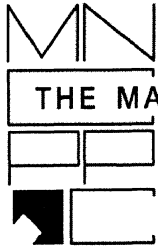


MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING
Wednesday, October 21, 2015
9:30 a.m. – 11:30 a.m.
NEWTON WHITE MANSION (Ballroom)
2708 Enterprise Road, Mitchellville, MD 20721
301-249-2004

				<u>ACTION</u>	
				Motion	Second
1.	Approval of Commission Agenda	(+*) Page	1		
2.	Approval of Commission Minutes	(+*) Page	3		
	a) Open Session – September 16, 2015	(+*)			
	b) Closed Session – September 16, 2015	(+**)			
3.	General Announcements				
	a) Breast Cancer Awareness Month				
	b) Commission-wide Service Awards Luncheon Honoring Employees with 25 or More Years of Service Newton White Mansion (Following this Commission Meeting)				
4.	Committee/Board Reports (For Information Only):				
	a) Minutes – Executive Committee – Open Session – October 7, 2015	(+)	Page 13		
	b) Minutes – Executive Committee – Closed Session – October 7, 2015	(++)			
	c) Minutes of the Regular Employees’ Retirement System Board of Trustees Meeting – September 1, 2015	(+)	Page 17		
5.	Action and Presentation Items				
	a) Resolution #15-15 – Board of Education /M-NCPPC Properties Exchange (Palfrey)	(+*)	Page 23		
	b) Resolution #15-19 – Merit System Board Member Reappointment - Tanya Upthegrove-Coleman (Spencer/King)	(+*)	Page 27		
	c) Annual Audit Committee Report (Dreyfuss/Shoaff)	(+)	Page 31		
	d) Art-O-Matic Presentation (Gathers/Johnson)	(H)			
	e) Employment Program for People with Disabilities (Spencer/Glover)	(+)	Page 37		
	f) Closed Session – Power Point and discussion on the New Pay Plan and Pay Schedules for Vendor Transition Pursuant to Section 3-305 (b)(1)(i)(ii) and (b)(7) of the General Provisions Article of the Annotated Code of Maryland, a closed session is proposed 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; and (b)(7) consult with counsel to obtain legal advice	(+)			
	g) Resolution #15-20, Approval of New Pay Plan and Pay Schedules for Vendor Transition (Open Session) (Spencer/King)	(+*)	Page 43		
6.	Open Session - Officers’ Reports				
	a) Executive Director – (For Information Only) Employee Evaluations Not Completed by Due Date – (September 2015).....(+)		Page 48		
	b) Secretary-Treasurer Enterprise Resource Planning (ERP) Briefing				
	c) General Counsel – 1) Litigation Report – (For Information Only) (September 2015).....(+)		Page 50		
	2) Legislative Update				



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
Open Session Minutes
September 16, 2015

The Maryland-National Capital Park and Planning Commission met on September 16, 2015, at 9:30 a.m. at the Montgomery Regional Office in Silver Spring, Maryland.

PRESENT

Prince George's County Commissioners

Dorothy Bailey (arrived at 9:56 a.m.)
Manuel Geraldo (arrived at 9:58 a.m.)
John Shoaff

Montgomery County Commissioners

Casey Anderson, Vice-Chair (Chaired Meeting)
Norman Dreyfuss
Amy Presley
Marye Wells-Harley

ABSENT

Elizabeth M. Hewlett, Chair
A. Shuanise Washington

Natali Fani-Gonzalez

Vice-Chair Anderson convened the meeting at 9:39 a.m. As the Commission did not have a quorum to approve voting items at the time the meeting convened, Vice-Chair Anderson requested agenda items not requiring action be presented first. Upon the arrival of Commissioners Bailey and Geraldo, a quorum was met for all action items requiring a vote.

ITEM 1 APPROVAL OF COMMISSION AGENDA

Corporate Policy and Management Operations (CPMO) Division Chief Anju Bennett was acting on behalf of Executive Director Patricia Barney. Ms. Bennett advised that the Commission meeting agenda had been revised to remove former Item 5h, Annual Audit Committee Activity Report. This item will be moved to the October meeting agenda as some Department Heads and Commissioners were not able to attend the September Commission meeting. Ms. Bennett also reported that the title for Item 5b, Resolution #15-17 was revised to read "Amendments to Family Medical Leave Act Program: Calculation of 12-Month Eligibility Period."

ACTION: Motion of Presley to approve the agenda
Seconded by Geraldo
7 Approved the motion

ITEM 2 APPROVAL OF COMMISSION MINUTES

July 15, 2015 – Open Session
July 15, 2015 – Closed Session

ACTION: Motion of Presley to approve the minutes
Seconded by Geraldo
7 Approved the motion

ITEM 3

GENERAL ANNOUNCEMENTS (Taken out of order)

Vice-Chair Anderson made the following announcements:

- a) September is National Hispanic Heritage Month. The Hispanic Heritage Festival is scheduled for September 20, 2015 at Lane Manor Park – 12:00 p.m. to 6:00 p.m. The One Commission Hispanic Heritage Celebration will be held on October 2, 2015 at Newton White Mansion – 11:00 a.m. to 1:00 p.m.
- b) October is Breast Cancer Awareness Month.
- c) October Kinderfest will be held on October 4, 2015 – Watkins Regional Park.
- d) The Upcoming Commission-wide Service Awards Luncheon Honoring Employees with 25 or More Years of Service will be held on October 21, 2015 – Newton White Mansion.

ITEM 4

COMMITTEE/BOARD REPORTS – (For Information Only)

- a) Minutes – Executive Committee Open Session – September 2, 2015
- b) Minutes – Executive Committee Closed Session – September 2, 2015

ITEM 5

ACTION AND PRESENTATION ITEMS

- a) Resolution #15-16, Affordable Care Act – Benefits for Contract Employees for 2016 (Legal/McDonald)
Principal Counsel William Dickerson and Benefits Manager Jennifer McDonald presented the Resolution. Ms. McDonald provided background, stating that the Affordable Care Act (ACA) was established in 2010 and mandates employers with 50 or more employees to offer health care coverage to certain employees who work 30 hours or more per week. In 2015, the law required M-NCPPC to offer medical coverage to at least 70% of employees. In 2015, M-NCPPC met that requirement and did not need to extend benefits to its Seasonal/Intermittent employees. In 2016, the law requires employers to offer benefits to 95% of employees who work 30 or more hours a week. Therefore, M-NCPPC will need to offer coverage to qualified Seasonal/Intermittent employees.

In response to Commissioners' questions, Mr. Dickerson and Ms. McDonald provided the following:

- Eligibility for 2016: The employee must work a minimum of 1,560 hours/week in a twelve-month measurement period. The measurement period is tracked from October 2014 to October 2015 to determine an employee's eligibility for 2016.
- The agency is researching employees who are currently classified as Seasonal/Intermittent, and have reached the 1,560 hour target for purposes of offering health coverage. This research is part of Phase II of this project, and Phase II of the Vendor Transition project. Calculating the hours is extraordinarily complex under the ACA; therefore, outside counsel and a technology consultant are assisting with the calculation process.
- Seasonal/Intermittent employees will be offered medical and prescription benefits at the same rate as those offered to the Term Contract employees which is 65% for the employer and 35% for the employee.

- AON Consulting’s analysis predicts that out of the 200 Seasonal/ Intermittent employees who are potentially eligible for coverage, 23 will enroll in the agency’s health plan.

Ms. McDonald requested approval of Resolution #15-16, Affordable Care Act – Benefits for Contract Employees for 2016, which states that M-NCPPC will abide by the Affordable Care Act, and offer coverage to Seasonal/Intermittent employees working 30 hours/week or more starting in 2016.

ACTION: Motion of Bailey
 Seconded by Dreyfuss
 7 approved the motion

- b) Resolution #15-17, Family Medical Leave Act (Program Update) (Bennett)
 CPMO Division Chief Bennett requested approval of Item 5b – Resolution #15-17, Family Medical Leave Act (FMLA) (Program Update). Ms. Bennett stated that a handout was distributed which reflects the revised title of the Resolution. All other contents of the Resolution are the same as the packet material.

Ms. Bennett shared that the Resolution codifies the Commissioners’ earlier decision to change the calculation method used to determine eligibility for leave under the FMLA. She stated this issue was discussed with the Commissioners in July. The FMLA allows employers to select from several methods. Currently M-NCPPC uses a calendar-year method, which means an employee can take up to 12 weeks of leave from January to December. At the beginning of the new calendar year, the employee would be eligible for an additional 12 weeks of FMLA leave, allowing an absence of 24 consecutive weeks. Therefore, the Commission supported the concept of moving to the rolling-year method. This method views the 12 months preceding the employee’s request to determine whether he/she is eligible for 12 weeks of leave. If the employee has used a portion of their FMLA leave allotment, he/she would be entitled to the balance of the 12 weeks of FMLA leave that had not been used.

Ms. Bennett explained that:

- M-NCPPC is targeting January 1, 2016, as the effective date.
- The FMLA regulations require any change in the calculation method be applied uniformly to the entire workforce. This change has been agreed to by the Unions. The Resolution will implement the change for the remaining workforce.
- All employees must receive a 60-day minimum notification of the change. This Resolution will allow adoption of the change and notification of the formal decision in time for the targeted effective date.

Ms. Bennett shared that specific implementation standards are being reviewed with the Merit System Board. Pending the Merit System Board’s review, she will return to the Commission for its review of those standards.

ACTION: Motion of Presley to approve the Resolution

Seconded by Bailey
7 approved the motion

Resolution #15-18, Prince George's Bond Resolution (Zimmerman)

Secretary-Treasurer Zimmerman presented Resolution #15-18, Prince George's Bond Resolution, for adoption, authorizing the issuance of up to \$22 million of project bonds for Prince George's County projects. The 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. Finance is still working out the final size of the bond issue, and anticipating the amount will be somewhat less than \$22 million. The bonds are scheduled to be sold on October 15, 2015. Chair Hewlett, Executive Director Barney, and Secretary-Treasurer Zimmerman are scheduled to meet with the rating agencies in New York on September 28th and 29th.

ACTION: Motion of Bailey to adopt the Resolution
Seconded by Shoaff
7 approved the motion

d) CAS – Cost Allocation (Kroll)

Budget Manager John Kroll presented the Annual Central Administrative Services (CAS) Cost Allocation Analysis as included in the Commission packet. The recommendation was 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. Mr. Kroll provided background information explaining that the cost allocation is developed annually, and considers the CAS departments/units that provide services to the two Counties. Mr. Kroll explained the methodology for developing the cost allocations as defined in the draft. He also provided background on the allocation of Group Insurance, CIO Labor Costs, and Risk Management.

ACTION: Motion of Wells-Harley to adopt the CAS – Cost Allocation
Seconded by Dreyfuss
7 approved the motion

e) Minimum Wage Pay Schedule Adjustments (Spencer/King)

Human Resources Director William Spencer and Human Resources Manager Boni King presented the Minimum Wage Pay Schedule Adjustments. The Commissioners were asked to support the FY16 Seasonal/Intermittent and Aquatics Seasonal/Intermittent Pay Schedules as contained in the meeting packet.

At the October 22, 2014 Commission meeting, the Commissioners directed that M-NCPPC pay schedules be reflective of the minimum wage rates consistent with that approved for both Montgomery and Prince George's Counties, as the Counties fund our agency. Increasing the minimum wage equal to the Counties would reduce the agency's turnover rate and would reduce costs of training new workers. Human

Resources Director Spencer explained the FY16 pay schedule will move October 2015 to \$9.55 per hour. In October 2016, it will move to \$10.75 per hour, and in October 2017, to \$11.50 per hour. He noted 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. The \$9.55 minimum wage for October 2015 would increase the direct labor costs by approximately \$436,595 (includes FICA increase) for the remaining months in FY16.

Commissioner Dreyfuss asked if M-NCPPC was required to adopt State minimum rates or County rates, and what the State's minimum wage is currently. Mr. Spencer responded that M-NCPPC is governed by State law. Ms. King stated that the agency had a choice based on legal counsel's advice. Prince George's County's rate and Montgomery County's rate are the same as what M-NCPPC adopted last year. Ms. King noted that the State Government had a slightly different phased-in approach. Mr. Spencer reviewed the State's hourly minimum wage increases.

Ms. Bennett clarified that the minimum wage options were presented to the Commission in October 2014. That discussion included a review of State minimum wages, as well as the position taken by Montgomery and Prince George's Counties. The Commission approved a Resolution in which it supported adoption of the same minimum wage rate adjustments as those adopted by the two Counties. The new minimum rate schedule was approved at that time. The matter before the Commission today is the adoption of the new pay scale.

Ms. King stated approval was being sought to implement the new pay schedules and to eliminate one of the lowest grades on the pay scale because it had not been utilized in 15 years.

**ACTION: Motion of Geraldo to approve the New Wage Pay Schedule Adjustments
Seconded by Bailey
7 approved the motion**

- f) Open Enrollment and Benefit Plans Proposed Rates 2016 (Spencer/McDonald)
Human Resources Director Spencer and Benefits Manager Jennifer McDonald presented the Open Enrollment and Benefit Plans Proposed Rates for 2016 as contained in the meeting packet. The Commissioners were asked to approve the recommended rates for M-NCPPC's 2016 Benefit Plans.

Ms. McDonald explained that 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 reported that the rates for the agency's medical plans increased on average by 2.9%, with individual plan increases ranging from 0% to 11.8%. Rates for the agency's prescription plan increased by 20.7%. She explained the reason for the increase in the prescription plan was due to the increase in specialty drug utilization which are expensive. Commissioner Presley asked for clarification of the specialty drug use, asking if these drugs were being used in lieu of generic drugs. Ms. McDonald gave an example of a drug that would fall into this category, clarifying that generic drugs may not be available as an alternative. She added that the agency had implemented several cost savings

programs for the prescription plan, helping to contain cost increases. 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 recommended that the Group Insurance Fund's unreserved balance be used to offset the rate increases by 2%. Using the fund to offset 2% of the rate increase will cost the agency \$341,932. If the Commission adopts the recommendation, the Municipal and County Government Employees Organization (MCGEO) president will be notified. With regard to the Self-Insured Rates, Ms. McDonald made a correction to Page 3 of the memorandum (Page 77 of the packet), amending the recommendation to the self-insured rate from "approve the 8.3% premium increase for the UHC POS plan" to "approve the 6.5% premium increase for the UHC Medicare Complement plan."

Ms. McDonald shared that M-NCPPC sent out a Request for Proposal (RFP) for a new Legal Services Plan vendor. U.S. Legal Services will replace Legal Resources, effective January 1, 2016.

ACTION: Motion of Wells-Harley to approve the Open Enrollment and Benefit Plans Proposed Rates – 2016, with the amendment to the 6.5% premium increase for the UHC Medicare Complement plan.
Seconded by Geraldo
7 approved the motion

- g) PERSONNEL MANAGEMENT REVIEW (PMR) (Spencer/Glover)
Human Resources Director Spencer and Program Manager Jeanette Glover presented highlights of the Personnel Management Review (PMR) FY14 Summary Report. Ms. Glover reviewed trends regarding the agency's workforce, changing demographics, turnover, recruitment fill times, hires and promotions, compensation data, and other information as contained in the meeting packet.
- h) UPDATE TO SMOKING POLICIES (PRACTICE 2-22) (Bennett/Thom-Grate)
CPMO Division Chief Bennett introduced Corporate Policy and Corporate Records Manager Janis Thom-Grate. Ms. Bennett and Ms. Thom-Grate presented the "Recommended Updates to Administrative Practice 2-22, No Smoking in M-NCPPC Offices, Facilities, and Vehicles". Ms. Bennett briefed Commissioners on the existing policy and asked them to consider proposed amendments. She shared that the existing policy is quite comprehensive and already bans smoking and the use of other types of tobacco (lighted and unlighted) in all enclosed facilities/offices and vehicles. The policy also applies the ban to any outdoor facilities that are specifically identified by Department Heads for their respective facilities.

Ms. Bennett reviewed the Commission packet which included drafted amendments, research and applicable regulations, and reviewer comments.

Ms. Bennett explained two substantive changes were being proposed to incorporate:

- Recently-passed State law which enacts a broader ban on the use of lighted tobacco products on all property under the M-NCPPC governance. This ban would no longer require individual outdoor facilities to be specifically

designated, as it would cover all facilities, parking areas, and parks. The law goes into effect October 1, 2015, but allows M-NCPPC until June 30, 2016, to implement the prohibition through the issuance of regulations, notice to the public, and postings of signage.

- Prohibitions on e-cigarettes in enclosed facilities and vehicles. A blanket ban on outdoor facilities was not being proposed; however, the amendment would allow Department Heads to identify outdoor facilities as appropriate. Ms. Bennett explained that while there are no State or federal laws banning the use of e-cigarettes, a number of municipalities (including Montgomery County) have enacted restrictions on their use. This change is recommended for December 1, 2015, to allow adequate time for communication of policy.

Both amendments were reviewed in work sessions with Department Heads to include discussion of application, implementation concerns, and effective dates. The proposals were also reviewed by the Executive Committee who supported both policy amendments. Additionally, employee comment was sought on the e-cigarette ban. Nine comments were submitted. All but one reviewer supported a restriction on the use of e-cigarettes. The Municipal and County Government Employees Organization (MCGEO) is in agreement with the policy on e-cigarettes. Executive Director Barney has been in communication with the Fraternal Order of Police (FOP) president, who does not feel the ban will be an issue.

Corporate Policy and Corporate Records Manager Janis Thom-Grate presented additional background on timing and scope of four policy recommendations:

- 1) Policy Recommendation: Implement State law effective June 30, 2016, to permit necessary public notice, communication of standards to employees, and signage.
- 2) Policy Recommendation: Implement e-cigarette ban effective December 1, 2015, to permit necessary communications on the policy.
- 3) Policy Recommendation: Use distinct standard signage to assist the agency in properly communicating and delineating prohibitions on the use of tobacco and e-cigarettes.
- 4) Policy Recommendation: Implement minimum distance standards from entrances/windows/ventilation systems of facilities. Ms. Thom-Grate noted that management supported the following language be included in the policy, and requested approval from the Commissioners, as well:

“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.”

Ms. Thom-Grate indicated that a workgroup would be established to identify appropriate minimum distances. Commissioner Dreyfuss raised concerns with the establishment of minimum distance standards.

He suggested the policy simply state that no smoking will be permitted near an entrance of the building, rather than having work sessions to specify actual distances for every facility, as there may be inconsistency between facilities and across departments. Ms. Bennett and Ms. Thom-Grate addressed concerns from the Commissioners about minimum distance standards and its enforcement. Commissioner Dreyfuss recommended that this issue be monitored and if, over time, it is discovered that distance requirements need to be implemented, that it be addressed at that time. Following additional discussion of this area, Commissioners agreed to the recommendation proposed by Commissioner Dreyfuss.

Commissioner Presley shared her support for the e-cigarette proposal, as it did not place a prohibition on all outdoor areas. This recognizes that some employees may use e-cigarettes to assist them in quitting smoking of tobacco cigarettes.

Commissioners recommended that managers and Department Heads meet to review the designation of locations where e-cigarettes may be prohibited. This would encourage greater consistency across the agency.

Ms. Bennett acknowledged that there may be some implementation challenges that have not yet been identified. Her team will work with Department Heads, and if there are substantive issues with regards to implementation of the policy, her team will advise the Commission.

ACTION: Motion of Presley to approve policy proposal with recommended change in language on prohibitions near entrances of buildings.
Seconded by Wells-Harley
7 approved the motion

ITEM 6

OFFICERS' REPORTS – (Taken out of order)

a) Executive Director (Bennett for Barney)

Employee Evaluations Not Completed by Due Date (July/August 2015) (For Information Only)

CPMO Division Chief Bennett presented the report on behalf of Executive Director Barney. She stated late evaluations are being worked on by departments.

b) Secretary-Treasurer (Zimmerman)

1. Enterprise Resource Planning (ERP) Briefing (For Information Only)

Secretary-Treasurer Zimmerman presented the briefing. He stated the agency continues to move forward. Payroll processes are smoothing out. The ERP team is working on management self-service pieces for the Human Capital Module.

Management self-service will allow Departments to update the records without sending paper copies to the Human Resources Division. Submitting paper records slows down the process and increases the chance for errors. Reporting is better with Enterprise Financial Management (EFM); however, there are still

issues with Capital Improvement Plan (CIP) reporting. Vice-Chair Anderson commented that in the future, he would be interested in getting an understanding of all the functionality that will eventually be available with the Enterprise Resource Planning (ERP) system, and the timeline of implementation in light of the challenges. Secretary-Treasurer Zimmerman will provide that information.

2. MFD 4th Quarter Report

The report was included in the packet; there was no discussion on this topic.

c) GENERAL COUNSEL (Dickerson for Gardner)

1. Litigation Report - (July/August 2015) (For Information Only)

Principal Counsel William Dickerson presented the report on behalf of General Counsel Gardner. In addition to the Litigation Report contained in the meeting packet, Mr. Dickerson added that a lawsuit was filed by People for the Ethical Treatment of Animals (PETA) and a citizen. The suit sought a temporary restraining order to stop a deer management bow hunt on the Montgomery Parks Department property. The Court denied the temporary restraining order and there likely will be a hearing on a request for a preliminary injunction at some point. Vice-Chair Anderson requested the Legal Department post information on the website about M-NCPPC's reason for the deer management program.

At 11:27 a.m., Vice-Chair Anderson requested a motion to move to closed session to hear the Vendor Transition Briefing.

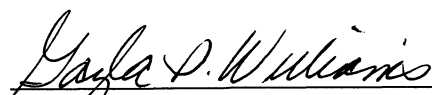
- ITEM 7 Pursuant to Section 3-305(b)(1)(i)(ii) and (b)(7), of the General Provisions Article of the Annotated Code of Maryland, a closed session is proposed to discuss (b)(1)(i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance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

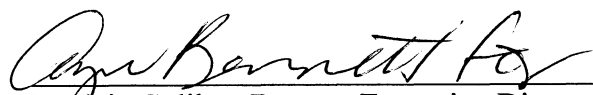
ACTION: Motion of Geraldo
Seconded by Presley
7 Approved the motion to move to closed session

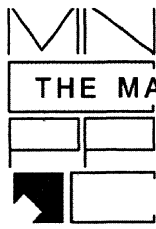
The closed session moved to open session at 11:44 a.m., and Vice-Chair Anderson requested a motion to adjourn the meeting.

ACTION: Motion of Anderson to adjourn the meeting
Seconded by Bailey
7 Approved the motion

There being no further business to discuss, the meeting adjourned.


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


Patricia Colihan Barney, Executive Director



EXECUTIVE COMMITTEE MEETING MINUTES

October 7, 2015

The Maryland-National Capital Park and Planning Commission's Executive Committee met in the Executive Director's Conference Room, at the Executive Office Building in Riverdale, Maryland. Present were Chair Elizabeth M. Hewlett, Vice-Chair Casey Anderson and Executive Director Patricia C. Barney. Also present were:

Department Heads/Deputies/Presenters/Staff

Adrian Gardner, General Counsel

Joe Zimmerman, Secretary-Treasurer

Ronnie Gathers, Director, Prince George's County Parks and Recreation

Fern Piret, Director, Prince George's County Planning

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

William Spencer, Human Resources Director

Boni King, Human Resources Manager

Janis Thom-Grate, Corporate Policy and Corporate Records Manager (CPMO)

Greg Butler, Public Financial Management, Inc.

Executive Director Barney convened the meeting at 9:45 a.m.

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

Discussion

General Counsel Gardner added a general announcement stating that the agency would be hosting a legislative reception at Art-O-Matic on November 6, 2015.

No other changes were made to the Executive Committee Meeting Agenda.

ITEM 1b - APPROVAL OF COMMISSION MEETING (Executive Director Patricia Barney)

Discussion

The following revisions were made to the October 21, 2015, Commission meeting agenda:

- Change meeting location from the Enterprise Pro Shop Annex to the Newton White Mansion.
- Add presentation item on Art-O-Matic following the Annual Audit Committee Report. Item will be presented by Parks and Recreation Director Gathers & Deputy Director Johnson.

ITEM 1c - ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS (Executive Director Patricia Barney)	
Discussion	<p>The following items were modified on the Rolling Agenda:</p> <p><u>November Agenda</u></p> <ul style="list-style-type: none"> • Move “Pension Actuarial Valuation” item to be presented before the item, “Recommendation to Approve an Employer Contribution for Pension Plan in the Amount of _____.” The amount will be added closer to the meeting. • With regard to the Collective Bargaining update listed under “Closed Session,” the item may be removed from the agenda. Executive Director Barney will speak with the Fraternal Order of Police about moving these negotiations closer to the January 2016 timeframe. Executive Director Barney, Human Resources Director William Spencer, and Human Resources Manager Boni King will meet to prepare an update on salary comparisons of Police salaries. Discussions will be held with Department Heads in October or November on this topic. <p><u>December Agenda</u></p> <ul style="list-style-type: none"> • Remove the One-Commission holiday event from the December General Announcements if the event takes place before the Commission meeting occurs. • Remove M-NCPPC Proposed Operating Budget from the Reports and Presentations section as the Resolution for FY 2017 Operating Budget Resolution is already on the agenda. <p><u>February 2016 Agenda</u></p> <ul style="list-style-type: none"> • Add legislative update under Reports and Presentations.
ITEM 2 – MINUTES	
Provided for Information	<p>September 2, 2015 Executive Committee Minutes</p> <p>a) Open session</p> <p>b) Closed Session</p>
ITEM 3 – DISCUSSION/REPORTS/PRESENTATIONS	
Discussion	<p>Enterprise Resource Planning (Zimmerman)</p> <p>Secretary-Treasurer Zimmerman provided the Enterprise Resource Planning (ERP) update. He shared that the primary effort this week is the Affordable Care Act (ACA) compliance and reporting, and the determination of who is required to be offered health insurance. The Lawson consultant is working with the agency on the extremely complicated reporting aspect of the project.</p>

<p>Discussion</p>	<p>Last week, the agency viewed a demonstration of an upgrade to the Lawson Budget Planning software. This product would replace the Lawson Business Intelligence (LBI) component which drives the dashboards and other items. The upgrade has not yet been implemented, as the agency is making sure the functionality will work for governments. Executive Director Barney noted that Lawson is getting more government customers and is improving its product as some of their tools, particularly their budget tools, are currently not sufficient for government entities.</p> <p>The Human Capital Management (HCM) module's functionality is being reviewed. However, the ACA has taken priority over other projects as compliance must be done by year-end. The IRS Form 1095-c must be issued by end of February 2016. A meeting is scheduled with Montgomery County departments today to walk through some of the issues they are seeing. The most significant is improvement in the MHC software, which will allow tagging of scanned documents to specific transactions as they flow through the system.</p> <p>Executive Director Barney shared that the team is beginning to refine the Personnel Action (PA) process on the HCM component. A more streamlined process is expected to be in place by February 2016 to allow staff to be trained before the big seasonal hiring period begins.</p>
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The meeting adjourned to closed session at 10:07 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, September 1, 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, September 1, 2015 at 10:00 a.m. Voting members present were: Josh Ardison, Patricia Colihan Barney, CPA, Howard Brown, Richard H. Bucher, Ph.D., Jenetha Facey, Pamela F. Gogol, Barbara Walsh and Joseph C. Zimmerman, CPA. Khalid Afzal, Elizabeth M. Hewlett and Marye Wells-Harley were absent.

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

Others present included: M-NCPPC Legal Department – LaTonya Reynolds, Senior Counsel.

Presentations by Wilshire Associates - Bradley A. Baker, Vice President and Wilshire Private Markets - Karl Beinkampen, CFA, President and CIO, Ilona Brom, Managing Director and Marc Friedberg, CFA, Managing Director.

MS. BARNEY chaired the meeting in the absence of CHAIRMAN HEWLETT and VICE CHAIRMAN WELLS-HARLEY.

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 July 7, 2015 Board of Trustees Meeting Revised Agenda
- B. Minutes of Regular Meeting, June 2, 2015
- C. Closed Session Minutes of Meeting, June 2, 2015 (**Confidential**)
- D. Closed Session Minutes of Meeting, April 7, 2015 (**Confidential**)
- E. Disbursements Granted Reports – May, June and July 2015
- F. Transfer of \$12,900,000 to Cover Administration Expenses and Benefit Payments for September 2015 – November 2015

The Agenda was revised to correct the language in Item 1.F. and add Item 6.B.

DR. BUCHER made a motion, seconded by MS. WALSH to approve the Revised Agenda and Items 1.A., 1.E. and 1.F. The motion PASSED unanimously (7-0). (Motion #15-44)

MS. BARNEY separated the consent agenda items for motions due to her absence from the April 7, 2015 and the June 2, 2015 Board of Trustees Meetings.

MR. ARDISON arrived at 10:05 a.m.

MS. GOGOL made a motion, seconded by DR. BUCHER to approve Items 1.B. and 1.C. The motion PASSED (7-0-1). MS. BARNEY abstained due to her absence at the June 2, 2015 Board of Trustees Meeting. (Motion #15-45)

DR. BUCHER made a motion, seconded by MS. FACEY to approve Item 1.D. The motion PASSED (7-0-1). MS. BARNEY abstained due to her absence at the April 7, 2015 Board of Trustees Meeting. (Motion #15-46)

2. CHAIRMAN'S ITEMS

A. Board of Trustees Conference Summary

3. MISCELLANEOUS

4. CLOSED SESSION

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

DR. BUCHER 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 (8-0). (Motion #15-47)

5. MANAGER REPORTS/PRESENTATIONS

A. M-NCPPC Legal Department

Presentation by LaTonya Reynolds, Associate General Counsel

- i. Groom Law Group's Benefits Brief Newsletter dated August 18, 2015 "Proposed Groom Client Group Comments to IRS – Curtailment of Determination Letter Program"

LaTonya Reynolds advised the Board of the IRS' announcement to curtail the Determination Letter program which in no way affects the auditing program. The Groom Law Group believes the curtailment will likely increase the risks employers face if plans are found non-compliant.

Ms. Reynolds advised that the Groom Law Group is soliciting clients to join a group to submit comment to the IRS. Each client will pay \$4,000 to join the group.

DR. BUCHER made a motion, seconded by MS. WALSH to join the Groom Law Group to submit comments to the IRS on curtailment of the Determination Letter program. The motion PASSED (8-0). Motion (#15-49)

B. Wilshire Private Markets

Presentations by Karl Beinkampen, CFA, President and CIO,
 Ilona Brom, Managing Director and Marc Friedberg, CFA, Managing Director

i. Current Portfolio Review & Update; September 1, 2015

Wilshire Private Markets (WPM) team presented the private equity market review and organizational overview. Mr. Beinkampen reported that the Australian office was recently closed in order to focus on growing business in Europe and Hong Kong.

Marc Friedberg presented performance for the ERS' private equity fund, MNCPPC ERS GLOBAL, L.P., for the period ending June 30, 2015. The fund is a separate account of \$60 million invested equally in 2013, 2014 and 2015. The fund is 91% committed and 24% called as of June 30, 2015. Mr. Beinkampen reported the portfolio is on target with pacing and diversification and has continued organic, steady growth over the last three years. There are 18 investments with exposure to 130 companies. Mr. Friedberg said there is capacity for one US investment and one European investment targeting distressed/special situation and venture capital. WPM believes the fund is well positioned in high quality managers in line with their objectives and expectations.

Mr. Friedberg proposed a model account for future private equity commitments for the Board's consideration. Tranche II would utilize the existing separate account vehicle; invest \$10-\$15 million equally over 2016, 2017 and 2018; and, with the same pacing and diversification as the original fund. The benefits of utilizing the separate account vehicle include cost savings and turnkey administration through utilization of existing vehicle; portfolio construction to complement existing manager exposures; and, a portfolio of high conviction managers.

C. Wilshire Associates

Presentation by Bradley A. Baker, Vice President

- i. Executive Summary of Investment Performance; as of June 30, 2015
- ii. Private Equity Overview and Pacing Analysis
- iii. Wilshire's Report "A Call for Patience: Keep Your Eye on the Horizon"
- iv. Manager Comparison - 3yr and 5yr Rolling Returns; as of June 30, 2015
- v. Summary of Investment Performance; June 30 2015
- vi. Conflict Checks Report dated July 21, 2015 (**Confidential**)

Mr. Baker presented a Private Equity Overview and Pacing Analysis to assist in planning additional commitments to the private equity program. The private equity model projected three scenarios for consideration: 20%, 30% and 40% of the target allocation.

Wilshire believes successful private equity programs are built overtime by consistently committing capital to the asset class. Annual pacing of commitments ensures adequate vintage year diversification, ability to commit to underrepresented segments of the market, ability to adjust to changing accounts for changes to market dynamics and accounts for changes to liquidity profiles.

Based on the analysis, Wilshire recommends committing \$30-45 million (\$10-15 million per year) to private equity over the next three years (2016, 2017, 2018). Wilshire believes utilizing the existing separate account vehicle with Wilshire Private Markets has several advantages including fees, access and negotiating terms. The Board agreed continuing with the existing vehicle was preferable and provided unique advantages. The Board is interested in understanding what, if any, flexibility there may be with respect to modifying a commitment amount in year 2 or 3. Ms. Rose and Mr. Baker agreed to discuss contract flexibility with Marc Friedberg and return to the October meeting.

Bradley Baker reported on the fund's performance for the quarter ending June 30, 2015. The ERS' total return was 0.61% (net of fees) for the one-year ending June 30, 2015. The total fund underperformed the policy index return of 0.82%. The ERS fund return was 9% for the three-years ended June 30, 2015 and 10.1% for the five-years ended June 30, 2015 versus the policy index which returned 9.03% and 10.29%, respectively. The total market value through June 30, 2015 was \$794.0 million. Individual manager performance was discussed with no concerns.

6. REPORT OF THE ADMINISTRATOR

Presentation by Administrator, Andrea L. Rose

A. Administrator's Report dated August 21, 2015

i. Recommendation to approve FY2016 Wage and Benefit Package for all eligible staff as follows:

- Effective the first full pay period after July 1, 2015, a 1.75% Annual Salary increase for employees not at top-of-grade;
 - Employees at top-of-grade shall be paid a 0.5% lump sum payment. The calculation will be made on base salary paid the first full pay period following July 1, 2015. This payment will be made at the conclusion of the first full pay period and does not increase base pay salary.
- Effective the first full pay period following September 1, 2015, employees (including the Administrator) shall receive a cost-of-living adjustment equal to 1.75% of base pay.
- Effective the first full pay period following September 1, 2015, employees (including the Administrator) shall receive twelve (12) hours of Administrative Leave. Employees are required to use this administrative leave during FY2016.

Andrea Rose presented the Administrator's Report dated August 21, 2015.

Ms. Rose recommended compensation adjustments for all eligible staff for FY2016 which are similar to the Commission's FY2016 approved compensation adjustments for non-represented employees. All wage adjustments were included in the approved FY2016 Operating Budget.

DR. BUCHER made a motion, seconded by MS. WALSH to approve FY2016 compensation adjustments as recommended: Effective the first full pay period after July 1, 2015, a 1.75% Annual Salary increase for employees not at top-of-grade. Employees at top-of-grade shall be paid a 0.5% lump sum payment. The calculation will be made on base salary paid the first full pay period following July 1, 2015. This payment will be made at the conclusion of the first full pay period and does not increase base pay salary; Effective the first full pay period following September 1, 2015, employees (including the Administrator) shall receive a cost-of-living adjustment equal to 1.75% of base pay; and, Effective the first full pay period following September 1, 2015, employees (including the Administrator) shall receive twelve (12) hours of Administrative Leave. Employees are required to use this administrative leave during FY2016. The motion PASSED unanimously (7-0). MS. GOGOL was out of the room. (Motion #15-50)

Ms. Rose reported on the issues that have impacted the ERS by the implementation of the Commission's new ERP system. The causes of these problems are both program and process related and resulted in problematic, inconsistent and missing data which impacts the ERS' processes and year-end activities, including preparation of the actuarial valuation data. The actuarial data was submitted late to Boomershire Consulting Group which may result in delay of the final actuarial valuation results. The problematic data may affect the Experience Study scheduled for January 2016 and production of member annual statements scheduled for November 2015. ERS staff are having to develop workarounds for processing timely payment of benefits for retirements, terminations and deaths and the calculation of estimates for members. The ERS staff are continuing to work with Commission staff to resolve these issues.

The auditors and ERS staff are completing the FY2015 audit. Staff are preparing the Financial Statements, the Comprehensive Annual Financial Report, and the Popular Annual Financial Report.

An employer contribution from the Commission was received in the amount of \$27,191,305. The ERS' Investment Consultant recommended funding \$21,000,000 to Blackrock. The remaining funds were used to cover benefit payments, expenses and capital calls.

B. Boomershire Consulting Memo dated August 31, 2015 Re: Employees' Retirement System Economic Assumptions

At its June 2, 2015 meeting, the Board approved changes to the economic assumptions as follows:

1. Salary increases: 2.75% + service-based increases
2. Retiree cost-of-living-adjustments (COLA): 2.75%* (2.50% for post 7/1/12 accruals)
3. Investment return: 7.25%

Boomershire Consulting Group's (BCG) Greg Stump provided a Memorandum dated August 31, 2015 clarifying a misstatement from the June 2, 2015 meeting. It should have been explained that the post retirement cost-of-living adjustment was 3% and the recommendation was a reduction to 2.75% or 25 basis points reduction to make all economic assumptions consistent. The impact of the COLA assumption change (from 3% to 2.75%) will

be a slight decrease in employer costs. The net impact of all three changes will be a slight increase in employer costs. The Board's motion at the June 2, 2015 meeting accurately approved a change to 2.75%; therefore, no action is required. BCG supports the post-retirement assumption change from 3% to 2.75%.

7. COMMITTEE REPORTS/RECOMMENDATIONS

A. Audit Committee

Presentation by Committee Chairman, Barbara Walsh

i. Regular Report of June 10, 2015

Audit Committee Chairman MS. WALSH presented the Audit Committee's Report of June 10, 2015.

CliftonLarsonAllen's Heather Plitt, Financial Audit Engagement Director, presented the engagement scope, work plan, critical audit areas and timing of work. The final audit report is scheduled for completion in September. CliftonLarsonAllen will issue an opinion under the generally accepted governmental auditing standards in the United States of America as it did last year.

There was a brief discussion regarding GASB Statement No. 67: *Financial Reporting for Pension Plans* which is effective this year for the ERS. GASB 67 expands the disclosure requirements and includes enhancement of the footnotes. GASB Statement No. 68: *Accounting and Financial Reporting for Pensions* is effective for fiscal years beginning after June 15, 2014 and will have a direct impact on the Commission; the ERS will need to provide the Commission information required for GASB 68.

The Board of Trustees meeting of September 1, 2015 adjourned at 1:18 p.m.

Respectfully,

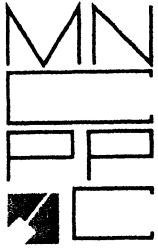


Heather D. Brown
Senior Administrative Specialist



Andrea L. Rose
Administrator

ITEM 5a



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation


6600 Kenilworth Avenue Riverdale, Maryland 20737

Board of Education/M-NCPPC Properties Exchange

October 2, 2015

SUBJECT: PGCPB Resolution No. 15-83 (M-NCPPC No. 15-15) for Full Commission Review

TO: The Maryland-National Capital Park and Planning Commission

FROM:  Raymond B. Palfrey
Land Acquisition Supervisor
Park Planning and Development Division

During late 2007, the Prince George's County Board of Education ("BOE") wrote to the Prince George's County Department of Parks and Recreation ("DPR") indicating that they were planning to replace the existing Fairmont Heights High School with a new building, scheduled to be completed in 2011. After considerable study and community meetings, the BOE had determined that the South Columbia Road Park site, which is undeveloped, would be the best site for the new school.

At that time, DPR was considering construction of the South County Technology and Recreation Complex on a 15.52-acre property on Bock Road owned by the BOE. Plans were also underway for the restoration of the historic Ridgley Rosenwald School, which is located on 1.42 acres just south of Central Avenue, owned by the BOE.

The idea of a property exchange emerged around that time. However, the downturn in the economy stalled the plans for the construction of the new high school. Budget constraints and changes in staffing at the BOE delayed the negotiation of the land exchange.

When discussions began in earnest again in early 2012, the BOE indicated that they did not have the funds to fully reimburse the Commission for the difference in value between the properties proposed for exchange. Parks Department staff suggested that a fourth property be added to the exchange to address the difference in value. The additional property is the site of the North Brentwood Community Center, built in 1974 and partially located on 1.42 acres of property owned by the BOE. With the addition of this property, the value of the properties proposed for exchange is much closer to parity.

Board of Education/M-NCPPC Properties Exchange

PGCPB No. 15-83
M-NCPPC No. 15-15
Page 2

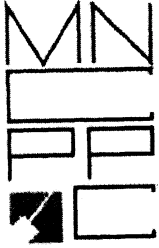
The BOE recently adopted a resolution authorizing the exchange. Two more steps will be needed by BOE and the County before the transaction can be completed. We expect these actions to take place within the next six months.

Attached for your review and approval is PGCPB Resolution No. 15-83. It authorizes the exchange of 29.59 ± acres of South Columbia Community Park for 19.11 ± acres of B.O.E property. The B.O.E. properties proposed for exchange include the land described above that is currently being used as sites for the North Brentwood Center Park, the Ridgeley-Rosenwald Historic Site, and the Southern Regional Technology and Recreation Complex.

This Resolution has been scheduled for Full Commission on Wednesday, October 21, 2015.

Attachment

- M-NCPPC Resolution No. 15-15



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation

6600 Kenilworth Avenue Riverdale, Maryland 20737

PGCPB No. 15-83

MNCPPC No. 15-15

RESOLUTION

Board of Education/M-NCPCC Properties Exchange

WHEREAS, The Maryland-National Capital Park and Planning Commission ("Commission") is authorized under the Annotated Code of Maryland, Land Use § 17-205 (formerly Article 28, Section 5-111 of the Annotated Code of Maryland) to sell, convey, transfer, lease or exchange any land held by it and deemed by the Commission not to be needed for park purposes or other authorized purposes; and

WHEREAS, the Commission owns certain property, known as part of **South Columbia Community Park**, South Side Columbia Park Road, Landover, Maryland 20785, and identified as Tax Map 59, Grid C-2, Parcel 47, Parcel B, Part Two, Election District 13, Tax Account No. 1536945, recorded at Liber 05050, folio 288, containing 29.59 ± acres ("the Park Property"); and

WHEREAS, the Board of Education of Prince George's County (the "Board of Education") owns certain tracts of land and/or properties, known as **North Brentwood Elementary School**, located 4102 Webster Street, Brentwood, Maryland 20722, and identified as Part of Parcel B, Lots 26 & 27, Block 21, Part of Parcel B, recorded at Liber 569, folio 363, and Part of Parcel B, recorded at Liber 906, folio 117, Election District 17, Tax Map 50, Grid A-2, Tax Account Nos. 1846021; 1846039, & 1846047, containing 1.42 ± acres; **Ridgley Bus Lot**, located at 8507 Central Avenue, Capitol Heights, Maryland 20743 and identified as Tax Map 67, Grid B-4, Parcel 87, Election District 13, Tax Account No. 1391168, containing 2.17 ± acres; and 7200 Bock Road, Fort Washington, Maryland 20744 and identified as Tax Map 105, Grid D-2, Parcel A Birckner Track, Election District 12, Tax Account No. 1203835, at Liber 3281, folio 7, containing 15.52 ± acres, collectively totaling 19.11 ± acres (the "Board of Education Properties"); and

WHEREAS, the Board of Education and the Commission desire to exchange the Properties named above,

NOW, THEREFORE, BE IT RESOLVED, that, subject to the approval of the Full Commission, the Commission may transfer the Park Property to the Board of Education in exchange for the Board of Education Properties named above and other valuable consideration; and,

BE IT FURTHER RESOLVED that, in connection with the transactions contemplated herein, the Executive Director is authorized to execute and deliver, on behalf of the Commission, any and all such agreements, certificates, documents, and/or instruments, and to do or cause to be

PGCPB No. 15-83
MNCPPC No. 15-15
Page 2

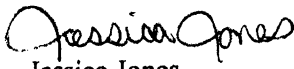
done, any and all such acts, as the Executive Director deems necessary or appropriate to make effective or to implement the intended purposes of the foregoing resolutions, without limitation, and the taking of such actions shall be deemed conclusively to be authorized hereby.

* * * * *

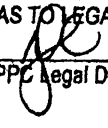
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Geraldo, seconded by Commissioner Shoaff, with Commissioners Geraldo, Shoaff, Hewlett, and Bailey voting in favor of the motion, with Commissioner Washington being absent, at its regular meeting on Thursday, July 30, 2015, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 10th day of September, 2015.

Elizabeth M. Hewlett
Chairman

By: 
Jessica Jones
Planning Board Administrator

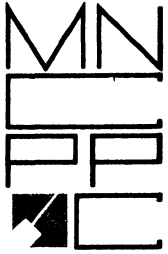
APPROVED AS TO LEGAL SUFFICIENCY


M-NCPCC Legal Department

Date

9/24/15

ITEM 5b



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

October 21, 2015

TO: The Commission

FROM: Patricia Colihan Barney, Executive Director *PColihan*

SUBJECT: Reappointment of Tanya Upthegrove-Coleman to the Merit System Board

The Commission first appointed Ms. Upthegrove-Coleman to fill a Merit System Board vacancy on December 1, 2008 as part of the Commission's Resolution 08-17. Her appointment was for a term of three (3) years effective December 1, 2008 through December 1, 2011. She was re-appointed to a full four-year term effective December 1, 2011 through December 1, 2015.

In accordance with Chapter 200, Section 222 of the Merit System Rules and Regulations, I am recommending the reappointment of Ms. Upthegrove-Coleman to another full four-year term of the Merit System Board effective December 1, 2015. All other terms and conditions of her contract remain the same.

cc: Steven R. Cohen, Chair Merit System Board

Tanya Upthegrove-Coleman, PHR

Tanya Upthegrove-Coleman, PHR, is a Human Resource Professional with 15 years of experience. Most of her career has been in the professional services and banking industries specializing in employee relations, human resource development, labor grievances, training and staff development and talent management.

Ms. Upthegrove-Coleman currently serves as President of the Association of Legal Administrators Capital Chapter Foundation. She is also an active member of the Association of Legal Administrators, where she served as Chair of the Human Resources Committee and Chair of the Business Partner Advisory Committee. Ms. Upthegrove-Coleman is also a member of SHRM, Society of Human Resource Management and is certified as a Professional in Human Resources (PHR). In 2008 Ms. Upthegrove-Coleman was appointed as Vice Chair to the 3-person Merit System Board of the Maryland-National Capital Park and Planning Commission.

Ms. Upthegrove-Coleman earned a Master of Arts from The Ohio State University and a Bachelor of Arts from the University of Nebraska.

RESOLUTION 15-19

Merit System Board Member Reappointment – Tanya Upthegrove-Coleman

WHEREAS, pursuant to the provisions of the Land Use Article of the Annotated Code of Maryland and the Merit System Rules and Regulations, the Maryland-National Capital Park and Planning Commission shall have the authority, obligation and responsibility to appoint a Merit System Board to oversee the Merit System; and,

WHEREAS, on December 1, 2008 the Commission appointed Ms. Tanya Upthegrove-Coleman, Member for a term of three years effective December 1, 2008 through December 1, 2011;

WHEREAS, on December 1, 2011 the Commission re-appointed Ms. Tanya Upthegrove-Coleman, Member for a term of four years effective December 1, 2011 through December 1, 2015;

WHEREAS, Ms. Upthegrove-Coleman has discharged the duties as a Member faithfully, and demonstrated substantial knowledge and experience in personnel matters; and

WHEREAS, the Land Use Article allows for the reappointment of Merit System Board Members at the pleasure of the Commission for a term of four years.

NOW, THEREFORE, BE IT RESOLVED, that the Commission hereby ratifies and memorializes the reappointment of Ms. Tanya Upthegrove-Coleman to the Merit System Board for an additional four year term commencing on December 2, 2015 to December 1, 2019; and

IT IS FURTHER RESOLVED, that Ms. Upthegrove-Coleman's appointment to the Merit System Board shall be the same terms and conditions of her current contract, and/or as authorized by the Commission budget for each fiscal year.

APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC Legal Department

Date 10/14/15

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

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

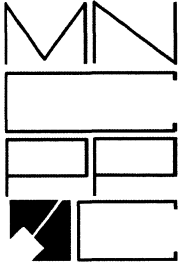
In addition, the OIA completed numerous petty cash training courses throughout FY15. A copy of the presentation is also available on "Insite.mncppc" for all Commission employees.

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

October 21, 2015

TO: Commission

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

FROM: *Jeannette R. Glover* *Belong for W. Spencer*
Jeannette R. Glover, MSM, Program Manager

SUBJECT: Status Report - Employment Program for People with Disabilities

The Americans with Disabilities Act (ADA)

Signed into law in 1990, the Americans with Disabilities Act (ADA) is civil rights legislation that seeks to increase the inclusion of people with disabilities in all aspects of community life, including employment.

Background

National Disability Employment Awareness Month (NDEAM) is a nationwide campaign that takes place every October to raise awareness about disability employment issues and to celebrate the contributions of America's workers with disabilities.

The U.S. Department of Labor, is celebrating 70 years since the first observance in 1945. This year's theme is, "My Disability Is One Part of Who I Am." --- At work, it's what people can do that matters.

In spite of the efforts made to include people with disabilities in the workforce, they are still the largest unemployed segment of the population.

In 2013, the United States had an estimated 39 million people with disabilities.
Source: U.S. Census Bureau, American Community Survey 1-Year Estimate, 2013.

Inclusive Efforts

Over the years, the Commission has made great strides to be inclusive. In 1974, Prince George's County Department of Parks and Recreation established the Special Programs Division to serve the disability community by offering Therapeutic Recreation and membership programs for teens and adults. In 1995 Inclusion Services was started to provide opportunities for people with and without disabilities to participate in leisure activities together. In 1998, the Department of Human Resources and

Management launched the Summer Employment Program for People with Disabilities (now the Employment Program for People with Disabilities) due to community requests for greater access to employment opportunities for people with disabilities.

On October 2, 2015, Carol Beatty, Secretary of Disabilities, Maryland Department of Disabilities presented M-NCPPC a certificate of recognition from the Maryland Community Connection in honor of our hiring and supporting individuals with disabilities.

The Commission continues to respond to the needs of the disability community by making reasonable accommodations within the workplace and by renovating and retrofitting its facilities in accordance with the ADA.

In an effort to market and promote the program, this past spring, staff from Prince George's County Department of Parks and Recreation's Special Programs Office, Public Affairs Office and the Department of Human Resources and Management produced a video featuring the Employment Program for People with Disabilities.

Why Employ Young People with Disabilities?

There is growing evidence that work experience and competitive integrated employment during secondary school years is a predictor of successful post-school employment. Source: U.S. Department of Labor, Office of Disability Employment Policy, Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, 2015.

M-NCPPC is providing integrated employment opportunities to individuals with disabilities.

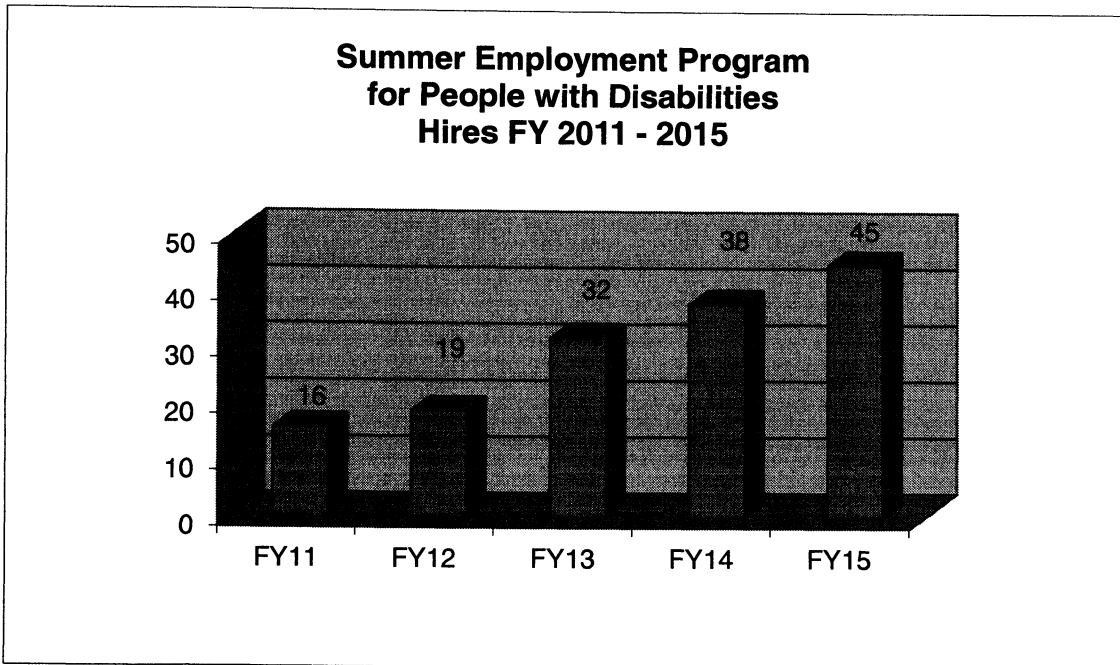
- They are in workplace settings where the majority of people employed are not disabled.
- They are earning wages consistent with wages paid workers without disabilities who are performing the same or similar work.
- They are earning at least minimum wage and are paid directly by the employer.

Overview - Employment Program for People with Disabilities

Invitations to apply for summer jobs are sent to individuals with disabilities, school administrators, and advocacy agencies. Applications are received from people with a variety of qualifications and skill sets. Job seekers are high school students with little or no experience and adults with work experience, degrees, and certifications.

This year over 100 candidates were interviewed to work this summer and 45 positions were filled. Positions filled were Playground Counselors, Program Leaders, Day Camp Leaders, Therapeutic Recreation Assistant Group Leaders, Inclusion Support Staff, Senior Activity Center Support Aide, Data Entry Clerks, Program Facility Aides, and Program Facility Manager Aides.

Since the program began, many summer employees have continued to work year round as non-career employees, or they are invited back to work the next summer. One Regional Manager has rehired 7 people over the last 3 years. Some have moved into career positions both internally and externally and this year, one participant was hired into a career position with the Federal Communications Commission.

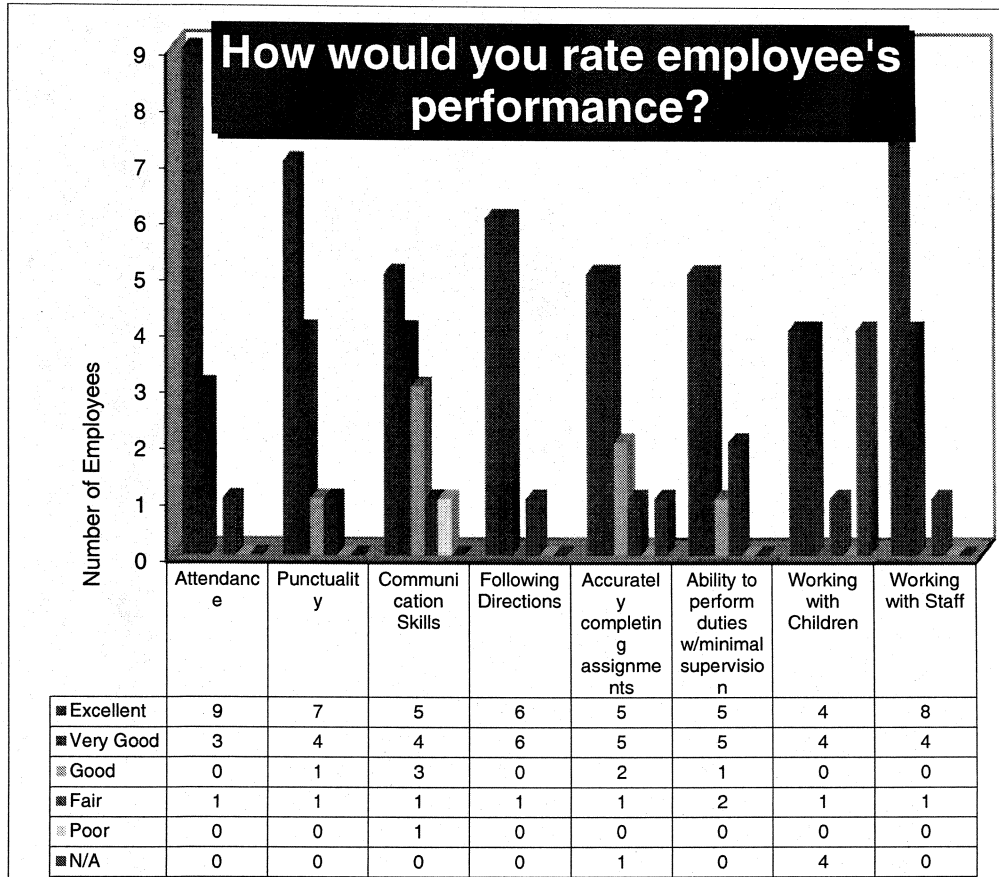


The following chart reflects the number of employees hired per department from 2011 to 2015.

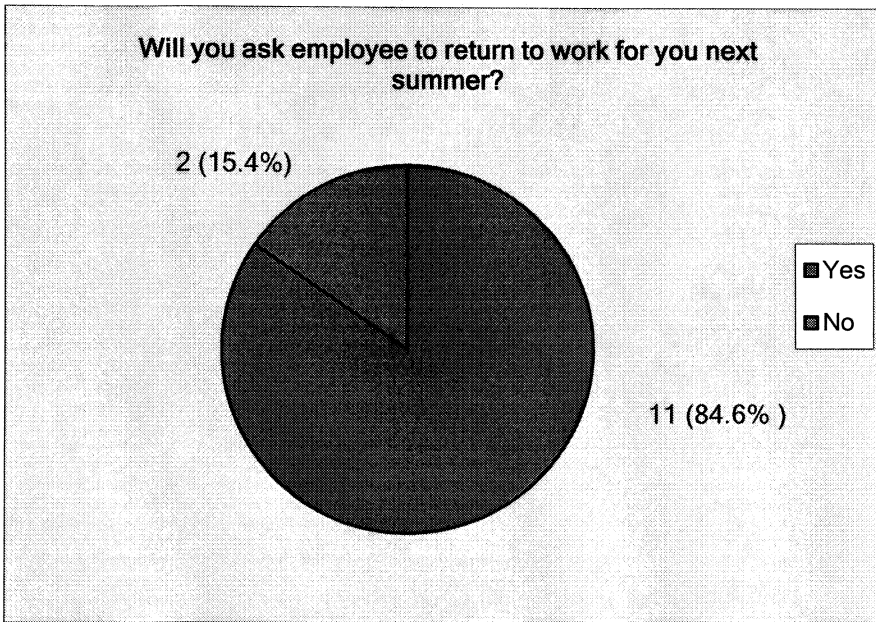
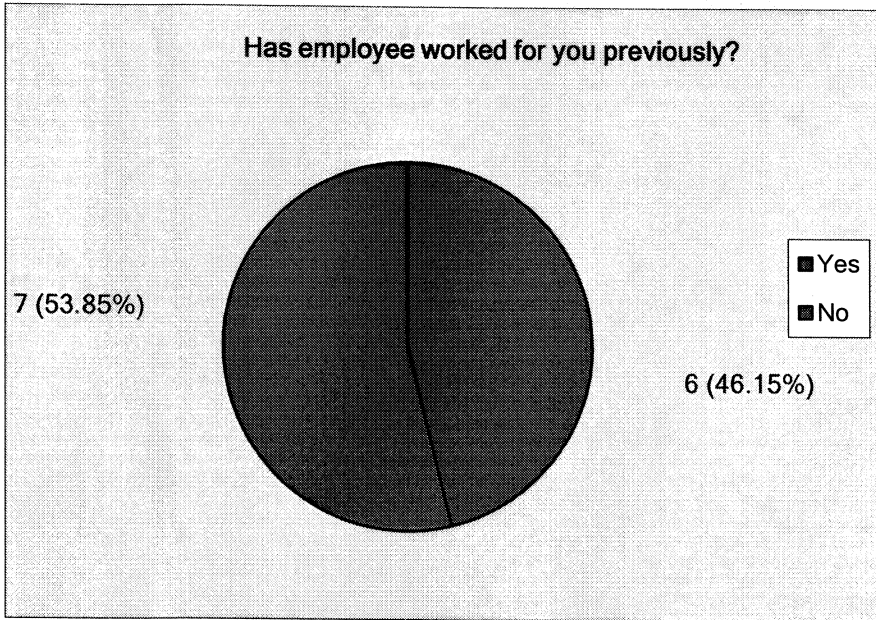
	2011	2012	2013	2014	2015
DHRM	0	0	2	1	1
Legal	0	0	0	0	0
Finance	0	0	0	0	0
Prince George's County Comm. Office	0	0	0	0	0
Prince George's Parks and Recreation	16	19	25	33	41
Prince George's Planning	0	0	3	3	2
Montgomery County Comm. Office	0	0	0.5	1	1
Montgomery Parks	0	0	1	0	0
Montgomery Planning	0	0	0.5	0	0
TOTAL	16	19	32	38	45

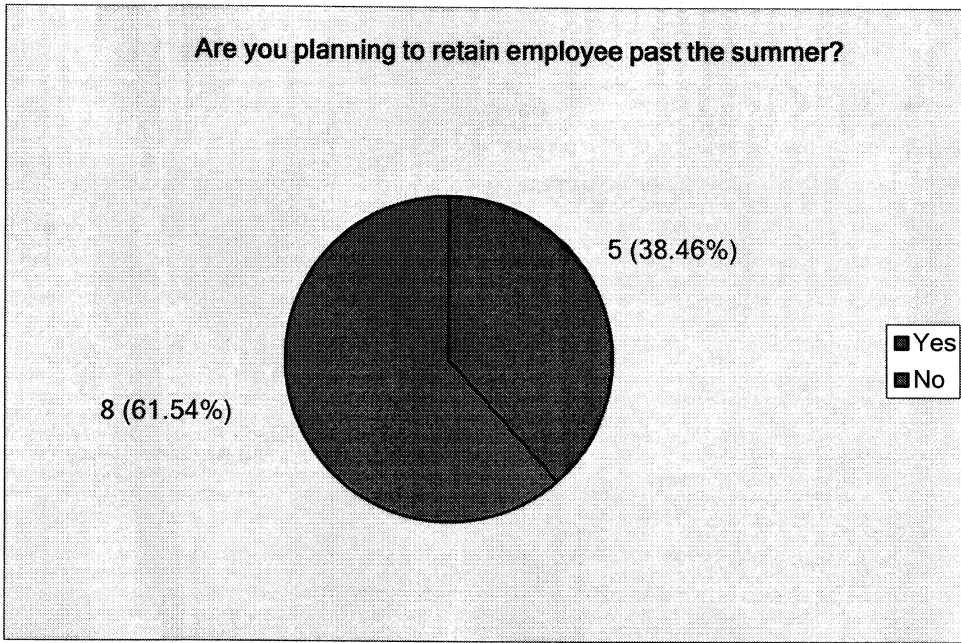
Additionally, Montgomery County Department of Parks is hiring people with disabilities as seasonal employees in collaboration with Montgomery County Government and Project Search. Salaries for individuals hired through Project Search are paid by Montgomery County Government.

Survey Responses from Staff Regarding Summer Hires



Overall responses for employee's performance were excellent or very good.





Response rate is low because most of the summer positions filled were for Playground Counselors, Program Leaders, and Day Camp Leaders and most of their direct supervisors are summer employees who did not receive the survey.

Labor Force Participation - Nationwide

Employment of persons with a disability remains a concern nationwide. A review of U.S. Bureau of Labor Statistics data for 2014 reveals that nationwide, of those with a disability, 17.1% are employed. In contrast, a review of persons without a disability reflects 64.6% are employed. The unemployment rate for people with a disability was 12.5% and 5.9% for those with no disability. Among people with a disability, the unemployment rate was the same for both men and women at 12.5%. Workers with a disability were more likely to be employed part-time than those with no disability. In 2014, among those with a disability, 33.0% worked part-time compared to 18.0% of workers without a disability. Source: U.S. Bureau of Labor Statistics, Economic News Release, June 16, 2015.

DRAFT

M-NCPPC
RESOLUTION NO 15-20

**APPROVAL OF NEW PAY PLAN AND PAY SCHEDULES
FOR VENDOR TRANSITION**

WHEREAS, there are certain external requirements to transition certain current vendors into the seasonal workforce as employees, many of whom are presently compensated as vendors with a split of revenues; and


WHEREAS, the Commission retained a consultant to review the current compensation structure and the market with staff to make appropriate recommendations to position the Commission to accomplish this transition with gross pay roughly comparable to existing compensation to promote continuity and the least disruption possible within the regulatory requirements; and

WHEREAS, as a result of this deliberative process, staff recommends adoption of the following new pay plans to meet the objectives of fair and competitive compensation and the least possible disruption of operations within the regulatory requirements:

1. A base rate of the lowest wage adopted by the Commission, plus 50% of class revenue structure;
2. A five-grade Specialty Services Pay Schedule for certain vendors, a copy of which is attached hereto as Attachment A; and
3. A special Tennis Instructor Pay Schedule, a copy of which is attached hereto as Attachment B.

NOW THEREFORE, BE IT RESOLVED that the Maryland-National Capital Park and Planning Commission, hereby adopts the Compensation Plan and Pay Schedules appended hereto as Attachments A and B that will be available for use effective this day, October 21, 2015.

APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC Legal Department

Date

10/14/15

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Specialty Services Pay Schedule
Effective October 21, 2015
New Pay Schedule**

	<u>GRADE</u>	<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
Spec Svcs Instructor 1	SS1	\$9.5500	\$15.2800	\$21.0000
Spec Svcs Instructor 2	SS2	\$12.0000	\$19.0000	\$26.0000
Spec Svcs Instructor 3	SS3	\$15.5000	\$24.7500	\$34.0000
Spec Svcs Instructor 4	SS4	\$21.0000	\$33.5000	\$46.0000
Spec Svcs Instructor 5*	SS5	\$34.0000	\$54.5000	\$75.0000

* Use of Specialty Services Instructor 5 requires Human Resources Director approval

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Tennis Instructor Pay Schedule
Effective October 21, 2015
New Pay Schedule**

	<u>GRADE</u>	<u>MINIMUM</u>	<u>MIDPOINT</u>	<u>MAXIMUM</u>
Tennis Instructor 1	TI1	\$9.5500	\$12.7800	\$16.0000
Tennis Instructor 2	TI2	\$14.0000	\$18.0000	\$22.0000
Tennis Instructor 3	TI3	\$20.0000	\$27.0000	\$34.0000
Tennis Instructor 4	TI4	\$32.0000	\$36.0000	\$40.0000

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

	31 - 60 DAYS	61 - 90 DAYS	91 + DAYS	DEPARTMENT TOTALS
	08/15	09/15	08/15	09/15
CHAIRMAN, MONTGOMERY COUNTY	0	0	1	1
CHAIRMAN, PRINCE GEORGE'S COUNTY	1	0	0	0
OFFICE OF CIO	1	0	1	1
INTERNAL AUDIT	1	0	0	1
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	0	0	0	0
LEGAL DEPARTMENT	1	1	1	2
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	3
MONTGOMERY COUNTY PLANNING	1	0	0	1
DEPARTMENT TOTAL BY DAYS LATE	12	5	3	4
COMMISSION WIDE TOTAL:				15
COMMISSION WIDE TOTAL:				11

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



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

Reply To

October 8, 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 September, 2015

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, October 21, 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.

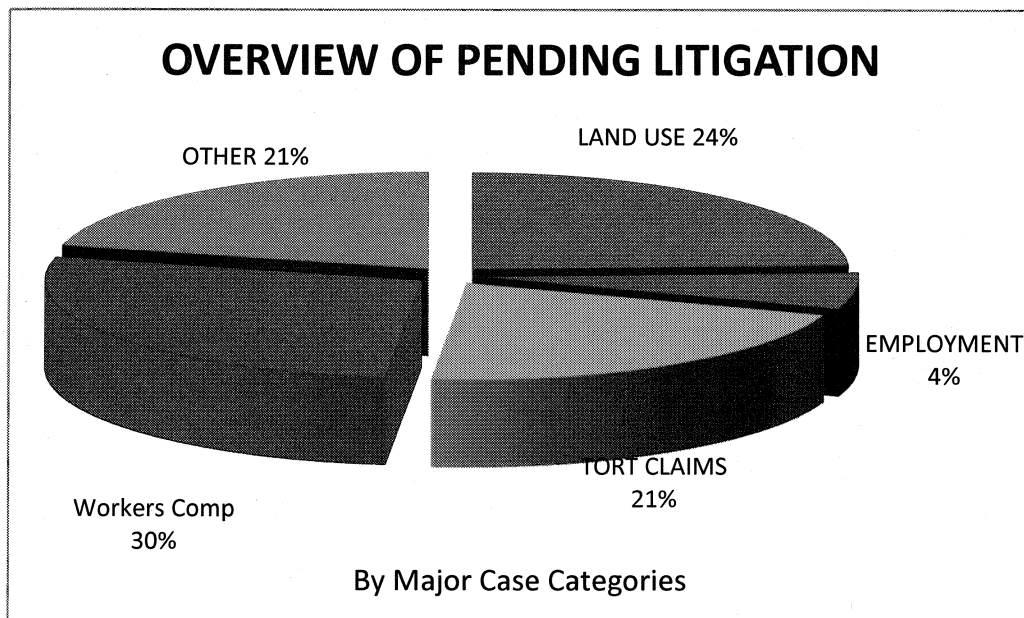
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September 2015 Composition of Pending Litigation

(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	1			4
Admin Appeal: Other	0						0
Land Use Dispute	1	1					2
Tort Claim	7						7
Employment Dispute	0	1	1				2
Contract Dispute	1	1	1				3
Property Dispute	2						2
Civil Enforcement	2						2
Workers' Compensation	9						9
Debt Collection	0						0
Bankruptcy	0						0
Miscellaneous	2	1					3
Per Forum Totals	25	4	4	1	0	0	34



September 2015 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	1		9	1		4
Admin Appeal: Other (AAO)	0			-			0
Land Use Disputes (LD)	3		1	1	1	1	2
Tort Claims (T)	11		4	10	3	7	7
Employment Disputes (ED)	2	1	1	1	1	2	2
Contract Disputes (CD)	3			4			3
Property Disputes (PD)	2	1	1	4	1	1	2
Civil Enforcement (CE)	2			1			2
Workers' Compensation (WC)	8	1		10	2		9
Debt Collection (D)	0			-			0
Bankruptcy (B)	0			-			0
Miscellaneous (M)	2	1		1	1		3
Totals	36	5	7	41	10	11	34

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

<u>A. New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
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	MCPB	Tort	Aug 2015
Keeler v. Commission	MC	WC	Aug 2015
Giuffrida v. Commission	MC	WC	Sept 2015
Cohn v. Commission	MC	Misc	Sept 2015
Commission v. Landover Polk Street Property, LLC	PG	PD	Sept 2015
<u>B. New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Commission v. Hill	PG	ED	Sept 2015
Smith v. MCPB	MCPB	AALU	Sept 2015

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

<u>C. Trial Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
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
Jang v. Commission	MC	Tort	Sept 2015
A. Jackson v. Commission	MC	Tort	Sept 2015
Commission v. Fleming	PG	Tort	Sept 2015
Hill v. Commission	PG	ED	Sept 2015
Moore v. Perry, et al	PG	Tort	Sept 2015
Bell, et al v. Commission	MC	LD	Sept 2015
<u>D. Appellate Court Cases Resolved.</u>			
Rounds v. Commission	MC	PD	Sept 2015

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		
Bell, et al v. Commission	Plaintiffs filed complaint for Declaratory Judgment to declare invalid a Conservation Easement Agreement	08/28/15- Plaintiffs filed Notice of Dismissal without Prejudice.
Rounds v. Commission	Defense of claim for violations of the Maryland Constitution and declaratory relief concerning alleged Farm Road easement.	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 proceeding; CSA enters Order dismissing remaining count against Commission on 06/25/15
Montgomery County Department of Parks		
Jang v. Commission, et al	Defense of claim for personal injury and property damages to motor vehicle involving a vehicle allegedly operated by Commission employee.	07/29/15: Trial-judgment entered in the amount of \$9,080 and \$88 costs
A. Jackson v. Commission	Defense of tort claim for claimed slip and fall alleged broken sidewalk at Jessup Blair Park in Silver Spring, Maryland.	08/10/15: Jury Trial; verdict for Commission
Montgomery County Park Police		
Montgomery County Planning Board		

Prince George's County Department of Parks and Recreation		
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
Commission v. Fleming	Commission filed a lawsuit seeking subrogation recovery for amount due for personal injuries sustained by Commission employee.	08/04/15- Insurer settled and paid Commission for subrogated claim.
Hill v. Commission	Employee is seeking judicial review of the Merit Board's dismissal of her appeal.	08/14/15- Oral Argument held, Court reversed and remanded to Merit System Board
Moore v. Perry, et al	Defense of claim for personal injury involving vehicle allegedly operated by Commission employee.	08/14/15- Case settled, line of dismissal filed.
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.
Prince George's County Planning Department		
Prince George's County Planning Board		
Prince George's Park Police		
Office of Internal Audit		

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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

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 dismissed.

Docket:

02/11/15	Petition filed
09/03/15	Settlement Conference
09/10/15	Joint Motion for Remand filed
09/28/15	Order of Court dismissing and remanding case back to WCC

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, 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
09/09/15	Defendant's Renewed Motion to Dismiss and/or Motion for Summary Judgment filed.
09/25/15	Status Hearing
12/10/15	Motions Hearing

Commission v. Landover Polk Street Property, LLC
CAE 15-25609 (PD)

Lead Counsel: Gardner
Other Counsel: Chagrin

Abstract: Commission filed a condemnation action to acquire property for use by the Department of Parks and Recreation.

Status: Complaint filed.

Docket:

09/28/15	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
10/26/15	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.

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
10/05/15	Commission served with complaint
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: Complaint dismissed.

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
10/02/15	Court grants Motion for Summary Judgment

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: Case dismissed.

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.
09/22/15	Line of Dismissal filed by Plaintiff
10/02/15	Case Dismissed

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.
06/27/16	Trial date

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
09/04/15	Notice of Dismissal filed

Cohn, et al v. Commission

Case No. 409148-V (M)

Lead Counsel: Dickerson
Other Counsel: Harvin

Abstract: Plaintiff filed complaint attempting to restrain Commission from implementing Archery Managed Deer Hunting Program in Montgomery County.

Status: Complaint filed.

Docket:

09/10/15	Complaint for Declaratory Judgment, A Temporary Restraining Order and Preliminary and Permanent Injunctive Relief filed.
09/11/15	Hearing: Court denies Temporary Restraining Order.

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
09/11/15	Motions Moot; Plaintiff filed Amended Complaint
09/23/15	Plaintiff's Response to Defendant's Motion to Dismiss Commission's Amended Petition for Civil Enforcement of Administration Order or, in the alternative, Motion for Summary Judgment and attachments
10/20/15	Hearing

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

Giuffrida v. Commission

Case No. 408754-V (WC)

Lead Counsel: Chagrin
Other Counsel:

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

Status: Pending trial.

Docket:

09/08/15	Petition filed.
02/12/16	Pre-trial hearing

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: Second Amended Complaint filed.

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
09/21/15	Second Amended Complaint filed
10/23/15	Commission's Response to Second Amended Complaint due.
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

Commission v. Hill

September Term 2015, No. 01516 (ED)
(Originally filed under CAL15-04057)

Lead Counsel: Dickerson
Other Counsel:

Abstract: Commission appealed Circuit Court ruling reversing and remanding employee termination to Merit Board System.

Status: Appeal filed.

Docket:

09/11/14	Notice of Appeal filed
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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: Judgment affirmed.

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.
06/02/15	Court affirms decision by Montgomery County Planning Board

MARYLAND COURT OF APPEALS

Smith v. Montgomery County Planning Board

September Term, 2014, No. 230 (AALU)

Lead Counsel: Lieb
Other Counsel:

Abstract: Smith filed a Petition for Writ of Certiorari from the decision affirming the Planning Board's decision on forest conservation violations.

Status: Judgment affirmed.

Docket:

07/02/15	Petition for Writ of Certiorari filed
07/20/15	Commission's Opposition to Petition for Certiorari filed
09/21/15	Cert denied

U.S. DISTRICT COURT OF MARYLAND

American Humanist Association, et al v. Commission

Case #: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
09/15/15	Eleven Marylanders Refined Motion for Leave to Submit Memorandum of Amici Curiae in Support of Defendants
10/01/15	Motion for Leave to file Memorandum of Amicus Curiae by the Center for Inquiry
10/01/15	Motion for Leave to file Memorandum of Amici Curiae by Council on American-Islamic Relations

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
09/24/15	Commission's Reply to Plaintiff's Opposition to Reconsideration of the Court's Denial of the Commission's Motion to Dismiss

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