



Commission Meeting  
Open Session Minutes  
July 20, 2022

The Maryland-National Capital Park and Planning Commission met via videoconference with the Chair initiating the meeting at the Wheaton Headquarters Building in Wheaton, Maryland. The meeting was broadcast by the Montgomery County Planning Department.

PRESENT

Montgomery County Commissioners

Casey Anderson, Chair  
Gerald Cichy  
Tina Patterson

Prince George’s County Commissioners

Peter A. Shapiro, Vice Chair  
Dorothy Bailey  
Manuel Geraldo  
A. Shuanise Washington

NOT PRESENT

Carol Rubin  
Partap Verma

William Doerner

Chair Anderson called the meeting to order at 10:03 a.m.

ITEM 1 APPROVAL OF COMMISSION AGENDA

Executive Director Chiang-Smith added Item 5i to the agenda  
ACTION: Motion of Commissioner Washington to approve the amended agenda  
Seconded by Commissioner Bailey  
7 approved the motion

ITEM 2 APPROVAL OF COMMISSION MINUTES

Open Session – June 15, 2022  
Closed Session – June 15, 2022  
ACTION: Motion of Commissioner Geraldo to approve the minutes  
Seconded by Commissioner Bailey  
7 approved the motion to approve open session minutes  
6 approved the motion to approve closed session minutes  
Commissioner Patterson abstained from the closed session minutes vote

ITEM 3 GENERAL ANNOUNCEMENTS

- a) Bereaved Parents’ Month
- b) Upcoming Hispanic Heritage Month (September 15 to October 15)

ITEM 4 COMMITTEE MINUTES/BOARD REPORTS (For Information Only)

- a) Executive Committee Meeting, July 6, 2022 Open Session

- b) Executive Committee Meeting, July 6, 2022 Closed Session
- c) Employees' Retirement System Board of Trustees Regular Meeting, June 7, 2022

ITEM 5      ACTION AND PRESENTATION ITEMS

- a) Resolution 22-27 Prince George's County Bond Sale (Cohen)  
No discussion  
ACTION: Motion of Commissioner Washington to adopt Resolution 22-27  
          Seconded by Commissioner Geraldo  
          7 approved the motion
  
- b) Resolution 22-28 Montgomery County Bond Sale (Cohen)  
No discussion  
ACTION: Motion of Commissioner Cichy to adopt Resolution 22-28  
          Seconded by Commissioner Geraldo  
          7 approved the motion
  
- c) Resolution 22-29 Adoption of Adelphi Road-UMGC-MUD Purple Line Station (Punase)  
No discussion  
ACTION: Motion of Commissioner Geraldo to adopt Resolution 22-29  
          Seconded by Commissioner Washington  
          7 approved the motion
  
- d) Resolution 22-30 Adoption of the Bowie-Mitchellville and Vicinity Master Plan (revised) (Lester)  
No discussion  
ACTION: Motion of Commissioner Geraldo to adopt Resolution 22-30  
          Seconded by Commissioner Washington  
          7 approved the motion
  
- e) Resolution 22-31 Disposition of Nees Lane Lot (Coppola)  
No discussion  
ACTION: Motion of Commissioner Cichy to adopt Resolution 22-31  
          Seconded by Commissioner Geraldo  
          7 approved the motion
  
- f) Amendments to Practice 6-40 Sustainability (Beckham)  
Acting CPMO Beckham introduced Policy Analyst Michael Doaks who briefed Commissioners on proposed amendments to Practice 6-40 which establishes the agency's policy on conserving energy and other current industry sustainability standards. Mr. Doaks noted these changes were developed collaboratively with the

M-NCPPC Sustainability Committee and have been reviewed and supported by Department Heads and the Executive Committee.

He reviewed the current and proposed framework for the Practice. The amendments focus on three pillars – Environmental Responsibility, Social Justice, and Economic Vitality. It also creates a framework for the Sustainability Committee to create a regular 5-year Sustainability Plan.

Ms. Aparicio and Ms. Belle of the Sustainability Committee discussed how the amended Practice will frame the new M-NCPPC Sustainability Plan and future plans.

Commissioner Geraldo asked if a 5-year plan is realistic in light of the rapidly changing issues with climate change. Ms. Arapicio said the plans will be built with flexibility and can be modified to reflect developing regulations and science. She added there will be a regular semiannual progress report which will provide an executive summary of progress made on the 5-year plan goals. Modifications to the 5-year goals can be made at that time.

Vice-Chair Shapiro thanked everyone for their hard work and their regular communication. Chair Anderson agreed, saying these amendments are an improvement in both substance and structural design flexibility of the plan

**ACTION:** Motion of Commissioner Cichy to adopt the Policy Amendments  
Seconded by Commissioner Washington  
7 approved the motion

g) Incentives for COVID Boosters for Employees (Chiang-Smith/Beckham)

Acting CPMO Director Beckham reviewed for Commissioners the policy framework incentivizing employees to continue to follow health department guidelines by getting recommended COVID booster shots. The policy team was directed by Department Heads and the Executive Committee to provide a memo, draft Notice, and a guideline document so employees will know what to do if they test positive for COVID. The policy would provide, through the end of the calendar year, Administrative Leave for employees who are afflicted with the virus and either unable to telework or are advised by a physician not to work due to the effects of the virus. Mr. Beckham added the policy is for non-represented employees only. Employees would be required to submit their booster status using a similar mechanism as the vaccination reporting engine used in September 2021. Guidance for FOP and MCGEO Collective Bargaining units will be shared when agreements are reached.

Mr. Beckham reviewed the COVID guidance document, which provided instructions and information on what employees and their respective supervisors should do if an employee tests positive for COVID.

Commissioners and senior staff made several suggestions:

Commissioner Washington asked about the availability of home tests and if providing a positive home test would be acceptable to take advantage of the policy. Chair Anderson suggested adding language reflecting “either directed by a medical provider *or Risk Management/other Commission authority.*” Executive Director Chiang-Smith advised Commission staff should not be evaluating whether an employee can telework or not. Chair Anderson suggested the supervisor/department should be able to coordinate with Risk Management to evaluate whether people should not be working among other staff and whether they can or should be teleworking.

Executive Director Chiang-Smith clarified that Risk Management should not be determining whether the employee is too sick to telework. Chair Anderson agreed.

Chair Anderson said the policy needs to address the separate issues of (1) not spreading COVID, and (2) whether the employee is too sick to work/telework. Acting General Counsel Borden said the policy could use the same process as using Sick Leave – if the employee is too ill to work onsite, but may be able to telework, that is something that can be worked out with the employee’s supervisor. If they are too ill to work, they can request sick leave, and if they need to be out for more than three days, the absence should require a doctor’s note. Acting General Counsel Borden will work with the Policy Office to amend the language.

Director Checkley expressed concern for potential abuse of the policy. Chair Anderson said a doctor’s note or proper documentation (e.g., a positive COVID test) can be required. Executive Director Chiang-Smith said the Policy Office can work with Legal to ensure proper documentation language is included.

**ACTION:** Motion of Commissioner Washington to adopt the Policy, with discussed amendments

Seconded by Commissioner Geraldo

7 approved the motion

- h) Summary of Open Meetings Act Compliance Board Opinion, 16 OCB 144 (2022) pursuant to Md. Gen. Provisions Code Ann. §3-211(b) (Anderson)

Chair Anderson stated that the M-NCPPC was cited with a violation of the Open Meetings Act (OMA) having to do with proper closing statements and closed session

minutes. The violation noted the reason was that the agency failed to meet certain statutory requirements. He acknowledged that the agency received the Compliance Board's opinion and encouraged Commissioners to read the opinion. He said he believes in the importance of open government, transparency, and compliance with the OMA, but finds the interpretation and application of the alleged violations are incorrect. He said while the agency respects the OMA Board and OMA, we would not be serving the public well by failing to note how the interpretation of the Act in this violation impacts public perception.

For example, the Commission is permitted to conduct business in closed session for bargaining purposes to have confidential discussions of our bargaining position. In 2021, the Commission informed the public every time it engaged in these bargaining discussions through the agenda and the Chair's verbal statement, that they were entering a closed session to discuss collective bargaining. The OMACB cited a violation because the topic did not include the name of the union with which we were bargaining, which Chair Anderson said was needlessly granular. By citing the M-NCPPC with a hyper-technical violation such as this, the Compliance Board undermines trust in government operations because it is not a fair and accurate depiction of how the agency handles the closing of its open meetings.

Chair Anderson provided an additional example regarding the Employees' Retirement System (ERS) violation of the OMA by discussing Administrative matters in a way that was not consistent with the way the OMA Compliance Board's interprets the word "Administrative."

The result of the Compliance Board's interpretation of the topic's exception was to say the ERS can talk about the policies and investment in the retirement in closed session, but cannot discuss personnel issues in closed session. He said this is a perverse interpretation that does not serve the public. Chair Anderson said the agency accepts and embraces accountability by acknowledging error in public, but the OMA Compliance Board should be accountable for the consequences of their interpretation of the law, and if they are off base, they should confront it and recognize they are interpreting the Act in a way that does not serve the public and does not support public confidence in government by giving a false impression that something inappropriate is taking place.

i) Resolution 22-32 Appointment of Debra S. Borden as General Counsel (Gardner)

Chair Anderson and Vice Chair Shapiro expressed consensus to recommend appointing Deborah S. Borden to M-NCPPC General Counsel subject to the negotiation of an employment agreement with her.

ACTION: Motion of Commissioner Washington to adopt Resolution 22-32  
Seconded by Commissioner Geraldo

7 approved the motion

ITEM 6      OFFICERS' REPORTS

Executive Director's Report

a) Late Evaluation Report (May 2022) (For information only)

Secretary-Treasurer's Report

b) 3<sup>rd</sup> Quarter MFD Report (from June) (For information only)

c) FY2021 Single Audit Report (For information only)

General Counsel's Report

d) Litigation Report (For information only)

General Counsel Gardner noted this would be his last Commission meeting and thanked Commissioners for supporting him. He said having the ability to spend time with his family during a difficult time made a tremendous difference, and said the policies the agency has in place make a big difference for its staff. He thanked Commissioner and his colleagues for their sympathy on the passing of his mother and wished to acknowledge how meaningful their words were. He also thanked Debra Borden for her tireless work, and said he would not have considered leave without her support and acumen and is confident he is leaving the agency in good hands.

ITEM 7      CLOSED SESSION

*Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (9) & 15, a closed session is proposed on the following topic. The purpose of closing this meeting is generally to protect and promote the public interest by: (i) preserving privileged and confidential deliberations needed to manage ongoing collective bargaining negotiations and discuss cybersecurity matters.*

Chair Anderson asked for a motion to move to closed session. Commissioner Geraldo moved; Commissioner Washington seconded. The 7 Commissioners voted for the measure and the meeting moved to closed session at 10:56 a.m. The meeting reconvened in a separate virtual meeting platform to discuss Executive Director's collective bargaining update which may encompass discussion for both MCGEO and FOP collective bargaining units, and for the CIO to update Commissioners with cybersecurity matters.

ACTION: Geraldo moved to start closed session  
Washington seconded  
7 approved the motion

The following individuals were present (via videoconference):

Also present (by videoconference):

Asuntha Chiang-Smith, Executive Director

Gavin Cohen, Secretary-Treasurer

Andree Checkley, Director, Prince George's Planning

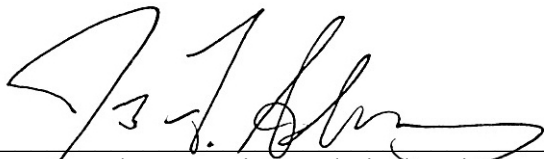
Christian Gabriel, Deputy Director, Prince George's Parks and Recreation for Director Bill Tyler

Adrian Gardner, General Counsel (departed 11:40 am)  
Mike Riley, Director, Montgomery Parks (departed 11:30 am)  
Gwen Wright, Director, Montgomery County Planning

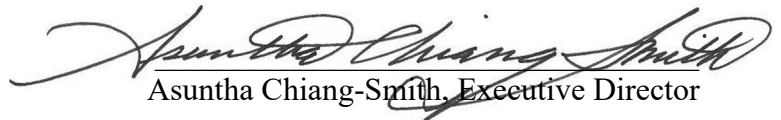
James Adams, Senior Technical Writer, DHRM  
Michael Beckham, Acting Corporate Policy and Management Operations (CPMO) Director  
Debra Borden, Acting General Counsel  
Gary Burnett, Acting Deputy Director, Montgomery Parks  
Mazen Chilet, Chief Information Officer  
Miti Figueredo, Deputy Director, Montgomery Parks  
Cynthia Henderson, Benefits Specialist, CHR  
Suzann King, Deputy Director, Prince George's Planning  
Katie Knaupe, Corporate Budget Manager for Corporate Budget Director John Kroll  
Jennifer McDonald, Benefits Manager, CHR  
William Spencer, Corporate HR Director  
Tanya Stern, Deputy Director, Montgomery Parks

The Executive Director updated Commissioners on collective bargaining negotiations and related matters. Commissioners provided direction and support on how to proceed. The CIO provided reviewed a cybersecurity report with Commissioners.

There being no further business to discuss, Chair Anderson adjourned the meeting from closed session at noon.



James F. Adams, Senior Technical Writer



Asuntha Chiang-Smith, Executive Director