



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

November 15, 2023

10:00 a.m. – 12:00 p.m.

Wheaton Headquarters
Auditorium
2425 Reddie Drive
Wheaton, Maryland 20902

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MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING AGENDA

Wednesday, November 15, 2023

10:00 am to 12:00 noon

Hybrid – Online & Wheaton Headquarters Auditorium, Wheaton

| | | <u>ACTION</u> | |
|----|--|---------------|--------|
| | | Motion | Second |
| 1. | Approval of Commission Agenda (10:00 a.m.) | (*) Page 1 | |
| 2. | Approval of Commission Minutes (10:05 a.m.) | | |
| | a) Open Session – October 18, 2023 | (*) Page 3 | |
| 3. | General Announcements (10:05 a.m.) | | |
| | a) Thanksgiving & Employee Appreciation Day Holidays | | |
| | b) National American Indian Heritage Month (Maryland American Indian Heritage Day Nov 24) | | |
| | c) “Great American Smoke Out” Nov 16 | | |
| | d) Military Family Appreciation Month | | |
| | e) Upcoming Festival of Lights and Winter Garden Walk through in Prince George’s and Montgomery Counties | | |
| | f) Upcoming One-Commission Holiday Event | | |
| | g) Diversity Council Openings for 2024 | | |
| 4. | Committee Minutes/Board Reports (For Information Only) (10:10 a.m.) | | |
| | a) Employees Retirement Association Board of Trustees Regular Meeting - October 3, 2023 | Page 7 | |
| 5. | Action and Presentation Items (10:15 a.m.) | | |
| | a) Update on Commission-wide Performance Metrics Project (Martin O’Malley) | Page 13 | |
| | b) Resolution 23-22 Adoption of the Montgomery County Pedestrian Master Plan (Glazier) (*) | Page 23 | |
| | c) Resolution 23-24 Merit System Board Chair Reappointment: Tanya Upthegrove-Coleman (King) (*) | Page 57 | |
| | d) Resolution 23-25 Employer Contribution to the Employees’ Retirement System (Rose/Cheiron) (*) | Page 63 | |
| | e) Amendments to Practice 2-24 Ethics (Harvin/Beckham) (*) | Page 87 | |
| 6. | Officers’ Reports (11:40 a.m.) | | |
| | <u>Executive Director’s Report</u> | | |
| | a) Late Evaluation Report, Oct 2023 (For Information Only) | Page 163 | |
| | <u>Secretary Treasurer</u> | | |
| | b) Other Post-Employment Benefits Trust Fund, June 30, 2023 (For Information Only) | Page 165 | |
| | <u>General Counsel</u> | | |
| | c) Litigation Report (For Information Only) | Page 169 | |

(*) Vote (LD) Late Delivery (H) Handout (D) Discussion Only

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
Open Session Minutes
October 18, 2023

The Maryland-National Capital Park and Planning Commission met in hybrid, in-person/videoconference, with the Chair initiating the meeting at the Prince George's Parks and Recreation Administration Headquarters Auditorium in Riverdale, Maryland. The meeting was broadcast by the Department of Parks and Recreation, Prince George's County.

PRESENT

Prince George's County Commissioners

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

Montgomery County Commissioners

Artie Harris, Vice Chair
Shawn Bartley
James Hedrick
Mitra Pedoeem

NOT PRESENT

Josh Linden

Chair Shapiro called the meeting to order at 10:01 a.m.

ITEM 1 APPROVAL OF COMMISSION AGENDA

ACTION: See item 2

ITEM 2 APPROVAL OF COMMISSION MINUTES

Open Session – 9/20/23

Motion by Commissioner Geraldo to adopt the 10/18/23 Agenda
and 9/20/23 Open Session Minutes
Seconded by Bailey

9 approved the 10/18/23 agenda

9 approved the 9/20/23 minutes

ITEM 3 GENERAL ANNOUNCEMENTS

- a) Breast Cancer Awareness Month
- b) National Pregnancy and Infancy Loss Awareness Month
- c) National AIDS Awareness Month
- d) Hiring People with Disabilities Month
- e) National Domestic Violence Awareness Month
- f) National Stop Bullying Month
- g) Italian American, German American, and Polish American Heritage Month

ITEM 4 COMMITTEE AND BOARD REPORTS (For Information Only)

- a) Employees' Retirement System Board of Trustees Regular Meeting Minutes, September 5, 2023

ITEM 5 ACTION/PRESENTATION ITEMS

- a) Resolution 23-18 Adoption of the 115 Trust Investment Plan (Cohen)

Secretary-Treasurer Cohen presented the item to Commissioners as reflected in the packet.
No questions.

ACTION:

Motion by Commissioner Geraldo to adopt and Policies and Procedures Manual and Resolution 23-18

Seconded by Commissioner Hedrick
9 voted in favor

- b) Resolution 23-21 Edward U. Taylor Elementary School: An Amendment to the Master Plan for Historic Preservation (Liebertz)

No questions.

ACTION:

Motion by Commissioner Geraldo to adopt Resolution 23-21

Seconded by Vice Chair Harris
9 voted in favor

- c) Resolution 23-23 Land Exchange in Westphalia Central Park (Sun)

No questions.

ACTION:

Motion by Commissioner Washington to adopt Resolution 23-23

Seconded by Commissioner Geraldo
9 voted in favor

- d) Recommendation for Appointment of Audax Management company, LLC as a new Investment manager for the Employees' Retirement System (Rose)

No questions.

ACTION:

Motion by Commissioner Geraldo to approve the appointment

Seconded by Commissioner Hedrick
9 voted in favor

- e) Proposed Amendments to Practices Defining the Organization and Functions of the County Planning Board Offices and Planning Departments (Practices 1-50A, 1-50B, 1-60A and 1-60B) (Harvin/Beckham)

CPMO Director Harvin and Policy Manager Beckham presented to Commissioners as reflected in the packet.

Commissioner Doerner suggested amending the language of the practices to include encouraging healthy lifestyles, to echo language from the Montgomery Parks Practice. Policy staff agreed such a change could be made and will work with directors to amend the other practices.

ACTION:

Motion by Commissioner Geraldo to approve the Practice amendments, including edited language as suggested.

Seconded by Commissioner Harris

9 voted in favor

- f) Proposed Updates to 2024 Benefits Rates and Plan Design changes (Spencer/McDonald)
Benefits Manager McDonald requested Commissioners consider and approve proposed rate changes for calendar 2024, summarizing material reflected in the packet, including a new program on a voluntary enrollment of an “everyday benefits” program, to be launched in January 2024. Open enrollment starts on Monday, October 23 with a live platform online, plus three workshops, including one for retirees. US Mail notices will also be sent next week.

Ms. McDonald explained a chart which explained the past trends of the agency’s self-insurance fund since 2012, broken down by which costs were funded by employees versus the M-NCPPC. Vice Chair Harris said the chart was very helpful, and asked if future reports could contain a percent increase from a previous year. Ms. McDonald said she could update the chart and send it to Commissioners and staff.

Executive Director Chiang-Smith thanked leadership from the Municipal and County Government Employees’ Organization Collective Bargaining group for their input and support in discussions with Kaiser Permanente to lower the amount of the health insurance cost increase for the Kaiser plan from a 35% increase to a 5% increase.

ACTION:

Motion by Commissioner Washington to approve the plan design changes and 2024 Rates

Seconded by Commissioner Geraldo

9 voted in favor

- g) Inspector General’s Annual Report and Audit Committee Annual Report (Kenney/Bailey)
Inspector General Kenney presented a summary of the reports to the Commission. Commissioner Bailey thanked Ms. Kenney for her outstanding job leading the Audit Committee and introduced the public members of the Committee, Mr. Benjamin Williams and Ms. Erin White.

6. Closed Session (11:15 a.m.)

Pursuant to the Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b)(1), (8), (12) and (15), a closed session is proposed to (i) to discuss confidential personnel matters; (ii) to discuss an investigative proceeding on actual or possible criminal conduct; (iii) to discuss actual or possible litigation; and (iv) to discuss cybersecurity matters that pose a risk to: 1. security assessments or deployments relating to information resources technology; 2. network security information; and 3. deployments or implementation of security personnel, critical infrastructure, or security devices, in order to protect public safety.

NOTE: The item addressing Section 3-305(b)(1), (8), and (12) was removed from the agenda during closed session. Closed session only consisted of 3-305(b)15 for cybersecurity items.

Commissioner Geraldo moved to enter closed session; Commissioner Bailey seconded at 10:51.

Open session resumed at 11:34 am.

ITEM 7 OFFICERS' REPORTS

Executive Director's Report

- a) Late Evaluation Report, September 2023 (For Information Only)
- b) CIO's Report (For Information Only)

Secretary-Treasurer's Report

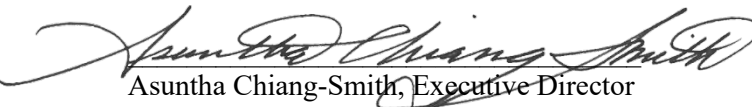
No report scheduled

General Counsel's Report

- c) Litigation Report (For information only)

With no other business to discuss, Chair Shapiro adjourned the meeting at 11:36 a.m.


James Adams, Senior Technical Writer


Asuntha Chiang-Smith, Executive Director



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

**WRITTEN STATEMENT FOR CLOSING A MEETING
UNDER THE OPEN MEETINGS ACT**

Date: 10/18/2023 Time: 10:51 am

Location: Prince George's County Parks and Recreation Administration Building Auditorium in Riverdale, Maryland & Via Videoconference

Motion to close meeting made by Commissioner Geraldo. Seconded by Commissioner Bailey.

Members voting in favor: Bailey, Bartley, Doerner, Geraldo, Harris, Hedrick, Pedoeem, Shapiro, Washington

Opposed: N/A Abstaining: N/A Absent: Linden

**STATUTORY AUTHORITY TO CLOSE SESSION, General Provisions Article, §3-305(b)
(check all that apply):**

- (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;
- (2) To protect the privacy or reputation of individuals concerning a matter not related to public business;
- (3) To consider the acquisition of real property for a public purpose and matters directly related thereto;
- (4) To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- (5) To consider the investment of public funds;
- (6) To consider the marketing of public securities;
- (7) To consult with counsel to obtain legal advice on a legal matter;
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation;
- (9) To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- (10) To 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) To prepare, administer, or grade a scholastic, licensing, or qualifying examination;
- (12) To conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- (13) To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
- (14) Before a contract is awarded or bids are opened, to discuss 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.
- (15) To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to: (i) security assessments or deployments relating to information resources technology; (ii) network security information, such as information that is related to passwords, personal ID numbers, access codes, encryption, security devices, or vulnerability assessments or that a governmental entity collects or maintains to prevent,

detect, or investigate criminal activity; or (iii) deployments or implementation of security personnel, critical infrastructure, or security devices.

FOR EACH CITATION CHECKED ABOVE, THE REASONS FOR CLOSING AND TOPICS TO BE DISCUSSED:

Pursuant to the Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b)(1), (8), (12) and (15), a closed session is proposed to (i) to discuss confidential personnel matters; (ii) to discuss an investigative proceeding on actual or possible criminal conduct; (iii) to discuss actual or possible litigation; and (iv) to discuss cybersecurity matters that pose a risk to: 1. security assessments or deployments relating to information resources technology; 2. network security information; and 3. deployments or implementation of security personnel, critical infrastructure, or security devices, in order to protect public safety.

Topics to be discussed:
Inspector General/Audit Committee 2022 Report
Discussion of M-NCPPC Cybersecurity

The topic concerning the Inspector General and Audit Committee 2022 Reports were removed from the closed session agenda during the closed session and not discussed. The session was only needed for 3-305(b)(15).

This statement is made by:

Peter Shapiro, Chair, Presiding Officer.

PRINT NAME



11/6/2023

SIGNATURE & DATE



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

BOARD OF TRUSTEES MEETING MINUTES
Tuesday, October 3, 2023; 10:00 a.m.
Kenilworth Office Building, Riverdale, MD
(Virtual Meeting via Microsoft Teams)

The Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually via Microsoft Teams with CHAIR SHAPIRO leading the call on Tuesday, October 3, 2023. The meeting was called to order at 10:02 a.m. by CHAIR SHAPIRO.

Board Members Present

Peter A. Shapiro, Board of Trustees Chair, Prince George’s County Commissioner
James Hedrick, Board of Trustees Vice Chair, Montgomery County Commissioner
Gavin Cohen, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio
Sheila Morgan-Johnson, Prince George’s County Public Member
Elaine A. Stookey, Bi-County Open Trustee
Howard Brown, F.O.P Represented Trustee
Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio
Theodore J. Russell III, Prince George’s County Open Trustee
Caroline McCarthy, Montgomery County Open Trustee

Board Members Absent

Pamela F. Gogol, Montgomery County Public Member
Lisa Blackwell-Brown, MCGEO Represented Trustee

ERS Staff Present

Andrea L. Rose, Executive Director
Jaclyn F. Harris, Deputy Executive Director
Sheila Joynes, Accounting Manager
Alicia C. Stanford, Administrative Specialist

Presentations

Wilshire Advisors, LLC – Bradley A. Baker, Managing Director and LouAnn Eisenhut, Assistant Vice President

ITEM 1. APPROVAL OF THE OCTOBER 3, 2023, CONSENT AGENDA

ACTION: VICE CHAIR HEDRICK made a motion, seconded by MS. CHIANG-SMITH to approve the Consent Agenda of October 3, 2023. The motion PASSED (7-0-2). MS. McCARTHY and MR. RUSSELL abstained. (Motion # 23-36).

ITEM 2. CHAIR’S ITEMS – No discussion or questions from the Trustees.

ITEM 3. MISCELLANEOUS - No items presented.

ITEM 4. COMMITTEE REPORTS/RECOMMENDATIONS

ITEM 4.A. Investment Monitoring Group

Ms. Harris provided an overview of the September 19, 2023 IMG meeting. During this meeting, Loomis Sayles provided a performance review of the Loomis Sayles High Yield Fund. Ms. Harris reported that as of August 31, 2023, the ERS had approximately \$56.9 million invested in the Loomis Sayles High Yield Fund, representing 5% of the total investment portfolio. Ms. Harris also reported that Loomis provided a firm update and informed the IMG of the portfolio management transition plan for the upcoming retirement of Co-head and Portfolio Manager, Elaine Stokes. As of August 31, 2023, Loomis reported trailing returns of 6.45% YTD, 6.13% 1-year, -3.02% 2-year, and -1.23% since inception; underperforming the BBG High Yield 2% Issuer Cap benchmark, for all time periods. Loomis explained that the cause of underperformance is attributed to challenges with security selection. Additionally, Wilshire provided an investment review of the Loomis Sayles High Yield Fund, explaining the market environment and how Loomis has not reached their performance objective. Despite their underperformance, Wilshire still has Loomis on its ‘focus list’ and believes it’s prudent to remain in the high yield asset class. Ms. Harris informed the Board that the IMG recommended the Board place Loomis Sayles on the Watchlist.

ACTION: MS. CHIANG-SMITH made a motion, seconded by VICE CHAIR HEDRICK to place Loomis Sayles on the Watchlist. The motion PASSED (9-0). (Motion # 23-37).

ITEM 4.B. Audit Committee

Mr. Cohen provided an overview of the September 26, 2023 Audit Committee meeting. At this meeting, SB & Company presented the audit results of the June 30, 2023 financial statements. Mr. Cohen informed the Board that SB & Company gave an overview of the scope of audit services, audit approach, assessment of the control environment, and audit results. As of June 30, 2023, the ERS had a Fiduciary Net Position Restricted for Pensions of \$1,098,796,486, which is an increase of approximately \$42.6 million from last fiscal year. Mr. Cohen explained to the Board that the increase is primarily due to investment gains associated with financial market conditions, underscoring the impact of portfolio composition and volatility within the stock market. SB & Company issued an unmodified “clean” opinion on the financial statements, noting no instances of fraud, no management letter comments, or audit adjustments.

ITEM 5. EXECUTIVE DIRECTOR’S REPORT

Ms. Rose presented the Executive Director’s Report dated September 22, 2023. Ms. Rose informed the Board that a Request for Proposal (RFP) was issued on Monday, September 25, 2023 to conduct a full-scope audit of the June 30, 2023 actuarial valuation. Members of the Administration & Personnel Oversight Committee, the Executive Director, and Deputy Executive Director will evaluate the RFP responses. Ms. Rose mentioned the upcoming launch of MemberDirect, an online Self-Service Portal, that will initially be made available to Active members and eventually retirees. Actives will be able to view account balance information, annual benefit statements, communicate with ERS staff, receive electronic notifications, and run benefit estimates. Ms. Rose informed the Board that the F.O.P negotiated plan amendments related to the conversion of unused sick leave for additional retirement credited service. These changes, along with changes related to Secure 2.0, the collection of overpayments and plan clarifying language are expected to be presented for approval to the Board and Commission in November. Ms. Rose updated the Board on a partial payment of \$2,249,736 received on September 28, 2023 from the Principal U.S. Property Portfolio to satisfy a portion of the ERS’ \$25 million withdrawal request. Principal reported as of September 21, 2023, the outstanding total balance subject to the withdrawal limitation was \$1.4 billion with only \$125 million of total withdrawal requests distributed to date. Timing the remaining withdrawal request is uncertain. Ms. Rose made a

recommendation to temporarily increase the annual leave limit for ERS staff from 440 hours to 550 hours until December 31, 2024. The Commission granted the same extension and the ERS usually follows suit.

ACTION: MS. CHIANG-SMITH made a motion, seconded by VICE CHAIR HEDRICK for the approval to authorize a temporary modification to the ERS Handbook to increase the annual leave limit from 440 hours to 550 hours until December 31, 2024. The motion PASSED (9-0). (Motion # 23-38).

ITEM 6. CLOSED SESSION

ACTION: At 10:23 a.m., MR. RUSSELL made a motion, seconded by MR. COHEN to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) to consider matters directly concerning the actual investment of public funds and Section 3-305(b)(7) to consult with counsel to receive guidance from legal counsel on matters related to such investments under the authority of this Board. The motion PASSED (9-0) (Motion #23-39).

During the Closed Session, the Board considered matters related to the investment of public funds and consulted with counsel to receive guidance from legal counsel on matters related to such investment under the authority of the Board. *Board of Trustees in Closed Session:* Chair Shapiro, Vice Chair Hedrick, Gavin Cohen, Sheila Morgan-Johnson, Theodore Russell III, Elaine Stookey, Caroline McCarthy, Howard Brown, and Asuntha Chiang-Smith.

ITEM 7. CONSULTANT RECOMMENDATION

ACTION: MS. CHIANG-SMITH made a motion, seconded by VICE CHAIR HEDRICK to approve the Side Letter and proceed with the investment in the Audax Senior Loan Fund V, L.P. as recommended by the Groom Law Group and to elect Ms. Morgan-Johnson as the ERS Trustee representative on the Fund's Advisory Board. The motion PASSED (9-0). (Motion # 23-40).

The Board meeting of October 3, 2023, adjourned at 10:43 a.m.

Respectfully,

Alicia C. Stanford

Alicia C. Stanford
Administrative Specialist

Andrea L. Rose

Andrea L. Rose
Executive Director

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Maryland-National Capital Park and Planning Commission (M-NCPPC)

Developing and Implementing a Performance
Management System

Project Overview

November 15, 2023

Agenda

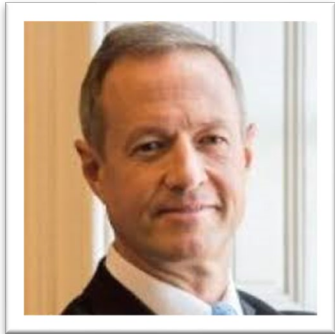


01 Introductions

02 Project Overview

03 Q&A

The Guidehouse Team



Martin O'Malley

Senior Advisor/SME



Anaita Kasad

Partner, Guidehouse
State and Local Government



Rebecca McGregor

Senior Advisor/SME

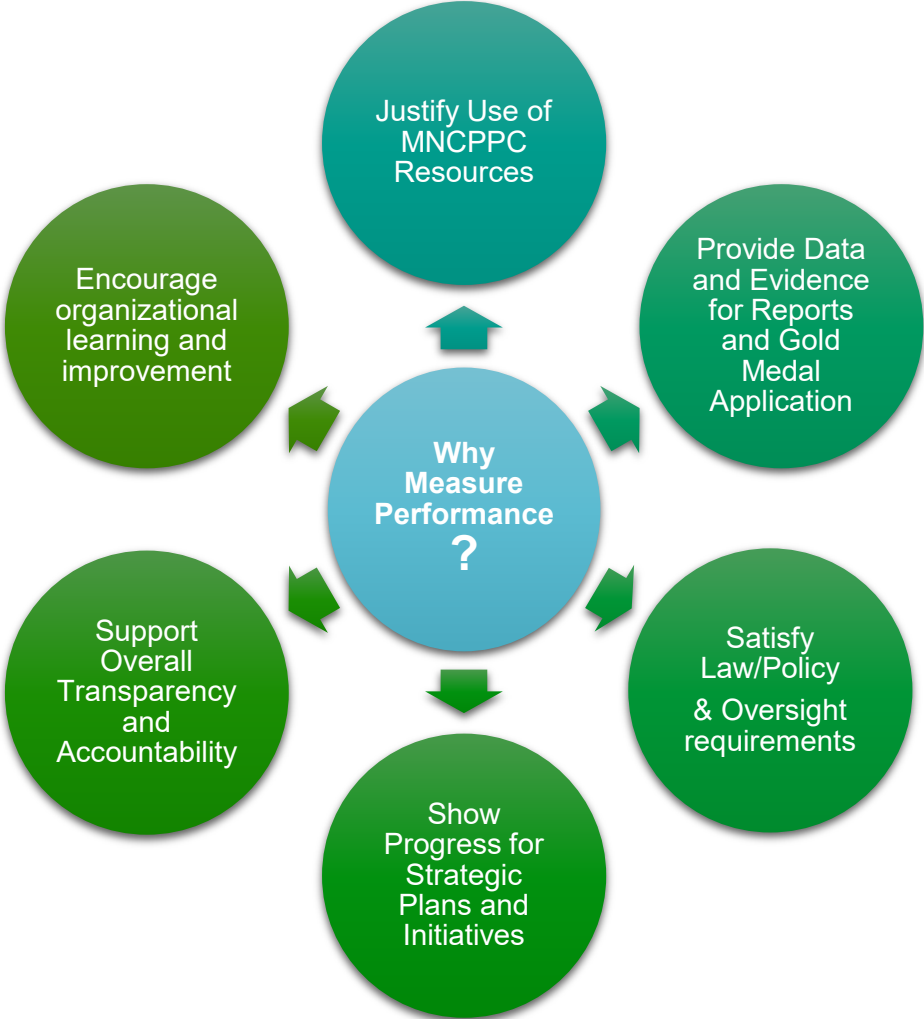


Sasha Hammond

Project Manager

M-NCPPC Has An Essential Need for Using Data and Evidence to Manage Results

As government agencies face **reduced budgets, competing priorities, and a greater demand for transparency and accountability**, those organizations are recognizing the **importance** of using **performance information** to support data-informed decision-making.



Project Scope

Guidehouse is supporting M-NCPPC in assessing and enhancing their ability to measure and monitor the performance of key initiatives, programs, and operations; and drive organizational improvement through an integrated approach combining Performance Management and Organization Change Management (OCM).

Our project builds on several of MNCPPC's **Guiding Principles** such as:

- ✓ Mission-driven Core Services;
- ✓ Customer Focused Programs;
- ✓ Management and Employee Accountability;
- ✓ Contemporary Technologies; and
- ✓ Performance Measurement

with the **goal** of moving toward
“One Commission”

Phase 1: Assessment and Roadmap

Supporting an assessment of MNCPPC's Performance Culture and Preparing for Change.

Period of Performance: July 2022-January 2023

Approach

- Conducted stakeholder interviews with Planning Board leadership, Department leadership, and CAS leadership to understand perspectives and current practices for managing performance
- Performed environmental scans and analysis of existing strategies and operational plans
- Conducted a performance maturity assessment
- Delivered a high-level roadmap of actionable recommendations to develop a performance management framework

Key Recommendations

1. Implement Performance Measurement Training
2. Develop a Performance Management Framework that supports collaboration, transparency, and data-informed decision-making
3. Develop S.M.A.R.T Performance Measures
4. Designate a Performance Manager
5. Utilize Logic Modelling for program design and documentation
6. Use Business Intelligence Tools for reporting
7. Build a culture of learning through the rigorous use of performance information within M-NCPPC

Phase 2: Learn, Measure, and Identify a System

CAS is leading collaborative and inclusive efforts to build the foundation for managing results.

Period of Performance: July 2023- December 2023

Approach

- CAS staff and MNCPPC Sustainability Program staff participated in customized training to build performance measurement capacity.
- Staff engaged in Guidehouse led workshops to map program outcomes and develop S.M.A.R.T. performance measures that tell the story of their programs.
- Guidehouse led meetings with CAS staff to learn key business processes and develop criteria for procuring a performance management system that meets MNCPPC's needs.

Key Outcomes

- ✓ Increased learning and knowledge of performance measurement concepts
- ✓ An inventory of performance measures for priority CAS programs to support accountability for key strategies related to sustainability goals, time to hire, risk management and safety, and ensuring supplier diversity.
- ✓ Collaborative and inclusive criteria and recommendations for procuring an effective business intelligence tool to support an iterative and scalable approach to performance management.

What's Next? Phase 3 Implementation

Guidehouse will support CAS in implementing a performance management system that will inform management decisions and incorporate recommendations from the stakeholder and information management assessments conducted in Phases 1 and 2.

Phase 3 Implementation Drivers may include*:



Developing policies, procedures and resource documents to support effective performance management governance and change management



Updating and refining business processes for data collection and analysis

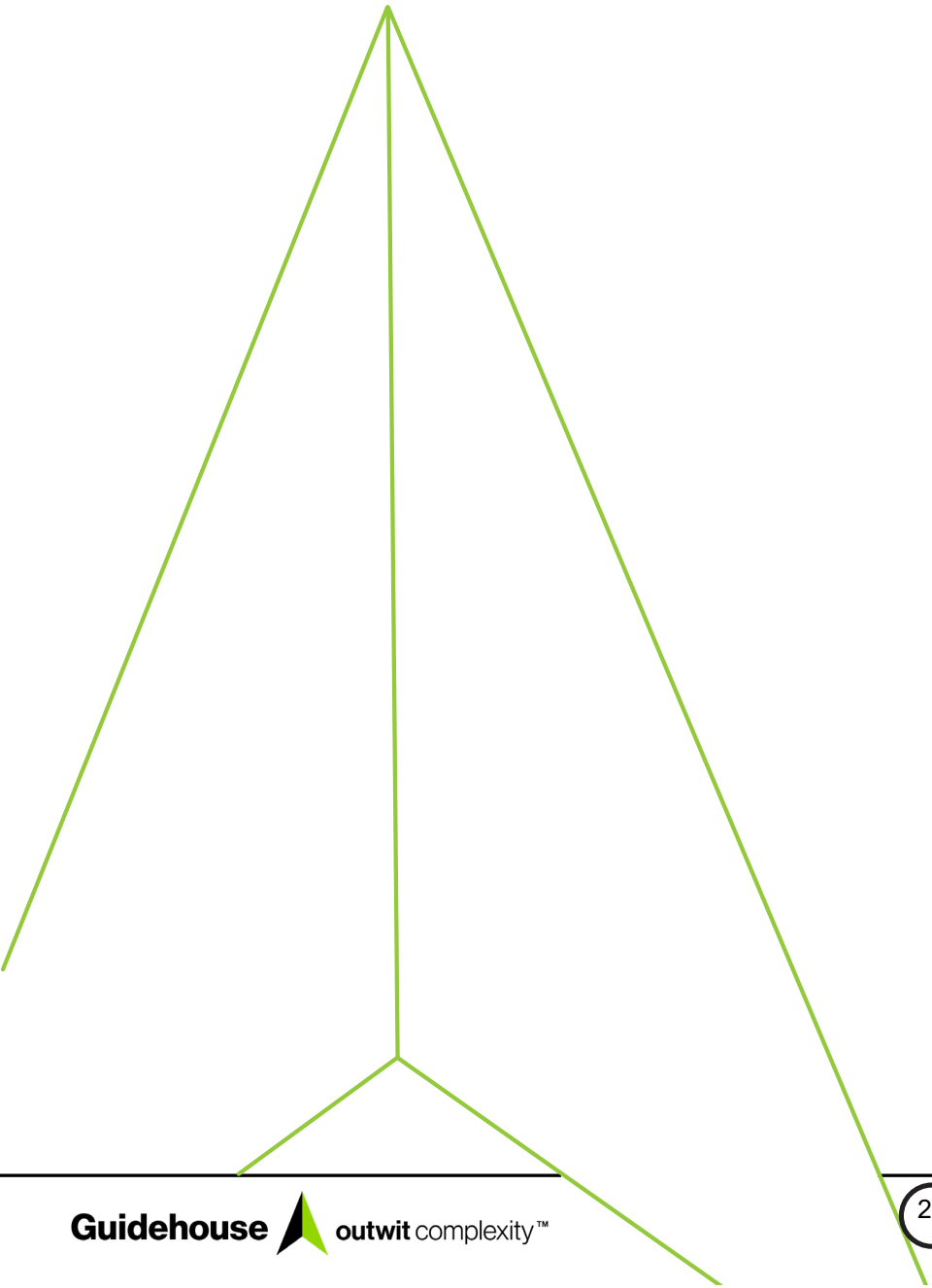


Delivering Performance Dashboarding and business intelligence tools to manage performance data



Incorporating regular performance reviews of priority CAS programs

- ****The approach for Phase 3 is being developed with input from CAS. The implementation tasks are subject to change.***



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Thank You

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a substitute for consultation with professional advisors.

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Montgomery Planning
**RESOLUTION OF ADOPTION
FOR THE PEDESTRIAN MASTER PLAN**



Description

The Planning Board will review changes made to the Pedestrian Master Plan through the County Council review and approval process and approve the Resolution of Adoption for transmission to the full Commission.



Eli Glazier, Project Lead, Countywide Planning and Policy Division

Eli.Glazier@montgomeryplanning.org, 301-495-4548



David Anspacher, Planning Supervisor, Countywide Planning and Policy Division

David.Anspacher@montgomeryplanning.org, 301-495-2191



Jason Sartori, Division Chief, Countywide Planning and Policy Division

Jason.Sartori@montgomeryplanning.org, 301-495-2172

MASTER PLAN INFORMATION

Lead Planner/Staff Contact

Eli Glazier

Eli.Glazier@montgomeryplanning.org

301-495-4548

Planning Division

Countywide Planning and Policy

Report Date

October 19, 2023

Planning Board Information

MCPB

Item No. 10

10-26-2023



SUMMARY

This document contains the following information:

- A recommendation to approve the Resolution of Adoption of the Pedestrian Master Plan to be transmitted to the Full Commission
- A list of plan topics discussed and amended through the County Council review and approval process



MCPB NO. 23-107

M-NCPPC NO. 23-22

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission, by virtue of the Land Use Article of the Annotated Code of Maryland, is authorized and empowered, from time to time, to make and adopt, amend, extend and add to *Thrive Montgomery 2050*; and

WHEREAS, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, pursuant to procedures set forth in the Montgomery County Code, Chapter 33A, held a duly advertised public hearing on March 23, 2023 on the Public Hearing Draft of the *Pedestrian Master Plan*, being also an amendment to portions of the following functional master plans: the *Master Plan of Highways & Transitways* (2018), the *Bicycle Master Plan* (2018), the *Rustic Roads Functional Master Plan* (2023), the *Preservation of Agricultural and Rural Open Space Functional Master Plan* (1980), the *Purple Line Functional Plan* (2010), the *Countywide Transit Corridors Functional Master Plan* (2013), the *Intercounty Connector Limited Functional Master Plan Amendment: Bikeways and Interchanges* (2009), the *Thrive Montgomery 2050* (2022); and the following area master plans: the *10 Mile Creek Area Limited Amendment* (2014), the *Ashton Village Center Sector Plan* (2021), the *Aspen Hill Master Plan* (1994), the *Aspen Hill Minor Master Plan Amendment* (2015), the *Bethesda Downtown Sector Plan* (2017), the *Bethesda-Chevy Chase Master Plan* (1990), the *Boyd's Master Plan* (1985), the *Burtonsville Commercial Crossroads Neighborhood Plan* (2012), the *Capitol View and Vicinity Sector Plan* (1982), the *Chevy Chase Lake Sector Plan* (2013), the *Clarksburg Master Plan and Hyattstown Special Study Area* (1994), the *Cloverly Master Plan* (1997), the *Damascus Master Plan* (2006), the *East Silver Spring Master Plan* (2000), the *Fairland Master Plan* (1997), the *Forest Glen/Montgomery Hills Sector Plan* (2020), the *Four Corners Master Plan* (1996), the *Friendship Heights Sector Plan* (1998), the *Gaithersburg and Vicinity Master Plan* (1996), the *Germantown Employment Area Sector Plan* (2009), the *Germantown Master Plan* (1989), the *Glenmont Sector Plan* (2013), the *Great Seneca Science Corridor Master Plan* (2010), the *Greater Lyttonsville Sector Plan* (2017), the *Grosvenor/Strathmore Metro Area Minor Master Plan* (2018), the *Kemp Mill Master Plan* (2001), the *Kensington Sector Plan* (2012), the *Kensington/Wheaton Master Plan* (1989), the

Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

Long Branch Sector Plan (2013), the *MARC Rail Communities Sector Plan* (2019), the *Montgomery Village Master Plan* (2016), the *North and West Silver Spring Master Plan* (2000), the *North Bethesda/Garrett Park Master Plan* (1992), the *Olney Master Plan* (2005), the *Potomac Subregion Master Plan* (2002), the *Rock Spring Sector Plan* (2017), the *Sandy Spring/Ashton Master Plan* (1998), the *Sandy Spring Rural Village Plan* (2015), the *Shady Grove Minor Master Plan* (2021), the *Shady Grove Sector Plan* (2006), the *Silver Spring Downtown and Adjacent Communities Plan* (2022), the *Takoma/Langley Crossroads Sector Plan* (2012), the *Takoma Park Master Plan* (2000), the *Twinbrook Sector Plan* (2009), the *Upper Rock Creek Master Plan* (2004), the *Veirs Mill Corridor Master Plan* (2019), the *Westbard Sector Plan* (2016), the *Wheaton CBD Sector Plan* (2012), the *White Flint Sector Plan* (2010), the *White Flint 2 Sector Plan* (2018), the *White Oak Master Plan* (1997), and the *White Oak Science Gateway Master Plan* (2014).

WHEREAS, the Montgomery County Planning Board, after said public hearing and due deliberation and consideration, on May 25, 2023, approved the Planning Board Draft of the *Pedestrian Master Plan*, recommended that it be approved by the Montgomery County Council sitting as the District Council for the portion of the Maryland-Washington Regional District lying within Montgomery County (the “Montgomery County District Council”), and forwarded it to the Montgomery County Executive for recommendations and analysis; and

WHEREAS, the Montgomery County Executive reviewed and made recommendations on Planning Board Draft of the *Pedestrian Master Plan* and forwarded those recommendations and analysis to the Montgomery County District Council on August 18, 2023; and

WHEREAS, the Montgomery County District Council held a public hearing on July 25, 2023, wherein testimony was received concerning the Planning Board Draft of the *Pedestrian Master Plan*; and

WHEREAS, the District Council, on October 10, 2023 approved the Planning Board Draft of the *Pedestrian Master Plan* subject to the modifications and revisions set forth in District Council Resolution No. 20-300.

NOW, THEREFORE BE IT RESOLVED, that the Montgomery County Planning Board and The Maryland-National Capital Park and Planning Commission do hereby adopt the said *Pedestrian Master Plan*, together with *Thrive Montgomery 2050*, as amended, and as amendment to portions of the following functional master plans: the *Master Plan of Highways & Transitways* (2018), the *Bicycle Master Plan* (2018), the *Rustic Roads Functional Master Plan* (2023), the *Preservation of Agricultural and Rural Open Space Functional Master Plan* (1980), the *Purple Line Functional Plan* (2010), the *Countywide Transit Corridors Functional Master Plan* (2013), the *Intercounty Connector Limited Functional Master Plan Amendment: Bikeways and Interchanges* (2009); as well as the following area master plans: the *10 Mile Creek Area Limited Amendment* (2014), the *Ashton Village Center Sector Plan* (2021), the *Aspen Hill Master Plan* (1994), the *Aspen Hill Minor Master Plan Amendment* (2015), the *Bethesda Downtown Sector Plan* (2017), the *Bethesda-Chevy Chase Master Plan* (1990), the *Boyds Master Plan* (1985), the *Burtonsville Commercial Crossroads Neighborhood Plan* (2012), the *Capitol View and Vicinity*

Sector Plan (1982), the Chevy Chase Lake Sector Plan (2013), the Clarksburg Master Plan and Hyattstown Special Study Area (1994), the Cloverly Master Plan (1997), the Damascus Master Plan (2006), the East Silver Spring Master Plan (2000), the Fairland Master Plan (1997), the Forest Glen/Montgomery Hills Sector Plan (2020), the Four Corners Master Plan (1996), the Friendship Heights Sector Plan (1998), the Gaithersburg and Vicinity Master Plan (1996), the Germantown Employment Area Sector Plan (2009), the Germantown Master Plan (1989), the Glenmont Sector Plan (2013), the Great Seneca Science Corridor Master Plan (2010), the Greater Lyttonsville Sector Plan (2017), the Grosvenor/Strathmore Metro Area Minor Master Plan (2018), the Kemp Mill Master Plan (2001), the Kensington Sector Plan (2012), the Kensington/Wheaton Master Plan (1989), the Long Branch Sector Plan (2013), the MARC Rail Communities Sector Plan (2019), the Montgomery Village Master Plan (2016), the North and West Silver Spring Master Plan (2000), the North Bethesda/Garrett Park Master Plan (1992), the Olney Master Plan (2005), the Potomac Subregion Master Plan (2002), the Rock Spring Sector Plan (2017), the Sandy Spring/Ashton Master Plan (1998), the Sandy Spring Rural Village Plan (2015), the Shady Grove Minor Master Plan (2021), the Shady Grove Sector Plan (2006), the Silver Spring Downtown and Adjacent Communities Plan (2022), the Takoma/Langley Crossroads Sector Plan (2012), the Takoma Park Master Plan (2000), the Twinbrook Sector Plan (2009), the Upper Rock Creek Master Plan (2004), the Veirs Mill Corridor Master Plan (2019), the Westbard Sector Plan (2016), the Wheaton CBD Sector Plan (2012), the White Flint Sector Plan (2010), the White Flint 2 Sector Plan (2018), the White Oak Master Plan (1997), and the White Oak Science Gateway Master Plan (2014) and as approved by the District Council in the attached Resolution No.20-300; and

BE IT FURTHER RESOLVED, that copies of said *Pedestrian Master Plan* must be certified by The Maryland-National Capital Park and Planning Commission and filed with the Clerk of the Circuit Court for both Montgomery and Prince George’s Counties, as required by law.

This is to certify that the foregoing is a true and correct copy of Resolution No. 23-107 adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission at its regular meeting held on Thursday, October 26, 2023 in Wheaton, Maryland on motion of Commissioner Hedrick, seconded by Vice Chair Pedeoem, with a vote of 4-0, with Chair Harris, Vice Chair Pedeoem, and Commissioners Hedrick, and Linden voting in favor of the motion. Commissioner Bartley necessarily absent.



Artie L Harris, Chair
Montgomery County Planning Board

Resolution No.: 20-300

Introduced: October 10, 2023

Adopted: October 10, 2023

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Approval of May 2023 Pedestrian Master Plan

1. On May 26, 2023, the Montgomery County Planning Board transmitted to the County Executive and the County Council the May 2023 Planning Board Draft of the Pedestrian Master Plan.
2. The May 2023 Planning Board Draft of the Pedestrian Master Plan contains the text and supporting maps for a comprehensive amendment to the *Master Plan of Highways & Transitways*, the *Bicycle Master Plan* (2018), the *Rustic Roads Functional Master Plan* (2023), the *Preservation of Agricultural and Rural Open Space Functional Master Plan* (1980), the *Purple Line Functional Plan* (2010), the *Countywide Transit Corridors Functional Master Plan* (2013), the *Intercounty Connector Limited Functional Master Plan Amendment: Bikeways and Interchanges* (2009), and *Thrive Montgomery 2050* (2022), as amended. This plan also amends the following area master plans, as amended: the *10 Mile Creek Area Limited Amendment* (2014), the *Ashton Village Center Sector Plan* (2021), the *Aspen Hill Master Plan* (1994), the *Aspen Hill Minor Master Plan Amendment* (2015), the *Bethesda Downtown Sector Plan* (2017), the *Bethesda-Chevy Chase Master Plan* (1990), the *Boyd's Master Plan* (1985), the *Burtonsville Commercial Crossroads Neighborhood Plan* (2012), the *Capitol View and Vicinity Sector Plan* (1982), the *Chevy Chase Lake Sector Plan* (2013), the *Clarksburg Master Plan and Hyattstown Special Study Area* (1994), the *Cloverly Master Plan* (1997), the *Damascus Master Plan* (2006), the *East Silver Spring Master Plan* (2000), the *Fairland Master Plan* (1997), the *Forest Glen/Montgomery Hills Sector Plan* (2020), the *Four Corners Master Plan* (1996), the *Friendship Heights Sector Plan* (1998), the *Gaithersburg and Vicinity Master Plan* (1996), the *Germantown Employment Area Sector Plan* (2009), the *Germantown Master Plan* (1989), the *Glenmont Sector Plan* (2013), the *Great Seneca Science Corridor Master Plan* (2010), the *Greater Lyttonsville Sector Plan* (2017), the *Grosvenor/Strathmore Metro Area Minor Master Plan* (2018), the *Kemp Mill Master Plan* (2001), the *Kensington Sector Plan* (2012), the *Kensington/Wheaton Master Plan* (1989), the *Long Branch Sector Plan* (2013), the *MARC Rail Communities Sector Plan* (2019), the *Montgomery Village Master Plan* (2016), the *North and West Silver Spring Master Plan* (2000), the *North Bethesda/Garrett Park Master Plan* (1992), the *Olney Master Plan* (2005), the *Potomac Subregion Master Plan* (2002), the *Rock Spring Sector Plan* (2017), the *Sandy Spring/Ashton Master Plan* (1998), the *Sandy Spring Rural Village Plan* (2015), the *Shady Grove Minor Master Plan* (2021), the *Shady Grove Sector Plan* (2006), the

Silver Spring Downtown and Adjacent Communities Plan (2022), the Takoma/Langley Crossroads Sector Plan (2012), the Takoma Park Master Plan (2000), the Twinbrook Sector Plan (2009), the Upper Rock Creek Master Plan (2004), the Veirs Mill Corridor Master Plan (2019), the Westbard Sector Plan (2016), the Wheaton CBD Sector Plan (2012), the White Flint Sector Plan (2010), the White Flint 2 Sector Plan (2018), the White Oak Master Plan (1997), and the White Oak Science Gateway Master Plan (2014).

3. On July 25, 2023, the County Council held a public hearing on the May 2023 Planning Board Draft of the Pedestrian Master Plan, which was referred to the Council's Transportation and Environment Committee for review and recommendations.
4. On September 11 and 18, 2023, the Transportation and Environment Committee held worksessions to review the May 2023 Planning Board Draft of the Pedestrian Master Plan.
5. On September 26, 2023, the County Council reviewed the May 2023 Planning Board Draft of the Pedestrian Master Plan and the recommendations of the Transportation and Environment Committee.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Planning Board Draft of the Pedestrian Master Plan, dated May 2023, is approved with revisions. County Council revisions to the Planning Board Draft of the Pedestrian Master Plan are identified below. Deletions to the text of the Plan are indicated by [brackets], additions by underscoring. Montgomery County Planning Department staff may make additional, non-substantive revisions to the Master Plan before its adoption by the Maryland-National Capital Park & Planning Commission.

All page references in this section are consistent with the page numbering in the print version of the Planning Board Draft of the Pedestrian Master Plan.

Page 3 Add the following as the second-last paragraph:

Creative funding strategies and dedicated revenue sources may be helpful in implementing the plan's recommendations.

Page 9 Add a paragraph at the end of the page as follows:

The Montgomery County Planning Department will track progress in implementing the Pedestrian Master Plan's vision using a biennial monitoring report and interactive website. The two tools will document how the county is

implementing the plan recommendations and striving to achieve the plan’s performance measure targets.

Page 11 Add a sentence after the second sentence in the introductory paragraph as follows:

Improved pedestrian access is also vital to promote economic development in the county.

Page 11 Update the Objective 1.2 data point and source year.

Countywide, 3.0% (30.0% including the use of public transportation)¹ of residents will commute on foot, up from [2.2]1.8% ([17]12.8) in [2019]2021.

Page 12 Update the Objective 1.3 data point and source year.

The percentage of people who commute on foot (including the use of public transportation) to a Montgomery County Transportation Management District (TMD) will be:

- 10.0% (40.0% including the use of public transportation) in the Bethesda TMD, up from 2.6 [4.9]% (11.6 [23.9]%) in [Fiscal Year 2019] Fall 2022
- 10.0% (50.0%) in the Silver Spring TMD, up from 2.4 [4.8]% (11.1 [36.4]%) in [Fiscal Year 2019] Fall 2022
- 4.0% (35.0%) in the Friendship Heights TMD, up from 2.2 [2.3]% (7.9 [27.0]%) in [Fiscal Year 2019] Fall 2022
- 1.5% (7.0%) in the Greater Shady Grove TMD, up from 0.1 [0.9]% (4.5 [5.1]%) in [Fiscal Year 2019] Fall 2022
- 4.0% (25.0%) in the North Bethesda TMD, up from 1.2 [1.3]% (5.6 [14.8]%) in [Fiscal Year 2019] Fall 2022
- 2.0% (10.0%) in the White Oak TMD, up from N/A (N/A) in [Fiscal Year 2019] Fall 2022

Page 15 Update the Objective 2.1 data point and source year.

Comfortable pedestrian connectivity will be:

- 70.0% for pathways, up from 62.0 [58.0]% in [2020] 2023
- 55.0% for crossings, up from 43.0 [44.0]% in [2020] 2023

Page 15 Update the Objective 2.2 data point and source year.

Comfortable pedestrian access to schools (pathway/crossing) will be:

- 80.0%/60% for elementary schools, up from 55.1 [40.0]%/43.4 [32.0]% in [2020] 2022

- 65.0%/50% for middle schools, up from 37.9 [21.0]%/23.4 [13.0]% in [2020] 2022
- 30.0%/20% for high schools, up from 27.0 [7.0]%/12.5 [5.0]% in [2020] 2022

Update the Objective 2.3 data point and source year.

Page 16

Comfortable pedestrian access to parks (pathway/crossing) will be:

- 80.0%/40.0% for parks, up from 69.9 [71.0]%/35.1 [34.0]% in [2020] 2023
- 85.0%/70.0% for libraries, up from 79.5 [77.0]%/65.5 [62.0]% in [2020] 2023
- 90.0%/70.0% for recreation centers, up from 78.4 [79.0]%/60.0 [62.0]% in [2020] 2023

Page 16

Update the Objective 2.4 data point and source year.

Comfortable pedestrian access to transit stations (pathway/crossing) will be:

- 100.0%/80.0% for WMATA Metro Red Line stations, up from 88.0 [86.0]%/66.4 [66.0]% in [2020] 2023
- 90.0%/80.0% for MARC Brunswick Line stations, up from 89.5 [84.0]%/72.0% in [2020] 2023
- 95.0%/90.0% for MDOT Purple Line stations, up from 75.7 [79.0]%/69.8 [79.0]% in [2020] 2023

Page 17

Update the Objective 3.1 data point and source year.

Pedestrian fatalities and severe injuries will be reduced to zero, down from [80] 84 in [2019] 2022

Page 18

Update the Objective 4.2 data points.

Title 1/Focus/High FARMS-designated (“designated”) schools will be as comfortable to access as non-designated schools. [Currently, the following disparities exist:]

| Destination School Type | Percentage of Trips to Each School Type Along Completely Comfortable Pathways and Crossings | | | |
|-------------------------|---|---------------------|---|---------------------|
| | Pathways | | Crossings | |
| | Title I/Focus and High FARMS Rate Schools | All Other Schools | Title I/Focus and High FARMS Rate Schools | All Other Schools |
| Elementary Schools | [43.0] <u>60.5%</u> | [36.0] <u>49.9%</u> | [34.0] <u>47.5%</u> | [30.0] <u>39.4%</u> |
| Middle Schools | [18.0] <u>34.8%</u> | [20.0] <u>41.6%</u> | [11.0] <u>22.8%</u> | [14.0] <u>24.2%</u> |
| High Schools | [6.0] <u>26.2%</u> | [7.0] <u>27.6%</u> | [3.0] <u>8.9%</u> | [7.0] <u>16.3%</u> |

Page 19

Update the Objective 4.3 data points.

Transit stations will be as comfortable to access from Equity Focus Areas (EFAs) (Figure 2) as from outside EFAs. [Currently, the following disparities exist and are **bolded**:]

- WMATA Metro Red Line stations
 - Pathways ([88.0] 92.3% comfortable EFA/[85.0] 86.5% non-EFA)
 - Crossings ([73.0] 64.8% comfortable EFA/[80.0] 66.8% non-EFA)
- MARC Brunswick Line stations
 - Pathways ([88.0] 94.0% comfortable EFA/[83.0] 87.1% non-EFA)
 - Crossings ([79.0] 80.3% comfortable EFA/[69.0] 69.1% non-EFA)
- MDOT Purple Line stations
 - Pathways ([73.0] 75.4% comfortable EFA/[81.0] 75.9% non-EFA)
 - Crossings ([73.0] 73.4% comfortable EFA/[80.0] 67.3% non-EFA)
- Montgomery County BRT Stations
 - Pathways ([82.0] 85.0% comfortable EFA/[85.0] 82.0% non-EFA)
 - Crossings ([58.0] 63.0% comfortable EFA/[63.0] 58.0% non-EFA)

Page 19

Update the Objective 4.4 data points.

Parks, libraries, and recreation centers will be as comfortable to access from EFAs (Figure 2) as from outside EFAs. [Currently, the following disparities exist and are bolded:]

- Parks
 - Pathways ([83.0] 71.0% comfortable EFA/[66.0] 69.0% non-EFA)
 - Crossings ([34.0] 36.0% comfortable EFA/[34.0] 35.0% non-EFA)
- Libraries
 - Pathways ([77.0] 80.0% comfortable EFA[,]/ [77.0] 79.0% non-EFA)
 - Crossings ([55.0] 61.0% comfortable EFA[,]/ [66.0] 67.0% non-EFA)

- Recreation Centers
 - Pathways ([82.0] 83.0% comfortable EFA[,]/ 77.0% non-EFA)
 - Crossings ([49.0] 48.0% comfortable EFA[,]/ [68.0] 65.0% non-EFA)

Page 20 Update the Objective 4.5 data points and source year.

Eliminate the disparity in the rate of pedestrian fatalities and severe injuries between EFAs (Figure 2) and non-EFAs. In [2020] 2022, there were [4.8] 4.2 times more severe pedestrian injuries and fatalities inside EFAs than outside them.

Page 25 Update the second and third paragraph within the Mode Share section.

Overall, 7.5% of weekday trips are made by walking (Table 1) and [2.2] 1.8% of commute trips are made by walking in Montgomery County. Walking rates vary greatly by land use type, with a greater share of trips made by walking in urban areas (11.3%) compared with transit corridors (7.3%) and exurban/rural areas (4.6%). In addition, residents in urban areas make up a greater share of commute trips by walking ([3.7] 3.2%) than those in transit corridors ([1.8] 1.5%) or exurban/rural areas ([1.1] 1.0%).

Walking rates also vary depending on whether an area is an EFA. Residents in EFAs make 9.6% of trips by walking, while residents in non-EFAs make 7.0% of trips by walking. The share of commute trips by walking is only slightly greater in EFAs ([2.4] 1.9%) than in non-EFAs ([2.1] 1.8%).

Page 25 Update Table 1 as follows:

Table 1. Pedestrian Mode Share by Area Types

| | Total | Land Use Type | | | Equity Focus Areas | |
|------------------------|--------------------------|-------------------|-------------------|-------------------|--------------------------|--------------------------|
| | | Urban | Transit Corridor | Exurban/Rural | EFAs | Non-EFAs |
| Overall Weekday Trips* | 7.5% | 11.3% | 7.3% | 4.6% | 9.6% | 7.0% |
| Commute Trips** | [2.2] <u>1.8%</u> | [3.7] <u>3.2%</u> | [1.8] <u>1.5%</u> | [1.1] <u>1.0%</u> | [2.4] <u>1.9%</u> | [2.1] <u>1.8%</u> |

* Regional Travel Survey, 2017-2018

** American Community Survey, [2019] 2021 Five-Year Estimates

Note: County mode share (the percentage of trips made by different travel modes) includes Rockville and Gaithersburg.

Page 25 Update the paragraph after Table 1:

While the county’s pedestrian commuter mode share is low, it is higher than all other counties in the region, except Arlington County (Table 2). In urban areas such as the City of Rockville and Silver Spring Census Designated Place, commuter mode share is higher. For instance, the [2019] 2021 American

Community Survey reports that the rate of walking is [3.2] 2.3% in [these areas] Rockville and 2.8% in Silver Spring.⁷

Page 26 Update Table 2 as follows:

Table 2. Commute Mode Share of Jurisdictions in the Metropolitan Washington Region

| Jurisdiction | Pedestrian Mode Share |
|------------------------------|--------------------------|
| Washington, D.C. | [13.4] <u>6.7%</u> |
| Arlington County, VA | [5.0] <u>4.3%</u> |
| Montgomery County, MD | [2.2] <u>1.8%</u> |
| <u>Frederick County, MD</u> | <u>1.8%</u> |
| Prince George’s County, MD | [2.0] <u>1.7%</u> |
| Fairfax County, VA | [1.9] <u>1.4%</u> |
| [Frederick County, MD] | [1.8%] |
| Howard County, MD | [1.0] <u>0.9%</u> |

Source: American Community Survey, [2019] 2021 Five-Year Estimates

Note: County mode share (the percentage of trips made by different travel modes) includes Rockville and Gaithersburg.

Page 36 Update the last paragraph as follows:

Table 10 summarizes sidewalk mileage by street classification,¹³ as well as where there are sidewalk gaps (sections of missing sidewalk). Countywide, there are [nearly 2,200] about 2,500 miles of sidewalks (primarily on local—or residential—streets) and [218] 220 miles of sidewalk gaps on non-local streets. Many of these gaps are located on roads that connect people to destinations, including major highways, arterials, and primary residential streets.

Page 37 Update Table 10 as follows:

Table 3. Sidewalk Mileage by Street Classification

| Street Classification | Street Mileage | Existing Sidewalks (miles) | Sidewalk Gaps (miles) |
|--------------------------|----------------|----------------------------|-----------------------|
| Controlled Major Highway | 19 | 20 | 1 |
| Major Highway | 159 | [214] <u>205</u> | [50] <u>49</u> |
| Parkway | 9 | 3 | 0 |
| Arterial | 243 | [202] <u>205</u> | 98 |
| Minor Arterial | 48 | [62] <u>63</u> | [8] <u>7</u> |
| Business | 50 | [79] <u>81</u> | 2 |
| Primary Residential | 215 | [227] <u>228</u> | [56] <u>58</u> |
| Industrial | 7 | 12 | 1 |
| Country Road | 35 | 2 | 3 |
| Rustic Road | 149 | 2 | 0 |

| Street Classification | Street Mileage | Existing Sidewalks (miles) | Sidewalk Gaps (miles) |
|-------------------------|----------------|-----------------------------|-----------------------|
| Exceptional Rustic Road | 40 | 0 | 1 |
| Local Streets | 2,121 | [1,367] <u>1,622</u> | N/A |
| Total | 3,095 | [2,193] <u>2,438</u> | 220 |

Page 37

Update Table 11 as follows:

Table 4. Sidewalk Gap Mileage by Street Classification and Land Use

| Street Classification | Existing Sidewalks (miles) | Gap Mileage | | | |
|--------------------------|-----------------------------|-----------------------|------------------|-------------------------|----------------|
| | | Urban | Transit Corridor | Exurban/Rural | Total |
| Controlled Major Highway | 20 | 1 | 0 | 0 | 1 |
| Major Highway | [214] <u>205</u> | [5] <u>4</u> | 7 | 38 | [50] <u>49</u> |
| Parkway | 3 | 0 | 0 | 0 | 0 |
| Arterial | [205] <u>202</u> | [7] <u>4</u> | [11] <u>10</u> | [80] <u>84</u> | 98 |
| Minor Arterial | [62] <u>63</u> | [1] <u>0</u> | 2 | 5 | [8] <u>7</u> |
| Business | [79] <u>81</u> | 2 | 0 | 0 | 2 |
| Primary Residential | [227] <u>228</u> | [4] <u>3</u> | [7] <u>8</u> | [45] <u>47</u> | [56] <u>58</u> |
| Industrial | 12 | 0 | 0 | 1 | 1 |
| Country Road | 2 | 0 | 0 | 3 | 3 |
| Rustic Road | 2 | 0 | 0 | 0 | 0 |
| Exceptional Rustic Road | 0 | 0 | 0 | 1 | 1 |
| Local Streets | [1,367] <u>1,622</u> | N/A | N/A | N/A | N/A |
| Total | [2,193] <u>2,438</u> | [20] <u>14</u> | 27 | [173] <u>179</u> | 220 |

Page 39

Update the first paragraph as follows:

As Table 12 highlights, local streets tend to have narrower sidewalks: [61] 62% of sidewalks along local streets are less than five feet wide. While higher classification streets tend to have wider sidewalks, there are still many sidewalks along major highways (23%), arterials (26%), business streets ([18] 17%) and similar streets that are narrower than five feet.

Page 39

Update Table 12 as follows:

Table 5. Sidewalk Width by Street Classification

| Street Classification | Mileage | Sidewalk Width | | | |
|--------------------------|---------|----------------|---------------|----------------|--------|
| | | 3.5' to < 5' | >= 5' to < 8' | >= 8' to < 10' | >= 10' |
| Controlled Major Highway | 20 | 17% | 40% | 38% | 5% |

| Street Classification | Mileage | Sidewalk Width | | | |
|-------------------------|---------------------------------|--------------------------------|-------------------------|-------------------------|-----------------------|
| | | 3.5' to < 5' | >= 5' to < 8' | >=8' to < 10' | >=10' |
| Major Highway | [214] <u>205</u> | 23% | 54% | [19] <u>18%</u> | 5% |
| Parkway | 3 | 3% | [46] <u>47%</u> | [10] <u>8%</u> | [41] <u>42%</u> |
| Arterial | [205] <u>202</u> | 26% | 47% | [25] <u>24%</u> | 3% |
| Minor Arterial | [62] <u>63</u> | [57] <u>56%</u> | [39] <u>40%</u> | 3% | 1% |
| Business | [79] <u>81</u> | [18] <u>17%</u> | [57] <u>58%</u> | 14% | [11] <u>12%</u> |
| Primary Residential | [227] <u>228</u> | 74% | 21% | 5% | 0% |
| Industrial | 12 | 14% | 68% | 12% | 6% |
| Country Road | 2 | 0% | 18% | 82% | 0% |
| Rustic Road | 2 | 0% | [96] <u>97%</u> | 0% | [4] <u>3%</u> |
| Exceptional Rustic Road | 0 | 48% | 52% | 0% | 0% |
| Local Street | [1,367] <u>1,622</u> | [61] <u>62%</u> | [32] <u>31%</u> | 5% | [3] <u>2%</u> |
| Total Mileage | [2,193] <u>2,438</u> | [1,175] <u>1328</u> | [784] <u>851</u> | [189] <u>196</u> | [67] <u>63</u> |

Source: Pedestrian Level of Comfort Analysis

Page 39 Update the last paragraph as follows:

As Figure 11 indicates, sidewalks in EFAs tend to be somewhat narrower than sidewalks in other areas of the county. In EFAs, [58] 59% of sidewalks are between three and a half and five feet wide, while [51] 53% of sidewalks outside EFAs are in this category. At the other end of the spectrum, non-EFA sidewalks are more likely to be between eight and 10 feet ([10] 9% vs. 5%) and greater than 10 feet (3% vs. 2%).

Page 39 Update Figure 11 to reflect adjusted data values.

Page 40 Update the second paragraph as follows:

Of the [2,193] 2,438 miles of county sidewalks, most ([58] 51%) have at least a six-foot buffer between the sidewalk and the street. However, nearly half (47%) of sidewalks along major highways like Georgia Avenue are missing buffers. By contrast, [20] 19% of arterial sidewalks, 11% of primary residential sidewalks, and [20] 19% of local street sidewalks are missing buffers (Table 13).

Page 40 Update Table 13 as follows:

Table 6. Street Buffer Width by Street Classification

| Street Classification | Buffer Width | | |
|--------------------------|--------------|--------------------|---------------------|
| | No Buffer | Less than Six Feet | Six Feet or Greater |
| Controlled Major Highway | 3% | [66] 74% | [31] 23% |
| Major Highway | 47% | [30] 34% | [23] 19% |
| Parkway | 4% | [25] 36% | [70] 61% |
| Arterial | 20% | [29] 35% | [70] 45% |
| Minor Arterial | 21% | [27] 34% | [52] 45% |
| Business | [29] 28% | [32] 44% | [39] 28% |
| Primary Residential | 11% | [17] 23% | [72] 66% |
| Industrial | [15] 14% | [25] 27% | [61] 59% |
| Country Road | 0% | 4% | 96% |
| Rustic Road | [8] 7% | [18] 33% | [74] 60% |
| Exceptional Rustic Road | [53] 52% | 27% | 21% |
| Local Street | [20] 18% | [16] 26% | [64] 56% |

Page 40 Update the third paragraph as follows:

Sidewalks in EFAs are less likely to have buffers than those outside of EFAs. While [28] 27% of sidewalks in EFAs are missing street buffers, only [20] 18% outside are (Figure 12).

Page 40 Update Figure 12 to reflect adjusted data values.

Page 41 Update Table 14 as follows:

Table 7. Sidewalk Buffer by Posted Speed Limit

| Posted Speed Limit | No Buffer | Less than Six Feet | Six Feet or Greater |
|---------------------|-----------------|--------------------|---------------------|
| Less than 30 mph | [20] 18% | [17] 26% | [64] 55% |
| 30-40 mph | [28] 27% | [28] 34% | [45] 39% |
| Greater than 40 mph | [31] 30% | [39] 43% | [30] 27% |
| Total | [22] 21% | [20] 28% | [58] 51% |

Source: Pedestrian Level of Comfort Analysis

Page 41 Update the third paragraph as follows:

There are three different approaches to crosswalks on county roads. Unmarked crossings have no pavement markings to denote the crosswalk. Standard crosswalk markings include stamped concrete, parallel lines, and dashed marking patterns. High-visibility crosswalks have proven pedestrian safety benefits over standard crosswalk markings and include continental, ladder, zebra, and solid

designs. Table 15 summarizes the crosswalk types by street classification. Countywide, [67] 69% of legal crossings are unmarked, while [16] 15% have a standard marked crosswalk and 17% have a high-visibility crosswalk. The highest portion of marked crosswalks (standard or high-visibility) are on high-volume, higher-order roadways, such as controlled major highways, major highways, and parkways.

Page 41-42 Update Table 15 as follows:

Table 8. Crossing Type by Street Classification

| Street Classification | Unmarked | Standard | High-Visibility |
|--------------------------|------------------------|------------------------|-----------------|
| Controlled Major Highway | [27] <u>28%</u> | [35] <u>34%</u> | 38% |
| Major Highway | 33% | 28% | 39% |
| Parkway | 29% | 16% | 55% |
| Arterial | 47% | [17] <u>16%</u> | [36] <u>37%</u> |
| Minor Arterial | [56] <u>57%</u> | [16] <u>15%</u> | 28% |
| Business | 28% | 24% | [48] <u>47%</u> |
| Primary Residential | [70] <u>69%</u> | 14% | [16] <u>17%</u> |
| Industrial | [51] <u>50%</u> | 19% | [29] <u>31%</u> |
| Country Arterial | 100% | 0% | 0% |
| Country Road | 100% | 0% | 0% |
| Rustic Road | [86] <u>83%</u> | [5] <u>4%</u> | [10] <u>13%</u> |
| Exceptional Rustic Road | 89% | 11% | 0% |
| Local | [75] <u>77%</u> | [14] <u>13%</u> | [11] <u>10%</u> |
| Total | [67] <u>69%</u> | [16] <u>15%</u> | 17% |

Source: Pedestrian Level of Comfort Analysis

Page 42 Update Table 16 as follows:

Table 9. Crossing Type by Roadway Speed by Land Use

| Posted Speed Limit | Urban | | | Transit Corridor | | | Exurban/Rural | | |
|---------------------|-----------------|-----------------|-----------------|------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| | Unmarked | Standard | High Visibility | Unmarked | Standard | High Visibility | Unmarked | Standard | High Visibility |
| Less than 30 mph | [67] <u>64%</u> | [15] <u>14%</u> | [18] <u>21%</u> | 74% | [16] <u>15%</u> | 11% | [76] <u>80%</u> | [13] <u>11%</u> | [10] <u>8%</u> |
| 30-40 mph | 33% | [25] <u>23%</u> | [43] <u>44%</u> | [48] <u>50%</u> | [16] <u>14%</u> | 36% | [63] <u>67%</u> | [14] <u>11%</u> | 22% |
| Greater than 40 mph | [20] <u>21%</u> | [25] <u>24%</u> | [55] <u>56%</u> | [30] <u>29%</u> | [23] <u>25%</u> | [47] <u>46%</u> | [43] <u>47%</u> | 26% | [31] <u>27%</u> |

Source: Pedestrian Level of Comfort Analysis

Page 43 Update Figure 13 to reflect adjusted data values.

Page 43 Update the first paragraph as follows:

Montgomery Planning’s PLOC analysis finds that [58] 61% of pathway distance and [44] 42% of crossings crossing distance in the county [are] is comfortable (Table 17). This means they meet either the “very comfortable” or “somewhat comfortable” metrics outlined in the PLOC methodology appendix.

Page 43 Update Table 17 as follows:

Table 10. Overall Pedestrian Comfort on Streets and at Crossings

| PLOC Score | Pathway Distance | Crossing [Locations] Distance |
|----------------------|-------------------------|--------------------------------------|
| Very Comfortable | [24] <u>25%</u> | [11] <u>10%</u> |
| Somewhat Comfortable | [34] <u>36%</u> | [33] <u>32%</u> |
| Uncomfortable | 21% | 38% |
| Undesirable | [20] <u>17%</u> | [17] <u>19%</u> |

Source: Pedestrian Level of Comfort Analysis

Page 43 Update the last two paragraphs as follows:

An analysis of pedestrian conditions along all streets and crossings in the county indicates that there are large areas of the county where it is uncomfortable to walk and many locations where it is undesirable to do so. Figure 14 summarizes pedestrian comfort along pathways. Comfort levels in urban ([65] 67%) and transit corridors ([69] 71%) are greater than in exurban/rural ([48] 52%) areas of the county.

Pathway comfort levels are substantially higher in EFAs ([73] 71%) than non-EFAs ([58] 60%), likely due to where these areas are located and when they were developed.

Page 44 Update Figure 14 to reflect adjusted data values.

Page 44 Update the first paragraph as follows:

Figure 15 summarizes pedestrian conditions at crossings. Overall, only [44] 42% of crossings [locations] are [a] comfortable [walking experience] for pedestrians. Crossings in transit corridors tend to be slightly more comfortable ([47] 45%

comfortable) while crossings in urban and exurban/rural areas tend to be somewhat less comfortable ([40] 41% comfortable).

Page 44 Update Figure 15 to reflect adjusted data values.

Page 45 Update Table 18 as follows:

Table 11. Comfortable Pedestrian Access to Community Destinations and Transit Stations

| | Pathway Distance | Crossing Distance |
|-------------------------------|-------------------|-------------------|
| Community Destinations | | |
| Libraries | [77] <u>79.5%</u> | [62] <u>65.5%</u> |
| Recreation Centers | [79] <u>78.4%</u> | [62] <u>65.5%</u> |
| Parks | [71] <u>69.9%</u> | [34] <u>35.1%</u> |
| Transit Stations | | |
| Red Line | [86] <u>88%</u> | [66] <u>66.4%</u> |
| Purple Line | [79] <u>75.7%</u> | [79] <u>69.8%</u> |
| Brunswick Line | [84] <u>89.5%</u> | 72% |

Source: Pedestrian Level of Comfort Analysis

Page 46 Update Table 19 as follows:

Table 12. Comfortable Access to Community Destinations and Transit Stations by Area Types

| | | Community Destinations | | | Transit Stations | | |
|------------------|-----------|------------------------|--------------------|-----------------|------------------|-----------------|-----------------|
| | | Libraries | Recreation Centers | Parks | Red Line | Purple Line | Brunswick Line |
| Urban | Pathways | [79] <u>81%</u> | 82% | N/A | 87% | [79] <u>76%</u> | 83% |
| | Crossings | [63] <u>71%</u> | [65] <u>66%</u> | N/A | [68] <u>67%</u> | [79] <u>72%</u> | 70% |
| Transit Corridor | Pathways | [64] <u>72%</u> | [86] <u>85%</u> | [61] <u>63%</u> | [74] <u>76%</u> | 69% | N/A |
| | Crossings | [65] <u>45%</u> | [58] <u>51%</u> | [27] <u>30%</u> | [48] <u>51%</u> | 82% | N/A |
| Exurban/Rural | Pathways | [78] <u>81%</u> | [59] <u>62%</u> | [81] <u>76%</u> | N/A | N/A | [92] <u>91%</u> |
| | Crossings | [34] <u>40%</u> | [53] <u>46%</u> | [42] <u>41%</u> | N/A | N/A | 89% |

Note: The approach for calculating access to destinations for land use type is based on where the community destination or transit station is located (urban area, transit corridor, etc.).

Source: Pedestrian Level of Comfort Analysis

Page 46 Update the third paragraph as follows:

Comfortable access to community destinations and transit stations also varies by whether the walkshed (the distance around the destination from which people

walk) is within an EFA. Table 20 illustrates that crossing comfort tends to be worse in EFAs, while pathway comfort is better. [While Red Line station connectivity is more comfortable in EFAs, Purple Line station connectivity is worse.]

Page 46 Update Table 20 as follows:

Table 13. Comfortable Access to Community Destinations by EFA Status

| | | Community Destinations | | | Transit Stations | | |
|----------|-----------|------------------------|--------------------|----------|------------------|-------------|----------------|
| | | Libraries | Recreation Centers | Parks | Red Line | Purple Line | Brunswick Line |
| EFAs | Pathways | [77] 80% | [82] 83% | [83] 71% | [88] 92% | [73] 75% | [88] 94% |
| | Crossings | [55] 61% | [49] 48% | [34] 36% | [59] 65% | 73% | [79] 80% |
| Non-EFAs | Pathways | [77] 79% | 77% | [66] 69% | [85] 87% | [81] 76% | [83] 87% |
| | Crossings | [66] 67% | [68] 65% | [34] 35% | [68] 67% | [80] 67% | 69% |

Note: The approach for calculating access to destinations for EFAs is based on where residences within the walksheds for each community destination or transit station within or outside of an EFA.

Source: Pedestrian Level of Comfort Analysis

Page 46-47 Update the fourth paragraph as follows:

Table 21 shows that walking to elementary schools tends to be more comfortable,¹⁷ with [40] 50% comfortable access walking along streets, and [32] 43% comfortable access at crossings. In contrast, walking tends to be the least comfortable to high schools, with only [7] 27% comfortable access along pathways and [5] 13% comfortable access at crossings.

Page 47 Update Table 21 as follows:

Table 14. Comfortable Pedestrian Access to School

| School Types | Streets | Crossings |
|--------------------|----------|-----------|
| Elementary Schools | [40] 55% | [32] 43% |
| Middle Schools | [21] 38% | [13] 23% |
| High Schools | [7] 27% | [5] 13% |

Source: Pedestrian Level of Comfort Analysis

Page 48 Update Table 22 as follows:

Table 15. Comfortable Pedestrian Access to School by Area Types and Designation

| Public Facility | Land Use Type | | | | | | Title I/Focus and High FARMS Rate Schools | | | |
|--------------------|---------------|-------------|------------------|-------------|---------------|-------------|---|-------------|-------------|-------------|
| | Urban | | Transit Corridor | | Exurban/Rural | | Yes | | No | |
| | Pathways | Crossings | Pathways | Crossings | Pathways | Crossings | Pathways | Crossings | Pathways | Crossings |
| Elementary Schools | [30] 36% | [24] 28% | [46] 56% | [38] 51% | [36] 50% | [39] 54% | [43] 60% | [34] 47% | [36] 50% | [30] 39% |
| Middle Schools | [15] 12% | [3] 6% | [16] 28% | [11] 21% | [26] 38% | [19] 33% | [18] 35% | [11] 23% | [20] 42% | [14] 24% |
| High Schools | [5] 9% | [5] 11% | [14] 23% | [6] 15% | [6] 14% | [5] 11% | [6] 27% | [3] 9% | [7] 28% | [7] 16% |

Source: Pedestrian Level of Comfort Analysis

Page 51 Update the third paragraph as follows:

While users of all transportation modes suffer fatalities and severe injuries, pedestrians are particularly vulnerable. Figure 18 shows pedestrians were only involved in 4% of total crashes between 2015 and [2020] 2022, but they accounted for 27% of severe injuries and fatalities. Pedestrian crashes disproportionately result in severe injuries and fatalities because while motor vehicles provide drivers and passengers protection from crashes, pedestrians do not have similar protection. A collision between vehicles may result in minor injuries to passengers, but a crash involving a pedestrian is more likely to result in a severe injury or a fatality.

Page 52 Update the third paragraph as follows:

Figure 20 depicts roadway mileage, pedestrian crashes, and pedestrian fatalities and severe injuries by land use type. While over half (54%) of the roadway miles in the county are in exurban/rural areas, these areas only comprise 11% of pedestrian crashes and [13] 12% of pedestrian severe injuries or fatalities. In contrast, urban areas only comprise 21% of roadway miles, while making up about two thirds of pedestrian crashes (68%) and pedestrian severe injuries and fatalities ([65] 62%).

Page 53 Update Figure 20 to reflect adjusted data values.

Page 53 Update the first paragraph as follows:

While data are not available to indicate whether low-income residents of color are disproportionately impacted by pedestrian crashes, Figure 21 shows that streets in EFAs have higher crash rates. While EFAs contain only 14% of roadway miles in the county, they account for [40] 41% of all pedestrian crashes and [44] 45% of pedestrian crashes that result in a fatality or severe injury. Additionally, Black Montgomery County residents had an emergency room admission rate for motor vehicle crashes 136% higher than Asian/Pacific Islander residents and 104% higher than white, non-Hispanic residents.

Page 53 Update Figure 21 to reflect adjusted data values.

Page 53 Update the second paragraph as follows:

Beyond land use types, the safety analysis zooms into the specific locations and street types where crashes occur. Table 24 shows that pedestrian crashes along a street (rather than at an intersection) are disproportionately likely to result in a severe injury or fatality. At the same time, while [21] 19% of pedestrian crashes happen in parking lots, they are less likely to be severe or fatal. The difference between these two crash types may be due to motor-vehicle speed, as motor vehicles are likely traveling faster when they collide with pedestrians along street segments than in parking lots.

Page 54 Update Table 24 as follows:

Table 16. Pedestrian Crashes by Location

| Location | Percent of Pedestrian Crashes | Percent of Pedestrian Severe Injuries and Fatalities (KSI) |
|------------------------------|--------------------------------------|---|
| Signalized Intersection | [26] <u>21%</u> | [26] <u>21%</u> |
| Stop-Controlled Intersection | [6] <u>5%</u> | [5] <u>4%</u> |
| Uncontrolled Intersection | [13] <u>20%</u> | [16] <u>21%</u> |
| Along a Street | 27% | [37] <u>38%</u> |
| Off-road | [4] <u>5%</u> | 2% |
| Parking Lot | [21] <u>19%</u> | 10% |
| Driveway | 4% | [4] <u>3%</u> |
| Total | 100% | 100% |

Note: Data include crashes in Rockville and Gaithersburg.

Page 54 Update the first paragraph as follows:

Higher classification roads such as controlled major highways and major highways, as well as business streets, disproportionately account for pedestrian crashes resulting in severe injuries or fatalities. Table 25 shows that while controlled major highways, major highways, and business streets make up 8% of roadway mileage, they account for [58] 57% of pedestrian crashes and [64] 63% of pedestrian severe injuries and fatalities.

Page 54

Update Table 25 as follows:

Table 17. Pedestrian Crashes by Roadway Type

| Street Classification | Percent of Roadway Miles | Percent of Pedestrian Crashes | Percent of Pedestrian Severe Injuries and Fatalities (KSI) |
|-------------------------------|--------------------------|-------------------------------|--|
| Controlled Major Highway | 1% | 3% | 5% |
| Major Highway | 5% | 33% | [39] <u>40%</u> |
| Parkway | 0% | 0% | 0% |
| Arterial | 8% | 11% | [9] <u>11%</u> |
| Minor Arterial | 2% | 5% | 3% |
| Business | 2% | [22] <u>21%</u> | [20] <u>18%</u> |
| Primary Residential | 7% | 16% | 15% |
| Industrial | 0% | 1% | 0% |
| Country Arterial | 2% | 0% | 0% |
| Country Road | 1% | 0% | 0% |
| Rustic & Exceptionally Rustic | 6% | 0% | [1] <u>0%</u> |
| Local | 67% | 10% | [7] <u>8%</u> |
| Total | 100% | 100% | 100% |

Page 55

Update Table 26 as follows:

Table 18. Pedestrian KSI by Area Type by Roadway Type

| Street Classification | Urban | | Transit Corridor | | Rural | | Total | |
|--------------------------|-------------------|-----------------|-------------------|----------------|-------------------|---------------|-------------------|-----------------|
| | % Roadway Mileage | % KSI | % Roadway Mileage | % KSI | % Roadway Mileage | % KSI | % Roadway Mileage | % KSI |
| Controlled Major Highway | 0.4% | [4] <u>3%</u> | 0.2% | 1% | 0.1% | 0% | 0.6% | 5% |
| Major Highway | 2.0% | [25] <u>27%</u> | 1.3% | [10] <u>9%</u> | 1.8% | 4% | 5.0% | [39] <u>40%</u> |
| Arterial | 1.8% | 6% | 1.2% | [2] <u>3%</u> | 4.7% | [1] <u>2%</u> | 7.7% | [9] <u>11%</u> |
| Country Arterial | 0.0% | 0% | 0.0% | 0% | 1.8% | 0% | 1.8% | 0% |
| Minor Arterial | 0.5% | [1] <u>2%</u> | 0.6% | 1% | 0.5% | 0% | 1.5% | 3% |
| Business | 1.6% | [20] <u>18%</u> | 0.0% | 0% | 0.0% | 0% | 1.6% | [20] <u>18%</u> |
| Country Road | 0.0% | 0% | 0.0% | 0% | 1.1% | 0% | 1.1% | 0% |
| Industrial | 0.0% | 0% | 0.1% | 0% | 0.1% | 0% | 0.2% | 0% |
| Parkway | 0.0% | 0% | 0.1% | 0% | 0.2% | 0% | 0.3% | 0% |

| | | | | | | | | |
|-------------------------|-------|-----------|-------|----|-------|----|-------|-----------|
| Local | 13.6% | [3] 4% | 19.4% | 2% | 34.3% | 1% | 67.4% | [7] 8% |
| Primary Residential | 1.3% | 7% | 1.9% | 5% | 3.7% | 3% | 6.8% | 15% |
| Exceptional Rustic Road | 0.0% | 0% | 0.0% | 0% | 1.3% | 0% | 1.3% | 0% |
| Rustic Road | 0.1% | 0% | 0.1% | 0% | 4.6% | 1% | 4.7% | 1% |

Page 56 Update Figure 22 to reflect adjusted data values.

Page 56 Update the first paragraph as follows:

While fewer pedestrian crashes occur in the overnight hours, those crashes are more likely to result in severe or fatal injuries (Figure 23). For instance, while 13% of pedestrian crashes between 6:00 a.m. and 9:59 p.m. are severe or fatal, that percentage jumps to [28] 29% between 10:00 p.m. and 5:59 a.m. In addition to increased vehicle speeds common at night due to reduced congestion and lighting-related visibility issues, impairment may also play a role in the increased likelihood of fatal and severe crashes during these time periods.

Page 56 Update Figure 23 to reflect adjusted data values.

Page 57 Update Figure 24 to reflect adjusted data values.

Page 59 Update the first bullet under Walking Rates and Satisfaction as follows:

- **Overall and commute walking rates are higher in EFAs:** Residents in EFAs make 9.6% of trips by walking compared with 7.0% of trips by walking in non-EFAs. The share of commute trips by walking is only slightly greater in EFAs ([2.4] 1.9%) than non-EFAs ([2.1] 1.8%).

Page 59 Update the first two bullets under A Comfortable, Connected, Convenient Pedestrian Network as follows:

- Crossing comfort accessing community destinations tends to be worse in EFAs, while pathway comfort is better. [While Red Line station connectivity is more comfortable in EFAs, Purple Line station connectivity is worse.]
- Title I/Focus elementary schools have more comfortable access than their more affluent counterparts. Pathway comfort for Title I/Focus Schools is [7] 10% greater than it is for other elementary schools ([43] 60% vs. [36] 60%). Crossing comfort is [4] 8% greater ([34] 47% vs. [30] 39%).

Page 60 Update the first bullet under Pedestrian Safety as follows:

- Crashes and injuries are overrepresented in EFAs. While EFAs contain only 14% of roadway miles in the county, they account for [40] 41% of all

pedestrian-involved vehicular crashes and [44] 45% of such crashes that result in a fatality or severe injury.

Page 61 Update the first paragraph as follows:

The Existing Conditions chapter of the Pedestrian Master Plan described deficiencies in the pedestrian experience in great detail using data sources developed specifically for this plan. This chapter provides recommendations to address the county’s current shortcomings identified in the Existing Conditions chapter. The recommendations should be considered in further detail by multiagency partnerships such as the Vision Zero Action Plan and the Climate Action Plan for further refinement and consideration. New and expanded programs will be considered by this and future councils in the context of the County’s overall capital and operating funds. Recommendations are in the following five categories:

Page 64-67 Update Table 28 to reflect changes on Pages 69-130.

Page 69 Update the first paragraph under Recommendation B-1 as follows:

The CSDG recommends sidewalks on both sides of the street with adequate buffers from traffic. However, the county’s busiest roads lack about [220] 225 miles of sidewalk (on one or both sides of the road), about 54% of sidewalks do not meet the minimum widths (five feet), and about [22] 21% lack a buffer from traffic. With the need for new and reconstructed sidewalks far exceeding the county’s capacity to build them, the following key actions help build more sidewalks faster.

Page 70 Update the first paragraph under Key Action B-1d as follows:

Currently, [41] 39% of pedestrian pathway mileage in the county is rated as “uncomfortable” or “undesirable,” based on Montgomery Planning’s PLOC metric. To improve the comfort of walking, this recommendation establishes a minimum comfort standard of “somewhat comfortable” for new and reconstructed sidewalks as part of capital improvement and private development projects. This ensures that future sidewalks and pedestrian pathways are designed and constructed to be navigable and comfortable. Note that sidewalk reconstruction does not include maintenance projects to eliminate tripping hazards.

Page 71 Remove Key Action B-1f and associated text.

Page 72 Remove Key Action B-1g and associated text.

Page 72 Change the title of Key Action B-1h as follows:

B-1[h]f: Document deviations from Complete Streets Design Guide streetscape default widths where applicable.

Page 73 Change the title of Key Action B-1i as follows:

B-1[i]g: Update state curb height standards to 6” in areas with pedestrian activity.

Page 74 Update the first paragraph under Key Action B-2b as follows:

In Suburban and Country areas of the county where providing a pedestrian crossing phase via pedestrian recall in every signal cycle may have detrimental effects on traffic flow, passive detection provides an option that eliminates the need to push a button while minimizing impacts to traffic. Using sensors, the signal detects an approaching pedestrian and adds a phase to the signal cycle so that pedestrian can safely cross the street. Pushbuttons may still be provided to assist visually impaired users with navigating crossings.

Page 75 Update the first paragraph under Recommendation B-3 as follows:

High-quality street crossings connect communities and make it easier to access local destinations like schools, parks, and transit stops. The county PLOC analysis found that while the majority of the pathways in the county are comfortable ([58] 61%), only [44] 42% of street crossings are comfortable. Coupled with 46% satisfaction with the number of marked crosswalks and 42% satisfaction with the number of places to safely cross the street in the Countywide Pedestrian Survey, it is clear that street crossings countywide need to be improved. The key actions below achieve the recommendation by encouraging more intuitive curb ramp and crosswalk design, enhancing pedestrian right-of-way while crossing, and supporting the installation of more direct pedestrian crossing locations.

Page 78 Update Key Action B-3e and associated text as follows:

[Pursue] Consider a modification of Maryland Code §21-502 to indicate that the driver of a vehicle must stop for pedestrians waiting to cross the street, not just those already in the crosswalk.

Currently, state law requires pedestrians to enter the street at a crosswalk at an uncontrolled intersection to gain the right-of-way and cause drivers to stop. In practice, this creates situations where drivers maintain elevated speeds through marked and unmarked crosswalks, frightening pedestrians into waiting until there is a gap in traffic before taking the opportunity to cross the street. To support improved driver yielding, additional signage in advance of crosswalks should be installed across the county, particularly at locations where there may be sight distance issues.

Precedent: [Virginia law] Ann Arbor, Michigan and Boulder, Colorado both require[s] drivers to yield to pedestrians “at” a crosswalk, not “in” a crosswalk.

Goals: Equitable and Just Pedestrian Network, Comfortable/Connected Pedestrian Network, Pedestrian Safety

Lead: State Delegation

Page 80 Update the first paragraph under Key Action B-4d as follows:

Montgomery County’s rail and bus rapid transit corridors (Figure 25) pass through both Urban and Suburban areas, but existing guidance for the Boulevard street type in the CSDG does not recommend adequate target speeds and protected crossing spacing along existing and planned transitways—features necessary to enhance pedestrian safety, improve pedestrian comfort, and shorten walking trips. As transit corridors such as Georgia Avenue, Veirs Mill Road, and University Boulevard account for [10] 9% of fatalities and severe injuries but only 1.3% of roadway miles, more frequent protected crossings and lower target speeds are needed on these roads to achieve Vision Zero.

Page 80 Update Key Action B-4e as follows:

Promote redevelopment to [C] create a grid of streets and alleys along transit corridors with block sizes based on the protected crossing standards of the Complete Streets Design Guide.

Page 83 Update the first paragraph under Key Action B-4f as follows:

A comprehensive pedestrian wayfinding system—a network of signs providing distance and direction to destinations—will increase walking by helping residents, employees, and visitors understand what is accessible nearby on foot. A similar effort to develop bikeway wayfinding is under development jointly by the Planning Department and MCDOT.

Page 83 Remove Key Action B-4g and the associated text.

Page 83 Change the title of Key Action B-4h as follows:

B-4[h]g: Provide public seating, restrooms, and other pedestrian amenities in Downtowns, Town Centers, and priority park locations and along Boulevards.

Page 84 Change the title of Key Action B-4i as follows:

B-4[i]h: Update horizontal alignment standards in Chapter 50 of the County Code.

Page 86 Update the first paragraph beneath Key Action B-6b as follows:

Tree canopy is lacking along many sidewalks in Montgomery County. While programs like Tree Montgomery and Reforest Montgomery exist to plant trees on private property, it can be a challenge to plant, maintain, and replace necessary shade trees within the public right-of-way along sidewalks. Consolidating funding sources and investing more in street tree preservation, maintenance, and planting within the right-of-way—while eliminating barriers to replacing [trees that have been removed] street trees, such as stump removal—will be a significant investment in future pedestrian comfort along the county’s sidewalks.

Page 90 Update Key Action B-7f and the associated text as follows:

[Offer monetary] Consider a program of monetary and technical support to Homeowners Associations, Condominium Associations, and commercial properties for providing pedestrian connections through their property and reconfiguring existing parking lots to be more pedestrian friendly.

Many residential communities and commercial areas were constructed at a time when pedestrians were not prioritized. While today, pedestrians are a larger priority and Montgomery Planning and county agencies work with those pursuing private development projects on pedestrian-friendly site and frontage design, there are not many opportunities currently to encourage property owners who are not pursuing redevelopment to make pedestrian-friendly changes. This key action would provide a sum of money annually to support two types of important projects:

- 1) The provision of pedestrian shortcut connections and through-block connections across common areas of Homeowners Association and Condominium Association property—where these connections would improve pedestrian access to local businesses, transit, and community destinations.
- 2) The reconfiguration of parking lots to be more pedestrian friendly—reducing the number and severity of conflicts between motor vehicles and pedestrians

Goals: Comfortable/Connected Pedestrian Network, Walking Rates, Pedestrian Safety

Leads: DHCA, CCOC [MCDOT], County Executive, County Council

Support: MCDOT

Page 90 Update Key Action B-7g and the associated text as follows:

B-7g: [Fund] Include off-site pedestrian and bicycle access improvements to transit stations as part of the main capital project or through a parallel effort.

Non-motorized access to transit stations should be an essential component of their construction. These investments can provide substantial public benefits, including reduced transportation emissions and increased economic development, but poor pedestrian and bicycle connectivity in the surrounding area makes it difficult for these projects to reach their full potential ridership. Non-motorized access should be a higher priority than motorized access. "Off-site" is defined as improvements that are not directly connected to the transit station, but fill a gap within the transit station walkshed. The transit station walkshed should be defined as part of the initial planning and design process for the capital project.

Related Effort: Vision Zero Action Plan

Goals: Comfortable/Connected Pedestrian Network, Walking Rates

Leads: MCDOT, MDOT SHA, County Council

Page 94-95 Replace the entirety of Recommendation B-10 and associated text with the following text:

B-10: Facilitate the transformation of state highways to support Montgomery County's transportation and land use priorities as articulated in adopted plans, guidelines, and policies.

Thrive Montgomery 2050, the county's General Plan, envisions transforming activity centers and growth corridors into safe, comfortable, and irresistible multimodal environments. Although serious injury and fatal pedestrian collisions are more frequent in suburban areas, Montgomery Planning's Predictive Safety Analysis study found that Downtown Boulevards and Town Center Boulevards have the highest rate of crashes involving pedestrians.

Improving the safety, attractiveness, and walkability in these locations is critical to the success of these centers. State highways account for about 45 miles of road in Downtowns and Town Centers, as well as about 55 miles along master-planned BRT corridors (review Table 33 and associated maps of Downtown and Town Center areas). Along these roadways and all other state highways countywide, it is recommended that the State Highway Administration:

- 1) Incorporate local master plan recommendations, local design standards, and local policies into SHA's funding allocations as well as planning and design for roadway maintenance, reconstruction, new construction, and operations; and
- 2) Expedite review and facilitate implementation of infrastructure changes to state highways being implemented through county and municipal projects and/or implemented as part of land development or redevelopment projects.

Key Actions:

B-10a: Explore ways to formalize State Highway Administration incorporation of local master plans, policies, and standards for the design and operation of state highways in Montgomery County.

Differing design standards, policies, and priorities at the State Highway Administration are a potential obstacle to achieving the goals for Montgomery County articulated in *Thrive Montgomery 2050*, area and functional master plans, the adopted Montgomery County Complete Streets Design Guide, the *Vision Zero Action Plan* and the *Climate Action Plan*. These documents express local priorities for the design and function of state highways, particularly for bus rapid transit corridors and in Downtowns and Town Centers.

Aligning SHA's design standards, policies and priorities for activities within Montgomery County with these County-adopted local plans, policies, and standards, will support the implementation of *Thrive Montgomery 2050* and facilitate implementation of the Pedestrian Master Plan. There are many avenues through which this can be achieved, including updates to SHA program, policies and standards, changes to the state code to bring state and local practices into alignment, or establishing a written agreement about relevant plans, policies and design standards between the county and the state.

Goals: Comfortable/Connected Pedestrian Network, Walking Rates, Pedestrian Safety, Equitable and Just Pedestrian Network

Leads: State Delegation, County Executive

B-10b: Find opportunities to expedite the State Highway Administration's review of public and private projects.

The State Highway Administration reviews design plans for public and private projects that affect the state rights of way. For these projects to proceed to construction, SHA comments must be addressed, the design drawings must be approved, and an SHA Access Permit provided. However, the current SHA review process has no time limits within which SHA must approve or reject a permit application. Uncertain review timelines can lead to project delays, slowing the construction of important pedestrian, bicycle and transit improvements.

Expediting SHA's review process by establishing reasonable deadlines, similar to those required of Montgomery County agencies for regulatory review, will likely reduce delay and more quickly advance needed safety and accessibility improvements faster.

Goals: Comfortable/Connected Pedestrian Network, Walking Rates, Pedestrian Safety, Equitable and Just Pedestrian Network

Leads: State Delegation, County Executive

Page 101 Update Key Action P-1c as follows:

P-1c: [Develop] Consider developing legislation to create a new class of commercial driver's license required to operate vehicles with identified pedestrian safety and visibility issues.

Page 102 Update the first paragraph below Key Action P-1d as follows:

Over time, rules and regulations governing the transportation system change, and new roadway striping, signage, facilities, and signalization approaches are implemented. However, unless a Maryland driver's license has expired for a year or more, there is no requirement to retake either the driving skills or knowledge tests upon license renewal. A knowledge testing requirement, with the option to retake as many times as necessary to pass, would provide an opportunity to bring drivers up to date on changes to the transportation system and relevant laws and regulations since their last license renewal between five and eight years earlier. This would result in better driving and increased safety for all road users. Efforts should be taken to ensure this new requirement does not place an undue burden on the Motor Vehicle Administration. [Additionally, each year the county should notify all county households identifying changes to traffic rules and regulations that have taken effect over the past year.]

Page 102 Change the title of Key Action P-1e as follows:

P-1[e]f: Study requiring or incentivizing the use of pedestrian detection systems in vehicles registered in Montgomery County.

Page 102 Add Key Action P-1e and associated text as follows:

P-1e: Annually notify all county households of changes to traffic rules and regulations that have taken effect over the past year.

Over time, rules and regulations governing the transportation system change, and new roadway striping, signage, facilities, and signalization approaches are implemented. To help ensure county residents are aware of these changes, and to improve safety for everyone using the transportation system, annual notice of these changes should be provided.

Goal: Pedestrian Safety

Lead: County Executive

Page 114 Remove Key Action P-7d and the associated text.

Page 115 Replace the entirety of Key Action P-8b and associated text as follows:

P-8b: Consider developing strategies for equitable in-person traffic enforcement activities.

While there are many benefits to automated enforcement, it is not present everywhere traffic infractions take place and cannot detect certain types of infractions. Of particular relevance to this master plan are violations of the pedestrian right-of-way, stop sign compliance, and other pedestrian-vehicle conflicts. Strategies should be developed to ensure this life-saving enforcement activity takes place and occurs in a fair and equitable fashion.

Goal: Pedestrian Safety

Leads: County Executive, MCPD, County Council, Montgomery Parks

Page 118-119 Update Key Action EA-1d and the associated text as follows:

EA-1d: Construct the pedestrian clear zone using [Portland cement concrete, in line with] materials approved by MCDOT's Design Standards and Specifications.

Brick sidewalks present more tripping and slippage hazards than Portland cement concrete, pavers, and some other materials. [Portland cement concrete is a superior sidewalk material, as it is more durable and results in fewer tripping hazards and slippage than bricks, pavers, and other materials.] All future sidewalks should use [this material] MCDOT-approved materials in the pedestrian clear zone, which is a portion of the area within the streetscape's active zone between the street buffer and the frontage zone. The pedestrian clear zone should be free of obstructions of any kind. Other paving materials may be used outside the pedestrian clear zone and in historic districts, as appropriate.

Goals: Equitable and Just Pedestrian Network, Comfortable/Connected Pedestrian Network

Leads: MCDOT, MCDPS, Montgomery Planning

Page 128 Update Key Action EA-9a as follows:

EA-9a: [Require] Consider requiring [anyone] any construction worker who works in the public right-of-way to take ADA training and maintain ADA certification. [Implement] Consider implementing penalties for observed ADA non-compliance during construction or maintenance that deviates from what was approved on right-of-way permits. Approved right-of-way permits should be easily accessible so members of the public can understand what has been approved.

Page 129 Remove Key Action F-1a and associated text.

Page 129 Remove Key Action F-1b and associated text.

Page 130 Change the title of Key Action F-1c as follows:

F-1[c]a: Consider potential legislation to tie vehicle registration fees to safe vehicle design.

Page 148 Revise the paragraph prior to Table 33 as follows:

As part of the Phase 2 transition, the following table and maps identify the county’s Downtowns, Town Center, Suburban, Industrial and Country areas. Future master plans, sector plans and functional plans are encouraged to modify these boundaries based on the definitions in the CSDG. The Area Type Designations govern the location, relative priority, and dimension of the streetscape elements identified in the Complete Streets Design Guide. The designation of these areas through the Pedestrian Master Plan does not supersede land use or site design requirements identified through existing area master and sector plans or existing county policies.

Page 148-149 Add text as a note at the bottom of Table 33 as follows:

The Downtown interim designation and boundary for the Life Sciences (Great Seneca) area and the designation and boundary for the Traville/USG Town Center will be reviewed when the County Council takes up the *Great Seneca Plan: Connecting Life and Science*. The designation and area boundary for Briggs Chaney Town Center and Briggs Chaney Industrial Area will be reviewed when the County Council takes up the *Fairland and Briggs Chaney Master Plan*. The designation and area boundary for Four Corners Town Center will be reviewed when the County Council takes up the *University Boulevard Corridor Plan*.

Page 152 Add text as a note at the bottom of the map as follows:

The Downtown interim designation and boundary for the Life Sciences (Great Seneca) area and the designation and boundary for the Traville/USG Town Center will be reviewed when the County Council takes up the *Great Seneca Plan: Connecting Life and Science*.

Page 161 Add text as a note at the bottom of the map as follows:

The designation and area boundary for Briggs Chaney Town Center will be reviewed when the County Council takes up the *Fairland and Briggs Chaney Master Plan*.

Page 172 Add text as a note at the bottom of the map as follows:

The designation and area boundary for Four Corners Town Center will be reviewed when the County Council takes up the *University Boulevard Corridor Plan*.

Page 199 Add text as a note at the bottom of the map as follows:

The Downtown interim designation and boundary for the Life Sciences (Great Seneca) area and the designation and boundary for the Traville/USG Town Center

will be reviewed when the County Council takes up the *Great Seneca Plan: Connecting Life and Science*.

Page 207 Add text as a note at the bottom of the map as follows:

The designation and area boundary for Briggs Chaney Industrial Area will be reviewed when the County Council takes up the *Fairland and Briggs Chaney Master Plan*.

Page 278-282 Update the Example Monitoring Report to reflect changes made on Pages 11-20.

General

All illustrations and tables included in the Plan will be revised to reflect the District Council changes to the Planning Board Draft of the Pedestrian Master Plan (May 2023). The text and graphics will be revised as necessary to achieve and improve clarity and consistency, to update factual information, and to convey the actions of the District Council. Graphics and tables will be revised and re-numbered, where necessary, to be consistent with the text and titles.

This is a correct copy of Council action.



Sara R. Tenenbaum
Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

November 15, 2023

TO: The Commission

FROM: Asuntha Chiang-Smith, Executive Director

SUBJECT: Re-appointment of Tanya Upthegrove-Coleman as Chair of the Merit System Board December 1, 2023 – December 1, 2027

The Commission first appointed Ms. Upthegrove-Coleman to fill a Merit System Board vacancy on December 1, 2008 as part of the Commission's Resolution 08-17. Her appointment was for a term of three (3) years effective December 1, 2008 through December 1, 2011.

On November 16, 2011, the Commission approved Resolution 11-19, the reappointment was for a term of four years from December 1, 2011 to December 1, 2015.

On October 21, 2015, the Commission approved by Resolution 15-19, the reappointment for a four-year term from December 1, 2015 through December 1, 2019.

On September 18, 2019, the Commission appointed Ms. Upthegrove-Coleman to serve as the Chair of the Merit System Board beginning July 28, 2019 through December 1, 2019.

On November 20, 2019 the Commission appointed Ms. Upthegrove-Coleman to serve as Chair of the Merit System Board beginning December 1, 2019 through December 1, 2023.

In accordance with Chapter 200, Section 222 of the Merit System Rules and Regulations, I am recommending the reappointment of Ms. Upthegrove-Coleman to a four-year term as Chair of the Merit System Board effective December 1, 2023 through December 1, 2027. All other terms and conditions of her contract remain the same.

Attached is a copy of her bio and resolution for the Commission's approval.

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M-NCPPC RESOLUTION No. 23-24

November 15, 2023

MERIT SYSTEM BOARD CHAIR REAPPOINTMENT – TANYA UPTHEGROVE-COLEMAN

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

WHEREAS, on December 1, 2008 the Commission appointed Ms. Tanya Upthegrove-Coleman, Member of the Merit System Board for a term of three years effective December 1, 2008 through December 1, 2011;

WHEREAS, on December 1, 2011 the Commission re-appointed Ms. Tanya Upthegrove-Coleman, Member of the Merit System Board for a term of four years effective December 1, 2011 through December 1, 2015;

WHEREAS, on December 1, 2015 the Commission re-appointed Ms. Tanya Upthegrove-Coleman, Member of the Merit System Board for a term of four years effective December 1, 2015 through December 1, 2019;

WHEREAS, on July 17, 2019 the Commission appointed Ms. Tanya Upthegrove-Coleman, Chairman of the Merit System Board beginning July 28, 2019 through December 1, 2019;

WHEREAS, on November 20, 2019 the Commission appointed Ms. Tanya Upthegrove-Coleman, Chairman of the Merit System Board for a term of four years effective December 1, 2019 through December 1, 2023;

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

WHEREAS, Section 16-103 of the Land Use Article allows for the reappointment of Merit System Board Members, including the Chairman, at the pleasure of the Commission for a term of four years.

NOW, THEREFORE, BE IT RESOLVED, that the Commission hereby reappoints Ms. Tanya Upthegrove-Coleman as Chairman of the Merit System Board for a four-year term commencing on December 1, 2023 to December 1, 2027; and

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

CERTIFICATION

This is to certify that the forgoing is a true and correct copy of Resolution 23-24 adopted by the Maryland-National Capital Park and Planning Commission on motion of _____, seconded by _____, with _____

_____ in favor of the motion and _____ being opposed, with _____ being absent for the vote at its regular meeting held on November 15, 2023.

Asuntha Chiang-Smith, Executive-Director

Ben Rupert

Reviewed for Legal Sufficiency by
Benjamin E. Rupert, Esq.

Tanya Upthegrove-Coleman Biography 2023

Tanya Upthegrove-Coleman is an experienced human resource professional whose career has primarily focused on HR Operations, compensation, talent management, employee relations, organizational design, benefits management, and professional development.

Throughout her career she has served as a trusted advisor, mentor, leader, and facilitator. She has held roles as an HR Consultant, Adjunct Faculty, Coach and Board Member.

Ms. Upthegrove-Coleman currently serves as Adjunct Faculty at Prince George's Community College (PGCC) and serves as Chair of the Merit System Board for the Maryland-National Capital Park and Planning Commission. (M-NCPPC).

She is a member of Society of Human Resource Management (SHRM) and a former member of the Association of Legal Administrators Capital Chapter where she served on the leadership team as a past-president of the Association of Legal Administrators Capital Chapter Foundation.

Her contributions to the field of Human Resources are acknowledged through her nomination and selection as a PGCC 2021 Faculty Excellence Award recipient.

Tanya holds a Bachelor of Arts from the University of Nebraska, a Master of Arts from The Ohio State University and a post graduate certificate in Strategic Human Resources Leadership from Cornell University. She is also a certified human resources professional earning both SHRM-CP and PHR credentials.



MEMORANDUM




EMPLOYEES' RETIREMENT SYSTEM
 The Maryland-National Capital Park and Planning Commission
 6611 Kenilworth Avenue, Suite 100
 Riverdale, Maryland 20737

(301) 454-1415 - Telephone
 (301) 454-1413 - Facsimile
<http://ers.mnccppc.org>

Andrea L. Rose
 Executive Director

TO: The Maryland-National Capital Park & Planning Commission DATE: November 7, 2023

VIA: Peter A. Shapiro 
 Chair, Board of Trustees

FROM: Andrea L. Rose *Andrea Rose*
 Executive Director

Subject: **Resolution #23-25 - Recommendation to Approve an Employer Contribution in the Amount of \$35,554,919 for Fiscal Year 2025**

RECOMMENDATION

At its November 7, 2023 meeting, the Employees' Retirement System (ERS) Board of Trustees ("Board") accepted the June 30, 2023 Actuarial Valuation presented by Cheiron. As a result, the Board recommends the Commission approve Resolution #23-25 which adopts an employer contribution in the amount of \$35,554,919 (17.95% of covered payroll) for fiscal year 2025.

BACKGROUND

In accordance with the ERS' Plan Document, Section 2.3(g), the Board shall recommend to the Commission the contributions to be made by the Commission under the provisions of the ERS.

Each year the ERS has an independent actuarial valuation performed to determine the funding requirements for the ERS. The actuarial valuation is designed to measure the current and future cost of retiree benefits based on employee demographics, assets and liabilities, plan provisions, and actuarial assumptions and methods. The actuary recommends an employer contribution to ensure sufficient assets are available for future benefits.

A pension plan is well funded when it has enough money in reserve to meet all expected future obligations to participants. The ERS' funding objective is to meet long-term benefit promises through employee and employer contributions that remain approximately level as a percent of member payroll. The June 30, 2023 actuarial valuation indicated a funded ratio (based on the actuarial value of assets) of 87.8% which is down from 91.1% in 2022.

To meet the funding objectives, the recommended employer contribution of \$35,554,919 (17.95% of payroll) is payable July 1, 2024 for fiscal year 2025. The recommended employer contribution increased from \$28,367,491 (16.22% of payroll) as of June 30, 2022. The increase in the employer

contribution can be primarily attributed to: 1) a \$50.4 million loss on liabilities driven by salary increases (for actives) greater than expected and cost-of-living adjustments (for retirees) greater than expected; 2) a \$3.7 million actuarial loss on investments; and 3) changes related to sick leave eligibility for Plan C and Plan D which increased liabilities by \$0.3 million.

Cheiron's, Janet H. Cranna, FSA, EA, MAAA, Principal Consulting Actuary and Patrick Nelson, FSA, EA, MAAA, Associate Actuary will present the attached presentation at the Commission's November 15, 2023 meeting.

Thank you in advance for your consideration.

Attachment

1. Pension Actuarial Valuation as of June 30, 2022



M-NCPPC RESOLUTION NO. 23-25

RECOMMENDATION TO APPROVE AN EMPLOYER RETIREMENT CONTRIBUTION IN THE AMOUNT OF \$35,554,919 FOR FISCAL YEAR 2025

WHEREAS, The Maryland-National Capital Park and Planning Commission (the “Commission”), as Plan Sponsor, entered into a Pension Trust Agreement (“the Agreement”) as of July 26, 1972, with the Employees’ Retirement System of the Maryland-National Capital Park and Planning Commission (“ERS” or the “Plan”), which was subsequently amended on June 13, 1979; and

WHEREAS, the “FIRST” section of the Agreement states that the Board of Trustees shall be responsible for the collection of contributions to the Plan; and

WHEREAS, Section 2.3(g) of the ERS Plan states that the Board of Trustees shall recommend to the Commission the contributions to be made by the Commission under the provisions of the Retirement System; and

WHEREAS, the Board of Trustees engaged Cheiron (“the Actuary”) to prepare an ERS Actuarial Valuation as of June 30, 2023; and

WHEREAS, the ERS Actuarial Valuation as of June 30, 2023 projected a Fiscal Year 2024 Plan Sponsor contribution in the amount of \$35,554,919.

NOW THEREFORE, BE IT RESOLVED THAT, the Commission, as Plan Sponsor, approves a \$35,554,919 payment to the ERS Trust Fund; and

BE IT FURTHER RESOLVED, that the Maryland-National Capital Park and Planning Commission does hereby authorize the Executive Director, and other officers, to take action as may be necessary to implement this resolution.

APPROVED FOR LEGAL SUFFICIENCY:

/s/ Michael W. Anitón

Deputy General Counsel
Office of the General Counsel
M-NCPPC
October 25, 2023

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Pension Actuarial Valuation as of June 30, 2023

November 15, 2023

Presented by

Janet Cranna, FSA, FCA, EA, MAAA

Patrick Nelson, FSA, CERA, EA, MAAA

Jana Bowers, FSA, MAAA

Agenda



- Historical Review and Material Risks
- June 30, 2023 Actuarial Valuation Results
- Projections

The Actuarial Valuation Process



1. Collect information
 - Member data
 - Plan provisions
 - Asset information

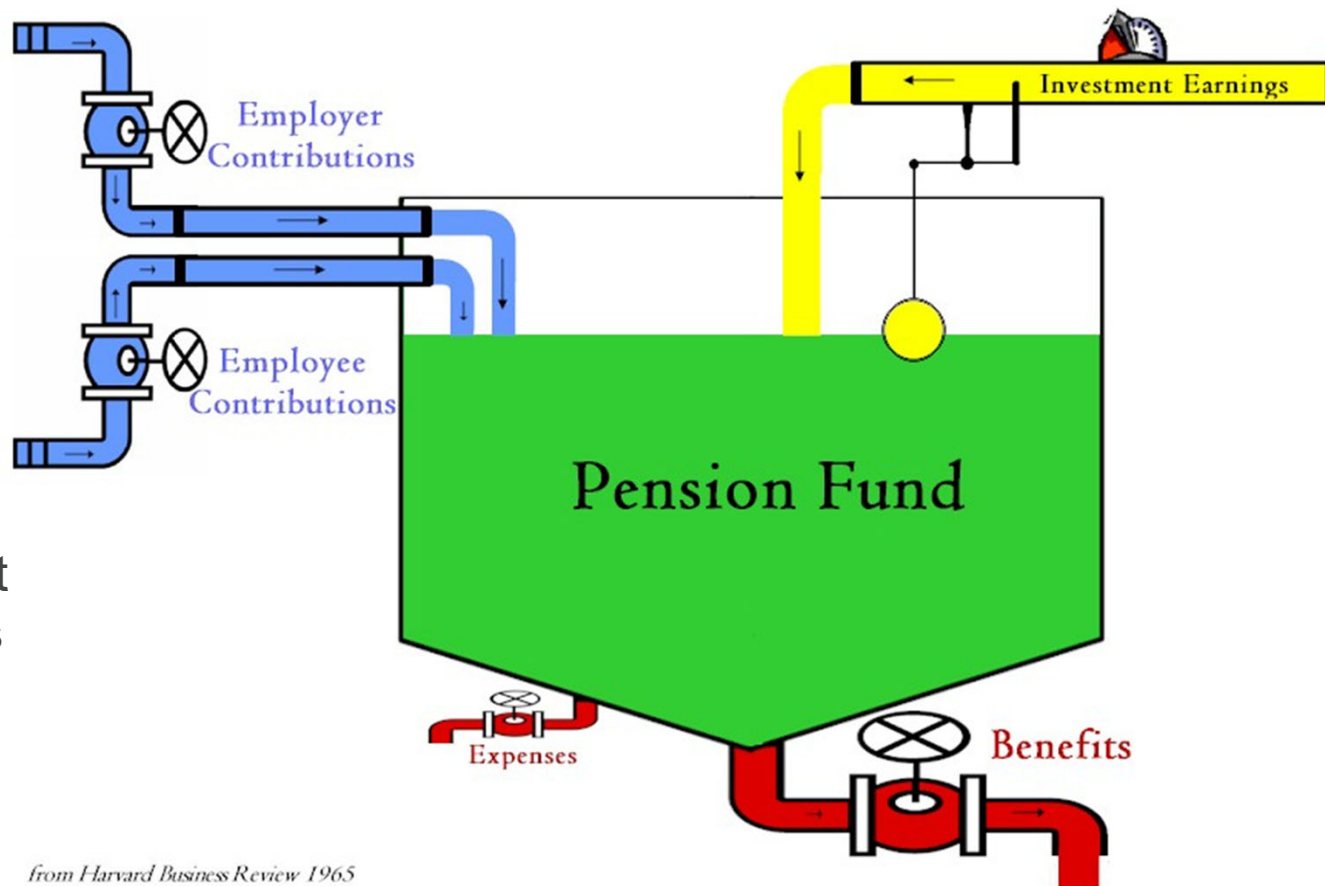
2. Apply assumptions
 - Demographic
 - Economic

3. Project all future benefit payments

4. Determine a present value of the benefits

5. Compare to assets

6. Calculate employer and employee contributions

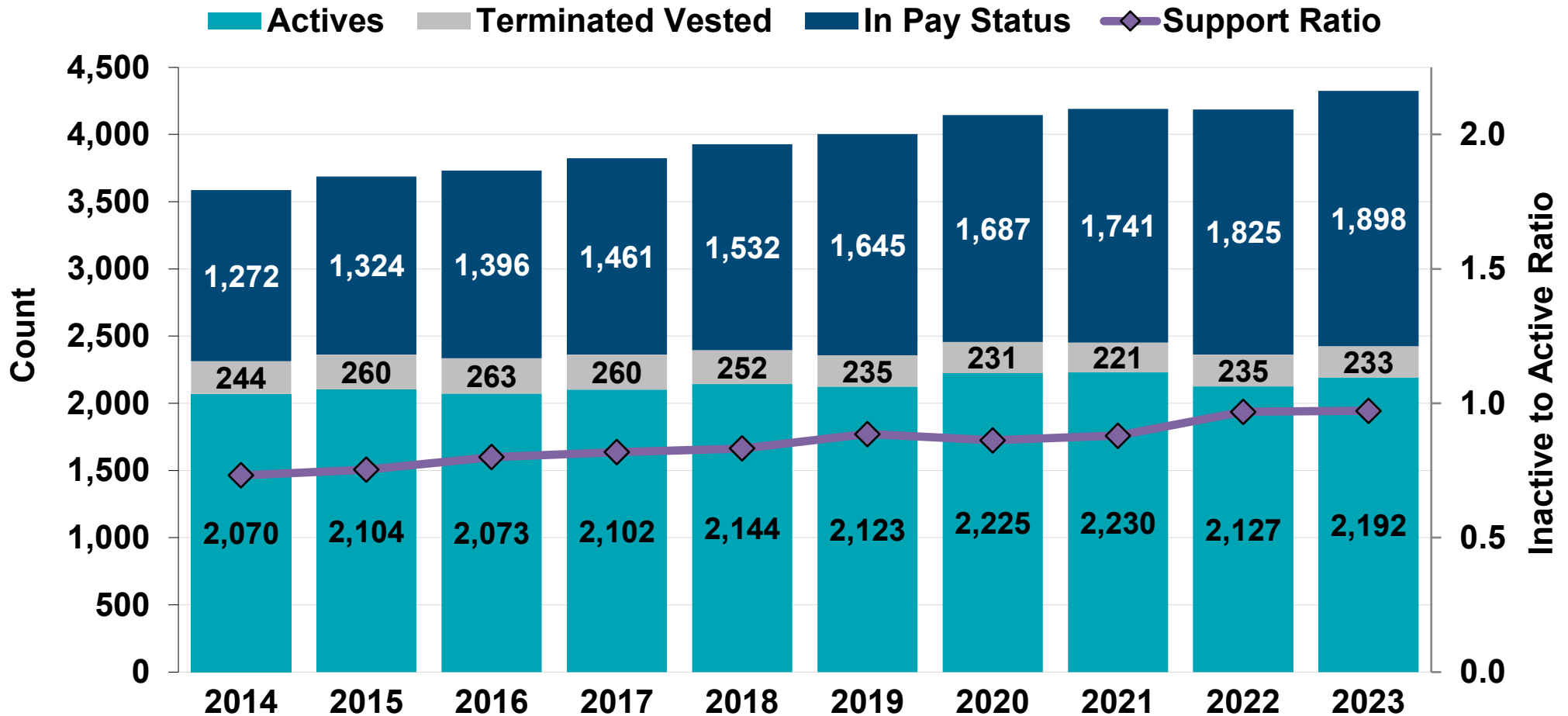


from Harvard Business Review 1965



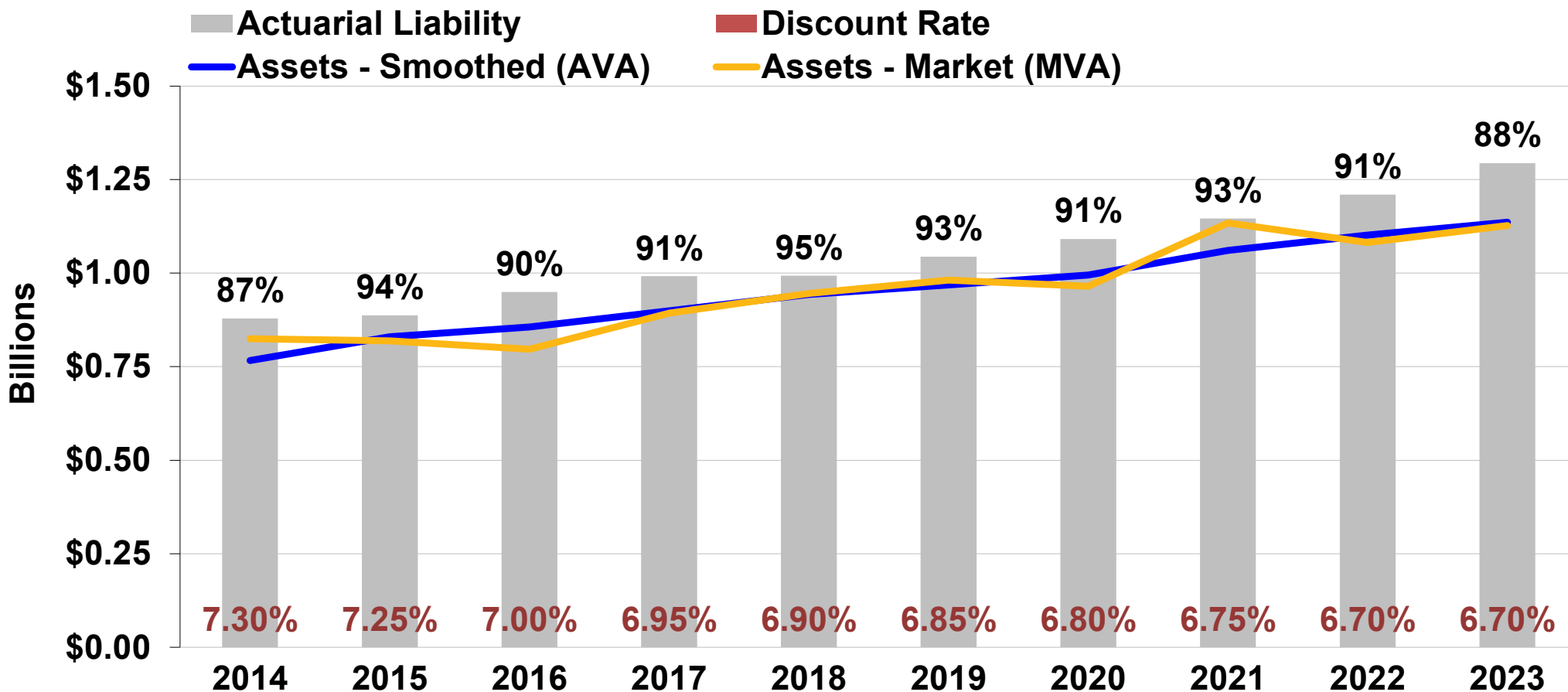
- Material risks identified:
 - **Investment Risk** – the potential for investment returns to be different than expected
 - **Longevity and other Demographic Risk** – the potential for mortality and other demographic experience to be different than expected
 - **Contribution Risk** – the potential that actual contributions will not adequately fund the Plan
 - **Plan Change Risk** – the potential for provisions of the plan to change and impact measurements
 - **Assumption Change Risk** – the potential for the environment to change such that future valuation assumptions are different than the current assumptions

Membership Trends



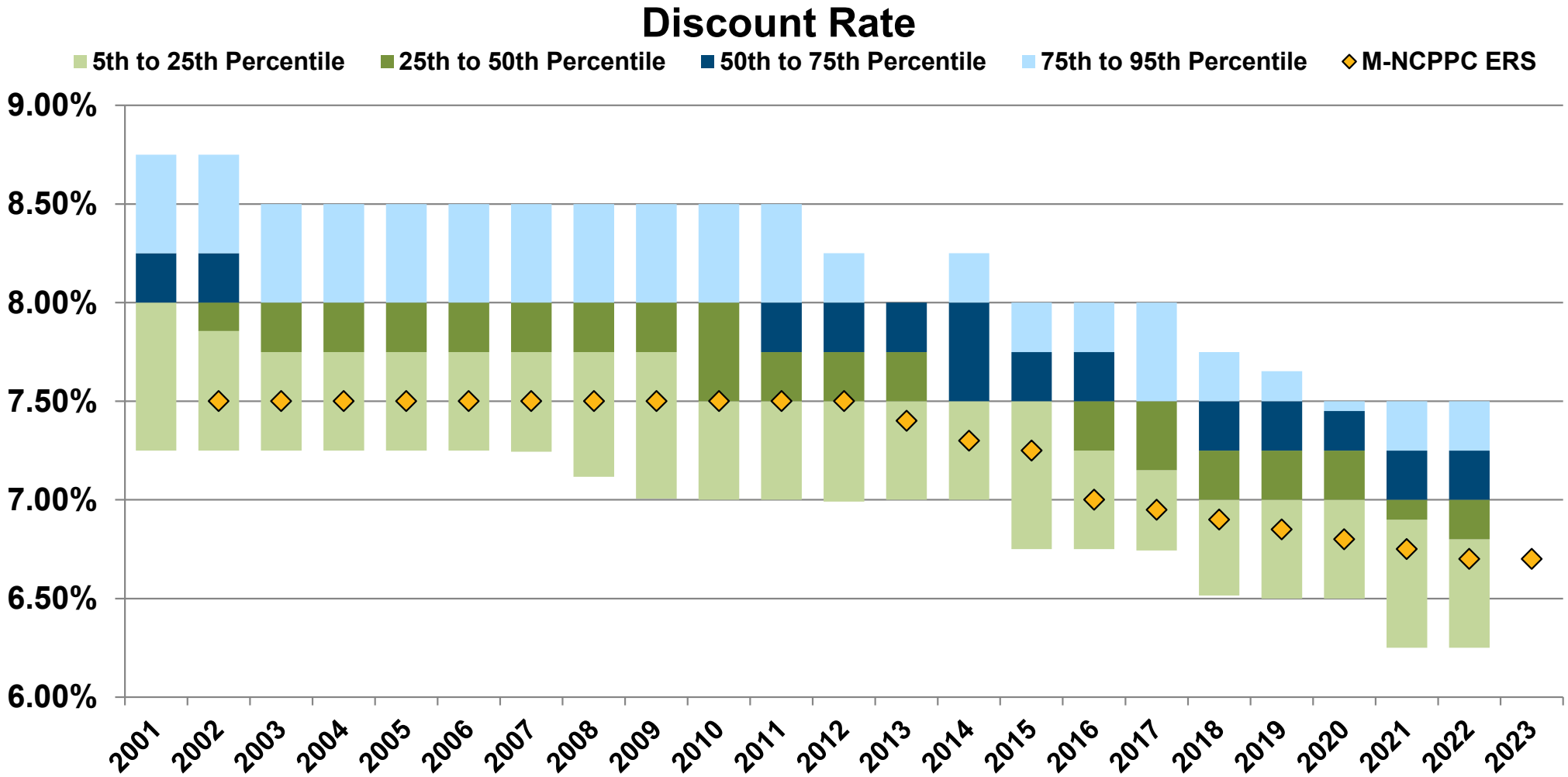
Support Ratio is the ratio of the number of inactive members (Retirees and Deferred Vested) per active member.

Assets and Liabilities



Funded status shown above bars is Actuarial Value of Assets divided by Actuarial Liability.

Discount Rate

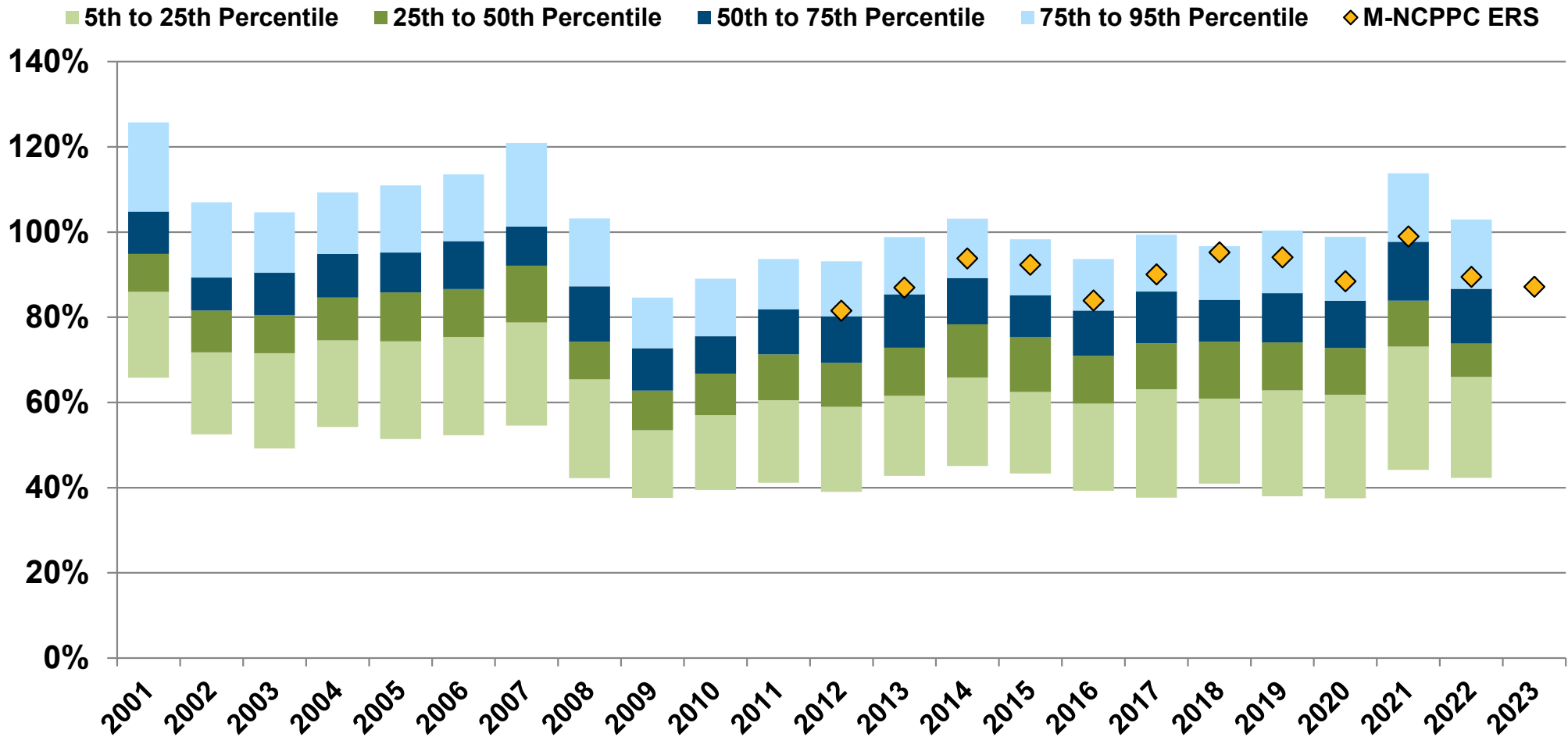


Survey Data from Public Plans Data as of 7/26/2023

MVA Funded Ratio



MVA Funded Ratio



Survey Data from Public Plans Data as of 7/26/2023

Member Counts



| Member Status | As of June 30, 2022 | As of June 30, 2023 | % Change |
|---|------------------------|------------------------|----------|
| Active | 2,127 | 2,192 | 3.06% |
| Terminated Vested | 235 | 233 | -0.85% |
| Terminated Non-Vested ¹ | 581 | 622 | 7.06% |
| Retired, Beneficiaries, and Disabled | <u>1,825</u> | <u>1,898</u> | 4.00% |
| Total | 4,768 | 4,945 | 3.71% |

¹ Members still due a refund of employee contributions

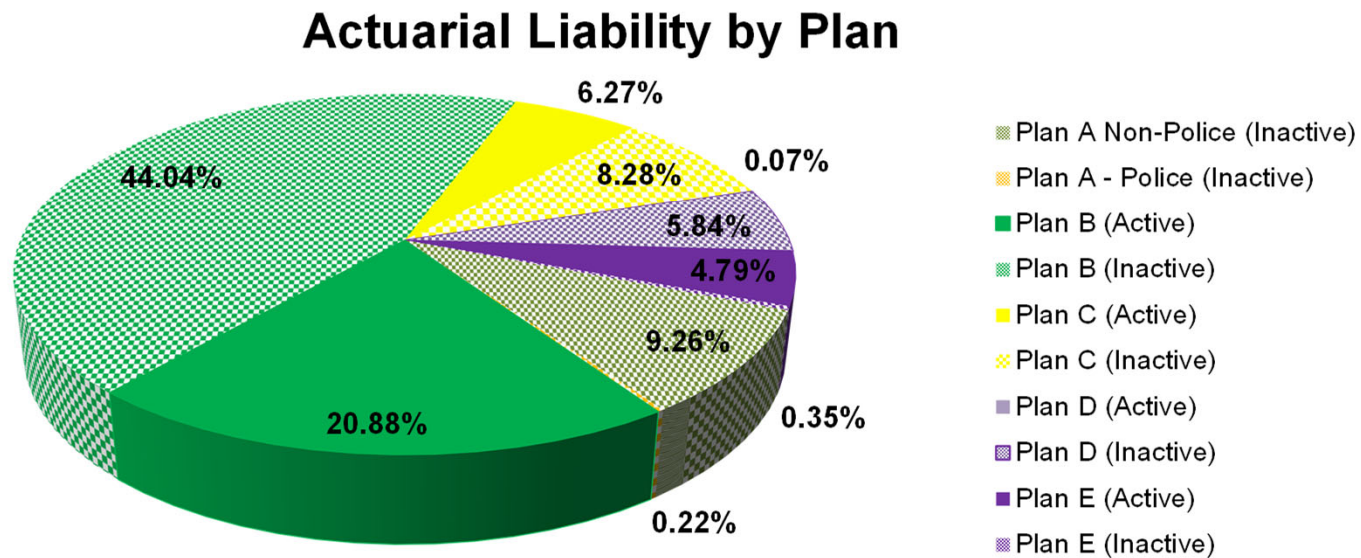
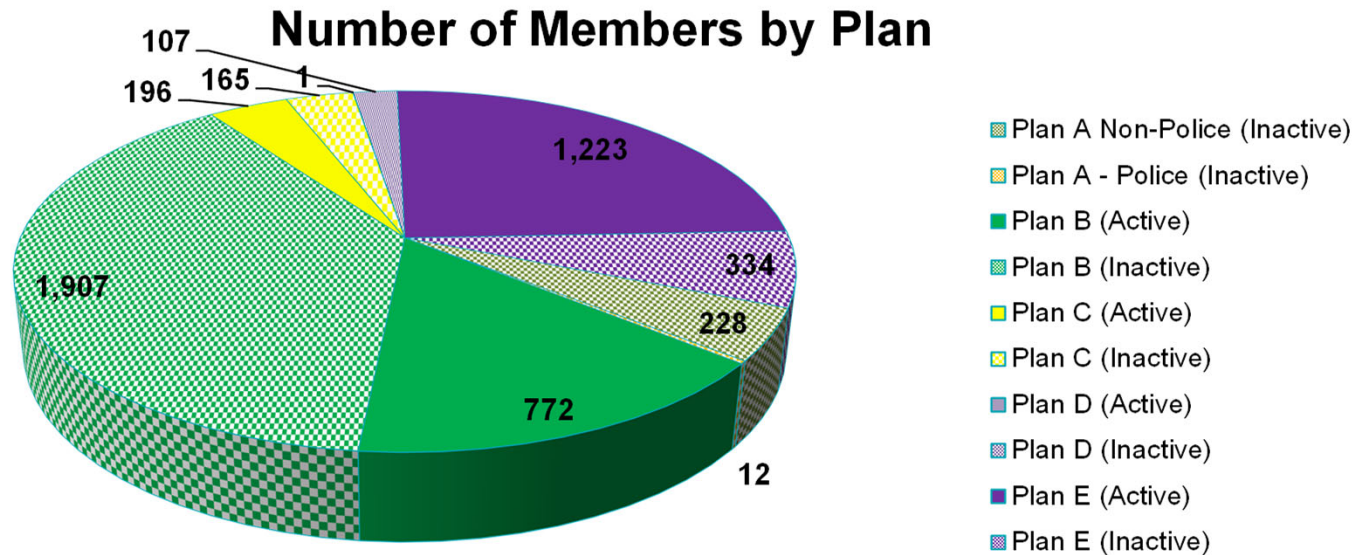
Assets and Liabilities Comparison



- Market Value of Assets (MVA) returned 7.52% and the Actuarial Value of Assets (AVA) returned 6.36% from June 30, 2022 to June 30, 2023 compared to the assumed rate of 6.70%
 - Actuarial loss on investments was \$3.7 million
- Actuarial liability loss of \$50.4 million
- Changes for Plan C and D (sick leave eligibility) increased liabilities by \$0.3 million

| Assets and Liabilities | As of June 30, 2022 | As of June 30, 2023 | % Change |
|------------------------------------|---------------------|---------------------|----------|
| Actuarial Liability (AL) | \$ 1,209,526,280 | \$ 1,293,754,448 | 6.96% |
| Actuarial Value of Assets (AVA) | \$ 1,101,798,189 | \$ 1,136,158,437 | 3.12% |
| Unfunded Actuarial Liability (UAL) | \$ 107,728,091 | \$ 157,595,011 | 46.29% |
| Funded Ratio (AVA / AL) | 91.09% | 87.82% | -3.27% |
| Market Value of Assets (MVA) | \$ 1,081,836,291 | \$ 1,127,163,977 | 4.19% |
| Funded Ratio (MVA / AL) | 89.44% | 87.12% | -2.32% |

Membership and Liability By Plan



Change in Liabilities



| Source | Actuarial Liability |
|--|---------------------|
| Liabilities as of June 30, 2022 | \$ 1,209,526,280 |
| Change due to: | |
| Plan Amendments | 267,796 |
| Assumption Changes | 0 |
| Actuarial (Gain) / Loss | 50,432,696 |
| Benefits Accumulated and Other Sources | <u>33,526,676</u> |
| Total Liability Increase / (Decrease) | <u>84,227,168</u> |
| Liabilities as of June 30, 2023 | \$ 1,293,753,448 |

| Source | (Gain) / Loss | % of Liability |
|---|------------------|----------------|
| New members entering System | \$ 817,542 | 0.1% |
| Salary increases for prior year greater than expected | 12,786,383 | 1.1% |
| Known salary adjustments for FY 2024 | 20,251,090 | 1.7% |
| Active member decrements | (926,573) | -0.1% |
| Inactive mortality | (2,975,170) | -0.2% |
| Retiree COLA more than expected | 18,022,654 | 1.5% |
| Service transfers and purchase | 1,233,237 | 0.1% |
| Benefit payments different than expected | 1,544,528 | 0.1% |
| Data updates | 341,823 | 0.0% |
| Miscellaneous changes | <u>(662,818)</u> | <u>-0.1%</u> |
| Total Actuarial Liability (Gain) / Loss | \$ 50,432,696 | 4.2% |

November 15, 2023

Employer Contribution by Plan



| | Non-Police Plan A | Police Plan A | Plan B | Plan C | Plan D | Plan E | Total |
|--|----------------------|------------------|------------------|------------------|------------|------------------|------------------|
| Active Member Payroll | \$ 0 | \$ 0 | \$ 76,641,883 | \$ 20,008,105 | \$ 110,173 | \$ 101,350,213 | \$ 198,110,374 |
| Normal Costs | | | | | | | |
| Gross Normal Cost | \$ 0 | \$ 0 | \$ 7,618,875 | \$ 4,547,589 | \$ 0 | \$ 11,556,892 | \$ 23,723,356 |
| Estimated Expenses | 239,677 | 5,765 | 1,679,493 | 376,557 | 152,973 | 133,042 | 2,587,507 |
| Reduction due to Expected Employee Contributions | <u>0</u> | <u>0</u> | <u>2,953,727</u> | <u>1,859,478</u> | <u>0</u> | <u>4,085,986</u> | <u>8,899,191</u> |
| Net Employer Normal Cost | \$ 239,677 | \$ 5,765 | \$ 6,344,641 | \$ 3,064,668 | \$ 152,973 | \$ 7,603,948 | \$ 17,411,672 |
| --As a % of Payroll | 0.00% | 0.00% | 8.28% | 15.32% | 138.85% | 7.50% | 8.79% |
| Amortization Payment | \$ 0 | \$ 0 | \$ 10,378,493 | \$ 3,115,909 | \$ 34,861 | \$ 2,381,388 | \$ 15,910,651 |
| --As a % of Payroll | 0.00% | 0.00% | 13.54% | 15.57% | 31.64% | 2.35% | 8.03% |
| Actuarially Determined Employer Contribution payable at Beginning of Year | \$ 239,677 | \$ 5,765 | \$ 16,723,134 | \$ 6,180,577 | \$ 187,834 | \$ 9,985,336 | \$ 33,322,323 |
| --As a % of Payroll | 0.00% | 0.00% | 21.82% | 30.89% | 170.49% | 9.85% | 16.82% |
| Actuarially Determined Employer Contribution payable at End of Year | \$ 255,735 | \$ 6,151 | \$ 17,843,584 | \$ 6,594,676 | \$ 200,419 | \$ 10,654,354 | \$ 35,554,919 |
| --As a % of Payroll | 0.00% | 0.00% | 23.28% | 32.96% | 181.91% | 10.51% | 17.95% |

Contribution Allocation



| | Contribution for FYE June 30, 2025 | 2023 Payroll | Contribution as % of Payroll |
|--------------|---------------------------------------|-------------------|---------------------------------|
| Non-Police | \$ 28,753,673 | \$ 177,992,096 | 16.15% |
| Park Police | <u>6,801,246</u> | <u>20,118,278</u> | 33.81% |
| Total | \$ 35,554,919 | \$ 198,110,374 | 17.95% |

Contribution Reconciliation



| | FYE 2024 | Exp Liability Exp Assets | Exp Liability Actual Assets | Baseline Liability Actual Assets | Salary Adjustments Actual Assets | FYE 2025 Plan C Change |
|-----------|----------------|-----------------------------|--------------------------------|-------------------------------------|-------------------------------------|---------------------------|
| AL | \$ 1,209.5 | \$ 1,243.1 | \$ 1,243.1 | \$ 1,273.2 | \$ 1,293.5 | \$ 1,293.8 |
| AVA | <u>1,101.8</u> | <u>1,139.9</u> | <u>1,136.2</u> | <u>1,136.2</u> | <u>1,136.2</u> | <u>1,136.2</u> |
| UAL | \$ 107.7 | \$ 103.2 | \$ 106.9 | \$ 137.0 | \$ 157.3 | \$ 157.6 |
| Payroll | \$ 174.9 | \$ 179.3 | \$ 179.3 | \$ 187.6 | \$ 198.1 | \$ 198.1 |
| Gross NC | \$ 21.1 | \$ 21.7 | \$ 21.7 | \$ 22.6 | \$ 23.7 | \$ 23.7 |
| Est Exp | 2.4 | 2.5 | 2.5 | 2.5 | 2.6 | 2.6 |
| EE Cont | <u>7.8</u> | <u>8.1</u> | <u>8.1</u> | <u>8.4</u> | <u>8.9</u> | <u>8.9</u> |
| Net NC | \$ 15.7 | \$ 16.1 | \$ 16.1 | \$ 16.7 | \$ 17.4 | \$ 17.4 |
| UAL Amort | \$ 10.9 | \$ 10.4 | \$ 10.8 | \$ 13.8 | \$ 15.9 | \$ 15.9 |
| ADC BOY | \$ 26.6 | \$ 26.5 | \$ 26.9 | \$ 30.5 | \$ 33.3 | \$ 33.3 |
| % of Pay | 15.20% | 14.80% | 15.01% | 16.31% | 16.80% | 16.82% |
| ADC EOY | \$ 28.4 | \$ 28.3 | \$ 28.7 | \$ 32.6 | \$ 35.5 | \$ 35.6 |
| % of Pay | 16.22% | 15.79% | 16.02% | 17.40% | 17.92% | 17.95% |

\$ in millions

Projections – 6.70% Annual Return (Baseline)



Stress Testing

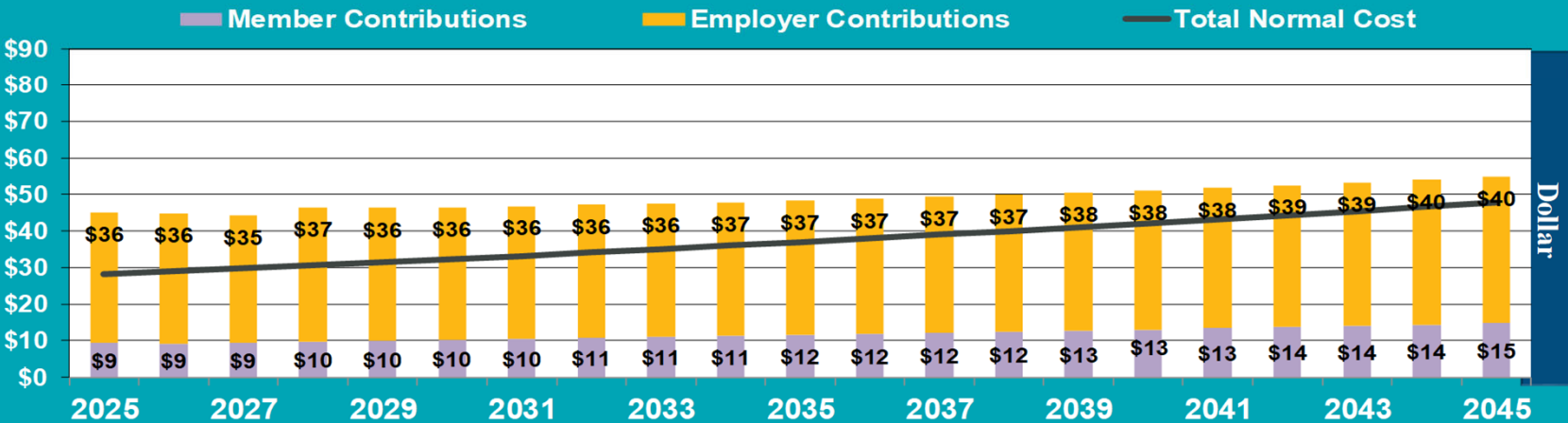
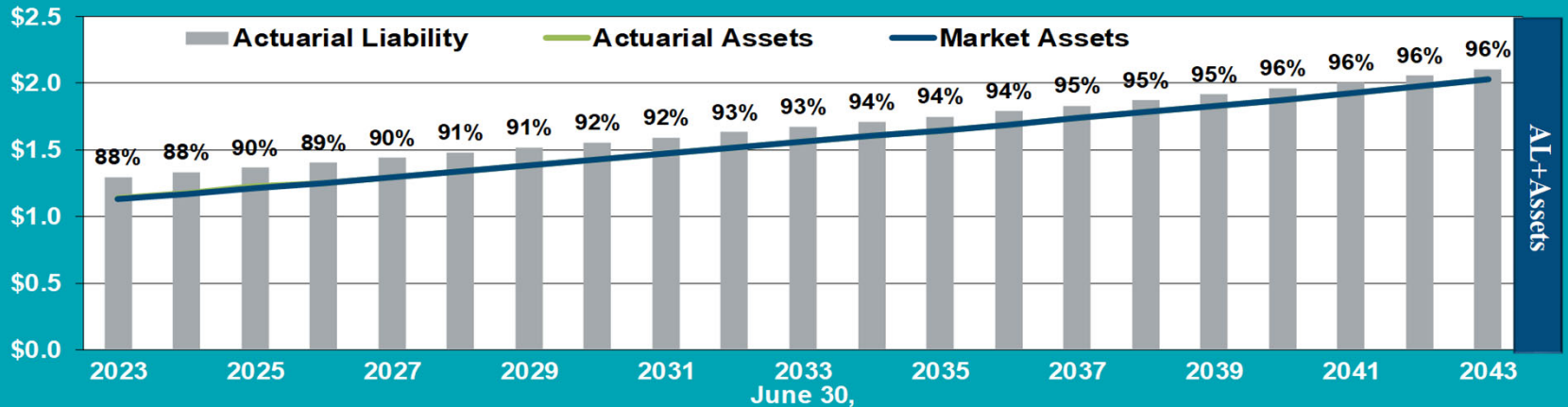
P-scan

PYE

| | |
|------|-------|
| 2024 | 6.70% |
| 2025 | 6.70% |
| 2026 | 6.70% |
| 2027 | 6.70% |
| 2028 | 6.70% |
| 2029 | 6.70% |
| 2030 | 6.70% |
| 2031 | 6.70% |
| 2032 | 6.70% |
| 2033 | 6.70% |
| 2034 | 6.70% |
| 2035 | 6.70% |
| 2036 | 6.70% |
| 2037 | 6.70% |
| 2038 | 6.70% |
| 2039 | 6.70% |
| 2040 | 6.70% |
| 2041 | 6.70% |
| 2042 | 6.70% |
| 2043 | 6.70% |
| Avg | 6.70% |

Baseline
Historical
1973

20-Year Contributions \$ 740.1 millions



Projected Cash Flows (Baseline)



10-Year Projection of Employer Costs (dollars in millions)

| Fiscal Year Ending June 30, | Normal Cost | Amortization of UAL | Estimated Expenses | Interest to End of Year | Total Employer Contribution | Prior Year Payroll | Employer Contribution as % of Payroll |
|-----------------------------|-------------|---------------------|--------------------|-------------------------|-----------------------------|--------------------|---------------------------------------|
| 2025 | \$ 14.82 | \$ 15.91 | \$ 2.59 | \$ 2.23 | \$ 35.55 | \$ 198.11 | 17.95% |
| 2026 | 15.21 | 15.54 | 2.66 | 2.24 | 35.64 | 203.06 | 17.55% |
| 2027 | 15.67 | 14.06 | 2.73 | 2.18 | 34.64 | 208.14 | 16.64% |
| 2028 | 16.14 | 15.35 | 2.81 | 2.30 | 36.60 | 213.34 | 17.16% |
| 2029 | 16.62 | 14.54 | 2.88 | 2.28 | 36.33 | 218.68 | 16.61% |
| 2030 | 17.12 | 13.95 | 2.96 | 2.28 | 36.30 | 224.14 | 16.20% |
| 2031 | 17.62 | 13.38 | 3.03 | 2.28 | 36.31 | 229.75 | 15.81% |
| 2032 | 18.14 | 12.84 | 3.11 | 2.28 | 36.36 | 235.49 | 15.44% |
| 2033 | 18.66 | 12.31 | 3.19 | 2.29 | 36.45 | 241.38 | 15.10% |
| 2034 | 19.19 | 11.81 | 3.26 | 2.30 | 36.56 | 247.41 | 14.78% |
| 2035 | 19.74 | 11.33 | 3.34 | 2.31 | 36.72 | 253.60 | 14.48% |

Assumptions

- Future investment returns of 6.70%
- Total payroll increases 2.50%
- No liability gains or losses

Projections – 5.20% Annual Return



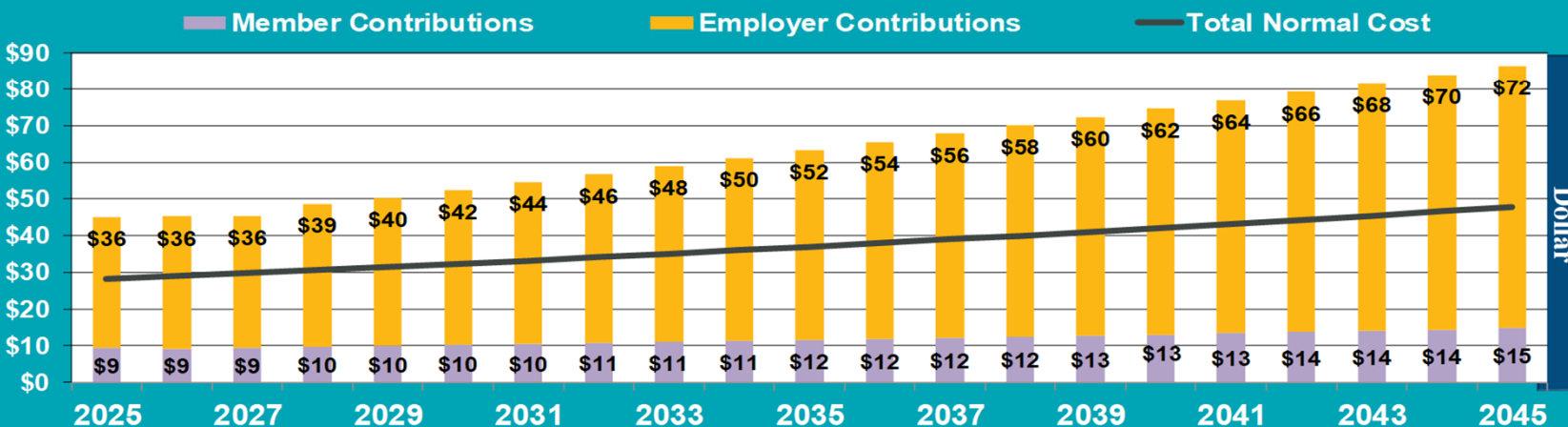
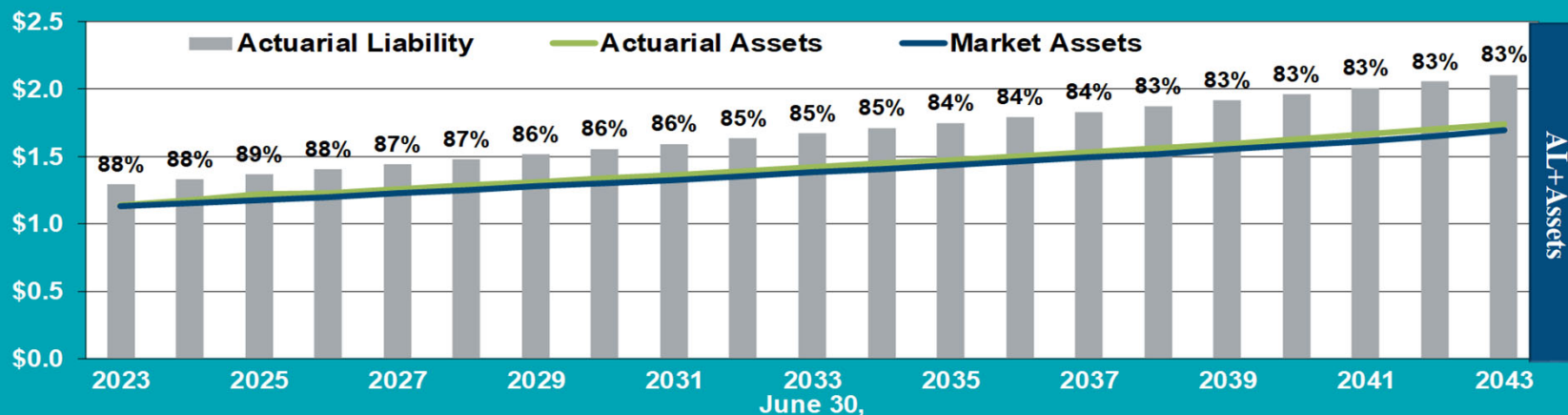
Stress Testing

P-scan

| PYE | Rate |
|------|-------|
| 2024 | 5.20% |
| 2025 | 5.20% |
| 2026 | 5.20% |
| 2027 | 5.20% |
| 2028 | 5.20% |
| 2029 | 5.20% |
| 2030 | 5.20% |
| 2031 | 5.20% |
| 2032 | 5.20% |
| 2033 | 5.20% |
| 2034 | 5.20% |
| 2035 | 5.20% |
| 2036 | 5.20% |
| 2037 | 5.20% |
| 2038 | 5.20% |
| 2039 | 5.20% |
| 2040 | 5.20% |
| 2041 | 5.20% |
| 2042 | 5.20% |
| 2043 | 5.20% |
| Avg | 5.20% |

Baseline
Historical

20-Year Contributions \$1,022.7 millions



Projections – Historical Returns



Stress Testing

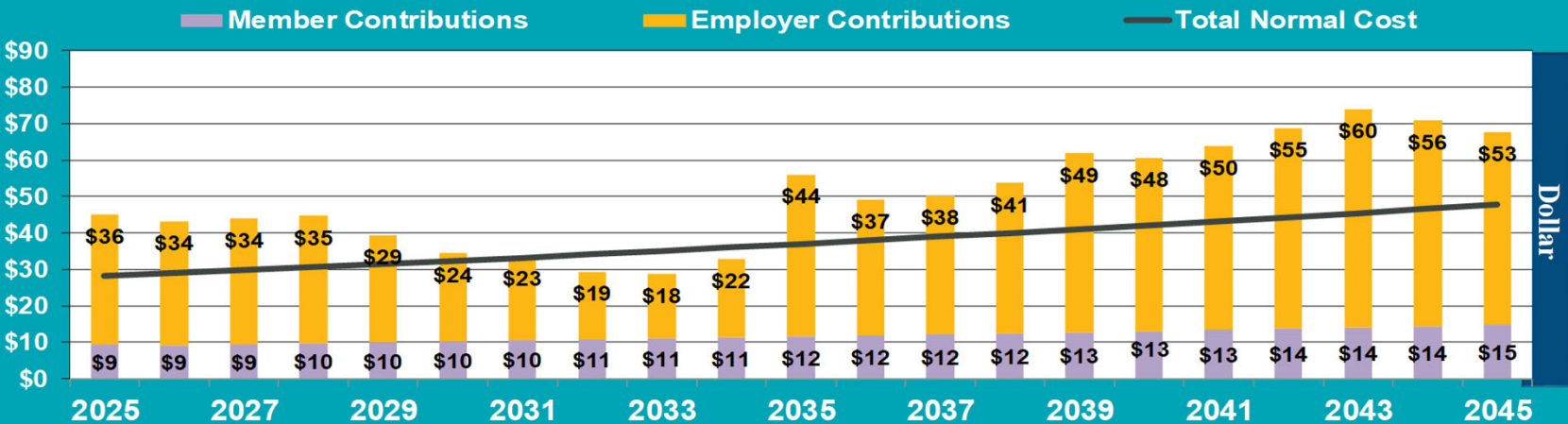
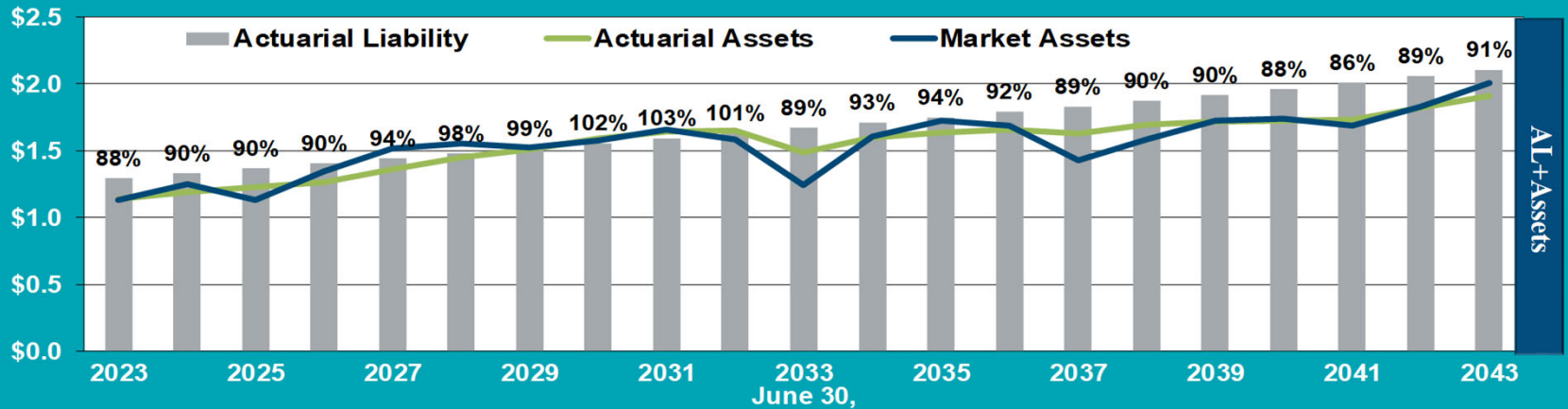
P-scan

PYE

| | |
|------|---------|
| 2024 | 13.73% |
| 2025 | -6.71% |
| 2026 | 23.40% |
| 2027 | 15.95% |
| 2028 | 5.42% |
| 2029 | 1.90% |
| 2030 | 7.37% |
| 2031 | 9.64% |
| 2032 | 0.14% |
| 2033 | -17.96% |
| 2034 | 34.93% |
| 2035 | 11.23% |
| 2036 | 1.52% |
| 2037 | -12.31% |
| 2038 | 15.75% |
| 2039 | 13.09% |
| 2040 | 4.10% |
| 2041 | 0.37% |
| 2042 | 11.89% |
| 2043 | 13.15% |
| Avg | 6.68% |

☐ Baseline
☐ Historical
1960

20-Year Contributions \$ 752.7 millions



Required Disclosures



The purpose of this presentation is to present the actuarial valuation results for the Maryland-National Capital Park and Planning Commission Employees' Retirement System (System). This presentation is for the use of the Board and System staff.

In preparing our presentation, we relied on information, some oral and some written, supplied by the System. This information includes, but is not limited to, the plan provisions, employee data, and financial information. We performed an informal examination of the obvious characteristics of the data for reasonableness and consistency in accordance with Actuarial Standard of Practice No. 23.

The actuarial assumptions and methods are outlined in the draft Actuarial Valuation Report as of June 30, 2023. The census data provided to us by the System was as of June 30, 2023.

The assumptions reflect our understanding of the likely future experience of the System, and the assumptions as a whole represent our best estimate for the future experience of the System. The results of this presentation are dependent upon future experience conforming to these assumptions. To the extent that future experience deviates from the actuarial assumptions, the true cost of the System could vary from our results.

Cheiron utilizes and relies upon ProVal, an actuarial valuation software leased from Winklevoss Technologies for the intended purpose of calculating liabilities and projected benefit payments. Projected expected results of future valuations in this presentation were developed using P-scan, our proprietary tool for the intended purpose of developing projections. As part of the review process for this presentation, we have performed a number of tests to verify that the results are reasonable and appropriate. We are not aware of any material inconsistencies, unreasonable output resulting from the aggregation of assumptions, material limitations or known weaknesses that would affect this presentation.

This presentation and its contents have been prepared in accordance with generally recognized and accepted actuarial principles and our understanding of the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board as well as other applicable laws and regulations. Furthermore, as credentialed actuaries, we meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this presentation. This presentation does not address any contractual or legal issues. We are not attorneys, and our firm does not provide any legal services or advice.

This presentation was prepared exclusively for the Maryland-National Capital Park and Planning Commission Employees' Retirement System for the purpose described herein. Other users of this presentation are not intended users as defined in the Actuarial Standards of Practice, and Cheiron assumes no duty or liability to such other users.

Janet Cranna, FSA, FCA, EA, MAAA
Principal Consulting Actuary

Patrick Nelson, FSA, CERA, EA, MAAA
Consulting Actuary

Jana Bowers, FSA, MAAA
Associate Actuary





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

November 15, 2023

To: The Commission

Via: Tracey Harvin, Corporate Policy and Management Operations Director

From: Michael Beckham, Corporate Policy and Archives Chief
Michael Doaks, Senior Policy Analyst
Robert Stephens, Senior Policy Analyst

Subject: Proposed Code of Ethics

REQUESTED ACTION

The Commission is asked to approve a proposed Code of Ethics which combines several separate Practices into one comprehensive Practice.

The policy has been developed in coordination with the Office of General Counsel and Department Heads who support the draft. The draft was also shared with and is supported by the Executive Discussion. With the Commission's approval, the Practice will be finalized and promulgated.

BACKGROUND

The Commission currently has eight (8) primary policies that address ethics, including:

- Practice 2-14, *Non-Commission Employment and Non-Commission Business*, approved July 2, 1976, and last amended October 15, 2003.
- Procedures 03-05, *Non-Commission Employment and Non-Commission Business*, approved October 15, 2003, and last amended May 4, 2016.
- Practice 2-15, *Use of Commission Property*, approved September 30, 1987, and last amended October 5, 2016.
- Practice 2-24, *Ethics*, approved June 19, 1991, and last amended January 9, 2023.
- Practice 2-72, *Conditions for Acceptance of Awards [of Honoraria] from Outside the Commission*, initially approved January 1, 1977, and last amended September 4, 2019.
- Practice 2-90, *Solicitations on Commission Property*, approved September 16, 1976, and last amended May 21, 2003.
- Practice 5-70, *Financial Disclosure*, approved March 18, 1992, and last amended January 17, 2018.
- Practice 5-61, *Lobbying Disclosure*, issued November 9, 1983, and last amended January 19, 2022.

Except for Practice 5-61, *Lobbying Disclosures*, these policies are combined into a comprehensive draft Code of Ethics. The lobbying disclosure policy is separate as it is outward-facing, whereas the others are internal-facing.

SUMMARY OF PROPOSED CHANGES TO EXISTING ETHICS POLICIES

Attachment A provides a table comparing the current vs. proposed Commission ethics provisions.

Attachments

A: Comparison Table of Current vs. Proposed M-NCPPC Ethics Standards

B: Draft Amendments to Administrative Practice 2-24, *Code of Ethics*

C: Existing Commission Policies for Rescission

COMPARISON TABLE OF CURRENT VS. PROPOSED M-NCPPC ETHICS STANDARDS

The following table provides a summary of current vs. proposed changes to Commission ethics standards. Proposed Changes are consistent with Maryland Public Ethics Law, Subtitles 5 (Conflicts of Interest) and 6 (Financial Disclosure).

| TOPIC | CURRENT PROVISION | PROPOSED CHANGES |
|---|--|--|
| <p>1. Standard of Conduct</p> | <p>Practice 2-24, <i>Ethics</i>, currently requires an employee to avoid actions whether or not specifically prohibited, that could result in or create the appearance of a conflict of interest by:</p> <ul style="list-style-type: none"> • Using Public Office for Private gain, or • Giving preferential treatment to a vendor. <p>Practice 2-14, <i>Non-Commission Employment and Non-Commission Business</i>, states the Commission is committed to maintaining a workplace that is safe, productive, and free from conflicts of interest and unethical practices.</p> | <p>The proposed <i>Code of Ethics</i>:</p> <ul style="list-style-type: none"> • States that "giving preferential treatment" to an external party <u>does not</u> include doing so in conjunction with the Commission's supplier diversity program. • Provides <i>examples</i> of participation in matters that may result in or create the appearance of a conflict of interest, including, but not limited to, matters involving: <ul style="list-style-type: none"> ○ A business or property in which the employee or a family member has an economic interest. ○ A business in which the employee or a family member is an officer, director, trustee, partner, or employee. • Provides <i>exceptions</i> for when an employee would be disqualified may participate or act, including, but not limited to, when the disqualified employee: <ul style="list-style-type: none"> ○ Would result in less than a quorum for a body to act; ○ Is required to act by law; or ○ Is the only individual authorized to act. <p><u>See: Attachment B, Section I(A).</u></p> |
| <p>2. Soliciting Gifts from External Parties</p> | <p>Practice 2-24, <i>Ethics</i>, prohibits employees from soliciting gifts from external parties.</p> | <p>A Department Head may authorize an exception for an employee to solicit a gift for a Commission program or initiative, when <u>each</u> of the following conditions is met:</p> <ul style="list-style-type: none"> • The solicitation is broad and not directed at a restricted external party (i.e. an entity doing business with, seeking to do business with, or regulated by the Commission). • The solicitation does not involve employees working in regulatory/ procurement matters. • No special access or benefit is conferred upon the donor. • No personal benefit is conferred upon employees involved. • All funds and in-kind gifts are accounted for consistent with applicable laws and Commission finance principles. <p><u>See: Attachment B, Section I (B)(1)(a).</u></p> |

| TOPIC | CURRENT PROVISION | PROPOSED CHANGES |
|---|--|---|
| <p>3. Accepting Gifts from Restricted External Parties</p> | <p>Practice 2-24, <i>Ethics</i>, prohibits employees from accepting directly or indirectly any gift, gratuity, favor, entertainment, loan, or any other thing of more than nominal value from a “restricted external party,” i.e., a person who:</p> <ul style="list-style-type: none"> • Has, or is seeking to obtain, contractual or other business or financial relations with the Commission; • Is engaged in an activity or operation that is regulated or controlled by the Commission; or • Has interests that may be substantially affected by the performance or non-performance of an employee’s official duties. <p><i>Exceptions</i> for when an employee may accept a gift from a restricted external party, include:</p> <ul style="list-style-type: none"> • Receipt of gifts or entertainment because of obvious family or personal relationships from a relative. • Ceremonial gifts or awards. • Attendance at an event as a representative of the Commission. Advance authorization from the Executive Director or Commission Chair is required. • Honoraria for speaking at, or participating in, a meeting. Advance authorization from the respective Department Head or Commission Chair is required, in addition to: (1) the amount of the award, (2) the activity for which it is being given, and (3) the entity giving the gift must be provided. (<u>See</u>: Practice 2-72, <i>Conditions for Acceptance of Awards [of Honoraria] from Outside the Commission</i>.) • Reasonable expenses for food, travel, lodging, and scheduled entertainment for a meeting sponsored by a <u>non-profit organization</u> in return for participation as a speaker or as a participant in a meeting. • Loans from a bank or other financial institution on customary terms and conditions. • Prizes and awards through a lottery. | <p>The proposed <i>Code of Ethics</i>:</p> <ul style="list-style-type: none"> • Adds to the definition of “restricted external party” a person who is acting in the capacity of a lobbyist. • Provides an employee shall not accept a gift listed in the <i>exceptions</i> section if the gift: <ul style="list-style-type: none"> ○ Would impair impartiality; ○ Is of significant value, and (a) it would give the appearance of impairing independent judgment or (b) it is believed or there is reason to believe it is designed to impair impartiality and independent judgment. • Adds to the list of <i>exceptions</i> the following: <ul style="list-style-type: none"> ○ Ceremonial gifts or awards must be of <u>insignificant value</u>. ○ Honoraria may be for writing a published article or one intended to be published. ○ Reasonable expenses for food, travel, lodging, and scheduled entertainment may be from any donor other than a non-profit and include reasonable and verifiable dependent care expenses. ○ Meals/beverages consumed in the presence of a donor. ○ Trivial gifts of informational value. ○ Any other gift specifically authorized by M-NCPPC. • Removes the requirement for prior written approval for an employee to accept a gift of (a) attendance at an event, or (b) an honorarium. • Mirrors the “nominal value” amount of \$20 established by the State, Montgomery County, and Prince George’s County. • Provides that an employee who involuntarily receives a gift from a restricted external party that is prohibited shall: <ul style="list-style-type: none"> ○ Return the gift; ○ Transfer the gift to a non-profit organization; ○ Reimburse the party the market value of the gift; or ○ Share it with the office, or destroy it, if perishable. <p><u>See also</u>: Attachment B, Section I(B)(1)(c).</p> |

| TOPIC | CURRENT PROVISION | PROPOSED CHANGES |
|--|--|--|
| <p>4. Gifts Between Employees</p> | <p>Practice 2-24, <i>Ethics</i>, currently states:</p> <ul style="list-style-type: none"> • An employee shall not solicit or accept a gift from another employee of more than nominal value. • A voluntary contribution of a nominal amount is permitted for a gift made on a special occasion such as marriage, illness, retirement, or death. | <p>The proposed <i>Code of Ethics</i>:</p> <ul style="list-style-type: none"> • No longer addresses the voluntary giving and <u>accepting</u> of gifts between employees. • Provides an employee may <u>solicit</u> voluntary contributions of a “reasonable amount” for a charitable drive for an external party when authorized, in writing, by a Department Head or the Executive Director. <p><u>See also</u>: Attachment B, Section I(B)(2).</p> |
| <p>5. Non-Commission Business</p> | <p>Practice 2-14, <i>Non-Commission Business & Non-Commission Employment</i>, prohibits employees from engaging in “non-Commission business” which is defined as activities performed <u>while on duty</u> related to:</p> <ul style="list-style-type: none"> • Personal business; • Non-Commission employment; • Third-party business; or • Work for an association, club, or any other entity as an employee, representative, or volunteer. <p>“Non-Commission business” <u>does not</u> include participation in external activities that (i) relate to Commission business, or (ii) are approved in advance by an employee’s supervisor and Department Head.</p> | <p>The proposed <i>Code of Ethics</i> adds a side note that when engaging in <u>any off-duty</u> activity, an employee may not hold themselves out as representing the agency, unless approved in advance by the supervisor and Department Head.</p> <p><u>See</u>: Attachment B, Section I©(1).</p> |
| <p>6. Non-Commission Employment</p> | <p>Practice 2-14, and its accompanying Procedures 03-05, <i>Non-Commission Business & Non-Commission Employment</i>, prohibits employees from engaging in “non-Commission employment” unless approved by the respective Department Head <u>and</u> when certain conditions are met.</p> <p>“Non-Commission employment” excludes active-duty and National Guard service and includes:</p> <ul style="list-style-type: none"> • Employment or contract on a fee, or pro bono basis. • Participation in any business as owner, partner, or investor. • Participation in any business or non-profit entity involving fiduciary duties or responsibilities in a position such as an officer, manager, or director. | <p>The proposed <i>Code of Ethics</i> clarifies that “non-Commission employment” <u>does not</u> include:</p> <ul style="list-style-type: none"> • Participating in official union activities. • Serving on the board of the M-NCPPC Credit Union or the Employees’ Retirement System. <p>The proposed <i>Code of Ethics</i> also:</p> <ul style="list-style-type: none"> • Requires the employee’s supervisor to review the non-Commission employment, annually during the performance review, to determine if the non-Commission employment has not diminished, interfered with, or detracted from the employee’s job duties. |

| TOPIC | CURRENT PROVISION | PROPOSED CHANGES |
|--|--|--|
| <p>6. Non-Commission Employment (Continued)</p> | <ul style="list-style-type: none"> • Participation in any business in which the participant holds 5 percent or more of the outstanding voting interests. • Other similar activities for the purpose of remuneration. <p><i>Conditions</i> that <u>must</u> be met to engage in “non-Commission employment” include, but are not limited to:</p> <ul style="list-style-type: none"> • Not creating an actual or perceived conflict of interest. • Not increasing liability related to health and safety concerns when performing Commission duties. • As to attorneys, not providing legal services other than to the Commission, except for (a) <i>de minimus</i> legal services for family members or those engaged in prior to Commission employment and approved by the General Counsel; and (b) <i>pro bono</i> legal services. <p>Currently, Procedures 03-05, provides:</p> <ul style="list-style-type: none"> • Requests must be submitted at least 14 days in advance; • Requests are reviewed by supervisors and Department Heads; and, if not denied within seven days by a Department Head, <u>then the request is deemed approved.</u> • An employee may appeal a denial to the Executive Director. • Notification of changes in non-Commission employment must be provided within three calendar days. | <ul style="list-style-type: none"> • Provides that in considering a Seasonal/Intermittent contract employee’s request, it must take into consideration that the Commission may not be the employee’s primary employer. • Eliminates the prohibition on attorneys providing legal services other than to the Commission—as requests to do so will still undergo review for conflicts of interest by the GC. • (1) Eliminates the requirement for requests to be submitted 14 calendar days in advance, and (2) provides that instead of being deemed approved if a Department Head does not decide within 7 calendar days, requests shall not be considered approved unless and until approved by the Department Head. • Provides that Department Heads will make the final decision on requests instead of the Executive Director. <p><u>See:</u> Attachment B, Section (I)(C)(2-3).</p> |
| <p>7. Use of Commission Resources</p> | <p>Practice 2-15, <i>Employee Use of M-NCPPC Property</i>, states: Commission property must be used for official business, unless an allowable exception exists for non-Commission employment, non-Commission business, or personal gain.</p> <ul style="list-style-type: none"> • Restricted <i>dem minimis</i> use of Commission property for non-Commission business is permitted as outlined in: <ul style="list-style-type: none"> ○ Practice 6-10, <i>Vehicle Use Program</i> ○ Practice 6-13, <i>Electronic Communications</i>, and its accompanying Procedures, 12-01, <i>Mobile Technology</i> ○ Practice 6-52, <i>Use of Commission Facilities</i> • Management must reasonably monitor employee use of Commission resources and report concerns. | <p>The proposed <i>Code of Ethics</i>:</p> <ul style="list-style-type: none"> • Eliminates reference to an allowable exception for the use of Commission resources for non-Commission employment—as none do or should exist. • Removes reference to Practice 6-52, <i>Use of Commission Facilities by the Public and Staff</i>—as this Practice does not provide that employees may use Commission facilities for personal gain, rather it states that fees, reservation policies, and Park Rules apply to all persons equally. <p><u>See:</u> Attachment B, Section I(D).</p> |

| TOPIC | CURRENT PROVISION | PROPOSED CHANGES |
|---|--|---|
| 8. Use of Prestige of Office | Practice 2-14, <i>Non-Commission Business & Non-Commission Employment</i> , prohibits employees from using the prestige of their Commission offices, official title, or position for private gain or gain of another. | The existing standard remains in place with the addition that an employee may not: <ul style="list-style-type: none"> • Use the prestige of office to influence the award of a contract, except as part of official duties. • Directly or indirectly request a person to retain the compensated services of a particular lobbyist. <u>See:</u> Attachment B, Section I(E). |
| 9. Disclosure or Use of Confidential Information | Practice 2-14, <i>Non-Commission Business & Non-Commission Employment</i> , prohibits the use of confidential information for financial gain or for any use other than Commission employment. | The existing standard remains in place with the addition that this prohibition applies to <u>former</u> employees. <u>See:</u> Attachment B, Section I(F). |
| 10. Post-Employment Restrictions | Procedures 05-02, <i>Purchasing Manual</i> , provides that a former employee may not directly or indirectly participate in a Commission purchasing action for 18 months after the employment is terminated, unless a waiver is granted by the Executive Director. | The proposed <i>Code</i> specifies there is a prohibition <u>without time limitation</u> on employees who <i>participated significantly</i> in a particular matter or contract from representing or assisting another party on that specific matter or contract. <u>See:</u> Attachment B, Section I(G). |
| 11. Political Activities | Merit System Rules and Regulations, Chapter 1800, <i>Political Activities</i> and Notice 22-07, <i>Employee Conduct with Respect to Political Activities</i> : <ul style="list-style-type: none"> • State employees: <ul style="list-style-type: none"> ○ (1) Are responsible for regulating their political activities so as to not interfere with their employment, and (2) may engage in political activities off-duty, off Commission premises, and without the use of Commission resources. ○ Are prohibited from engaging in political activities which interfere with the performance of official duties. • Provide examples of <i>prohibited activities</i>, which include, but are not limited to: <ul style="list-style-type: none"> ○ Campaigning or fundraising while performing duties as an employee. ○ Using scheduled work hours or Commission resources for political activities. ○ Engaging in political activities while wearing Commission apparel or uniforms. | The proposed <i>Code of Ethics</i> builds upon the current standards and clarifies: <ul style="list-style-type: none"> • Those activities that interfere with the performance of official duties and responsibilities are prohibited, whether done in person or using social media. • Receipt of unsolicited emails of a political nature will not be considered unauthorized use of Commission resources for political activities. <u>See:</u> Attachment B, Section I(H). |

| TOPIC | CURRENT PROVISION | PROPOSED CHANGES |
|--|--|---|
| 12. Nepotism | <p>Merit Rules, Section 155, <i>Nepotism</i>, states:</p> <ul style="list-style-type: none"> • An employee, including a Department Head, may not appoint, promote, reassign, or participate in any employment action affecting a family member. • A Department Head must not permit the employment of family members resulting in one having direct or indirect supervision over the other. | <p>The proposed <i>Code of Ethics</i> builds upon the current standard and clarifies Department Heads must recuse themselves from employment decisions involving members of their own families and delegate their authority to a deputy director.</p> <p><u>See:</u> Attachment B, Section I(I).</p> |
| 13. Financial Disclosure Requires | <p>Practice 5-70, <i>Financial Disclosure</i>, requires the filing of an annual Financial Disclosure Statements (FDS) for certain named senior-level positions; as well as, positions designated by Department Heads due to involvement in:</p> <ul style="list-style-type: none"> • Procurement or contracting; • Administering grants; • Planning, zoning, or otherwise regulating land use; • Policy or planning decisions affecting third parties; • Land acquisition or disposition; or • Other decisions with significant economic impact. <p>The Practice also specifies the required contents of the FDS, including but not limited to, the disclosure of:</p> <ul style="list-style-type: none"> • Gifts; • Interests in real property and businesses; and • Sources of earned income. <p>Commissioners are directed to file with statements with the State Ethics Commission.</p> | <p>The proposed <i>Code of Ethics</i> maintains the current standards and:</p> <ul style="list-style-type: none"> • Clarifies that “appointed officers” include deputy-appointed officers. • Removes the requirement that (1) employees must disclose conflicts of interest; (2) Department Heads must make a determination as to whether there is, in fact, a conflict, and (3) this determination must be available in the FDS for public inspection. The Maryland Public Ethics Law does not require this; it requires the Commission to adopt financial disclosure regulations for employees that are substantially similar to those applicable to State employees which the Commission has done. Such disclosure and determinations available for public review are not required by the State of their employees or agency directors. <p><u>See:</u> Attachment B, Section II.</p> |
| 14. Ethics Officer(s) | <p>Practice 2-24, <i>Ethics</i>, establishes that the Executive Director:</p> <ul style="list-style-type: none"> • Furnishes interpretations on questions of conflicts of interest, with the advice of the Office of General Counsel and respective Department Head. • Acts as an advisor to provide guidance on other matters of ethics and related issues. • May refer questions of interpretation or clarification to the Commission for resolution. | <p>The proposed <i>Code</i> establishes that one or more Ethics Officers will be appointed by the General Counsel who shall:</p> <ul style="list-style-type: none"> • Serve as a point of contact for employees regarding inquiries and concerns of conflicts of interest and related policies, rules, and regulations. • After consultation with the General Counsel, refer matters to the appropriate internal and/or external authorities. • Prepare an annual report on ethics. <p><u>See:</u> Attachment B, Section IV.</p> |

**DRAFT AMENDMENTS TO ADMINISTRATIVE PRACTICE 2-24,
CODE OF ETHICS**

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AUTHORITY Pursuant to Maryland Public Ethics Law, Article 40A, Annotated Code of Maryland 1957, 1990 replacement volume, and Division II of the Land Use Article of the Annotated Code of Maryland, the Commission approved amendments to this Practice on [TBD].

APPLICATION This Administrative Practice applies to all employees, including Commissioners, Merit System employees, contract employees, and appointed officials. As to volunteers, only Section I(A) (Standard of Conduct) applies. To the extent an employee is a member of a collective bargaining unit, and any provision of this Code of Ethics directly conflicts with an applicable collective bargaining agreement, the collective bargaining agreement will control with respect to the area of conflict. To the extent other documentation of the employment relationship of an officer, director, or deputy director legally supersedes any provisions referenced herein, that superseding document would control in the event of a conflict. As to Commissioners, to the extent that any provision of this Code of Ethics conflicts with the General Provisions Article of the Maryland Code, Title 5 (Maryland Public Ethics Law), the Maryland Public Ethics Law shall prevail.

RESCISSION Practice 2-14 and accompanying Procedures 03-05, *Non-Commission Employment and Non-Commission Business*; Practice 2-15, *Employee Use of Commission Property*; Practice 2-72, *Conditions for Acceptance of Awards from Outside the Commission*; Practice 2-90, *Solicitations on Commission Property*; and Practice 5-70, *Financial Disclosure* are rescinded and replaced by this Practice.

CONTACT General questions regarding this policy can be directed to the Policy Office by calling 301-454-1736 or by emailing policyreview@mncppc.org. For questions regarding interpretations and applicability, as well as reporting concerns, contact the Ethics Officer in the Office of the Office of General Counsel at 301-454-1671 (See Section V, Inquiries and Concerns).

1 **PURPOSE/
2 BACKGROUND**

The Commission initially approved Practice 2-24, Code of Ethics on June 16, 1991, to create a comprehensive Practice governing the M-NCPPC’s rules and regulations pertaining to conflicts of interest and ethical conduct. Employees of the Commission must maintain high professional and ethical standards in the performance of their official duties. This Code of Ethics establishes the framework for promoting ethical compliance.

This Code of Ethics addresses the ethical standards applicable to employees. Other Commission Administrative Practices and policies specifically address ethical responsibilities uniquely applicable to particular third parties, including but not limited to lobbyists (Practice 5-61, *Lobbying Disclosure*), volunteers, vendors, and others seeking to do business with the Commission (Practice 4-10 and the Commission’s *Procurement Manual*, including Section 2 (Ethics and Sanctions in Purchasing)).

Since its initial adoption, this Practice has been amended, as follows:

- January 9, 2023: Amended to reflect that nominal value is defined by the Executive Director, subject to consultation with the Chair and Vice Chair of the Commission, and in consideration of those amounts set by Prince George’s County, Montgomery County, and the State of Maryland.
- [TBA]: Amended to update Practice 2-24 and create a single, comprehensive, Code of Conduct, consistent with Maryland Public Ethics Act, Section 5-823 and 5-829 requiring the Commission to adopt conflict of interest and financial disclosure regulations substantially similar to those provisions found in Subtitles 5 and 6 of the Act.

30 **REFERENCES**

- Maryland Public Ethics Law, Article 40A, Annotated Code of Maryland 1957, 1990 replacement volume
- Administrative Practice 1-31, *Organization and Functions of the Audit Committee and Office of the Inspector General*
- Administrative Practice 2-28, *Composition, Privacy, and Disposition of Employment Records*
- Administrative Practice 2-16, *Seasonal/Intermittent, Term and Temporary Employment* and its accompanying Procedures 00-02
- Administrative Practice 3-31, *Fraud, Waste & Abuse*
- Administrative Practice 4-10, *Purchasing Policy, and accompanying Procedures 05-02, Procurement Manual*
- Administrative Practice 5-61, *Lobbying Disclosure*

- Administrative Practice 5-81, *Maryland Public Information Act Policy*, and accompanying Procedures 22-01, *MPIA Procedures Manual*
- Administrative Practice 6-10, *Vehicle Use Program*
- Administrative Practice 6-13, *Electronic Communications Policy*
- Administrative Procedures 21-01, *Business and Personal Use of Social Media*
- Administrative Procedures, 99-04, *Time and Attendance*
- Merit System Rules and Regulations

DEFINITIONS

Business means any for-profit or not-for-profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institute, trust, or foundation. Business does not include a governmental entity.

Ceremonial gift means an item of customary and reasonable value normally given at functions such as dedications, inaugurations, initiations, awards, tributes, and retirements, but not limited to such events, where food, beverages, entertainment, and mementos (souvenirs) may be provided.

Ceremonial occasions mean functions such as dedications, inaugurations, initiations, awards, tributes, and retirements, but not limited to such events, where food, beverages, entertainment, and mementos (souvenirs) may be provided.

The Commission means: (a) the Maryland National Capital Park and Planning Commission which is the organizational entity referred to in this Practice, or (b) the 10-member voting body of the Maryland-National Capital Park and Planning Commission.

Commissioner means a member of the ten-member voting body of the Maryland-National Capital Park and Planning Commission, and a member of the respective five-member Planning Board for Montgomery County or Prince George's County.

Commission resources mean any service, asset, or property, whether physical, digital, electronic, virtual, or intellectual, owned, purchased, leased, or under contract with the Commission. Commission resources include, but are not limited to cash (currency, checks, money orders, credit card receipts); facilities; general equipment and tools; natural items (*e.g.*, plants, trees, mulch, compost, and firewood); vehicles and machinery; office equipment and supplies, including Commission stationery; computer hardware, software, and other electronic equipment; printers and copiers; telecommunication services such as telephones, mobile devices, facsimile machines, internet/intranet, electronic mail; data stored on, received by, or transmitted by the agency's operating systems or servers; Commission issued uniforms, and staff services delivered by Commission

1 employees, contractors, or volunteers; and rights under any license or other
2 agreement relating to intellectual property, know-how, and information of
3 commercial value, whether or not protected by patent, trademark, copyright, or
4 other legal entitlement.
5

6 **Compensation** means any money or thing of value, regardless of form, including
7 the sale or delivery of tangible or intangible property, that an employer pays or
8 agrees to pay for services rendered.
9

10 **Conflict of interest** means any circumstance or set of circumstances which
11 interfere with, appear to interfere with, or have the potential to interfere with, the
12 impartiality and independent judgment of an employee, inclusive of a
13 Commissioner, Appointed Officer, and Department Head. (See also: Maryland
14 Code, Land Use Art., § 15-120, *et seq.*; and Maryland Code, General Provisions
15 Art., §§ 5-501 and 5-502).
16

17 **Employee**, for the purposes of this Practice, means any person employed by the
18 Commission, whether employed on a full-time or part-time basis, as a Merit
19 System employee; Seasonal/Intermittent, Temporary, or Term contract employee;
20 Appointed Officer; Department Head; or, Commissioner, regardless of the
21 manner of entry into Commission service.
22

23 **Employer** means any person who pays or agrees to pay compensation for services
24 rendered.
25

26 **Employment or employ** means engaging in an activity for compensation.
27

28 **Ethics Officers** means employees who are trained and designated to provide advice
29 regarding compliance with the Code of Ethics and recommend appropriate actions.
30

31 **Family member (Employee's relative)** means any individual who is related by
32 blood, marriage, adoption, domestic partnership, or guardianship, including but not
33 limited to a spouse, domestic partner (as qualified under the Commission's Health
34 and Benefits Program), parent or step-parent, spouse's parents, grandparent, or
35 spouse's parents, child or step-child, legal guardian, brother or step-brother, sister
36 or step-sister, the siblings of one's parents and those siblings' children.
37

38 **Fiduciary duty** means a legal obligation that results from a position of trust with
39 respect to a third party's business and assets.
40
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1 **Financial interest** means:

- 2 1. Ownership of any interest as the result of which the owner has received within
3 the past three years, or is presently receiving, or in the future is entitled to
4 receive, more than \$1,000 per year; or
5 2. Ownership, or the ownership of securities of any kind representing or
6 convertible into ownership, of more than 3 percent of a business entity by:
7 a. An official;
8 b. An employee; or
9 c. The spouse of an official or employee;

10
11 **Gift** means the transfer of anything of economic value regardless of the form
12 without adequate and lawful exchange of consideration of at least equal value.

13
14 **Gratuity** means anything of value that is presented or promised in anticipation of
15 receiving a consideration, whether the consideration is less than, equal to, or greater
16 than the value presented or promised.

17
18 **Honorarium** means the payment of money or anything of value for:

- 19 1. Speaking to, participating in, or attending a meeting, conference, or other
20 function; or
21 2. Writing an article, other than a book, which has been or is intended to be
22 published.

23
24 **Interest** means any source of income or any other legal or equitable economic
25 interest, whether subject to an encumbrance or a condition, which is owned or held,
26 in whole or in part, jointly or severally, directly, or indirectly. Interest does not
27 include:

- 28 1. An interest in a time deposit or demand deposit in a financial institution;
29 2. An interest in an insurance policy, endowment policy, or annuity contract under
30 which an insurance company promises to pay a fixed number of dollars either
31 in a lump sum or periodically for life or some other specified period;
32 3. An interest in a mutual fund or exchange-traded fund (EFT);
33 4. An interest held in the capacity of an agent, custodian, fiduciary, personal
34 representative, or trustee, unless the holder has an equitable interest in the
35 subject matter; or
36 5. An interest in a deferred compensation plan that:
37 a. Has more than 25 participants, and
38 b. The Internal Revenue Service has determined qualified as a trust under
39 Sections 401, 507, and 501 of the Internal Revenue Code.

40
41 **Maryland Public Ethics Law** means the general Provisions Article, Title 5, of the
42 Maryland Annotated Code.

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Non-Commission Business means activities performed while on duty and which are unrelated to the business of the Commission as further described in this Practice.

Non-Commission Employment means work activities performed for oneself or a third party unrelated to the business of the Commission as further described in this Practice.

On-duty means being engaged in or responsible for an assigned task or duty either on Commission or non-Commission property. An employee is not considered on duty when attending lectures, meetings, training programs, and similar activities if the following four criteria are all met: (a) attendance is outside of the ‘employee’s regular working hours; (b) attendance is in fact voluntary; (c) the course, lecture, or meeting is not directly related to the employee’s job; and (d) the employee does not perform any productive work during such attendance.

Person means an individual, receiver, trustee, guardian, personal representative, fiduciary, corporation, company, association, firm, partnership, joint stock company, or any other organization, institution, or entity.

Procurement means all acts and functions that pertain to the responsibility of the acquisition of any goods, services, equipment, supplies, insurance, construction, or intellectual property, including but not limited to the description of requirements, selection, and solicitation of sources, preparation, and award of contract, or purchase order, and all phases of contract administration.

Regulatory Matters means matters that come before the respective Planning Boards that involve the Planning Board’s exercise of planning and zoning authority as described in the Land Use Article.

Vendor means a party obligated by contract or subcontract to provide goods, services, or property to the Commission for consideration, including contracts and subcontracts for construction and professional services related to construction.

1 **POLICY**

2 Commission employees must maintain high professional and ethical standards in
3 the performance of their official duties. This Code of Ethics establishes the
4 framework for promoting compliance.

5 Consistent with the Maryland Public Ethics Law and the Commission’s
6 commitment to public accountability, the Commission recognizes that (i) our
7 system of representative government is dependent in part upon the public
8 maintaining the highest trust in their public officials and employees; and, (ii) the
9 public has a right to know and be assured that the impartiality and independent
10 judgment of public officials and employees shall be maintained.

11
12 To help ensure accountability and awareness of conflicts of interest, this Practice
13 outlines requirements for employees to avoid actual as well as perceived conflicts
14 of interest. This includes those related to solicitation and acceptance of gifts, non-
15 Commission business and employment, use of Commission resources, use of
16 prestige of office, use of confidential information, post-employment restrictions,
17 political activities, and nepotism. This Practice also outlines the requirements for
18 the completion of Financial Disclosure Statements by individuals whose
19 employment or office puts them in a position of influencing decisions that might
20 benefit parties seeking to do business with, doing business with, or regulated by,
21 the Commission. Furthermore, employees are prohibited from aiding, facilitating,
22 or colluding with third parties in violation of this Code of Ethics.

23
24 The Commission intends for this Practice to be liberally construed, to accomplish
25 its purpose.
26

TABLE OF CONTENTS

1
2
3 I. CONFLICTS OF INTEREST..... 10
4 A. Standard of Conduct..... 10
5 B. Gifts..... 11
6 1. Gifts from External Parties..... 11
7 a. Soliciting Gifts..... 11
8 b. Soliciting and Accepting Tips..... 12
9 c. Accepting Gifts from Restricted External Parties..... 12
10 i. In General..... 12
11 ii. Exceptions..... 13
12 2. Gifts Between Employees..... 14
13 a. In General..... 14
14 b. Exceptions..... 14
15 C. Non-Commission Business and Employment..... 14
16 1. Non-Commission Business..... 14
17 2. Non-Commission Employment..... 15
18 3. Review Process for Non-Commission Employment Requests..... 17
19 D. Use of Commission Resources..... 19
20 1. In General..... 19
21 2. Allowable Exceptions..... 19
22 3. Required Oversight by Management..... 20
23 E. Use of Prestige of Office..... 20
24 F. Disclosure or Use of Confidential Information..... 20
25 G. Post-Employment Restrictions..... 21
26 H. Political Activities..... 21
27 1. In General..... 21
28 2. Permissible Activities..... 21
29 3. Prohibited Activities..... 22
30 I. Nepotism..... 24
31
32 II. FINANCIAL DISCLOSURE..... 24
33 A. Financial Disclosure Requirements for Designated M-NCPPC Positions..... 24
34 1. In General..... 24
35 2. Individuals Required to File a Statement 24
36 a. Appointed Officers..... 24
37 b. Department Heads and Identified Positions..... 24
38 c. Other Individuals Whose Positions Require the Filing..... 25
39 3. Contents of Statements..... 26
40 4. Filing Deadlines and Procedures..... 26
41 B. Entities Doing Business with the Commission..... 27
42 C. Maintenance of Financial Disclosure Records..... 27
43 1. Availability for Review..... 27

| | | |
|----|---|----|
| 1 | 2. Retention Requirements..... | 28 |
| 2 | D. Financial Disclosure Requirements for Commissioners..... | 29 |
| 3 | | |
| 4 | III. DELEGATION OF AUTHORITY..... | 29 |
| 5 | | |
| 6 | IV. ETHICS OFFICER(S) AND DIRECTING CONCERNS..... | 29 |
| 7 | | |
| 8 | V. REQUIRED TRAINING..... | 29 |
| 9 | | |
| 10 | VII. VIOLATIONS..... | 30 |
| 11 | | |
| 12 | VIII. RESPONSIBILITIES..... | 30 |
| 13 | | |
| 14 | APPENDICES | |
| 15 | A. Request for Participation in Non-Commission Employment Form..... | 32 |
| 16 | B. Financial Disclosure Statement Instructions & Form..... | 32 |
| 17 | | |
| 18 | | |

1 I. **CONFLICTS OF INTEREST**

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A. **Standard of Conduct**

1. An employee must avoid any action, whether or not it is expressly prohibited, that might result in, or create the appearance of a conflict of interest, including, but not limited to:
 - a. Using public office for the private gain of the employee or another.
 - b. Giving preferential treatment to an external party, e.g., vendor, or person seeking to do business with the agency, except in conjunction with the Commission’s supplier diversity program.
 - c. Participating in any matter that involves:
 - i. A business in which the employee or a family member has an economic interest.
 - ii. A business in which the employee or a family member is an officer, director, trustee, partner, or employee;
 - iii. A property in which the employee or a family member has an economic interest.
 - iv. Negotiating or seeking prospective employment for the employee or a family member or any arrangement with a business or entity about employment.
 - v. A business or individual that is a party to an existing contract with the employee or a family member, if the contract could reasonably result in a conflict between private interests and official duties;
 - vi. An entity doing business with the Commission in which a direct financial interest is owned by another entity in which the employee has a direct financial interest, if they may be reasonably expected to know of both direct financial interests; or
 - vii. A creditor or debtor of the employee or their family member if the creditor or debtor can directly and substantially affect an economic interest of the employee or their family member;
 - viii. A case, contract, or other specific matter affecting a party for whom, in the prior year, the employee was required to register to engage in lobbying activity under Practice 5-61, *Lobbying Disclosure*.

1 2. Exceptions:
2

- 3 a. An employee who otherwise would be disqualified from participation under Section
4 II(A)(1) shall disclose the nature and circumstances of the conflict, and may participate or
5 act, if:
6
7 i. The disqualification would leave a body with less than a quorum capable of acting;
8
9 ii. The disqualified employee is required by law to act; or
10
11 iii. The disqualified employee is the only individual authorized to act.
12

13 All disclosures must be filed with the Ethics Officer.
14

- 15 b. Section II(A)(1) does not apply to an administrative or ministerial duty that does not affect
16 an agency's decision on a matter.
17
18 c. Section II(A)(1) does not apply to a police officer who is exercising the employee's official
19 duties in an emergency affecting a business or property in which the employee or a relative
20 of the employee has an economic interest.
21

22 (See also Section 2 (Ethics & Standards in Purchasing) of Administrative Procedures 05-02,
23 *Purchasing Manual*.)
24

25 **B. Gifts**
26

27 **1. Gifts from External Parties**
28

- 29 a. Soliciting Gifts from External Parties. An employee shall not solicit, directly or indirectly,
30 a gift from an external party, except when an exception is authorized by the respective
31 Department Head. The respective Department Head may authorize an exception for an
32 employee to solicit a gift from an external party for a Commission program or initiative, in
33 support of the mission of the M-NCPPC. When an exception is authorized, each of the
34 following conditions must be met:
35
36 i. The solicitation for a gift shall be broad and not be directed at restricted external parties,
37 as defined in Section I(B)(1)(c)(i), below;
38
39 ii. Employees involved in regulatory, or procurement matters may not solicit a gift on
40 behalf of the Commission;
41
42 iii. The solicitation shall not confer any special access or benefit to the external party in
43 dealings with the Commission;

- 1 iv. The gifts solicited shall not result in personal benefit to the employee; and
- 2
- 3 v. All funds and in-kind gifts shall be accounted for in accordance with applicable laws
- 4 and Commission policy as it relates to fiscal, procurement, or related accounting
- 5 principles.
- 6

7 All authorized exceptions shall be forwarded to the Executive Director, to ensure consistent

8 application of policy.

9

- 10 b. Soliciting and Accepting Tips. An employee, including one who interacts with the public
- 11 (e.g., staff working at snack bars, golf courses, etc.), shall not solicit or accept tips under
- 12 any circumstances. The use of tip jars is prohibited.
- 13

- 14 c. Accepting Gifts from Restricted External Parties
- 15

- 16 i. *In General*. An employee shall not accept, directly or indirectly, a gift from a restricted
- 17 external party. A **restricted external party** is a person or entity that:
- 18

- 19 (a) Has, or is seeking to obtain, contractual or other business or financial relations
- 20 with the Commission;
- 21
- 22 (b) Is engaged in an activity or operation that is regulated or controlled by the
- 23 Commission; or
- 24
- 25 (c) Is acting in the capacity of a lobbyist with respect to matters on which the
- 26 Commission has oversight.
- 27
- 28 (d) Has interests that may be substantially affected by the performance or non-
- 29 performance of an employee’s official duties.
- 30

- 31 ii. An employee shall not accept a gift listed in subsection (iii) (*Exceptions*), below, if:
- 32

- 33 (a) The gift would tend to impair the impartiality and independent judgment of the
- 34 employee;
- 35
- 36 (b) The gift is of significant value, and it would give the appearance of impairing the
- 37 impartiality and independent judgment of the employee; or
- 38
- 39 (c) The gift is of significant value and the employee believes or has reason to believe
- 40 that the gift is designed to impair the impartiality and independent judgment of the
- 41 employee.
- 42

1 iii. *Exceptions.* Subject to Subsection ii, above, the following are exceptions to the
2 prohibition on accepting gifts from restricted external parties covered in Section
3 I(D)(1)(c)(i), above:
4

5 (a) Receipt of gifts or entertainment because of obvious family or personal
6 relationships from a person related by blood, marriage, or legal guardianship;
7 domestic partner; or financially dependent relative, when it is clear that the
8 relationship, rather than the business of the persons concerned, are the motivating
9 factors.

10 (b) Ceremonial gifts or awards of insignificant monetary value.

11 (c) Attendance at an event (e.g., charitable, cultural, political, community, or
12 professional event), as a representative of the Commission.

13 (d) Honoraria for (i) speaking at, or participating in, a meeting, or, (ii) writing an article
14 that has been or is intended to be published, when unsolicited, off duty, and not
15 related to the employee's official position.

16 (e) Reasonable expenses for food, travel, lodging, scheduled entertainment, and
17 reasonable and verifiable expenses for the care of a child or dependent adult, which
18 are actually incurred, when these items are provided in return for participation in a
19 meeting, or as a panel member, or as a speaker or participant at a meeting.

20 (f) Loans from banks or other financial institutions on customary terms for usual
21 activities of employees, such as home mortgage loans, and consumer loans; and
22

23 (g) Prizes and awards from a person through a "lottery" or through another similar
24 activity where the receipt is selected on a random basis (e.g., a raffle or drawing.)
25

26 (h) Meals/beverages consumed by an employee in the presence of a donor/entity.

27 (i) Unsolicited gifts of nominal value not to exceed \$20. Note: In determining the value
28 of a gift and whether it exceeds nominal value, the value of the gift shall be the fair
29 market value.
30

31 (j) Trivial gifts of informational value (e.g., writings, recordings, documents, records,
32 or other items intended primarily to communicate information, not including
33 images intended primarily for display or decoration).
34

35 (k) Any other gifts from external parties that are specifically authorized by the agency.
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1 iv. Excluding gifts described in Section I(B)(1)(c)(iii)(exceptions), above, an employee
2 who involuntarily receives a gift from a restricted external party shall:

3
4 (a) Return the gift;

5
6 (b) Transfer the gift to an organization that is tax-exempt pursuant to 26 U.S.C.
7 501(c)(3);

8
9 (c) Reimburse the party the market value of the gift; or

10
11 (d) If the gift is perishable and it would not be practical to return it, share it with the
12 office staff, or destroy it.

13
14 **2. Gifts Between Employees**

15
16 a. In General. An employee may not solicit a gift from another employee.

17
18 b. Exceptions: The following are exceptions to the prohibition of an employee soliciting gifts
19 from another employee.

20
21 i. Soliciting voluntary contributions of a reasonable amount for a gift made on a special
22 occasion such as marriage, illness, retirement, or death. Whether a contribution is
23 considered reasonable shall be based on the relevant facts and circumstances. For
24 example, a reasonable contribution for a wedding gift may differ from one for the
25 funeral of a colleague of modest means.

26
27 ii. Soliciting a voluntary contribution for a charitable drive for an external party that is
28 authorized, in writing, by a Department Head or the Executive Director.

29
30 **C. Non-Commission Business and Employment**

31
32 **1. Non-Commission Business**

33
34 a. Non-Commission business is prohibited.

35
36 b. Non-Commission business means activities performed while on duty related to:

37
38 i. Personal business;

39
40 ii. Non-Commission employment;

41
42 iii. Third-party business; or
43

- iv. Work for an association, club, or any other entity as an employee, representative, or volunteer.
- c. Non-Commission business does not include participation in external activities that (i) relate to the business of the Commission and (ii) are approved in advance, in writing, by an appropriate supervisor and Department Head.
- d. When speaking before a public body, with the media, or with members of the public, an employee may not hold themselves out as representing the agency in their official capacity, unless authorized to do so either explicitly or by the nature of their position.

2. Non-Commission Employment

- a. Non-Commission employment includes the following:
 - i. Employment or contractual arrangements structured on a salary, fee, commission basis, or pro bono legal representation.
 - ii. Participation in any business ventures as owner, proprietor, partner, or investor.
 - iii. Participation for pay or as a volunteer in any business or non-profit entity involving fiduciary duties or responsibilities in a position such as an officer, manager, or director.
 - iv. Participation in any business or non-profit entity in which the participant holds 5 percent or more of the outstanding voting interests.
 - v. Other similar activities resulting in, or for the purpose of, remuneration.
- b. Non-Commission employment does not include:
 - i. Service in the United States Armed Forces (active or reserve, including the National Guard); and
 - ii. Participation in official activities of a union representing M-NCPPC employees. This participation shall be governed by the respective collective bargaining agreement between the M-NCPPC and the union.
 - iii. Serving on the board of the M-NCPPC Credit Union or the Employees' Retirement System.

- 1 c. Non-Commission employment is permitted only when participation is specifically
2 approved, in writing, by the employee's Department Head upon a finding that each of the
3 following conditions is met:
4
- 5 1. Engaging in non-Commission employment does not cause the existence of, potential
6 for, or appearance of, a conflict of interest with respect to Commission duties assigned
7 to the employee, or with any Commission policy, procedures, activities, or actions;
8
 - 9 2. Engaging in non-Commission Employment does not diminish, interfere with, or detract
10 from the performance of Commission duties;
11
 - 12 3. The employee's performance before engaging in non-Commission employment is at a
13 fully satisfactory level;
14
 - 15 4. Non-Commission employment does not increase the risk of liability to the Commission
16 during, or from, the employee's performance of Commission-assigned duties
17 including, but not limited to, increased health and safety concerns;
18
 - 19 5. Non-Commission employment does not result in the employee using the prestige of
20 their Commission office, official title, or position for private gain, or the gain of
21 another;
22
 - 23 6. Engaging in non-Commission employment does not occur while on duty with the
24 Commission;
25
 - 26 7. Non-Commission employment does not result in coercing other Commission
27 employees to buy or use goods, services, or other items of value (including interests in
28 land) sold, or offered, as part of their non-Commission employment;
29
 - 30 8. Non-Commission employment does not result in an employee working for (a) a
31 person or entities owned by the employee's Commission subordinate or
32 supervisor, or (b) any business subject to the authority of the Commission or that does
33 business with the Commission when there is an actual or perceived conflict of interest;
34
 - 35 9. Confidential information gained through Commission employment is not used for
36 financial gain, or any use other than Commission employment;
37
 - 38 10. Non-Commission employment does not result in the solicitation or acceptance of
39 referrals for any non-Commission employment while on duty;
40
 - 41 11. Non-Commission employment does not result in the unauthorized use of Commission
42 resources;

- 1 d. Approval for Non-Commission employment by Department Heads and appointed officers
2 must be obtained from the Commission’s Chair and Vice Chair.
3
- 4 e. The Commission retains the right to deny, rescind, revoke, or modify approval of non-
5 Commission employment if the employment violates any of the conditions in Section
6 I(C)(2)(c) *et seq.*
7

8 **3. Review Process for Non-Commission Employment Requests**
9

- 10 a. Employees must request and receive approval for non-Commission employment before
11 engaging in such employment. Employees must also request approval of changes
12 to previously approved non-Commission employment as soon as any changes are known.
13 Requests must be submitted using Appendix A, “*Request to Participate in Non-*
14 *Commission Employment Form,*” and include:
15
- 16 i. Employee name, position title, work schedule (days and work hours), and description
17 of Commission job duties;
 - 18
 - 19 ii. Name of non-Commission employer;
 - 20
 - 21 iii. Address where non-Commission employment will be performed;
 - 22
 - 23 iv. Non-Commission employment work schedule (days and work hours) including start
24 date and end date (if known);
 - 25
 - 26 v. A description of non-Commission employment duties; and
27
 - 28 vi. Reasons why Section I(C)(2)(c) *et seq.* will not be violated.
29
- 30 b. Employees must submit requests to their supervisor. Department heads and appointed
31 officers must submit requests to the Commission Chair and Vice-Chair. In considering a
32 Seasonal/Intermittent Contract employee’s request for non-Commission employment, a
33 reviewer must take into consideration the fact that the Commission may not be the
34 Seasonal/Intermittent Contract employee’s primary employer.
35
- 36 i. Supervisors must review the “Request to Participate in Non-Commission Employment
37 Form” and send a recommendation of approval or denial to their Division Chief, with
38 a copy to the employee, within seven (7) calendar days of receiving the written request.
39
 - 40 ii. If the recommendation is for denial, the supervisor must include the reasoning.
41

- 1 iii. If a supervisor does not forward the recommendation within seven (7) calendar days of
2 receipt of the employee’s written request, the employee may forward the request to
3 the Division Chief.
4
- 5 iv. The Division Chief will review the employee’s requests, and if applicable, the
6 supervisor’s recommendation.
7
- 8 (a) The Division Chief must review the “*Request for Non-Commission Employment*
9 *Form*” and forward it with a recommendation for approval or denial to the
10 Department Head, with a copy to the employee, within seven (7) calendar days of
11 receiving the written request, or longer in extenuating circumstances. If the
12 recommendation is for denial, the Division Chief must include the reasoning.
13
- 14 (b) If the Division Chief does not forward the recommendation within seven (7)
15 calendar days of receipt of the employee’s written request, the employee may
16 forward the request to the Department Head.
17
- 18 v. The Department Head will review all employee requests along with the supervisor’s
19 and Division Chief’s recommendations.
20
- 21 (a) The Department Head’s decision will be made by signing the request form, within
22 seven (7) calendar days of receiving the request from the Division Chief, or longer
23 in extenuating circumstances. An employee’s request shall not be considered
24 approved until and unless approved by the Department Head.
25
- 26 (b) A copy of the decision shall be maintained in the departmental personnel file and a
27 copy forwarded to the Human Resources Information System (HRIS) Office for
28 filing in the official personnel file of the employee.
29
- 30 (c) The Department Head’s decision (i.e., to act or not act) is final.
31
- 32 vi. Approvals are only for the non-Commission employment stated in the request.
33
- 34 (a) If any information provided in the request changes at any time, the employee must
35 provide the supervisor with written notice of the change, immediately.
36
- 37 (b) Any approval may be suspended or rescinded orally if a conflict of interest arises
38 during the employee’s engagement in the non-Commission employment. The
39 Department Head must provide written notice confirming the action within seven
40 (7) calendar days of the oral action.
41
42

1 (c) If an employee engages in approved non-Commission employment that impairs
2 their ability to perform Commission duties, the employee may be directed to modify
3 or cease participation in the non-Commission employment while employed by the
4 Commission.

5
6 vii. The employee’s supervisor shall review the non-Commission employment, annually
7 during the performance review, to determine if the non-Commission employment has
8 not diminished, interfered with, or detracted from the employee’s job duties.

9
10 viii. During their Annual Performance Review, an employee must inform their supervisor
11 whether their non-Commission employment status has changed during the past year,
12 and if so, complete or update the “*Request to Participate in non-Commission*
13 *Employment Form*” (Appendix A).

14
15 ix. An employee who moves to another department is required to complete and file a new
16 request with the new department for any desired participation in non-Commission
17 employment.

18
19 **D. Use of Commission Resources**

20
21 1. **In General.** Commission resources may be used only for the official business of the agency.
22 Any use of Commission resources for a reason other than official business is prohibited, unless
23 permitted under the “Allowable Exceptions” set forth in the Section below.

24
25 2. **Allowable “De Minimis” Exceptions.** Restricted use of Commission resources is permitted
26 as outlined in other agency policies, including:

27
28 a. Administrative Practice 6-10, *Vehicle Use Program*. Note: Personal use of M-NCPPC
29 vehicles is generally prohibited, however in limited circumstances M-NCPPC may assign
30 a take-home vehicle to an employee, authorizing commuting (between the workplace and
31 home) and *de minimis* personal use of a vehicle, subject to Internal Revenue Service
32 Regulations. Onsite assigned vehicles, take-home vehicles, and pool vehicles may also be
33 used for personal use which is incidental to the business need (i.e., meals and breaks) and
34 temporary overnight use, when approved.

35
36 b. Administrative Practice 6-13, *Electronic Communications Policy*, and its accompanying
37 Administrative Procedure; 12-01, “Mobile Technology,” including but not limited to
38 Section IV(A). Note: Although employees may occasionally and incidentally need to use
39 Commission communication technology for personal reasons, such personal use must be
40 kept to a minimum, must be brief, must not interfere with the performance of the
41 employee’s duties and responsibilities, and must be consistent with Commission Practice
42 6-13, *Electronic Communications* and any other applicable policy directives affecting
43 technology.

1 **3. Required Oversight by Management**
2

3 a. Managers and supervisors must:

- 4
- 5 i. Reasonably monitor and enforce the proper use of Commission resources by those they
6 manage and supervise; and
- 7
- 8 ii. Report concerns that are related to the inappropriate use of Commission resources to
9 their Department Head, Inspector General, Park Police, or Executive Director in
10 accordance with Commission Practice 3-31, *Fraud, Waste, and Abuse*.

11

12 b. Department Heads must:

- 13
- 14 i. Ensure that their employees comply with Sections I(D)(1-2);
- 15 ii. Ensure that violations are reported and addressed in a timely and consistent manner;
16 and
- 17
- 18 iii. Report concerns that are related to the inappropriate use of Commission resources to
19 the Inspector General, Park Police, or Executive Director as may be required in
20 Commission Practice 3-31, *Fraud, Waste, and Abuse*.

21

22 **E. Use of Prestige of Office**

23

24 1. An employee must not intentionally use the prestige of office or public position:

- 25
- 26 a. For that employee’s private gain or that of another; or
- 27
- 28 b. To influence, except as part of the official duties of the employee, the award of a
29 Commission contract to a specific person.

30

31 2. An employee may not directly or indirectly request that a person retain the compensated
32 services of a particular regulated lobbyist or lobbying firm.

33

34 **F. Disclosure or Use of Confidential Information**

35

36 1. Except in the discharge of an official duty, an employee or former employee may not disclose
37 or use confidential information acquired by reason of the official’s or employee’s position and
38 not available to the public.

39

40 2. An employee or former employee may not use confidential information for:

- 41
- 42 a. Personal economic benefit; or
- 43

1 b. The economic benefit of another.

- 2
- 3 2. Examples of confidential information include, but are not limited to: privileged documents,
4 documents that are confidential pursuant to Practice 2-28, *Composition, Privacy and*
5 *Disposition of Employment Records*, and documents that may not be disclosed pursuant to the
6 Maryland Public Information Act (Sections 4-301 *et seq.* of the General Provisions Article of
7 the Maryland Code).

8

9 **G. Post-Employment Restrictions**

- 10
- 11 1. A former employee who participated significantly in a particular matter or contract in their
12 Commission position may not, after leaving Commission service, represent or assist another
13 party on that specific matter or contract.
- 14
- 15 2. “Significant participation” means making a decision, approval, disapproval, recommendation,
16 rendering of advice, investigation, or similar action taken as an officer or employee. Significant
17 participation ordinarily does not include program or legislative oversight, or budget
18 preparation, review, or adoption.

19

20 **H. Political Activities**

21

22 **1. In General.**

- 23
- 24 a. Pursuant to Section 1-303 of the Local Government Article of the Maryland Code, an
25 employee may freely participate in any political activity and express any political opinion
26 and may not be required to provide a political service.
- 27
- 28 b. Section 1-304 of the Local Government Article of the Maryland Code prohibits employees
29 of bi-county agencies from engaging in political activity while on the job during working
30 hours or advocating the overthrow of the government by unconstitutional or violent means.
31 A bi-county employee who violates Section 1-304 of the Local Government Article of the
32 Maryland Code is guilty of a misdemeanor and is subject to potential fines and
33 imprisonment.
- 34
- 35 c. In addition to Sections 1-303 and 1-304 of the Land Use Article of the Maryland Code, the
36 Commission’s expectations of employee conduct are set forth in Chapter 1800 (*Political*
37 *Activities*) of the Merit System Rules and Regulations (Merit Rules) and M-NCPPC Notice
38 22-07, *Employee Conduct With Respect to Political Activities*. The Merit Rules supersede
39 these provisions, which are provided to further elucidate the ethical standards applicable to
40 employees in this area.
- 41
- 42

- 1 2. **Permissible Activities.** Employees have the responsibility to regulate their political activities
2 in such a manner as not to interfere with their employment. Employees may engage in political
3 activities off-duty, off Commission premises, and without the use of Commission resources.
4 (e.g., Employees may retain membership in political parties; participate in political activities,
5 including seeking candidacy for public office; register and vote as they please; and express
6 their personal opinions on political subjects.)
7
- 8 3. **Prohibited Activities.** Political activities of employees that interfere with the performance of
9 their official duties and responsibilities are prohibited, whether done in-person or using social
10 media. The following political activities, which include, but are not limited to, are specifically
11 prohibited:
12
- 13 a. Campaigning, fundraising, or engaging in other partisan political activities on Commission
14 premises while performing duties and responsibilities as an employee;
 - 15
 - 16 b. Using one’s Commission position to engage in political activities or to advance associated
17 goals;
 - 18
 - 19 c. Using public office or political affiliations for private gain that may result in a conflict of
20 interest;
 - 21
 - 22 d. Promising, or appearing to promise, employment, a position, compensation, or any other
23 benefit in consideration, favor, or reward for political activity, especially but not limited
24 to, when such action presents a conflict of interest;
 - 25
 - 26 e. Performing political activities at the direction of a supervisor, appointed officer,
27 Department Head, Commissioner, any other employee, or vendor.
 - 28
 - 29 f. Engaging in political activity that interferes with the Commission’s work or the duties or
30 responsibilities of Commission employees;
 - 31
 - 32 g. Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan,
33 or other item of more than the established nominal value, in exchange for another’s
34 participation in political activity, especially when such action presents a conflict of interest
35 as defined in the Code of Ethics;
 - 36
 - 37 h. Use of scheduled work hours or unauthorized use of Commission resources for political or
38 partisan activities. (Employees shall use their own accrued annual, personal, or
39 compensatory leave for participation in such activities.)
40
41
42

- 1 i. Participating in political activities, whether on or off Commission premises, while
2 receiving administrative leave or other leave not appropriate for such purposes, such as
3 leave to attend union activities (Union Leave), or leave approved to attend Commission-
4 sponsored or -approved programs, training, forums, seminars, or similar career-
5 enhancement functions;
6
7 j. Using public office or political affiliation for private gain that may result in, or give the
8 appearance of, a conflict of interest with the Commission;
9
10 k. Coercing other Commission employees, including subordinates, to participate in political
11 activities;
12
13 l. Lobbying elected officials during work hours on behalf of candidates for appointed or
14 elected positions;
15
16 m. The appearance of promising, or an actual promise of, employment, promotion, demotion,
17 dismissal, or any other human resources action, based on partisan political activity;
18
19 n. Displaying partisan political signs, banners, posters, or other endorsements, while on duty,
20 on the Commission's premises, or while representing the Commission. Employees also
21 may not place political bumper stickers, logos, signs, or endorsements on any Commission
22 vehicles, property, or facility, or otherwise engage in electioneering while on duty;
23
24 o. Soliciting any person who has business before the Commission, including the employee's
25 office, to engage in political activity;
26
27 p. Engaging in political activities while wearing Commission apparel or uniforms, employee
28 identification, or any other items with badges, insignia, or logos that identify the
29 Commission. Notwithstanding these restrictions, the incidental wearing of Commission
30 uniforms or identification while voting off-duty is permissible. (*e.g.*, while in uniform,
31 stopping to vote before or after scheduled work hours would not be considered a violation
32 of this policy);
33
34 q. Otherwise in any way participating in political activities that involve, or would reasonably
35 appear to involve, a conflict of interest, as defined in this Code of Ethics or that would
36 violate this Code or other Commission Practices;
37

38 Note: Notwithstanding the above, receipt of unsolicited emails of a political nature will not be
39 considered unauthorized use of Commission resources for political activities. If such an email
40 is received, the employee must take every step to unsubscribe from the email list or contact the
41 sender to remove the employee from the email list. If the employee is unsuccessful in
42 unsubscribing, the employee should contact their respective departmental IT division for
43 assistance in blocking messages.

1 I. **Nepotism**

2 Consistent with the Merit Rules Section 155 (*Nepotism*):

- 3
- 4 1. An employee, including a Department Head, may not appoint, promote, reassign, or participate
- 5 in any employment action affecting a family member as defined in the “Definitions” section
- 6 (pg.4).
- 7
- 8 2. A Department Head must:
- 9
- 10 a. Not permit the employment of members of a family where it would result in any person
- 11 having direct or indirect supervisory responsibility over a family member.
- 12
- 13 b. Recuse themselves from employment decisions involving members of their own family
- 14 and delegate their authority to another such as a Deputy Director.
- 15
- 16

17 II. **FINANCIAL DISCLOSURE**

18

19 A. **Financial Disclosure Requirements for Designated M-NCPPC Positions**

20

21 1. **In General.**

- 22
- 23 a. This Section identifies those whose positions require them to complete Financial
- 24 Disclosure Statements in accordance with the form and instructions which are contained in
- 25 Appendix B, “*Financial Disclosure Statement.*” Specific requirements for the timing and
- 26 filing of Financial Disclosure Statements are outlined below.
- 27
- 28 b. Financial Disclosure Statements cover the calendar year (January 1st through December
- 29 31st) immediately preceding the year of filing and are due by April 30th of each calendar
- 30 year.
- 31

32 2. **Individuals Required to File a Statement.** The following individuals must complete a

33 Financial Disclosure Statement form as provided annually by the Executive Director:

- 34
- 35 a. Appointed Officers. Appointed officers and deputy appointed officers of the Commission
- 36 including the Executive Director, Secretary-Treasurer, General Counsel, and their
- 37 deputies.

38

39 b. Department Heads and Identified Positions.

- 40
- 41 i. Department Heads and Deputy Department Heads including:

- 42
- 43 (a) Director of Planning, Montgomery County;

- 1 (b) Deputy Director(s) of Planning, Montgomery County;
2
3 (c) Director of Planning, Prince George’s County;
4
5 (d) Deputy Director(s) of Planning, Prince George’s County;
6
7 (e) Director of Parks and Recreation, Prince George’s County;
8
9 (f) Deputy Director(s) of Parks and Recreation, Prince George’s County;
10
11 (g) Director of Parks, Montgomery County; and
12
13 (h) Deputy Director(s) of Parks, Montgomery County.
14
15 ii. Inspector General and Inspectors within the Office of the Inspector General;
16
17 iii. Chief Information Officer;
18
19 iv. Attorneys (as designated by the General Counsel);
20
21 v. Division Chiefs/Division Directors;
22
23 vi. Corporate Policy and Archives Chief
24
25 vii. Risk Management and Workplace Safety Chief; and
26
27 viii. Supplier Diversity Program Manager.
28
29 c. Other Individuals Whose Positions Require the Filing.
30
31 i. *Positions Designated by Department Heads:* Department Heads shall designate
32 positions for filing Financial Disclosure Statements (outside of those listed above in
33 Section II(A)(2)(b)), that influence Commission matters because of their ability to take
34 actions, make decisions, or recommendations, or advise on:
35
36 (a) Procurement matters or contracting;
37
38 (b) Administering grants or subsidies;
39
40 (c) Planning, zoning, or otherwise regulating land use;
41
42 (d) Policy or planning decisions that impact the Financial Interest(s) of third parties;
43

1 (e) Land acquisitions or dispositions, land development, and facility planning of
2 Commission assets, whether owned or managed; or

3
4 (f) Other decisions with significant economic impact.

5
6 ii. *Individuals Who are Assigned by Department Heads to Serve on a Board or*
7 *Foundation:* Department Heads shall identify employees in designated positions who
8 are assigned to serve on a board or foundation in their official capacity as a Commission
9 employee.

10
11 3. **Contents of Statements.** The Financial Disclosure Statement for employees must require
12 disclosure of information and interests, if known, for the applicable reporting period pertaining
13 to:

14
15 a. Receipt of any gifts of more than \$20 in value, or a series of gifts from any one person
16 totaling \$100 or more;

17
18 b. Interests in real property;

19
20 c. Interests in corporations and partnerships;

21
22 d. Interests in Business entities doing business with the State, the Commission, Montgomery
23 County, or Prince George's County;

24
25 e. Employment by or interest in business entities doing business with the State, the
26 Commission, Montgomery County, or Prince George's County;

27
28 f. Indebtedness to entity doing business with the State, the Commission, Montgomery
29 County, or Prince George's County;

30
31 g. Family Members Employed by the State, the Commission, Montgomery County, or Prince
32 George's County; and

33
34 h. Sources of earned income.

35
36 4. **Filing Deadlines and Procedures.**

37
38 a. Except as provided in subparagraph (d), positions required to file a financial Disclosure
39 Statement must file a statement by April 30th of each year. See Section II(A)(2) for the list
40 of positions required to file.

41
42 b. No later than 30 days before the filing deadline each year, instructions on filing annual
43 Financial Disclosure Statements must be provided by:

- 1 i. *The Executive Director* to appointed officers, Department Heads, and identified
2 positions named in Section II(A)(2)(a-b).
3
- 4 ii. *Each respective Department Head* to positions they designate as required to file,
5 including individuals assigned to serve on a board or foundation in their official
6 capacity as a Commission employee as covered in Section III(A)(2)(c).
7
- 8 c. Each Department Head must submit to the Executive Director within five (5) business days
9 following April 30th of each year a list of employees who have and who have not submitted
10 their completed Financial Disclosure Statement.
11
- 12 d. Procedures for New Hires or Appointees, for Individuals Serving in Acting Positions, and
13 Upon Termination:
14
- 15 i. *Any newly hired or appointed individual holding a Commission position required to*
16 *file a Financial Disclosure Statement* must file the statement with the appropriate office
17 at the time of hire. This requirement must be included in job advertisements and
18 communicated and monitored by the hiring department.
19
- 20 ii. *Individuals placed in an acting role for a Commission position that requires the filing*
21 *of a Financial Disclosure Statement* must file a statement when their acting assignment
22 is anticipated to last 60 days or greater. The individual must submit the completed
23 statement within 30 days of the acting assignment.
24
- 25 iii. *Any individual who leaves a position that requires the filing of a Financial Disclosure*
26 *Statement* must file the statement with the appropriate office during the close-out
27 process, prior to separation. Failure to file a required disclosure form upon separation
28 may result in the delay or withholding of a final paycheck in appropriate circumstances.
29 This requirement must be communicated and monitored by the hiring department.
30

31 **B. Entities Doing Business with the Commission.**
32

- 33 1. The Executive Director must cause to have published annually, either in print or in electronic
34 format, an alphabetized list of non-governmental entities doing business with the State,
35 Montgomery County, Prince George's County, and the Commission during the preceding year
36 and make it available to individuals for the purpose of filing Financial Disclosure Statements.
37
- 38 2. The list must be available for public inspection by March 1st of each year.
39
40
41
42
43

1 **C. Maintenance of Financial Disclosure Records**

2
3 **1. Availability for Review**

- 4
- 5 a. Subject to subparagraph (d), all Financial Disclosure Statements filed pursuant to Section
6 III(A)(3) must be made available for public inspection upon request during normal office
7 hours, subject to such reasonable fees as the Executive Director may establish.
8
- 9 b. Any person examining or copying these statements shall be required to provide their name,
10 home address, and the name of the person whose disclosure statement was examined or
11 copied.
12
- 13 c. An employee who has a statement on file is entitled, upon request, to be notified of the
14 name and home address of anyone inspecting their Financial Disclosure Statement.
15
- 16 d. The above disclosure shall be handled in accordance with Section II(F), "Disclosure or use
17 of confidential information." Namely, an employee's home address must be redacted from
18 a statement that is made available for examination or copying, if the person has identified
19 it as their home address.
20

21 **2. Retention Requirements**

- 22
- 23 a. Any person who is required to file a report, statement, or record under this Code of Ethics,
24 must retain each account, bill, receipt, book, paper, or other document necessary to
25 substantiate the filing. Any person who is required to file a report, statement, or record
26 under this Code, must retain each account, bill, receipt, book, paper, or other document
27 necessary to substantiate the filing.
28
- 29 b. The person must retain the document for three years after:
30
- 31 i. The date the report, statement, or record was filed; or
32
- 33 ii. If the report, statement, or record is not filed, the date the report, statement, or record
34 was required to be filed.
35
- 36 c. All Financial Disclosure Statements filed pursuant to Section II(A)(2)(a-b) shall be
37 maintained by the Executive Director, and those filed pursuant to Section II(A)(2)(c) shall
38 be maintained by the respective Department Heads with whom they have filed.
39
- 40 d. The Executive Director and the Department Heads shall maintain records of the Financial
41 Disclosure for three years, at which time they shall be sent to the Commission's Archives
42 and Records Office for retention, pursuant to the State-Approved Records Retention and
43 Disposition Schedule.

1 **D. Financial Disclosure Requirements for Commissioners**

2 Commissioners and individuals applying to be a Commissioner should refer to Sections 5-824 and
3 5-825 of the General Provisions Article of the Code of Maryland for Financial Disclosure
4 requirements.
5
6

7 **III. DELEGATION OF AUTHORITY**

8
9 A. A Department Head may designate, in writing, a representative to implement any of the provisions
10 of this Practice.
11

12 B. A Department Head may withdraw their designation at any time, which shall also be in writing.
13
14

15 **IV. ETHICS OFFICERS AND DIRECTING CONCERNS**

16 There shall be a Commission-wide ethics officer(s) appointed by the General Counsel who is an
17 attorney in the General Counsel’s Office, and who shall have the authority to: (i) advise employees
18 confidentially on the requirements of the Code of Ethics; and, (ii) if needed, investigate known or
19 suspected violations, and take appropriate action. The Ethics Officer shall:
20

21 A. Serve as a point of contact for employees regarding inquiries and concerns of conflicts of interest.
22 This includes providing advice and preparing verbal and written responses and guidance regarding
23 the Code of Ethics, and related policies, rules, and regulations. Employees are also encouraged to
24 seek advice from their immediate supervisor and chain of command, provided such staff are not
25 the subject of the inquiry or suspected violation. Note: Pursuant to Administrative Practice 3-31,
26 *Fraud, Waste, and Abuse*, employees are required to report any suspected or known fraud, waste,
27 or abuse, and are provided several reporting options, including: (i) the Department Head
28 responsible for the program in which the fraud, waste, or abuse is suspected; (ii) the Office of the
29 Inspector Generals; (iii) Park Police; and (iv) the Executive Director. See Practice 3-31, for more
30 information.
31

32 B. After consultation with the General Counsel, refer matters to the appropriate internal and/or
33 external authorities, where warranted, including but not limited to the Executive Director,
34 Commission, Park Police, County Police, and state and federal authorities.
35

36 C. Preparation of an annual report on ethics to address the number and types of inquiries, violations,
37 and corrective measures.
38
39
40
41
42
43

1 V. **REQUIRED TRAINING**

- 2
- 3 A. Subject to Subsection V(B), immediately below, all employees are required to receive ethics
- 4 training each calendar year to be provided by the agency's Ethics Officer. Note: Commissioners
- 5 who attend the training offered by the State of Maryland Ethics Commission satisfy this
- 6 requirement and may elect to take the Commission's ethics training.
- 7
- 8 B. Seasonal/Intermittent employees may attend the ethics training provided by the Ethics Officer and
- 9 will receive orientation on the Code of Ethics as part of their onboarding process.
- 10
- 11 C. The Ethics Officer is responsible for developing and updating training materials, with input and
- 12 assistance from the Corporate Policy Office.
- 13

14

15 VI. **VIOLATIONS**

- 16
- 17 A. Employees who violate Administrative Practice, 2-24, *Code of Ethics*, may be subject to
- 18 disciplinary action, up to and including termination.
- 19
- 20 B. The Commission may refer a violation for criminal investigation and prosecution.
- 21
- 22 C. In the case of unauthorized use of Commission resources by an employee, or other loss or damage
- 23 to the Commission occasioned by the violation, the Commission may recover any loss or damages
- 24 from the employee through direct repayment by the employee, payroll deduction, or other legal
- 25 action.
- 26
- 27 D. Failure to comply with the requirements of the Code of Ethics due to a lack of knowledge or
- 28 misinterpretation of the rules and regulations of this Policy or any other applicable Practice(s)
- 29 cannot be used as an excuse to violate this Code.
- 30
- 31 E. An employee shall be provided an opportunity to explain any conflict of interest or appearance of
- 32 conflict of interest and any other apparent violations of this Practice.
- 33

34

35 VII. **RESPONSIBILITIES**

- 36
- 37 A. **All Employees** are responsible for:
- 38
- 39 1. Complying with the Code of Ethics.
- 40
- 41 2. Avoiding taking any actions that violate or that may give the appearance of violating the Code.
- 42

- 1 3. Seeking advice, when needed, and reporting any suspected or known ethics violations,
2 pursuant to Section V(Inquiries and Concerns).
3
- 4 4. Seeking approval to engage in any non-Commission employment utilizing the Request to
5 Participate in Non-Commission Employment Form (Appendix A).
6
- 7 5. Submitting a Financial Disclosure Statement, if designated to do so by this Practice or the
8 respective Department Head.
9
- 10 6. Completing the required ethics training.
11
- 12 7. Fully cooperating with investigations of potential violations of the Code of Ethics.
13

14 **B. Supervisors** are responsible for:

- 15
- 16 1. Reviewing the non-Commission employment of employees under their supervision, annually
17 during the performance review, to determine if the non-Commission employment has not
18 diminished, interfered with, or detracted from the employee’s job duties.
19
- 20 2. Responding to inquiries on ethics issues they receive from employees they supervise and
21 seeking further guidance and/or assistance from the Ethics Officer(s), as needed.
22
- 23 3. Reporting suspected and known violations of this Code of Ethics, as appropriate, pursuant to
24 Section V(Inquiries and Concerns).
25
- 26 4. Ensuring employees under their supervision complete the annual ethics training course.
27

28 **C. Department Heads** are responsible for:

- 29
- 30 1. Approving/disapproving non-Commission employment requests, in a timely manner, utilizing
31 the appropriate form submitted by the employee.
32
- 33 2. Ensuring that all employees under their supervision who are required to submit annual
34 Financial Disclosure Statements (FDS) do so, and reporting annually to the Executive Director
35 those employees who submitted as well as those who did not submit an FDS.
36
- 37 3. Ensuring all staff under their authority receive the required ethics training annually.
38

39 **D. The Ethics Officer(s)** is responsible for:

- 40
- 41 1. Serving as a point of contact for ethics inquiries and complaints; as well as, providing responses
42 and guidance.
43

- 1 2. Referring matters to the appropriate internal and/or external authorities, where warranted, as
2 appropriate.
- 3
- 4 3. Facilitating the required annual training on ethics for Commission employees. This includes
5 developing training and ancillary material the Ethics Officer(s) determine are necessary to
6 promote compliance with this Code, with the support of the Corporate Policy Office.
- 7
- 8 4. Preparing an annual report that contains information on conflict of interest issues and
9 regulations during the previous calendar year.

10
11 **E. The General Counsel** is responsible for:

- 12
- 13 1. Appointing one or more Ethics Officers to be the point of contact for inquiries, advice, training,
14 and investigation/resolution of ethics-related issues . The General Counsel may also delegate
15 to others in the Office of the General Counsel certain responsibilities to ensure compliance
16 with the Code of Ethics and to assist the Ethics Officer(s), as necessary.
- 17
- 18 2. Reviewing and approving the annual ethics report(s) prepared by the Ethics Officer(s).

19
20 **F. The Executive Director** is responsible for:

- 21
- 22 1. Receiving information regarding Department Head authorizations for employees in the
23 respective departments to solicit gifts from external parties.
- 24
- 25 2. Approving/disapproving, in writing, requests for soliciting voluntary contributions for a
26 charitable drive for an external party.
- 27
- 28 3. Maintaining records of Financial Disclosure Statements for designated positions required to
29 file with the Executive Director, for three years, and making them available for public
30 inspection in accordance Section, II(G)(Disclosure or Use of Confidential Information) by
31 ensuring employees' home addresses are not disclosed, when a property is identified as an
32 employee's home address.

33
34
35
36 **APPENDICES**

- 37 A. Request to Participate in Non-Commission Employment Form
- 38 B. Financial Disclosure Statement Instructions
- 39 C. Financial Disclosure Statement Form

EXISTING COMMISSION POLICIES FOR RESCISSION

- Attachment C-1: Practice 2-14, *Non-Commission Employment and Non-Commission Business*
- Attachment C-2: Procedures 03-05, *Non-Commission Employment and Non-Commission Business*
- Attachment C-3: Practice 2-15, *Use of Commission Property*
- Attachment C-4: Practice 2-24, *Ethics* [To be replaced by the proposed draft Administrative Practice 2-24, Code of Ethics, as shown in Attachment A.]
- Attachment C-5: Practice 2-72, *Conditions for Acceptance of Awards [of Honoraria] from Outside the Commission*
- Attachment C-6: Practice 2-90, *Solicitations on Commission Property*
- Attachment C-7: Practice 5-70, *Financial Disclosure*



PRACTICE

Approved by
The Commission

No. 2-14

Initially issued: 07/02/1976

Last amended: 10/15/2003

Last reviewed: 05/04/2016
without modification

Rescinded and incorporated into Administrative
Practice 2-24, Code of Ethics (Date TBA)

NON-COMMISSION EMPLOYMENT AND NON-COMMISSION BUSINESS

AUTHORITY

This Practice was initially approved by the Executive Committee on July 2, 1976. It was later revised on March 18, 1987, by the Commission.

This Practice was again revised on October 15, 2003, by the Commission. Covered persons involved in Non-Commission employment prior to the last revised date of this Practice shall have forty-five (45) calendar days in which to obtain approval to continue Non-Commission employment. All other provisions of this Practice shall apply similarly to request for continued or new participation in Non-Commission employment.



Trudye Morgan Johnson, Executive Director

PURPOSE & BACKGROUND

This Practice was developed in 1976, to set forth policy on Non-Commission employment and to protect the Commission from conflicts of interest arising from participation in Non-Commission employment by employees and Department Heads. The Practice was revised in 1987, to define conflicts of interests, Non-Commission employment activities, Commission property, and to identify Non-Commission employment restrictions and penalties.

The Practice was further revised on October 15, 2003, to clarify restrictions on Non-Commission employment/business and include requirements for employees to receive prior approval for participation in Non-Commission employment activities as defined in this Practice. The revised Practice also distinguishes Non-Commission employment from Non-Commission business activities, includes expanded explanations of Commission property and identifies Non-Commission employment restriction and penalties.

REFERENCES

- Title 15, Public Ethics, State Government, Annotated Code of Maryland
- Title 10, Public Information Act, State Government Article, Section 10-611
- Merit System Rules and Regulations, “Discipline” and “Work Weeks; Schedules; Attendance”
- Commission Practice, 2-15, “Employee Use of Commission Property”
- Commission Practice, 2-24, “Ethics”
- Commission Practice, 4-10, “Purchasing”
- Commission Practice, 5-71, “Financial Disclosure by Commission Officers, Department Heads, and Certain Other Employees”
- Commission Practice, 5-80, “Public Information and Records Management”
- Commission Practice, 6-13, “Electronic Communications Policy”
- Administrative Procedures, 99-04, “Time and Attendance”
- Administrative Procedures, “Application and Review of Requests to Participate in Non-Commission Employment”
- Collective Bargaining Agreement for represented Commission employees

APPLICATION

This Practice applies to all employees including the Park Police, Department Heads, and appointed officers. In the event that any portion of this Practice conflicts with a Collective Bargaining Agreement, the Agreement shall prevail for members of the respective Collective Bargaining unit.

DEFINITIONS

Commission Property is any service or physical asset owned, purchased, leased, or under contract with the Commission. This means any (a) real property, (b) personal property whether tangible or intangible, or (c) rights of the Commission existing under contract. Such property includes, but is not limited to: facilities, general equipment and tools; vehicles and machinery, office equipment and supplies, computer hardware, software, and other electronic equipment; printers and copiers; telecommunication services such as telephones, paging devices, facsimile machines, internet/intranet, and electronic mail; data stored on, received by, or transmitted by the Commission’s operating systems; Commission issued uniforms; and staff services delivered by employees, contractors, or volunteers of the Commission (reference Commission Practices 2-15, “Employee Use of Commission Property” and 6-13, “Electronic Communications Policy”).

Conflict of Interest means any of the following:

1. Engaging in, having or acquiring a direct interest in, or having a business association with persons on any matter which may come before the Commission, Planning Boards, appointed officers, employees, Merit System Board, Retirement Board of Trustees, or other boards or appointed committee of the Commission for action, recommendation or decision.
2. Engaging in Non-Commission employment with any person, group, association or other legal entity that does business with the Commission; and/or
3. Engaging in Non-Commission employment while in an on-duty status with the Commission.

Fiduciary Duty means a legal obligation that results from a position of trust with respect to a third party's business and assets.

Non-Commission Business means Non-Commission activities performed while on duty related to:

1. Personal business
2. Non-Commission employment
3. Third party business; or
4. Work for an association as an employee, representative, or volunteer.

Non-Commission business does not include participation in activities, which relate to the business of the Commission, and which are approved in advance by an appropriate supervisor and Departmental Head.

Non-Commission Employment includes the following:

1. Employment or contractual arrangements structured on a salary, fee, or commission or pro bono legal representation;
2. Participation in any business ventures as owner, proprietor, partner or investor;
3. Participation in any business or non-profit entity involving fiduciary responsibilities in a position such as an officer, manager, or director;
4. Participation in any business or non-profit entity in which the participant holds 5% or more of the outstanding voting interests.
5. Other similar activities resulting in or for the purpose of remuneration.

Non-Commission employment excludes service in the military and National Guard.

On-duty means the daily period during which an employee is expected to be available to perform duties assigned by the Commission.

The Commission is committed to maintaining a workplace, which is safe, productive, and free of conflicts of interests and unethical practices.

Non-Commission Business: as defined, is not permitted.

Non-Commission Employment: is permitted only when participation is specifically approved in writing by the employee's Department Head and all of the following conditions are met:

1. Engaging in Non-Commission employment does not cause the existence of, potential for, or the appearance of a conflict of interest with respect to Commission duties assigned to the employee, or with any Commission policy, procedures, activities, and actions.
2. Engaging in Non-Commission employment does not interfere with the performance of Commission duties. The employee's performance prior to engagement in Non-Commission employment must be at a fully satisfactory level.
3. Non-Commission employment does not increase the risk of liability to the Commission during, or from the employee's performance of Commission assigned duties including, but not limited to, increase in health and safety concerns.
4. The performance of Non-Commission employment does not diminish, interfere, or detract from, duties due the Commission as the primary employer.
5. Non-Commission employment does not result in the employee, appointed officer, or Department Head using the prestige of his/her Commission offices, official title or position for private gain or gain of another.
6. Engaging in Non-Commission employment does not occur while on duty with the Commission. Reference Merit System Rules and Regulations, "Work Week Schedules and Attendance"; and Administrative Procedures 99-04 "Time and Attendance".
7. Non-Commission employment does not result in coercing other Commission employees, to buy or use products or services sold or offered as part of their Non-Commission employment.
8. Non-Commission employment does not result in working for a person(s) or entities owned by a person(s) they supervise or who supervise them at the Commission or being employed by any business subject to the authority of the Commission or doing business with the Commission (Reference Commission Practice, 4-10, "Purchasing").
9. Confidential information gained through Commission employment is not used for financial gain or for any use other than Commission employment (Reference Commission Practice, 5-80, "Public Information and Record Management").
10. Non-Commission employment does not result in the acceptance or solicitation of referrals for any Non-Commission employment while on duty.

11. Non-Commission employment does not result in the unauthorized use of Commission property (Reference Commission Practice 2-15, "Employee Use of Commission Property", and 6-13, "Electronic Communications Policy").
12. Notwithstanding any other provision of this Practice, no person employed by the Commission as an attorney may be permitted to provide any legal services to a person or entity other than the Commission with the exception that an attorney may be permitted to perform (a) de minimus legal services for family members, (b) pro bono legal services or (c) de minimus services engaged prior to the attorney's employment by the Commission, subject to the prior written approval granted at the discretion of the General Counsel. For purposes of this provision, "family members" are defined as spouses, children, parents, grandparents, or grandchildren.

Approval for participation by Department Heads and appointed officers must be obtained from the Commission's Chair and Vice Chair.

The Commission retains the right to deny, rescind, revoke or modify approval of participation in Non-Commission employment if the employment violates any of the above conditions.

RESPONSIBILITIES

This section establishes requirements related to the review of requests and approval of participation in Non-Commission employment. (Also see, accompanying Administrative Procedures).

All persons Covered by this Practice are responsible for submitting requests for consideration and approval at least fourteen (14) calendar days before engaging in Non-Commission employment. Changes to previously approved Non-Commission employment activities must also be submitted for approval.

- Employee requests must be reviewed by the supervisor and the Department Head. Decision for approval or disapproval of employee requests must be issued by the Department Head.
- Requests by Department Heads and appointed officers must be reviewed and approved by the Commission Chair and Vice-Chair.

If individuals engage in previously approved Non-Commission employment that impairs their ability to perform Commission duties, they may be directed to modify or cease participation in such activities while employed at the Commission.

Supervisors are responsible for providing procedural assistance to employees who are requesting approval for participation in Non-Commission employment. Supervisors must review all employee requests and forward recommendations to the Department Head within seven (7) calendar days of receiving the request.

Department Heads are responsible for reviewing employee requests for participation in Non-Commission employment. Related responsibilities include:

1. Communicating this Practice and directing employees to submit written requests to participate in Non-Commission employment.
2. Determining, once they have sufficient information, whether an employee may participate in Non-Commission employment. Department Heads must review the employee's request along with recommendations made by the employee's supervisor. Department must issue a written decision within seven (7) calendar days of receipt of the employee's request in the Department Head's office. If a Department Head does not deny the employee's request within seven (7) calendar days of being received in his/her office, then the request shall be considered approved. Review of requests shall be handled in accordance with Administrative Procedures, Application and Review of Requests to Participate in Non-Commission Employment.

**VIOLATIONS
OF POLICY**

Violations of any provision of this Practice including but not limited to, failure to request and receive prior approval for involvement in Non-Commission employment or to take directed action in activities which are prohibited or regarded as-conflicts of interest are subject to disciplinary action, up to and including, termination of employment. Disciplinary actions shall be handled in accordance with the Merit System Rules and Regulations, applicable Collective Bargaining Agreements, and Commission Practice 2-16, "Seasonal/Intermittent, Temporary, and Term Employment" shall be followed for actions affecting contract employees.

PROCEDURES

The Executive Director shall issue Administrative Procedures for implementation of this Practice.

ADMINISTRATIVE PROCEDURES

Authorized by:

No. 03-05



Trudye Morgan Johnson,
Executive Director

Original issue: 10/15/2003

Last amended:

Last reviewed: 05/04/2016
without modification

Rescinded and incorporated into Administrative

Practice 2-24, Code of Ethics (Date TBA)

NON-COMMISSION EMPLOYMENT AND NON-COMMISSION BUSINESS

These Procedures accompany Practice 2-14, Non-Commission Employment and Non-Commission Business. Practice 2-14, as revised October 15, 2003, requires that all covered employees, appointed officers, and Department Heads receive prior approval before engaging in non-Commission employment and non-Commission Business. These Administrative Procedures provide guidance on the application, review, and approval of requests.

1. All persons covered by this Practice must request and receive approval to participate in non-Commission employment activities prior to commencement of such activities. Requests must be submitted at least fourteen (14) calendar days in advance using attached Form A-1, Request to Participate in Non-Commission Employment.
 - a. Employee name, position title, and description of job duties assigned in the Commission;
 - b. Name of non-Commission employer for whom secondary employment is being considered;
 - c. Address at which non-Commission employment is to be performed;
 - d. The schedule (days and work hours) during which non-Commission employment will be conducted, including commencement date;
 - e. A description of non-Commission employment duties; and
 - f. Reason(s) why this Practice will not be violated.
2. Employees must submit completed forms to their supervisor. Department Heads and appointed officers must forward completed forms to the Commission Chair and Vice-Chair.
3. Supervisors shall review requests and provide the Department Head with recommendations for approval or denial of the request. If there is a recommendation to deny an employee's request, the supervisor must include reasons for the denial.

Recommendations must be forwarded to the Department Head within seven (7) calendar days of receiving the written request from the employee. If a supervisor does not forward the response within seven (7) calendar days, the employee may then forward his/her request to the Department Head.

4. The Department Head (or designee) shall review all employee requests along with any recommendations made by supervisors.

The Department Head's decision must be provided in writing to the employee within seven (7) calendar days of receiving the request in his/her office. If a Department Head does not deny the employee's request within seven (7) calendar days of being received in his/her office, then the request shall be considered approved.

5. A copy of the Department's Heads decision with an explanation for approval or denial in shall be forwarded to the Executive Director.
6. An employee, who disagrees with the decision of his/her Department Head, may request review of the decision by the Executive Director. The employee shall forward his/her written request for non-Commission employment (Form A-1) along with the Department Head's written decision. The Executive Director shall issue a decision within (7) calendar days from receipt of the request for review. In all cases, the Executive Director's decision shall be final.
7. Approvals are only for the non-Commission employment involvement as stated in the request.

If any information provided in the original request changes during involvement in non-Commission employment, the employee must provide his/her supervisor written notice within three (3) workdays of the change.

8. Any approval may be suspended or rescinded orally should a conflict of interest arise during the employee's engagement in the non-Commission employment. Such suspensions shall require the reviewing authority to provide written notice confirming the action within seven (7) calendar days of the oral action.
9. Employees who engage in non-Commission employment either prior to receiving approval, or after a request to participate has been denied or revoked, may be disciplined up to, and including termination of employment.

The Maryland National Capital Park and Planning Commission
REQUEST TO PARTICIPATE IN NON-COMMISSION EMPLOYMENT

FORM A-1

In compliance with Administrative Practice 2-14 Non-Commission Employment and Non-Commission Business, I am providing notification of my non-Commission (secondary) employment.
(Type or print)

EMPLOYMENT STATUS:

- My current employment status with the Commission is:

Probationary Merit System Career Merit System Contract

- As a Career Merit System employee (if applicable), I am a member of the following

Career (Non-Union) Career MCGEO* Career FOP

- I am currently employed in the following type of position:

Full Time Part Time

- Employee Name _____

- Position Title _____

- M-NCPPC work location _____

- Division _____ Department _____

- Supervisor's name _____

- Description of job duties:

RESOUNDING

- Commission Work schedule Hours: _____ Days: _____

NON-COMMISSION EMPLOYMENT INFORMATION:

- Name of Non-Commission Employer or self-employed business title:

- Phone: _____ Non-Commission Employment Commencement Date: _____
- Address: _____
- Work schedule Hours: _____ Days: _____
- Description of Non-Commission employment duties:

(Use separate sheet if necessary)

- Does the secondary employer do business with the Commission or have input with respect to decision-making within the Commission?
 If so, please specify Yes No

RESCINDED

REQUEST TO PARTICIPATE IN NON-COMMISSION EMPLOYMENT

NON-COMMISSION EMPLOYMENT INFORMATION (Continued):

- Does the secondary employment involve use of Commission Equipment/Property (refer to Administrative Practice 2-15 Employee Use of Commission Property)? Yes No

If so, please list any Commission equipment/property, which will be needed in the course of secondary employment activities?

- Explain the reason(s) why this Practice will not be violated:

RESCINDED

Employee's Signature _____

Date _____

****** SUBMIT THIS FORM TO YOUR IMMEDIATE SUPERVISOR ******

Your supervisor may contact you for further information. Should your Non-Commission employment cease or change, you must update this form IMMEDIATELY.

* Career MCGEO and FOP members should refer to Collective Bargaining Agreement for additional notification requirements.

SUPERVISOR/DIVISION CHIEF RECOMMENDATION

Date received: _____

Reason for recommending approval or denial:

Recommend Approval

Recommend Denial

Signature of Supervisor / Division Chief

Date:

****** Supervisor/Division Chief should then forward to Department Head ******

DEPARTMENT HEAD

Date received: _____

Approve

Deny

Explanation of approval or denial:

Signature of Department Head

Date:

****** Department Head should then forward to Executive Director ******

A copy of the Department Head's decision with an explanation for approval or denial shall be forwarded to the Executive Director. An employee, who disagrees with the decision of his/her Department Head, may request review of the decision by the Executive Director by forwarding this form along with the Department Head's written decision. In all cases, the Executive Director's decision shall be final.

RESERVED



PRACTICE

Approved by
The Executive Committee

No. 2-15

Initially issued: 09/30/1987

Last amended: 10/05/2016

Last reviewed: 10/05/2016

Rescinded and incorporated into Administrative
Practice 2-24, Code of Ethics (Date TBA)

EMPLOYEE USE OF M-NCPPC PROPERTY

AUTHORITY

This Administrative Practice was approved by the Executive Committee on September 30, 1987. The most recent amendments to the Practice were adopted by the Executive Committee on October 5, 2016.


Patricia C. Barney, Executive Director

PURPOSE AND BACKGROUND

This Practice, originally titled "Employee Use of Commission-Owned/Leased Property," was initially issued September 30, 1987, to establish guidance on the use of M-NCPPC-owned and leased property.

Subsequent to its initial adoption, the Practice has been amended as follows:

- April 16, 2003: Revisions provided more comprehensive guidance on authorized and unauthorized use of M-NCPPC property. The title of the Practice was changed to "Employee Use of Commission Property".
- October 5, 2016: Policy revised to incorporate technology updates, clearer terminology and cross references to other relevant policies.

REFERENCES

- M-NCPPC Merit System Rules and Regulations.
- M-NCPPC Administrative Practice 2-14, and accompanying Administrative Procedures 04-01, "Outside Employment and Non-M-NCPPC Commission Business".
- M-NCPPC Administrative Practice, 2-16 and accompanying Administrative Procedures 00-02, "Contract Employment: Seasonal/Intermittent, Temporary, and Term Employment".
- M-NCPPC Administrative Practice 3-10, "Business Expense Reimbursement for Travel, Meetings, and Conferences," which establishes allowable uses of M-NCPPC property incidental to travel, meetings, and conferences.
- M-NCPPC Administrative Practice 3-14, "Accounting for Commission Real and Personal Property" and accompanying Administrative Procedures 04-01 "Fixed Asset Procedure Manual".
- M-NCPPC Administrative Practice 3-31, "Fraud, Waste and Abuse".
- M-NCPPC Administrative Practice 6-10, "M-NCPPC Vehicle Use Program".

- M-NCPPC Administrative Practice 6-13, “Electronic Communications Policy,” which establishes policy related to electronic communications and the use of electronic communication equipment. (See also, M-NCPPC Administrative Procedures 12-01, “Mobile Technology”.)
- M-NCPPC Administrative Practice 6-52, “Use of Commission Facilities by the Public and Staff,” which regulates use of facilities by permit.

APPLICATION

This Practice applies to all Merit System employees, Contract employees (as defined by M-NCPPC Administrative Practice 2-16), volunteers, and appointed individuals. In the event that any portion of this Practice conflicts with a collective bargaining agreement, the agreement shall prevail for members of the respective collective bargaining unit.

DEFINITIONS

M-NCPPC Property is any service or asset/property (physical, digital, electronic, virtual, or intellectual) owned, purchased, leased, or under contract with the agency. This includes, but is not limited to: facilities, general equipment and tools; natural items (for example, plants, trees, mulch, compost and firewood, etc.); vehicles and machinery; office equipment and supplies, including M-NCPPC stationery; computer hardware, software and other electronic equipment; copiers and printers; telecommunication services such as telephones, paging devices, facsimile machines, Internet/Intranet and electronic mail; mobile technology (such as phones, personal digital assistants (PDAs), electronic pagers, beepers and transponders, etc.); data stored on, received by, or transmitted by the agency’s operating systems and/or servers; M-NCPPC-issued uniforms; staff services delivered by employees, contractors, or volunteers of the agency; and rights under any license or other agreement relating to intellectual property, know-how, and information of commercial value, whether or not protected by patent, trademark, copyright or other legal entitlement.

The Maryland National Capital Park and Planning Commission (M-NCPPC): For purposes of this Practice, “M-NCPPC” or “agency” shall be used to reference the entity acting in its organizational capacity.

POLICY

The use of M-NCPPC property is intended for the conduct of official business of the agency. The use of M-NCPPC property for outside employment, non-M-NCPPC business or personal gain is prohibited unless specifically covered under “Allowable Exceptions”.

Allowable Exceptions: Restricted use of M-NCPPC property for non-M-NCPPC-related business is permitted as outlined in agency policies listed in this Practice under the section titled “References.” Listed policies explain requirements and authorization for use. Examples of referenced policies include:

- Administrative Practice 6-10, Vehicle Use Program: This policy outlines restrictions on the use of M-NCPPC vehicles;
- Administrative Practice 6-13, Electronic Communications policy and its accompanying Administrative Procedures, 12-01, Mobile Technology: These policies address the use of

computer hardware, software, technology services, mobile devices and other technology;
and

- Administrative Practice 6-52, Use of Commission Facilities by the Public and Staff: This policy provides standards regarding the use of the agency's facilities by the public and staff.

Use of M-NCPPC Phones and other Communication Technology: Agency technology is intended for the use of carrying out M-NCPPC duties. While it is recognized employees occasionally may need to use this technology for personal reasons, personal use must be kept to a minimum and must be brief. The restrictions in Practice 6-13, Electronic Communications Policy, shall prevail for personal use. Placing phone calls, or engaging in other uses of technology categorized as "entertainment" is prohibited. Charges incurred as a result of personal or other unauthorized (non-M-NCPPC-related business) may not be charged to the M-NCPPC.

RESPONSIBILITIES

Department Heads shall ensure that his/her employees follow the policy and that violations are handled in a timely and consistent manner. Concerns related to inappropriate use of M-NCPPC property must be reported/handled consistent with Administrative Practice 3-31, "Fraud, Waste and Abuse".

Managers/Supervisors must use reasonable efforts to monitor the use of M-NCPPC property within their respective units, and report any violations to their Department Head or designees, for resolution of the problem. Concerns related to inappropriate use of M-NCPPC property must be reported/handled consistent with Administrative Practice 3-31, "Fraud, Waste and Abuse."

Covered persons must comply with this Practice.

VIOLATIONS OF POLICY

Employees who violate any portion of this Practice are subject to disciplinary action, up to and including termination of employment. For Merit System employees, disciplinary actions shall be handled in accordance with the Merit System Rules and Regulations, Discipline Chapter and applicable collective bargaining agreements. Administrative Practice 2-16, "Contract Employment: Seasonal/Intermittent, Temporary, and Term Employment", Discipline Section, shall be used for disciplinary actions involving Contract employees. Violations of policy also may result in criminal prosecution.


In addition to actions described above, any expenses incurred from an employee's unauthorized use of M-NCPPC property will be recovered by the agency through direct repayment of such expenses by the employee, or collection of such expenses through payroll deduction, where appropriate. M-NCPPC reserves the right to determine the method of recovery of such expenses and to pursue legal action for collection of any monies owed by an employee.



No. 2-24

Initially issued: 06/19/1991

Last amended: 01/09/2023


 Asuntha Chiang-Smith, Executive Director

To be replaced by the proposed draft Administrative Practice 2-24, Code of Ethics

ETHICS

AUTHORITY This Practice was initially approved by the Commission at its meeting on June 19, 1991. Amendments to this policy were last adopted by the Executive Director on January 9, 2023.

APPLICATION This Practice applies to all employees, officials, and officers of the Commission.

**PURPOSE/
BACKGROUND** The purpose of this Practice is to reaffirm ethical standards in pursuit of excellence in public service.

Since its initial adoption the Practice has been amended as follows:

- January 9, 2023: Amended to reflect that nominal value is defined by the Executive Director, subject to consultation with the Chair and Vice Chair of the Commission, and in consideration of those amounts set by Prince George's County, Montgomery County, and the State of Maryland.

REFERENCE

- Administrative Practice 2-14 – Non-Commission Employment
- Administrative Practice 2-15 – Employee Use of Commission Owned/Leased Property
- Administrative Practice 4-10 – Purchasing (Policy II, Ethical Standards)
- Administrative Practice 6-10 - Policies and Procedures Governing Commission Passenger Vehicles
- Merit System Rules and Regulations – Chapter 1600, (Disciplinary Code)
- Maryland Public Ethics Law, Maryland Code Annotated, Title 5 of the General Provisions Article

DEFINITIONS In this Practice:

“**Commission**” means the Maryland –National Capital Park and Planning Commission.

“Employee” means an employee of the Commission within the Merit System – career, non-career and conditional, an appointed officer or appointed official of the Commission, and includes all individuals who receive a salary from the Commission.

“Supervisor” means immediate supervisor or department head.

“Person” means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

“Gift” means

- Receipt of money
- Receipt of real or personal property
- Receipt of favors, entertainment, trips, vacations, loans, opportunity to purchase an item or to procure a service at cost, no cost, discount, or bargain price, unless such opportunity is available to the general public
- Any other thing of monetary value.

“Ceremonial Occasions” mean functions such as dedications, inaugurations, initiations, awards, tributes, retirements, but not limited to such events, where food, beverages, entertainment, and mementos (souvenirs) may be provided. Subject to the concurrence of the Chair and Vice-Chair of the Commission, the Executive Director will define nominal value, periodically, as needed, to ensure consistency with State law as well as practices and standards of other local government agencies. In cases where a charity sponsored gift is involved, the charity donation, rather than the intrinsic cost of the gift, will govern. (Example: A charity event provides a ticket with an intrinsic value of \$20 to each donor of a gift in the amount of \$100. In this example, the gift or donation is considered to be \$100, not \$20.)

POLICY

Employees must perform their duties within the established rules of conduct of the Commission and Maryland Public Ethics Law. The Executive Director with the advice of the Department Head will furnish interpretations with advice of the General Counsel’s office if requested on questions of conflicts of interest and will act as an advisor to provide guidance on other matters of ethics and related issues. When deemed appropriate, the Executive Director may refer questions of interpretation or clarification to the Commission for resolution.

An employee shall be provided an opportunity to explain the conflict of interest or appearance of conflict of interest and any other apparent violations of this Practice.

PROCEDURES

I. Ethical Standards

A. An employee shall avoid any action, whether or not specifically prohibited, which might result in, or create the appearance of:

1. Using public office for private gain;
2. Giving preferential treatment to a vendor.

(See Commission Practice 4-10, Purchasing Policy II – Ethical Standards.)

B. Gifts, Entertainment and Favors

An employee may not solicit any gift. An employee shall not accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of more than nominal value from a person who:

1. Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
2. Conducts operations or activities that are regulated by the Commission;
3. Has interests that may be substantially affected by the performance or non-performance of such employee's official duties.

C. Exceptions

1. Receipt of gifts or entertainment because of obvious family or personal relationships (example between parents, children, or spouse of an employee when it is clear that those relationships rather than the business of the persons concerned are the motivating factors).
2. Ceremonial gifts or awards.
3. Ceremonial attendance at an event as a representative of the Commission. Attendance at such an event shall be authorized by the Executive Director, or for the Commissioners, by the Chairman and Vice-Chairman of the Commission.
4. Reasonable expenses for food, travel, lodging and scheduled entertainment of the official or employee for a meeting sponsored by a non-profit professional organization which is given in return for participation as a speaker or participant at a meeting.

5. Acceptance of loans from banks or other financial institutions on customary terms for usual activities of employees, such as home mortgage loans, consumer loans, etc.
 6. Acceptance of prizes and awards from a person through a “lottery” (i.e. business card selected from a bowl) or through another similar activity where the receipt is selected on a random basis (raffle, drawing, etc.).
- D. An employee shall not solicit or accept a gift from another employee of more than nominal value. However, this paragraph does not prohibit a voluntary contribution of a nominal amount for a gift made on a special occasion such as marriage, illness, retirement or death.
- II. If there is a question concerning the interpretation of the above restrictions, or the propriety of the acceptance of a gift which the employee or official may believe is proper from a person directly or indirectly having or seeking to obtain contractual or other business or financial relations with the Commission, the employee must disclose receipt of such gift in writing.

The disclosure will be made to the Department Head in writing and forwarded to the Executive Director. In the case of Department Heads, disclosure will be made to the appropriate Planning Board Chairman. The written disclosure must be made within 30 days after receipt of gift or gratuity or other item of value. All disclosure statements will be subject to review by the General Counsel, as appropriate.

PENALTIES

Employees who violate this Practice may be subject to disciplinary action in accordance with the Merit System Rules and Regulations and other appropriate statutes. In the case of Commissioners, the Planning Board may take appropriate action.



PRACTICE

Approved by
The Commission

No. 2-72

Initially issued: 01/01/1977

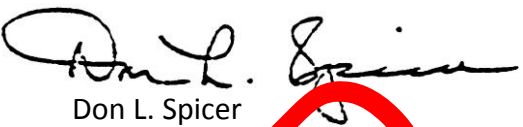
Last amended:

09/04/2019

Last reviewed: without modification

Rescinded and incorporated into Administrative
Practice 2-24, Code of Ethics (Date TBA)

CONDITIONS FOR ACCEPTANCE OF AWARDS FROM OUTSIDE THE COMMISSION

| | |
|-------------------------------|--|
| AUTHORITY | <p>This Practice was approved by the Commission at its meeting of December 15, 1976.</p> <div style="text-align: center;">  Don L. Spicer Executive Director </div> |
| REFERENCE | Chapter 1200, Pay and Awards, Merit System Rules and Regulations. |
| APPLICATION | This Practice applies to all Commission employees. |
| PURPOSE AND BACKGROUND | This Practice sets forth the general conditions and criteria for acceptance of awards from outside the Commission. It was reviewed in 2006 when the Nominal Value was updated through its accompanying Notice 06-03. |
| PROCEDURES | <ol style="list-style-type: none"> 1. An employee may accept awards of cash value and honoraria from groups or association in recognition of personal or official activities, as long as such awards do not create real or apparent conflicts of interest with the employee's official duties. 2. An employee who is to be the recipient of an honorarium or an award of cash value shall, as soon as possible, notify the department head of (1) the amount (if any) of the award; (2) the activity for which the award is being made; and (3) the organization making the award. In the event that the recipient is a department head, he/she should submit such a statement to the appropriate chairman. 3. Awards having a cash value may not be accepted except with the written permission of the department head or chairman, as appropriate. All cash awards shall be disclosed. 4. Denial of an opportunity to receive an award shall be based upon a determination of a department head or chairman that a real or apparent conflict of interest exists. A department head or chairman who is concerned about an apparent conflict of interest should request a ruling from the General Counsel. |

Conditions for Acceptance of Awards
from Outside the Commission Effective 1
January 1977

App. The Commission

PROCEDURES (CON'T)

5. A department head or chairman may deny the acceptance of an award of cash value within five working days of being notified of the offer. A denial shall state the reasons therefore, and may include the opinion of the General Counsel. If a decision is not conveyed to the employee within the five working days, the acceptance will be deemed approved.

RESCINDED



Approved by

No. 2-90

The Commission

Initially issued: 09/16/1976

Last amended: 05/21/2003

Last reviewed: 09/04/2019
without modification

Rescinded and incorporated into Administrative
Practice 2-24, Code of Ethics (Date TBA)

SOLICITATIONS ON COMMISSION PROPERTY

AUTHORITY

This Practice was initially approved by the Executive Committee on September 16, 1976. The Practice was amended by the Commission on May 21, 2003.

Trudye Morgan Johnson, Executive Director

PURPOSE & BACKGROUND

This Practice was approved by the Executive Committee on September 16, 1976, to recognize the United Way as a charitable organization supported through payroll deductions as a means of collecting contributions. It was amended by the Executive Committee on October 16, 1979, to recognize the Combined Health Appeal (CHA) as another charitable organization supported by the Commission.

The Practice was amended by the Commission on May 21, 2003, to address solicitations on Commission property more broadly by providing policy on solicitations by employees and non-employees, covering prohibited actions, and defining the authority for review of requests for solicitations.

REFERENCES

- Merit System Rules and Regulations
- Commission Practice 2-15, "Employee Use of Commission Property"
- Commission Practice 2-16, "Seasonal/Intermittent, Term and Temporary Employment"
- Commission Practice 6-13, "Electronic Communications Policy"

APPLICATION

This Practice applies to all Commissioners, Commission employees and volunteers.

DEFINITIONS

On-duty: the period during which an employee is expected to perform duties assigned to the Commission.

POLICY

Except when activities are approved in advance by the Department Head, the Commission prohibits:

- On-duty employees from participating in personal or Non-Commission sanctioned business solicitations for financial contributions or for the sale of merchandise/services.
- Employees who are off-duty from soliciting other employees who are on-duty.

This prohibition covers the use of Commission property for soliciting including, but not limited to, the use of e-mail, inter-office mail, posting of flyers or other marketing materials, use telephones, computers, printers, copiers, etc.

Non-employees, including representatives of charitable organizations, are prohibited from soliciting employees on Commission property without prior approval. For information on approval process and authority, see section, Approval of Solicitations. Commission approved vendors are excluded from this prohibition.

Approval of Solicitations:

Direct solicitations of employees by other employees must have the approval of the respective Department Head, when activities are limited to the individual department. The approval of these solicitations may not be delegated below the Department Head level.

All solicitations by non-employees, and/or solicitations which require participation by the Commission (i.e., campaign drives, payroll deductions, or the use of Commission services) must be reviewed by the Executive Director and approved by the respective Planning Board, or the Commission for agency-wide involvement.

Approved Solicitations for Charitable Organizations:

It is the policy of Commission to encourage voluntary contributions by employees to charitable organizations, which have been approved by the Commission (i.e., the United Way, and the Combined Health Appeal). While donations are encouraged, no employee shall be coerced into contributing.

RESPONSIBILITIES

The Executive Director is responsible for:

- Reviewing requests for solicitation by non-employees and any requests that require participation by the Commission (See Policy section Approval of Solicitations). After review, the Executive Director must provide recommendations to the Planning Boards/Commission for approval or disapproval of participation.
- Reviewing solicitation requests/activities approved by Department Heads to ensure consistency throughout the Commission.
- Managing Commission-wide solicitations including campaign drives such as the United Way/Combined Health Appeal campaigns. Management activities include requesting volunteer representatives from any department of the Commission.

Department Heads are responsible for:

- Communicating this Practice to employees within their respective departments.
- Reviewing and approving/disapproving employee requests for solicitation of other employees.
- Communicating the policy to Commission employees wishing to solicit employees.
- Informing the Executive Director of all approved requests by employees and any violations of policy by employees or non-employees.

VIOLATIONS OF POLICY

Individuals who violates this Practice are subject to disciplinary action, up to and including, termination of employment. Disciplinary actions shall be handled in accordance with the Merit System Rules and Regulations and any applicable Collective Bargaining Agreement. Practice 2-16, "Seasonal/Intermittent, Term and Temporary Employment" shall be used for disciplinary actions covering contract employees.

PROCEDURES

The Executive Director is responsible for communicating procedures for solicitations, which have been approved for participation by the Commission (i.e., United Way/Combined Health Appeal campaign drives).



PRACTICE

Approved by

No. 5-70

The Commission

Initially issued: 03/18/1992

Last amended: 01/17/2018

Last reviewed: 01/17/2018

Rescinded and incorporated into Administrative
Practice 2-24, Code of Ethics (Date TBA)

FINANCIAL DISCLOSURE

AUTHORITY

This Practice was initially approved by the Commission on March 18, 1992. This Practice was last amended on January 17, 2018 by the Commission.

PURPOSE & BACKGROUND

The purpose of this Practice is to ensure compliance with the Maryland Public Ethics Law to prevent the potential for conflicts of interest and to communicate the Agency's commitment to public accountability. This Practice establishes specific rules for the disclosure of certain financial information by designated M-NCPPC personnel.

This Practice was initially implemented in 1992, when it replaced, rescinded, and consolidated former Administrative Practices 5-70, Financial Disclosure and 5-71, Financial Disclosure by Commission Officers, Department Heads, and Certain Other Employees.

Since its inception, this Practice has been amended as follows:

- March 18, 2017: Updated filing requirements for Commissioners to file online with the State Ethics Commission and send two (2) printed copies to the Executive Director's Office.
- January 17, 2018: Updated to clarify filing requirements for those positions designated to file Financial Disclosure Statements, and incorporate other minor amendments and clarifications.
- March 21, 2018: Practice 5-70A renumbered to Practice 5-70.

REFERENCES

- General Provisions Article, Title 5, Maryland Public Ethics Law, Subtitle 6, Financial Disclosure, Annotated Code of Maryland
- Division II, Land Use Article, Annotated Code of Maryland
- M-NCPPC Administrative Practice 2-14, Non-Commission Employment
- M-NCPPC Administrative Practice 2-24, Ethics
- M-NCPPC Administrative Practice 2-72, Conditions for Acceptance of Awards from Outside the Commission
- M-NCPPC Administrative Practice 4-10, Purchasing
- Merit System Rules & Regulations, Chapter 1900 (Workplace Conduct and Discipline)
- State of Maryland, State Ethics Commission, Financial Disclosure Form

APPLICATION

This Practice applies to all positions as described in this policy.

DEFINITIONS

For the purposes of this Practice, the following terms shall have the meanings indicated:

The Commission: The governing body of the Maryland-National Capital Park and Planning Commission, which is comprised of five members from each of the agency’s two Planning Boards for Montgomery County and Prince George’s County.

Commissioners: Members of the Commission.

The Maryland-National Capital Park and Planning Commission: The organizational entity. For purposes of this Practice, the terms “M-NCPPC” or “agency” shall be used to reference the organizational entity.

The Maryland State Ethics Commission: A 5-member Commission composed of private citizens who are appointed by the Governor and responsible for administering the Maryland Public Ethics Law with respect to all State officials. The State Ethics Commission oversees the Maryland State Financial Disclosure system and issues the Financial Disclosure Statement forms which are utilized by this agency.

Conflict of Interest: Shall include any circumstances which interfere with, appear to interfere with, or have the potential to interfere with, the impartiality and independent judgment of a Commissioner, Appointed Officer, Department Head, or employee. (See also: Maryland Code, Land Use Art., § 15-120, et seq.; and Maryland Code, General Provisions Art., §§ 5-501 and 5-502).

Financial Interest means the following:

- (1) Ownership of any interest as the result of which the owner has received within the past three years, or is presently receiving, or in the future is entitled to receive, more than \$1,000 per year;
- (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity.

Immediate Family shall mean the spouse, parent, brother, sister, and children of an individual required to file under this practice.

Financial Disclosure Statement: The form completed annually to meet the requirements of this policy.

POLICY

Consistent with the Maryland Public Ethics Law and our commitment to public accountability, the M-NCPPC recognizes that our system of representative government is dependent in part upon the public maintaining the highest trust in their public officials and employees, and that the public have a right to know and be assured that the impartiality and independent judgment of public officials and employees will be maintained. To help ensure accountability

and awareness of conflicts of interest, this Practice outlines the requirements for completion of Financial Disclosure Statements by individuals whose employment or office puts them in a position of influencing decisions that might benefit parties doing business with, or seeking approval from, the M-NCPPC.

Notwithstanding the requirements of this Practice, individuals are expected to comply with responsibilities and requirements outlined in other applicable ethics standards and policies.

The M-NCPPC intends this Practice to be liberally construed to accomplish its purpose. The requirements of this Practice shall in all respects be consistent with and no less stringent than the standards and requirements of the Maryland Public Ethics Law, General Provisions Article, Title 5; and Division II of the Land Use Article, Annotated Code of Maryland. Therefore, this Practice should be construed in favor of disclosure. If there is any question as to whether or not an item is required to be disclosed, individuals, as a matter of course, should include the item in their required Financial Disclosure Statement.

RESCINDED

TABLE OF CONTENTS

I. Financial Disclosure Requirements Generally 5

II. Financial Disclosure Requirements for Designated M-NCPPC Positions 6

A. Designated M-NCPPC Positions6

1. Appointed Officers 6

2. Department Heads and Identified Positions 7

3. Other Positions Which Are Required to File Financial Disclosure Statements 7

B. Required Filings for New Hires/Appointees, for Individuals Serving in Acting Positions, & Upon Termination ..7

1. Newly-Hired/Appointed Individuals Holding Designated M-NCPPC Positions 7

2. Individuals Assigned to Serve in an Acting Role for 60 Days or More..... 8

3. Individuals Leaving Designated M-NCPPC Positions 8

C. Ongoing Obligations to Disclose Conflicts of Interest8

1. Appointed Officers and Department Heads 8

2. All Other Employees Required to File Disclosures 8

D. Enforcement9

III. Financial Disclosure Requirements for Commissioners9

A. Requirements for Filing Annual Financial Disclosure Statements by Commissioners9

B. Required Filings for Newly Appointed Commissioners and Commissioners Leaving Office9

1. Newly Appointed Commissioners 10

2. Commissioners Leaving Office 10

C. Ongoing Obligations to Disclose Conflicts of Interest for Commissioners10

D. Enforcement10

IV. Financial Disclosure Requirements for Designated ERS Positions10

V. Maintenance of Financial Disclosure Records10

A. Availability for Review10

B. Preservation of Records11

RESCINDED

I. Financial Disclosure Requirements Generally

This Practice identifies positions which must complete Financial Disclosure Statements. Specific requirements on timing and submission of disclosures are outlined in the relevant sections below.

- Financial Disclosure Statements cover the calendar year immediately preceding the year of filing.
- The Executive Director shall issue instructions on the filling of annual Financial Disclosure Statements no later than thirty days prior to the filing deadline of each year.
- The Financial Disclosure Statement for employees shall require disclosure of information and interests, if known, for the applicable period pertaining to:
 - Interests in real property;
 - Interests in corporations and partnerships;
 - Interests in business entities doing business with the State, the M-NCPPC, Montgomery County, or Prince George's County;
 - Gifts;
 - Employment by or interest in business entities doing business with the State, the M-NCPPC, Montgomery County, or Prince George's County;
 - Indebtedness to entities doing business with the State, the M-NCPPC, Montgomery County, or Prince George's County;
 - Family members employed by the State, the M-NCPPC, Montgomery County, or Prince George's County; and
 - Sources of earned income.
- All Financial Disclosures are to be available for public inspection upon request. See: Section III, *Maintenance of Financial Disclosure Records*.
- The filing of Financial Disclosure Statements does not relieve employees from other applicable disclosures which may exist including, but not limited to:
 - The receipt of certain gifts pursuant to Administrative Practice 2-24, *Ethics (Gifts)*.
 - Outside employment and participation in Non-Commission business pursuant to Administrative Practice 2-14, *Non-Commission Employment and Non-Commission Business*.

II. Financial Disclosure Requirements for Designated M-NCPPC Positions

A. Designated M-NCPPC Positions

The following individuals must complete a Financial Disclosure Statement Form as provided annually by the Executive Director:

1. Appointed Officers

Appointed Officers of the M-NCPPC include the Executive Director, Secretary-Treasurer, General Counsel.

- All Appointed Officers shall file their completed Financial Disclosure Statement Forms with the Commission Chair by April 30th of each year.
- The Secretary-Treasurer and General Counsel shall also forward a copy of their completed Financial Disclosure Statement to the Executive Director by April 30th.

2. Department Heads and Identified Positions

The following positions shall file a Financial Disclosure Statement with the Executive Director by April 30th of each year:

- Department Heads and Deputy-Department Heads including:
 - Director of Planning, Montgomery County
 - Deputy Director(s) of Planning, Montgomery County
 - Director of Planning, Prince George's County
 - Deputy Director(s) of Planning, Prince George's County
 - Director of Parks and Recreation, Prince George's County
 - Deputy Director(s) of Parks and Recreation, Prince George's County
 - Director of Parks, Montgomery County
 - Deputy Director(s) of Parks, Montgomery County
- Inspector General and Inspectors within the Office of the Inspector General
- Chief Information Officer
- Attorneys (as designated by the General Counsel)
- Division Chiefs

- Finance Manager
- Corporate Policy Manager
- Risk and Safety Manager

3. Other Positions Which Are Required to File Financial Disclosure Statements

Department Heads shall designate positions (outside of those listed in Section II(A)(2), above) which influence M-NCPPC matters, because of their ability to take actions, make decisions or recommendations, or advise on:

- Procurement or contracting;
- Administering grants or subsidies;
- Planning, zoning or otherwise regulating land use;
- Policy or planning decisions which impact the financial interests of third-parties.
- Land acquisitions or dispositions, land development and facility planning of Commission assets, whether owned or managed; or
- Other decisions with significant economic impact.

Designated positions may include those which are assigned to serve on a board or foundation, in their official capacity as an Commission employee. (Note: Notwithstanding the requirements of this Practice, an employee who serves on external boards or foundations, which are not related to their official capacity as a Commission employee, may still be required to disclose such activity, pursuant to Administrative Practice 2-14, *Non-Commission Employment and Non-Commission Business.*)

Individuals holding such designated positions shall file a Financial Disclosure Statement Form with the Department Head, by April 30th of each year.

Each Department Head shall submit to the Executive Director within five (5) business days following April 30th of each year:

- A list of the employees who have submitted the required Financial Disclosures, as well as
- A list of employees who have not submitted their completed Financial Disclosure Statement Forms.

B. Required Filings for New Hires/Appointees, for Individuals Serving in Acting Positions, and Upon Termination

1. Newly-Hired/Appointed Individuals Holding Designated M-NCPPC Positions

Any newly-hired/appointed individual holding an M-NCPPC position designated as having to file a

Financial Disclosure Statement pursuant to subsections I(B), above, shall file the statement with the appropriate office at the time of hire. This requirement shall be included in job advertisement, and communicated and monitored, by the hiring department.

2. Individuals Assigned to Serve in an Acting Role for 60 Days or More

Individuals placed in an acting role for an M-NCPPC position otherwise required to file a Financial Disclosure Statement pursuant to subsections I(B), shall file a Financial Disclosure Statement, when their acting assignment is anticipated to last 60 days or greater. The individual shall submit the completed Financial Disclosure Statement within 30 days of the acting assignment.

3. Individuals Leaving Designated M-NCPPC Positions

Any individual who leaves a position required to file a Financial Disclosure Statement pursuant to subsections I(B), above, shall file the statement with the appropriate office during the close-out process, prior to separation. Failure to file a required disclosure form upon separation may result in the delay or withholding of a final paycheck in appropriate circumstances. This requirement shall be communicated and monitored by the hiring department.

C. Ongoing Obligations to Disclose Conflicts of Interest

Designated positions filing a Financial Disclosure pursuant to this Practice shall have a continuing responsibility to guard against conflicts of interest, whether real or perceived.

Filing a Financial Disclosure Statement shall not relieve an individual of the responsibility to immediately disclose and provide appropriate notification as soon as a situation of actual or potential conflict arises.

The following procedures shall apply:

1. Appointed Officers and Department Heads

Appointed Officers and Department Heads shall advise the Chair of the Commission in writing whenever a real or potential conflict of interest arises. The Department Heads shall also advise their respective Planning Board Chair. The Commission shall then determine in executive session whether to permit that individual to continue participation in the matter in question or to require the Appointed Officer or Department Head to recuse himself or herself from further participation. The matter resolution shall be placed with the applicable Financial Disclosure Statement Form.

2. All Other Employees Required to File Disclosures

An employee shall advise his/her Department Head, in writing, whenever she/he believes that a conflict of interest may exist or arise.

Once a Department Head has been apprised of a real or potential conflict of interest, the Department Head shall determine whether that employee may continue to participate in the matter in question or must excuse him or herself from further participation. Both the employee's notification and the Department Head's determination shall be included with the Financial Disclosure Statement Form if applicable, or in a separate file which must be made available for public inspection upon request.

D. ENFORCEMENT

Any employee subject to the provisions of this Practice who is found to have violated its provisions, either by failure to file or by engaging in prohibited activity is subject to disciplinary action by his/her supervisor, including termination, suspension with or without pay, or other disciplinary action as may be warranted.

III. Financial Disclosure Requirements for Commissioners

Note: This Section is set forth for the reader's convenience only as a restatement of the Maryland Code applicable as of the date this Practice was promulgated. It shall not be interpreted or deemed to impose any substantive legal standard, obligation or requirement, and readers are advised accordingly to consult the Maryland Code directly for a reading of the current law.

A. Requirements for Filing Annual Financial Disclosure Statements by Commissioners

State law requires the following Financial Disclosure submissions by April 30th of each year:

1. Each Commissioner: Financial Disclosure Statements must be filed electronically with the State Ethics Commission.
2. Each Commissioner: A printed copy of the filed Disclosure Statement must be submitted to the Chief Administrative Officer of the County from which the Commissioner is appointed.
3. For Montgomery County Commissioners only: A printed copy of the filed Disclosure Statement must be submitted to the Montgomery County Council.

To assist with filing requirements, each Planning Board administrator shall compile copies of the completed Financial Disclosure Statements from the respective Commissioners and forward complete sets to comply with County submissions outlined above. One additional set shall also be forwarded to the Executive Director within 5 business days of the April 30th deadline.

B. Required Filings for Newly Appointed Commissioners and Commissioners Leaving Office

1. Newly Appointed Commissioners

Within 30 days of appointment to a Planning Board position, each Commissioner's Office is asked to forward to the Executive Director a copy of the Financial Disclosure Statement which was completed during the appointment process.

2. Commissioners Leaving Office

Within 60 days after leaving office, each Commissioner is to file a Financial Disclosure Statement for the preceding year and any portion of the current calendar year during which the individual held office:

- a) Each Commissioner: Financial Disclosure Statements must be filed electronically with the State Ethics Commission.
- b) Each Commissioner: A printed copy of the filed Disclosure Statement must be submitted to the Chief Administrative Officer of the County from which the Commissioner is appointed.

- c) For Montgomery County Commissioners only: A printed copy of the filed Disclosure Statement must be submitted to the to the Montgomery County Council.

To assist with filing requirements, each Planning Board administrator shall forward completed Financial Disclosure Statements to comply with County submissions outlined above. One additional set shall also be forwarded to the Executive Director within 5 business days of the 60 day-deadline.

C. Ongoing Obligations to Disclose Conflicts of Interest by Commissioners

Conflicts of interest shall be disclosed and handled pursuant to Maryland Code, Land Use Art., § 15-120(g).

A Commissioner is required by State Law to disclose a conflict of interest in a regular public meeting of the Commission or the Planning Boards, and that disclosure shall appear in the minutes. A Commissioner shall disqualify himself or herself and shall not participate in a decision or act which affects or appears to affect a financial interest of the Commissioner.

D. ENFORCEMENT

For Commissioners who fail to file a Financial Disclosure Statement, the State Ethics Commission may issue a complaint against the Commissioner. Commissioners are subject to the provisions of Maryland Code, Land Use Art., § 15-120(h). The penalty for violating that section of State Law is a misdemeanor conviction punishable by a fine of not more than \$1,000 or six months in jail, or both, or by suspension from the Commission for not more than six months, or by outright forfeiture and removal from office, or by any combination of these.

IV. Financial Disclosure Requirements for Designated Employees' Retirement System (ERS) Positions

The following positions shall complete a Financial Disclosure Statement Form as provided annually by the Executive Director:

- Retirement System Administrator
- Voting members of the M-NCPPC Employees' Retirement System Board of Trustees
- Any other employee of the M-NCPPC Employee's Retirement System who, in the opinion of the Retirement System Administrator, is in a position to significantly influence any financial decision of the Employees' Retirement System

Completed Financial Disclosure Statement Forms must be filed by April 30th with the Commission Chair and the Executive Director.

V. Maintenance of Financial Disclosure Records

A. Availability for Review

All Financial Disclosure Statements filed pursuant to this Practice shall be made available for public inspection upon request during normal office hours, subject to such reasonable fees as the Executive Director may establish.

Individuals wishing to examine or copy a statement must appear in person at the Executive Office Building and register their names and home address, and the names of the persons whose statements they wish to examine or copy.

A Commissioner or M-NCPPC employee who has a statement on file is entitled, upon request, to be notified of the name and home address of anyone inspecting his/her Financial Disclosure Statement.

The Executive Director and Department Head shall maintain a list of the name and home addresses of all persons examining or copying such statements, as well as the name of the person whose statement was examined.

B. Preservation of Records

Any individual subject to the provisions of this Practice shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate all reports, statements, or records required to be made pursuant to this Practice for three years from the date of the filing of the disclosure.

All Financial Disclosure Statements filed pursuant to this Practice shall be maintained by the Executive Director or for employees required to file under Section 11(A)(3), by the respective Department Heads with whom they have filed.

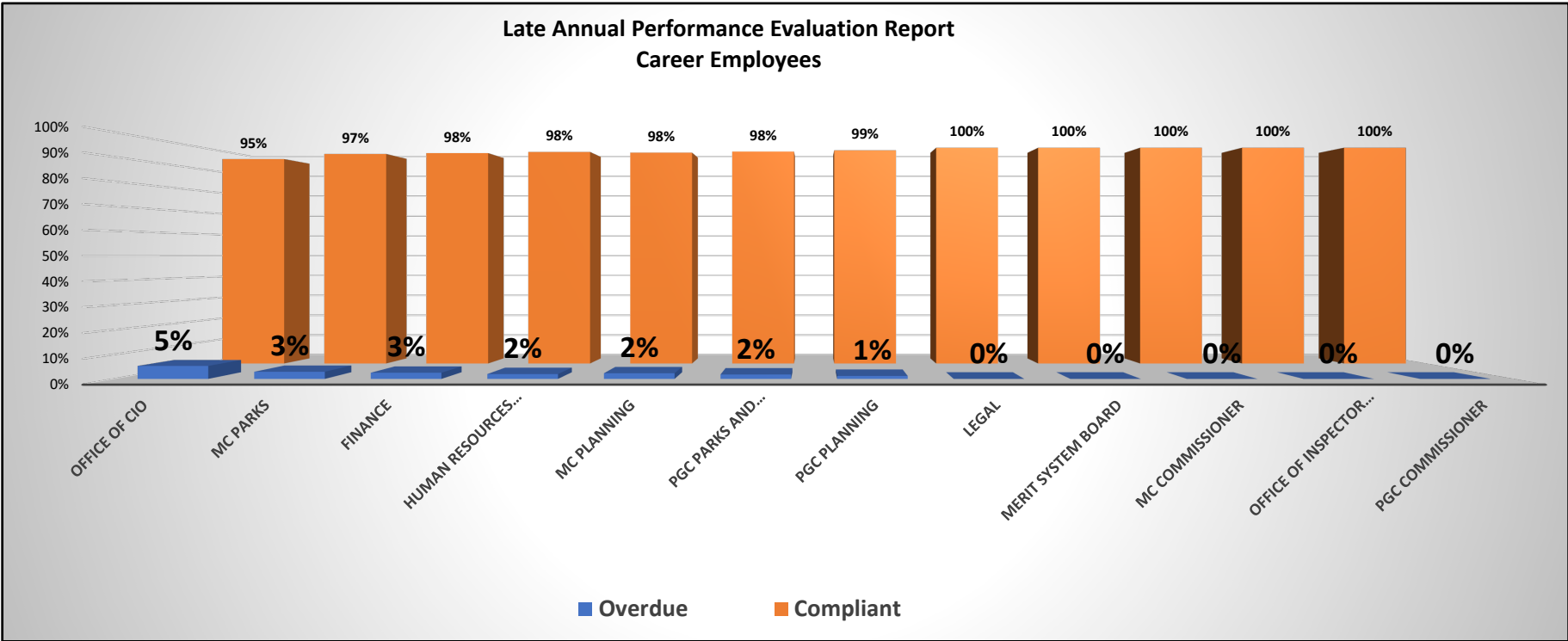
The Executive Director and the Department Heads shall maintain records of the Financial Disclosure for three years, at which time they shall be sent to Archives for retention, pursuant to the State-Approved Records Retention and Disposition Schedule.

RESCINDED

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE
BY DEPARTMENT AS OF OCTOBER 2023**

| | <u>31 - 60 DAYS</u> | | <u>61 - 90 DAYS</u> | | <u>91 + DAYS</u> | | <u>DEPARTMENT TOTALS</u> | |
|--|---------------------|-----------|---------------------|----------|------------------|----------|--------------------------|-----------|
| | Sep-23 | Oct-23 | Sep-23 | Oct-23 | Sep-23 | Oct-23 | Sep-23 | Oct-23 |
| 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 | 1 | 0 | 0 | 1 | 2 | 1 |
| OFFICE OF INSPECTOR GENERAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| EXECUTIVE COMMITTEE/CHAIRS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| DEPT. OF HUMAN RESOURCES & MGT. | 2 | 1 | 1 | 0 | 0 | 0 | 3 | 1 |
| LEGAL DEPARTMENT | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| FINANCE DEPARTMENT | 1 | 0 | 0 | 0 | 1 | 1 | 1 | 1 |
| PRINCE GEORGE'S PLANNING | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 2 |
| PRINCE GEORGE'S PARKS & RECREATION | 9 | 16 | 1 | 0 | 2 | 1 | 11 | 17 |
| MONTGOMERY COUNTY PARKS | 7 | 19 | 1 | 0 | 0 | 1 | 8 | 20 |
| MONTGOMERY COUNTY PLANNING | 2 | 3 | 0 | 0 | 0 | 0 | 2 | 3 |
| **DEPARTMENT TOTAL BY DAYS LATE** | 22 | 41 | 4 | 0 | 3 | 4 | | |
| COMMISSION-WIDE TOTAL | | | | | | | 27 | 45 |

**DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



*Data as of October 31, 2023

| <u>Employee Count</u> | Evaluation Status | | |
|-----------------------------|-------------------|--------------|-----------------|
| Department | Overdue | Compliant | Total Employees |
| Finance | 1 | 39 | 40 |
| Human Resources and Mgt | 1 | 51 | 52 |
| Legal | | 25 | 25 |
| MC Commissioner | | 3 | 3 |
| MC Parks | 20 | 707 | 727 |
| MC Planning | 3 | 132 | 135 |
| Merit System Board | | 1 | 1 |
| Office of CIO | 1 | 19 | 20 |
| Office of Inspector General | | 6 | 6 |
| PGC Commissioner | | 9 | 9 |
| PGC Parks and Recreation | 17 | 1,003 | 1,020 |
| PGC Planning | 2 | 178 | 180 |
| Total Employees | 45 | 2,173 | 2,218 |



The Maryland-National Capital Park and Planning Commission
6611 Kenilworth Avenue, Suite 302
Riverdale, Maryland 20737
(301) 454-1592 – Telephone
[Email: 115trust@mncppc.org](mailto:115trust@mncppc.org)

TO: Commissioners Date: November 15, 2023

FROM: **Gavin Cohen**, Secretary-Treasurer

SUBJECT: **M-NCPPC Post Retirement Benefit (115) Trust Annual Financial Report
for the Year Ended June 30, 2023**

Per the requirements of the 115 Trust Document, the Annual Financial Report showing the financial status of the M-NCPPC Post Retirement Benefit (115) Trust is provided for your information.

The Commission maintains the Post Retirement Benefit (115) Trust as a funding vehicle for retiree health insurance costs. The program continues to meet its obligations to the retirees as well as amortize the unfunded portion of costs from previous obligations.

Staff will be available to answer any questions as needed.

Attachment(s):

M-NCPPC Post Retirement Benefit (115) Trust Annual Report for the Year Ended June 30, 2023

**The Maryland-National Capital Park and Planning Commission
Other Post Employment Benefits Trust Fund
Statement of Plan Net Assets
For the Year Ended June 30, 2023**

| | Other Post Employment Benefits Fund |
|---------------------------------------|--|
| | |
| ASSETS | |
| Equity in Pooled Cash and Investments | \$ 1,400,534 |
| Cash | 370,456 |
| Fixed Income Securities | 30,023,214 |
| Real Estate Investments | 14,801,580 |
| Mutual Funds | 100,328,326 |
| Accrued Income on Investments | 71,517 |
| Other | 94,468 |
| Total Assets | 147,090,095 |
| LIABILITIES | |
| Accounts Payable | 154,001 |
| Claims Payable | 1,341,001 |
| Total Liabilities | 1,495,002 |
| NET POSITION | |
| Assets Held in Trust for: | |
| Other Post Employment Benefits | 145,595,093 |
| Total Net Position | \$ 145,595,093 |

**The Maryland-National Capital Park and Planning Commission
Other Post Employment Benefits Trust Fund
Statement of Changes in Plan Net Assets
For the Year Ended June 30, 2023**

| | <u>Other Post Employment Benefits Fund</u> |
|--|---|
| ADDITIONS: | |
| Contributions: | |
| Employer | \$ 25,993,254 |
| Plan Members Insurance Premiums | <u>3,873,319</u> |
| Total Contributions | <u>29,866,573</u> |
| Federal Grants - Medicare Reimbursements | 3,219,732 |
| Investment Earnings: | |
| Interest | 2,747,375 |
| Dividends | 2,189,711 |
| Net Increase (Decrease) in the Fair Value of Investments | <u>6,750,792</u> |
| Total Investment Earnings | 11,687,878 |
| Less Investment Advisory and Management Fees | <u>(350,942)</u> |
| Net Income from Investment Activities | <u>11,336,936</u> |
| Total Net Investment Income | <u>11,336,936</u> |
| Total Additions and Investment Income | <u>44,423,241</u> |
| DEDUCTIONS: | |
| Benefits | 22,786,407 |
| Administrative expenses | <u>539,956</u> |
| Total Deductions | <u>23,326,363</u> |
| Change in Net Position | 21,096,878 |
| Net Position - Beginning | <u>124,498,215</u> |
| Net Position - Ending | <u><u>\$ 145,595,093</u></u> |

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

Reply To

October 31, 2023

Debra S. Borden
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: Debra S. Borden
 General Counsel

RE: Litigation Report for October 2023 – FY 2024

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, November 15, 2023. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

Table of Contents – October 2023 FY 2024 Report

Composition of Pending Litigation.....Page 01

Overview of Pending Litigation (Chart).....Page 02

Litigation Activity SummaryPage 03

Index of New YTD Cases (FY24)Page 04

Index of Resolved YTD Cases (FY24)Page 05

Disposition of FY24 Closed Cases Sorted by DepartmentPage 06

Index of Reported Cases Sorted by Jurisdiction.....Page 08

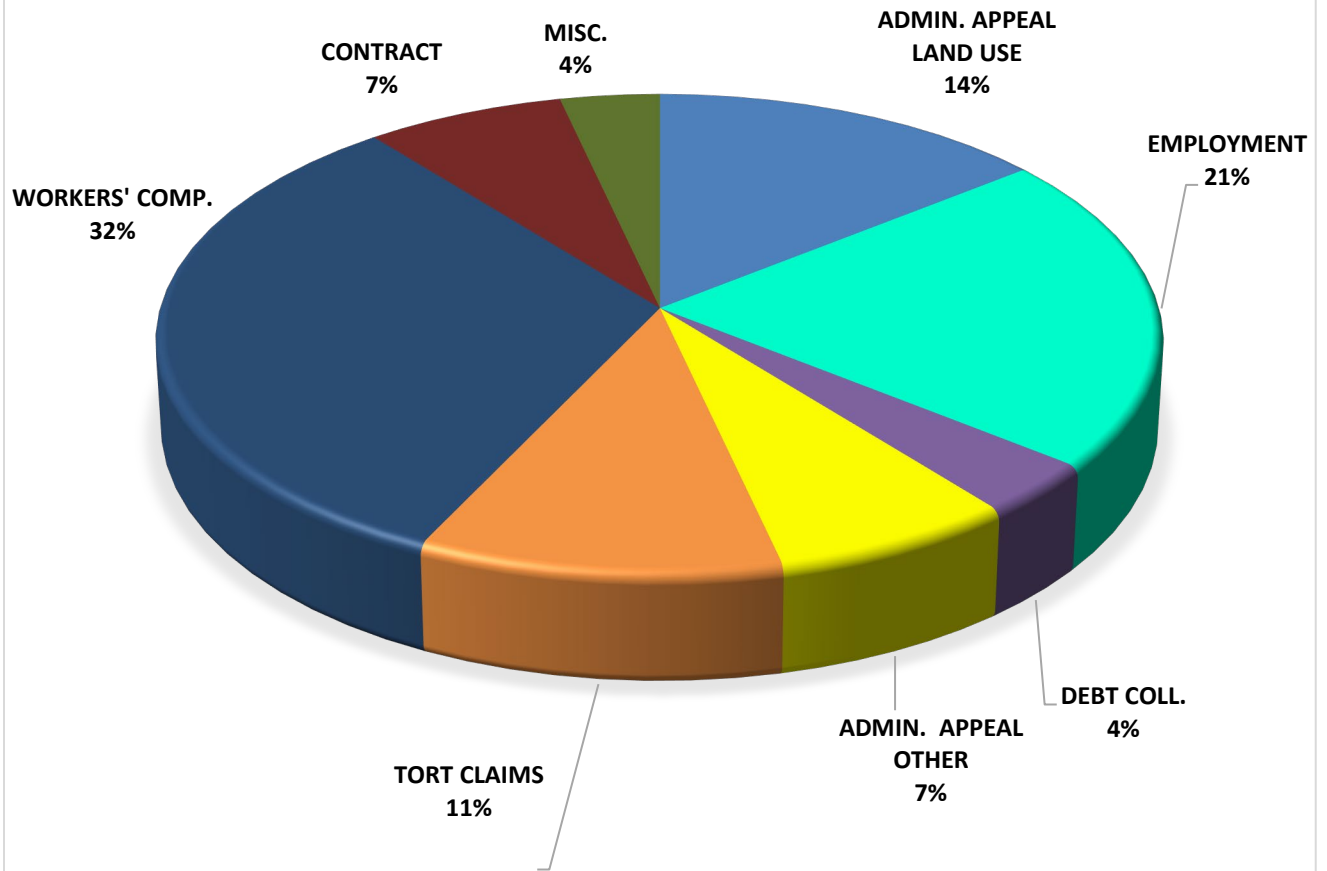
Litigation Report Ordered by Court Jurisdiction.....Page 10

October 2023
Composition of Pending Litigation

(Sorted by Subject Matter and Forum)

| | STATE TRIAL COURT | APPELLATE COURT OF MARYLAND | SUPREME COURT OF MARYLAND | FEDERAL TRIAL COURT | FEDERAL APPEALS COURT | U.S. SUPREME COURT | SUBJECT MATTER TOTALS |
|------------------------|-------------------|-----------------------------|---------------------------|---------------------|-----------------------|--------------------|-----------------------|
| ADMIN APPEAL: LAND USE | 1 | 2 | 1 | | | | 4 |
| ADMIN APPEAL: OTHER | 2 | | | | | | 2 |
| BANKRUPTCY | | | | | | | |
| CIVIL ENFORCEMENT | | | | | | | |
| CONTRACT DISPUTE | 1 | 1 | | | | | 2 |
| DEBT COLLECTION | 1 | | | | | | 1 |
| EMPLOYMENT DISPUTE | 3 | | | 2 | 1 | | 6 |
| LAND USE DISPUTE | | | | | | | |
| MISCELLANEOUS | 1 | | | | | | 1 |
| PROPERTY DISPUTE | | | | | | | |
| TORT CLAIM | 3 | | | | | | 3 |
| WORKERS' COMPENSATION | 9 | | | | | | 9 |
| PER FORUM TOTALS | 21 | 3 | 1 | 2 | 1 | | 28 |

OVERVIEW OF PENDING LITIGATION



October 2023 Litigation Activity Summary

| | COUNT FOR MONTH | | | COUNT FOR FISCAL YEAR 2024 | | | |
|-------------------------------------|--------------------------|--------------|-------------------|----------------------------|-------------------------|------------------------------|-----------------------------|
| | Pending Sept. 2023 | New Cases | Resolved Cases | Pending Prior F/Y | New Cases F/YTD** | Resolved Cases F/YTD** | Pending Current Month |
| Admin Appeal: Land Use (AALU) | 4 | | | 4 | 3 | 3 | 4 |
| Admin Appeal: Other (AAO) | 2 | | | 2 | | | 2 |
| Bankruptcy (B) | | | | | | | |
| Civil Enforcement (CE) | | | | | | | |
| Contract Disputes (CD) | 2 | | | 2 | | | 2 |
| Debt Collection (D) | 2 | | 1 | 2 | | 1 | 1 |
| Employment Disputes (ED) | 7 | | 1 | 3 | 5 | 1 | 6 |
| Land Use Disputes (LD) | | | | 1 | | 1 | |
| Miscellaneous (M) | | 1 | | 1 | 1 | 2 | 1 |
| Property Disputes (PD) | | | | | | | |
| Tort Claims (T) | 2 | 1 | | 2 | 1 | | 3 |
| Workers' Compensation (WC) | 9 | | | 6 | 8 | 2 | 9 |
| TOTALS | 28 | 2 | 2 | 23 | 18 | 10 | 28 |

**INDEX OF YTD NEW CASES
(7/1/2023 TO 6/30/24)**

| A. <u>New Trial Court Cases.</u> | <u>Unit</u> | <u>Subject Matter</u> | <u>Month</u> |
|--|--------------------|------------------------------|---------------------|
| Wright v. Commission | MC | Misc. | Mar. |
| Mays v. Commission, et al. | Charles County | ED | July |
| Wallace v. Commission, et al. | PG | ED | July |
| Celey v. Commission | PG | ED | July |
| In the Matter of Pocahontas Drive Homeowners | MC | AALU | July |
| Fennell v. Commission | PG | ED | Aug. |
| In the Matter of Jeanne Kavinsky | PG | WC | Sept. |
| In the Matter of Jeanne Kavinsky | PG | WC | Sept. |
| In the Matter of Jeanne Kavinsky | PG | WC | Sept. |
| In the Matter of Jeanne Kavinsky | PG | WC | Sept. |
| Carolyn Gray v. Commission, et al. | PG | PD | Oct. |

| B. <u>New Appellate Court Cases.</u> | <u>Unit</u> | <u>Subject Matter</u> | <u>Month</u> |
|--|--------------------|------------------------------|---------------------|
| Brij Bhargava, et al. v. Prince George's County Public Schools Proposed Southern K-8 Middle School, et al. | PG | AALU | May |
| Friends of Ten Mile Creek v. Montgomery County Planning Board | MC | AALU | Aug. |

**INDEX OF YTD RESOLVED CASES
(7/1/2023 TO 6/30/2024)**

| <u>A. Trial Court Cases Resolved</u> | <u>Unit</u> | <u>Subject Matter</u> | <u>Month</u> |
|--|--------------------|------------------------------|---------------------|
| English-Figaro v. Planning Board of Prince George's County | PG | AALU | June |
| Fairwood Community Association, Inc. v. Prince George's County Planning Board | PG | AALU | July |
| Citizen Association of Kenwood, Inc. v. Commission | MC | LUD | Aug. |
| In the Matter of James Montville | PG | WC | Aug. |
| Wilmington Savings Fund Society FSB v. Burke, et al. | PG | Misc. | Aug. |
| Commission v. Faulk | PG | DC | Aug. |
| Deakins v. Commission, et al. | MC | ED | Sept. |

| <u>B. Appellate Court Cases Resolved</u> | <u>Unit</u> | <u>Subject Matter</u> | <u>Month</u> |
|---|--------------------|------------------------------|---------------------|
| In the Matter of Friends of Ten Mile Creek, et al. | MC | AALU | July |

| Disposition of FY24 Closed Cases Sorted by Department | | |
|--|--|---|
| CLIENT | PRINCIPAL CAUSE OF ACTION IN DISPUTE | DISPOSITION |
| Employees Retirement System | | |
| Finance Department | | |
| Department of Human Resources & Management | | |
| Montgomery County Department of Parks | | |
| Deakins v. Commission, et al. | Complaint by former employee relating to Commission's COVID-19 vaccination mandate. Complaint alleged disability discrimination and unreasonable failure to accommodate | 09/25/2023 – Case settled. |
| Montgomery County Park Police | | |
| Montgomery County Planning Board | | |
| Citizen Association of Kenwood, Inc. v. Maryland-National Park and Planning Commission | Complaint to prevent implementation of road diet project for Little Falls Parkway in Montgomery County. | 08/01/2023 - Voluntary Dismissal Without Prejudice |
| In the Matter of Friends of Ten Mile Creek, et al. | Appeal of decision affirming the Montgomery County Planning Board's approval of Site Plan 820200160 – Creekside at Cabin Branch. | 07/18/2023 – Judgment of the Circuit Court for Montgomery County affirmed. |
| Prince George's County Department of Parks and Recreation | | |
| In the Matter of James Montville | Claimant sought judicial review of Workers' Compensation Commission decision dated October 3, 2022, which determined that he has a 12% permanent partial disability. Claimant was seeking an award that was much higher. | 08/10/2023 - Case remanded to Workers' Compensation Commission for approval of agreement. |
| Commission v. Faulk | Subrogation action to recover losses for damage(s) to Commission property | 08/28/2023 - Judgment in favor of the Commission for \$3,546.13. |

| | | |
|---|---|---|
| Wilmington Savings Fund Society FSB v. Burke, et al. | Lawsuit to quiet title to deed of trust and extinguish the lien and debt associated with that deed, establishing that Plaintiff's deed is in full force and effect and has first priority over the Commission's lien on property owned by Tomel Burke, judgment Debtor. | 08/30/2023 - Judgment by Consent against the Commission in favor of the Plaintiff |
| Prince George's County Planning Board | | |
| English-Figaro v. Planning Board of Prince George's County | Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104. | 06/01/2023 Case voluntarily dismissed with prejudice. |
| Fairwood Community Association, Inc. v. Prince George's County Planning Board | Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104. | 07/27/2023 - Case voluntarily dismissed without prejudice. |
| Prince George's Park Police | | |
| | | |
| Office of Internal Audit | | |

INDEX OF CASES

DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND 10
Commission v. Build A Barn, LLC 10
DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND 10
Commission v. Lindsey 10
CIRCUIT COURT FOR CHARLES COUNTY, MARYLAND 11
Beth Mays v. Maryland-National Park and Planning Commission, et al. 11
CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND 12
In the Matter of Joshua P. Scully 12
In the Matter of Pocahontas Drive Homeowners 12
Wright v. Commission 13
CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND 14
Tiffany Celey v. Maryland-National Capital Park and Planning Commission 14
In the Matter of William Dickerson 14
Carolyn Gray v. Maryland-National Capital Park and Planning Commission, et al. 15
In the Matter of Danielle Jones-Dawson 15
In the Matter of Jeanne Kavinski 16
In the Matter of Jeanne Kavinsky 16
In the Matter of Jeanne Kavinsky 17
In the Matter of Jeanne Kavinsky 17
In the Matter of Jeanne Kavinsky 18
In the Matter of Kenneth L. Rogers 18
Simmons v. Commission, et al. 19
Troublefield v. Prince George's County, et al. 20
Rakiya-Rae Wallace v. Commission, et al. v. Commission, et al. 20
APPELLATE COURT OF MARYLAND 21
Brij Bhargava, et al. v. Prince George's County Public Schools 21
Proposed Southern K-8 Middle School 21
HMF Paving Contractors Inc. v. Maryland-National Park and Planning Commission 21
Wolf, et al. v. Planning Board of Prince George's County 22
SUPREME COURT OF MARYLAND 23
Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board 23
U.S. DISTRICT COURT OF MARYLAND 24
Fennell v. The Maryland-National Capital Park and Planning Commission 24
Izadjoo v. Commission, et al. 24

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT 25
Evans v. Commission, et al..... 25

DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

Commission v. Build A Barn, LLC

Case No. D-06-CV-23-013209 (C)

Lead Counsel: Johnson
Other Counsel:

Abstract: Breach of Contract matter to recover funds expended for sheds that were never received.

Status: Hearing set.

Docket:

| | |
|------------|------------------|
| 05/11/2023 | Complaint filed |
| 08/18/2023 | Defendant served |
| 11/29/2023 | Hearing set |

DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Commission v. Lindsey

Case No. 050200183742022 (D)

Lead Counsel: Johnson
Other Counsel:

Abstract: Action to recover losses for damage(s) to Commission property.

Status: Motion for Alternative Service granted.

Docket:

| | |
|------------|--|
| 09/12/2022 | Complaint filed |
| 12/05/2022 | Request for summons renewal filed |
| 05/02/2023 | Request for summons renewal filed |
| 06/26/2023 | Affidavit of Non-service filed |
| 07/18/2023 | Motion for Alternative Service denied |
| 08/25/2023 | Second Motion for Alternative Service filed |
| 09/12/2023 | Order of the Court. Motion for Alternative Service Granted |
| 10/26/2023 | Request for summons renewal filed |

CIRCUIT COURT FOR CHARLES COUNTY, MARYLAND

Beth Mays v. Maryland-National Park and Planning Commission, et al.

Case No. C-08-CV-23-000516 (ED)

Lead Counsel: Foster
Other Counsel: Crowe

Abstract: Employee terminated from the Commission for her COVID vaccination status has brought suit alleging several employment-related claims, such as religious and genetic discrimination, retaliation, and wrongful discharge

Status: Hearing on Motion to Dismiss set.

Docket:

| | |
|------------|--|
| 07/03/2023 | Complaint filed |
| 07/12/2023 | Commission served |
| 08/07/2023 | Commission's Motion to Dismiss filed |
| 08/21/2023 | Consent Stipulation to Extend time for Plaintiff to Respond to Motion to Dismiss |
| 09/05/2023 | Response in Opposition to Motion to Dismiss |
| 09/05/2023 | Amended Complaint |
| 09/13/2023 | Order to Extend time |
| 09/20/2023 | Motion to Dismiss Amended Complaint |
| 10/05/2023 | Response in Opposition to Motion to Dismiss |
| 10/16/2023 | Reply to Plaintiff's Opposition to Motion to Dismiss |
| 11/28/2023 | Hearing set regarding Motion to Dismiss |

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

In the Matter of Joshua P. Scully
Case No. C-15-CV-23-002546 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of Workers' Compensation Order finding that claimant at maximum medical improvement and denying right shoulder surgery.

Status: Hearing set.

Docket:

| | |
|------------|------------------------------------|
| 06/27/2023 | Petition for Judicial Review filed |
| 12/01/2023 | Hearing set |

In the Matter of Pocahontas Drive Homeowners
Case No. C-15-CV-23-002634 (AALU)

Lead Counsel: Mills
Other Counsel:

Abstract: Petitioners seeks Judicial Review of the Montgomery County Planning Department's approval of Forest Conservation Act Exemption 4203166E to Davis Airport.

Status: Hearing set.

Docket:

| | |
|------------|---|
| 07/05/2023 | Petition for Judicial Review filed |
| 07/14/2023 | Response to Petition for Judicial Review |
| 09/05/2023 | Motion to Extend time for Filing of the Administrative Record |
| 09/15/2023 | Order Granting Motion to Extend Time |
| 09/18/2023 | Notice of Record Issued |
| 10/06/2023 | Memorandum |
| 10/26/2023 | Responsive Memorandum |
| 11/14/2023 | Hearing set |

Wright v. Commission

Case No. C-15-CV-23-000909 (Misc.)

Lead Counsel: Patterson
Other Counsel: Marcus

Abstract: Plaintiff is seeking to enforce a request under the Maryland Public Information Act.

Status: Motion pending.

Docket:

| | |
|------------|---|
| 03/09/2023 | Complaint |
| 04/13/2023 | Motion for Summary Judgment |
| 05/26/2023 | Opposition to Motion for Summary Judgment |
| 08/14/2023 | Motions Hearing |
| 08/14/2023 | Court takes under advisement Plaintiff's Motion for Discovery and Defendant's Motion for Summary Judgment |
| 08/25/2023 | Motion for Summary Judgment Denied. Motion for Discovery deferred for 30 days |
| 09/25/2023 | Motion for Reconsideration and revise order denying Motion for Summary Judgment and request for hearing |
| 10/17/2023 | Consent Motion to Extend Time |
| 10/25/2023 | Opposition to Motion to Revise Judgment and request for hearing |
| 01/18/2024 | Trial |

CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND

Tiffany Celey v. Maryland-National Capital Park and Planning Commission

Case No. C-16-CV-23-003168 (ED)

Lead Counsel: Foster
Other Counsel: Johnson

Abstract: Defendant is alleging discrimination based upon race, sex, retaliation, and disability.

Status: Commission has yet to be served.

Docket:

| | |
|------------|------------------|
| 07/12/2023 | Complaint filed |
| 09/26/2023 | Summons reissued |

In the Matter of William Dickerson

Case No. C-16-CV-23-001402 (AAO)

Lead Counsel: Gates (Groom Law Group)
Other Counsel:

Abstract: Claimant seeks judicial review of Employees Retirement System (“ERS”) decision dated February 21, 2023, which denied a reconsideration of the COLA calculation.

Status: Petition for Judicial Review filed.

Docket:

| | |
|------------|---|
| 03/28/2023 | Petition for Judicial Review filed |
| 04/05/2023 | ERS served |
| 04/25/2023 | Administrative Record received |
| 05/26/2023 | Stipulation for Extension of Time for Petition to File Opening Memorandum |
| 06/20/2023 | Petitioner’s Memorandum of Law in Support of Petition for Judicial Review |
| 06/29/2023 | Stipulation for Extension of Time for Respondent to File Answering Memorandum |
| 06/30/2023 | Order Granting Extension of Time |
| 07/31/2023 | Response to Petitioner’s Memorandum |
| 08/12/2023 | Reply Memorandum |

Carolyn Gray v. Maryland-National Capital Park and Planning Commission, et al.

Case No. C-16-CV-23-004509 (PD)

Lead Counsel: Rupert
Other Counsel:

Abstract: Plaintiff alleges the Commission caused damage to her property.

Status: Complaint filed.

Docket:

| | |
|------------|-------------------|
| 09/30/2023 | Complaint filed |
| 10/13/2023 | Commission served |

In the Matter of Danielle Jones-Dawson

Case No. C-16-CV-22-000675 (AAO)

Lead Counsel: Crowe
Other Counsel: Foster

Abstract: Claimant seeks judicial review of Merit Board decision (October 20, 2022) denying claimant's appeal of her termination due to non-compliance with Notice 21-07, COVID-19 Vaccination Requirements.

Status: Hearing set.

Docket:

| | |
|------------|--|
| 11/20/2022 | Petition for Judicial Review filed |
| 11/29/2022 | Response to Petition for Judicial Review |
| 02/08/2023 | Memorandum for Petitioner |
| 03/09/2023 | Commission's Answering Memorandum |
| 12/04/2023 | Hearing set |

In the Matter of Jeanne Kavinski

Case No. C-16-CV-23-001821, C-16-CV--23-001826, C-16-CV-23-001827 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant filed the same issues in three claims with overlapping body parts seeking authorization for treatment and causal relationship of a new injury. In addition, the Commission contested whether a compensable injury occurred in a new claim (D/A:4/28/2021). The Commission was successful in defending the authorization for treatment and against the new claim. Claimant has appealed the determination in all three claims.

Status: Response filed. Discovery Pending in C-16-CV-23-001827. Other cases consolidated. Trial set.

Docket:

| | |
|------------|---|
| 04/18/2023 | Petition for Judicial Review filed |
| 05/02/2023 | Response to Petition for Judicial Review filed in all three cases |
| 05/02/2023 | Commission's Designation of Experts filed in case number C-16-CV-23-001827 |
| 06/27/2023 | Order of the Court. Cases C-16-CV23-001821 and C-16-CV-23-001826 are consolidated. Case - C-16-CV-23-001821 to serve as the lead case |
| 08/29/2023 | Scheduling Order issued in C-16-CV23-001827 |
| 05/08/2024 | Trial in case C-16-CV23-001827 |

In the Matter of Jeanne Kavinsky

Case No. C-16-CV-23-004139 (WC)

Lead Counsel: Foster
Other Counsel: Crowe

Abstract: Claimant sought a finding that treatment to her left ankle, to include surgery, and associated indemnity benefits were causally related to any of the subject claims; all treatment and related benefits were denied. Claimant also sought a finding of permanent disability related to head injuries; the Commission found no permanent disability. Claimant has appealed all findings.

Status: Trial set.

Docket:

| | |
|------------|--|
| 09/08/2023 | Petition for Judicial Review filed |
| 09/29/2023 | Response to Petition for Judicial Review |
| 09/29/2023 | Expert Designation |
| 06/10/2024 | Settlement Hearing |
| 08/13/2024 | Trial |

In the Matter of Jeanne Kavinsky
Case No. C-16-CV-23-004296 (WC)

Lead Counsel: Foster
Other Counsel: Crowe

Abstract: Claimant sought a finding that treatment to her left ankle, to include surgery, and associated indemnity benefits were causally related to any of the subject claims; all treatment and related benefits were denied. Claimant also sought a finding of permanent disability related to head injuries; the Commission found no permanent disability. Claimant has appealed all findings.

Status: Trial set.

Docket:

| | |
|------------|--|
| 09/19/2023 | Petition for Judicial Review filed |
| 09/29/2023 | Response to Petition for Judicial Review |
| 09/29/2023 | Expert Designation |
| 06/10/2024 | Settlement Hearing |
| 08/13/2024 | Trial |

In the Matter of Jeanne Kavinsky
Case No. C-16-CV-23-004297 (WC)

Lead Counsel: Foster
Other Counsel: Crowe

Abstract: Claimant sought a finding that treatment to her left ankle, to include surgery, and associated indemnity benefits were causally related to any of the subject claims; all treatment and related benefits were denied. Claimant also sought a finding of permanent disability related to head injuries; the Commission found no permanent disability. Claimant has appealed all findings.

Status: Petition for Judicial Review filed.

Docket:

| | |
|------------|--|
| 09/19/2023 | Petition for Judicial Review filed |
| 09/29/2023 | Response to Petition for Judicial Review |
| 09/29/2023 | Expert Designation |
| 10/07/2024 | Trial |

In the Matter of Jeanne Kavinsky
Case No. C-16-CV-23-004298 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant sought a finding that treatment to her left ankle, to include surgery, and associated indemnity benefits were causally related to any of the subject claims; all treatment and related benefits were denied. Claimant also sought a finding of permanent disability related to head injuries; the Commission found no permanent disability. Claimant has appealed all findings.

Status: Trial set.

Docket:

| | |
|------------|--|
| 09/19/2023 | Petition for Judicial Review filed |
| 09/29/2023 | Response to Petition for Judicial Review |
| 09/29/2023 | Designation of Experts |
| 07/30/2024 | Trial set. |

In the Matter of Kenneth L. Rogers
Case No. C-16-CV-23-001935 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of Workers' Compensation Commission decision dated March 30, 2023, which determined that the Claimant did not suffer from a serious disability.

Status: Case settled and remanded to Workers' Compensation Commission.

Docket:

| | |
|------------|--|
| 04/26/2023 | Petition filed |
| 05/10/2023 | Response to Petition for Judicial Review Filed |
| 05/10/2023 | Designation of Expert Witnesses |
| 10/19/2023 | Joint Voluntary Dismissal |
| 10/19/2023 | Order granting Joint Motion to Dismiss and remanding matter to Workers' Compensation Commission. |

Simmons v. Commission, et al.
Case No. C-16-CV-23-000873 (Tort)

Lead Counsel: Thornton
Other Counsel: Crowe

Abstract: Tort suit for injuries allegedly sustained while attending Therapeutic Recreations Programs, Kids' Care After-School Program at Cedar Heights Community Center.

Status: In discovery.

Docket:

| | |
|------------|---|
| 02/24/2023 | Complaint filed |
| 02/28/2023 | Commission served |
| 03/28/2023 | Motion to Dismiss filed. |
| 03/30/2023 | Prince George's County's Motion to Dismiss |
| 04/14/2023 | Stipulation of Dismissal as to Defendants Prince George's County and Maryland-National Park and Planning Commission |
| 04/20/2023 | Answer of Defendant Chatman |
| 05/09/2023 | Scheduling Order issued |
| 06/05/2023 | Order Granting Plaintiff's Consent Motion to Extend Time to Respond to Motion to Dismiss |
| 08/21/2023 | Line to Correct Misnomer, Entry of Appearance and Notice of Discovery filed |
| 05/06/2024 | Trial |

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

Case No. CAL 22-12298 (Tort)

Lead Counsel: Thornton
Other Counsel: Rupert

Abstract: Tort suit for injuries allegedly sustained while attending a graduation ceremony at Show Pace Arena.

Status: Case settled.

Docket:

| | |
|------------|---|
| 04/11/2022 | Complaint filed |
| 04/27/2022 | Commission served |
| 05/09/2022 | Stipulation/Line of Dismissal as to Prince George's County only |
| 05/20/2022 | Commission's Answer filed |
| 08/15/2023 | Motion to Dismiss Show Place Arena and supporting Memo |
| 08/15/2023 | Notice of Appearance |
| 08/18/2023 | Plaintiff's Response to Motion to Dismiss |
| 08/30/2023 | Order Granting Motion to Dismiss as to Show Place Arena |
| 10/13/2023 | Stipulation of Dismissal |

Rakiya-Rae Wallace v. Commission, et al. v. Commission, et al.

Case No. C-16-CV-23-003055 (ED)

Lead Counsel: Foster
Other Counsel: Johnson

Abstract: Employee terminated from the Commission for her COVID vaccination status has brought suit alleging several employment-related claims, such as religious and genetic discrimination, retaliation, and wrongful discharge

Status: Motion to Dismiss pending.

Docket:

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|------------|--|
| 07/03/2023 | Complaint filed |
| 07/12/2023 | Commission served |
| 08/07/2023 | Motion to Dismiss and Supporting Memorandum |
| 08/21/2023 | Consent Stipulation to Extend Time to Respond to Motion to Dismiss |
| 09/05/2023 | Response in Opposition to Defendants' Motion to Dismiss |
| 09/05/2023 | Amended Complaint |
| 09/18/2023 | Order of Court. Motion to Dismiss Denied as Moot |
| 09/22/2023 | Motion to Dismiss Amended Complaint |
| 10/06/2023 | Response in Opposition to Dismiss Amended Complaint |
| 10/18/2023 | Reply to Opposition to Motion to Dismiss |

APPELLATE COURT OF MARYLAND

Brij Bhargava, et al. v. Prince George's County Public Schools
Proposed Southern K-8 Middle School

Case No. ACM REG – 0659-2023 (AALU)
(Originally filed under CAL21-13945 in Prince George's County)

Lead Counsel: Warner
Other Counsel:

Abstract: Appeal of decision affirming the Prince George's County Planning Board's decision to affirm the Planning Director's approval of a tree conservation plan, a revision of that tree conservation plan, and variances to the Woodland Conservation Ordinance that allowed removal of specimen trees.

Status: Appeal filed.

Docket:

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|------------|---|
| 05/31/2023 | Appeal filed |
| 06/27/2023 | Order to Proceed |
| 08/25/2023 | Briefing Notice |
| 08/30/2023 | Joint Stipulation to Modify Briefing Schedule |
| 10/11/2023 | Record Extract |
| 10/13/2023 | Appellant Brief |
| 12/01/2023 | Appellees Brief due |

HMF Paving Contractors Inc. v. Maryland-National Park and Planning Commission

Case No. ACM- REG-0840-2023 (CD)
(Originally filed under 483255-V in Montgomery County)

Lead Counsel: Rupert
Other Counsel: Mills (CCRC)

Abstract: Appeal of decision affirming CCRC decision denying HMF's demand that an allowance be made, and additional monies be paid by the Commission to HMF for construction at Greenbriar Local Park.

Status: Settlement reached.

Docket:

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|------------|--------------------------|
| 06/26/2023 | Notice of Appeal |
| 07/11/2023 | Civil Information Report |
| 08/03/2023 | Order to Proceed |
| 09/19/2023 | Briefing Notice |
| 10/28/2023 | Notice of Settlement |

Wolf, et al. v. Planning Board of Prince George's County

Case No. ACM-REG-2099-2022 (AALU)

(Originally filed under CAL20-14895 in Prince George's County)

Lead Counsel: Warner
Other Counsel:

Abstract: Appeal of decision affirming the Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-18001 (Magruder Pointe).

Status: Oral argument set.

Docket:

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|------------|---|
| 02/02/2023 | Notice of Appeal |
| 02/23/2023 | Show Cause Issued to Appellant. Civil Appeal Information Report due March 10, 2023. |
| 02/28/2023 | Motion |
| 03/03/2023 | Order |
| 03/08/2023 | Motion |
| 03/20/2023 | Order to Proceed |
| 05/19/2023 | Briefing Notice |
| 07/03/2023 | Appellant's Brief filed |
| 08/04/2023 | Appellee's Brief filed |
| 08/24/2023 | Reply Brief |
| 08/25/2023 | Reply Brief |
| 09/25/2023 | Scheduling Notice |
| 11/01/2023 | Oral argument |

SUPREME COURT OF MARYLAND

Friends of Ten Mile Creek, et al. v. Montgomery County Planning Board

Case No. SCM-PET-0177-2023 (AALU)

(Originally filed under 487649-V in Montgomery County and CSA-REG-1094-2022)

Lead Counsel: Mills
Other Counsel:

Abstract: Petitioner seeks appeal of Decision of the Appeal's Court of Maryland affirming the Appeal of decision affirming the Montgomery County Planning Board's approval of Site Plan 820200160 – Creekside at Cabin Branch.

Status: Petition denied.

Docket:

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|------------|-------------------|
| 08/17/2023 | Appeal filed |
| 09/01/2023 | Respondent Answer |
| 10/24/2023 | Petition denied. |

U.S. DISTRICT COURT OF MARYLAND

Fennell v. The Maryland-National Capital Park and Planning Commission
8:23-cv-02314-AAQ (ED)

Lead Counsel: Foster
Other Counsel: Rupert; Thornton

Abstract: Fennell has filed suit arising out of her termination from employment related to her COVID vaccination status.

Status: Complaint filed. Commission has yet to be served.

Docket:

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|------------|---------------------------------|
| 08/24/2023 | Complaint filed |
| 09/07/2023 | Disclosure statement by Fennell |

Izadjoo v. Commission, et al.
8:23-cv-00142 GLS (ED)

Lead Counsel: Foster
Other Counsel: Thornton

Abstract: Former Montgomery Parks employee alleging employment discrimination

Status: Motion pending.

Docket:

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|------------|--|
| 01/19/2023 | Complaint filed |
| 01/25/2023 | Case Management Order |
| 02/07/2023 | Commission served |
| 02/13/2023 | Request for Pre-Motion Conference re: Intent to File Motion to Dismiss |
| 09/01/2023 | Order granting Defendant Leave to file Proposed Motion |
| 09/06/2023 | Consent to Magistrate Judge |
| 09/08/2023 | Order referring case to Magistrate |
| 09/22/2023 | Motion to Dismiss for Failure to State a Claim |
| 10/06/2023 | Response in Opposition to Motion to Dismiss |

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT

Evans v. Commission, et al.
Case No. 23-1475
(Appeal from 8:19-cv-02651) (ED)

Lead Counsel: Foster
Other Counsel: Levan

Abstract: Plaintiff, police lieutenant, filed a complaint against the Commission and four individual defendants, alleging discrimination, retaliation and assorted negligence and constitutional violations.

Status: Appeal filed.

Docket:

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|------------|---|
| 04/25/2023 | Appeal filed |
| 05/25/2023 | Briefing Order filed |
| 07/05/2023 | Joint Appendix by Evans |
| 07/05/2023 | Brief of Evans |
| 08/04/2023 | Brief of Commission, et al. |
| 08/07/2023 | Docket Correction requested by Commission, et al. |
| 08/08/2023 | Brief of Commission, et al. |
| 08/25/2023 | Evans' Reply Brief filed |