



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

April 18, 2018

10:00 a.m. – 12:00 p.m.

Prince George's Parks and Recreation

Auditorium

6600 Kenilworth Avenue

Riverdale, Maryland 20737

**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING
Wednesday, April 18, 2018
Prince George’s Parks and Recreation
(Auditorium)
10:00 a.m. – 12:00 p.m.**

			<u>ACTION</u>	
			Motion	Second
1.	Approval of Commission Agenda (9:30)	(+*)	Page 1	
2.	General Announcements (9:30)			
	a) Financial Disclosure Filing Requirement – April 30 th			
	b) M-NCPPC Employee Health Fitness Week – May 14 th – 18 th			
	c) April is National Arab-American Heritage Month			
	d) April is Diversity Month			
	e) April is World Autism Month			
	f) Upcoming - May is Stress Awareness Month and Alcohol Awareness Month			
	Upcoming - National Prevention Week – May 13 th – 19 th (Mental/Substance Abuse Disorders)			
3.	Committee Minutes/Board Reports (For Information Only): (9:40)			
	a) Executive Committee Meeting – Open Session – March 5, 2018	(+)	Page 3	
	b) Employees’ Retirement System Board of Trustees Meeting Minutes March 6, 2018	(+)	Page 5	
4.	Action and Presentation Items (9:45)			
	a) Resolution #18-07 Mandatory Referral Uniform Standards (Martin) Prince George’s County	(+*)	Page 11	
	b) Personnel Management Review (Spencer/King)	(H)		
5.	Officers’ Reports			
	a) Executive Director’s Report (For Information Only) Employee Evaluations Not Completed by Due Date (March 2018)	(+)	Page 41	
	b) Secretary Treasurer (For Information Only) Investment Report (January 2018)	(+)	Page 43	
	c) General Counsel			
	1) Litigation Report (For Information Only)	(+)	Page 49	
	2) Legislative Update			
6.	Collective Bargaining	(++)		
	Pursuant to the Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b)(7) and (9), a closed session is proposed to consult with counsel to obtain legal advice; and to conduct collective bargaining discussions, or consider matters that relate to the negotiations.			

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



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

EXECUTIVE COMMITTEE MEETING MINUTES

April 9, 2018

On April 9, 2018, the Maryland-National Capital Park and Planning Commission's Executive Committee met via conference call. Present were Chair Casey Anderson, Vice-Chair Elizabeth M. Hewlett and Executive Director Patricia Barney. Also present were:

Department Heads

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

Presenters/Staff

Mazen Chilet, Chief Information Officer
 Roslyn Johnson, Deputy Director, Prince George's Parks and Recreation
 Debbie Tyner, Deputy Director, Prince George's Parks and Recreation
 Anju Bennett, Chief, Corporate Policy and Management Operations Division

Executive Director Barney convened the meeting at 10:04 a.m.

ITEM 1a – APPROVAL OF EXECUTIVE COMMITTEE AGENDA

Discussion	The agenda was accepted without changes.
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ITEM 1b – APPROVAL OF COMMISSION MEETING AGENDA

Discussion	<p>The agenda was accepted without changes.</p> <p>Executive Director Barney reported that the Commission has reached a tentative agreement with the Municipal and County Government Employees Organization/United Food and Commercial Workers Union, Local 1994 (MCGEO). An update on negotiations will be provided in closed session at the upcoming Commission meeting. She will consult with the Labor Counsel and Commission's General Counsel to see if the Commission's ratification should be noted in open session; as MCGEO ratification will be later.</p>
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ITEM 1c – ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS

Discussion	<p>Executive Director Barney requested the addition of bi-monthly ERP updates to be added to the Commission's Rolling agenda, beginning in May 2018.</p> <p>Prince George's Parks and Recreation Deputy Director Roslyn Johnson added an updated on TEDx College Park to the May 16, 2018 Commission meeting agenda.</p>
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ITEM 2 – MINUTES

	March 5, 2018 - Executive Committee Minutes – accepted without changes.
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ITEM 3 – DISCUSSION/REPORTS/PRESENTATIONS

	There were no other items presented at this meeting.
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There being no further business to discuss, the meeting adjourned at 10:11 a.m.


Deirdra Walker, Administrative Specialist


Patricia Colihan Barney, Executive Director



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

**BOARD OF TRUSTEES MEETING
MINUTES
Tuesday, March 6, 2018; 10:00 A.M.
ERS/Merit Board Conference Room**

The Maryland-National Capital Park and Planning Commission Employees' Retirement System Board of Trustees met in the ERS/Merit Board Conference Room at its office in Riverdale, Maryland on Tuesday, March 6, 2018 and was called to order at 10:00 a.m. by CHAIRMAN HEWLETT.

Board members present:

1. Elizabeth M. Hewlett, Chairman, Prince George's County Commissioner
2. Gerald R. Cichy, Vice Chairman, Montgomery County Commissioner
3. Patricia Colihan Barney, CPA, M-NCPPC Executive Director, Ex-Officio
4. Sheila Morgan-Johnson, Prince George's County Public Member *(via conference call)*
5. Dr. Alicia J. Hart, Prince George's County Open Trustee
6. Amy Millar, MCGEO Represented Trustee
7. Howard Brown, FOP Represented Trustee
8. Pamela F. Gogol, Montgomery County Public Member
9. Barbara Walsh, Bi-County Open Trustee
10. Joseph C. Zimmerman, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio

Board members not present:

1. Khalid Afzal, Montgomery County Open Trustee

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, Mike Rush, CFA, Vice President, and Ashley Bazzani, Associate; M-NCPPC Legal Department - LaTonya Reynolds, Senior Counsel; and, Groom Law Group - Alexander P. Ryan, Counsel *(via conference call)*.

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 March 6, 2018 Board of Trustees Meeting Agenda
- B. Open Meeting Minutes, February 6, 2018
- C. Closed Session Minutes, February 6, 2018 **(Confidential)**
- D. Administrative Functions Minutes, February 6, 2018 **(Confidential)**
- E. Disbursements Granted Report – January 2018

The March 6, 2018 Board of Trustees Meeting Agenda was revised to add a Closed Session as Item 4. The Board will meet in Closed Session, pursuant to the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) and 3-305(b)(7), for discussion of the investment of public funds and to consult with legal counsel regarding the Limited Partnership Agreement for the Golub Capital Partners 11, L.P.

ACTION: MS. GOGOL made a motion, seconded by MS. BARNEY to approve the March 6, 2018 Board of Trustees Meeting Agenda, as revised.
The motion PASSED unanimously (10-0). (Motion #18-5)

ACTION: MS. BARNEY made a motion, seconded by MS. GOGOL to approve the Consent Agenda Items B-E, as submitted.
The motion PASSED unanimously (10-0). (Motion #18-6)

2. **CHAIRMAN'S ITEMS**

A. Board of Trustees Conference Summary

Andrea Rose encouraged trustees to attend the Mid-Atlantic Plan Sponsors (MAPS) Conference in Baltimore, Maryland from June 4-7, 2018.

3. **MISCELLANEOUS**

No miscellaneous is reported.

4. **CLOSED SESSION**

At 10:12 a.m. CHAIRMAN HEWLETT requested a motion to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) and 3-305(b)(7) for discussion of the investment of public funds and to consult with legal counsel regarding the Limited Partnership Agreement for the Golub Capital Partners 11, L.P. with presentations by Groom Law Group - Alexander P. Ryan, Counsel (via conference call); Wilshire Associates - Bradley Baker, Vice President; and M-NCPPC Legal Department - LaTonya Reynolds, Senior Counsel.

ACTION: MS. WALSH made the motion, seconded by MS. HART to go into Closed Session.
The motion PASSED unanimously (10-0). (Motion #18-7)

At 10:31 a.m. CHAIRMAN HEWLETT requested a motion to leave Closed Session.

ACTION: MS. GOGOL made the motion, seconded by MS. BARNEY to leave Closed Session.
The motion PASSED unanimously (10-0). (Motion #18-8)

Alexander Ryan and LaTonya Reynolds left the meeting.

5. **MANAGER REPORTS/PRESENTATIONS**

A. Wilshire Associates

Presentations by Bradley A. Baker, Vice President, Mike Rush, CFA, Vice President, and Ashley Bazzani, Associate

- i. Executive Summary of Investment Performance; December 31, 2017
- ii. Investment Education - Asset Allocation Report and Liquidity Management
- iii. Recommendation to Approve Updates to the Long-Term Assumptions in the Statement of Investment Policy Appendix
- iv. Manager Comparison – 3 Year & 5 Year Rolling Returns; December 31, 2017
- v. Summary of Investment Performance; December 31, 2017

Bradley Baker reported on the fund's performance for the quarter ending December 31, 2017. The ERS' total fund return was 3.52% (net of fees) for the quarter, outperforming the actual policy index return of 3.45%. The ERS fund return was 15.81% for the one-year ended, 7.49% for the three-years ended, and 8.00% for the five-years ended December 31, 2017 versus the actual policy index which returned 14.62%, 6.40% and 7.02%, respectively. The total market value through December 31, 2017 was \$934.6 million.

Individual manager performance was discussed. Mr. Baker said the largest contributor to relative performance in the ERS' portfolio was international equity, adding 16 bps of outperformance. Mr. Baker highlighted Capital Guardian's strong quarter return outperforming the policy index by 1.91% and one-year return outperforming the policy index by 10.3%. Private Equity was also a top contributor for the quarter, adding 7 bps of relative outperformance. The largest detractor from quarterly performance was domestic equity due to style effect. Mr. Baker noted the consistent underperformance since inception of the Neuberger Berman High Yield fund. Neuberger Berman presented to the Investment Monitoring Group at its February 20, 2018 meeting.

MS. MORGAN-JOHNSON asked if crossing opportunities are considered when rebalancing to take advantage of any potential cost savings. Mr. Baker said crossing opportunities have not been considered for monthly rebalancing but have been done for manager transitions. Mr. Baker agreed to consider and follow-up.

Mike Rush discussed Wilshire's 2018 Asset Allocation Return and Risk Assumptions and highlighted the metrics Wilshire uses to forecast the assumptions. Asset Allocation decisions drive 90% of a portfolio's return.

Mr. Baker presented a revised Statement of Investment Policy amending the Appendix with Wilshire's current long-term assumptions.

ACTION: MS. GOGOL made the motion, seconded by VICE CHAIRMAN CICHY to approve the Statement of Investment Policy, as revised.
The motion PASSED unanimously (10-0). (Motion #18-9)

6. COMMITTEE REPORTS/RECOMMENDATIONS

- A. Investment Monitoring Group Committee
 - Presentation by Committee Chairman, Sheila Morgan-Johnson
 - i. Regular Report of February 20, 2018

Andrea Rose presented the regular report for the Investment Monitoring Group meeting of February 20, 2018.

The IMG met with Neuberger Berman for a performance review for the Neuberger Berman High Income Fund, LLC. As of December 31, 2017, Neuberger Berman has underperformed since inception, June 30, 2010, with a return of 7.41% (51st percentile) versus the Merrill Lynch High Yield II Constrained Index return of 7.81% (39th percentile). Underperformance was due to the outperformance of lower quality securities and losses on some larger overweight positions. Neuberger Berman focuses on BB and B large and liquid issuers; opportunistically uses BBB and CCC credit tiers; and avoids defaulted issuers. Neuberger Berman continues to have an overweight to BB and B securities and needs to see CCC securities underperform. Neuberger Berman's outlook for 2018 includes a 3-7% return for U.S. high yield bonds. Wilshire expects Neuberger Berman to outperform going forward and will be watching Neuberger Berman closely.

The IMG met with Loomis Sayles for a performance review. Loomis Sayles has outperformed for the one-year ending December 31, 2017 with an 8.78% (16th percentile) return versus the Bloomberg Barclays High Yield Index return of 1.28% (39th percentile). Wilshire does not have any concerns regarding the performance of Loomis Sayles.

B. Administration & Personnel Oversight Committee

Presentation by Committee Chairman, Barbara Walsh

i. Regular Report of February 20, 2018

- a. Recommendation to Approve an Amended Adoption Agreement for the ICMA Retirement Corporation Governmental Money Purchase Plan & Trust to Prohibit Loans
- b. Recommendation to Approve a Full-Scope Actuarial Audit Every Five Years, Unless the Consulting Actuary Changed During that Time and Replicated the Prior Actuarial Valuation at the Time of Engagement and to Approve a Full-Scope Actuarial Audit of the July 1, 2017 Actuarial Valuation
- c. Recommendation to Approve an Annual Review of the Investment Return Assumption
- d. Recommendation to Approve Amendments to the Pension Funding Policy

MS. WALSH presented the regular report for the Administration & Personnel Oversight Committee ("Personnel Committee") meeting of February 20, 2018.

The Personnel Committee recommends the Board approve an Amended Adoption Agreement for the ICMA Retirement Corporation Governmental Money Purchase Plan & Trust that was established for certain ERS staff hired prior to March 1, 1994. The agreement was amended to prohibit loans.

ACTION: MS. MILLAR made the motion, seconded by MS. BARNEY to approve the Amended ICMA Retirement Corporation Money Purchase Plan & Trust Adoption Agreement. The motion PASSED unanimously (10-0). (Motion #18-10)

The Personnel Committee recommended the Board approve 1) a full-scope actuarial audit every five years, unless the consulting actuary has changed during that time and replicated the prior

actuarial valuation at the time of engagement; and, 2) a full-scope actuarial audit of the July 1, 2017 actuarial valuation. The recommendation is designed to ensure more than one actuary performs or replicates the actuarial valuation during any five-year period.

ACTION: MS. BARNEY made the motion, seconded by MS. GOGOL to approve a full-scope actuarial audit every five years, unless the consulting actuary has changed during that time and replicated the prior actuarial valuation at the time of engagement; and, to conduct a full-scope actuarial audit of the July 1, 2017 actuarial valuation.
The motion PASSED unanimously (10-0). (Motion #18-11)

The Personnel Committee discussed the ERS' current policy to have an Experience Study done every five-years versus every two-three years. The ERS' Actuary, Dave Boomershine, from Boomershine Consulting Group recommends smaller plans conduct an Experience Study every five years, as long as the investment return assumption is reviewed annually. Mr. Boomershine said results can be skewed or there may be insufficient experience to determine trends if done more frequently. The ERS has been reviewing the investment return assumption annually since 2013, but it was not an adopted policy. The Personnel Committee recommended the Board continue with its existing policy to conduct an Experience Study every five years and the Board agreed. The Personnel Committee recommended the Board approve an annual review of the investment return assumption.

ACTION: MS. GOGOL made the motion, seconded by MS. HART to approve an annual review of the investment return assumption.
The motion PASSED unanimously (10-0). (Motion #18-12)

The Personnel Committee presented a revised Pension Funding Policy amended to require an annual actuarial valuation; to require annual review of the investment net assumption; to require a full-scope actuarial audit every 5-years, unless the consulting actuary has changed during that time and replicated the prior actuarial valuation at the time of engagement; and, to require the actuarial equivalence and deficiency assumptions be reviewed every five-years during the Experience Study and Assumption Review to determine if any updates are needed.

ACTION: MS. HART made the motion, seconded by MS. MILLAR to approve the Pension Funding Policy, as revised.
The motion PASSED unanimously (10-0). (Motion #18-13)

7. REPORT OF THE ADMINISTRATOR

Presentation by Administrator, Andrea L. Rose

A. Administrator's Report dated February 23, 2018

- i. Recommendation to Approve a 2.1% Cost-of-Living Adjustment Effective July 1, 2018 for Eligible Retirees and Beneficiaries in Accordance with Provisions of the Employees' Retirement System
- ii. Recommendation to Acknowledge Rick Liu as the Montgomery County Open Trustee for the remainder of the term ending June 30, 2018 and the three-year term ending June 30, 2021

Andrea Rose presented the Administrator's Report dated February 23, 2018.

Staff requests the Board approve a cost-of-living adjustment (COLA) for retirees and beneficiaries of 2.1% effective July 1, 2018. Staff calculated the COLA using data from Table 24 - All Urban Consumers (CPI U) - All Items Annual Average (at December 2017). All retirees and beneficiaries receiving annuities for at least six months are eligible for the COLA.

ACTION: MS. BARNEY made the motion, seconded by MS. WALSH to approve a 2.1% Cost-of-Living Adjustment effective July 1, 2018 for eligible retirees and beneficiaries in accordance with provisions of the ERS.
The motion PASSED unanimously (10-0). (Motion #18-14)

Following the resignation of Khalid Afzal from the ERS Board of Trustees in January 2018, Montgomery County Merit System employees were invited to apply for the Montgomery County Open Trustee seat. Rick Liu was the only candidate to apply by the February 23, 2018 deadline and is determined to have won by acclamation.

Rick has been with the Commission since 2014. Rick is an Economic Specialist in the Montgomery County Planning Department and provides financial and economic analysis on planning and zoning decisions. Rick has a high degree of fluency with how capital markets operate and how investment decisions are considered, not only within real estate but across all asset classes (equities, bonds, and other investment vehicles). Rick hopes to bring his knowledge, commitment and best efforts to ensure the ERS is financially sound for current and future members.

ACTION: MS. BARNEY made the motion, seconded by MS. WALSH to Acknowledge Rick Liu as the Montgomery County Open Trustee for the remainder of the term ending June 30, 2018 and the three-year term ending June 30, 2021
The motion PASSED unanimously (10-0). (Motion #18-15)

The Employees' Retirement System was awarded the Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers Association of the United States and Canada (GFOA) for its Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended June 30, 2017 and an Award for Outstanding Achievement in Popular Annual Financial Reporting ("Award") for its Popular Annual Financial Report (PAFR) for the fiscal year ended June 30, 2017. Sheila Joynes, Accounting Manager, was recognized for leading the CAFR team to another Award in Excellence and Heather Brown, Senior Administrative Specialist, was recognized for leading the PAFR team to its eighth consecutive year of applying for and receiving the award.

The Board of Trustees meeting of March 6, 2018 adjourned at 12:16 p.m.

Respectfully,


Heather D. Brown
Senior Administrative Specialist


Andrea L. Rose
Administrator



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Prince George's County Planning Department
Countywide Planning Division

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.mncppc.org/pgco

301-952-3650

March 30, 2018

MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

VIA: Andree Green Checkley, Planning Director *AGC/dpb*
Debra Borden, Principal Counsel, Legal Office, M-NCPPC *DB*
Derjck Berlage, Chief, Countywide Planning Division *DB*

FROM: Maria ~~Ann~~ Martin, Supervisor, Special Projects Section, Countywide Planning Division

SUBJECT: Commission Resolution of Adoption for Uniform Standards for Mandatory Referral in Prince George's County

Attached for your review and approval is the Full Commission Resolution Number 18-07 to adopt the Proposed Uniform Standards for Mandatory Referral for Prince George's County.

The proposed draft includes a revision to the submission requirements for detailed site plans and incorporates the Prince George's County Solar Energy Systems (SES) Guidelines for Mandatory Referral Cases. All changes are printed in red. All text that is deleted is shown as strikethrough text; all text added is underlined.

The mandatory referral process is authorized under Sections 20-301 through 305 of the Land Use Article of the Maryland Annotated Code. The Mandatory Referral Uniform Standards are guidelines intended to inform all parties of the process and standards for accepting an application.

Also attached for your information is the draft newspaper notice of adoption of the uniform standards of review.

RECOMMENDATION

Staff recommends that the Full Commission approve the resolution of adoption.

Attachments:

- Attachment 1 – Full Commission Resolution Number 18-07
- Attachment 2 – Prince George's County Planning Department Proposed Uniform Standards for Mandatory Referral Review
- Attachment 3 – Draft Newspaper Notice of Adoption



PRINCE GEORGE'S COUNTY PLANNING DEPARTMENT
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING
 COMMISSION

M-NCPPC No. 18-07

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission (the "Commission") is a body politic and corporate agency of the State of Maryland established pursuant to the Annotated Code of Maryland, Land Use Article, at Section 15-101; and

WHEREAS, the Commission is empowered under the Land Use Article at Section 20-305 to adopt **Uniform Standards for Mandatory Referral** pertaining to the review and approval of the location and construction of certain public facilities situated within the Maryland-Washington Regional District (the "Regional District") under certain circumstances as specified therein; and

WHEREAS, upon the duly advertised public hearing held on March 1 and March 29, 2018, the Commission's Prince George's County Planning Board has approved and adopted Uniform Standards for Mandatory Referral Review (the "Prince George's County Standards") to be given effect as of the date of this Resolution, for that portion of the Regional District situated within Prince George's County only; and

WHEREAS, a true and correct copy of the Prince George's County Standards are annexed to this Resolution as Exhibit A; and

WHEREAS, the Commission desires to ratify and adopt the Prince George's County Standards, as provided by this Resolution; and

WHEREAS, the Commission desires for the Planning Board to implement the standards within its county jurisdiction to ensure the orderly administration of the law.

NOW, THEREFORE, BE IT RESOLVED, that The Maryland-National Capital Park and Planning Commission does hereby ratify and adopt *Uniform Standards for Mandatory Referral Review* for Prince George's County as annexed hereto at Exhibit A; and


BE IT FURTHER, RESOLVED, that, within Prince George's County, the Prince George's County Planning Board shall effectuate the said Prince George's County Standards in accordance with its terms; and

BE IT FURTHER, RESOLVED, that, as soon as practicable, the appropriate Commission officials are hereby authorized, and shall cause, the publication of a notice of the action so taken by this Resolution, as required under Section 20-305(b) of the Land Use Article of the Annotated Code of Maryland.

* * * * *

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 motion of Commissioner X, seconded by Commissioner X, with Commissioners X, and X voting in favor of the motion, with Commissioner X being absent, at its regular meeting held on Wednesday, April 18, 2018, in Kenilworth, Maryland.

APPROVED AS TO LEGAL SUFFICIENCY


 M-NCPPC Legal Department
 Date 3/30/18

 Patricia Colihan Barney
 Executive Director

**PRINCE GEORGE'S COUNTY
PLANNING DEPARTMENT**

**ADOPTED
UNIFORM STANDARDS FOR
MANDATORY REFERRAL REVIEW**



Adopted: July 18, 2012
Effective: September 1, 2012
Updated: September 17, 2014
Updated: April 19, 2017
Updated: April 18, 2018

Prince George's County Department of Planning
The Maryland-National Capital Park and Planning Commission
14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772



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Section I: Introduction

Sections 20-301 through 305¹ of the Land Use Article of the Maryland Annotated Code require all federal, state, and local governments, and public and private utilities to submit proposed projects for a Mandatory Referral review and approval by the Commission. In Prince George's County the Planning Board is the statutorily created body under the Land Use Article, and performs the duties of "the Commission." This document will use the term "Planning Board," instead of "the Commission."

The law is briefly stated, but has a very broad application. It requires that the Planning Board review and approve the proposed location, character, grade and extent of any road, park, public way or ground, public (including federal) building or structure, or public utility (whether publicly or privately owned) prior to the project being located, constructed, or authorized.

The Planning Board must also review the widening, extension, relocation, narrowing, vacation, abandonment, or change of use of any road, park or public way or ground, and the acquisition or sale of any land by any public board, body, or official.

The Planning Board must conduct its review within 60 days of the submission of a complete application, unless a longer period is granted by the applicant. The Planning Board's failure to act within 60 days is deemed an approval, unless the applicant agrees to extend the review period. In case of disapproval, the law requires the Planning Board to communicate its reasons to the applicant agency. In practice, the Planning Board will communicate its approval, approval with comments, and disapproval, with the reasons for its actions, to the applicant agency. Mandatory Referral review and comments by the Planning Board are advisory in that the statute allows the applicant to overrule the Planning Board's disapproval, or any comments attached to approval, and proceed.

See Attachment 1 for the full text of the law.

Section II: Mandatory Referral In-Take Questionnaire

To determine if the project is eligible for mandatory referral, the Legal Department associated with the Prince George's County Planning Department will review the Mandatory Referral Intake Questionnaire and determine what type of review should be conducted on a project. This will be forwarded to the Planning Department staff to prepare a letter for the Planning Director's signature.

¹ Formerly Section 7-112 of the Regional District Act, **Mandatory Referrals and approval procedures after adoption of master plan of highways**

The applicant agency will receive a letter from the Planning Director that notifies them if the proposed project qualifies as a mandatory referral, or is exempt from the mandatory referral process, or should be reviewed under the entitlement process². If the project qualifies as a mandatory referral, the type of review (administrative or full Planning Board review) will be included in the letter along with a case number and a case manager's name and contact information.

The applicant agency should contact the listed case manager to coordinate the application submittal requirements and set a schedule to review the project.

Section III: Pre-submission Coordination

Pre-application meetings between Planning Department staff and the application agency are encouraged. These meetings provide an opportunity for the appropriate agency and the Planning Department staff to discuss public projects prior to finalizing the design and provide an opportunity to determine if the Mandatory Referral process or the entitlement process is the appropriate venue. During the pre-application period, opportunities for coordination with private development can occur. The Planning Department will provide staff from each Division to identify issues from a wide range of functional perspectives, to consider solutions, to resolve any conflicting comments between staff, and to finalize the application requirements during the pre-application meetings. The chief or supervisor will resolve any conflicting issues. The pre-application meetings provide a significant opportunity for agencies to produce public facilities and buildings that are on time and cost efficient. The pre-application meetings should consider the following:

- Review of zoning and development standards
 - Outreach method
 - Final Mandatory Referral submittal requirements
1. The Department of Planning staff (the staff) will advise the applicant to work with the staff in the early stages of a project's program and design development. The staff will advise the applicant about potential impacts and concerns in terms of proposed land use, consistency with the area master plan, other related projects, and community issues.
 2. The staff will advise the applicant to seek community input before formally submitting the project for Mandatory Referral. This may include requesting the applicant to send appropriate, adequate, and timely public notice to adjacent, adjoining property owners, and, if necessary, the subject

² The term "Entitlement Process" refers to those applications that must comply with the County Zoning Ordinance requirements and are not subject to Mandatory Referral.

property owner. The staff will help in the process as needed, including establishing review benchmarks.

3. The staff will work with the applicant to determine the information needed to review any proposal based on its nature and scope. A suggested list of possible plans and other items is included in this package (see Section III: Submission Requirements).

Section IV: Submission Requirements

A list of suggested materials, including any narrative description, plans, sketches, photographs, and other material that may be needed for the Mandatory Referral review, is included here as a guide. Some of these items may be needed before others in the review process. Some may be needed only as preliminary concepts. Therefore, **applicants are advised to consult with staff to determine which materials will be needed, and in what sequence, since not all proposals will need everything on the following list.** The plans and documents submitted for the Mandatory Referral should be at a scale sufficient to determine the compatibility, character, scope, quality, and scale of a project. All applications must be from the head of the applicant agency, or a representative public official of the agency, and addressed to the Planning Director of the Department of Planning. A complete application (number of copies and format of the submission to be determined by the staff) should be submitted to the Prince George's County Planning Department, Countywide Planning Division, Special Projects Section, 14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland 20772.

1. Written narrative of the proposal generally describing the project location, access, surrounding land uses and other existing conditions, proposed uses, scale and size of proposed structures, and other significant features of the proposal including, but not limited to the following:
 - a. The hours of operation and the types of use(s) proposed within the structure(s), or on the property under consideration;
 - b. Whether the proposed project is consistent with the county's General Plan, functional plans such as the Countywide Master Plan of Transportation, the approved and adopted area master plan(s) or sector plan(s), and other public plans, policies, or programs for the area. Any deviation or lack of consistency should be fully explained;
 - c. A Pedestrian and Bicycle Safety Impact Statement that includes an analysis of the effect of the project on pedestrian and bicyclist access and safety, and the identification of any capital and/or operating modifications, including road re-construction plans and

road re-striping plans, that may be required to promote and maximize safe pedestrian and bicyclist access on the project site, and in the surrounding area;

- d. Whether the proposed typical roadway and pathway section meets the applicable state and county standard(s). If not, the necessary waivers requested, or to be requested, from any applicable agency or municipality, and the reasons for those waivers should be described;
- e. The status of a Historic Area Work Permit (HAWP) application, if the project would affect county-designated historic resources, sites, or districts. For state or federally funded projects, indicate the status of comments by the Maryland Historical Trust. If any historical resources, sites, or districts would be impacted, state the proposed measures to be undertaken to limit impacts, and any remedial measures to mitigate, the identified impacts;
- f. Phasing schedule or plan, if applicable;
- g. A description of the manner in which any land intended for common or quasi-public use, but not proposed to be in public ownership, will be held, owned, and maintained in perpetuity for the indicated purposes;
- h. Funding source(s) for the project: county, state, federal, and/or private;
- i. List of permits needed from other agencies. (The Mandatory Referral process does not exempt any project from the need to meet the requirements of any other entitlement process.)
- j. A description of the potential impacts to public parkland or land owned by M-NCPPC, if applicable, and an explanation of what efforts have been made to minimize these impacts and what mitigation will be undertaken; and
- k. For all projects involving buildings or other structures, a statement on whether or not the proposed project will seek United States Green Building Council Leadership in Energy and Environmental Design (LEED), or equivalent green building certification. If the project is not going to seek LEED or equivalent certification, provide a LEED scorecard indicating the degree to which the project would be eligible for such certification;

2. General location map showing the relationship of the subject property to existing and proposed surrounding development, land uses and zoning, park property, traffic network, public amenities, community facilities, and historic properties (County and National Register).
3. Site Plan describing the location of all new and existing uses and structures, size of the subject property, existing land uses of the subject and surrounding property, park property lines, proposed limits of disturbance and quantitative assessment of the disturbed area, location and areas of all existing and proposed public and private open spaces, number of existing and proposed parking spaces, calculations of building coverage, the number and type of dwelling units, square footage, height, number of stories of all buildings, and proposed signage.
4. Utilities and Rights-of-Way map reflecting the location of tract boundaries, any utility or pipelines traversing the site, easements, and rights-of-way. All proposed permanent easements and right-of-way takings on park property must be quantified.
5. Pedestrian and vehicular circulation plan identifying existing roadway, site ingress and egress, sidewalks, trails (including equestrian), bikeways, transit facilities, and all on- and off-site connections to those facilities. Indicate paving widths and the location of any anticipated median breaks. Show existing and proposed signage, all striped crosswalks, and provision of pedestrian push buttons and signal heads. If striped crosswalks are not provided on all legs of a signalized intersection, indicate where and explain why not. Movement barriers need to be identified and include:
 - a. Long crossing distances,
 - b. Short signal timing,
 - c. Medians and islands without ramps or cut-throughs,
 - d. Curbs without curb ramps,
 - e. Curb ramps without level landings,
 - f. Pedestrian actuated signal devices that are difficult to activate or in hard-to-reach locations, and
 - g. Lack of information during pedestrian signal phase;
6. Natural Resource Inventory (NRI) plan that has been reviewed and approved by M-NCPPC staff, depicting existing wooded areas, streams, stream buffers, major drainage courses, wetlands, wetland buffers, 100-year-flood-plain, environmentally sensitive areas, and existing improvements, as well as the identification of any rare, threatened, or endangered species (see Section V: Mandatory Referral and Specific Related Processes).

7. Tree Conservation plan based upon a correct and complete forest-stand delineation (See Section V: Mandatory Referral and Specific Related Processes).
8. Topographic map depicting the general physical characteristics of the site or sites with contours at an interval no greater than five feet, and slopes of 15 percent and greater.
9. Stormwater Management Concept plan(s) approved by the Prince George's County Department of Permitting, Inspections and Enforcement (DPIE) or other agency authorized to approve stormwater management concept plans.
10. Detailed Site Plan/Landscape plan that shows all improvements as indicated on the site plan, and the exact location and description of all plants and other landscaping materials, including size (at time of planting), spacing, botanical and common names, and planting method. ~~and all other details and schedules required by the 2010 Prince George's County Landscape Manual.~~ Show existing trees that are proposed to be removed, and protection for those trees that are to remain within the limits of disturbance.
11. Tree Canopy Coverage schedule shown on the landscape plan in accordance with Subtitle 25, Division 3 of the Prince George's County Code.
12. Lighting plan that provides details and specifications of all lighting fixtures, including pole heights, designs, and locations. A photometric plan should be provided. Full cut-off optics are encouraged.
13. Overall concept development plan if the proposed project or phase is a portion of a larger development plan.
14. Statement of compliance with the Prince George's County Code Noise Control Ordinance, Section 19, subsections 120 through 126.
15. Architectural elevations of all buildings shown in color.
16. Traffic impact statement or traffic study conducted in substantial accordance with the Department's *Guidelines for the Analysis of the Traffic Impact of Development Proposals*, describing the effect, if any, on the local transportation system and the proposed means of addressing any unmitigated impacts on affected facilities.
17. Statement of community outreach indicating what the applicant has done to inform the public, including the neighboring property owners, about the

proposed project. Include dates of meetings or events at which the applicant shared information, and what, if any, feedback was received, positive or negative.

18. Other information as determined at the time of the pre-application meeting.

Section V: The Mandatory Referral and Specific Related Processes

A. Natural Resource Inventory/ Forest Conservation Plans: The mandatory referral process may acknowledge the necessity for a Natural Resource Inventory (NRI) and/or a Tree Conservation Plans (TCP), but they are not approved as part of the mandatory referral process. NRIs and TCPs are not required to be submitted with the mandatory referral application; however, they may be required later in the development process for projects subject to local permitting. The applicant will be notified during the mandatory referral process if a NRI or TCP will be required.

Natural Resource Inventory (NRI) is defined as a plan map and supporting documentation or letter that provides all required information regarding the existing physical and environmental conditions on a site that is approved by the Planning Director or designee as described in the *Environmental Technical Manual* as approved and amended by the Planning Board from time to time.

Forest Conservation: Under the Maryland Forest Conservation Act, approval authority for forest conservation plans was delegated to the Prince George's County Planning Board, or its designee. In some cases, the state may choose to review cases, particularly state and federal sites, which are subject to the Clean Water Act. While the Planning Board's review of Mandatory Referrals is advisory, its authority to approve TCP is final and can have an impact on whether such projects can proceed. Section 25-119(b)(1)(A) of the Woodland and Wildlife Conservation Ordinance provides that "all development applications shall submit either a TCP, or a Letter of Exemption," prior to issuance of a grading permit.

B. Critical Area/Conservation Plans: The Critical Area includes all land within 1,000 feet of tidal waters in the state. In Prince George's County, the Critical Area is mapped as an overlay zone. Under Title 27 of the Code of Maryland Regulations (COMAR), approval authority for local development in the Critical Area is delegated to each county; however, all federal, state, WSSC, and M-NCPCC park projects are reviewed at the state level by the Critical Area Commission.

A Critical Area Conservation Plan (CP) may be required for projects, subject to local permitting. A Mandatory Referral is not required for projects located within the Critical Area Overlay Zone that require a Conservation Plan (CP) under the

County's Critical Area Ordinance (Section 5B of the county code), so long as transportation, historic preservation and community impacts are also reviewed at the same time.

C. Schools: Closed school properties reviewed in accordance with the Prince George's County Board of Education's Board Policy 2570-Closing of School Buildings, and the corresponding Administrative Procedure 2571, are to be reviewed initially when the properties are transferred to the county and the county prepares a reuse proposal. They may be reviewed a second time when a specific use is selected and a detailed program of development and schematic design is prepared. These two steps may be combined into a single review if a specific use is proposed and schematic plans and other information needed to process the application are submitted for staff review in a timely manner.

(Note: Reuse of closed school properties differs from disposition in that properties designated for reuse remain the property of the county and are subject to long-term leases, whereas disposition entails selling the closed schools after—among other conditions as cited in Sec. 2-111.01, such as sale, lease, or other disposition of county property of the County Code—the Planning Board determines the site is not needed for park or recreation use.)

Sections 27-443, 27-463, and 27-475.06.01 of the Zoning Ordinance do not require a detailed site plan review of a private educational institution when using an existing public school, which has been conveyed by the Prince George's County Board of Education to Prince George's County, if the county maintains ownership of the facility and operates the school in it, or leases the facility for use as a private school of any type. Such projects would not be reviewed as Mandatory Referrals.

Non-public alternative schools will be reviewed as Mandatory Referrals if they meet all of the following criteria:

- 1) Prince George's County special needs students are placed in the facilities;
- 2) The school is bound by public school law; and
- 3) The school receives funds from the Prince George's County Public School system.

Section VI: Types of Review and Exemptions

After analysis of the project and consultation with the applicant and the community, the Legal Department will determine if a project is eligible for the Mandatory Referral process. If the Mandatory Referral process is the appropriate venue, then the Planning Director and/or the Countywide Planning Division Chief will determine which of the following types of Mandatory Referral review will be conducted:

- Administrative review by the staff for minor projects; or
- Full Planning Board review;

The Prince George's County Zoning Ordinance, Division 11, Sections 27-292 through 295, addresses the approval of public buildings and uses, and buildings and uses on county-owned land. According to the Zoning Ordinance, the District Council shall approve all public buildings, structures, and uses, except those of municipal, state, or federal agencies. Section 27-294(b) recognizes the Mandatory Referral process.

Public projects, such as interior renovations, minor modifications as part of routine maintenance, minor utility projects, minor sidewalk improvements, or minor stream restoration projects, should be exempt from the Mandatory Referral review process.

A. Administrative Review by the Staff for Minor Projects

This type of review will normally be conducted for small additions, alterations, or renovations to existing facilities that do not create any significant impact on the surrounding community, parkland, or natural resources, and are completely in compliance with applicable laws and regulations. Examples of projects that may qualify for administrative review are minor modifications conducted as part of routine maintenance, placement of a small equipment shed on a site, interior improvements that do not alter or increase the programming capacity of the facility, a bridge replacement in-kind, sidewalk construction that does not affect the roadway, minor roadway construction, and other such improvements that do not change the land use, character, intensity, scale, or nature of the program, or the facility under review.

No Mandatory Referral hearing or notification will be required for projects approved through administrative review procedures. A letter from the Planning Director will notify the applicant that no further Mandatory Referral review is required for the project. This does not exempt any project from the need to meet the requirements of any other entitlement process.

B. Full Planning Board Review

This type of review will be conducted for projects that do not fall into the first category and, therefore, will go through a full Planning Board review with a Mandatory Referral hearing and notification as described in this package. The applicant should consult with the Planning Department staff early in project development to determine when a project should be submitted for review. Projects should be submitted for Planning Board review as soon as all the necessary information is complete and there is still enough time to make changes, if needed, to address the Planning Board's recommendations. Generally, a project is to be submitted at 30-35 percent completion during the

design development stage (also referred to as the facility planning, schematic design, or concept design phase). All site selections and acquisitions, even if they are consistent with the relevant master plans, must be submitted for Mandatory Referral before they are finalized.

Some projects may need to be reviewed at more than one stage as a Mandatory Referral depending upon the nature and type of development proposed. For example, a property may be initially reviewed by the Planning Board at site selection, and later for approval of the proposed design of buildings and site improvements. For large or particularly sensitive projects, the Planning Board may require a second review when a more detailed design is available. Where appropriate, two or more actions by the Planning Board may be combined into one review, e.g., land associated with rights-of-way acquisition in CIP projects which may be part of the full project review and not a separate Mandatory Referral.

A staff report will be produced summarizing comments received from all sections from which comments were requested. The staff report will include a recommendation from staff concerning whether the Planning Board should approve the project, disapprove it, or approve it with suggested modifications. This does not exempt any project from the need to meet the requirements of any other applicable entitlement process.

If there is a need for additional information, or the project could potentially be modified as it continues through the final design stages before construction, a follow up review by the staff may be requested. The staff will determine if the project needs to be brought back to the Planning Board for a full review, unless a follow up review is requested by the Planning Board.

Closed Sessions: If an applicant agency is involved in sensitive negotiations (contract bids) or has reasonable security concerns, and a full Mandatory Referral with public review and disclosure at that point may put the applicant agency at a disadvantage or at a security risk, or if there is not enough time to conduct a full review as the available site may be sold to a private party before the review is complete, the staff may propose that a closed session consultation with the Planning Board is warranted. However, such a consultation would only be to provide the Planning Board's informal comments for the applicant's information and consideration. A full review with a public hearing and notification will be required before the proposed acquisition or sale is finalized. The comments provided in a closed session will be the Planning Board's initial response based on the information provided, and may not be the Planning Board's final recommendation.

(Note: Maryland Law permits the Planning Board to meet in closed session for a number of reasons. See Md. Code Ann., General Provisions Code §3-305. See Attachment 2 for the full text of the law.)

C. Projects Exempt from Mandatory Referral Review

When an application is received, a determination must be made by the Legal Department as to which review process will be applied. The following projects will be considered exempt from the Mandatory Referral review process:

- Any county project that goes through an extensive Capital Improvements Program/Projects (CIP) Review and a referral to the Planning Board.
- Emergency repairs to roadways, public buildings or structures, or existing publicly and privately owned utilities.
- Any telecommunication tower that is proposed by and used by a private entity on public property is not considered a public use and must go through the applicable entitlement process.

These exemptions take into consideration that any county or municipal project that must go through the permit and possible entitlement process will be reviewed by Commission staff as well as the Department of Permits, Inspection and Enforcement in a detailed manner to ensure that it is in conformance with any applicable regulatory regulations.

Second, any county project that was reviewed through an extensive CIP review process and received approval by the Planning Board and the County Council is exempt from Mandatory Referral review.

Third, any emergency repairs to existing infrastructure or buildings are exempt from Mandatory Referral review, since the Mandatory Referral review process would cause an unnecessary delay to deliver critically needed repairs.

Finally, any telecommunication tower/facility that is paid, constructed and maintained by a private entity and that private entity will retain ownership interest and operational control of the tower/facility on public land is not considered a public structure and is subject to the requirements of the applicable entitlement process.

Section VII: The Solar Energy Systems (SES) Guidelines

The guidelines in Attachment 3 apply to Solar Energy Systems (SES) that are reviewed under the Prince George's County Planning Board's (the "Board") Mandatory Referral Process, and that require approval from the Maryland Public Service Commission (PSC) or any other public body are subject to the Board's Mandatory Referral Process. The Board expects applicants to demonstrate that their proposals comply with these Guidelines.

Section VIII: Mandatory Referral Hearing and Notification – Full Review

The Planning Board will conduct a hearing to receive community comments during its regularly scheduled sessions for all projects requiring a full review. The staff will notify the area civic associations registered with the Planning Department for notice of development activity in the location of the proposed project when the project is accepted as a complete application and the 60-day clock starts. The notice will include, but not be limited to, project name, applicant, location, a brief description, staff contact, applicant's representative's contact information, and a tentative date of the Planning Board meeting at which public testimony will be taken. A final notice of the hearing will be published in the Planning Board's weekly agenda, which is available on the Internet at www.pgplanning.org. It is strongly recommended that applicants' representatives attend the public hearing and be available to discuss the project and answer any questions from the Planning Board.

The Planning Board encourages applicants to conduct adequate and timely community outreach and notification, including noticing adjacent, abutting, and confronting property owners. The staff will work with the applicant to determine appropriate outreach in each case. Interagency coordination and public notification conducted pursuant to other laws and regulations are encouraged, but would not be accepted in lieu of appropriate community outreach for the Mandatory Referral processes.

Section IX: Planning Board Consideration – Full Review

During the Mandatory Referral hearing at the Planning Board's regularly scheduled meeting, the Planning Board will review the proposal and may seek clarifications from the staff, the applicant, or the community, if necessary. The Planning Board will consider all relevant land use and planning aspects of the proposal including, but not limited to the following:

1. Whether the proposal is consistent with the County's General Plan, functional plans such as the Countywide Master Plan of Transportation, Green Infrastructure Plan, the approved and adopted area master plan(s) or sector plan(s), and other public plans, policies, or programs for the area;
2. Whether the proposal is consistent with the intent and the requirements of the zone(s) in which it is located;
3. Whether the nature of the proposed site and development, including its size, shape, scale, height, arrangement, and design of any structure(s), is compatible with the surrounding neighborhood and properties;

4. Whether the locations of buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular access and circulation systems are adequate, safe, and efficient;
5. Whether the proposal has negative transportation impacts on the surrounding neighborhood;
6. Whether the proposal has an approved NRI and is consistent with an approved stormwater management concept plan, and meets the requirements of the Woodland and Wildlife Habitat Conservation Ordinance (Subtitle 25 Trees and Vegetation Division 2 of the County Code). The Tree Conservation Plan, if applicable, may require Planning Board approval, either before or at the time of the Planning Board's Mandatory Referral review and action on the project, or prior to the issuance of any grading permit for the project. Unlike the Mandatory Referral review by the Planning Board, the conditions of the Tree Conservation Plan are binding on all county projects;
7. Whether or not the site would be needed for park or recreation use (if the proposal is for disposition of a surplus school); and
8. Whether alternatives or mitigation measures have been considered for the project if the proposal is inconsistent with the General Plan, or other plans and policies for the area, or has negative impacts on the surrounding properties or neighborhood, the transportation network, the environment or other resources;

Section X: The Planning Board Recommendation – Full Review

Based on the staff report, public comments and input, the applicant's rationale, and the findings and considerations described in Section VI of this document, the Planning Board will approve (with comments, if appropriate), or disapprove Mandatory Referral applications.

Following the Planning Board's review, the Chairman of the Planning Board will send a letter containing the Board's recommendation and its rationale to the head of the applicant public agency. The Chairman's letter will also request a written response from the applicant agency stating how the agency will proceed with the proposal and explaining any variation from the Planning Board's recommendations. It is recommended that the applicant agency advise the Planning Board within 30 days as to whether it will accept the Planning Board's recommendation. Because the Planning Board's recommendations are advisory only, an applicant may overrule the Planning Board's disapproval and proceed with the proposed project. Furthermore, there is no judicial review of the matter.

Section XI: Dismissal of Dormant Mandatory Referral Cases

In accordance with Section 20-304 of the Land Use Article of the Maryland Annotated Code, the mandatory referral process is 60 days, unless the applicant agrees to waive the 60-day time limit. However, when a case is inactive for 60 days or more, the case will be closed or terminated. **The termination of the mandatory referral process does not preempt the applicant from refiling the same case in the future. The applicant may file a mandatory referral intake questionnaire (as described in Section II) to start the process again.**

A. Closing Cases for Inactivity After the Intake Questionnaire is Completed: As described in Section II: Mandatory Referral In-Take Questionnaire, an applicant receives a letter from the Planning Director that states what type of review the mandatory referral case will follow, what the case number is, and provides the name and contact information of the case manager. The applicant should contact the case manager when they are ready to start the mandatory referral process. If there is no action from the applicant to begin the mandatory referral process 60 days from the date of the Planning Director's letter, the mandatory referral case number will be retired.

B. Closing Cases for Inactivity after a Mandatory Referral Application is Accepted: Mandatory referral cases that are inactive for 60 days will be terminated. The applicant will be notified by letter indicating that if the applicant wants to maintain the case in an active status, they must contact the case manager within a week to move the case forward.

Section XII: The Mandatory Referral Uniform Standards Applicability

The Mandatory Referral Uniform Standards contained herein apply only in Prince George's County.

LAND USE
DIVISION II. MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION.
TITLE 20. MARYLAND-WASHINGTON REGIONAL DISTRICT.
SUBTITLE 3. REVIEW OF PUBLIC PROJECTS.
PART I. MANDATORY REFERRAL REVIEW.

Md. LAND USE Code Ann. § 20-301 (2017)

§ 20-301. Prior approval required.

Subject to §§ 20-303 and 20-304 of this subtitle, a public board, public body, or public official may not conduct any of the following activities in the regional district unless the proposed location, character, grade, and extent of the activity is referred to and approved by the Commission:

- (1) acquiring or selling land;
- (2) locating, constructing, or authorizing:
 - (i) a road;
 - (ii) a park;
 - (iii) any other public way or ground;
 - (iv) a public building or structure, including a federal building or structure; or
 - (v) a publicly owned or privately owned public utility; or
- (3) changing the use of or widening, narrowing, extending, relocating, vacating, or abandoning any facility listed in item (2) of this section.

§ 20-302. Jurisdiction.

(a) Federal and State referrals. -- The Commission has exclusive jurisdiction over mandatory referrals made under this part from the United States or the State, or any unit of the United States or the State.

(b) County referrals. -- A county planning board has exclusive jurisdiction over a mandatory referral under this part by the county planning board's respective county government or any unit of the county government.

(c) Additional referrals -- Montgomery County. -- The Montgomery County Planning Board has exclusive jurisdiction over a mandatory referral under this part by the county board of education, a municipal corporation or special taxing district, or a publicly owned or privately owned public utility.

§ 20-303. Commission disapproval.

(a) Required notice. -- If the Commission disapproves a referral submitted under § 20-301 of this subtitle, the Commission shall communicate the reasons for the disapproval to the entity that proposed the activity.

(b) Overruling. -- Notwithstanding § 20-301 of this subtitle, the entity that proposed the activity may overrule the disapproval of the Commission and proceed with the activity as proposed.

§ 20-304. Commission failure to act.

Unless a longer period is granted by the submitting entity, an official referral to the Commission under this part is deemed approved if the Commission fails to act within 60 days after the date of submission.

§ 20-305. Uniform standards of review.

(a) Adoption. -- After appropriate public hearings, the Commission shall adopt uniform standards of review to be followed in reviewing changes to property subject to review.

(b) Notice. --

(1) The Commission shall publish a notice of the adoption of the standards of review in a newspaper of general circulation that is published in each county.

(2) The notice shall:

(i) include a summary of the purpose of the standards and the review process; and

(ii) identify a location and a phone number to contact for a complete copy of the standards of review.

HISTORY: An. Code 1957, art. 28, § 7-112; 2012, ch. 426, § 2.

§§ 20-306, 20-307.

Reserved.

**GENERAL PROVISIONS
TITLE 3. OPEN MEETINGS ACT
SUBTITLE 3. OPEN MEETINGS REQUIREMENTS**

Md. General Provisions Code Ann. § 3-305 (2017)

§ 3-305. Closed sessions.

(a) Construction of section. -- The exceptions in subsection (b) of this section shall be strictly construed in favor of open meetings of public bodies.

(b) In general. -- Subject to subsection (d) of this section, a public body may meet in closed session or adjourn an open session to a closed session only to:

(1) discuss:

(i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction; or

(ii) any other personnel matter that affects one or more specific individuals;

(2) protect the privacy or reputation of an individual with respect to a matter that is not related to public business;

(3) consider the acquisition of real property for a public purpose and matters directly related to the acquisition;

(4) consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;

(5) consider the investment of public funds;

(6) consider the marketing of public securities;

(7) consult with counsel to obtain legal advice;

(8) consult with staff, consultants, or other individuals about pending or potential litigation;

(9) conduct collective bargaining negotiations or consider matters that relate to the negotiations;

(10) discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including:

(i) the deployment of fire and police services and staff; and

(ii) the development and implementation of emergency plans;

- (11) prepare, administer, or grade a scholastic, licensing, or qualifying examination;
- (12) conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- (13) comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; or
- (14) discuss, before a contract is awarded or bids are opened, a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

(c) Limitation. -- A public body that meets in closed session under this section may not discuss or act on any matter not authorized under subsection (b) of this section.

(d) Vote; written statement. –

- (1) Unless a majority of the members of a public body present and voting vote in favor of closing the session, the public body may not meet in closed session.
- (2) Before a public body meets in closed session, the presiding officer shall:
 - (i) conduct a recorded vote on the closing of the session; and
 - (ii) make a written statement of the reason for closing the meeting, including a citation of the authority under this section, and a listing of the topics to be discussed.
- (3) If a person objects to the closing of a session, the public body shall send a copy of the written statement to the Board.
- (4) The written statement shall be a matter of public record.
- (5) A public body shall keep a copy of the written statement for at least 1 year after the date of the session.

HISTORY: An. Code 1957, art. SG, § 10-508; 2014, ch. 94, § 2

Prince George's County Solar Energy Systems (SES) Guidelines for Mandatory Referral Cases

Purpose and Intent

The Planning Department encourages the generation of low-carbon and clean, renewable energy sources. The following guidelines apply to Solar Energy Systems (SES) that are reviewed under the Prince George's County Planning Board's (the "Board") Mandatory Referral Process. All SES that require approval from the Maryland Public Service Commission (PSC) or any other public body are subject to the Board's Mandatory Referral Process. The Board expects applicants to demonstrate that their proposals comply with these Guidelines. The Board will utilize these Guidelines to prepare comments for the PSC and any other public agency having jurisdiction over the proposal.

Sections 20-301 through 305 of the Land Use Article of the Maryland Annotated Code require all federal, state, and local governments, and public and private utilities, to submit proposed land development projects for a Mandatory Referral review by the Board. In Prince George's County, the Board is the statutorily created body under the Land Use Article, and performs the duties of the Maryland-National Capital Park and Planning Commission in Prince George's County (the "County").

Applicability

These Guidelines are designed to provide consistent parameters for the Board to review all SES located in the County that require approval from the PSC or any other public body. These Guidelines provide a framework for review of SES and analysis of the project's conformance with the County's comprehensive land use plans. The Board invites the PSC and other public agencies to give "due consideration" to these Guidelines and to the Board's specific Mandatory Referral comments for each SES, as required by §7-207(e) of the Public Utilities Article.

Timing of Review

Review in accordance with these guidelines will occur during the Mandatory Referral Process as specified in the Prince George's County Planning Board's Adopted Uniform Standards for Mandatory Referral Review.

Siting Preferences

Site selection and placement on the site are important considerations for SES projects. The Board strongly discourages locations that result in significant loss of prime agricultural land, affect cultural and natural resources, or impact significant scenic viewsheds. The remainder of these guidelines set forth the specific standards that the Board will utilize to meet these goals.

Location Restrictions

The Board does not support SES in the Chesapeake Bay Critical Area or the Mount Vernon Viewshed Area of Primary Concern.

The Board's siting preference hierarchy is as follows, listed from most suitable to least suitable in descending order:

1. Locations on disturbed land such as brownfields, reclaimed surface mines, abandoned rubble fills, and closed landfills.
2. Locations in industrial and commercial zoning districts.
3. Locations in residential zoning districts other than R-O-S, O-S, and R-A zones.
4. R-O-S, O-S, and R-A zoned properties. Proposals in these zoning districts are subject to the following additional guidelines:
 - a. The least productive agricultural soils, classified as class IV through VIII (as determined by USDA-NRCS Soil Survey) should be considered first if buildable.
 - b. A dual-use land-design concept should be considered to preserve productive farmland by:
 - (a) continuing crop production underneath high-mounted and well-spaced panels, or
 - (b) maintaining and grazing livestock, or poultry underneath panels, or
 - (c) Maintaining and planting an herbaceous cover with pollinator value.
 - c. If dual-use concepts are determined to be impractical, the Board strongly discourages installing SES on soils with classification of I, II, and III as determined by USDA-NRCS Soil Survey, as these are the most productive soils. If proposed, such projects would be expected to provide mitigation for the loss of productive soils.

Woodland Conservation

The Board strongly discourages the clearing of woodlands for the installation of SES. In cases where clearing of woodlands is unavoidable, the applicant shall be required to comply with Subtitle 25, Division 2 of the County Code, the Woodland and Wildlife Habitat Conservation Ordinance. The applicant shall submit a Type 2 Tree Conservation Plan that is consistent with all ordinance requirements. Whenever possible, all reforestation area(s) should be located within the impacted sub-watershed and should be designed to contribute to the maximum extent practical to improving the water quality of the impacted watershed.

Setback and Height Restrictions

The siting of SES should comply with all setback and height requirements of the zone in which they are located.

Screening and Buffering

SES should be designed to minimize visibility from roads and neighboring properties. SES should strive to implement landscaping and screening set forth in the Prince George's County Landscape Manual. For purposes of applying Table 4.7-1 of the Landscape Manual, SES will be considered a Low Impact use and will be reviewed in accordance with the corresponding landscape buffering requirements.

Protection of Rural Character and Scenic and Historic Resource Areas

To the maximum extent practical SES should be sited behind natural topography, existing vegetation, or supplemental indigenous landscaping to screen the facility from public view. SES facilities should be screened in accordance with the Prince George's County Landscape Manual from all scenic and historic-designated roads, properties within a County-designated Historic District, National Register properties, historic sites and environmental settings. The Board will consider the impact of SES on properties designated as historic.

Fencing

Metal fencing (chain-link or equivalent), when necessary for security and public safety purposes, should be non-reflective and black in color to minimize visibility of the fencing material in the landscape. Fencing over seven feet in height is discouraged.

Lighting

If lighting is required, all fixtures should be energy efficient, motion-sensor, full-optic cutoff, and downward casting such that light does not spill onto adjacent parcels or the night sky. Floodlights of any type are strongly discouraged.

Vegetation Management

For the enhancement of habitat and site pollinator value, an herbaceous cover mix selected from the Natural Resources Conservation Service Conservation Practice Standards for Conservation Cover (Code 327), Table 2: Selected List of Herbaceous Cover Mixes based on the specific characteristics of the site should be utilized.

Grandfathering

The Board and staff will be more lenient in applying the guidelines to pre-existing projects.

Decommissioning and Restoration

The Board supports the PSC's practice of requiring a decommissioning and restoration plan which will be updated every five (5) years, over the life of the project.



Prince George's County Department of Planning
The Maryland-National Capital Park and Planning Commission
14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772

www.pgplanning.org

PUBLIC NOTICE**Approval of *Uniform Standards for Mandatory Referral Review* for Prince George's County
(MNCPPC #18-07)**

Notice is hereby given that on Wednesday, April 18, 2018, The Maryland-National Capital Park and Planning Commission adopted a resolution approving *Uniform Standards for Mandatory Referral Review* for Prince George's County. These Uniform Standards address how public property located in Prince George's County, will be reviewed by the Prince George's County Planning Board.

The *Uniform Standards for Mandatory Referral Review* for Prince George's County was prepared by the Prince George's County Planning Department of The Maryland-National Park and Planning Commission (M-NCPPC). According to Maryland State law (Section 20-301 of the Land Use Article of the Annotated Code of Maryland), all federal, state and local governments and public and private utilities are required to submit proposed projects (roadway improvements, public buildings, fire and police stations, and others) in Prince George's County for a Mandatory Referral review and recommended approval by the Prince George's County Planning Board. The Planning Board must also review the widening, extension, relocation, narrowing, abandonment, or change of use of any road, park, or public way, and the acquisition or sale of any land by any public board, body, or official.

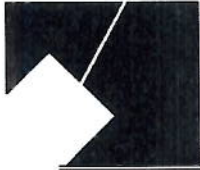
The approved *Uniform Standards for Mandatory Referral Review* for Prince George's County, when published, will be available on line at: (XXXXXX) and from the M-NCPPC Planning Information Services, located on the lower level of the County Administration Building, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772, free of charge.

Questions concerning the Mandatory Referral review process should be directed to Maria Martin, Planning Supervisor, Prince George's County Planning Department, Countywide Planning Division, Special Projects Section, at 301-952-3472 or by e-mail at Maria.Martin@ppd.mncppc.org.

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

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	Feb-18	Mar-18	Feb-18	Mar-18	Feb-18	Mar-18	Feb-18	Mar-18
CHAIRMAN, MONTGOMERY COUNTY	0	0	0	0	0	0	0	0
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	1	0	0	0	0	1	1	1
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.	0	1	0	0	0	0	0	1
LEGAL DEPARTMENT	1	1	2	1	0	1	3	3
FINANCE DEPARTMENT	1	3	1	2	0	0	2	5
PRINCE GEORGE'S PLANNING	3	2	0	2	0	0	3	4
PRINCE GEORGE'S PARKS & RECREATION	11	13	3	2	0	2	14	17
MONTGOMERY COUNTY PARKS	3	5	2	4	0	0	5	9
MONTGOMERY COUNTY PLANNING	4	3	2	3	0	1	6	7
DEPARTMENT TOTAL BY DAYS LATE	24	28	10	14	0	5		
COMMISSION-WIDE TOTAL							34	47

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

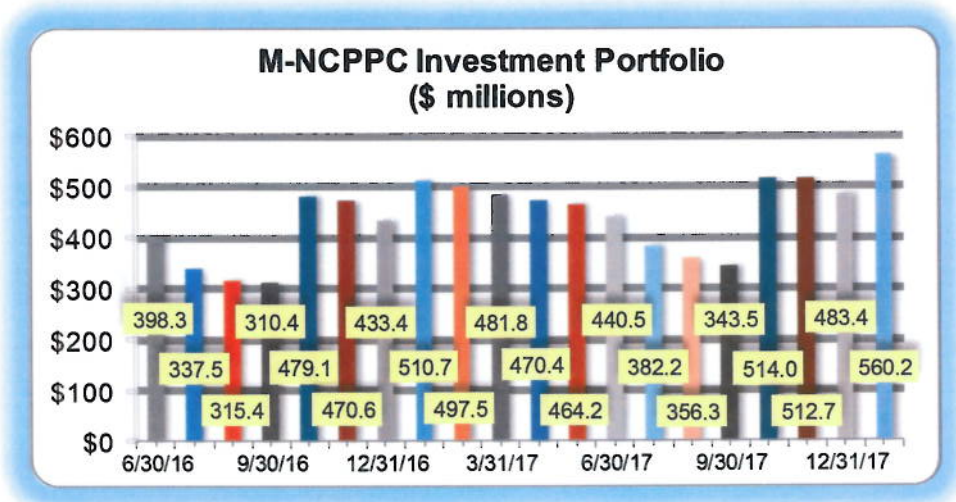


THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
TREASURY OPERATIONS, FINANCE DEPARTMENT
 6611 Kenilworth Avenue, Suite 302, Riverdale, MD 20737
 Telephone (301) 454-1541 / Fax (301) 209-0413

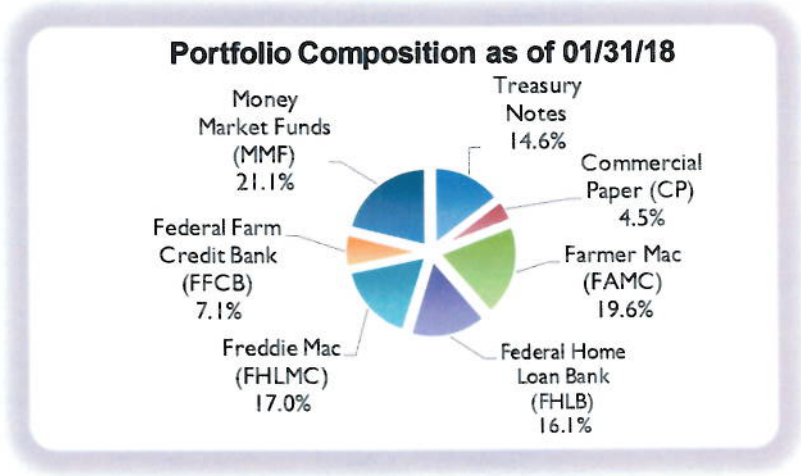
MEMO

TO: Commissioners
VIA: Joseph Zimmerman, Secretary-Treasurer
FROM: Abbey Rodman, Investment & Treasury Operations Manager *AR*
DATE: 2/14/2018
SUBJECT: Investment Report – January 2018

The Commission’s pooled cash investment portfolio totaled \$560.2 million as of January 31, 2018, with a 15.9% increase from December 31, 2017. Details are as follows:

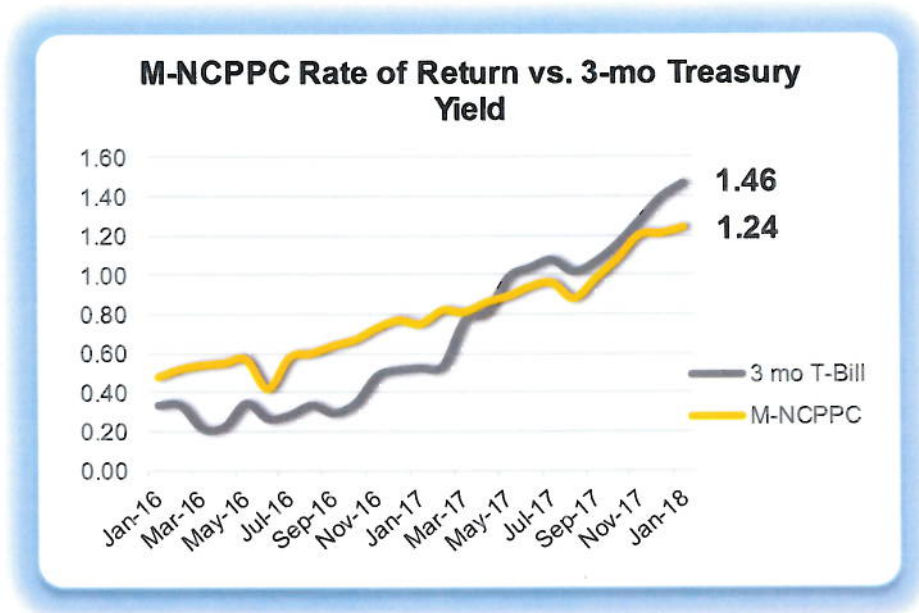


The composition of the pooled cash portfolio as of January 31, 2018 is summarized below:

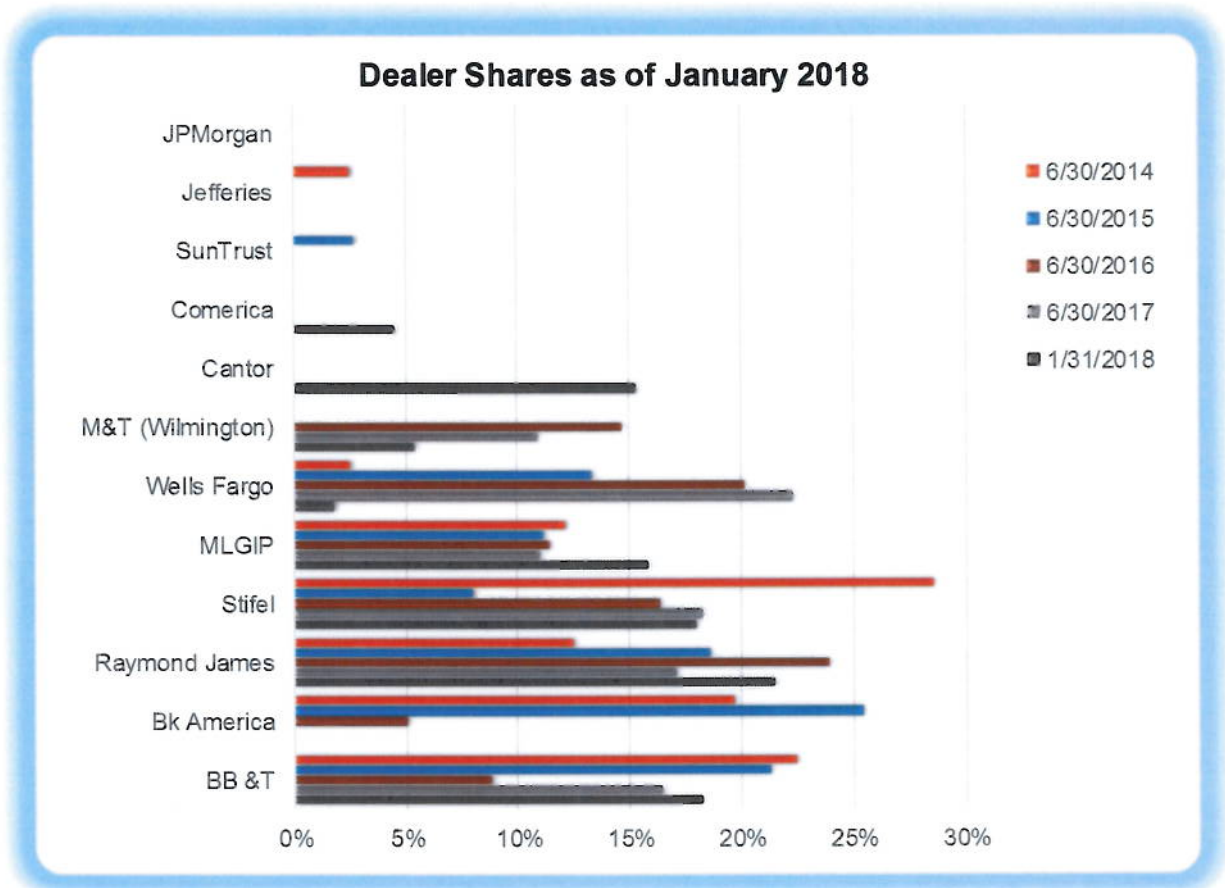


Current Investment Portfolio - January 2018				
Instrument	Policy Limit	Actual	Par Value	Wtd. Avg. Return (B/E)
Money Funds	25%	21%	\$ 118,156,623	n/a
Farmer Mac	20%	20%	110,000,000	1.36%
Freddie Mac	20%	17%	95,000,000	1.49%
Federal Home Loan Banks	20%	16%	90,000,000	1.37%
Treasury Notes	100%	15%	82,000,000	1.00%
Federal Farm Credit Bureau	20%	7%	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%	-	
			\$ 560,156,623	1.31%

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 - January 2018	
Prince George's County (PGC-2017A)	\$ 23,048,527
Montgomery County (MC-2017A)	4,148,403
	<u>\$ 27,196,930</u>

The Commission had debt service payments during the month totaling \$6,283,978 of which \$4,630,000 was principal and \$1,653,978 was interest.

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

Debt Balances - January 2018					
	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	5,225,000	46%	Jun-12	Jan-24
PGC-2014A	26,565,000	22,400,000	84%	May-14	Jan-34
PGC-2015A (Refunded JJ-2)*	24,820,000	23,135,000	93%	Oct-15	Jan-36
PGC-2017A	33,000,000	31,350,000	95%	Jul-17	Jan-37
Total Prince George's County	\$ 127,185,000	\$ 89,431,181	70%		
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	\$ 140,761,181	71%		

ATTACHMENT A

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

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:					T. Rowe Price managed all funds within limits
Highly-rated state / local agency securities					
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					All maturities within limits
Majority of investments shall be a maximum maturity of one (1) year. A portion may be as long as two years.					
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 22 basis points
The pro-rated rates of return for the portfolio and T-bills were 1.46% and 1.24%, respectively.					



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

Reply To

April 4, 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 March 2018

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, April 18, 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.

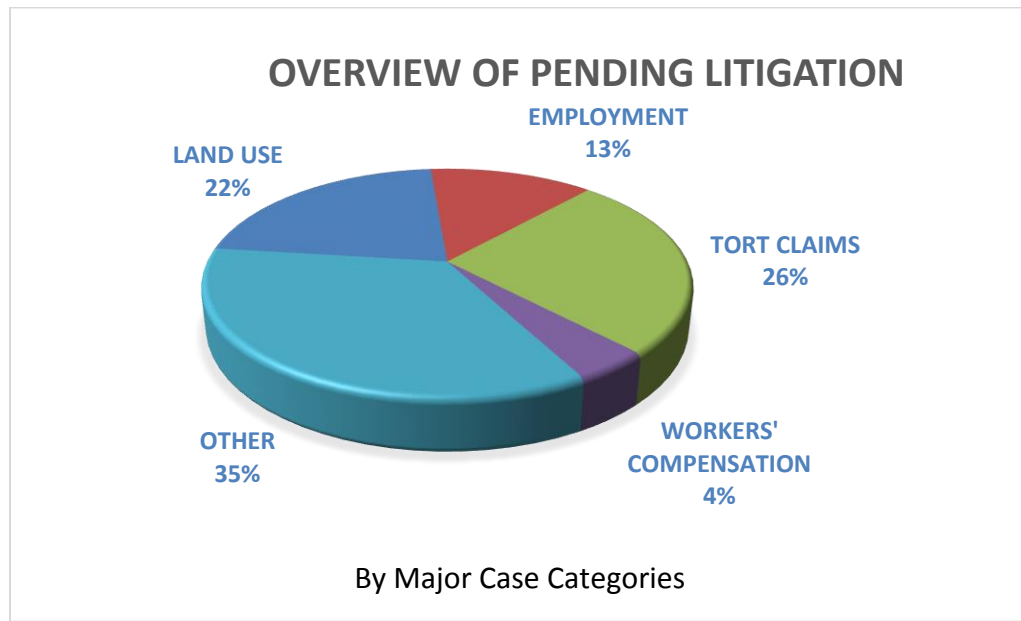
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March 2018 Composition of Pending Litigation

(Sorted By Subject Matter and Forum)

	State Trial Court	Federal Trial Court	Maryland COSA	Maryland Court of Appeals	Federal Appeals Court	U.S. Supreme Court	Subject Matter Totals
Admin Appeal: Land Use			2				2
Admin Appeal: Other							0
Land Use Dispute					1		1
Tort Claim	7						7
Employment Dispute	1		1				2
Contract Dispute	3		2				5
Property Dispute			2				2
Civil Enforcement							0
Workers' Compensation	1						1
Debt Collection							0
Bankruptcy							0
Miscellaneous			2		1		3
Per Forum Totals	12	0	9	0	2	0	23



March 2018 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2018			
	Pending In Feb 2018	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
Admin Appeal: Land Use (AALU)	2		1	4		2	3
Admin Appeal: Other (AAO)	0			0			0
Land Use Disputes (LD)	1			1	1	1	1
Tort Claims (T)	6			6	5	5	6
Employment Disputes (ED)	2			1	3	2	2
Contract Disputes (CD)	4			2	5	2	4
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		2	5		2	5
Totals	21		3	22	16	16	24

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

<u>A. 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
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
<u>B. New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
URS v. Commission	MC	CD	April 17
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
Pletsch v. Commission	PG	AALU	Feb 18
Price, et al. v. Commission	PG	M	Feb 18
The Town of Forest Heights	PG	M	Feb 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
Gregg v. Commission	PG	ED	Dec 2017
Moore v. Thompson, et al	PG	Tort	Dec 2017
Grier, et al v. Commission	PG	AALU	Dec 2017
Burnette v. Commission	PG	ED	Feb 2018
Commission v. Clean Air Mechanical, Inc. et al	MC	CD	Feb 2018
Pletsch v. Commission	PG	AALU	Feb 2018
Price, et al. v. Prince George's County, et al.	PG	Misc	Feb 2018
Commission v. The Town of Forest Heights	PG	Misc	Feb 2018

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

Disposition of FY18 Closed Cases Sorted by Department

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Price, et al. v. Commission	Plaintiffs file lawsuit for injunctive relief questioning validity of certain personal tax enactments involving the Commission and Prince George's County.	1/23/18 - Court grants Commission's Motion to Dismiss Amended Complaint and alternately entered judgment in favor of the Commission
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		
Cohhn 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
Commission v. Clean Air Mechanical Inc., et al	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.	12/28/17-Court orders venue of case to be changed to Prince George's County
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	
Commission v. Town of Forest Heights	Commission filed a declaratory judgment action against the Town of Forest Heights.	1/13/18 – Court denies Defendant's Motion to Dismiss and/or in the alternative, Motion for Summary Judgment; declares Sixth and Seventh Annexations by Defendant null and void and Defendant may not exercise law enforcement powers on Commission property.	
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
Pletsch, et al. v. Commission	Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan of Subdivision 4-16006 Melford Village.	01/18/18 – Court affirmed Planning Board's decision
Prince George's Park Police		
Burnette v. Commission	Former park police officer seeks judicial review of termination.	12/26/17-Order of Court affirming Administrative Hearing Board decision
Gregg v. Commission	Plaintiff filed complaint for alleged race and gender discrimination.	11/06/17-Case settled and dismissed
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 and dismissed.

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
2/11/18	Case Settled
3/16/18	Case Dismissed

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

Membrano v. Johns

Case No. 0502-0039770-2017 (Tort)

Lead Counsel: Foster
Other Counsel:

Abstract: Plaintiff struck by motor vehicle driven by commission employee

Status: Case settled.

Docket:

12/29/17	Complaint filed
02/06/18	Subpoena served on Commission employee
02/15/18	Notice of Intention to Defend filed
03/02/18	Case settled

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
10/16/17	Notice of Intention to Defend filed
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: In discovery.

Docket:

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

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 Circuit Court Prince George's County from Montgomery County (438017-V)
01/16/18	Answer to complaint and Motion to Dismiss and/or Motion for Summary Judgment filed by Defendants
02/02/18	Voluntary dismissal of Hudgins and Hardesty; Opposition to Motion for Summary Judgment filed; Amended Complaint filed
03/06/18	Motion to Dismiss, or in the Alternative, for Summary Judgment and Request for Hearing denied as Moot; matter shall continue in due course
05/14/18	Pretrial conference

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

Lead Counsel: Harvin
Other Counsel:

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

Status: In discovery.

Docket:

12/20/17	Complaint filed
01/08/18	Defendant Robinson served via certified mail
01/29/18	Plaintiff files Amended Complaint
02/02/18	Answer to Complaint filed
06/21/18	Pretrial Conference

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 - cancelled
04/10/18	Trial

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: In discovery.
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
01/26/18	Counterclaim filed
03/05/18	Motion to Amend Scheduling Track filed
05/19/18	Pretrial conference

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

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: Case Settled pending WCC approval.

Docket:

10/24/17	Petition for Judicial Review filed
11/03/17	Defendant's Response to Petition to Judicial Review
02/26/18	Joint Motion for Remand
03/02/18	Appeal Dismissed; Remanded to WCC

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: In discovery.

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 decision.

Docket:

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

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 filed.

Docket:

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

Pletsch, et al v. Commission

(AALU)

(Originally filed under CAL17-12150 in Prince George's County)

Lead Counsel: Mills
Other Counsel: Borden

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

Status: Appeals filed.

Docket:

02/16/18	Notice of Appeal filed by Pletsch, et al.
2/23/18	Notice of Appeal file by St. John Properties, Inc.

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

No. 2489 September Term 2017 (M)

(Originally filed under CAE16-37806 in Prince George's County)

Lead Counsel: Gardner
Other Counsel: Dickerson

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

Status: Appeal filed.

Docket:

02/12/18	Notice of Appeal filed
03/01/18	Court issued show cause for inquiry as to why Pre-hearing Information Report not filed
03/08/18	Court accepts Pre-hearing Information Report for filing
03/13/18	Order entered to proceed without Pre-hearing Conference

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

The Town of Forest Heights v. Commission

No 2538, September Term 2017 (M)

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

Lead Counsel: Mills
Other Counsel:

Abstract: Commission below filed a declaratory judgment against the Town of Forest Heights. Appeal from award of declaratory judgment

Status: Appeal filed.

Docket:

02/23/18	Notice of Appeal filed
03/16/18	Order to Proceed w/out Pre-hearing Conference

URS Corporation v. Commission

September Term, 2017, No. 00288 (CD)

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

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

Status: Awaiting Decision.

Docket:

04/21/17	Notice of Appeal
03/06/18	Oral Argument held

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: Petition for Rehearing denied.

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
03/01/18	Petition for Rehearing En Banc denied by a vote of 8-6 with a concurring opinion and multiple dissenting opinions
03/02/18	Amended Order denying motion for rehearing.
03/12/18	Mandate issued.

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