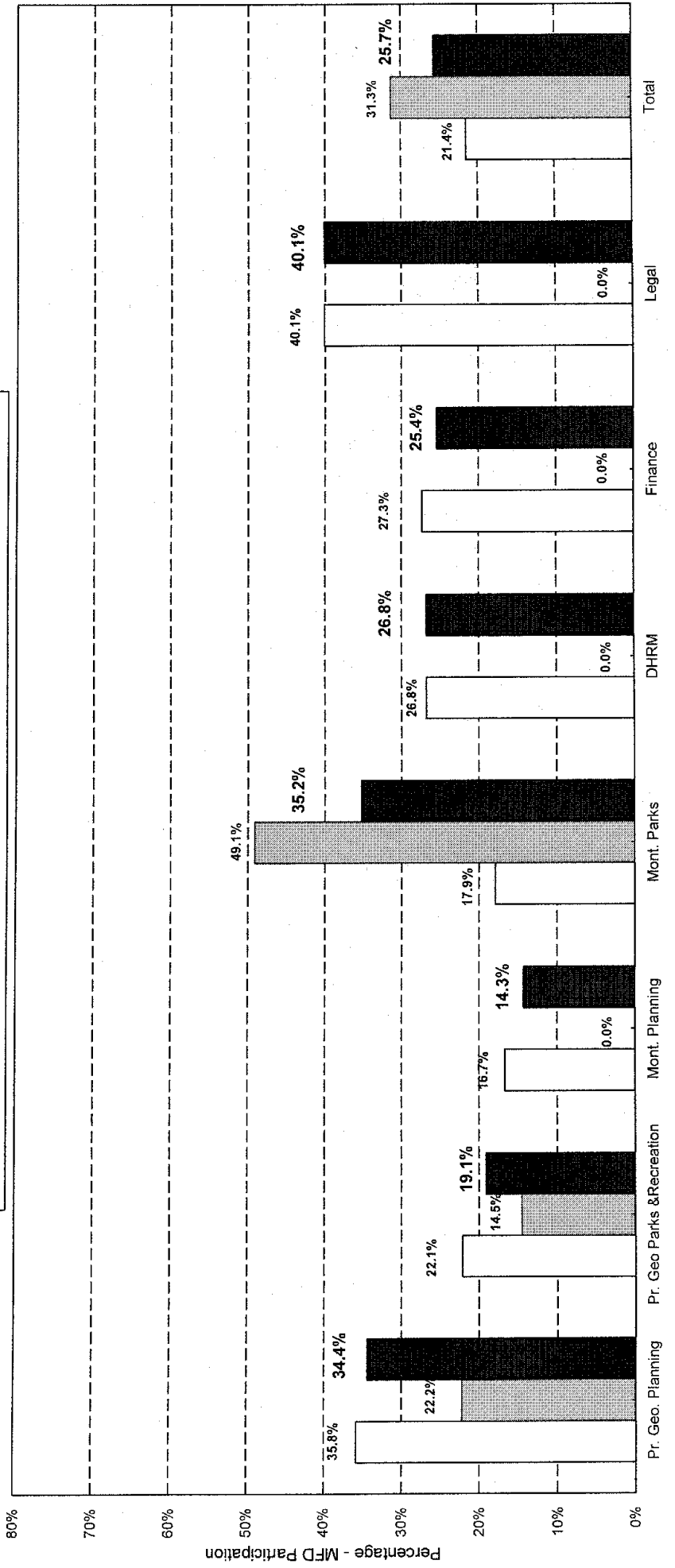
Under/Over \$10,000



Under/Over \$30,000



**The Maryland-National Capital Park and Planning Commission**  
 MFD Procurement Statistics - Transactions Under /Over \$250,000 and Total %  
 FY 2015



Prepared by Finance Department  
 August 26, 2015

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**Amount of Procurement and Number of Vendors by Location**  
**FY 2015**  
**FOR TWELVE MONTHS ENDED JUNE 30, 2015**

**Attachment H**

**TOTAL of ALL VENDORS**

<u>Location</u>	<u>Procurement</u>		<u>Number of Vendors</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
Montgomery County	\$ 20,201,619	16.3%	300	13.7%
Prince George's County	23,218,902	18.7%	703	32.1%
Subtotal	43,420,521	35.0%	1,003	45.8%
Maryland - other locations	32,934,139	26.5%	372	17.0%
Total Maryland	76,354,660	61.5%	1,375	62.8%
District of Columbia	6,121,494	4.9%	116	5.3%
Virginia	14,032,049	11.3%	155	7.1%
Other Locations	27,673,933	22.3%	544	24.8%
Total	\$ 124,182,136	100.0%	2,190	100.0%

**TOTAL of Non-MFD Vendors**

<u>Location</u>	<u>Procurement</u>		<u>Number of Vendors</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
Montgomery County	\$ 12,221,046	13.2%	213	13.4%
Prince George's County	10,687,811	11.6%	426	26.9%
Subtotal	22,908,857	24.8%	639	40.3%
Maryland - other locations	28,430,411	30.9%	297	18.8%
Total Maryland	51,339,268	55.7%	936	59.1%
District of Columbia	5,063,371	5.5%	67	4.2%
Virginia	10,635,999	11.5%	115	7.3%
Other Locations	25,219,937	27.3%	466	29.4%
Total	\$ 92,258,575	100.0%	1,584	100.0%

**TOTAL of MFD Vendors**

<u>Location</u>	<u>Procurement</u>		<u>Number of Vendors</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
Montgomery County	\$ 7,980,573	25.0%	87	14.4%
Prince George's County	12,531,091	39.3%	277	45.6%
Subtotal	20,511,664	64.3%	364	60.0%
Maryland - other locations	4,503,728	14.1%	75	12.4%
Total Maryland	25,015,392	78.4%	439	72.4%
District of Columbia	1,058,123	3.3%	49	8.1%
Virginia	3,396,050	10.6%	40	6.6%
Other Locations	2,453,996	7.7%	78	12.9%
Total	\$ 31,923,561	100.0%	606	100.0%

Note: The following shows the amounts and percentages of procurement by the location of the department. The bi-county departments' activity is divided equally between the two Counties.

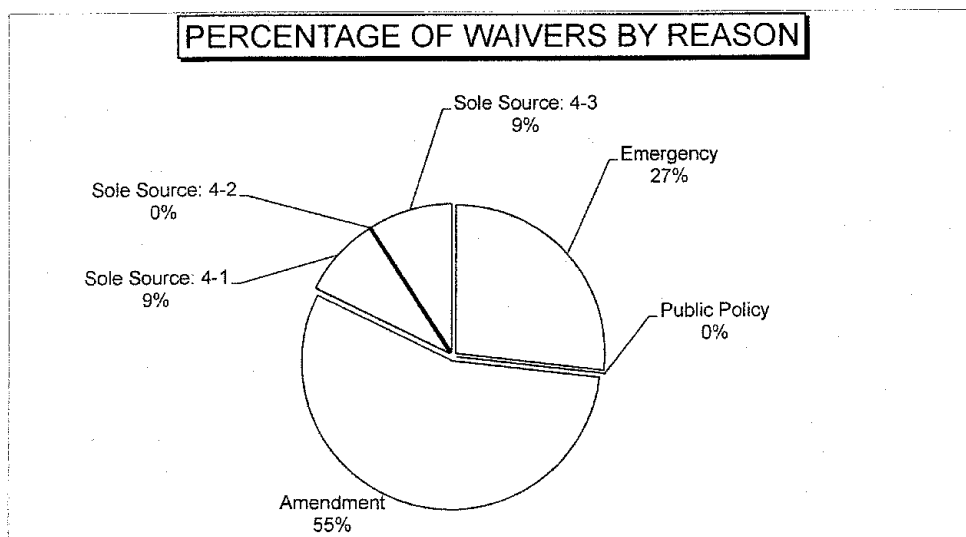
	<u>Total Procurement</u>		<u>MFD Procurement</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>
Prince George's County	\$ 71,330,800	57.4%	\$ 14,171,827	44.4%
Montgomery County	52,851,336	42.6%	17,751,734	55.6%
Total	\$ 124,182,136	100.0%	\$ 31,923,561	100.0%



**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**REASONS FOR WAIVERS**  
**CUMULATIVE DOLLAR AMOUNT & NUMBER OF WAIVERS**  
**FY 2015**  
**FOR TWELVE MONTHS ENDED JUNE 30, 2015**

**Attachment J**

	NUMBER	AMOUNT	PERCENTAGE
<b>Emergency</b>	20	\$ 707,300	27%
<b>Public Policy</b>	0	-	0%
<b>Amendment</b>	21	\$ 1,462,536	55%
<b>Sole Source: 4-1</b>	5	\$ 226,550	9%
<b>Sole Source: 4-2</b>	0	-	0%
<b>Sole Source: 4-3</b>	8	\$ 239,147	9%
<b>Total</b>	54	\$ 2,635,533	100%



**Waiver Reason Definitions:**

**Emergency:**

Sudden and unforeseeable circumstance have arisen which actually or imminently threaten the continuance of an essential operation of the Commission or which threaten public health, welfare or safety such that there is not enough time to conduct the competitive bidding.

**Required by Law or Grant:**

Public law or the terms of a donation/grant require that the above noted vendor be chosen.

**Amendment:**

A contract is already in place and it is appropriate for the above noted vendor to provide additional services and/or goods not within the original scope of the contract because the interested service and/or goods are uniquely compatible with the Commission's existing systems and patently superior in quality and/or capability than what can be gained through an open bidding process.

**Sole Source 4:**

It has been determined that:

- #1: The vendor's knowledge and experience with the Commission's existing equipment and/or systems offer a greater advantage in quality and/or cost to the Commission than the cost savings possible through competitive bidding, or
- #2: The interested services or goods need to remain confidential to protect the Commission's security, court proceedings and/or contractual commitments, or
- #3: The services or goods have no comparable and the above noted vendor is the only distributor for the interested manufacturer or there is otherwise only one source available for the sought after services or goods, e.g. software maintenance, copyrighted materials, or otherwise legally protected goods or services.

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
TOTAL WAIVERS, MFD WAIVERS, AND SOLE SOURCE WAIVERS BY DEPARTMENT  
PROCESSED FY 2015  
FOR THE TWELVE MONTHS ENDED JUNE 30, 2015**

**Attachment K**

	Total Waivers	MFD/Waivers	% of MFD	Sole Source 4-1	Sole Source 4-2	Sole Source 4-3	% Sole Source
	Number	Number	%	Number	Number	Number	%
	\$	\$		\$	\$	\$	
<b>Prince George's County</b>							
Commissioners' Office	1	-	0.0%	-	-	-	0.0%
Planning Department	4	3,100	1.9%	-	-	-	0.0%
Parks and Recreation Department	27	291,792	28.8%	-	-	172,532	17.0%
<b>Total</b>	<b>32</b>	<b>294,892</b>	<b>24.5%</b>	<b>0</b>	<b>0</b>	<b>172,532</b>	<b>14.3%</b>
<b>Montgomery County</b>							
Commissioners' Office	0	-	0.0%	-	-	-	0.0%
Planning Department	2	-	0.0%	48,000	-	11,140	100.0%
Parks Department	5	-	0.0%	-	-	19,535	10.4%
<b>Total</b>	<b>7</b>	<b>-</b>	<b>0.0%</b>	<b>48,000</b>	<b>0</b>	<b>30,675</b>	<b>31.8%</b>
<b>Central Administrative Services</b>							
Dept. of Human Resources and Mgt.	5	-	0.0%	80,000	-	-	13.4%
Finance Department	5	36,000	15.0%	98,550	-	35,940	56.0%
Legal Department	4	2,000	0.6%	-	-	-	0.0%
Merit Board	1	25,000	100.0%	-	-	-	0.0%
<b>Total</b>	<b>15</b>	<b>63,000</b>	<b>5.3%</b>	<b>178,550</b>	<b>0</b>	<b>35,940</b>	<b>18.1%</b>
<b>Grand Total</b>	<b>54</b>	<b>\$ 357,892</b>	<b>13.6%</b>	<b>\$226,550</b>	<b>0</b>	<b>\$ 239,147</b>	<b>17.7%</b>

**Purpose of Summary of Waiver Report:**

- (1) To monitor the amount, number, reasons for waivers in order to ensure the Commission is encouraging and maintaining good community, public, vendor, and interdepartmental relations;  
To ensure fair and equitable treatment of all persons who deal in purchasing matters; to promote economy in Commission purchasing; and to ensure that minority owned firms receive a fair share of Commission awards (source: Practice 4-10); and
- (2) To comply with the Prince George's Planning Board directive of January 29, 1991 to report waiver activity to the Department Heads and the Planning Boards on a quarterly basis.

**Sole Source: 4**

It has been determined that:

- 4-1: The vendor's knowledge and experience with the Commission's existing equipment and/or systems offer a greater advantage in quality and/or cost to the Commission than the cost savings possible through competitive bidding, or
- 4-2: The interested services or goods need to remain confidential to protect the Commission's security, court proceedings and/or contractual commitments, or
- 4-3: The services or goods have no comparable and the above noted vendor is the only distributor for the interested manufacturer or there is otherwise only one source available for the sought after services or goods, e.g. software maintenance, copyrighted materials, or otherwise legally protected goods or services.

Prepared by Department of Human Resources and Management  
August 20, 2015









**Office of the General Counsel**  
**Maryland-National Capital Park and Planning Commission**

*Reply To*

September 3, 2015

**Adrian R. Gardner**  
 General Counsel  
 6611 Kenilworth Avenue, Suite 200  
 Riverdale, Maryland 20737  
 (301) 454-1670 • (301) 454-1674 fax

**MEMORANDUM**

**TO:** The Maryland-National Capital Park and Planning Commission

**FROM:** Adrian R. Gardner  
 General Counsel

**RE:** Litigation Report for the Month of July and August, 2015

---

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, September 16, 2015. 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.

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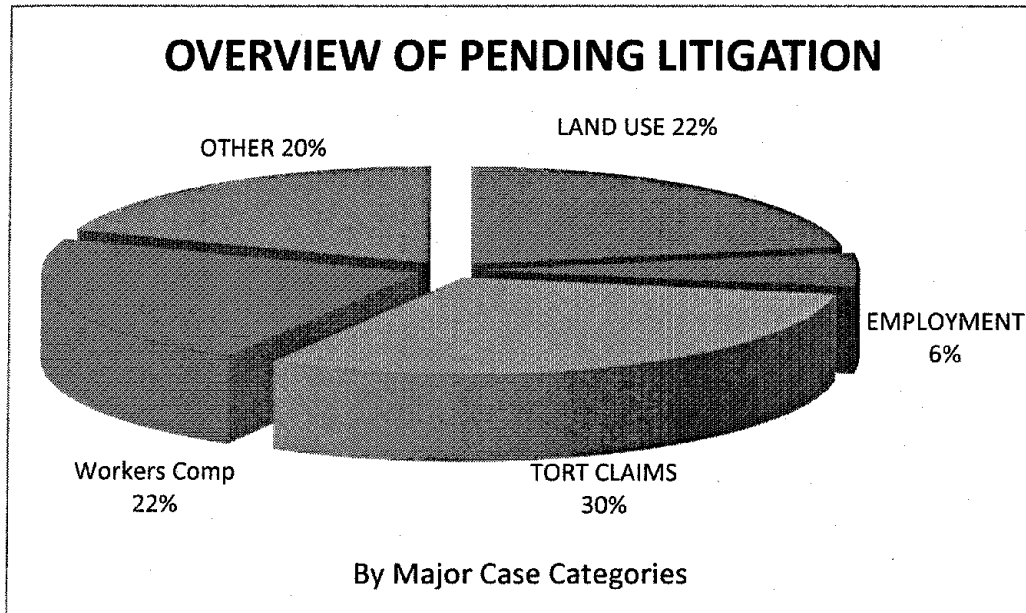
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## July-August 2016 Composition of Pending Litigation

(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	1		2				3
Admin Appeal: Other							0
Land Use Dispute	2	1					3
Tort Claims	11						11
Employment Dispute	1	1					2
Contract Dispute	1	1	1				3
Property Dispute	1			1			2
Civil Enforcement	2						2
Workers' Compensation	8						8
Debt Collection							0
Bankruptcy							0
Miscellaneous	1	1					2
<b>Per Forum Totals</b>	<b>28</b>	<b>4</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>36</b>



## July-August 2016 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2015			
	Pending In June/15	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
Admin Appeal: Land Use (AALU)	3			9			3
Admin Appeal: Other (AAO)	-			-			0
Land Use Disputes (LD)	2	1		1	1		3
Tort Claims (T)	11	3	3	10	3	3	11
Employment Disputes (ED)	3		1	1		1	2
Contract Disputes (CD)	3			4			3
Property Disputes (PD)	2			4			2
Civil Enforcement (CE)	2			1			2
Workers' Compensation (WC)	7	1		10	1		8
Debt Collection (D)	0			-			0
Bankruptcy (B)	0			-			0
Miscellaneous (M)	2			1			2
<b>Totals</b>	<b>35</b>	<b>5</b>	<b>4</b>	<b>41</b>	<b>5</b>	<b>4</b>	<b>36</b>

**INDEX OF YTD NEW CASES  
(7/1/2015 TO 6/30/16)**

<b><u>A. New Trial Court Cases.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Suggs v. Commission	PG	Tort	Aug 2015
Bell, et al v. Commission	MCPB	LD	Aug 2015
White v. Commission	PG	Tort	Aug 2015
Starks v. Kellogg, et al	MCPP	Tort	Aug 2015
Keeler v. Commission	MC	WC	Aug 2015

<b><u>B. New Appellate Court Cases.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
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**INDEX OF YTD RESOLVED CASES  
(7/1/2015 TO 6/30/16)**

<b><u>C. Trial Court Cases Resolved.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Anderson v. Commission	PGPR	Tort	July 2015
Armstrong v. Commission	PG	ED	July 2015
Quick v. Gathers	PGPR	Tort	July 2015
Quick v. Commission	PGPR	Tort	July 2015

<b><u>D. Appellate Court Cases Resolved.</u></b>
--

## Disposition of FY16 Closed Cases Sorted By Department

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources and Management		
Montgomery County Department of Planning		
Montgomery County Department of Parks		
Montgomery County Park Police		
Montgomery County Planning Board		



<b>Prince George's County Department of Parks and Recreation</b>			
Anderson v. Commission	Defense of claim seeking damages for injuries to a minor sustained in an altercation while attending Rollingcrest/Chillum Community Center Park.	07/27/15-Case settled and complaint dismissed.	
Armstrong v. Commission	Defense of employment-related claim alleging discrimination	06/26/15-Notice of Removal to U. S. District Court; case dismissed	
Quick v. Commission	Defense of claim for alleged violations of the Americans with Disabilities Act.	06/18/15-Complaint dismissed by Court.	
Quick v. Gathers	Defense of claim for alleged violations of the Americans with Disabilities Act.	06/18/15-Complaint dismissed by Court.	
<b>Prince George's County Planning Department</b>			
<b>Prince George's County Planning Board</b>			
<b>Prince George's Park Police</b>			
<b>Office of Internal Audit</b>			

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**DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**Suggs v. Jones, et al**

No. 0502-0016592-2015 (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim for personal injuries involving a vehicle allegedly owned by Commission and operated by Commission employee.

Status: Pending trial.

Docket:

07/20/15	Complaint filed
08/18/15	Notice of Intention to Defend filed by Commission
01/04/16	Trial date

**White v. Commission**

No. 0502-0017069-2015 (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim for personal injuries involving a vehicle owned by Commission and operated by Commission employee.

Status: Pending trial.

Docket:

07/14/15	Complaint filed
07/20/15	Notice of Intention to Defend filed by Commission
11/25/15	Trial date

**DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**Jang v. Commission, et al**  
Case No. 060100054592015 (Tort)

Lead Counsel: Aleman  
Other Counsel:

Abstract: Defense of claim for personal injury and property damages to motor vehicle involving a vehicle allegedly operated by Commission employee.

Status: Judgment entered in favor of Plaintiff.

Docket:

04/03/15	Complaint filed seeking \$15,000 in damages
07/29/15	Trial- judgment entered in the amount of \$9,080 and \$88 costs

**CIRCUIT COURT FOR HOWARD COUNTY, MARYLAND**

**Corsetti-Barczy v. Commission**

13-C-15-102403 (WC)

Lead Counsel: Chagrin

Other Counsel:

Abstract: Claimant/employee is appealing the WCC's permanency award.

Status: Petition filed.

Docket:

02/11/15	Petition filed
09/03/15	Settlement Conference

**CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**Burnette v. Commission**

CAL15-18263 (WC)  
(W050308)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision regarding permanent partial disability benefits.

Status: Petition filed.

Docket:

02/24/15	Petition filed
06/03/15	Case transferred from Charles County
11/06/15	Pre-trial conference.

**Commission v. Fleming**

CAL 14-15514 (Tort)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Commission filed a lawsuit seeking subrogation recovery for amount due for personal injuries sustained by Commission employee.

Status: Case settled.

Docket:

06/20/14	Complaint filed
07/31/14	Defendant served via certified mail
08/29/14	Defendant filed answer
09/16/14	Court accepts Defendant's letter as answer to complaint
02/02/15	Pretrial conference
08/04/15	Insurer settled and paid Commission for subrogated claim.

**Commission, et al v. The Town of Forest Heights**

CAL 15-04255 (M)

Lead Counsel: Borden  
Other Counsel: Mills

Abstract: Commission filed lawsuit to stop the unlawful attempt by the Town of Forest Heights, Maryland to expand its geographical boundaries by annexing properties without the required consent of any affected property owner or popular vote.

Status: Complaint filed.

Docket:

03/03/14	Complaint filed
05/11/15	Motion to Dismiss, and/or Motion for Summary Judgment filed by Defendant
05/26/15	Status hearing continued
06/04/15	Motion to Stay denied; Motion to Extend Time to Answer granted for sixty days
07/27/15	Opposition by Commission to Defendant's Motion to Dismiss and/or Motion for Summary Judgment
08/05/15	Stipulation of Dismissal filed by Plaintiff, USA
08/18/15	Status conference
08/19/15	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion to Dismiss or for Summary Judgment and Opposition to Plaintiff's Counter-Motion for Summary Judgment
08/21/15	Amended Complaint filed

**Commission v. McDonnell**

Case No. CAL15-15567 (WC #B694587)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Petitioner/Employer is appealing the WCC's decision for medical treatment to Claimant for her right shoulder injury.

Status: Pending trial.

Docket:

05/07/15	Petition filed.
10/28/15	Pre-trial conference.

**Friends of Croom Civic Association, et al. v. Commission**

Case No. CAL-14-32333 (AALU)

Lead Counsel: Mills  
Other Counsel:

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-11004 in Stephen's Crossing at Brandywine.

Status: Pending Decision.

Docket:

11/26/14	Petition for Judicial Review filed
12/15/14	Commission filed Response to Petition
12/15/14	Commission filed Certificate of Compliance
12/29/14	Brandywine T/B Southern Regional Coalition filed a Response



	to Petition for Judicial Review
01/12/15	Route 301/Industrial/CPI Limited Partnership filed a Response to Petition for Judicial Review
07/14/15	Oral Arguments
08/31/15	Disposition Hearing.

**Glessner v. Surratt House**  
CAL 14-17158 (T)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of tort claim against a Commission employee and facility based on the alleged slander of authenticity regarding a photograph the plaintiff purports to be of Abraham Lincoln.

Status: Complaint filed-never served.

Docket:

07/02/14	Complaint filed; no summons issued for service on Commission.
08/06/14	Motion to Enter Judgment filed by Plaintiff, despite lack of service
10/21/14	Complaint filed; Court orders Request for Waiver of fees granted
11/14/14	Complaint filed.
05/12/15	Court dismisses case without prejudice
06/01/15	Court rescinds Order of Dismissal and finds service defective
08/14/15	Status hearing; counsel enters appearance for Plaintiff
10/30/15	Status conference.

**Hawkins v. Commission**  
CAL14-17950 (T)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of tort claim for claimed near drowning while taking swimming lessons at Prince George's Sports and Learning Center in Landover, Maryland.

Status: In discovery.

Docket:

05/30/14	Complaint filed.
09/05/14	Answer filed.
12/15/14	Plaintiff's counsel files Motion to Strike Appearance
01/22/15	Court grants Motion to Strike Appearance of Plaintiff's Counsel.
04/07/15	Pre-trial Conference
04/13/15	Commission's Motion for Sanctions filed for failure to comply with discovery

09/01/15	Commission filed Motion for Summary Judgment
10/05/15	Trial

**Hill v. Commission**  
CAL15-04057 (ED)

Lead Counsel: Dickerson  
Other Counsel:

Abstract: Employee is seeking judicial review of the Merit Board 's dismissal of her appeal.

Status: Petition filed.

Docket:

02/18/15	Petition for Judicial Review filed
03/18/15	Certificate of Compliance filed
03/27/15	Response to Petition filed
05/05/15	Record filed by Merit System Board
08/14/15	Oral Argument held, Court reversed and remanded to Merit System Board

**Jones v. Commission**  
CAL14-17154 (T)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Defense of claim for trip and fall on alleged broken concrete and loose gravel at Tucker Road Community Center.

Status: In discovery.

Docket:

07/15/14	Complaint filed.
08/22/14	Answer filed by Commission.
01/20/15	Pretrial conference scheduled.
08/03/15	ADR Conference
08/27/15	Motion to Strike Appearance filed by Plaintiff's counsel.
10/19/15	Trial Date

**Leeks v. Commission**  
CAL15-09048 (WC W060284) (WC)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision denying occupational hypertension disease as causally related to his course of employment.

Status: Pending trial.

Docket:

05/06/15	Petition for Judicial Review filed
05/21/15	Answer filed.
09/30/15	Pre-trial conference.

**Moore v. Perry, et al**

CAL14-22308(Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim for personal injury involving vehicle allegedly operated by Commission employee.

Status: In discovery.

Docket:

08/18/14	Complaint filed.
03/24/15	Pretrial conference
09/21/15	Trial

**Newell v. Commission**

Case No. CAL15-05386 (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim for trip and fall on alleged wire hanging from the light display at Watkins Regional Park.

Status: Pending trial.

Docket:

03/11/15	Complaint filed
04/15/15	Notice of Intention to Defend filed by Commission
10/28/15	Pre-trial conference.

**Pollard v. Commission**

CAL15-00392 (WC-B629257)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision denying the left hip surgery is causally related to his workers' compensation claim.

Status: Pending Trial.

Docket:

01/20/15	Petition filed
05/01/15	Motions Hearing; Motion to Dismiss denied.
10/19/15	Trial

**CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**Bell, et al v. Commission**

Case No. 401282-V (LD)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Plaintiffs filed complaint for Declaratory Judgment to declare invalid a Conservation Easement Agreement

Status: Complaint dismissed.

Docket:

02/23/15	Complaint filed.
05/26/15	Commission filed Motion to Dismiss
06/22/15	Motion to Dismiss granted; plaintiff's case dismissed without prejudice.
06/22/15	Plaintiff's Motion to Consolidate with 394157-V (Pirtle) filed
06/22/15	Plaintiff's filed Motion for Summary Judgment and Response to Defendant's Motion to Dismiss
08/04/15	Court grants Plaintiff's Order to Amend and vacates Order Dismissing Plaintiff's Complaint.
8/31/15	Court dismissed Complaint after hearing on Motion to Dismiss

**Bell, et al v. Commission**

Case No. 407517-V (LD)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Plaintiffs filed complaint for Declaratory Judgment to declare invalid a Conservation Easement Agreement

Status: Complaint dismissed by Plaintiffs.

Docket:

07/31/15	Complaint and Motion for Summary Judgment filed by Plaintiffs
08/27/15	Plaintiffs filed Notice of Dismissal

**Commission v. Johnson**  
Case No. 366677-V (CE)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Commission requesting finding of contempt in case in which the Court already granted the Commission's Petition for Judicial enforcement of Administrative Decision by the Planning Board Concerning Forest Conservation Easement violation.

Status: Further collection action and attempts to seek compliance by foreclosing bank.

Docket:

11/22/13	Petition for Issuance of Show Cause Order Filed
01/16/14	Contempt Hearing held and Judicial Order issued
01/22/14	Order-Defendant must respond to Plaintiff's Interrogatories by 2/17/14

**Commission v. Pirtle**  
Case No. 394157-V (CE)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Commission filed Petition for Judicial enforcement of Administrative Decision by the Planning Board Concerning Forest Conservation Easement violation.

Status: Pending Motions hearing.

Docket:

08/12/14	Petition filed.
09/02/14	Affidavit of Service on Defendant filed.
10/07/14	Motion to Dismiss or in the alternative for Summary Judgment and Counterclaim filed by Defendant
10/27/14	Commission's Opposition to Defendant's Motion to Dismiss filed; and Commission's Motion to Dismiss Counterclaim filed.
10/31/14	Amended Petition for Enforcement filed
07/28/15	Stipulation of Dismissal of Defendant's Counterclaim filed
08/14/15	Commission files Motion for Summary Judgment
08/27/15	Defendant filed Response to Motion for Summary Judgment; Answer to Amended Petition and Motion to Dismiss Amended Complaint, or in the Alternative, Motion for Summary Judgment
09/10/15	Hearing on Motion to Dismiss or in the alternative for Summary Judgment

**Fort Myer Construction Corporation v. Commission**  
Case No. 399804V (CD)

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

Other Counsel: Dickerson

Abstract: Plaintiff filed complaint for alleged delays and damages associated with the erection of a steel girder pedestrian bridge in Montgomery County.

Status: Pending trial.

Docket:

01/23/15	Complaint filed
04/27/15	Motion for Appropriate Relief filed by Commission
05/19/15	Plaintiff's Response to Commission's Motion for Appropriate Relief
11/06/15	Status Hearing
12/04/15	Pre-trial hearing
02/22/16	Trial

**A. Jackson v. Commission**

Case No. 397287-V (Tort)

Lead Counsel: Chagrin

Other Counsel:

Abstract: Defense of tort claim for claimed slip and fall alleged broken sidewalk at Jessup Blair Park in Silver Spring, Maryland.

Status: Commission Verdict.

Docket:

11/06/14	Complaint filed
02/05/15	Defendant files Motion to Dismiss
04/16/15	Hearing on Motion to Dismiss or in the Alternative for Summary Judgment
06/12/15	Status/Pre-trial conference.
08/10/15	Jury Trial; verdict for Commission

**L. Jackson v. Commission**

Case No. 401201-V (WC)

Lead Counsel: Chagrin

Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision regarding low back exclusion from claim arising from 5/27/14 accidental injury.

Status: Pending trial.

Docket:

02/18/15	Petition filed.
07/30/15	Pretrial hearing
11/04/15	Trial

**L. Jackson v. Commission**  
Case No. 401202-V (WC)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision regarding low back not causally related to the accidental injury and denial of medical treatment and other benefits.

Status: Case consolidated.

Docket:

02/18/15	Petition filed
04/08/15	Court grants consolidation of 401201-V with Case # 401202-V; both cases should follow the scheduling order established under civil 401201; that all future pleadings shall be filed in civil 401201-V.
11/04/15	Trial date.

**Keeler v. Commission**  
Case No. 405704-V (WC)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision regarding permanency.

Status: Petition filed.

Docket:

06/08/15	Petition filed.
11/12/15	Pre-trial conference.

**Rounds v. Commission**

Case #350954-V (PD)

Lead Counsel: Gardner  
Other Counsel: Dickerson

Abstract: Defense of claim for violations of the Maryland Constitution and declaratory relief concerning alleged Farm Road easement.

Status: Pending Motions.

Docket:

04/30/15	Mandate returned from Court of Appeals; judgment affirmed in part and reversed in part; case remanded.
05/14/15	Commission's renewal of Motion to Dismiss
06/01/15	Plaintiff's Response to Commission's renewal of Motion to Dismiss
06/25/15	Court grants Commission's Motion to Dismiss Plaintiff's Amended Complaint
07/27/15	Court grants Plaintiffs sixty days to amend complaint
11/19/15	Status Hearing

**Starks v. Kellogg, et al**

Case No. 407554V (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim for personal injury and property damages to motor vehicle involving a vehicle allegedly operated by Commission employee .

Status: Pending Trial.

Docket:

08/04/15	Complaint filed.
05/19/16	Pre-trial/Settlement conference.



**MARYLAND COURT OF SPECIAL APPEALS**

**Fort Myer Construction Corporation v. Commission  
Commission v. URS Corporation (Third Party claim by Commission)  
2015 Term, No. 16 (CD)**

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

Abstract: Fort Myer Construction Corporation appeals award of sanctions against it. Commission notes cross appeal, as does URS Corporation.

Status: Appeal filed.  
Docket:

03/09/15	Notice of Appeal filed by Plaintiff.
03/19/15	Notice of Appeal filed by Commission
03/20/15	Notice of Appeal filed by URS Corporation
06/17/15	Mediation held

**Kaviani v. Montgomery County Planning Board**  
September Term 2014, No. 01554 (AALU)

Lead Counsel: Dumais  
Other Counsel: Lieb

Abstract: Appeal filed from the Circuit Court ruling in the case of Montgomery County Planning Board's enforcement order in MCPB No. 13-118, regarding Citation number EPD000007.

Status: Awaiting decision.

Docket:

09/23/14	Notice of Appeal
06/2015	Oral Argument

**Smith v. Montgomery County Planning Board**  
September Term 2013, No. 00774 (AALU)

Lead Counsel: Lieb  
Other Counsel:

Abstract: Commission appealed Circuit Court ruling for forest conservation violations at 21627 Ripplemead Drive.

Status: Awaiting decision.

Docket:

06/21/13	Notice of Appeal filed
03/07/14	Commission's Brief filed
05/15/14	Reply Brief filed
06/11/14	Oral Argument held.

**MARYLAND COURT OF APPEALS**

**Rounds v. Commission**

September Term 2014, No. 00019 (PD)  
(Reopened in Montgomery County-350954V)

Lead Counsel: Gardner  
Other Counsel: Dickerson

Abstract: Defense of claim for violations of the Maryland Constitution and declaratory relief concerning alleged Farm Road easement.

Status: Judgment affirmed in most aspects with remand and Motion for Reconsideration.

Docket:

11/01/13	Petition for Writ of Certiorari
11/12/13	Answer in Opposition to Petition for Writ of Certiorari
12/20/13	Cert Granted
06/30/14	Order rescheduling case to 11/12/14.
11/12/14	Oral Argument
01/29/15	Opinion from Court of Appeals affirming most aspects and remanding for a limited purpose.
02/24/15	Defendant Brown files Motion for Reconsideration.
03/16/15	Plaintiff Appellant responds agreeing to dismiss claim against Defendant Brown.
03/27/15	Mandate from Court of Appeals affirming in part and reversing in part; remanding to Court of Special Appeals directing that they remand case to Montgomery County for further proceedings
04/08/15	Order from Court of Special Appeals remanding case to Circuit Court for Montgomery County for further proceedings
05/14/15	Commission's Renewal of Motion to Dismiss filed
06/01/15	Plaintiff's Response consenting to Commission's Motion to Dismiss filed
06/25/15	Court enters order dismissing remaining claim against Commission.

**U.S. DISTRICT COURT OF MARYLAND**

**American Humanist Association, et al v. Commission**

Case #8:14-cv550-DKC (M)

Lead Counsel: Dickerson  
Other Counsel: Gardner  
Harvin

Abstract: Defense of claim alleging violation of establishment clause of Constitution.

Status: Dispositive Motions.

Docket:

02/25/14	Complaint filed in U. S. District Court for the District of MD
04/28/14	Answer filed
04/25/14	Motion for Leave to submit Amicus filed by interested Marylanders
05/01/14	Motion to Intervene filed by American Legion entities
09/18/14	Court grants Motion of Eleven Marylanders for Leave to Appear Jointly as Amicus Curiae in Support of Defendants and grants Motion to Intervene by The American Legion, The American Legion Department of Maryland and The American Legion Colmar Manor Post 131
05/01/15	Parties are in process of filing cross-motions for Summary Judgment pursuant to Scheduling Order
05/05/15	Plaintiff's Motion for Summary Judgment filed
06/11/15	Commission's Opposition to Plaintiff's Motion for Summary Judgment and Commission's Motion for Summary Judgment and supporting Memorandum filed.
08/10/15	Commission Reply Brief in Support of its Motion for Summary Judgment and Opposition to Plaintiff's Motion for Summary Judgment.
08/10/15	American Legion Reply in Support of Cross-Motion for Summary Judgment

**Armstrong v. Commission**

Case No. 8:15-cv-01558 (ED)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of employment-related claim alleging discrimination.

Status: Pending trial.

Docket:

05/28/15	Complaint filed
06/26/15	Commission's Motion to Dismiss filed.

07/31/15	Court grants Motion for Extension of Time to file response until August 24, 2015
08/19/15	Motion to Appoint Counsel filed by Plaintiff

**Hartford Casualty Insurance Company v. Commission**

Case No. 8:13-cv-01765 (CD)

Lead Counsel: Ober, Kaler, Grimes & Shriver (Michael A. Schollaert)  
 Other Counsel: Dickerson, Chagrin

Abstract: Plaintiff bonding company filed complaint seeking alleged damages associated with surety work after taking over Fort Washington Forest Park and the North Forestville Projects in Prince George's County.

Status: Pending mediation.

Docket:

06/18/13	Complaint filed
05/27/14	Plaintiff filed Consent Motion to Stay
05/28/14	Court stays case
09/25/14	Joint Status Report filed.
09/26/14	Court extends stay through 01/23/15.
01/26/15	Court extends stay for 120 days
05/11/15	Mediation
05/26/15	Order granting Consent Motion to Stay

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

Case No. 8:14-cv-03955 (LD)

(Originally filed under Case No. 397601V-Mont. Cty)

Lead Counsel: Gardner/Dickerson  
 Other Counsel: Harvin

Abstract: Plaintiff filed complaint for alleged delays and damages associated with the construction of a residential development in Clarksburg, Maryland.

Status: Awaiting decision on pending motions.

Docket:

12/18/14	Notice of Removal and Complaint filed
01/02/15	Commission files Motion to Dismiss or in the Alternative for Summary Judgment and Supporting Memorandum
01/09/15	Plaintiffs file Motion to Remand.
02/05/15	Defendant Montgomery County's Opposition to Motion to Remand
02/06/15	Commission's Opposition to Plaintiff's Motion to Remand
02/06/15	Plaintiff's Opposition to Defendant M-NCPPC's Motion to Dismiss
02/23/15	Plaintiff's Reply in Support of Motion to Remand

02/23/15	Commission's Reply to Opposition to Motion to Dismiss
07/17/15	Order denying Pulte's Motion to Remand; Order denying MNCPPC's Motion to Dismiss with leave to respond to complaint with 14 days
07/31/15	Commission's Answer to Complaint
07/31/15	Commission's Motion for Reconsideration
08/26/15	Plaintiffs' Opposition to Commission's Motion for Reconsideration filed

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