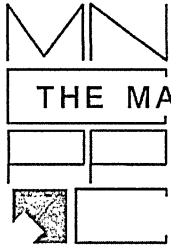


MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING
Wednesday, October 19, 2016
Montgomery Regional Office
9:30 a.m. – 11:30 a.m.

| | | | <u>ACTION</u> | |
|----|--|-------------|---------------|--------|
| | | | Motion | Second |
| 1. | Approval of Commission Agenda (9:30) | (+*) Page 1 | | |
| 2. | Approval of Commission Minutes | | | |
| | a) Open Session – September 21, 2016 | (+*) Page 3 | | |
| | b) Closed Session – September 21, 2016 | (++)* | | |
| 3. | General Announcements (9:30) | | | |
| | a) Breast Cancer Awareness Month | | | |
| | b) Commission-wide Service Awards Luncheon Honoring Employees with 25 or more years of service – October 19, 2016 (Brookside Gardens) | | | |
| | c) Upcoming Prince George’s Department of Parks and Recreation Winter Festival of Lights – Watkins Regional Park | | | |
| | d) Upcoming Montgomery Parks Department Winter Garden Walk Through Holiday Light Display – Brookside Gardens | | | |
| | e) Notice #14-04, Employee Conduct with Respect to Political Activities | (+) Page | | |
| 4. | Committee Minutes/Board Reports (For Information Only): (9:40) | | | |
| | a) Executive Committee Meeting – Open Session – October 5, 2016 | (+) Page | | |
| | b) 115 Trust (OPEB) Meeting – June 15, 2016 | (+) Page | | |
| | c) ERS Regular Board of Trustees Meeting – July 12, 2016 | (+) Page | | |
| 5. | Action and Presentation Items (9:45) | | | |
| | a) Resolution #16-18, Disposal and conveyance of 1,770 sq. ft. from the Northwest Branch to the SHA for road improvements: Compensation to the Commission for conveyance of \$1,750 (Sun) (9:45) | (+*) Page | | |
| | b) Resolution #16-19, Disposal and conveyance of 5,265 sq. ft. of land fee simple, and 7,429 sq. ft. for temporary construction easement from Leyte Drive Park to the SHA as part of SHA highway project: Compensation to the Commission for Conveyance of \$700 (Sun) | (+*) Page | | |
| | c) Resolution #16-25, Merit System Board Contract Renewal – Chair Steve Cohen | (+*) Page | | |
| | d) EZ Procurement Fair Briefing (Zimmerman/Pearson) (10:00) | | | |
| | e) FY 2015 CAFR Award (Zimmerman/Walsh) (10:15) | | | |
| | f) Audit Committee Activity Report (Dreyfuss) (10:25) | (+) Page | | |
| 6. | Officers’ Reports (For Information Only) | | | |
| | a) Executive Director Employee Evaluations Not Completed by Due Date (September) | (+) Page | | |
| | b) Secretary-Treasurer Enterprise Resource Planning (ERP) Briefing | | | |
| | c) General Counsel 1) Legislative Update 2) Litigation Report | (+) Page | | |

ITEM 2a



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
Open Session Minutes
September 21, 2016

The Maryland-National Capital Park and Planning Commission met on September 21, 2016, in the Parks and Recreation Auditorium.

PRESENT

Montgomery County Commissioners

Casey Anderson, Chair
Gerald Cichy
Marye Wells-Harley
Natali Fani-Gonzalez

Prince George's County Commissioners

Elizabeth M. Hewlett, Vice-Chair
Dorothy Bailey
Manuel Geraldo

ABSENT

Norman Dreyfuss

A. Shuanise Washington

Chair Anderson convened the meeting at 9:36 a.m.

ITEM 1 APPROVAL OF COMMISSION AGENDA

ACTION: Motion Geraldo
Seconded by Bailey
7 approved the motion

ITEM 2 APPROVAL OF COMMISSION MINUTES

Open and Closed Session – July 20, 2016
ACTION: Motion of Fani-Gonzalez
Seconded by Geraldo
7 approved the motion

ITEM 3 GENERAL ANNOUNCEMENTS

Chair Anderson made the following announcements outlined in the Commission packet:

- a) Literacy Program Ceremony (following Commission meeting) – College Park Airport Operations Building – 1909 Corporal Frank Scott Drive, College Park, MD 20740.
- b) EZ Procurement Fair which will be held for vendors at the Sports and Learning Complex, September 22nd – 9:00 a.m. – 3:00 p.m.
- c) Hispanic Heritage Celebration (Hispanic Heritage Month – September 15th to October 15th). Vice-Chair Hewlett commended the staff who organized and worked at the 35th Annual Hispanic Heritage Festival at Langley Park. The event was a huge success with over 15,000 attendees.

- d) Upcoming Breast Cancer Awareness Month - October
- e) Upcoming Commission-wide Service Awards Luncheon Honoring Employees with 25 or more years of service – October 19th (Brookside Gardens).

Other Announcements:

Chair Anderson and Vice-Chair Hewlett welcomed new Montgomery County Commissioner Gerald Cichy. Mr. Cichy shared his extensive background.

Vice-Chair Hewlett announced that the Kinderfest will be held on October 2nd, at Watkins Park.

Next week Prince George's County will be recognizing Active Senior Week with activities throughout the County.

ITEM 4 COMMITTEE/BOARD REPORTS – (For Information Only)
Minutes – Executive Committee Meeting – July 6, 2016

ITEM 5 ACTION AND PRESENTATION ITEMS

- a) Resolution #16-20 – Prince George's Plaza Approved Transit District Development Plan and Transit District Overlay Zoning Map Amendment (Washburn/Rowe)
ACTION: Motion of Hewlett
Second by Wells-Harley
7 approved the motion

- b) Resolution #16-21 – Approval of Conveyance of Commission Real Estate Mitigation for Parkland Encroachment at Griffith Local Park (Gries)
ACTION: Motion of Wells-Harley
Second by Fani-Gonzalez
7 approved the motion

- c) Diversity Council Strategic Plan (Dugan/Gordon)
Executive Director Barney introduced Diversity Council Chair MaryBeth Dugan (Montgomery County) and Vice-Chair Greg Gordon (Prince George's County). She announced that the 2016-2018 Diversity Council Strategic Plan was approved by the Department Heads and the Executive Committee, and that the Council was seeking support from the Commission.

Ms. Dugan provided background about the Diversity Council. She stated that the Council developed their Strategic Plan to renew and reinvigorate its work program, through initiatives that unify the organization and make it stronger. Ms. Dugan and Mr. Gordon reviewed the Strategic Plan (PowerPoint) as contained in the meeting packet. Ms. Dugan stated that the Council members will interview the Planning Board Chairs and Department Heads to obtain input on the Council's work program and initiatives. A "Year in Review" report of the Council's accomplishments will be presented at the Diversity Celebration in May. Ms. Dugan shared that on September 26th, Executive Director Barney will be sending a letter to all employees to recruit new members for the Diversity Council, and that a new member orientation will be conducted in November. The Commissioners will receive a copy of the letter before distribution to employees. Ms. Dugan also noted that an employee survey will be disseminated in January 2017, to determine the M-NCPPC's progress in promoting

core values of diversity and inclusion. The results of the survey also will be reported at the Diversity celebration on May 3rd.

Commissioner Geraldo asked what role the Diversity Council plays in increasing diversity within the Commission, so as to be more reflective of the population the agency serves. Executive Director Barney explained that the Council's role is to make recommendations on policies relevant to diversity, recruitment, training, advancement programs, etc.

Commissioner Geraldo asked if recruitment participated at the Hispanic Festival. Executive Director Barney responded the team will participate in the future as it offers good outreach opportunity. Commissioner Geraldo specifically inquired about recruitment policies with regards to Latinos, to which Human Resources Director William Spencer responded that the M-NCPPC does not have set goals or quotas for legal reasons. Mr. Spencer indicated that his team partners with organizations to help reach the Latino community. He will ask Recruitment and Selection Manager, Anika Harris to attend the next Commission meeting to provide an update on M-NCPPC's outreach and recruitment efforts in the Latino community.

The Commissioners also recommended that employment profiles be further examined to gauge the agency's progress in diversity with other cultures.

The Commissioners made recommendations regarding diversity outreach, to include internship programs and other activities that would provide exposure to employees, their children, and others to gain a better understanding of the variety of programs and services carried out by M-NCPPC. It was also suggested that agency activities and outreach efforts be highlighted through inserts included with employee paystubs.

The Commissioners and Executive Director Barney commended the Diversity Council for its efforts. Ms. Dugan introduced the members who were present.

ACTION: Motion of Hewlett to approve the Diversity Council Strategic Plan

Seconded by Geraldo

7 approved the motion

- d) Classification Study Recommendations and Vote on Resolution #16-24 – Amendments to the Pay Schedule for General Service Employees (Spencer/Cannon for King/Butler)
Executive Director Barney gave background on the Classification Study Recommendations, and introduced Human Resources Director William Spencer, Principal Human Resources Specialist Robin Cannon, and Consultant Greg Butler from Public Financial Management Inc.

Executive Director Barney shared as a result of the classification specification review, it was determined existing pay grades were not sufficient and required modification to address changes in the classification specification system. These changes are supported by the Executive Committee, Department Heads, and the Merit Board.

Mr. Butler reviewed the Structural Analysis and Recommended Changes to General Service Pay Schedule including:

- Executive Summary
- Background
- Current General Service Pay Schedule
- Methodology
- Structural Compensation Comparisons
- Insertion of Additional Pay Grades
- Recommended General Service Pay Schedule
- Illustrative Examples
- Implementation Approach
- Summary/Next Steps

Following the presentation and discussion, the Commissioners approved Resolution 16-24 to amend the Pay Schedule for General Service Employees.

ACTION: Motion of Hewlett to approve Resolution #16-24

Seconded by Fani-Gonzalez

7 approved the motion

e) Open Enrollment and Benefit Plans Proposed Rates for 2017 (Barney/Spencer)
(McDonald not present for item discussion)

Executive Director Barney reviewed AON Hewitt Consulting's recommendations for the 2017 health plan year. The Consultant provided recommendations on insurance premiums for self-insured and fully insured health plans. The specific recommendations were contained in the meeting packet. The Department Heads and the Executive Committee supported the recommendations. Executive Director Barney commented that these rates are good news for everyone, and that Open Enrollment takes place in October.

ACTION: Motion of Fani-Gonzalez

Seconded by Hewlett

7 approved the motion

f) Minimum Wage Pay Schedule Adjustments (Spencer/Cannon)

Human Resources Director Spencer presented the packet item requesting approval to increase in the minimum wage and pay schedules. This request represents the third installment of the minimum wage change that the Commission approved to begin November 2016. The change goes into effect in October 2016, and increases the minimum wage rate to \$10.75 per hour, consistent with actions taken by Montgomery and Prince George's Counties. The changes to the pay schedule are to avoid compression and to balance the differences between Grades. The unutilized Grades have been removed from the pay schedule as indicated in the memorandum.

The Commission was specifically asked to approve the following five items for the record, as outlined in the packet:

- FY17 Seasonal/Intermittent Pay Schedule (Attachment 1)
- Aquatics Seasonal/Intermittent Pay Schedule (Attachment 2)
- Specialty Services Pay Schedule (Attachment 3)
- Tennis Instructor Pay Schedule (Attachment 4)
- Raising the Revenue Sharing Pay Plan rate to \$10.75

ACTION: Motion of Hewlett
Seconded by Fani-Gonzalez
7 approved the motion

CAS Labor Cost Allocation Analysis for the FY18 Budget (Kroll)

Corporate Budget Manager John Kroll presented the item as contained in the meeting packet. He requested 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 FY18 Proposed Budget.

ACTION: Motion of Geraldo
Seconded by Hewlett
7 approved the motion

- g) Request to Spend Salary Lapse – Office of the Chief Information Officer (Chilet)
Chief Information Officer Chilet requested a budget transfer of \$51,550 from salary lapse savings to accommodate critical work program needs in CIO's office.

ACTION – Motion of Hewlett
Seconded by Fani-Gonzalez
7 approved the motion

At 10:37 a.m., Chair Anderson requested a motion to move to closed session.

Pursuant to Section 3-305(b)(7) of the General Provisions Article of the Annotated Code of Maryland, a closed session is proposed to consult with Legal counsel regarding specific compliance issues and potential litigation.

ACTION: Motion of Fani-Gonzalez
Second by Geraldo
7 approved the motion

Open session reconvened at 10:43 a.m.

- ITEM 5 i) Resolution #16-22, Exclusion of M-NCPPC Federal Credit Union Staff and Retirees from M-NCPPC Health and Welfare Benefit Programs (Spencer, McDonald not in attendance)

ACTION: Motion of Geraldo to approve the Resolution with amendments to the language, as discussed in closed session.
Seconded by Bailey
7 approved the motion

ITEM 6 OPEN SESSION – OFFICERS' REPORTS

a) Executive Director

Employees' Evaluations Not Completed by Due Date – (July and August 2016) (For Information Only)

b) Secretary-Treasurer

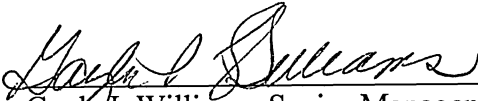
- 1) Enterprise Resource Planning (ERP) Briefing
Secretary-Treasurer Zimmerman stated there were no specific issues to discuss this month.
- 2) Investment Report (July 2016) (For Information Only)

- 3) 115 Trust FY 2016 Year-End Report (For Information Only)
- 4) MFD Purchasing Statistics – 3rd and 4th Quarter (For Information Only)

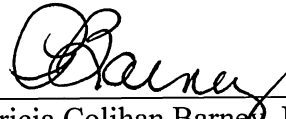
c) General Counsel

- 1) Legislative Preview
- 2) Litigation Report – (July 2016) (For Information Only)

There being no further business to discuss, the meeting adjourned at 10:56 a.m.



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



Patricia Colihan Barney, Executive Director

NOTICE

Patricia Barney

No. 14-04

Issue date: 09/18/14

Issued by Patricia Colihan Barney,
Executive Director

EMPLOYEE CONDUCT WITH RESPECT TO POLITICAL ACTIVITIES

This Notice updates and replaces Notice 06-04 of the same title.

As citizens of this region, there are many opportunities to participate in political activities on a local and national level. The Merit System Rules and Regulations, Chapter 1800 addresses agency policy on political activities. This NOTICE serves as reminder to all employees of expected conduct with respect to participation in political activities.

Permissible Activities

Employees may engage in certain political activities, when such activities are performed off-duty, off M-NCPPC property, and without use of agency property/resources.¹ For example, employees may retain membership in political parties, participate in political activities including candidacy for public office, register and vote as they please, and express their personal opinions on political subjects when the participation **does not** fall within political activities that are specifically prohibited (see section below).

Political activities may not be performed during scheduled work hours. However, employees may use their own accrued Annual, Personal, or Compensatory Leave for participation, subject to relevant leave approval policies.

Political Activities Specifically Prohibited

Employees must refrain from bringing political affiliations to bear on their official M-NCPPC duties and responsibilities. The following political activities are specifically prohibited:

- Using scheduled work hours or Commission property/resources¹ for political activities.
- Participating in political activities while receiving paid leave to attend M-NCPPC-sponsored/approved programs, trainings, forums, etc. Using Administrative Leave or Leave to attend Union activities (Union Leave) to participate in political activities, on or off Commission premises is prohibited.
- Using Sick Leave or Disability Leave to perform or participate in political activities.
- Campaigning, fundraising, or other partisan political activities on M-NCPPC premises while performing duties and responsibilities as an employee.

¹ Commission property/resources is defined as any service or physical asset owned, purchased, leased, or under contract with the Commission. Such property/resources include, but are not limited to: facilities, general equipment and tools; vehicles and machinery; office equipment and supplies; computer hardware, software and other electronic equipment; copiers and printers; telecommunication services such as telephones, cellular telephones, paging devices, facsimile machines, Internet, and electronic mail; data stored on, received by, or transmitted by the Commission's operating systems; Commission-issued uniforms/identification; on-duty work hours; and staff services delivered by employees, contractors, or volunteers of the Commission.

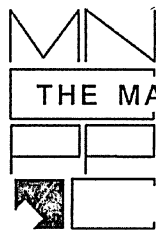
- Engaging in or giving the appearance of a conflict of interest (see Commission policies, including but not limited to, Commission Practices: Ethics; Non-Commission Employment; Employee Use of Commission Property; Fraud/Waste/Abuse; and Purchasing).
- Abusing M-NCPPC position for political ends.
- Using public office or political affiliation for private gain that may result in a conflict of interest with the M-NCPPC.
- Coercing participation by other agency employees and/or subordinates in political activities.
- Lobbying elected officials during work hours on behalf of candidates for appointed or elected positions.
- Engaging in political activity that interferes with the agency's work or the duties or responsibilities of M-NCPPC employees.
- The appearance of promising, or an actual promise of employment, a position, compensation or any other benefit in consideration, favor, or reward for political activity.
- Making decisions regarding employment, promotion, demotion, dismissal or any other human resource action based on partisan political activity.
- Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or other item of more than the established nominal value, which may create a conflict of interest. (Information on nominal value can be found in Notice 06-03, Definition of Nominal Value.)
- Displaying partisan political signs, banners, posters, other endorsements, etc., while on duty, on agency property, or while representing the M-NCPPC. Employees also may not place political bumper stickers, logos, signs or endorsements on any M-NCPPC vehicles, property or facility, or otherwise engage in electioneering while on duty.
- Soliciting political activity of any person who has business before the employee's office or the Commission in which the employee has influence.
- Engaging in political activities while doing any of the following: wearing M-NCPPC apparel or uniforms, employee identification, or any other items with badges, insignias, or logos that identify the agency.²
- Performing political activities at the direction of a supervisor, appointed officer, Department Head, Commissioner, any other employee, vendor, or external organization.

Questions/Concerns

Specific questions related to any portion of this NOTICE may be directed to the Corporate Policy Office, at 301-454-1740. Concerns related to potential violations must be reported in writing to Executive Director Patricia Barney, at 6611 Kenilworth Avenue, Riverdale, MD 20737 (EOB-DHRM).

²*Incidental wearing of M-NCPPC uniforms/identification while voting off duty is not prohibited. For example, while in uniform, stopping to vote before or after scheduled work hours would not be considered a violation of this policy.*

ITEM 4a



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

EXECUTIVE COMMITTEE OPEN SESSION October 5, 2016

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

Department Directors/Deputies/Presenters/Staff

Adrian Gardner, General Counsel

Joe Zimmerman, Secretary-Treasurer

John Nissel, Deputy Director, Montgomery County Parks (for Director Mike Riley)

Debbie Tyner, Deputy Director, Prince George's County Parks and Recreation (for Director Ronnie Gathers)

Gwen Wright, Director, Montgomery County Planning

Anju Bennett, Division Chief, Corporate Policy and Management Operations Division (CPMO)

Brian Coburn, Policy Specialist, CPMO

Lisa Dupree, Senior Management Analyst, CPMO

Alan Hirsch, Prince George's County Planning (sitting in for Acting Director Debra Borden)

William Spencer, Human Resources Director

The meeting convened at 9:36 a.m.

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

| | |
|------------|--|
| Discussion | There were no changes to the Executive Committee meeting agenda. |
|------------|--|

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

| | |
|------------|---|
| Discussion | There were no changes to the Commission meeting agenda. |
|------------|---|

ITEM 1c - ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS (Executive Director Patricia Barney)

| | |
|------------|--|
| Discussion | Executive Director Barney reviewed the Rolling Commission Agenda for the upcoming four months. The following amendments were made: |
|------------|--|

November

The November 16th Commission meeting was cancelled. A tentative Commission conference call is scheduled for November 10th, at 9:30 a.m. to approve action items. An announcement will be made at a later date if a Commission conference call is not required.

ITEM 2 - MINUTES

| | |
|-------------------------------|--|
| Provided for Information Only | Executive Committee Minutes – (replaced September 7 th meeting) Open Session – August 31, 2016 Closed Session – August 31, 2016 |
|-------------------------------|--|

ITEM 3 – DISCUSSION/REPORTS/PRESENTATIONS

Discussion

a) Enterprise Resource Planning (ERP), Enterprise Asset Management (EAM) and Kronos Briefing (Zimmerman)

Secretary-Treasurer Zimmerman stated there were no specific reports for ERP this month. Future reports will be presented by the Chief Information Officer (CIO), Mazen Chile, as the project management team in that Office is now staffed and some of the projects are moving from the operating staff in the Department of Finance to the CIO's office.

With regard to Human Capital Management, Executive Director Barney stated that letters were sent to both affected Municipal County Government Employees Organization (MCGEO) members and MCGEO; notifying them that some employees received overpayments with respect to overtime, compensatory time, etc. A second letter, which informs employees of repayment options will be distributed after Executive Director Barney meets with MCGEO President Gino Renne on this matter. Mr. Renne supports providing greater flexibility in repayment methods to lessen the burden to employees.

Executive Director Barney updated the Executive Committee about the second phase of the Vendor Transition Project. She explained that affected vendors are being notified that they need to convert to employee status with the M-NCPPC. The vendors' respective contracts will expire this summer. They will receive employment offers based on the hourly rate set by the Revenue Sharing Pay Plan. One vendor has complained about the transition to employee status. The Executive Director has spoken with this individual to clarify the reasons for the conversion. Complaints from vendors should be shared with the Executive Director.

Executive Director Barney shared that CIO Chilet has arranged a meeting with Consultant Infor to discuss value engineering opportunities to make changes in Enterprise Resource Planning and Enterprise Asset Management systems.

Notice #14-04, Employee Conduct with Respect to Political Activities (not on agenda)

Corporate Policy and Management Operations (CPMO) Division Chief Anju Bennett distributed copies of Notice #14-04, which provides the agency's policy on political activities. She wanted to share the policy with the Executive Committee as the policy is also being circulated to employees as a reminder of potential conflicts of interests that must be avoided.

Chair Anderson inquired about sponsorships and whether the sponsored party is permitted to use an employee's M-NCPPC position title in the endorsement. Ms. Bennett stated this would not be permissible as it creates the impression that the employee's sponsorship is in their official capacity with the M-NCPPC. General Counsel Adrian Gardner added that an M-NCPPC employee should never allow anyone to use his/her title in an endorsement. He stated that the ethical issue of concern is the perception of an abuse of office.

Ms. Bennett stated Notice #14-04 is being circulated via email, in printed copies of Update, and posted on the M-NCPPC's intranet. The Executive Committee requested that Notice #14-04 be added as an announcement on the October 19th Commission meeting agenda. Human Resources Director William Spencer will share a copy with the Unions.

b) Practice 3-10, Expense Reimbursement for Travel, Meetings, and Conferences (Bennett/Coburn)

CPMO Division Chief Bennett introduced Brian Coburn and Lisa Dupree who worked on this policy. Ms. Bennett provided background on the policy, explaining it provides guidance on the authorization and allowability of certain business expenses. She explained that the last substantive update was in 2008, and the Practice required a substantial rewrite. The current policy staff had not worked on the existing policy; therefore, the team conducted a comprehensive review, noting a number of areas which required additional and clearer guidance to address operational concerns/interpretation. The Policy team's review included research of operational concerns through meetings with Finance Managers, the Office of Internal Audit, and multiple work sessions with Department Heads. Input was requested from non-represented employees, during which time 54 responses were received. Union representatives also were provided an opportunity for review; however, no comments were submitted.

In formulating policy recommendations, the Policy Office specifically consulted Internal Revenue Service regulations on business expenses, and benchmarked Federal, State, and County standards. The Policy team focused on streamlining a number of areas which had caused confusion or contradictory direction. The Office identified twelve key policy concerns and corresponding recommendations. She thanked the Department Heads for their patience in reviewing the recommendations and stated that the resulting policy draft has received positive feedback from reviewers.


CPMO Division Chief Bennett noted that this policy places greater emphasis on public accountability and transparency. It clarifies management's authority to approve an individual's participation in business activities based on the employee's relevant duties. It also confers management's rights to allocate resources to enable more employees to attend meetings and conferences.


Policy Specialist Brian Coburn and Ms. Bennett reviewed the existing policy language and the proposed amendments that included Department Head input, as noted in the meeting packet:

- Preauthorization of Travel - During a discussion of this item, the Policy team clarified that the pre-authorization form will be used by employees and Deputy Directors to provide a consistent manner in which to request participation in external conference/training/events and expected expenses. Department Heads and Commissioners will not use this form, but instead follow the existing protocols that are set by their respective Planning Board Chair.
- Waivers to Allow Travel Reimbursement Exceptions
- Reimbursement of "Local" and "Non-Local" Business Expenses - This area has been significantly updated to eliminate contradictory and unclear standards.
- Reimbursement of Mileage for Business Use of Personal Vehicle - Deduction of Normal Commuting Mileage
- Reimbursement of Rental Cars
- Requirement for Advance Booking
- Reimbursement of Lodging
- Reimbursement of Meals
 - Reimbursement of "Local" Area Meals (Professional Meetings)
 - Reimbursement of Meals that fall within the Required Period of Travel

| | |
|------------------------|--|
| | <ul style="list-style-type: none"> - Reimbursement of Alternate/Duplicate Meals ▪ Reimbursable Incidental or Miscellaneous Expenses ▪ Meal Reimbursements for Special Events Involving External Parties <p>Ms. Bennett requested approval of the policy draft so it could be finalized and shared with employees. Executive Director Barney shared that Commission Practices may be approved by the Executive Committee, as delegated by agency policy. The Executive Committee approved Practice 3-10, Expense Reimbursement for Travel, Meetings, and Conferences. The Executive Committee commended the Policy team on the extensive work and excellent job.</p> <p><u>Practice 2-15, Employee Use of M-NCPPC Property (Bennett) (not on agenda)</u></p> <p>Ms. Bennett requested confirmation of the Executive Committee's approval to move forward with the adoption of Practice 2-15, Employee Use of M-NCPPC Property, as it had been recently reviewed by the Executive Committee. At the time of review, the Executive Committee did not identify any changes to the proposed amendments. The Executive Committee approved the request.</p> |
| Follow Up/Action Items | <ul style="list-style-type: none"> ▪ The Technical Writer will add Notice #14-04 - Employee Conduct with Respect to Political Activities, as an announcement to the October 19th Commission meeting agenda. ▪ The Human Resources Director will share a copy of Notice #14-04 with Union representatives. |

There being no further business to discuss, the meeting adjourned at 10:34 a.m.


 Gayla Williams, Senior Technical Writer/
 Senior Management Analyst


 Patricia Colihan Barney
 Executive Director

115 Trust (OPEB)
Meeting Minutes
PRA

Wednesday, June 15, 2016

Attending: Commissioner Manuel Geraldo, Chairman;
Commissioner Casey Anderson, Trustee
Patricia Colihan Barney, Commission Executive Director, Trustee;
Joseph Zimmerman, Commission Secretary-Treasurer, Trustee;
William Spencer, Commission Human Resources Director, Trustee;
LaTonya Reynolds, Internal Legal Counsel; Staff
Barbara Walsh, Commission Accounting Manager, Staff;
Abbey Rodman, Commission Investment Manager, Administrator;
Claudia Stalker, Commission Accountant, Staff;
Barry Bryant, Investment Consultant, Dahab Assoc.

Absent: William Dickerson, Internal Legal Counsel; Staff

The meeting was called to order at 11:00 a.m.

Minutes from the 3/16/16 meeting were motioned by Ms. Barney to be approved, seconded by Mr. Zimmerman, and then unanimously approved.

Mr. Bryant from Dahab Associates reported that the return environment was not favorable to the asset allocation strategy because bonds had better returns than stocks, and the strategy had a very low bond allocation relative to most public plans. Domestic bonds were up 3%, but domestic stocks were up only 1% and foreign stocks were flat, with developed stocks down 3% and emerging market stocks up 6%

The strategy, however, managed a 2% return against a median return of 0.9% for all public plans and ranked in the 9th percentile. The strategy did well because of 1) a 5.4% return from the PIMCO All-Asset All-Authority Fund and 2) out performance from all of the RAFI equity strategies, particularly the RAFI emerging market strategy. Mr. Bryant stated that this out performance resulted from a turn in the market toward value stocks which have been out of favor for several years.

Mr. Bryant then introduced Shaun Patel of RAFI and Katy Lewis of PIMCO to discuss the RAFI equity strategies offered through Charles Schwab, and refinements of those strategies offered by PIMCO.

Ms. Rodman inquired which alternatives the Board was being asked to consider. Mr. Bryant said that the presence of the RAFI and PIMCO representatives was intended to fulfill multiple purposes, including 1) normal due diligence review, 2) consideration of past and prospective performance, 3) comparison with traditional indexing on a performance and fee-adjusted basis, and 4) possible substitution of the PIMCO version of the RAFI strategies for the Schwab version currently being used.

Mr. Patel described the creation of the RAFI strategies by Mr. Rob Arnott more than 10 years ago as a realization that traditional index were weighted based on price, which systematically over weighted expensive stocks and under weighted cheap stocks. Breaking this link between weighting and price improved performance, Mr. Patel said. RAFI settled on sales, cash flow, dividend yield and book value as the metrics to be used in creating a fundamental index or so-called "smart beta". Using heat maps of industry and country allocation in his presentation materials, Mr. Patel showed how volatile a traditional index is relative to the RAFI fundamental indices.

Commissioner Geraldo asked how the strategy was executed. Mr. Patel explained that a firm, such as Russell, becomes the index calculator then sells the product to a third party, in this case Charles Schwab, who creates a fund and provides custody. Schwab pays a fee of 5.5 bps to Russell and Russell pays half of that to RAFI. Mr. Patel noted that RAFI had cut its fees almost in half since introducing the product more than 10 years ago.

According to Mr. Patel, about a quarter of the outperformance comes from including stocks in the index not included in the underlying index against which it is benchmarked. For the Russell 1000, this includes an overlap of 850 stocks and a differential of 150 stocks, which result from owning large companies with low valuations, and not owning small companies with large valuations, relative to the index.

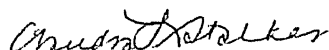
Ms. Lewis described four modifications to this basic process that are included in versions of the RAFI strategies marketed by PIMCO. They include measures of quality to eliminate companies that might be headed for financial distress, momentum factors that reduce the strategy's tendency to trade against the market, move weights from expensive value stocks to cheap growth stocks, and move active weights from larger to smaller names.

Commissioner Anderson questioned the value of paying active fees for fundamental indexing, and whether the RAFI/PIMCO versions could justify their higher fees relative to other index-like strategies such as an equal-weighted index. Mr. Bryant offered to put together numbers comparing the original RAFI fundamental index strategy, the RAFI PIMCO strategy, comparable equal-weighted strategies and traditional index strategies on a net-of-fee basis to facilitate comparison.

The Trustees set 11:00 am on Wednesday, September 21, 2016 at PRA for the next meeting.

The meeting was adjourned at 1:00 pm, without considering the Draft Investment Policy Statement and without a report on the recently funded Intercontinental real estate strategy.

Respectfully Submitted,



Claudia Stalker



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

**REGULAR BOARD OF TRUSTEES MEETING
MINUTES**

Tuesday, July 12, 2016; 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, July 12, 2016 at 10:00 a.m. Voting members present were: Patricia Barney, CPA, Pamela F. Gogol, Alicia Hart, Elizabeth M. Hewlett, Sheila Morgan-Johnson, Barbara Walsh, Marye Wells-Harley and Joseph C. Zimmerman, CPA. Howard Brown arrived at 10:08 a.m. Khalid Afzal and Amy Millar were absent.

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

Presentations by Wilshire Associates - Bradley A. Baker, Vice President (via teleconference); M-NCPPC Legal Department - LaTonya Reynolds, Senior Counsel; and, Groom Law Group - Alexander P. Ryan, Counsel.

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 12, 2016 Board of Trustees Meeting Agenda
- B. Minutes of Regular Meeting, June 7, 2016
- C. Minutes of Closed Session, June 7, 2016
- D. Disbursements Granted Report – May 2016

MS. WALSH made a motion, seconded by MS. BARNEY to approve the Consent Agenda. The motion PASSED unanimously (8-0). (Motion #16-42)

2. CHAIRMAN'S ITEMS

- A. Board of Trustees Conference Summary

MR. BROWN arrived at 10:08 a.m.

3. MISCELLANEOUS

No miscellaneous reported.

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)(5) and 3-305(b)(7), for investment of public funds and to consult with legal counsel

MS. GOGOL made a motion, seconded by MS. BARNEY to go in to Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) and 3-305(b)(7)

to discuss investment of public funds and to consult with legal counsel. The motion PASSED unanimously (9-0). (Motion #16-43)

VICE CHAIRMAN WELLS-HARLEY made a motion, seconded by MS. BARNEY to ratify the actions taken in Closed Session. The motion PASSED unanimously (9-0). (Motion #16-47)

M-NCPPC Legal Department - LaTonya Reynolds, Senior Counsel and Groom Law Group - Alexander P. Ryan, Counsel left the meeting during Closed Session.

5. REPORT OF THE ADMINISTRATOR

Presentation by Administrator, Andrea L. Rose

A. Administrator's Report dated June 28, 2016

- i. Recommendation to Approve FY2017 Wage and Benefit Adjustments for ERS Staff as follows:
 - Effective the first full pay period after July 1, 2016, a 1.75% Annual Salary increase for eligible employees not at top-of-grade;
 - Effective the first full pay period after July 1, 2016, a 0.5% lump sum payment made on base salary for employees at top-of-grade. This payment does not increase base salary.
 - Effective the first full pay period following September 1, 2016, a cost-of-living adjustment equal to 1.75% of base pay for eligible employees (including the Administrator).
 - Effective the first full pay period following September 1, 2016 and expiring June 30, 2017, twelve (12) hours of Administrative Leave for employees (including the Administrator).

Andrea Rose presented the Administrator's Report dated June 28, 2016.

Ms. Rose recommended compensation adjustments for all eligible staff for FY2017 which are similar to the Commission's FY2017 approved compensation adjustments for non-represented employees. All wage adjustments were included in the approved FY2017 Operating Budget.

MS. BARNEY made a motion, seconded by MS. WALSH to approve FY2017 compensation adjustments as recommended: Effective the first full pay period after July 1, 2016, a 1.75% Annual Salary increase for employees not at top-of-grade. Effective the first full pay period after July 1, 2016, a 0.5% lump sum payment made on base salary for employees at top-of-grade. This payment does not increase base salary; Effective the first full pay period following September 1, 2016, a cost-of-living adjustment equal to 1.75% of base pay for eligible employees (including the Administrator); and, Effective the first full pay period following September 1, 2016 and expiring June 30, 2017, twelve (12) hours of Administrative Leave for employees (including the Administrator). The motion PASSED unanimously (9-0). (Motion #16-48)

The ERS received an employer contribution in the amount of \$20,268,189 on July 1, 2016 from the Commission. Wilshire's Brad Baker recommended funding to the international equity managers, Capital Group and Earnest Partners, less any cash requirements for benefits, expenses and capital calls. Following the Brexit vote on June 24, 2016, Mr. Baker confirmed the rebalancing plan remained appropriate as it related to long-term strategic asset allocation which supports adding to non-us equity.

6. COMMITTEE REPORTS/RECOMMENDATIONS

A. Audit Committee

Presentation by Committee Chairman, Barbara Walsh

- i. Regular Report of June 21, 2016

MS. WALSH presented the regular report for the Audit Committee meeting of June 21, 2016.

The Audit Committee met with the ERS' new audit firm, S.B. & Company, to discuss the engagement scope, audit plans and timing, audit approach, and new accounting standards.

Mr. William Seymour, CPA, Engagement Partner, pointed out the key audit areas include participant data completeness and accuracy of census data provided to the actuary, actuarial assumptions, contribution process, cash disbursement process, investment valuation process, investment concentration and the benefit payment process.

There was a brief discussion regarding GASB Statement No. 72: *Fair Value Measurement and Application* which is effective June 30, 2016. GASB Statement No. 72 will require additional disclosure to categorize its fair value measurements with the fair value hierarchy (Level 1, 2, and 3). There will be additional disclosures for Level 3 investments.

B. Investment Monitoring Group Committee

Presentation by Committee Chairman, Patricia Colihan Barney, CPA

- i. Regular Report of June 21, 2016
- ii. Confidential Report of June 21, 2016

MS. BARNEY presented the regular report for the Investment Monitoring Group's (IMG) meeting of June 21, 2016.

The IMG reviewed Wilshire Associates Manager Reviews for C.S. McKee Core Fixed Income, Eaton Vance Core Fixed Income, Principal U.S. Property and J.P. Morgan 130/30.

Since inception, March 31, 2010, C.S. McKee posted a gross return of 4.34% versus a 4.00% return for the Barclays Aggregate Index and ranked in the 41st percentile versus Wilshire's core fixed income universe. Since inception, March 31, 2010, Eaton Vance posted a gross return of 4.18% versus 4.00% for the Barclays Aggregate Index and ranked in the 53rd percentile versus Wilshire's core fixed income universe.

C.S. McKee and Eaton Vance are anchors within the fixed income allocation. C.S. McKee is a conservative bottom-up manager and Eaton Vance is an even more conservative top-down manager. MS. MORGAN-JOHNSON requested a comparison of holdings to identify any overlap. The IMG discussed exploring alternative compliments to these managers.

Since inception, September 30, 2007, Principal posted a gross return of 3.34% versus a 3.57% return for the NCREIF ODCI Index. The index represents the median return of all core index funds. The Principal strategy is more conservative than the index with a 21.8% leverage ratio versus the index's average leveraging ratio of 35% and maximum leverage of 40%.

Since inception, June 30, 2008, J.P. Morgan posted a gross return of 10.41% versus 8.68% for the S&P 500 Index and had a ranking in the 7th percentile versus Wilshire's Large Cap Core universe. However,

during the first quarter of 2016 and for the one year ending March 31, 2016, the portfolio underperformed posting gross returns of -2.05% and -3.18, respectively, versus the S&P 500 Index returns of 3.4% and 4.96%, respectively. The near term underperformance in materials and energy were significant detractors, as well as, underperformance on the short positions within the portfolio. This underperformance rippled through longer term performance. MS. MORGAN-JOHNSON noted J.P. Morgan is not meeting its goal which is the S&P 500 Index +3%. Mr. Baker will be following up with additional analysis.

- C. Administration & Personnel Oversight Committee
 - Presentation by Committee Chairman, Barbara Walsh
 - i. Regular Report of June 21, 2016

MS. WALSH presented the regular report for the Administration & Personnel Oversight Committee (Personnel Committee) meeting of June 21, 2016.

The Personnel Committee reviewed the recommended revisions to the ERS' Employee Handbook with Andrea Rose and LaTonya Reynolds, Senior Counsel. The Personnel Committee hopes to have a revised document for Board approval in the fall of 2016.

MS. WALSH noted that the Personnel Committee was waiting on quotes for Cyber Liability Insurance. The Personnel Committee requested the Board authorize a Special Meeting by Conference Call once the quotes are received.

MS. WALSH made a motion, seconded by MS. GOGOL to approve a Special Meeting of the Board of Trustees by conference call to approve Cyber Liability Insurance. The motion PASSED unanimously (9-0). (Motion #16-49)

7. MANAGER REPORTS/PRESENTATIONS

- A. BlackRock
 - Presentations by Chris Woida, Director, Factor Based Strategies Group and Mitch King, Director, Institutional Client Business
 - i. Training: Factors Based Investing

BlackRock was invited to provide an educational overview of Factor Based Investing. BlackRock explained factor investing provides an alternative view from traditional portfolio analysis of what is really driving growth and risk, often offering greater clarity as to hidden opportunities, or risks, in a given investment mix. A traditional asset class-based allocation may look diversified but a view through a factors lens can reveal hidden, outsized risks. The overview highlighted several key areas including the selection of minimum volatility stocks.

VICE CHAIRMAN WELLS-HARLEY left the meeting at 11:25 a.m.

MS. MORGAN-JOHNSON left the meeting at 12:25 p.m.

- B. Wilshire Associates (via teleconference)
 - Presentation by Wilshire Associates - Bradley A. Baker, Vice President
 - i. Education Session; July 12, 2016

Brad Baker presented a fixed income market and real assets market overview as supplemental training for trustees.

Brad Baker will follow-up with additional information on a low/minimum volatility strategy at the September 13, 2016 Board meeting.

Wilshire recommended over the next 6-12 months additional analysis and another allocation to middle market direct lending.

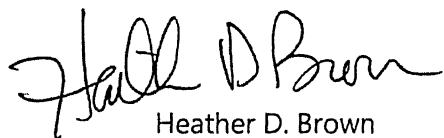
MR. BROWN left the meeting at 12:54 p.m.

MR. ZIMMERMAN left the meeting at 1:03 p.m.

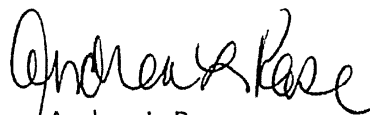
MS. HART left the meeting at 1:04 p.m.

The Board of Trustees meeting of July 12, 2016 adjourned at 1:30 p.m.

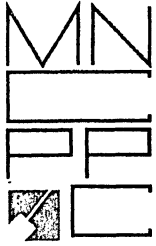
Respectfully,



Heather D. Brown
Senior Administrative Specialist



Andrea L. Rose
Administrator



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation

6600 Kenilworth Avenue Riverdale, Maryland 20737

October 4, 2016

SUBJECT: PGCPB Resolutions Nos. 16-80 and 16-81

TO: The Maryland-National Capital Park and Planning Commission

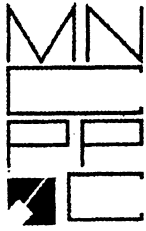
FROM: Paul Sun *PJS*
Landscape Architect
Park Planning & Development Division

Attached, please find the above-referenced Resolutions regarding the disposal and conveyance of Commission-owned land from both Northwest Branch Stream Valley Park and Leyte Drive Park to the Maryland State Highway Administration. Both disposals are fee simple conveyances. The MD SHA will reimburse the Commission **\$1,750** for the conveyance of land from Northwest Branch Stream Valley Park and **\$700** for the conveyance of land from Leyte Drive Park.

These Resolutions have been scheduled for Full Commission on October 19, 2016

Attachments

- M-NCPPC Resolution No. 16-18
- M-NCPPC Resolution No. 16-19



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation

6600 Kenilworth Avenue Riverdale, Maryland 20737

PGCPB No. 16-80
MNCPPC No. 16-18

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission ("Commission") is authorized under the Annotated Code of Maryland, Land Use Article § 17-205 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 8.97 ± acres known as a portion of Northwest Branch Stream Valley Park (the "Park Property") located on Queens Chapel Road, Hyattsville, more particularly described as Parcel 178, on Tax Map 41; and

WHEREAS, The Maryland State Highway Administration ("SHA") wishes to acquire 1,770 ± square feet (0.04 ± acres) of the Park Property for improvements to MD 500 (Queens Chapel Road) as part of the MD 228 to MD 410 roadway project ("Subject Park Property"); and

WHEREAS, the SHA has agreed to pay the Commission One Thousand Seven Hundred and Fifty Dollars and No Cents (\$1,750.00) for the sale and conveyance of the Subject Park Property to the SHA, and

WHEREAS, the Commission desires to convey the above referenced interest in the Subject Park Property to SHA to facilitate road improvements to MD 500 (Queens Chapel Road)

NOW, THEREFORE BE IT RESOLVED, that the Board hereby recommends that the Commission approve the conveyance of the Subject Park Property to the SHA for One Thousand Seven Hundred and Fifty Dollars and No Cents (\$1,750.00); 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, documents, and/or instruments, and to do or cause to be 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 resolution, without limitation, and the taking of such actions shall be deemed conclusively to be authorized hereby.

* * * * *

PGCPB No. 16-80
MNCPPC No. 16-18
Page 2

CERTIFICATION

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 the motion of Commissioner Geraldo, seconded by Commissioner Shoaff,, with Commissioners Geraldo, Shoaff, and Hewlett voting in favor of the motion, and Commissioners Bailey and Washington temporarily absent, at its meeting on Thursday, June 23, 2016, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 8th day of September, 2016.

Elizabeth Hewlett



By: Jessica Jones
Planning Board Administrator

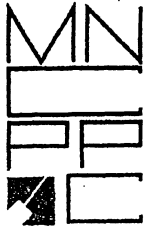
APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department

Date

9/12/16



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation

6600 Kenilworth Avenue Riverdale, Maryland 20737

PGCPB No. 16-81
MNCPPC No. 16-19

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission ("Commission") is authorized under the Annotated Code of Maryland, Land Use Article § 17-205 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 4.94 ± acres known as **Leyte Drive Park** located on Roanne Drive, Oxon Hill, Maryland, more particularly described as Parcel B and Parcel 22, Grid A-3, Tax map 105 (the "Park Property"); and

WHEREAS, The Maryland State Highway Administration ("SHA") wishes to acquire 5,265 ± square feet (0.12 ± acres) of the Park Property in fee simple and 7,429 ± square feet (0.17 ± acres) of the Park Property for a temporary construction easement all as part of their MD 210 (Indian Head Highway) roadway project ("Subject Park Property"); and

WHEREAS, the SHA has agreed to pay the Commission Seven Hundred Dollars and No Cents (\$700.00) for the sale and conveyance of the Subject Park Property to the SHA; and

WHEREAS, the Commission desires to convey the above referenced interest in the Subject Park Property to SHA to facilitate road improvements to MD 210 (Indian Head Highway)

NOW, THEREFORE BE IT RESOLVED, that the Board hereby recommends that the Commission approve the conveyance of the Subject Park Property to the SHA for Seven Hundred Dollars and No Cents (\$700.00); 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, documents, and/or instruments, and to do or cause to be 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 resolution, without limitation, and the taking of such actions shall be deemed conclusively to be authorized hereby.

* * * * *

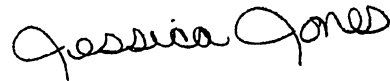
PGCPB No. 16-81
MNCPPC No. 16-19
Page 2

CERTIFICATION

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 the motion of Commissioner Geraldo, seconded by Commissioner Shoaff,, with Commissioners Geraldo, Shoaff, and Hewlett voting in favor of the motion, and Commissioners Bailey and Washington temporarily absent, at its meeting on Thursday, June 23, 2016, in Upper Marlboro, Maryland.


Adopted by the Prince George's County Planning Board this 8th day of September, 2016.

Elizabeth Hewlett

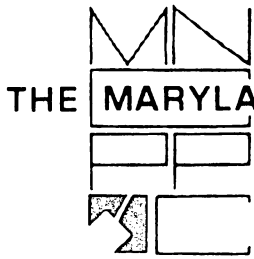


By: Jessica Jones
Planning Board Administrator

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPE Legal Department
Date 9/12/16




THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

October 19, 2016

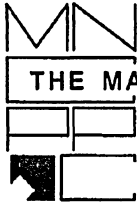
TO: The Commission

FROM: Patricia Colihan Barney, Executive Director 

SUBJECT: Reappointment of Steven Cohen to the Merit System Board

The Commission first appointed Mr. Steven Cohen to fill a Merit System Board vacancy as the Chairman on December 1, 2008 as part of the Commission's Resolution 08-17. His appointment was for a term of four (4) years effective December 1, 2008 through December 1, 2012. In November 2012, he was re-appointed for a second four-year term from December 1, 2012 through December 1, 2016.

In accordance with Chapter 200, Section 222 of the Merit System Rules and Regulations, I am recommending the reappointment of Mr. Steven Cohen to a second four-year term as Chairman of the Merit System Board effective December 1, 2016 through December 1, 2020. All other terms and conditions of his contract remain the same.



M-NCPPC RESOLUTION No. 16-25
October 19, 2016

MERIT SYSTEM BOARD CHAIRMAN REAPPOINTMENT – STEVEN R. COHEN

WHEREAS, pursuant to Section 16-103 of the Land Use Article of the Annotated Code of Maryland (“Land Use Article”) and the Merit System Rules and Regulations, the Maryland-National Capital Park and Planning Commission (the “Commission”) shall have the authority, obligation and responsibility to appoint a Merit System Board to oversee the Merit System;

WHEREAS, on November 19, 2008 the Commission appointed Mr. Steven R. Cohen, Chairman of the Merit System Board for a term of four years effective December 1, 2008 through December 1, 2012;

WHEREAS, on December 1, 2012 the Commission re-appointed Mr. Steven R. Cohen, Chairman of the Merit System Board for a term of four years effective December 1, 2012 through December 1, 2016;

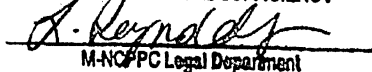
WHEREAS, Mr. Cohen has discharged the duties of Chairman of the Merit System Board faithfully, and continues to meet the requirements in Section 16-103 of the Land Use Article for membership on the Merit System Board, including substantial knowledge and experience in personnel matters; and,

WHEREAS, Section 16-103 of the Land Use Article allows for the reappointment of Merit System Board Members, including the Chairman, 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 Mr. Steven R. Cohen as Chairman of the Merit System Board for an additional four year term commencing on December 1, 2016 to December 1, 2020; and

BE IT FURTHER RESOLVED, that Mr. Cohen’s appointment to the Merit System Board shall be pursuant to the same terms and conditions as his current contract, and/or as authorized by the Commission budget for each fiscal year.

APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC Legal Department

Date 10/11/2016

AUDIT COMMITTEE ACTIVITY REPORT

FY2016 (July 1, 2015 – June 30, 2016)

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

Report Date: October 19, 2016

Audit Committee Members (FY16):

John P. Shoaff, Prince George's County Planning Board
Norman Dreyfuss, Montgomery County Planning Board
Karen Tobat, 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 2016 (July 1, 2015 – June 30, 2016) 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, The AC and the Chief Internal Auditor participate in quarterly conference calls. The AC held four calls in FY16: December 18, 2015, February 26, 2016, April 17, 2016, and June 3, 2016. The Chief Internal Auditor issues an agenda and maintains meeting minutes for these meetings.

In addition to the scheduled, quarterly meetings, the AC meets 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.

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 2015, the AC formally approved the FY16 Audit Plan submitted by Ms. Kenney. The results of the Commission wide risk assessment/interviews were used to develop the plan.

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 (year 5 of a 5 year contract). The AC met with the external auditors on June 17, 2015 to discuss the scope and objective of the audit and then on January 20, 2016 to discuss the results of the review.

For FY16, the Commission selected SB and Company to complete the external review. The AC meet with the auditors on July 20, 2016 to discuss the scope and objectives of the FY16 review.

- In March 2016, the Montgomery County Office of the Inspector General completed an audit of the purchase card programs for seven Montgomery County agencies. The Commission was included in this review. The final audit report did not contain any findings or recommendations for M-NCPPC. However, the Commission agreed to strengthen our current procedures by obtaining an annual certification of purchase cardholders and assessing the usability of level III purchase card data.
- As required per House Bill 675 (2015 Legislative Session) the Maryland State Office of Legislative Audits (OLA) was required to conduct a performance audit evaluating the Commission's project management practices with respect to its capital program in Prince George's County. The external audit commenced in March 2016 and to date, is still in progress. The AC discussed the appointment of the OLA auditors and anticipated scope of work in the February 26, 2016 conference call with the Chief Internal Auditor. The AC asked Ms. Kenney to inform them of any significant audit findings.

SUMMARY OF SIGNIFICANT AUDIT FINDINGS

The Chief Internal Auditor submitted the Office of Internal Audit's Fiscal Year 2016 Annual Report to the Audit Committee on June 30, 2016. The report included a summary of 25 high risk operational audit findings and 8 high risk information technology findings.

The OIA identified opportunities to strengthen internal controls in the following operational areas/programs:

- Processing of personnel action forms (2 high risk findings)
- Leave without pay program (2 high risk findings)
- Cash management (13 high risk findings)
- Purchase card administration (4 high risk findings)
- Fixed asset administration (3 high risk findings)
- Documentation of time worked (1 high risk finding)

Although there were 25 high risk operational audit findings Commission wide, it appears that only 5 of the findings were significant. The significant audit findings were included in the Maryland-National Capital Park Police - Prince George's Division, Cash Audit. To date, 4 of the 5 findings have been satisfactorily resolved, and 1 is in progress.

The OIA also identified several high risk audit findings when reviewing the Commission's IT systems and applications:

- Restricting access to Commission IT systems and applications (4 high risk findings)
- Testing and restore of the Commission's Oracle database (1 high risk finding)
- User account management - de-provisioning of employee accounts (3 high risk findings)

The pervasiveness of internal audit findings addressing the security and monitoring of the Commissions IT systems is considered significant by the Office of Internal Audit.

ADEQUACY OF INTERNAL CONTROLS

It is the opinion of the Chief Internal Auditor that the internal control systems and processes for the Commission's fiscal and operational activities are adequate. Although there were several high risk audit findings, it does not appear that the deficiencies are pervasive throughout the Commission. Once deficiencies are identified, management accepts responsibility and takes appropriate action to resolve. It appears that Commission management support a strong internal control structure and promote a strong, ethical tone at the top.

However, it is the opinion of the Chief Internal Auditor that there continues to be opportunities to strengthen the internal controls for our information technology systems and applications. Many of the initiatives identified in the Office of Internal Audit's FY15 Annual Report are still unresolved at the end of FY16, (e.g. PCI compliance, monitoring of key security events, redesigning of the Active Directory architecture, etc.).

Based on our review of the audit reports and discussions with Commission personnel, the AC agrees with the Chief Internal Auditor's assessment of the adequacy of the Commission's internal control structure.

OTHER CONCERNS AND COMPLAINTS

As part of their reporting requirements, the AC is required to advise the Commission Chair and Vice-Chair of any Committee concerns arising from any audit/investigation reports. No additional concerns were raised in FY16.

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
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE
BY DEPARTMENT AS OF SEPTEMBER 2016

| | 31 - 60 DAYS | | 61 - 90 DAYS | | 91 + DAYS | | DEPARTMENT TOTALS | |
|------------------------------------|--------------|-------|--------------|-------|-----------|-------|-------------------|-------|
| | 08/16 | 09/16 | 08/16 | 09/16 | 08/16 | 09/16 | 08/16 | 09/16 |
| CHAIRMAN, MONTGOMERY COUNTY | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 |
| CHAIRMAN, PRINCE GEORGE'S COUNTY | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| OFFICE OF CIO | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| INTERNAL AUDIT | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| EXECUTIVE COMMITTEE/CHAIRS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| DEPT. OF HUMAN RESOURCES & MGT. | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| LEGAL DEPARTMENT | 0 | 2 | 1 | 0 | 2 | 0 | 1 | 2 |
| FINANCE DEPARTMENT | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| PRINCE GEORGE'S PLANNING | 0 | 1 | 1 | 0 | 0 | 0 | 1 | 1 |
| PRINCE GEORGE'S PARKS & RECREATION | 2 | 3 | 0 | 2 | 0 | 0 | 2 | 5 |
| MONTGOMERY COUNTY PARKS | 2 | 2 | 0 | 0 | 0 | 0 | 2 | 2 |
| MONTGOMERY COUNTY PLANNING | 2 | 3 | 3 | 2 | 0 | 0 | 5 | 5 |
| **DEPARTMENT TOTAL BY DAYS LATE** | 6 | 13 | 5 | 4 | 3 | 0 | --- | --- |
| COMMISSION WIDE TOTAL: | | | | | | | 11 | 17 |

ITEM 7a



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

Reply To

October 11, 2016

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 September, 2016

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, October 19, 2016. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

Table of Contents – September Report

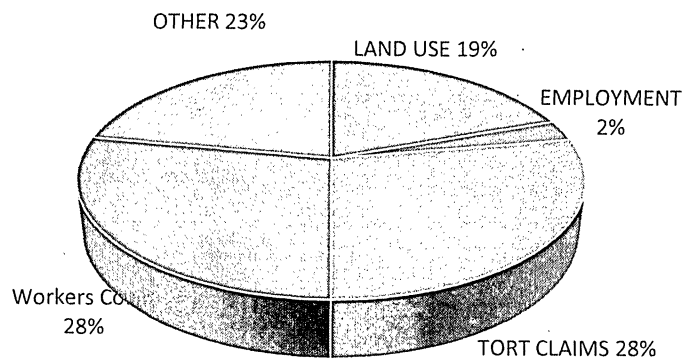
Composition of Pending Litigation.....Page 01
Overview of Pending Litigation (Chart).....Page 01
Litigation Activity SummaryPage 02
Index of New YTD Cases (FY17)Page 03
Index of Resolved YTD Cases (FY17)Page 04
Disposition of FY17 Closed Cases Sorted by DepartmentPage 05
Index of Reported Cases Sorted by JurisdictionPage 08
Litigation Report Ordered By Court JurisdictionPage 10

September 2016 Composition of Pending Litigation

(Sorted By Subject Matter and Forum)

| | State Trial Court | Federal Trial Court | Maryland COSA | Maryland Court of Appeals | Federal Appeals Court | U.S. Supreme Court | Subject Matter Totals |
|-------------------------|-------------------|---------------------|---------------|---------------------------|-----------------------|--------------------|-----------------------|
| Admin Appeal: Land Use | | | 1 | | | | 1 |
| Admin Appeal: Other | | | | | | | 0 |
| Land Use Dispute | 2 | 1 | | | | | 3 |
| Tort Claim | 9 | 1 | | | | | 10 |
| Employment Dispute | 1 | | 1 | | | | 2 |
| Contract Dispute | 1 | 1 | 1 | 1 | | | 4 |
| Property Dispute | | | | | | | 0 |
| Civil Enforcement | 1 | | | | | | 1 |
| Workers' Compensation | 10 | | | | | | 10 |
| Debt Collection | | | | | | | 0 |
| Bankruptcy | | | | | | | 0 |
| Miscellaneous | 1 | | 2 | | 1 | | 4 |
| Per Forum Totals | 25 | 3 | 5 | 1 | 1 | 0 | 35 |

OVERVIEW OF PENDING LITIGATION



By Major Case Categories

September 2016 Litigation Activity Summary

| | COUNT FOR MONTH | | | COUNT FOR FISCAL YEAR 2017 | | | |
|-------------------------------|-----------------------|-----------|----------------|----------------------------|-------------------|------------------------|-----------------------|
| | Pending In Jul/Aug 16 | New Cases | Resolved Cases | Pending Prior F/Y | New Cases F/YTD** | Resolved Cases F/YTD** | Pending Current Month |
| Admin Appeal: Land Use (AALU) | 2 | | 1 | 2 | | 1 | 1 |
| Admin Appeal: Other (AAO) | 0 | | | 0 | | | 0 |
| Land Use Disputes (LD) | 4 | | 1 | 3 | | 1 | 3 |
| Tort Claims (T) | 10 | 1 | 1 | 10 | 3 | 2 | 10 |
| Employment Disputes (ED) | 1 | 1 | | 1 | 1 | | 2 |
| Contract Disputes (CD) | 4 | | | 3 | 1 | | 4 |
| Property Disputes (PD) | 1 | | 1 | 1 | | 1 | 0 |
| Civil Enforcement (CE) | 1 | | | 1 | | | 1 |
| Workers' Compensation (WC) | 10 | 1 | 1 | 12 | 1 | 3 | 10 |
| Debt Collection (D) | 0 | | | 0 | | | 0 |
| Bankruptcy (B) | 0 | | | 0 | | | 0 |
| Miscellaneous (M) | 3 | 2 | 1 | 4 | 2 | 2 | 4 |
| Totals | 36 | 5 | 6 | 37 | 8 | 10 | 35 |

**INDEX OF YTD NEW CASES
(7/1/2016 TO 6/30/17)**

| <u>A. New Trial Court Cases.</u> | <u>Unit</u> | <u>Subject Matter</u> | <u>Month</u> |
|---|--------------------|------------------------------|---------------------|
| Brooks v. PG County Planning Board, et al | PG | LD | July 16 |
| Green v. Commission | PG | Tort | July 16 |
| Commission v. Town of Forest Heights | PG | Misc | Sep 16 |
| Commission v. Edwards | MC | WC | Sep 16 |
| North Point Builders v. Commission | PG | Tort | Sep 16 |
| Burnette v. Commission | PG | ED | Sep 16 |
| | | | |
| <u>B. New Appellate Court Cases.</u> | <u>Unit</u> | <u>Subject Matter</u> | <u>Month</u> |
| Commission v. Fort Myer Construction Corp. | MC | CD | Aug 16 |
| Cohn v. Commission | MC | Misc | Sep 16 |

**INDEX OF YTD RESOLVED CASES
(7/1/2016 TO 6/30/17)**

| <u>C. Trial Court Cases Resolved.</u> | <u>Unit</u> | <u>Subject Matter</u> | <u>Month</u> |
|---|--------------------|------------------------------|---------------------|
| Leeks v. Commission | PG | WCC | July, 2016 |
| Newell v. Commission | PG | Tort | July, 2016 |
| Commission v. 2005 Toyota Camry | MC | Misc | July, 2016 |
| Commission v. Morgan | MC | WCC | July, 2016 |
| Progressive Specialty Insurance Co. v. Davis, et al | MC | Tort | Sept 2016 |
| Prince George's County, Md. v. Commission | PGPR | LD | Sept 2016 |
| Commission v. Landover Polk Street Property, LLC | PGPR | PD | Sept 2016 |
| Town of Riverdale Park, et al v. Commission | PGPB | AALU | Sept 2016 |
| Cohhn, et al v. Commission | MCPR | Misc | Sept 2016 |
| Smith v. Commission | MC | WCC | Sept 2016 |

D. Appellate Court Cases Resolved.

Disposition of FY17 Closed Cases Sorted by Department

| CLIENT | PRINCIPAL CAUSE OF ACTION IN DISPUTE | DISPOSITION |
|---|---|--|
| Employees Retirement System | | |
| Finance Department | | |
| Department of Human Resources & Management | | |
| Montgomery County Department of Planning | | |
| | | |
| | | |
| Montgomery County Department of Parks | | |
| Cohhn, et al v. Commission | Plaintiff filed complaint attempting to restrain Commission from implementing Archery Managed Deer Hunting Program in Montgomery County. | 08/25/16-Court grants Commission's Motion for Summary Judgment. |
| Commission v. 2005 Toyota Camry | Commission filed motor vehicle forfeiture incident to drug related arrest | 06/14/16-Commission withdraws complaint. |
| Commission v. Morgan | Commission appealed WCC Order finding that employee sustained an accidental injury arising out of and in the course of employment. | 06/28/16- Stipulation of Dismissal filed with Court; to be remanded back to Workers' Compensation Commission |
| Progressive Specialty Insurance Co. v. Davis, et al | Defense of claim for personal injury and property damages to motor vehicle involving a vehicle allegedly operated by Commission employee. | 07/08/16-Case dismissed by Plaintiff. |
| Smith v. Commission | Claimant/employee is appealing the WCC's award of permanent partial disability under "other cases". | 08/09/16-Trial; verdict in favor of Plaintiff; remanded to Worker's Compensation. |
| | | |
| Montgomery County Park Police | | |

| | | | |
|--|--|--|--|
| Montgomery County Planning Board | | | |
| | | | |
| | | | |
| Prince George's County Department of Parks and Recreation | | | |
| Commission v. Landover Polk Street Property, LLC | Commission filed a condemnation action to acquire property for use by the Department of Parks and Recreation. | 08/02/16-Stipulation of Dismissal filed. | |
| Leeks v. Commission | Claimant/employee is appealing the WCC's decision denying occupational hypertension disease as causally related to his course of employment. | 06/27/16-Case remanded to WCC. | |
| Newell v. Commission | Defense of claim for trip and fall on alleged wire hanging from the light display at Watkins Regional Park | 06/07/16-Case settled and dismissed. | |
| Prince George's County, Md. v. Commission | Defense of claim for injunctive relief issued by Prince George's County for unlicensed dog kennel on Commission property which is actually owned by person in neighborhood encroaching on Commission property. | 08/11/16-Case dismissed. | |
| | | | |
| Prince George's County Planning Department | | | |
| | | | |
| Prince George's County Planning Board | | | |
| Town of Riverdale Park, et al v. Commission | Defense against Administrative Appeal of decision by the Planning Board to approve Special Permit SP-150003 in 7-Eleven, Inc. | 07/13/16-Court affirms decision by Planning Board. | |

| | | |
|-----------------------------|--|--|
| Prince George's Park Police | | |
| | | |
| | | |
| Office of Internal Audit | | |
| | | |

INDEX OF CASES

| | |
|--|-----------|
| DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND..... | 10 |
| Merlos-Montoya v. Commission..... | 10 |
| Richardson v. Arnett..... | 10 |
| DISTRICT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND | 11 |
| Beatty v. Commission..... | 11 |
| CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND | 12 |
| Belt v. Commission..... | 12 |
| CIRCUIT COURT FOR CARROLL COUNTY, MARYLAND..... | 13 |
| Shipe v. Louketis, et al | 13 |
| Tugwell v. Louketis, et al | 13 |
| CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND | 15 |
| Brooks v. Prince George’s County Planning Board, et al | 15 |
| Burnette v. Commission. | 15 |
| Burnette v. Commission. | 15 |
| Commission v. Ford | 16 |
| Commission v. Fulwood | 16 |
| Commission v. The Town of Forest Heights | 16 |
| Green, et al v. Commission..... | 17 |
| North Point Builders v. Commission..... | 17 |
| Watkins v. Commission | 17 |
| Watkins v. Commission | 18 |
| CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND..... | 19 |
| Berry v. Volk-Lopez, et al | 19 |
| Commission v. Atwell..... | 19 |
| Commission v. Edwards..... | 20 |
| Commission v. Johnson | 20 |
| Dixon v. Commission..... | 20 |
| Dixon v. Commission..... | 21 |
| Fort Myer Construction Corporation v. Commission | 21 |
| Stark v. Kellogg, et al..... | 22 |
| Trevan v. Cannizo, et al..... | 22 |

| | |
|---|-----------|
| MARYLAND COURT OF SPECIAL APPEALS | 23 |
| Cohn v. Commission | 23 |
| Commission v. Hill | 23 |
| Fort Myer Construction Corporation v. Commission, et al | 23 |
| Friends of Croom Civic Association, et al v. Commission..... | 24 |
| Town of Forest Heights v. Commission..... | 25 |
| MARYLAND COURT OF APPEALS | 26 |
| URS Corporation, et al v. Fort Myer Construction Corporation..... | 26 |
| U.S. DISTRICT COURT OF MARYLAND | 27 |
| Hartford Casualty Insurance Company v. Commission | 27 |
| Pulte Home Corp, et al v. Montgomery County, et al..... | 27 |
| Sutton v. Commission..... | 28 |
| U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT | 29 |
| American Humanists Association, et al v. Commission | 29 |

DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

Merlos-Montoya v. Commission

No. 0602-0005996-2016 (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: Case dismissed.

Docket:

| | |
|----------|---------------------|
| 05/20/16 | Complaint filed |
| 09/07/16 | Complaint dismissed |

Richardson v. Arnett, et al

No. 0602-0001638-2016 (Tort)

Lead Counsel: Outside Counsel
Other Counsel: Harvin

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

Status: Case dismissed.

Docket:

| | |
|------------|---------------------|
| 03/02/2016 | Complaint filed |
| 09/21/16 | Complaint dismissed |

DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Beatty, et al v. Commission
No. 0502-0009528-2016 (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: Case dismissed.

Docket:

| | |
|----------|--|
| 04/14/16 | Complaint filed |
| 05/20/16 | Commission filed Notice of Intention to Defend |
| 09/30/16 | Case settled and dismissed. |

CIRCUIT COURT FOR ANNE ARUNDEL, MARYLAND

Belt v. Commission

Case No. C-02-CV-16-000324 (WC- B75076)

Lead Counsel: Chagrin
Other Counsel:

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

Status: Pending mediation.

Docket:

| | |
|----------|--|
| 01/26/16 | Petition filed |
| 02/05/16 | Court grants Order Extending Time for Record Transmittal |
| 02/23/16 | Response to Petition filed by Commission |
| 08/17/16 | Settlement Conference |
| 09/01/16 | Mediation |
| 10/12/16 | Pre-trial conference |

CIRCUIT COURT FOR CARROLL COUNTY, MARYLAND

Shipe v. Louketis, et al

Case No. 06-C-15-070021 (Tort)

Lead Counsel: Harvin
Other Counsel: Dickerson

Abstract: Defense of claim for assault & battery, intentional infliction of emotional distress, negligence, negligent hiring.

Status: In discovery.

Docket:

| | |
|----------|--|
| 10/26/15 | Complaint filed |
| 11/20/15 | Commission served |
| 12/18/15 | Motion to Dismiss and Memorandum filed by Commission |
| 01/04/16 | Partial Motion to Dismiss filed by Louketis |
| 01/22/16 | Opposition to Motion to Dismiss & Request for Hearing filed |
| 03/07/16 | Court grants & denies portions of Commission Motion to Dismiss |
| 06/20/16 | Counter-claim filed by Defendant Louketis |
| 08/30/16 | Order consolidating case with 06-C-15-069996 |
| 12/02/16 | Pre-trial conference |
| 02/27/17 | Trial |

Tugwell v. Louketis, et al

Case No. 06-C-15-069996 (Tort)

Lead Counsel: Adams
Other Counsel: Dickerson

Abstract: Defense of claim for assault & battery, intentional infliction of emotional distress, negligence, negligent hiring.

Status: Complaint filed.

Docket:

| | |
|----------|--|
| 10/21/15 | Complaint filed |
| 11/20/15 | Commission served |
| 12/16/15 | Motion to Dismiss and supporting Memorandum, Motion for Protective Order filed by Commission |
| 01/04/16 | Partial Motion to Dismiss filed by Louketis |
| 01/22/16 | Amended Complaint filed by Plaintiff |
| 01/27/16 | Second Amended Complaint filed by Plaintiff |

| | |
|----------|---|
| 02/17/16 | Line filed by Commission responsive to Second Amended Complaint and renewing previous Motion to Dismiss |
| 04/15/16 | Motions hearing |
| 05/31/16 | Motion to Dismiss denied. Court orders Commission to produce documents with 30 days for in-camera inspection. |
| 06/09/16 | Court order modifying scheduling order for discovery and expert identification |
| 08/30/16 | Order consolidating case with 06-C-15-070021 |
| 12/02/16 | Pre-trial hearing |
| 02/27/16 | Trial |

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Brooks v. Prince George's County Planning Board

CAE16-25941 (LD)

Lead Counsel: Mills
Other Counsel:

Abstract: Declaratory judgment action challenging Planning Board approval of an application pertaining to a parcel neighboring that of the Plaintiffs.

Status: Complaint filed.

Docket:

| | |
|----------|--|
| 06/27/16 | Complaint for Declaratory Judgment filed |
| 07/25/16 | Complaint served on Commission |
| 08/17/16 | Joint Motion to Dismiss for Failure to State Claim filed |
| 09/06/16 | Opposition to Motion to Dismiss filed by Plaintiff |
| 12/02/16 | Motions Hearing |

Burnette v. Commission

CAL16-35180 (ED)

Lead Counsel: Adams
Other Counsel: Dickerson

Abstract: Former employee seeks judicial review of termination.

Status: Petition filed.

Docket:

| | |
|----------|--|
| 09/08/16 | Petition filed |
| 09/23/16 | Response to Petition filed by Commission |

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: Case remanded to WCC.

Docket:

| | |
|----------|--------------------------------------|
| 02/24/15 | Petition filed |
| 06/03/15 | Case transferred from Charles County |

| | |
|----------|--|
| 11/06/15 | Pre-trial conference. |
| 09/08/16 | Case remanded to WCC for further proceedings |

Commission v. Ford
CAL16-02123 (WC W070371)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision regarding determination that injury occurred during course of employment.

Status: In discovery.
Docket:

| | |
|----------|--|
| 02/12/16 | Petition for Judicial Review filed |
| 02/29/16 | Response to Petition for Judicial Review filed by Commission |
| 09/21/16 | Pre-trial conference |
| 03/07/17 | Trial date |

Commission v. Fulwood
CAL16-02193 (WC W070371)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission is appealing the WCC's finding that claimant had an occupational disease.

Status: Petition filed.
Docket:

| | |
|----------|------------------------------------|
| 02/26/16 | Petition for Judicial Review filed |
| 10/21/16 | Motions hearing |
| 01/19/17 | Pretrial conference |

Commission, et al v. The Town of Forest Heights
CAL 16-29110 (M)

Lead Counsel: Mills
Other Counsel:

Abstract: Commission filed a declaratory judgment action against the Town of Forest Heights.

Status: Complaint filed.

Docket:

| | |
|----------|------------------------|
| 07/20/16 | Complaint filed |
| 08/31/16 | Defendant filed Answer |

| | |
|----------|---|
| 09/20/16 | Court returns Defendant's Answer failure to pay filing fees |
|----------|---|

Green, et al v. Commission
CAL16-26277 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Defense of claim for personal injury involving fall by minor child from playground equipment at Peppermill Recreation Center.

Status: Complaint filed.

Docket:

| | |
|----------|-------------------------------------|
| 06/14/16 | Complaint filed. |
| 08/22/16 | Commission files line of appearance |
| 12/28/16 | Pre-trial conference |

North Point Builders v. Commission
CAL16-31910 (Tort)

Lead Counsel: Dickerson
Other Counsel:

Abstract: Plaintiff filed complaint for alleged delays and damages associated with the construction of College Park Airport Operations Building in College Park, Maryland.

Status: Complaint filed.

Docket:

| | |
|----------|-----------------|
| 09/14/16 | Complaint filed |
|----------|-----------------|

Watkins v. Commission
CAL15-40296 (WC W050003)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant/employee is appealing seeking de novo judicial review of the WCC's decision denying authorization for medical treatment.

Status: Pending trial.

Docket:

| | |
|----------|------------------------------------|
| 12/30/15 | Petition for Judicial Review filed |
| 01/21/16 | Response to Petition filed |
| 06/08/16 | Pretrial conference |
| 04/03/17 | Trial date |

Watkins v. Commission
CAL16-07583 (WC W050003)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant/employee is appealing seeking de novo judicial review of the WCC's decision denying authorization for medical treatment.

Status: Pending trial.
Docket:

| | |
|----------|--|
| 03/16/16 | Petition for Judicial Review filed |
| 04/05/16 | Response to Petition filed |
| 08/18/16 | Pre-trial conference; Court orders this case to be consolidated with case CAL15-40296 for hearing. |
| 04/03/17 | Trial date |

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Berry v. Lopez, et al

Case No. 414115-V (Tort)

NOTE-Case Venue Transferred from Prince George's County

Lead Counsel: Adams
Other Counsel: Dickerson

Abstract: Defense of police liability claim for alleged false imprisonment and wrongful detention arising from an incident in Montgomery County

Status: Amended complaint filed.

Docket:

| | |
|----------|--|
| 01/21/16 | Original Record from Prince George's County-CAL15-25864 transferred to Montgomery County |
| 02/11/16 | Commission files Motion to Dismiss and Memorandum |
| 03/30/16 | Court grants Commission's motion to dismiss on counts #1, #2, #3, #5, and #6 with prejudice. Court dismisses counts #4 without prejudice with leave to amend within 15 days. |
| 04/21/16 | Amended Complaint filed by Plaintiff |
| 04/29/16 | Defendant files Motion to Strike Amended Complaint |
| 05/16/16 | Plaintiff's Opposition to Defendant's Motion to Strike filed |
| 07/06/16 | Motion to Strike was denied |
| 07/14/16 | Defendant's Answer to Amended Complaint filed |
| 11/03/16 | Pre-trial conference |

Commission v. Atwell

Case No. 422131-V (WC #W072421)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Commission appealed WCC Order finding that employee sustained an accidental injury arising out of and in the course of employment.

Status: Petition filed.

Docket:

| | |
|----------|------------------|
| 06/03/16 | Petition filed. |
| 11/17/16 | Pretrial hearing |

Commission v. Edwards
Case No. 425765-V (WC #W072408)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant/employee is appealing WCC Order entitling Claimant to 25% loss of body use under other cases.

Status: Petition filed.

Docket:

| | |
|----------|---|
| 09/30/16 | Petition for Judicial Review filed by Commission. |
|----------|---|

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

Lead Counsel: Harvin
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 |

Dixon v. Commission
Case No. 417969-V (WC #069068)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant/employee is appealing WCC Order denying that employee sustained an accidental injury arising out of and in the course of employment.

Status: Pending trial.

Docket:

| | |
|----------|-----------------|
| 03/28/16 | Petition filed. |
|----------|-----------------|

| | |
|----------|---|
| 04/13/16 | Response to Petition filed |
| 04/27/16 | Order of Court consolidating Case #417969V with 417970V and to follow scheduling in Case #417969. |
| 09/08/16 | Status/pre-trial hearing. |
| 12/13/16 | Jury trial. |

Dixon v. Commission

Case No. 417970-V (WC #043782)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claimant/employee is appealing WCC Order denying that further medical treatment and total temporary disability.

Status: Pending trial.

Docket:

| | |
|----------|---|
| 03/28/16 | Petition filed. |
| 04/13/16 | Response to Petition filed. |
| 04/27/16 | Order of Court consolidating Case #417969V with 417970V and to follow scheduling in Case #417969. |
| 09/08/16 | Status/pre-trial hearing. |
| 12/13/16 | Jury trial. |

Fort Myer Construction Corporation v. Commission

Case No. 399804-V (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: Case stayed.

Docket:

| | |
|----------|--|
| 01/23/15 | Complaint filed |
| 04/27/15 | Motion for Appropriate Relief (Motion to Stay) filed by Commission |
| 05/19/15 | Plaintiff's Response to Commission's Motion for Appropriate Relief |
| 10/27/15 | Court grants Commission's Motion to Stay pending decisions from Court of Special Appeals |
| 10/27/15 | Commission's Motion for Stay granted. |

Starks v. Kellogg, et al
Case No. 407554-V (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: Case settled.

Docket:

| | |
|----------|---|
| 08/04/15 | Complaint filed. |
| 11/06/15 | Scheduling Hearing |
| 05/19/16 | Pre-trial/Settlement conference |
| 09/26/16 | Case settled and to be dismissed within 30 days |

Trevan, et al v. Cannizzo, et al
Case No. 415094-V (LD)

Lead Counsel: Chagrin
Other Counsel:

Abstract: Claim related to transferable development rights associated with private party transaction relating to a parcel of land in Montgomery County.

Status: Pending Trial.

Docket:

| | |
|----------|---|
| 02/19/16 | Complaint filed. |
| 03/10/16 | Commission served with complaint |
| 04/07/16 | Motion to Dismiss filed by Commission |
| 04/20/16 | Amended Complaint filed; Motion in Opposition to Commission's Motion to Dismiss filed by Plaintiff |
| 04/26/16 | Answer to Amended Complaint and Response to Commission's Motion to Dismiss filed by Montgomery County |
| 05/04/16 | Court denies Commission's Motion to Dismiss |
| 06/07/16 | Answer to Amended Complaint filed by Commission |
| 06/20/16 | Second Amended Complaint filed by Plaintiff |
| 12/01/16 | Pre-trial/Settlement Conference |

MARYLAND COURT OF SPECIAL APPEALS

Cohn v. Commisison

September Term 2016, No. 1577 (M)
(Originally filed under 409148-V in Montgomery County)

Lead Counsel: Harvin
Other Counsel: Dickerson

Abstract: Plaintiff appealed Circuit Court ruling attempting to restrain Commission from implementing Archery Managed Deer Hunting Program in Montgomery County.

Status: Appeal filed.

Docket:

| | |
|----------|------------------------|
| 09/30/16 | Notice of Appeal filed |
|----------|------------------------|

Commission v. Hill

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

Lead Counsel: Dickerson
Other Counsel: Adams

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

Status: Appeal filed.

Docket:

| | |
|----------|------------------------|
| 09/11/15 | Notice of Appeal filed |
| 11/09/16 | Oral Argument |

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: Court of Special Appeals affirms in part and reverses in part decision of Circuit

Docket:

Court.

| | |
|----------|---|
| 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 |
| 03/02/16 | Oral Argument held |
| 04/01/16 | Court of Special Appeals dismisses appeal of URS Corporation affirming judgment in favor of Commission against Defendant URS Corporation in the amount of \$352,355.68 and establishment of its duty to defend the Commission. The Court reversed the Circuit Court's award of sanctions against Ft. Myers Construction Co. |
| 04/28/16 | Court issues Amended Opinion instead dismissing appeal of URS Corporation as premature. |
| 05/26/16 | Petition for Writ of Certiorari filed by URS Corporation |
| 06/07/16 | Petition for Writ of Certiorari filed by Commission |
| 08/19/16 | Court of Appeals grants Petition for Certiorari of Commission and URS |

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

Case No. 02177, September Term 2015 (AALU)
(Originally filed under CAL14-32333)

Lead Counsel:
Other Counsel:

Mills
Borden

Abstract:

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

Status:
Docket:

Appeal Filed.

| | |
|----------|-------------------------------------|
| 12/07/15 | Notice of Appeal |
| 05/27/16 | Commission Brief due |
| 12/2016 | Oral Argument-date to be determined |

The Town of Forest Heights v. Commission

Case #02711, September Term 2015 (M)
(Originally filed under CAL 15-04255)

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. Appellant files appeal after Circuit Court declares 6th and 7th annexation null and void.

Status: Appeal Filed.

Docket:

| | |
|----------|-------------------------------------|
| 02/22/16 | Notice of Appeal |
| 08/08/16 | Brief filed by Appellant |
| 10/21/16 | Commission brief is due |
| 02/2017 | Oral Argument-date to be determined |

MARYLAND COURT OF APPEALS

URS Corporation, et al v. Fort Myer Construction Corporation
September Term, 2016, No. 31 (CD)

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

Abstract: Commission seeks review of reversal of award of sanctions against Fort Myers and other related procedural issues.

Status: Writ of Certiorari filed.
Docket:

| | |
|----------|--|
| 06/07/16 | Petition for Writ of Certiorari filed by Commission. |
| 08/19/16 | Court grants Certiorari petitions of Commission and URS. |

U.S. DISTRICT COURT OF MARYLAND

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: Stayed for settlement negotiations.

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 |
| 10/26/15 | Settlement negotiations in progress |

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

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

Status: In discovery.

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 filed |
| 12/29/15 | Court denies Commission Motion for Reconsideration of Denial of Motion to Dismiss |
| 01/07/16 | Chambers Conference Call |
| 02/19/16 | E-Discovery Conference |
| 04/01/16 | E-Discovery Conference |
| 05/27/16 | County's Motion for Protective Order filed |
| 05/27/16 | Commission's Motion for Protective Order filed |
| 06/16/16 | Protective Order Motions denied without prejudice |
| 05/14/17 | Dispositive pretrial motions |
| 09/17/16 | Joint Defense Agreement executed between Commission and Montgomery County, Maryland |
| 09/29/16 & 10/3/16 | Outside counsel enters appearance |

Sutton v. Commission

Case No. 1:15-cv-01996-CCB(Tort)

Lead Counsel: Harvin
Other Counsel: Dickerson

Abstract: Defense of employment-related claim alleging discrimination.

Status: In discovery.

Docket:

| | |
|----------|--|
| 07/23/15 | Complaint filed. |
| 11/20/15 | Answer to Complaint filed by Commission. |
| 12/18/15 | Court grants dismissal of case against State of Maryland |
| 08/26/16 | Commission files Motion to Compel Discovery |
| 10/31/16 | Motions deadline |

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT

American Humanist Association, et al v. Commission

No. 15-2597 Case #8:14-cv550-DKC (M)

Lead Counsel: Dickerson
Other Counsel: Gardner
Adams

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

Status: Argument pending.

Docket:

| | |
|----------|---|
| 12/30/15 | Notice of Appeal filed |
| 02/29/16 | Appellant's brief filed |
| 04/04/16 | Response brief by Appellees filed |
| 03/07/16 | Brief Amici Curiae filed by Freedom from Religion Foundation and Center for Inquiry in Support of Appellants |
| 04/11/16 | Brief Amici Curiae of The Becket Fund for Religious Liberty in Support of Appellees |
| 04/11/16 | Brief Amici Curiae Senator Joe Machin and Representatives Doug Collins, Vicky Hartzler, Jody Hice, Evan Jenkins, Jim Jordan, Mark Meadows and Alex Mooney in Support of Appellees |
| 04/11/16 | Brief Amici Curiae State of West Virginia and 24 Other States supporting Appellees |
| 04/18/16 | Appellant's Reply brief filed |
| 12/07/16 | Oral Argument |

Q:\LEGAL\DOC\DOC\WP60\2016 Litigation\September 2016 Final Report.docx