



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

February 21, 2017

9:30 a.m. – 11:30 a.m.

Prince George's County Department of Parks and Recreation

Auditorium

6600 Kenilworth Avenue

Riverdale, Maryland 20737

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

Wednesday, February 21, 2018

Prince George's County Parks and Recreation Auditorium (Riverdale)

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 – January 17, 2018	(+*) Page 3	_____	_____
	b) Closed Session – January 17, 2018	(+*)	_____	_____
3.	General Announcements (9:30)			
	a) One-Commission Women's History Month Event March 30, 2018 12:00 p.m. – 3:00 p.m. (Laurel-Beltsville Senior Center) Hosted by the M-NCPPC Diversity Council			
4.	Committee Minutes/Board Reports (For Information Only): (9:40)			
	a) Executive Committee Meeting – Open Session – February 12, 2018	(LD)		
	b) Employees' Retirement System Board of Trustees Meeting Minutes December 5, 2017	(+) Page 7		
	c) MFD Purchasing Statistics – Fourth Quarter FY17	(+) Page 11		
5.	Action and Presentation Items (9:45)			
	a) Resolution#18-04 Adoption of the Greater Cheverly Sector Plan (White)	(+*) Page 25	_____	_____
	b) Resolution #18-05 Change in Aquatic Pay Schedule (Spencer/King/Greg Butler, PFM)	(+*) Page 29	_____	_____
	c) New Sick Leave Law Briefing (Bennett/Beckham)	(+) Page 43		
6.	Officers' Reports			
	a) Executive Director's Report (For Information Only) Employee Evaluations Not Completed by Due Date (January 2018)	(+) Page 45		
	b) Secretary Treasurer (For Information Only) Investment Report (December 2017)	(+) Page 47		
	c) General Counsel			
	1) Litigation Report (For Information Only)	(+) Page 53		
	2) Legislative Update			

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



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

Commission Meeting
 Open Session Minutes
 January 17, 2018

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

PRESENT

Prince George's County Commissioners

Elizabeth M. Hewlett, Vice-Chair
 Dorothy Bailey (exited at 11:23 a.m.)
 Manuel Geraldo
 William Doerner
 A. Shuanise Washington

Montgomery County Commissioners

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

NOT PRESENT

Norman Dreyfuss

Chair Hewlett convened the meeting at 10:04 a.m.

ITEM 1

APPROVAL OF COMMISSION AGENDA

ACTION: Motion of Geraldo to approve the Commission agenda
 Seconded by Washington
 9 approved the motion

ITEM 2

ROTATION OF COMMISSION CHAIR

Motion of Geraldo to approve Montgomery County Planning Board Chair
 Casey Anderson as 2018 Commission Chair
 Seconded by Fani-Gonzalez
 9 approved the motion

ROTATION OF COMMISSION VICE-CHAIR

Motion of Geraldo to approve Prince George's County Planning Board Chair
 Elizabeth Hewlett as 2018 Commission Vice-Chair
 Seconded by Bailey
 9 approved the motion

ITEM 3

APPROVAL OF COMMISSION MINUTES

Open Session – December 20, 2017
 ACTION: Motion of Geraldo to approve the Commission Minutes
 Seconded by Washington
 9 approved the motion

ITEM 4

GENERAL ANNOUNCEMENTS

Chair Anderson announced that the Prince George's Department of Parks and Recreation will host the Black History Month Opening Reception on Sunday, January 28, 2018, 2:00 p.m. – 4:00 p.m. Harmony Hall Regional Center in Fort Washington, Maryland. Chair Anderson also announced

that the M-NCPPC Women's History Month Event will be hosted by the Diversity Council on Friday, March 30, 2018, 1:00 p.m. – 3:00 p.m. at the Laurel-Beltsville Senior Center.

Chair Anderson congratulated Carol Rubin of the General Counsel's Office on her new position of Acting Deputy Director of the Montgomery County Planning Department.

ITEM 5 COMMITTEE MINUTES/BOARD REPORTS (For Information Only)

- a) Executive Committee – Closed Session – January 8, 2018
- b) Regular Board of Trustees Meeting Minutes – December 5, 2017

ITEM 6 ACTION AND PRESENTATION ITEMS

- a) Resolution #17-37 Adoption of East Riverdale-Beacon Heights Sector Plan
ACTION: Motion of Washington to approve Resolution #17-37
Seconded by Cichy
9 approved the motion
- b) Resolution #18-01 Adoption of the White Flint 2 Sector Plan
ACTION: Motion of Fani-Gonzalez to approve Resolution #18-01
Seconded by Geraldo
9 approved the motion
- c) Resolution #18-02 Adoption of the Grovesnor-Strathmore Area Minor Master Plan
ACTION: Motion of Geraldo to approve Resolution #18-02
Seconded by Washington
9 approved the motion
- d) Diversity Council 2017 End of Year Report (Barney/Gordon/Feeley)
Executive Director Patricia Barney who serves as an advisory member to the Diversity Council introduced the 2017 Diversity Council Chair Greg Gordon and Vice-Chair Bob Feeley. She explained the commitment it takes to serve on the Diversity Council and thanked Commission leadership for their support of the Council. Mr. Gordon thanked the Diversity Council for their hard work before presenting the Diversity Council's 2017 End of Year Report. Highlights from the report consisted of the Women's History Month Event during which former Montgomery County Planning Board Member Marye Wells-Harley was honored. Commissioner Wells-Harley was instrumental in the Commission's celebration of Women's History Month, along with former Commissioners' Amy Presley and Sarah Cavitt. It was also reported that the Diversity Council conducted a Commission-wide Diversity and Inclusion Survey which concluded on April 21, 2017. The survey obtained candid feedback from employees to identify any specific diversity challenges and improve the effectiveness of diversity strategy and programs. On August 23, 2017, over 600 employees attended the Diversity Council's "CONNECT" event at the University of Maryland Clarice Smith Performing Arts Center. Mr. Gordon informed that in 2018, the Council will focus on diversity trainings throughout the Commission under the leadership of the new Chair Bob Feeley. Executive Director Barney acknowledged the exiting Diversity Council members whose term expired in December 2017 and introduced the 2018 Diversity Council. Commissioners thanked the members of the Diversity Council for their dedication.
- e) FY2018 2% Savings Request from Montgomery County Government (Kroll)
Corporate Budget Manager John Kroll reported that the shortfall in income tax revenue in Montgomery County, resulted in Montgomery County Executive Ike Leggett's request for 2% savings from the Commission's Montgomery County Departments' FY18 operating expenditures. This requested savings also affects bi-county departments of Central Administrative Services (CAS), which are funded by both counties. With the exception of the Office of the General Counsel (which was able to identify a Montgomery-only reduction), all other CAS departments reductions result in reductions on the Prince George's side.

The reductions proposed were chosen based on the least service impact as possible. Specific reductions were requested by the Planning, Housing and Economic Development (PHED) Committee of the Montgomery County Council, for review on January 17, 2018. In addition to the operating reductions, the affected departments were also asked to absorb a significant reduction in current pay-go funding in the Capital Improvement Program (CIP).

f) Administrative Practice 5-70A – Financial Disclosure (Bennett/Beckham)

ACTION: Motion of Washington to approve the proposed policy amendments to Administrative Practice 5-70A, Financial Disclosure
Seconded by Geraldo
9 approved the motion

Corporate Policy and Management Operations Chief Anju Bennett introduced Corporate Policy Manager Michael Beckham, and provided background on proposed policy amendments to the agency's policy which communicates requirements on the filing of annual financial disclosures by Commissioners and employees. Ms. Bennett explained that the policy is being amended to strengthen accountability and reporting by designated positions who carry out responsibilities that may trigger filing of Disclosures. Requirements pertaining to Commissioners were being clarified to better communicate existing requirements of State law. Mr. Beckham reviewed the key proposals which were provided in the Commission packet. Mr. Beckham explained amendments affecting employees to include: updated listing of positions which must regularly file disclosures, and the addition of requirements that employees file disclosures at time of hire, termination or when serving in an acting capacity for designated positions.

Commissioner Washington commented that clarification should be made with regard to policy draft Section II (A) (3) on page 99, Attachment A "**Other M-NCPPC Positions Which May Be Designated by the Department Heads**". This section states that "Department Heads will designate any position which *significantly* influences M-NCPPC actions, through decisions or recommendations pertaining to specific matters. Commissioner Washington shared concerns that this language may result in inconsistent application of the standard, especially with the discretionary ability of "may designate". Chief Bennett replied that the Corporate Policy Office will provide additional clarity on this matter to provide examples, and reframe provision to ensure that standard was applied more affirmatively. Commissioner Washington also requested that research be done to determine whether vendors having large procurements with the Commission be subject to file a financial disclosure. General Counsel Gardner commented that he would research the likelihood of whether vendors would need to file.

Chief Bennett requested adoption of the proposed amendments, with the understanding that the policy team will address the concerns communicated on Section II (A) (3). The adoption will allow the agency to implement the updated policy before the April 2018 filing deadline. The Commission supported moving forward with the amended policy for review by the Commission.

g) ERP Upgrade Project Briefing (Chilet/Dixon)

Chief Information Officer Mazen Chilet reported that the Commission's current version of the Enterprise Resource Planning (ERP) system will no longer be supported by the product's vendor. Therefore, the system will undergo an upgrade from the Lawson version 9 to the Infor version 10. Senior Project Manager Reginald Dixon presented a project briefing on the ERP

upgrade to include the project scope, project status, scheduled activities, high level risks, executive sponsor responsibilities and next steps. Mr. Dixon stressed the importance of project support from leadership as critical to the success of the project. The Chairs thanked Mr. Chilet and Mr. Dixon for their diligence on this project.

ITEM 7 OFFICERS' REPORTS

- a) Executive Director's Report (For information only)
Employee Evaluations Not Completed by Due Date (December 2017)

- b) General Counsel (For information only)
 - 1) Litigation Report (December 2017)
 - 2) Legislative Update

There being no further business to discuss in open session, Vice-Chair Hewlett requested a motion to move to closed session at 11:25 a.m., Chair Anderson approved the motion pursuant to Section 3-305(b)(7) and (b)(9) of the General Provisions Article of the Annotated Code of Maryland, for consultation with counsel and to conduct collective bargaining negotiations or consider matters that relate to the negotiations.

At 11:40 a.m., the Commission moved to open session and the meeting adjourned.



Deirdra S. Walker, Administrative Specialist



Patricia Colihan Barney, Executive Director



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

REGULAR BOARD OF TRUSTEES MEETING

MINUTES

Tuesday, December 5, 2017; 9:00 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, December 5, 2017 at 9:00 a.m. Voting members present were: Khalid Afzal, Howard Brown, Gerald R. Cichy, Pamela F. Gogol, Dr. Alicia Hart, Elizabeth M. Hewlett, Amy Millar, Sheila Morgan-Johnson, Barbara Walsh and Joe Zimmerman, CPA. Patricia Barney, CPA was present via conference call.

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

Presentations by Wilshire Associates, Bradley A. Baker, Vice President and Ashley Bazzani, Associate.

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 December 5, 2017 Board of Trustees Meeting Agenda
- B. Minutes of Regular Meeting, November 7, 2017
- C. Minutes of Closed Session, November 7, 2017
- D. Disbursements Granted Report – October 2017
- E. Transfer of \$19,000,000 to Cover Administrative Expenses and Benefit Payments for January - April 2018
- F. 2018 Board Work Program and Meeting Dates

MS. GOGOL made a motion, seconded by MS. WALSH to approve the Consent Agenda, as submitted. The motion PASSED unanimously (11-0). (Motion #17-58)

The Board subsequently agreed the tentative January 2, 2018 meeting could be cancelled.

2. CHAIRMAN'S ITEMS

- A. Board of Trustees Conference Summary

3. MISCELLANEOUS

No miscellaneous reported.

4. REPORT OF THE ADMINISTRATOR

Presentation by Administrator, Andrea L. Rose

- A. Administrator's Report dated November 22, 2017

Andrea Rose presented the Administrator's Report dated November 22, 2017.

Annual Statements with up-to-date salary and normal retirement projection amounts will be mailed to all members in early 2018.

Staff are in the process of developing and testing the ERS' new website as part of the Commission-wide redesign and move to a new platform. Staff anticipate the new site will go live by the end of December 2017.

- B. Memorandum dated November 20, 2017 re: Resolution for the Contingency of the Extended or Emergency Absence of the Administrator
 - i. Recommendation to Approve a Resolution for the Contingency of the Extended or Emergency Absence of the Administrator

A revised Resolution for the Contingency of the Extended or Emergency Absence of the Administrator was presented to the Board which provides an expanded definition of an emergency and requires the Secretary-Treasurer to report all actions taken directly to the Chairman of the Board of Trustees.

VICE CHAIRMAN CICHY made a motion, seconded by MS. MILLAR to approve the Resolution for the Contingency of the Extended or Emergency Absence of the Administrator, as revised. The motion PASSED unanimously (11-0). (Motion #17-59)

5. COMMITTEE REPORTS/RECOMMENDATIONS

- A. Administration & Personnel Oversight Committee
 - Presentation by Committee Chairman, Barbara Walsh
 - i. Regular Report of November 21, 2017
 - a. Recommendation to Approve a \$2,000,000 Cyber Risk Insurance Policy

MS. WALSH presented the regular report for the Administration & Personnel Oversight Committee (Personnel) meeting of November 21, 2017.

The Personnel Committee recommended an increase to \$2,000,000 for the Cyber Risk Insurance Policy. Staff confirmed there are funds in the FY2018 Operating Budget to cover the annual premium. The Personnel Committee agreed with the increase and recommended Board approval.

MS. BARNEY made a motion, seconded by VICE CHAIRMAN CICHY to approve an increase to \$2,000,000 for the Cyber Risk Insurance Policy. The motion PASSED unanimously (11-0). (Motion #17-60)

- B. Investment Monitoring Group Committee
 - Presentation by Committee Chairman, Sheila Morgan-Johnson
 - i. Regular Report of November 21, 2017
 - a. Recommendation to Approve Revised Investment Guidelines for C.S. McKee and Eaton Vance

MS. MORGAN-JOHNSON presented the regular report for the Investment Monitoring Group (IMG) meeting of November 21, 2017.

The IMG recommended approval of the revised Investment Manager Guidelines for C.S. McKee that include removing derivatives as an allowable holding and changing the term of corrective action from 60 days to 6 months; specifying "6 months from the date of downgrade"; including Fitch ratings; and, specifying notification for new security types not included in the Index.

MS. GOGOL made a motion, seconded by DR. HART to approve the revised Investment Manager Guidelines for C.S. McKee. The motion PASSED unanimously (11-0). (Motion #17-61)

The IMG recommended approval of the revised Investment Manager Guidelines for Eaton Vance that include a 5-10% allocation to BB securities; Fitch ratings; notification for new security types not included in the Index; and, simplifying the paragraph related to the investment grade quality of the portfolio.

MS. GOGOL made a motion, seconded by MS. WALSH to approve the revised Investment Manager Guidelines for Eaton Vance. The motion PASSED unanimously (11-0). (Motion #17-62)

6. REPORTS/PRESENTATIONS

A. Wilshire Associates

Presentation by Bradley A. Baker, Vice President and Ashley Bazzani, Associate

- i. Executive Summary of Investment Performance; September 30, 2017
- ii. Manager Comparison-3 Year & 5 Year Rolling Returns; September 30, 2017
- iii. Summary of Investment Performance; September 30, 2017

Bradley Baker reported on the fund's performance for the quarter ending September 30, 2017. The ERS' total fund return was 3.25% (net of fees) for the quarter, underperforming the actual policy index return of 3.38%. The ERS fund return was 13.39% for the one-year ended, 6.60% for the three-years ended, and 7.81% for the five-years ended September 30, 2017 versus the actual policy index which returned 11.10%, 5.31% and 6.64%, respectively. The total market value through September 30, 2017 was \$913.3 million.

The largest contributor to relative performance was international equity, adding 16 bps of outperformance and the largest detractors were private equity and private real assets, detracting 20 bps and 7 bps, respectively.

MS. MORGAN-JOHNSON questioned the benchmark for the private equity composite which shows the MSCI ACWI. Mr. Baker agreed the benchmark should be the MSCI ACWI + 300 bps. Wilshire will add going forward.

Mr. Baker recommended bringing Neuberger Berman in for a performance review with the Investment Monitoring Group due to performance. Neuberger Berman has not added the value expected for active management.

7. CLOSED SESSION

The Board convened in Closed Session, pursuant to the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) and 3-305(b)(1)(ii) for investment of public funds and to discuss personnel matters.

MS. GOGOL made a motion, seconded by MS. MILLAR 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)(1)(ii) for investment of public funds and to discuss personnel matters. The motion PASSED unanimously (11-0). (Motion #17-63)

MR. BROWN left the meeting during Closed Session at 11:50 a.m.

MS. WALSH made a motion, seconded by MS. GOGOL to ratify the actions taken in Closed Session. The motion PASSED unanimously (10-0). (Motion #17-67)

The Board of Trustees meeting of December 5, 2017 adjourned at 1:05 p.m.

Respectfully,



Heather D. Brown
Senior Administrative Specialist



Andrea L. Rose
Administrator



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

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

January 29, 2018

TO: Commissioners

VIA: Patricia C. Barney, Executive Director

FROM: Joseph C. Zimmerman, Secretary/Treasurer

SUBJECT: MFD Purchasing Statistics— Fourth Quarter FY17

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

Some of the observations of this FY17 report include:

- Attachment A indicates that through the Fourth quarter of FY17, the Commission procured approximately \$106 million in goods, professional services, construction and miscellaneous services. Approximately 24.3% or \$25.9 million was spent with minority, female and disabled (MFD) owned firms.
- Attachment B indicates that in the Fourth quarter MFD utilization was 27.3%.
- Attachment C represents the MFD participation by type of procurement. The MFD participation for construction through the Fourth quarter of FY17 was 42.1%. Attachment C also indicates that the largest consumers of goods and services in the Commission are the Prince George's County Department of Parks and Recreation and the Montgomery County Department of Parks. These Departments significantly impact the Commission's utilization of MFD firms. The MFD cumulative utilization numbers for these departments through the Fourth quarter are 28.7% and 18.2%, respectively.
- Attachment D presents the FY17 activity for the Purchase Card program totaling approximately \$14 million of which 1.9% was spent with minority, female and disabled (MFD) firms. The amount of procurement card activity represents approximately 13.2% of the Commission's total procurement dollars. One reason for lower MFD participation on the purchase card is that the cards are used with national retail corporations when a

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

- Attachment E portrays the historic MFD participation rates, and the total procurement from FY 1991 to Fourth quarter FY17.
- Attachments F & G shows the MFD participation in procurements at various bid levels to determine if MFD vendors are successful in obtaining opportunities in procurements that require informal bidding and formal bidding. Based on the department analysis, MFD vendors do appear to be participating, at an overall rate of 16% in informal (under \$30,000) and 19.1% in the formal (over \$30,000) procurements. For transactions under \$10k, MFD participation is 13%. MFD vendors are participating at an overall rate of 28.7% in transactions over \$250,000.
- Attachment H presents the total amount of procurements and the number of vendors by location. Of the \$106 million in total procurement, \$64 million was procured from Maryland vendors. Of the \$25.9 million in procurement from MFD vendors, \$21.3 million was procured from MFD vendors located in Maryland.
- Attachment I compares the utilization of MFD vendors by the Commission with the availability of MFD vendors. The results show under-utilization in the following categories: African American, Asian, Native American and Females. The amount and percentage of procurement from MFD vendors is broken out by categories as defined by the Commission's Anti-Discrimination Policy. The availability percentages are taken from the most recent State of Maryland disparity study dated July 5, 2013.
- Attachments J and K are prepared by the Department of Human Resources and Management and show the amount and number of waivers of the procurement policy by department and by reason for waiver. Total waivers were approximately 3.5% of total procurement.

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

Attachments

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT STATISTICS
FY 2017
FOR TWELVE MONTHS ENDED JUNE 30, 2017

Attachment A

	<u>Procurement</u>		<u>Waivers</u>		<u>Procurement</u>	
	<u>Total \$</u>		<u>Total \$</u>	<u>Total #</u>	<u>MFD \$</u>	<u>%</u>
<u>Prince George's County</u>						
Commissioners' Office	\$ 101,250	\$	-	-	\$ 6,545	6.5%
Planning Department	3,491,860		908,363	1	733,537	21.0%
Parks and Recreation Department	62,277,396		1,841,604	18	17,864,884	28.7%
Total	<u>65,870,506</u>		<u>2,749,967</u>	<u>19</u>	<u>18,604,966</u>	<u>28.2%</u>
<u>Montgomery County</u>						
Commissioners' Office	24,477		-	-	947	3.9%
Planning Department	3,678,537		232,398	5	917,750	24.9%
Parks Department	32,190,699		288,194	10	5,851,175	18.2%
Total	<u>35,893,713</u>		<u>520,592</u>	<u>15</u>	<u>6,769,872</u>	<u>18.9%</u>
<u>Central Administrative Services</u>						
Dept. of Human Resources and Mgt.	1,171,642		-	-	115,494	9.9%
Finance Department	2,492,064		173,480	2	170,240	6.8%
Legal Department	472,916		25,375	1	26,225	5.5%
Merit Board	-		-	-	-	0.0%
Office of Chief Information Officer	412,258		250,740	3	206,758	50.2%
Office of Internal Auditor	29,565		-	-	177	0.6%
Total	<u>4,578,445</u>		<u>449,595</u>	<u>6</u>	<u>518,894</u>	<u>11.3%</u>
Grand Total	<u>\$ 106,342,664</u>	<u>\$</u>	<u>3,720,154</u>	<u>40</u>	<u>\$ 25,893,732</u>	<u>24.3%</u>

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

Prepared by Finance Department
October 24, 2017

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS

FY 2017

MFD STATISTICS - CUMULATIVE AND ACTIVITY BY QUARTER

Attachment B

CUMULATIVE BY QUARTER

	SEPTEMBER	DECEMBER	MARCH	JUNE
<u>Prince George's County</u>				
Commissioners' Office	15.9%	8.2%	3.7%	6.5%
Planning Department	62.3%	44.5%	28.1%	21.0%
Parks and Recreation Department	28.3%	23.2%	25.9%	28.7%
Total	29.5%	23.9%	25.9%	28.2%
<u>Montgomery County</u>				
Commissioners' Office	0.0%	5.6%	6.0%	3.9%
Planning Department	0.5%	12.8%	24.9%	24.9%
Parks Department	10.0%	16.4%	16.5%	18.2%
Total	9.5%	16.3%	17.0%	18.9%
<u>Central Administrative Services</u>				
Dept. of Human Resources and Mgt.	16.4%	26.7%	20.1%	9.9%
Finance Department	34.0%	3.3%	4.2%	6.8%
Legal Department	0.0%	0.5%	2.4%	5.5%
Merit Board	0.0%	0.0%	0.0%	0.0%
Office of Chief Information Officer	0.0%	29.9%	64.7%	50.2%
Office of Internal Auditor	2.1%	1.5%	1.4%	0.6%
Total	14.7%	9.5%	15.2%	11.3%
Grand Total	22.1%	20.5%	22.2%	24.3%

ACTIVITY BY QUARTER

	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER	TOTAL
<u>Prince George's County</u>					
Commissioners' Office	15.9%	0.0%	0.0%	10.7%	6.5%
Planning Department	62.3%	8.8%	6.0%	16.7%	21.0%
Parks and Recreation Department	28.3%	15.0%	30.7%	32.4%	28.7%
Total	29.5%	14.8%	29.6%	31.2%	28.2%
<u>Montgomery County</u>					
Commissioners' Office	0.0%	13.9%	8.6%	0.0%	3.9%
Planning Department	0.5%	25.9%	39.2%	25.0%	24.9%
Parks Department	10.0%	26.0%	16.6%	21.5%	18.2%
Total	9.5%	26.0%	18.1%	22.1%	18.9%
<u>Central Administrative Services</u>					
Dept. of Human Resources and Mgt.	16.4%	45.3%	6.0%	3.7%	9.9%
Finance Department	34.0%	1.1%	7.6%	10.0%	6.8%
Legal Department	0.0%	0.6%	5.8%	8.6%	5.5%
Merit Board	0.0%	0.0%	0.0%	0.0%	0.0%
Office of Chief Information Officer	0.0%	68.1%	94.2%	0.0%	50.2%
Office of Internal Auditor	2.1%	0.0%	0.0%	0.0%	0.6%
Total	14.7%	8.0%	29.6%	7.3%	11.3%
Grand Total	22.1%	18.2%	25.2%	27.3%	24.3%

Prepared by Finance Department
October 24, 2017

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT STATISTICS

BY MAJOR PROCUREMENT CATEGORY

FY 2017

FOR TWELVE MONTHS ENDED JUNE 30, 2017

ATTACHMENT C

	Grand Total	Montgomery Planning	Montgomery Parks	Pr. Geo. Parks & Recreation	Pr. Geo. Planning	Dept. of Human Res. & Mgt.	Legal Department	Finance Department
Goods:								
Total \$	\$ 38,416,121	\$ 1,049,594	\$ 14,171,753	\$ 20,079,663	\$ 847,476	\$ 448,982	\$ 32,392	\$ 1,786,291
MFD \$	\$ 3,137,059	\$ 50,989	\$ 802,641	\$ 1,571,292	\$ 520,028	\$ 59,749	\$ 9,397	\$ 122,963
Percentage	8.2%	4.9%	5.7%	7.8%	61.4%	13.3%	29.0%	6.9%
Miscellaneous Services:								
Total \$	\$ 16,783,986	\$ 1,699,814	\$ 4,170,370	\$ 8,890,057	\$ 1,189,652	\$ 212,780	\$ 257,048	\$ 364,265
MFD \$	\$ 3,183,092	\$ 462,945	\$ 1,037,270	\$ 1,561,387	\$ 66,259	\$ 26,507	\$ 16,828	\$ 11,896
Percentage	19.0%	27.2%	24.9%	17.6%	5.6%	12.5%	6.5%	3.3%
Professional Services:								
Total \$	\$ 10,867,171	\$ 617,936	\$ 3,976,791	\$ 3,879,747	\$ 1,450,280	\$ 427,523	\$ 183,476	\$ 331,418
MFD \$	\$ 2,639,646	\$ 401,916	\$ 1,357,638	\$ 703,605	\$ 147,250	\$ 0	\$ 0	\$ 29,237
Percentage	24.3%	65.0%	34.1%	18.1%	10.2%	0.0%	0.0%	8.8%
Construction:								
Total \$	\$ 39,707,836	\$ 311,193	\$ 9,871,785	\$ 29,427,929	\$ 4,452	\$ 82,387	\$ 0	\$ 10,090
MFD \$	\$ 16,719,508	\$ 1,900	\$ 2,653,626	\$ 14,028,600	\$ 0	\$ 29,238	\$ 0	\$ 6,144
Percentage	42.1%	0.6%	26.9%	47.7%	0.0%	35.5%	0.0%	60.9%
SUBTOTAL								
Total \$	\$ 105,775,114	\$ 3,678,537	\$ 32,190,699	\$ 62,277,396	\$ 3,491,860	\$ 1,171,642	\$ 472,916	\$ 2,492,064
MFD \$	\$ 25,679,305	\$ 917,750	\$ 5,851,175	\$ 17,864,884	\$ 733,537	\$ 115,494	\$ 26,225	\$ 170,240
Percentage	24.3%	24.9%	18.2%	28.7%	21.0%	9.9%	5.5%	6.8%
Pr. Geo. Commissioners' Office								
Total \$	\$ 101,250							
MFD \$	\$ 6,545							
Percentage	6.5%							
Mont. Commissioners' Office								
Total \$	\$ 24,477							
MFD \$	\$ 947							
Percentage	3.9%							
Merit Board								
Total \$	\$ 0							
MFD \$	\$ 0							
Percentage	0.0%							
Office of Chief Information Officer								
Total \$	\$ 412,258							
MFD \$	\$ 206,758							
Percentage	50.2%							
Office of Internal Auditor								
Total \$	\$ 29,565							
MFD \$	\$ 177							
Percentage	0.6%							
GRAND TOTAL \$	\$ 106,342,664							
MFD \$	\$ 25,893,732							
Percentage	24.3%							

Prepared by Finance Department

October 24, 2017

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MFD PROCUREMENT STATISTICS
Comparison of MFD % for Total Procurement and Purchase Card Procurement
FY 2017
FOR TWELVE MONTHS ENDED JUNE 30, 2017

Attachment D

	Total Procurement		Purchase Card Procurement	
	Total \$	MFD %	Total \$	MFD %
<u>Prince George's County</u>				
Commissioners' Office	\$ 101,250	6.5%	\$ 45,783	13.3%
Planning Department	3,491,860	21.0%	156,219	0.0%
Parks and Recreation Department	62,277,396	28.7%	7,600,975	1.6%
Total	65,870,506	28.2%	7,802,977	1.7%
<u>Montgomery County</u>				
Commissioners' Office	24,477	3.9%	10,679	0.0%
Planning Department	3,678,537	24.9%	266,846	0.2%
Parks Department	32,190,699	18.2%	5,738,024	2.2%
Total	35,893,713	18.9%	6,015,549	2.2%
<u>Central Administrative Services</u>				
Dept. of Human Resources and Mgt.	1,171,642	9.9%	54,408	0.0%
Finance Department	2,492,064	6.8%	127,231	2.9%
Legal Department	472,916	5.5%	6,117	0.0%
Merit Board	-	0.0%	-	0.0%
Office of Chief Information Officer	412,258	50.2%	14,131	3.1%
Office of Internal Auditor	29,565	0.6%	7,967	2.2%
Total	4,578,445	11.3%	209,854	2.1%
Grand Total	\$ 106,342,664	24.3%	\$ 14,028,380	1.9%

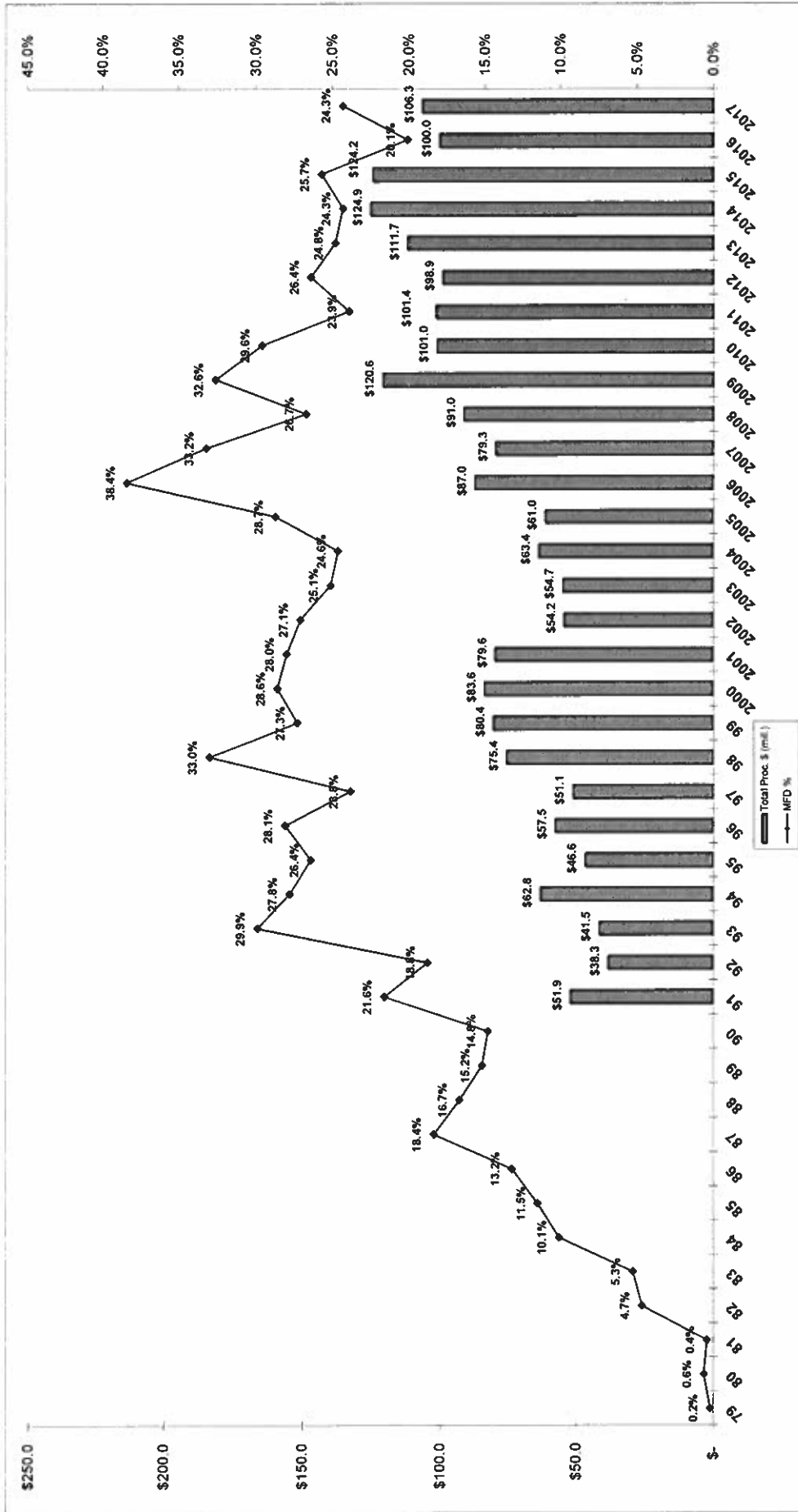
Percentage of Purchase Card Procurement to Total Procurement **13.2%**

Prepared by Finance Department
October 24, 2017

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MFD PROCUREMENT RESULTS and TOTAL PROCUREMENT (millions)

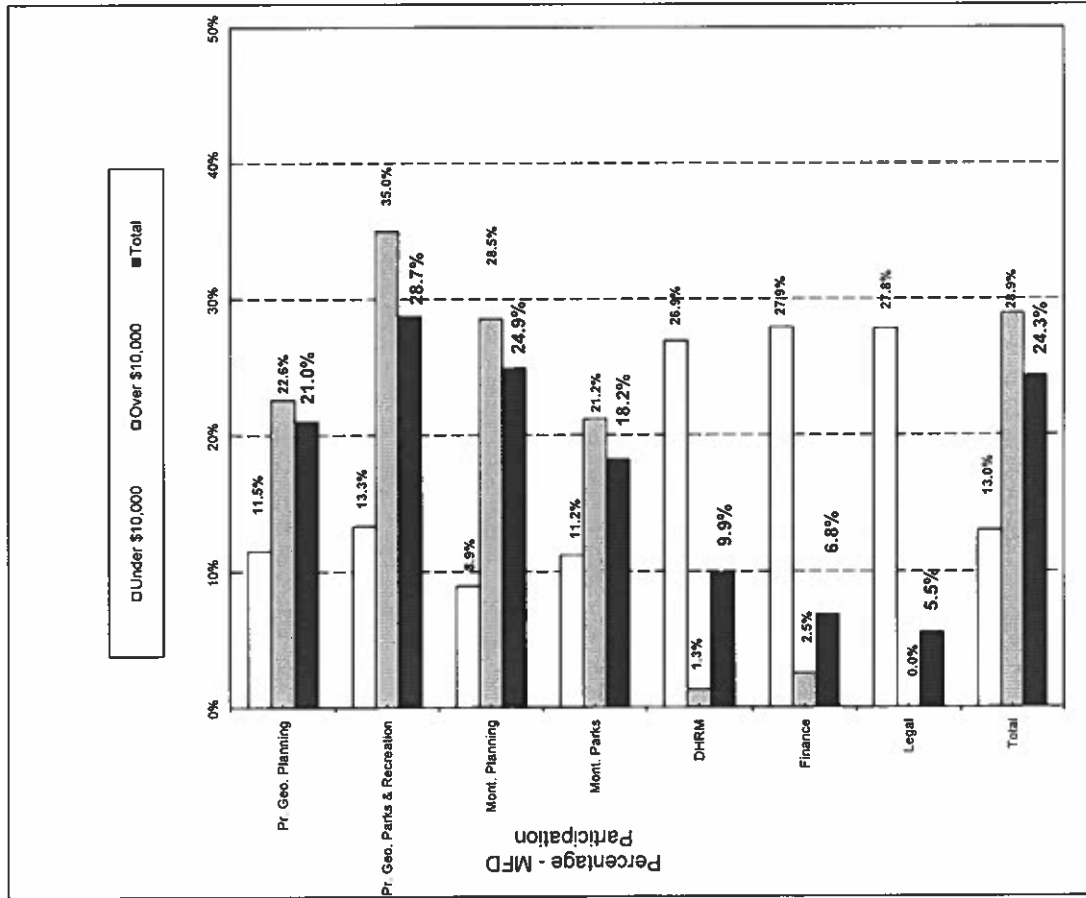
Attachment E



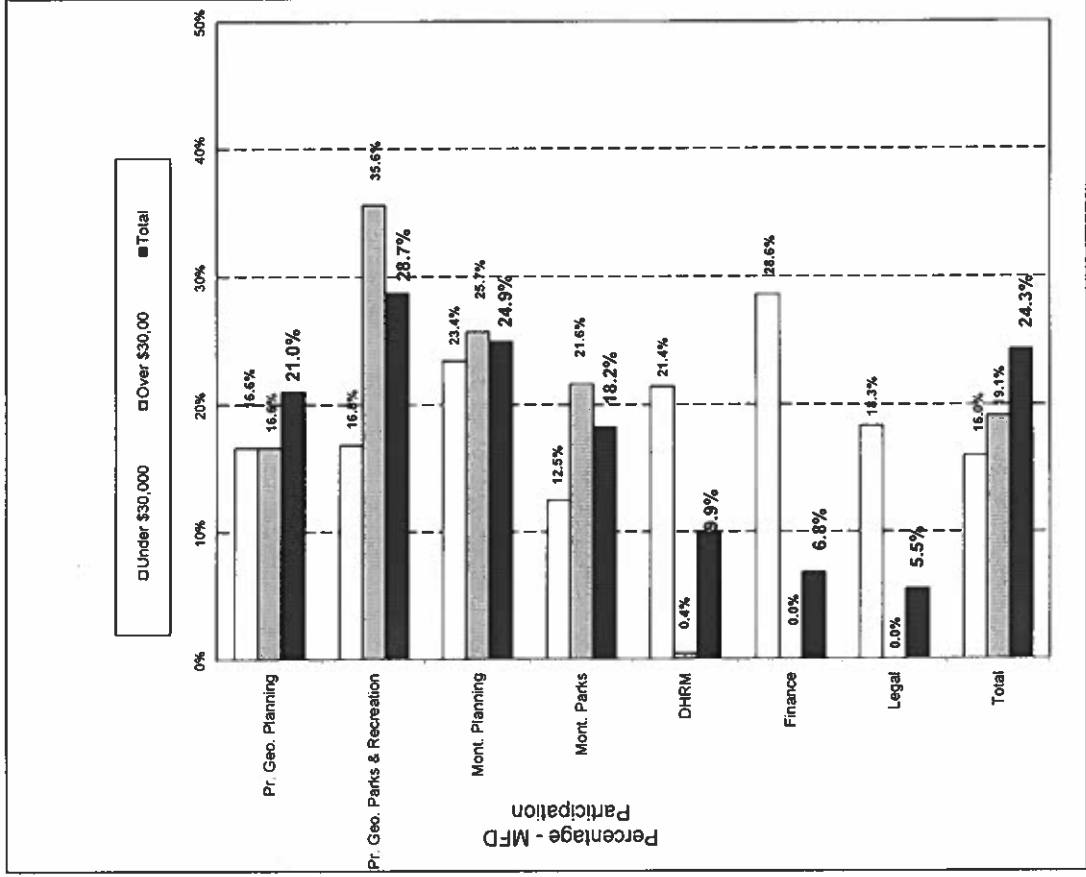
Prepared by Finance Department
October 24, 2017

The Maryland-National Capital Park and Planning Commission
 MFD Procurement Statistics - Transactions Under/Over \$10,000 & \$30,000 plus Total %
 FY 2017 4Q

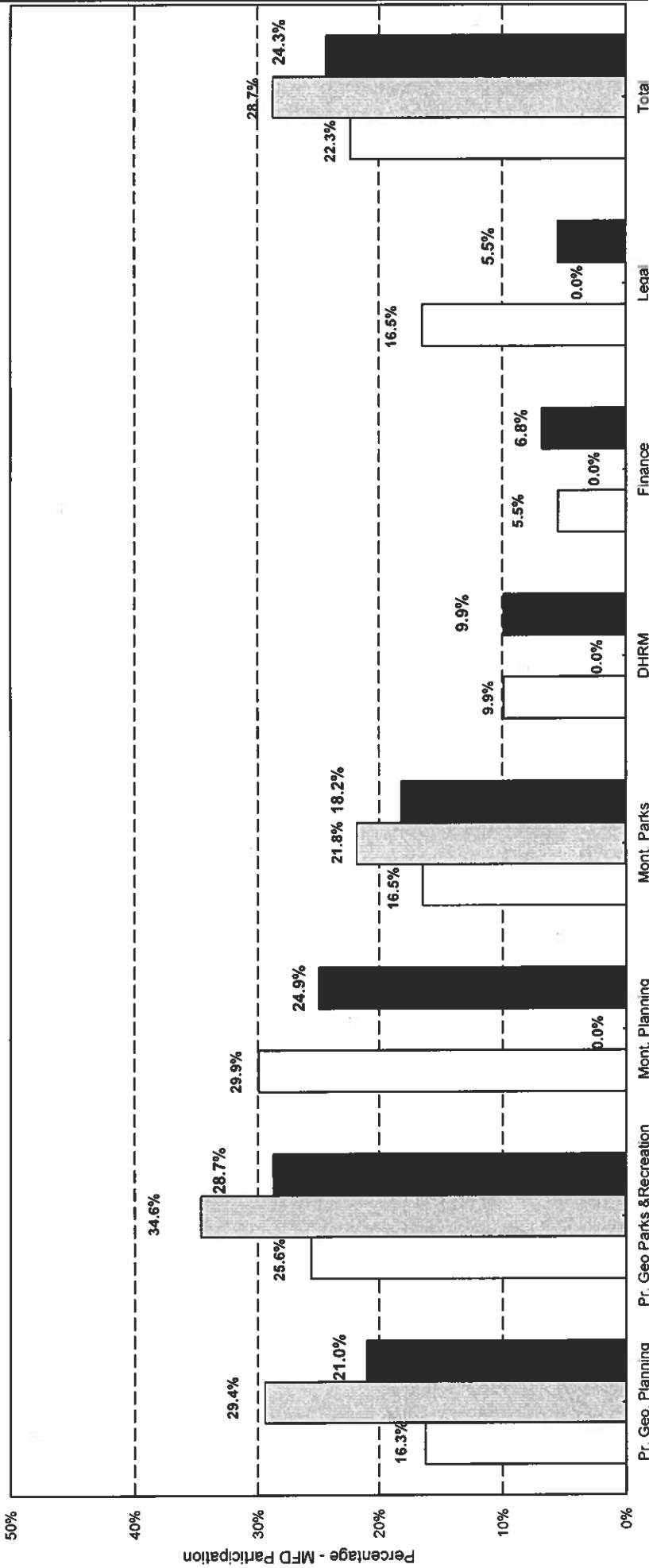
Under/Over \$10,000



Under/Over \$30,000



The Maryland-National Capital Park and Planning Commission
 MFD Procurement Statistics - Transactions Under /Over \$250,000 and Total %
 FY 2017 4Q



Prepared by Finance Department
 October 24, 2017

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Amount of Procurement and Number of Vendors by Location
FY 2017
FOR TWELVE MONTHS ENDED JUNE 30, 2017

Attachment H

TOTAL of ALL VENDORS

<u>Location</u>	<u>Procurement</u>		<u>Number of Vendors</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
Montgomery County	\$ 21,355,369	20.1%	296	15.1%
Prince George's County	16,464,484	15.5%	527	26.9%
Subtotal	37,819,853	35.6%	823	42.0%
Maryland - other locations	26,254,901	24.7%	363	18.5%
Total Maryland	64,074,754	60.3%	1,186	60.5%
District of Columbia	2,152,972	2.0%	97	5.0%
Virginia	8,058,547	7.6%	165	8.4%
Other Locations	32,056,391	30.1%	511	26.1%
Total	<u>\$ 106,342,664</u>	<u>100.0%</u>	<u>1,959</u>	<u>100.0%</u>

TOTAL of Non-MFD Vendors

<u>Location</u>	<u>Procurement</u>		<u>Number of Vendors</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
Montgomery County	\$ 12,313,887	15.3%	207	14.2%
Prince George's County	9,807,009	12.2%	336	23.1%
Subtotal	22,120,896	27.5%	543	37.3%
Maryland - other locations	20,583,940	25.6%	289	19.9%
Total Maryland	42,704,836	53.1%	832	57.2%
District of Columbia	1,771,333	2.2%	58	4.0%
Virginia	6,020,330	7.5%	114	7.8%
Other Locations	29,952,433	37.2%	451	31.0%
Total	<u>\$ 80,448,932</u>	<u>100.0%</u>	<u>1,455</u>	<u>100.0%</u>

TOTAL of MFD Vendors

<u>Location</u>	<u>Procurement</u>		<u>Number of Vendors</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
Montgomery County	\$ 9,041,482	34.9%	89	17.7%
Prince George's County	6,657,475	25.7%	191	37.9%
Subtotal	15,698,957	60.6%	280	55.6%
Maryland - other locations	5,670,961	21.9%	74	14.7%
Total Maryland	21,369,918	82.5%	354	70.3%
District of Columbia	381,639	1.5%	39	7.7%
Virginia	2,038,217	7.9%	51	10.1%
Other Locations	2,103,958	8.1%	60	11.9%
Total	<u>\$ 25,893,732</u>	<u>100.0%</u>	<u>504</u>	<u>100.0%</u>

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

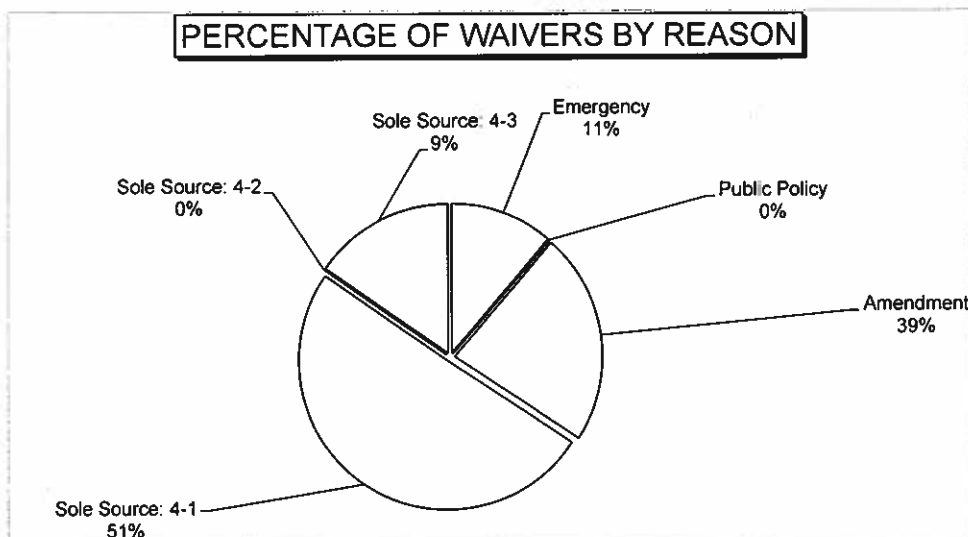
	<u>Total Procurement</u>		<u>MFD Procurement</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>
Prince George's County	\$ 68,159,728	64.1%	\$ 18,864,413	72.9%
Montgomery County	38,182,936	35.9%	7,029,319	27.1%
Total	<u>\$ 106,342,664</u>	<u>100.0%</u>	<u>\$ 25,893,732</u>	<u>100.0%</u>

Prepared by Finance Department
October 24, 2017

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
REASONS FOR WAIVERS
CUMULATIVE DOLLAR AMOUNT & NUMBER OF WAIVERS
FY 2017
FOR TWELVE MONTHS ENDED JUNE 30, 2017**

Attachment J

REASON	NUMBER	AMOUNT	PERCENTAGE
Emergency	5	\$ 418,400	11%
Public Policy	0	\$ -	0%
Amendment	14	\$ 856,071	23%
Sole Source: 4-1	9	\$ 1,874,804	51%
Sole Source: 4-2	0	\$ -	0%
Sole Source: 4-3	12	\$ 570,879	15%
Total	40	\$ 3,720,154	100%



Waiver Reason Definitions:

Emergency:

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

Required by Law or Grant:

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

Amendment:

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

Sole Source 4:

It has been determined that:

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

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
TOTAL WAIVERS, MFD WAIVERS, AND SOLE SOURCE WAIVERS BY DEPARTMENT
PROCESSED FY 2017
FOR THE TWELVE MONTHS ENDED JUNE 30, 2017**

Attachment K

	Total Waivers		MFD/Waivers		% of MFD		Sole Source 4-1 Waivers		Sole Source 4-2 Waivers		Sole Source 4-3 Waivers		% Sole Source	
	\$	Number	\$	Number	%	Number	%	\$	Number	\$	Number	\$	Number	%
Prince George's County														
Commissioners' Office	-	0	\$ -	0	0.0%	-	0	\$ -	0	\$ -	0	\$ -	0	0.0%
Planning Department	908,363	1	-	0	0.0%	908,363	1	-	0	-	0	-	0	0.0%
Parks and Recreation Department	1,841,604	18	-	0	0.0%	697,534	5	-	0	387,633	6	-	6	58.9%
Total	2,749,967	19	-	0	0.0%	1,605,897	6	-	0	387,633	6	-	6	72.5%
Montgomery County														
Commissioners' Office	-	0	-	0	0.0%	-	0	-	0	-	0	-	0	0.0%
Planning Department	232,398	5	18,167	1	0.0%	18,167	1	-	0	-	0	20,000	1	16.4%
Parks Department	288,194	10	60,000	1	0.0%	-	0	-	0	-	0	114,766	4	39.8%
Total	520,592	15	78,167	2	15.0%	18,167	1	-	0	-	0	134,766	5	29.4%
Central Administrative Services														
Dept. of Human Resources and Mgt.	-	0	-	0	0.0%	-	0	-	0	-	0	-	0	0.0%
Office of the Chief Information Officer	250,740	3	140,000	1	0.0%	227,220	2	-	0	-	0	-	0	90.6%
Finance Department	173,480	2	25,000	1	0.0%	-	0	-	0	-	0	48,480	1	27.9%
Legal Department	25,375	1	-	0	0.0%	-	0	-	0	-	0	-	0	0.0%
Merit Board	-	0	-	0	0.0%	-	0	-	0	-	0	-	0	0.0%
Total	449,595	6	165,000	2	36.7%	227,220	2	-	0	-	0	48,480	1	61.3%
Grand Total	\$ 3,720,154	40	\$ 243,167	4	6.5%	\$ 1,851,284	9	\$ -	0	\$ 570,879	12	\$ -	12	65.1%

Purpose of Summary of Waiver Report:

- (1) To monitor the amount, number, reasons for waivers in order to ensure the Commission is encouraging and maintaining good community, public, vendor, and interdepartmental relations;
To ensure fair and equitable treatment of all persons who deal in purchasing matters; to promote economy in Commission purchasing; and to ensure that minority owned firms receive a fair share of Commission awards (source: Practice 4-10); and
 - (2) To comply with the Prince George's Planning Board directive of January 29, 1991 to report waiver activity to the Department Heads and the Planning Boards on a quarterly basis.
- Sole Source: 4**
It has been determined that:
- 4-1: The vendor's knowledge and experience with the Commission's existing equipment and/or systems offer a greater advantage in quality and/or cost to the Commission than the cost savings possible through competitive bidding, or
 - 4-2: The interested services or goods need to remain confidential to protect the Commission's security, court proceedings and/or contractual commitments, or
 - 4-3: The services or goods have no comparable and the above noted vendor is the only distributor for the interested manufacturer or there is otherwise only one source available for the sought after services or goods, e.g. software maintenance, copyrighted materials, or otherwise legally protected goods or services.

Prepared by Department of Human Resources and Management
October 24, 2017



February 1, 2018

MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

VIA: Andree Green Checkley, Planning Director *AGC*
Kipling Reynolds, Division Chief, Community Planning Division *KR*
Frederick Stachura, J.D., Supervisor, Neighborhood Revitalization Section, *FS*
Community Planning Division

FROM: Samuel L. White, Jr., Acting Planner Coordinator, Neighborhood Revitalization Section,
Community Planning Division *DW*

SUBJECT: **The Maryland-National Capital Park and Planning Commission Resolution M-NCPPC No. 18-04 to certify the *Approved Greater Cheverly Sector Plan***

Attached for your review and approval is the draft Full Commission Resolution M-NCPPC No. 18-04 to certify the *Approved Greater Cheverly Sector Plan*. A draft Certificate of Adoption and Approval is also attached for your approval. For your information and review, we have attached a copy of the 2018 *Approved Greater Cheverly Sector Plan*. The approved plan consists of the preliminary sector plan; Prince George's County Planning Board Resolution PGCPB No. 17-83 dated June 22, 2017; and Prince George's County Council Resolution CR-4-2018 dated January 23, 2018.

RECOMMENDATION

Staff recommends that the Full Commission approve the resolution to certify and sign the accompanying Certificate of Adoption and Approval.

Attachments

1. Full Commission Resolution No. 18-04
2. Certificate of Adoption and Approval
3. Prince George's County Council Resolution CR-4-2018
4. Prince George's County Planning Board Resolution PGCPB No. 17-83
5. 2018 *Approved Greater Cheverly Sector Plan*

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission, by virtue of the Land Use Code of the Annotated Code of Maryland, is authorized and empowered, from time to time, to make and adopt, amend, extend and add to a General Plan for Physical Development of the Maryland-Washington Regional District; and

WHEREAS, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission, held a duly advertised joint public hearing with the Prince George's County Council, sitting as the District Council, on March 28, 2017 to consider the Preliminary Greater Cheverly Sector Plan, to amend the 2014 Prince George's 2035 Approved General Plan by defining the boundaries of the Cheverly Metro Local Transit Center and replacing the 2005 Approved Sector Plan for the Tuxedo Road/Arbor Street/Cheverly Metro Area in its entirety and the 1994 Approved Bladensburg, New Carrollton, and Vicinity Master Plan, the 2009 Approved Port Towns Sector Plan, and the 2010 Approved Subregion 4 Master Plan, and the 2014 Landover Metro Area and MD 202 Corridor Approved Sector Plan for the portions of Planning Areas 69 and 72 within sector plan boundaries; and

WHEREAS, the sector plan amends the 2009 Approved Countywide Master Plan of Transportation and Formula 2040: Functional Master Plan for Parks, Recreation and Open Space for the portions of Planning Areas 69 and 72 within the sector plan boundaries; and,

WHEREAS, additional policy guidance for the sector plan was derived from the 2015 Kenilworth Avenue and Town of Cheverly Industrial Study, and County functional master plans, including the 2008 Approved Public Safety Facilities Master Plan, 2010 Water Resources Master Plan, and 2017 Approved Prince George's County Resource Conversation Plan: A Countywide Functional Master Plan; and,

WHEREAS, the District Council and the Planning Board held a duly-advertised joint public hearing on the Preliminary Greater Cheverly Sector Plan on March 28, 2017; and

WHEREAS, on June 1, 2017, the Planning Board held a public work session to consider the transcript analysis compiled from comments received in the March 28, 2017 joint public hearing record and staff recommendations thereon; and

WHEREAS, on June 22, 2017, the Planning Board, in response to the public hearing testimony and staff recommendations, adopted the sector plan in Prince George's County Planning Board Resolution PGCPB No. 17-83, and transmitted said resolution to the District Council on July 6, 2017; and

WHEREAS, on September 12, 2017, and September 19, 2017, respectively, the District Council held public work sessions and convened as the Committee of the Whole, to examine Planning Board Resolution No. 17-83 adopting, the analysis of testimony prepared by the technical staff, and the array of exhibits and other testimony within the record of public hearing testimony for the proposed amendment; and

WHEREAS, after respective procedural and substantive presentations by legal counsel to the Council and Planning Board staff, as well as questions and other discussion regarding the record of hearing testimony for the adopted sector plan by members of the District Council, the Committee of the Whole voted favorably on September 19, 2017, to direct staff to prepare a Resolution proposing an amendment to the Adopted Greater Cheverly Sector Plan and further directing that a second joint public hearing to be held to take public testimony on the proposed amendment.

WHEREAS, the District Council and the Planning Board held a duly-advertised second joint public hearing on the proposed amendment to the Adopted Greater Cheverly Sector Plan on November 6, 2017; and

WHEREAS, on December 14, 2017, the Planning Board held a public work session to consider the proposed amendment to the Adopted Greater Cheverly Sector Plan and comments received in the November 6, 2017 second joint public hearing record and staff recommendations thereon; and

WHEREAS, on December 21, 2017, the Planning Board, in response to the second joint public hearing testimony and staff recommendations, retained the adopted sector plan (PGCPB Resolution No. 17-83), declined to adopt the proposed amendment to the sector plan discussed by the Board at its work session held on December 14, 2017, and transmitted said decision to the District Council; and

WHEREAS, on January 9, 2018, the District Council held a public work session and convened as the Committee of the Whole, to examine the Planning Board recommendation on the proposed amendment to the Adopted Greater Cheverly Sector Plan and comments received in the November 6, 2017 second joint public hearing record; and

WHEREAS, upon consideration of the testimony received through the hearing process, the District Council on January 23, 2018, determined that the adopted plan should be approved as the sector plan for Greater Cheverly (portions of Planning Area 69 and 72) Prince George's County, Maryland, subject to the modifications and revisions set forth in Resolution CR-4-2018.

NOW, THEREFORE, BE IT RESOLVED, that The Maryland-National Capital Park and Planning Commission does hereby adopt said sector plan for Greater Cheverly (portions of Planning Areas 69 and 72) as an amendment to the General Plan for the physical development of the Maryland-Washington Regional District within Prince George's County as approved by the Prince George's County District Council in the attached Resolution CR-4-2018; and

BE IT FURTHER RESOLVED, that the Recitals are hereby incorporated into this Resolution by reference; and

BE IT FURTHER RESOLVED, that copies of said amendment shall be certified by The Maryland-National Capital Park and Planning Commission and filed with the Clerk of the Circuit Court of Prince George's and Montgomery Counties, as required by law.

* * * * *

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Maryland-National Capital Park and Planning Commission on the motion of Commissioner X, seconded by Commissioner X, with Commissioners X, X, X, and X and Commissioner X being absent, at its regular meeting held on February 21, 2018 in Riverdale, Maryland.

Patricia Colihan Barney
Executive Director

APPROVED AS TO LEGAL SUFFICIENCY



M-NCPPC Legal Department

Date

2/1/18





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

February 21, 2018

TO: Commission

VIA: Patricia Colihan Barney 
Executive Director

FROM: William Spencer, HR Director 

SUBJECT: Proposed Changes to Aquatic Pay Schedule

REQUESTED ACTION:

The Commission is asked to approve the proposed changes to the Aquatics Pay Schedule as follows:

- Adjustment of pay schedule rates in response to changes in minimum wage as well as recruitment and retention issues.
- Establishment of fourth step for all positions covered by the pay schedule.
- Addition of new grade for Shallow Water Lifeguard.
- All changes will be effective May 13, 2018.

BACKGROUND:

The Department of Parks and Recreation reports a critical challenge with respect to recruitment and retention of aquatics personnel, especially Lifeguards. The inability to provide adequate staffing levels could result in reduced services such as limiting the hours that pools are open or even perhaps closing some pools. It is particularly difficult to attract and retain Lifeguards, the lack thereof, could result in a greater risk to the Agency.

The changes in minimum wage over the past few years, have created a compression issue between aquatic positions that require the mastering of skills and certifications and non-aquatic positions that may not require this level of skills and certifications. For example, a Lifeguard who is responsible for the safety and security of patrons at a pool, must be certified in American Red Cross Lifeguarding, First Aid, Cardiopulmonary Resuscitation (CPR) and Automated External Defibrillator (AED) and works outside in often 90 – 100-degree heat. This employee is currently receiving five cents an hour more than a Customer Service Representative who works in air conditioned community center and needs no special skills other than customer service skills.

The aquatic candidate pool is limited as individuals in the surrounding area lack the ability to pass the rigorous skills-tests required of a Lifeguard. As a result, the Department of Parks and Recreation is requesting an additional grade for a Shallow Water Lifeguard to create a career path for potential future Lifeguards. Additionally, this level of Lifeguard can be utilized at splash pools and other pools with shallow water features. The Department will also continue "Lady Lifesavers" and "Guys Save Lives" outreach programs designed to increase the applicant pool for Lifeguards.

Finally, we are requesting the addition of a fourth step to retain those individuals for an additional year who have already completed the training and mastered the required skills.

The estimated cost to implement the new pay schedule will be approximately \$829,000 through September 2018. Although only \$41,000 of this cost was budgeted in the FY18 as part of the minimum wage increase, the Department of Parks and Recreation has indicated that the remaining \$788,000 will be funded through excess salary lapse in FY 18.

These recommendations are supported by the Executive Committee and were developed with the assistance of members of the Commission's Vendor Transition Team, which is a cross-section of senior personnel in Prince George's County, Montgomery County, and Central Administrative Services, and Greg Butler, a consultant with Public Financial Management. The increase in the hourly rate is quite significant when compared with the local jurisdictions as presented in the attached power point presentation. However, it is justified when comparing the differences between the former rate and the former minimum wage rate (\$9.58 to \$7.25 = 32%) as compared to the proposed rate and the new minimum wage rate (\$15.00 to \$11.50 = 30%). This adjustment is required in order to maintain our high level of service delivery and patron protection in our aquatic facilities in Prince George's County.

Representatives from the Department of Parks and Recreation and DHRM will be present to response to questions.

Attachments:

- A. Resolution for Commission Action
- B. Aquatics Seasonal/Intermittent Pay Schedule
- C. Presentation to Commission



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC RESOLUTION NO. 18-05

ADJUSTMENTS TO THE
SEASONAL/INTERMITTENT AQUATICS PAY SCHEDULE

WHEREAS, the Maryland-National Capital Park and Planning Commission (“M-NCPPC”) has the authority to set the compensation of employees and contractors pursuant to §15-110 of the Land Use Article of the Annotated Code of Maryland; and

WHEREAS, M-NCPPC management has determined that the rates of pay set forth in the Seasonal/Intermittent Aquatics Pay Schedule are inadequate to attract and retain qualified aquatics staff; and

WHEREAS, M-NCPPC management has determined that a change in the Seasonal/Intermittent Aquatics Pay Schedule is necessary to maintain minimum staffing ratios to operate aquatics facilities; and

WHEREAS, M-NCPPC management is requesting that the Commission adopt certain adjustments to the Seasonal/Intermittent Aquatics Pay Schedule, as shown in Exhibit 1, to be effective May 13, 2018, which corresponds to the start of the summer pool season.

NOW THEREFORE, BE IT RESOLVED that the Commission hereby adopts the amended Seasonal/Intermittent Aquatics Pay Schedule, as reflected in Exhibit 1, effective May 13, 2018; and

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

APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC Legal Department

Date

2/14/2018



pfm

M-NCPPC Aquatics Pay Schedule

Summary of Departmental Requests to Address Staffing Challenges

Commission Meeting

February 21, 2018

PFM Group
Consulting, LLC

4350
North Fairfax Drive
Suite 580
Arlington, VA 22203

pfm.com



Overview

- The Department of Parks and Recreation report **critical challenges** with recruitment and retention of responsible and qualified aquatic personnel, potentially threatening the ability of the Commission to provide aquatic services to residents
- Aquatics personnel – and lifeguards in particular – provide critical and valued services to communities served by the Department. Commission-operated pools need to achieve and maintain minimum staffing ratios in order to operate at full capacity
- The driving factor, as reported by the Department, is the low pay differential between the lifeguard entry rate (\$11.55 per hour) and minimum wage (2017=\$11.50 per hour). The recent changes in minimum wage have created compression issues throughout the series
- Accordingly, the Department is requesting an adjustment to the aquatics pay schedule – with the intention of improving recruitment and retention of aquatics personnel as follows:
 - Establish the starting rate for lifeguards at **30%** above the minimum wage to increase the applicant pool, compete with other pools, and recognize the qualifications and certifications required of the position
 - Add a fourth step for aquatic positions within the Aquatic Pay Schedule to improve retention of experienced employees
 - Add an additional grade between Slide Attendant and Lifeguard for a Shallow Water Lifeguard
- The costs associated with this adjustment are estimated to be **\$829,482** through September 2018 based on experience from September 2016 – September 2017
- The proposed changes to the aquatics pay schedule have the support of Department leadership and Executive Committee



Current Aquatics Pay Schedule and Headcounts

- Approximately 500 employees with more than 700 positions are on the aquatics pay schedule (employees may have more than one position)
- Lifeguards represent approximately 55% of these positions (390 of 712)
- Employees can earn annual increases over the course of three years/seasons with the Department

Aquatics Pay Schedule, Mean Pay, and Headcounts as of 9/1/2017

Aquatics Job Title (Job Code)	1 st Year (Entry)	2 nd Year	3 rd Year (Max)	Average	Median	Positions
Ramp Guard/Slide Attendant (900)	\$10.75	\$11.30	\$11.80	\$11.27	\$11.28	4
Lifeguard (901)	\$10.80	\$11.60	\$12.40	\$11.38	\$11.17	390
Instructor Aide/Swim Lessons (902)	\$11.45	\$12.41	\$13.40	\$12.02	\$11.45	109
Assistant Pool Manager (903)	\$12.68	\$13.71	\$14.82	\$13.16	\$12.68	34
Pool Manager (904)	\$14.58	\$15.76	\$17.06	\$16.34	\$17.03	70
Water Safety Instructor (905)	\$14.58	\$15.76	\$17.06	\$16.31	\$17.01	105
All Aquatics Positions	-	-	-	-	-	712

HCM data indicates 489 active employees with 709 active aquatic positions between 9/16/16 and 9/1/17.
Source: DHRM



Minimum Wage Impact on Aquatics

- The 10/1/17 increase in minimum wage had an impact on a number of aquatic positions (see yellow in chart below)
- The current entry rate for lifeguards is \$11.55 per hour – five cents above the Commission's minimum wage (\$11.50)
- The Department reports that the new minimum wage is not sufficient to attract qualified applicants, and retain high performing employees and will create pay compression with employees in lower and higher level positions (i.e., ramp guard, assistant pool manager, pool manager, water safety instructor)

Aquatics				Current Schedule		
Job Title	Grade	1st Yr	2nd Yr	3rd Yr		
Ramp Guard	A02	\$11.50	\$12.05	\$12.60		
Lifeguard	A03	\$11.55	\$12.40	\$13.25		
Instructor Aide	A04	\$12.00	\$13.18	\$14.35		
Asst Pool Mgr	A05	\$13.55	\$14.70	\$15.85		
Pool Mgr, WSI	A06	\$15.60	\$16.93	\$18.25		
Vacant	A07	\$17.90	\$19.40	\$20.90		



Recruitment and Retention Challenges *Lifeguards*

Recruitment

- **Minimum wage** – current employees and prospective applicants report lifeguard wages in Prince George’s County Department of Parks and Recreation are not sufficiently higher than minimum wage. As one Department representative reported: “You can work at Chipotle for the same pay...and then you can go home with dinner for free”
- **Applicant pool** – Candidates in the communities lack swim skills. Many applicants fail pre-certification swim tests, before they try to obtain formal Red Cross certification
- **Prerequisites** – Obtaining requisite certifications is costly and time consuming to the employee; employment at similar entry-level jobs require no/minimal certifications and have paid training
- **Working Conditions** – Lifeguarding requires extensive time in direct exposure to heat and sun

Retention

- Many lifeguards tend to stay on multiple seasons/years. Department reports they seek annual increases in pay or explore other job opportunities
- The majority of more senior aquatic positions within the Department begin as lifeguards. Important talent pipeline through promotion



Regional Lifeguard Compensation

- The Department reports that most lifeguards employed by the Commission reside in Prince George's County, and significant competition for recruitment are retail positions within the county
- The table below provides an overview of lifeguard pay ranges from other large public sector aquatics employers in the Baltimore/DC region as an additional point of reference
- Relative to other employers in the region, the Commission's current compensation range for lifeguards is above the median, but not at the top

Regional Lifeguard Pay Ranges (Effective 7/1/2017)

	Min	Max	Notes
M-NCPPC	\$10.80	\$12.40	3-Steps to Max
Anne Arundel County	No response	No response	Lifeguard
Baltimore City	\$8.85	\$8.85	Lifeguard I
Baltimore County	\$10.00	\$12.00	No County-run pools; data for beach lifeguards
District of Columbia	\$13.95	\$13.95	Aquatics Lifeguard
Howard County	\$10.50	\$15.50	Lifeguard/Swim Instructor
Montgomery County	\$11.50	\$11.50	Lifeguard
Median	\$10.50	\$12.00	
M-NCPPC Rank	3 of 6	3 of 6	



Department Request – New Aquatics Pay Schedule

- The Department’s requested pay schedule raises the entry rate for lifeguards to \$15.00, representing a 30% differential over the Commission’s minimum wage of \$11.50 (effective October 1, 2017)
- Annual step increases of 5.0%, are provided for employees who return to the Commission for employment, and a new 4th step of 5.0% is added to the pay schedule
- Positions in higher and lower pay grades are similarly adjusted to avoid pay compression
- Department wants to add a position in between the A02 and A03 for a Shallow Water Lifeguard
- The Department reports that these changes will remedy the most pressing recruitment and retention challenges among lifeguards and other aquatic positions

Job Title	Grade	1st Yr	2nd Yr	3rd Yr	4th Yr	Range Spread	Grade Variance
Ramp Guard/Slide Attendant	A02	\$12.00	\$12.61	\$13.23	\$13.89	15.7%	-
<i>Shallow Water Lifeguard</i>		\$13.22	\$13.88	\$14.57	\$15.30	15.7%	10.0%
Lifeguard	A03	\$15.00	\$15.75	\$16.53	\$17.36	15.7%	13.5%
Instructor Aide Swim Lessons	A04	\$16.50	\$17.31	\$18.18	\$19.09	15.7%	10.0%
Asst Pool Manager	A05	\$18.14	\$19.05	\$20.00	\$21.00	15.8%	10.0%
Pool Manager/WSI	A06	\$19.96	\$20.96	\$22.01	\$23.10	15.7%	10.0%
Vacant	A07	\$24.15	\$25.36	\$26.62	\$27.95	15.7%	21.0%





Department Request – Costing

- The gross costs of the new aquatics pay schedule are estimated at approximately \$829,482 through September of 2018
- This figure includes \$41,045 required to bring the aquatics pay schedule in compliance with the new minimum wage law as of October 1, 2017
- The costs of additional modifications to the aquatics pay schedule to address the Department’s recruitment and retention needs is estimated at \$788,077
- This estimate presumes the same employee mix and hours worked as the prior 12 months – i.e., no expansion of service or additional hiring
- Data derived from Payroll records by Department of Human Resources and Management

Aquatics Hours Worked (Sept. 2016 through Sept. 2017)

Job Title	Hours Worked 9/16 - 9/17
Ramp Guard / Slide Attendant	625.50
Lifeguard	112,240.50
Instructor Aide Swim Lessons	9,152.00
Asst Pool Manager	10,917.00
Pool Manager / WSI	58,098.55
Total Hours	191,033.55



Recommended Recruitment & Retention Strategies

- ◆ To compliment changes to the aquatics pay schedule, the Department is undertaking additional supplemental efforts to bolster recruitment outreach and improve retention
- ◆ Specific actions underway/to be initiated include:
 - Use aquatics-specific job announcements, rather than general seasonal specifications. Aquatics-specific announcements will highlight new pay rates, as well as multi-year step increases
 - Continue existing community outreach programs designed to increase applicant pool with required swim skills, such as “Lady Lifesavers” and “Guys Save Lives”
 - Add a Shallow Water Lifeguard position to utilize as a career path to the Lifeguard position
 - Use the Shallow Water Lifeguard positions only where appropriate
- ◆ Improved tracking of applicants, attrition rates, and reasons for separations (e.g., exit surveys) to develop additional data-driven perspectives on the motivations for applicants and employees who separate



Summary

- Recruitment and retention challenges for aquatic positions may force restrictions in pool availability to community members if not addressed
- The driving factor of these issues, as reported by the Department, revolves around differentials with the Commission's minimum wage. These changes will improve the Agency's ability to recruit and retain aquatics positions
- The Department has developed a new pay schedule that it believes will address many of these challenges
- Modest adjustments to recruitment strategies are also expected to improve the number of viable applications, improve data collection, and will allow for a better understanding of additional measures that may ensure the Commission's pools maintain sufficient staffing levels in the future
- The proposed changes to the aquatics pay schedule have the support of Department leadership and the Executive Committee





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

February 14, 2018

To: The Commission

Via: Patricia C. Barney, Executive Director 
Anju Bennett, Chief, Corporate Policy and Management Operations Division (CPMO) 

From: Michael Beckham, Policy Manager, CPMO 
Brian Coburn, Senior Management Analyst 

Subject: Required Policy Updates Stemming from Recent Passage of the Maryland Healthy Working Families Act

Background

The Maryland General Assembly recently passed the Maryland Healthy Working Families Act. The law, which became effective February 11, 2018, requires employers to provide paid sick/safe leave to employees. While much of our workforce already receives paid leave benefits, paid sick leave benefits will now be offered to our *Seasonal/Intermittent* and *Temporary Contract* employees. Reasons for which leave may be taken are also expanded by the law. The effects of the law are explained in greater detail below.

The enactment of the law provided employers a very short turn around for its implementation. The agency has been working diligently to ensure payroll systems are updated to comply with the law and affected employees begin earning leave appropriately. Employees have been notified of the change through multiple channels, and we are working with our Legal and Finance teams, as well as operating departments, to make certain operational concerns are addressed in the implementation. Operational standards will be updated accordingly.

Effect of Law

The law will require the M-NCPPC to:

1. Provide employees with up to 40 hours of paid sick leave each calendar year.

- Existing policies for *Merit System* employees and *Term Contract* employees provide for paid leave amounts that exceed this requirement.
- This provision will affect *Seasonal/Intermittent* and *Temporary Contract* employees, as they do not currently receive paid leave. Policies will be amended to communicate the new requirement.

2. Expand the reasons for which sick leave may be taken.

The law allows employees to use sick/safe leave to care for their own illness or injury, or that of their family member. It also allows employees to use this leave to obtain relief for instances of domestic violence, sexual assault or stalking committed against the employee or the employee's family.

- Existing policies for *Merit System* employees already allow sick leave to be taken to care for an illness or injury of the employee or the employee's family member, and for reasons related to the employee's parental responsibilities (including the birth, foster placement or adoption of a child). However, other reasons stated under the new law will be added as permissible uses of leave.
- Existing policies for *Term Contract* employees allow the use of their paid generic leave for any reason, including those covered by the new law. However, the policy will be updated to clarify that generic leave may be used for any reason personal to the employee, including reasons covered by the law.
- Existing policies for *Seasonal/Intermittent* and *Temporary Contract* employees allow the use of leave without pay for any reason; however, policies affecting these employees will be amended to communicate the new requirement, as it applies the newly-added paid leave benefit.

3. **Expand the definition of "family member".**

The new law expands the definition of family member to include the employee's siblings, grandparents, grandchild, and parent in-laws, and allows such leave to be used for the reasons stated above.

- Current leave policies define "family member" as meaning an employee's spouse, domestic partner, parent, and child (biological/adopted/foster) up to the age of 18 (and older, if disabled).
- *Merit System* and *Contract* employee policies will be amended to communicate the new requirement.

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

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	Dec-17	Jan-18	Dec-17	Jan-18	Dec-17	Jan-18	Dec-17	Jan-18
CHAIRMAN, MONTGOMERY COUNTY	0	0	0	0	0	0	0	0
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	0	1	0	0	1	1	1	2
INTERNAL AUDIT	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	2	2	0	1	0	0	2	3
LEGAL DEPARTMENT	1	1	0	1	0	0	1	2
FINANCE DEPARTMENT	2	4	1	0	0	0	3	4
PRINCE GEORGE'S PLANNING	0	0	0	0	0	0	0	0
PRINCE GEORGE'S PARKS & RECREATION	7	8	5	3	0	2	12	13
MONTGOMERY COUNTY PARKS	4	3	4	0	0	0	8	3
MONTGOMERY COUNTY PLANNING	5	2	4	2	0	0	9	4
DEPARTMENT TOTAL BY DAYS LATE	21	21	14	7	1	3		
COMMISSION-WIDE TOTAL							36	31

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

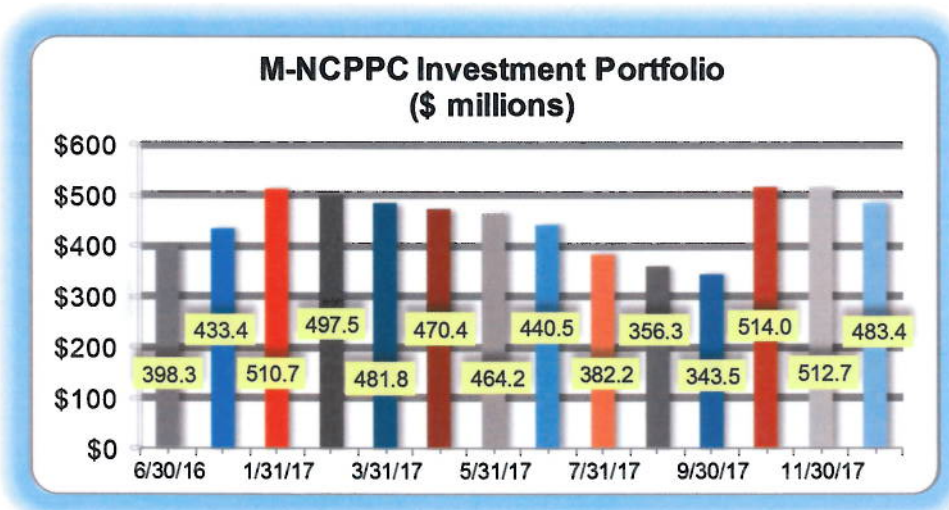


THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 TREASURY OPERATIONS, FINANCE DEPARTMENT
 6611 Kenilworth Avenue, Suite 302, Riverdale, MD 20737
 Telephone (301) 454-1541 / Fax (301) 209-0413

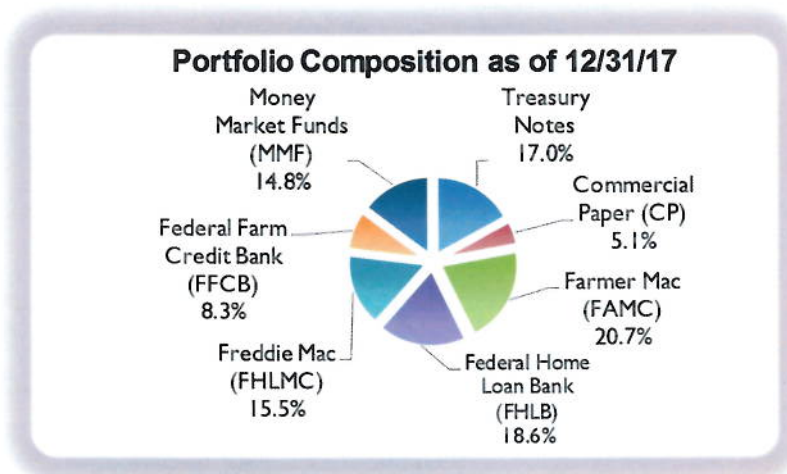
MEMO

TO: Commissioners
VIA: Joseph Zimmerman, Secretary-Treasurer
FROM: Abbey Rodman, Investment & Treasury Operations Manager
DATE: 2/1/2018
SUBJECT: Investment Report – December 2017

The Commission’s pooled cash investment portfolio totaled \$483.4 million as of December 31, 2017, with a 5.7% decrease from November 30, 2017. Details are as follows:

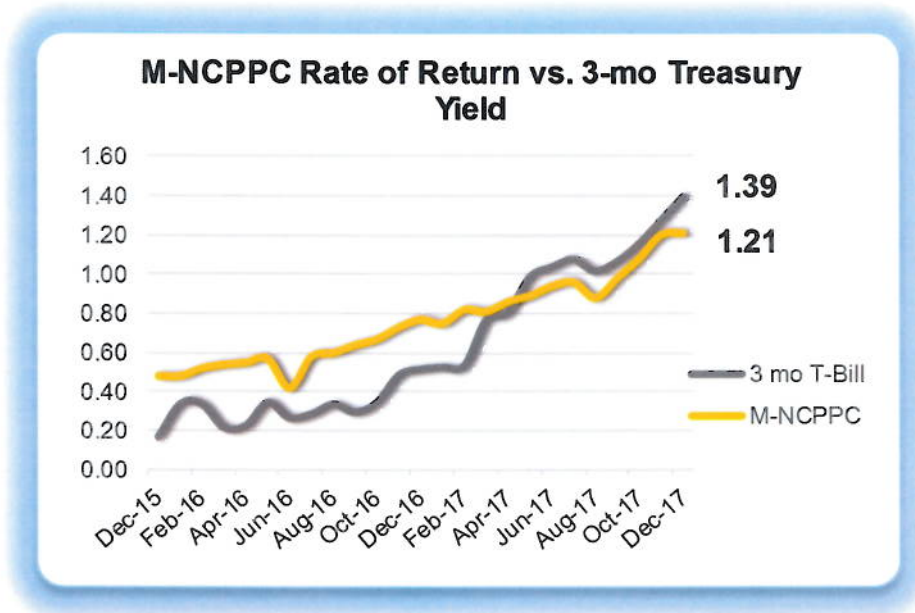


The composition of the pooled cash portfolio as of December 31, 2017 is summarized below:

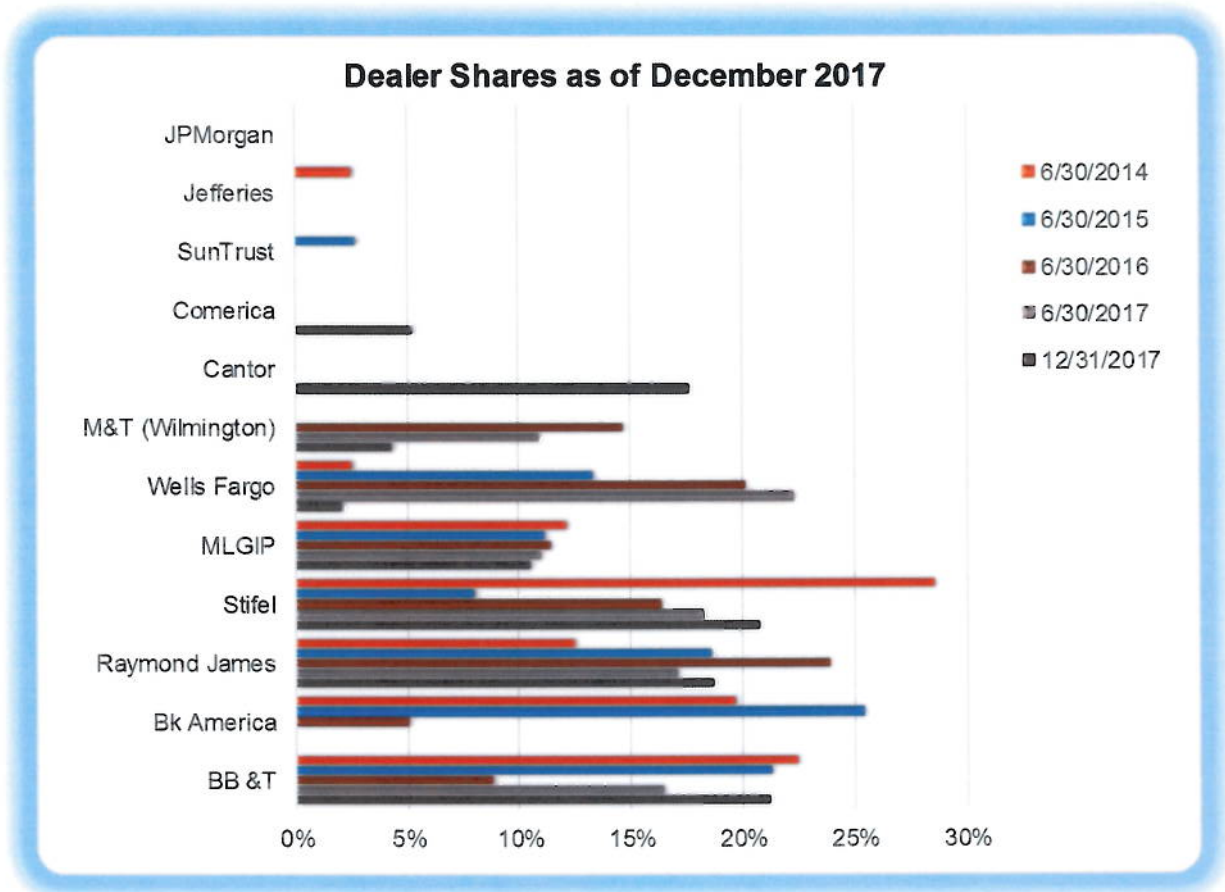


Current Investment Portfolio - December 2017				
Instrument	Policy Limit	Actual	Par Value	Wtd. Avg. Return (B/E)
Farmer Mac	20%	21%	\$ 100,000,000	1.26%
Federal Home Loan Banks	20%	19%	90,000,000	1.39%
Treasury Notes	100%	17%	82,000,000	1.00%
Freddie Mac	20%	16%	75,000,000	1.37%
Money Funds	25%	15%	71,403,142	n/a
Federal Farm Credit Bureau	20%	8%	40,000,000	0.81%
Commercial Paper	10%	5%	25,000,000	1.69%
Fannie Mae	20%	0%	-	
Certificates of Deposit	50%	0%	-	
Bankers Acceptances	50%	0%	-	
Repurchase Agreements	60%	0%	-	
			\$ 483,403,142	1.26%

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



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



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

Market Value - December 2017	
Prince George's County (PGC-2017A)	\$ 36,034,855
Montgomery County (MC-2017A)	4,144,119
	\$ 40,178,974

The Commission had debt service payments during the month totaling \$1,962,702 of which \$1,515,000 was principal and \$447,702 was interest.

Details by issue of debt outstanding as of December 31, 2017 appear below:

Debt Balances - December 2017					
	Initial Par	Amount Outstanding	% Outstanding	Issue Date	Maturity Date
Bi-County					
Total Bi-County	\$ -	\$ -	0%		
Prince George's County					
KK-2 (Refunded AA-2)	17,300,000	1,856,181	11%	Apr-08	May-18
NN-2 (Refunded Z-2)	14,080,000	5,465,000	39%	Mar-10	May-21
PGC-2012A (Refunded P-2, M-2, EE-2)	11,420,000	6,135,000	54%	Jun-12	Jan-24
PGC-2014A	26,565,000	23,385,000	88%	May-14	Jan-34
PGC-2015A (Refunded JJ-2)*	24,820,000	24,220,000	98%	Oct-15	Jan-36
PGC-2017A	33,000,000	33,000,000	100%	Jul-17	Jan-37
Total Prince George's County	\$ 127,185,000	\$ 94,061,181	74%		
Montgomery County					
LL-2	8,405,000	1,710,000	20%	May-09	Nov-20
MM-2	5,250,000	525,000	10%	May-09	Nov-19
MC-2012A (Refunded CC-2, FF-2)	12,505,000	9,185,000	73%	Apr-12	Dec-32
MC-2012B	3,000,000	2,375,000	79%	Apr-12	Dec-32
MC-2014A	14,000,000	11,970,000	86%	Jun-14	Jun-34
MC-2016A	12,000,000	11,140,000	93%	Apr-16	Nov-35
MC-2016B (Refunded FF-2, II-2, MM-2)	6,120,000	5,940,000	97%	Apr-16	Nov-28
MC-2016C (Refunded FF-2 ALA of 2004)	1,075,000	885,000	82%	Apr-16	Nov-24
MC-2017A	8,000,000	7,600,000	95%	Apr-17	Nov-36
Total Montgomery County	\$ 70,355,000	\$ 51,330,000	73%		
Total	\$ 197,540,000	\$ 145,391,181	74%		

ATTACHMENT A

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 REPORT ON COMPLIANCE TO INVESTMENT POLICY Approved March 21, 2012
 FISCAL YEAR 2018 - December 31, 2017

OBJECTIVES			Met Objective	Within Limits	Comments
Protection of principal			Yes		
	Limiting types and amounts of securities	Limit		Yes	
	US Government	100%			All securities purchases were within the limits established by the Investment Policy at the time of purchase of the investments. This monthly report is prepared for the Secretary-Treasurer to demonstrate compliance with investment policy objectives and limitations.
	US Federal Agencies - combined	60%			
	US Federal Agencies - each	20%			
	Repurchase Agreements	60%			
	CD's and Time Deposits	50%			
	Commercial Paper	10%			
	Money Market Mutual Funds	25%			
	MD Local Gov't Investment Pool	25%			
	Investing Bond Proceeds:				
	State and local agency securities	100%			
	Money Market Mutual Funds	10%			
	Bond Proceeds:				
	Highly-rated state / local agency securities			Yes	T. Rowe Price managed all funds within limits
	Highly-rated money market mutual funds (Max. 10% in lower-rated funds)				
	Pre-qualify financial institutions, broker/dealers, intermediaries and advisers			Yes	All firms must meet defined capital levels and be approved by the Secretary-Treasurer
	Ensure competition among participants	30%		Yes	No dealer share exceeded 30%
	Competitive Bidding			Yes	All purchases awarded competitively.
	Diversification of Maturities				
	Majority of investments shall be a maximum maturity of one (1) year. A portion may be as long as two years.			Yes	All maturities within limits
	Require third-party collateral and safekeeping, and delivery-versus-payment settlement			Yes	M&T Investments serves as custodian, monitoring compliance daily
	Maintain sufficient liquidity		Yes		Sufficient funds available for all cash requirements during period
	Attain a market rate of return		No		Less than market by 18 basis points
	The pro-rated rates of return for the portfolio and T-bills were 1.39% and 1.21%, respectively.				



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

Reply To

February 9, 2018

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 December 2017 and January 2018

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

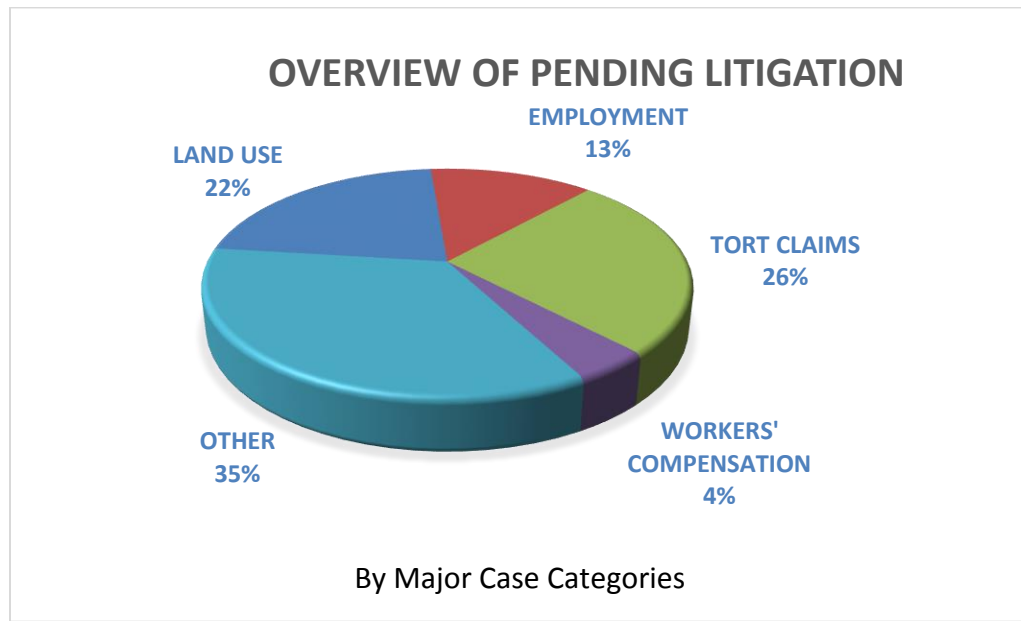
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December 2017 and January 2018 Composition of Pending Litigation

(Sorted By Subject Matter and Forum)

	State Trial Court	Federal Trial Court	Maryland COSA	Maryland Court of Appeals	Federal Appeals Court	U.S. Supreme Court	Subject Matter Totals
Admin Appeal: Land Use	1		1				2
Admin Appeal: Other							0
Land Use Dispute					1		1
Tort Claim	6						6
Employment Dispute	2		1				3
Contract Dispute	4		1				5
Property Dispute			2				2
Civil Enforcement							0
Workers' Compensation	1						1
Debt Collection							0
Bankruptcy							0
Miscellaneous	2				1		3
Per Forum Totals	16	0	5	0	2	0	23



December 2017 and January 2018 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2018			
	Pending In Nov 2017	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Months
Admin Appeal: Land Use (AALU)	3		1	4		2	2
Admin Appeal: Other (AAO)	0			0			0
Land Use Disputes (LD)	1			1	1	1	1
Tort Claims (T)	5	2	1	6	5	5	6
Employment Disputes (ED)	2	2	1	1	3	1	3
Contract Disputes (CD)	4	1		2	4	1	5
Property Disputes (PD)	2			1	2		2
Civil Enforcement (CE)	0			0			0
Workers' Compensation (WC)	1			2	1	2	1
Debt Collection (D)	0			0			0
Bankruptcy (B)	0			0			0
Miscellaneous (M)	3			5		2	3
Totals	21	5	3	22	16	14	23

**INDEX OF YTD NEW CASES
(7/1/2017 TO 6/30/18)**

A. <u>New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Moore v. Thompson, et al	PG	Tort	July 17
Evans v. Commission	MC	Tort	Aug 17
Gregg v. Commission	PG	ED	Sept 17
Commission v. McCoy	PG	CD	Oct 17
Commission v. Clean Air Mechanical, Inc., et al	MC	CD	Oct 17
Commission v. Carillo-Cruz	MC	WC	Oct 17
Bundu v. Bowman	PG	Tort	Oct 17
Chick v. Commission	PG	ED	Dec 17
Adesakin v. Commission	PG	Tort	Jan 18
Diggs v. Robinson, et al	PG	Tort	Jan 18
Commission v. Clean Air Mechanical, Inc., et al	MC	CD	Jan 18
B. <u>New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Rounds v. Commission	MC	PD	Sept 17
Rounds v. Commission	MC	PD	Oct 17
Fort Myers Construction Corp v. Commission	MC	CD	Nov 17
Pulte Home Corp. v. Montgomery County, et al	MC	LD	Nov 17
Burnette v. Commission	PG	ED	Jan 18

**INDEX OF YTD RESOLVED CASES
(7/1/2017 TO 6/30/18)**

C. <u>Trial Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Parker v. Commission	PG	WCC	July 2017
Commission v. Pollard	MC	WCC	Sept 2017
Pulte Home Corp., et al v. Mont. County, et al	MC	LD	Sept 2017
Green v. Commission	PG	Tort	Oct 2017
Swain v. Seay, et al	PG	Misc	Oct 2017
Shipe v. Louketis, et al	MC	Tort	Nov 2017
Tugwell v. Louketis, et al	MC	Tort	Nov 2017
Fort Myer Construction Corp v. Commission	MC	CD	Nov 2017
Rounds v. Commission, et al	MC	Tort	Nov 2017
Moore v. Thompson, et al	PG	Tort	Dec 2017
Grier, et al v. Commission	PG	AALU	Dec 2017

D. Appellate Court Cases Resolved.

Cohn v. Commission	MC	Misc	Nov 2017
Friends of Croom Civic Assoc., et al v. Commission	PG	AALU	Nov 2017
Gregg v. Commission	PG	ED	Dec 2017

Disposition of FY18 Closed Cases Sorted by Department

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources & Management		
Montgomery County Department of Planning		
Rounds v. Commission, et al	Defense of claim for alleged slander of title regarding Farm Road easement.	08/25/17- Court grants Commission's Motion to Dismiss
Montgomery County Department of Parks		
Cohn v. Commission	Plaintiff appealed Circuit Court ruling granting the judgment in favor of the Commission and denying Plaintiff's request to restrain Commission's Archery Managed Deer Hunting Program in Montgomery County.	10/18/17- Court affirms decision of lower court that granted summary judgment in favor of Commission's authorization of bow hunting on its properties
Fort Myer Construction Corporation v. Commission	Plaintiff filed complaint for alleged delays and damages associated with the erection of a steel girder pedestrian bridge in Montgomery County	10/10/17- Court grants Commissions' Motion to Dismiss, case dismissed with prejudice
Montgomery County Park Police		
Shipe v. Louketis, et al	Defense of claim for assault & battery, intentional infliction of emotional distress, negligence, negligent hiring.	10/06/17 Voluntary dismissal in entirety with prejudice
Tugwell v. Louketis, et al	Defense of claim for assault & battery, intentional infliction of emotional distress, negligence, negligent hiring.	10/06/17 Voluntary dismissal in entirety with prejudice

Montgomery County Planning Board			
Pulte Home Corporation, et al v. Montgomery County, et al	Plaintiff filed complaint for alleged delays and damages associated with the construction of a residential development in Clarksburg, Maryland.	08/25/17- Court grants Defendants' Motion for Judgment on Pleadings; case dismissed	
Prince George's County Department of Parks and Recreation			
Commission v. Pollard	Employer is seeking de novo judicial review of the WCC's decision that the Claimant had suffered a 39% worsening of condition regarding his right hip since the last permanency award and found no cause for apportionment to preexisting conditions.	07/28/17- Joint Motion to Remand to WCC	
Green, et al v. Commission	Defense of claim for personal injury involving fall by minor child from playground equipment at Peppermill Recreation Center.	08/30/17-Case dismissed with prejudice	
Moore v. Thompson, et al	Defense of claim for property damage involving vehicle owned by Commission.	10/26/17-Case dismissed under Rule 3-506	
Parker v. Commission	Claimant/employee is seeking de novo judicial review of the WCC's decision denying she has an occupational disease.	6/26/17-Case settled and remanded to WCC	
Swain v. Seay, et al	Plaintiff files to foreclose a statutory attorney's lien on property with a Historic Agriculture Resource Preservation Program Deed of Easement.	09/01/17-Case voluntarily dismissed	
Prince George's County Planning Department			
Prince George's County Planning Board			
Friends of Croom Civic Association, et al v. Commission	Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-11004 in Stephen's Crossing at Brandywine.	05/08/17-Court affirmed judgment of Circuit Court for Prince George's County Planning Board	
Grier, et al v. Commission	Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan of Subdivision 4-16032 in Laurelind-orinan Estate.	11/27/17-Court affirmed Planning Board's decision	

		Prince George's Park Police Gregg v. Commission
11/06/17-Case settled and dismissed	Plaintiff filed complaint for alleged race and gender discrimination.	
		Office of Internal Audit

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DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Adesakin v. Commission

Case #0502-0036346-2017 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Complaint for property damage to Plaintiff's motor vehicle.

Status: Case settled.

Docket:

12/01/17	Complaint filed
01/05/18	Notice of Intention to Defend filed
01/30/18	Affidavit Judgment denied due to lack of supporting documents; to be set for ex parte proof hearing

Chick v. Commission

Case #0502-0036532-2017 (ED)

Lead Counsel: Adams
Other Counsel:

Abstract: Plaintiff filed complaint alleging breach of settlement agreement based on Plaintiff's disputed interpretation.

Status: Pending trial.

Docket:

12/06/17	Complaint filed
01/19/18	Notice of Intention to Defend filed; Counter Claim filed
04/04/18	Trial date

Commission v. McCoy

Case #0502-0025950-2017 (CD)

Lead Counsel: Adams
Other Counsel:

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

Status: Case stayed.

Docket:

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

Milam v. Doe and Commission
Case No. 0502-0034226-2016(Tort)

Lead Counsel: Harvin
Other Counsel:

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

Status: Pending trial.

Docket:

12/27/16	Complaint filed
02/03/17	Subpoena served on Commission
03/22/17	Court issues notice of service on Commission
05/01/17	Commission requests re-issue for dormant service
05/19/17	Motion to Quash Service filed by Commission
06/05/17	Notice of Service stricken
09/28/17	Amended Complaint filed
01/19/18	Answers to Interrogatories filed by Commission
04/05/18	Trial date

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Bundu v. Bowman
CAL17-28259 (Tort)

Lead Counsel: Adams
Other Counsel:

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

Status: Pending hearing.

Docket:

10/12/17	Complaint filed
11/02/17	Service of complaint on Commission
11/17/17	Answer to Complaint filed by Commission
03/29/18	Pre-trial hearing

Burnette v. Commission
CAL16-35180 (ED)

Lead Counsel: Adams
Other Counsel: Dickerson

Abstract: Former park police officer seeks judicial review of termination.

Status: Decision Affirmed.

Docket:

09/08/16	Petition filed
09/23/16	Response to Petition filed by Commission
02/07/17	Pre-trial conference
03/24/17	Commission Memorandum of Law filed
10/30/17	Oral Argument held
12/26/17	Order of Court affirming Administrative Hearing Board decision

Commission v. Clean Air Mechanical Inc., et al
Case No. CAL18-00211 (CD)

Lead Counsel: Adams
Other Counsel:

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

Status: Pending hearing.

Docket:

01/03/18	Case transferred to Prince George's County from Montgomery County (438017-V)
01/16/18	Answer to complaint and Motion to Dismiss and/or Motion for Summary Judgment filed by Defendants
05/14/18	Pretrial conference

Commission, et al v. The Town of Forest Heights

CAL 16-29110 (M)

Lead Counsel:
Other Counsel:

Mills

Abstract:

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

Status:

Awaiting decision.

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
09/27/16	Defendant files Answer
02/08/17	Pretrial conference
04/10/17	Defendant files Motion to Dismiss and/or Motion for Summary Judgment
04/19/17	Joint Response by Plaintiffs to Defendant's Motion to Dismiss and/or for Summary Judgment
06/21/17	Oral argument held; awaiting decision from Court

Diggs v. Robinson, et al

Case No. CAL17-40851(Tort)

Lead Counsel:
Other Counsel:

Harvin

Abstract:

Defense of claim for personal injury following an automobile accident.

Status:

Complaint filed.

Docket:

12/20/17	Complaint filed
01/08/18	Defendant Robinson served via certified mail
01/29/18	Plaintiff files Amended Complaint
02/02/18	Answer to Complaint filed

O'Brien v. Sports & Learning Complex

CAL17-00241(Tort)

Lead Counsel:

Harvin

Other Counsel:

Abstract: Defense of claim for personal injury involving slip and fall at swimming pool.

Status: Pending trial.

Docket:

01/11/17	Complaint filed
03/03/17	Service of complaint on Commission
03/31/17	Amended Complaint filed
08/09/17	Pre-trial conference
02/27/18	ADR Conference
04/10/18	Trial

Pletsch, et al v. Commission

CAL17-12150(AALU)

Lead Counsel: Mills

Other Counsel: Borden

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan of Subdivision 4-16006 Melford Village.

Status: Decision affirmed.

Docket:

05/10/17	Petitioners' filed Petition for Judicial Review
06/09/17	Commission filed Response to Petition
01/19/18	Oral Argument, Court affirms Planning Board ruling

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

CAE16-37806 (M)

Lead Counsel: Gardner

Other Counsel: Dickerson

Abstract: Plaintiffs file lawsuit for injunctive relief questioning validity of certain personal tax enactments involving the Commission and Prince George's County.

Status: Case dismissed.

Docket:

09/30/16	Complaint filed
01/03/17	Motion to Dismiss or in the alternative, Motion for Summary Judgment filed by Defendant, P. G. County
01/06/17	Status Conference

01/31/17	Plaintiff's Opposition to Defendant, PG County's Motion to Dismiss
03/08/17	Defendant, PG County files answer to Complaint
04/24/17	Amended Complaint filed
05/03/17	Commission served with amended complaint
05/24/17	Commission files entry of appearance
06/13/17	Commission files Motion to Dismiss
06/30/17	Pretrial conference
07/07/17	Plaintiff's Opposition to Commission's Motion to Dismiss or in the alternative, Motion for Summary Judgment
09/19/17	Motions hearing; Motion to Dismiss denied by Court
10/02/17	Motion to Amend Judgment filed by County and County Council
10/16/17	Plaintiff's Opposition to Motion to Amend Judgment filed
10/23/17	Order of Court denying County and County Council's Motion to Amend Judgment
12/13/17	Court Trial
01/11/18	Disposition hearing
01/23/18	Court grants Defendants' Motion to Dismiss Amended Complaint and alternatively entered judgment in favor of the Commission

Sauer, Inc. v. Commission
CAL17-05868 (CD)

Lead Counsel: Dickerson
Other Counsel: Adams

Abstract: Plaintiff filed complaint for alleged delays and damages associated with the renovation and expansion of the Palmer Park Community Center in Prince George's County.

Status: Pending trial.
Docket:

02/28/17	Complaint filed but improperly served; awaiting proper re-service
06/20/17	Complaint properly served and accepted by Commission
08/21/17	Line filed extending responsive pleadings deadline
09/29/17	Defendant's Motion to Dismiss filed
11/03/17	Line filed extending Plaintiff's deadline to respond to Motion to Dismiss until November 22, 2017
11/17/17	Plaintiff files Opposition to Motion to Dismiss
12/22/17	Court denies Motion to Dismiss
01/02/18	Commission files Answer to Complaint
05/19/18	Pretrial conference

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Commission v. Clean Air Mechanical Inc., et al

Case No. 438017-V (CD)

Lead Counsel: Adams
Other Counsel:

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

Status: Case transferred to Prince George's County.

Docket:

09/26/17	Complaint filed
11/01/17	Defendant files Motion to Dismiss for Improper Venue
11/08/17	Plaintiff's Response to Defendant's Motion to Dismiss
12/08/17	Hearing on Motions
12/27/17	Court denied Defendant's Motion to Dismiss
12/28/17	Court orders venue of case to be changed to Prince George's County

Commission v. Carillo-Cruz

Case No. 439249-V (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Commission files petition for de novo review based on WCC's ruling that a compensable accident occurred on the grounds that driving a vehicle carries an increased risk of injury, without making a ruling on whether Claimant suffered an idiopathic condition.

Status: Petition filed.

Docket:

10/24/17	Petition for Judicial Review filed
11/03/17	Defendant's Response to Petition to Judicial Review
04/05/18	Status/Pretrial Conference

Evans v. Commission, et al
Case No. 435465-V(Tort)

Lead Counsel: Harvin
Other Counsel:

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

Status: Complaint filed.

Docket:

08/11/17	Complaint filed
08/22/17	Service of complaint on Commission
09/19/17	Commission files Answer to Complaint
11/09/17	Plaintiff files Motion for Default against Defendant, Melara
11/28/17	Defendant Melara files Answer to Complaint
12/01/17	Plaintiff's Motion for Default denied as Defendant Melara filed Answer
05/24/18	Pre-trial/settlement conference

MARYLAND COURT OF SPECIAL APPEALS

Brooks v. Commisison

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

Lead Counsel: Mills
Other Counsel: Borden

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

Status: Awaiting oral argument.

Docket:

01/06/17	Notice of Appeal filed
06/30/17	Appellant's Brief and Joint Record Extract filed
02/18/18	Oral Argument

Burnette v. Commission

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

Lead Counsel: Adams
Other Counsel:

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

Status: Appeal filed.

Docket:

01/23/18	Notice of Appeal
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Fort Myer Construction Corporation v. Commission

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

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

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

Status: Appeal noted.

Docket:

10/26/17	Notice of Appeal
11/2018	Oral Argument

Rounds v. Montgomery County, MD, et al

September Term, 2016, No. 02501(PD)
(Originally filed under #350954-V in Montgomery County)

Lead Counsel: Gardner
Other Counsel: Dickerson
Harvin

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

Status: Awaiting decision.

Docket:

02/03/17	Notice of Appeal filed
01/09/18	Oral Argument held

Rounds v. Montgomery County, MD, et al

September Term, 2017, No.1561 (PD)
(Originally filed under #430530-V in Montgomery County)

Lead Counsel: Gardner
Other Counsel: Dickerson
Harvin

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

Status: Appeal filed.

Docket:

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

MARYLAND COURT OF APPEALS

No Pending Cases

U.S. DISTRICT COURT OF MARYLAND

No Pending Cases

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: Reversed and remanded.

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 held
10/18/17	Court reverses and remands case back to the U. S. District Court of Maryland holding that the display and maintenance of the cross violates the Establishment Clause.
11/01/17	Commission filed Petition for Hearing En Banc
11/01/17	American Legion filed Petition for Hearing En Banc
11/09/17	Court directed Plaintiffs file responses to Petitions for Hearing En Banc
11/20/17	Plaintiffs file their Response to Petitions for Hearing En Banc

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

Case No. 17-2112 (LD)

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

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

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

Status: Appeal filed.

Docket:

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