

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting Minutes May 21, 2014

The Maryland-National Capital Park and Planning Commission met at 9:30 a.m., on May 21, 2014, at the Montgomery Regional Office in Silver Spring, Maryland.

PRESENT

Montgomery County Commissioners
Françoise M. Carrier, M-NCPPC Chair
Casey Anderson
Norman Dreyfuss
Marye Wells-Harley

Prince George's County Commissioners
Elizabeth M. Hewlett, M-NCPPC Vice-Chair
Dorothy Bailey
Manuel Geraldo

ABSENT

Amy Presley

John Shoaff
A. Shuanise Washington

Chair Françoise M. Carrier convened the meeting at 9:56 a.m.

The Commission meeting proceeded in the following order:

- ITEM 1 APPROVAL OF COMMISSION AGENDA
The agenda was approved without discussion.
ACTION: Motion of Geraldo
 Seconded by Wells-Harley
 7 approved the motion (Presley, Shoaff and Washington were absent)
- ITEM 2 APPROVAL OF COMMISSION MINUTES
a) April 16, 2014
b) Special Teleconference, May 1, 2014
c) Special Teleconference Closed Session, May 1, 2014
ACTION: Motion of Hewlett
 Seconded by Geraldo
 7 approved the motion (Presley, Shoaff and Washington were absent)
- ITEM 3 GENERAL ANNOUNCEMENTS
Chair Carrier announced:
a) A reminder for Fitness Days for National Fitness Month. Chair Carrier noted Prince George's County had their Fitness Week the previous week, and Vice-

Chair Hewlett confirmed, saying it had been a fantastic success, although one event was rained out. Chair Carrier and Commissioner Anderson both expressed their anticipation in attending specific events in Montgomery County this week.

- b) A reminder for the One-Commission Diversity event coming on Friday, May 30, praising the Diversity Committee and looking forward to the event, hoping everyone present will encourage their staff to attend.
- c) Acknowledging May as Asian-Pacific Islander Heritage Month, Vice-Chair Hewlett added that Prince George's has already held several events in celebration and observation.
- d) This is the last Commission meeting to be attended by retiring Director of Montgomery County Parks, Mary Bradford. The Commissioners wished Director Bradford the very best. Chair Carrier said she hopes the Commission finds a successor to Ms. Bradford who will carry on the good work and keep the department moving. The upcoming retirement party for Ms. Bradford will be on Wednesday, June 4.
- e) There are two upcoming awards ceremonies for the Park Police. Montgomery County will be held on Wednesday May 21; Prince George's County will be held on Friday, May 23.

ITEM 4 COMMITTEE/BOARD REPORTS (For Information Only)

- a) Executive Committee Meeting Minutes – Open Session, May 7, 2014
- b) Executive Committee Meeting Minutes – Closed Session, May 7, 2014
- c) Executive Committee Teleconference Minutes – Open Session, April 8, 2014
- d) Executive Committee Teleconference Minutes – Closed Session, April 8, 2014
- e) Minutes of the Regular Employees' Retirement System Board of Trustees Meeting, March 4, 2014

ITEM 5 ACTION AND PRESENTATION ITEMS

a) RECOMMENDATION TO APPROVE THE ERS FY15 OPERATING BUDGET (Rose).

Passed without discussion

ACTION: Motion of Wells-Harley

Seconded by Geraldo

7 approved the motion (Presley, Shoaff and Washington were absent)

b) REQUEST TO USE FY14 SALARY LAPSE – INTERNAL AUDIT (Kenney)

Passed without discussion

ACTION: Motion of Wells-Harley

Seconded by Bailey

7 approved the motion (Presley, Shoaff and Washington were absent)

c) REQUEST TO USE FY14 SALARY LAPSE – LEGAL (Gardner)

Passed without discussion

ACTION: Motion of Wells-Harley

Seconded by Geraldo

7 approved the motion (Presley, Shoaff and Washington were absent)

- d) RESOLUTION #14-05 – SOUTHERN GREEN LINE STATION AREA SECTOR PLAN & SECTIONAL MAP AMENDMENT (Lewis)
 Passed without discussion
 ACTION: Motion of Geraldo
 Seconded by Wells-Harley
 7 approved the motion (Presley, Shoaff and Washington were absent)
- e) RESOLUTION #14-06 – PARK RESOURCE AMENDMENT TO THE MASTER PLAN FOR HISTORIC PRESERVATION (Kelly)
 Passed without discussion
 ACTION: Motion of Wells-Harley
 Seconded by Geraldo
 7 approved the motion (Presley, Shoaff and Washington were absent)
- f) RESOLUTION #14-09 – DISPOSAL OF M-NCPPC PROPERTY FROM BRANDYWINE NORTH KEYS PARK TO THE COUNTY DPW&T FOR PERMIT TO CONSTRUCT ADDITIONAL RECREATIONAL FACILITIES IN THE PARK (Palfrey)
 Passed without discussion
 ACTION: Motion of Wells-Harley
 Seconded by Geraldo
 7 approved the motion (Presley, Shoaff and Washington were absent)
- g) RESOLUTION #14-13 – ADOPTION FOR THE APPROVED 10 MILE CREEK LIMITED AMENDMENT, CLARKSBURG MASTER PLAN AND HYATTSTOWN SPECIAL STUDY AREA (Lazdins, Dolan, Boyd)
 This item was presented for adoption. A letter was submitted by law firm Beveridge and Diamond, PC, raising objections on behalf of a property owner. Vice-Chair Hewlett requested input whether the agency had a position or a response to the letter sent by Beveridge and Diamond, PC on this matter. General Counsel Adrian Gardner cited relevant sections of the Land Use Article and explained that M-NCPPC's role is simply administrative, acknowledging the County Council's decision. Commissioner Dreyfuss added that ultimate responsibility for whether the Plan is adopted or rejected is with the Montgomery County Council, not the Commission. Chair Carrier noted that the property owner represented in the letter was very involved with the Master Plan process, and the County Council was fully aware of the owner's objections.
 Passed
 ACTION: Motion of Wells-Harley
 Seconded by Geraldo
 7 approved the motion (Presley, Shoaff and Washington were absent)

h) RESOLUTION #14-07 – AMENDMENTS TO POLICY FOR SEASONAL/INTERMITTENT, TEMPORARY AND TERM CONTRACT EMPLOYEES (OVERTIME CALCULATION METHODOLOGY)

Corporate Policy and Management Operations (CPMO) Division Chief Anju Bennett, was joined by Finance Manager Chip Bennett and Enterprise Resource Planning (ERP) Project Manager Tracy Harris. Ms. Bennett presented the proposed Resolution that called for the adoption of amendments to the overtime calculation methodology for Seasonal/Intermittent/Temporary/ Term Contract (Contract) employees. She explained that the policy office is presently conducting, a comprehensive review of the employment regulations pertaining to Contract employees as codified in Practice 2-16 and its accompanying Administrative Procedures Manual. The Resolution, which focuses, on one aspect of the regulations (overtime calculation methodology) was being forwarded to Commissioners at this time so the decision could be incorporated in time for the upcoming deployment of the Human Capital Management component of the Enterprise Resource Planning (ERP) system.

Ms. Bennett explained the background research indicating that the federal Fair Labor Standards Act (FLSA) requires employers to pay non-exempt employees overtime at a rate of 1 ½ the hourly pay rate for any hours worked in excess of 40 in a 7 day week. Most M-NCPPC Contract employees are in the non-exempt category, and therefore, subject to overtime provisions. Ms. Bennett explained the FLSA regulations which provide two options for the calculation of this overtime. The options were outlined in the packet. One model, the weighted average of the hourly rates assigned to all jobs worked in the week, was recommended as the new overtime calculation model as it was a more prudent way to compensate employees who held multiple positions. In addition to fully complying with the FLSA, the change allows the agency to move to a fully automated calculation of overtime compensation, and is readily incorporated into the new ERP system without a need for costly customization.

Ms. Bennett explained that the impact would be small, indicating that over the past five years, the agency employed an average of 3,500 contract employees, and only 35 of those employees worked overtime, with only a handful working in multiple positions. Nevertheless, if the change is approved, Finance will notify all contract employees of the change.

Commissioner Dreyfuss stated his approval of the change and stressed that departments should reduce reliance on overtime. Secretary-Treasurer Zimmerman reaffirmed that the Commission is doing well managing overtime as the statistics in the Commission packet indicated that only 35 (1.0 %) of the Contract workforce employees have received overtime pay. Passed

ACTION: Motion of Dreyfuss to approve Resolution #14-07

Seconded by Bailey

7 approved the motion (Presley, Shoaff and Washington were absent)

i) RECOMMENDED AMENDMENTS TO CHAPTER 1200 OF THE MERIT SYSTEM RULES AND REGULATIONS: SALARY EQUITY/RETENTION INCENTIVES (Bennett/Dupree)

(Administrative note: The packet of materials for item 5i was transmitted via electronic mail to the Commissioners ahead of regular meeting packet. While the electronic material was complete, Ms. Bennett noted that a page was omitted from the print version of the packet. It should have appeared between pp. 342-343 of the packet, and was distributed at the meeting.)

CPMO Division Chief Anju Bennett, with Senior Management Analyst Lisa Dupree, asked the Commission to consider policy amendments to Chapter 1200 that would enable post-hire internal salary equity reviews and the ability to implement counter-offers as retention incentives. Ms. Bennett explained that proposals stemmed from extensive research and collaborative management work sessions with Directors, the Executive Committee, and the Merit System Board. Comments from non-represented Merit employees also were considered as submitted during forums and a 30-day formal comment period.

Ms. Bennett described the basis for each change, relevant analysis of the issue, existing policies, and industry standards. Detailed research, copies of submitted employee comments, and the Merit System Board's support of the proposals were provided in the packet. Ms. Bennett explained that changes, which were eagerly anticipated by management and employees, addressed the following areas.

- Language was added to 1250 to allow the Executive Director to consider, for exceptional cases, pay increases greater than the standard pay adjustments outlined in the subsections of 1250.
- New Section 1256 enabled the use of internal salary equity reviews when a Department Head believes an employee is paid significantly less than other employees (holding same/similar position) who have the same or less relevant qualifications. The section describes steps for initiating a salary review, criteria for consideration, and applicable pay adjustments.
- New Section 1257 permits the use of counteroffers as retention incentives. The proposed policy allows management to offer a pay adjustment as a counteroffer to verified external offers of employment. The use of the incentive is initiated by the Department Head to retain an employee whose departure would place an undue hardship on the agency. Ms. Bennett explained that the standards require the employee to remain with the agency for two years after accepting the incentive or repay a prorated amount. Incentives may include up to a 10% increase in base salary, a lump-sum payment, or a combination of the two). Lump sum payments would be determined by the Executive Director, with input from the Department Head and Human Resources Director.

Commissioner Geraldo asked if there was a limit on the lump sum payment. Ms. Bennett stated that management recommended that a cap not be placed on lump sum incentives, as they are not added to base salary.

Commissioner Anderson asked if making a counter-offer was entirely at the discretion of the supervisor, concerned that the decision not to make a counter-offer is grievable. Ms. Bennett replied the proposed policy addresses this area as all counter offers incentives are at the discretion of the Department Head and subject to funding availability. Department Heads would determine whether it was critical to retain an employee. She shared that subsection 1256.3 clarifies that salary adjustment amount is not appealable. Additionally, the criteria included in the policy proposals would help mitigate grievances as they provide a basis for consideration of counter-offers. General Counsel Gardner said that while an employee can submit a grievance on any topic, he agreed that an employee who attempted to submit a grievance for not being presented with a counter-offer would not succeed.

Commissioner Bailey asked if the agency has any idea of how often this process would be used. Ms. Bennett replied that during the employee forums and management work sessions, a significant amount of interest was expressed. Commissioner Bailey shared concerns about potential abuses and favoritism. Commissioner Wells-Harley agreed, adding that there were opportunities for racial/gender abuses in the policy. Ms. Bennett offered that the policy proposals fold in oversight by Human Resources and the Executive Director to ensure consistency and fairness across the agency. Additionally, the Executive Director must share all pay exceptions with the Chair and Vice Chair of the Commission. These elements were often not seen in policies of other agencies. Commissioner Wells-Harley inquired whether an annual report could be provided to Commissioners on how the policy has been implemented over the course of a year. Executive Director Barney agreed that a report on salary equity exceptions and retention incentives could be developed. Commissioner Geraldo suggested that the report note the number of requests overall, in comparison to total pay adjustments granted within each department. Executive Director Barney agreed.

Commissioner Wells-Harley said changes to the policy were long overdue, and she wished to thank all those who contributed to this project for their hard work. Commissioners thanked Ms. Bennett and her team for their work.

ACTION: Motion of Wells Harley to approve the policy, with the addition of a requirement to generate an annual report as described above.

Seconded by Hewlett

7 approved the motion (Presley, Shoaff and Washington were absent)

Ms. Bennett requested clarification on the effective date of the adopted policy. She stated July 1 would provide adequate time for the Human Resources Division to formulate implementation guidance to Departments.

ACTION: Motion of Geraldo to make policy amendments effective July 1, 2014.

Seconded by Wells-Harley

7 approved the motion (Presley, Shoaff and Washington were absent)

ITEM 6 OFFICER'S REPORTS

a) Employee Evaluations Not Completed By Due Date - April 2014

Executive Director Barney reported that Directors are working on completing evaluations and they are coming in.

b) Secretary-Treasurer's Report

Secretary-Treasurer Zimmerman stated that the Enterprise Resource Planning (ERP) Financial system went live on April 14 and things were going well. The Finance Department is paying vendors and tracking costs. The Supply Chain module is going well although they are working through some issues. The Budget module is back on track. Human Capital Management is the most complex piece of the system and the team is working through Human Resources/Payroll configuration issues. The team is moving very carefully as this module affects every employee and it is important that everything works correctly before deployment. There are some interface issues with the Employee Retirement System that are currently being addressed to ensure accurate information is being sent. One ERP customization was required, necessitating a recalculation for retirement contributions above and below the FICA limit on income.

c) General Counsel

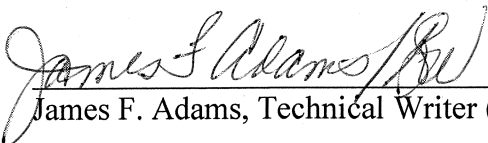
No litigation to report. Vice-Chair Hewlett asked about a successful litigation recently in Montgomery County. General Counsel Gardner replied that particular case was still on appeal and it is too early to celebrate. He assured Commissioners they would be the first to know when it's successful.


Pursuant to the Maryland State Government Article of the Annotated Code, Section 10-508(a)(7) & (9), the Maryland-National Capital Park and Planning Commission adjourned to closed session at 11:20 a.m., to consult with counsel for legal advice, conduct collective bargaining discussions, and consider matters that relate to negotiations.

ACTION: Motion of Hewlett

Seconded by Geraldo

7 approved the motion (Presley, Shoaff and Washington were absent)


James F. Adams, Technical Writer (acting)


Patricia Colihan-Barney, Executive Director