

***COMMISSION  
MEETING***

***January 16, 2013***

***9:30 a.m.***

***PARKS AND RECREATION  
AUDITORIUM***



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

**Wednesday, January 16, 2013**

**PRA**

**9:30 a.m. – 11:30 a.m.**

				<u>ACTION</u>	
				Motion	Second
1.	<b>Approval of Commission Agenda</b>	(+*) Page	1	_____	_____
2.	<b>Rotation of the Commission Chair</b>	(*)			
3.	<b>Approval of Commission Minutes</b> Commission Meeting – December 19, 2012	(+*) Page	3	_____	_____
4.	<b>General Announcements</b>				
5.	<b>Committee/Board Reports (For Information Only):</b>				
	a) Executive Committee Meeting Minutes – January 2, 2013	(+) Page	7		
	b) 115 Trust (OPEB) Board Meeting Minutes – April 18, 2012 and July 18, 2012	(+) Page	13		
6.	<b>Commission Presentations and Action Items</b>				
	a) OPEB Valuation – Retiree Healthcare Programs (Secretary-Treasurer Zimmerman/Boomershine Consulting)	(+) Page	17		
	b) Government Finance Officers Association Award (Secretary-Treasurer Zimmerman)				
	c) Amendments to Practice 1-31, Organization and Functions of the Audit Committee and 3-31, Fraud, Waste, and Abuse (Anju Bennett)	(+*) Page	31	_____	_____
<hr/>					
	<b>d) <u>Officers' Reports</u></b>				
	(1) <b>Executive Director</b>				
	Late Employee Performance Evaluations (December 2012).....	(+) Page	59		
	(2) <b>Secretary-Treasurer</b>				
	Investment Report – (November 2012).....	(+) Page	61		
	(3) <b>General Counsel</b>				
	Litigation Report .....	(+) Page	67		
	Legislative Update				
7.	<b>Closed Discussion: Collective Bargaining</b> Pursuant to Maryland State Government Article of the Annotated Code of Maryland, Section 10-508(a) (7) & (8) this session is closed to consult with counsel for legal advice, conduct collective bargaining discussions, and consider matters that relate to negotiations. (Executive Director Barney)				

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





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting  
December 19, 2012  
Minutes

The Maryland-National Capital Park and Planning Commission met on December 19, 2012, at 9:30 a.m. in the Montgomery Regional Office in Silver Spring, Maryland.

PRESENT

Prince George's County Commissioners

Elizabeth Hewlett, Vice-Chair  
John Shoaff  
Dorothy Bailey  
Manuel Geraldo

Montgomery County Commissioners

Françoise Carrier, Chair  
Marye Wells-Harley  
Casey Anderson  
Norman Dreyfuss

ABSENT

A. Shuanise Washington

Amy Presley

Chair Carrier convened the meeting at 9:45 a.m.. The Commission meeting was delayed due to a special meeting of the Montgomery County Planning Board.

With respect to the Commission meeting agenda, Chair Carrier stated that Item 5c will be presented before 5a to accommodate the presenters' schedule.

ITEM 1 APPROVAL OF COMMISSION AGENDA

Move Item 5c before Item 5a

Action: Motion of Anderson to approve the agenda with the modification  
Second by Wells-Harley  
8 approved the Agenda

ITEM 2 APPROVAL OF COMMISSION MINUTES

Commission Meeting – Open Session – November 19, 2012

Commission Meeting – Closed Session – November 19, 2012

Action: Motion of Hewlett to approve the Minutes  
Second by Wells-Harley  
8 approved the Minutes

ITEM 3 GENERAL ANNOUNCEMENTS

Vice-Chair Hewlett thanked everyone who worked on the holiday party and wished everyone Happy Holidays. She also wished Commissioner Geraldo a happy birthday. Chair Carrier and Commissioner Wells-Harley acknowledged Montgomery County Deputy Director of Operations John Nissel and congratulated him on his new position.

ITEM 5

Items reported as presented during Commission meeting.

5c) RESOLUTION NO. 12-28 – ADOPTION OF BURTONSVILLE  
CROSSROADS NEIGHBORHOOD PLAN

Action: Motion of Wells-Harley to approve the Resolution  
Second by Shoaff  
8 approved the Resolution

5a) RESOLUTION NO. 12-26 – UPPER PATUXENT HISTORIC  
RESOURCES AMENDMENT TO THE MASTER PLAN FOR  
HISTORIC PRESERVATION

Action: Motion of Geraldo to approve the Resolution  
Second by Hewlett  
8 approved the Resolution

5b) RESOLUTION NO. 12-27 – FY 14 PROPOSED OPERATING  
BUDGET

Before the presentation of Resolution No. 12-27, Executive Director Barney announced the upcoming resignation of Corporate Budget Manager Darin Conforti in which he announced that he has accepted another job. The Commissioners expressed gratitude to Mr. Conforti for his hard work and contributions to the budget program.

Mr. Conforti presented the Resolution and explained a last minute adjustment made to the Montgomery County side of the budget this morning. He stated that under the Montgomery County Fund section, the FY14 proposed figure for the Parks department should be \$84.2 million, the sub-total for the tax supported component should be \$114.2 million, the total for Montgomery County should be \$131.0 million, and the total for the Commission should be \$420.0 million. He also stated that the:

- Overall Commission budget is 6.4% greater than the FY13 Adopted Budget.
- Growth on the Prince George's County side is 8.1% and growth on the Montgomery County side is 2.9%.

Mr. Conforti shared that the growth is a part of the strategic plan and is intentional. Mr. Conforti shared that the Commission's budget will be transmitted to both County Executives and County Councils by January 15, 2013. He will provide an amended version with the updated numbers for the Montgomery County side to the Commissioners and officers.

Action: Motion of Hewlett to approve the Proposed Operating Budget, as amended  
Second by Wells-Harley  
8 approved the Resolution

5d) COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)

Secretary-Treasurer Joe Zimmerman introduced Finance Manager Barbara Walsh. Also introduced were Heather Plitt and Bren Lewis, Engagement Directors from the external audit firm of Clifton, Larson, Allen. Ms. Plitt thanked Mr. Zimmerman and Ms. Walsh for their assistance in conducting the audit and reported that the audit firm issued an Unqualified (Clean) Opinion, which is the highest level of Opinion that can be received. Ms. Walsh presented highlights of the CAFR as contained in the Commission packet.


ITEM 6

LATE EMPLOYEE PERFORMANCE EVALUATIONS

Executive Director Barney reported that the Legal Department was able to complete its evaluations with only one late evaluation pending.

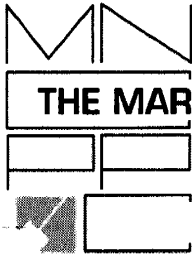
There being no further business to discuss, the meeting adjourned at 10:21 a.m.

\_\_\_\_\_  
Gayla I. Stringfield, Senior Technical Writer

  
\_\_\_\_\_  
Patricia Colihan Barney, Executive Director







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

6611 Kenilworth Avenue Riverdale, Maryland 20730

Executive Committee Meeting  
January 2, 2013  
Minutes

A meeting of The Maryland-National Capital Park and Planning Commission's Executive Committee was held on January 2, 2013, at 10:00 a.m. in the Executive Director's Conference Room (Suite 400), 6611 Kenilworth Avenue, Riverdale, Maryland. Present at the meeting were Chair Françoise M. Carrier, Vice-Chair Elizabeth M. Hewlett, and Executive Director Patricia C. Barney. Also in attendance were:

Department Directors/Deputies/Presenters/Staff

Adrian Gardner, General Counsel

Joe Zimmerman, Secretary-Treasurer

Mary Bradford, Director, Montgomery County Parks

Rose Krasnow, Acting Director, Montgomery County Planning

Debbie Tyner, Deputy Director, Prince George's County Parks and Recreation (for Director Gathers)

William Spencer, Human Resources Director

Anju Bennett, Division Chief, Corporate Policy and Management Operations (CPMO)

Lisa Dupree, Senior Policy Specialist, CPMO Division

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

ITEM 1 AGENDA APPROVALS

a) EXECUTIVE COMMITTEE MEETING AGENDA

Approved

b) JANUARY COMMISSION MEETING AGENDA

In addition to the presented agenda, the following items were discussed:

- The 115 Trust Board meeting minutes should be added.
- Executive Director Barney will contact Commissioners Presley and Washington to determine if they are prepared to present the Audit Committee reports at the Commission meeting; otherwise, the reports can be presented in February.
- ERP demonstration by the Secretary-Treasurer should be added to the January meeting if it can be prepared in time.

c) REVIEW OF COMMISSION ROLLING AGENDA

- ERS Operating Budget will be presented to the Commission in May.
- The quarterly 115 Trust Board meeting minutes should be added to the rolling agenda on a quarterly basis.
- Follow up response related to Summer Employment Program for People with Disabilities added to February.

- Compensatory time item added to March.
- Succession Planning added to May.

ITEM 2 No Executive Committee minutes (meeting of December 5, 2012 canceled).

ITEM 3 ENTERPRISE RESOURCE PLANNING BRIEFING

Secretary-Treasurer Zimmerman provided an update on Enterprise Resource Planning (ERP) Project:

- The next training (road show) is scheduled for February and will focus on Human Capital Management (HR/Payroll).
- The training plan is being developed; Department Directors were asked to identify potential resources, as additional trainers will be needed. The Steering Committee is meeting Friday
- The financial system module was scheduled to go live on March 1st.
- The human capital module was scheduled to go live on April 1st.
- The budget component is scheduled for August implementation.

These dates are being reevaluated based on a need to test system and train extensively.

Mr. Zimmerman stated that the Enterprise Asset Management (EAM) project was not implemented because the vendor could not meet his or her obligations. The contract was terminated and a new Request for Proposal was issued. Responses are expected by next Friday.

ITEM 4 PROPOSED AMENDMENTS TO COMMISSION POLICIES:  
ADMINISTRATIVE PRACTICE 1-31: ORGANIZATION AND FUNCTIONS  
OF THE AUDIT COMMITTEE AND PRACTICE 3-31: FRAUD, WASTE AND  
ABUSE

CPMO Chief Anju Bennett shared that she was pleased that Lisa Dupree was selected to fill the position of senior policy specialist. Ms. Bennett presented background on the proposed amendments to the referenced policies. She indicated that the policies would be presented to the Commission later this month with the Executive Committee's support.

Ms. Bennett and Ms. Dupree presented the specific proposals that addressed the following areas:

- Preserving integrity of the audit process including the Audit Committee's role in ensuring independent and objective audits.
- Compensation for Audit Committee members.
- Responsibilities of auditors including remaining free from conflicts of interest.
- Manner in which communications are issued by the Audit Committee.
- Authorization for public dissemination of Audit reports.
- The restructured role of Internal Audit and the handling of investigations related to fraud, waste and abuse allegations.

Each amendment was reviewed. Outside of minor edits, the following actions were indicated:

- Practice 1-31: Page 11, Organization/Composition of Audit Committee (4b) – The policy unit explained that the Audit Committee and Executive Committee inquired whether compensation could be made available to the external (public) member of the audit committee. Ms. Bennett explained that her office researched government auditing standards, best practices, and audit committee policies for other government organizations. Following the research, staff recommended that only authorized expenses for travel and parking related to Audit Committee work should be reimbursed when supported by receipt. Such expenses must be authorized by the Committee Chair. The Executive Committee supported the recommended amendment. Chair Carrier indicated that she and Vice-Chair Hewlett will contact Commissioners Presley and Washington to discuss the status of the selection for the public Audit Committee member.
  
- Practice 1-31: Page 13, Responsibilities/Functions – It was explained that new language incorporated concepts recommended by the Commissioner Presley, specifically with respect to issuance of audit committee’s communications and independent audits. The Executive Committee supported staff’s recommended language. The Executive Committee also indicated that while communications can be issued under the signature of the entire Audit Committee, the policy should address the handling of dissenting opinions. This change will be incorporated.
  
- Practice 1-31: Page 19, Review of Audits Findings/Reports  
Executive Director Barney inquired whether the required synopsis of completed audit reports should be done on a fiscal or calendar basis. Staff explained that they would speak to Internal Audit to see how audits were tracked. The item will be clarified in the policy.

With the above revisions, the Executive Committee supported the amended Practice 1-31.

- Practice 3-31  
The Executive Committee supported the consolidation of Practice 3-31 and its standalone Administrative Procedures.
  - Section II. A- Reporting of Concerns (Allegations of Fraud, Waste and Abuse)  
The Executive Committee supported the addition of website resource for reporting allegations. A website link will be established for the Internal Audit Office. Complaints should not be reported directly to the Audit Committee as they would need to be referred to Internal Audit for investigation. Ms. Bennett indicated that Practice 1-31 would be clarified also that any concerns from external parties, whether under the umbrella of standard audits, or fraud/waste/abuse would be directed to

Internal Audit. Vendor concerns would be directed to the Secretary-Treasurer consistent with Commission adopted procurement procedures.

○ Section II. B, Handling of Reported Concerns and III. Investigations of Reported Concerns.

In response to an inquiry as to when fraud/waste/abuse concerns should be referred to internal audit or the park police, the General Counsel clarified that the outlined provisions which state that concerns should all go to internal audit should remain. However language could be added to explain that concerns must also be sent to the Park Police when criminal activity is apparent or suspected.

Copies of allegations should not automatically be forwarded to the Secretary Treasurer, except in cases related to vendors. The Secretary-Treasurer shall determine the handling of investigations related to vendors and individuals wanting to do business with the agency.

The Executive Committee supported the option for employees to report allegations to Executive Director. The Executive Director shall advise the Commission Chair and Vice Chair of any allegations against Directors, Deputy Directors, Auditors, Board members or Division Chiefs.

○ Section IV. Issuance and Review of Investigation Reports

The Executive Committee supported the requirement for Department Directors to provide a written response within 30 calendar days to investigation findings. Staff was asked to include language similar to that which is embedded in Practice 1-31. This language would permit the Commission Chair/Vice Chair to grant an extension for the management response when additional time is required to respond to complex issues/findings.

The Executive Committee thanked Ms. Bennett and Ms. Dupree for their work on these policies. Ms. Bennett was asked to forward a copy of the policy to the Audit Committee for information purposes prior to the Commission meeting.

DISCUSSION OF ADDITIONAL ITEMS NOT LISTED ON AGENDA

- Chair Carrier reminded the Committee that the Commissioners were interested in exploring additional opportunities for people with disabilities outside of the summer hire program. She suggested that the minutes from the earlier Commission meeting be reviewed for direction. The Executive Director indicated that Human Resources Director William Spencer will be asked to report back to the Commission in February.
- Montgomery County Parks Director Mary Bradford commented that she was pleased to see that the agency is looking into leadership development and succession planning. Executive Director Barney stated that Department Directors were asked to discuss their departmental training programs and identify areas that should be considered for the agency as a whole. This item was discussed in

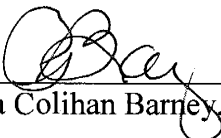
recent months and Department Directors will continue working on this initiative at the upcoming meeting.

- Mary Bradford shared that she was pleased with DHRM's handling of closing out waiver of reinstatement cases as they applied to persons on long term disability. She is interested in seeing similar efforts for worker's compensation cases. Corporate Policy and Management Operations Division Chief Anju Bennett shared that waiver of reinstatement rights does not generally apply to workers' compensation cases. Her team provides division chiefs quarterly reviews of workers' compensation cases open in their respective department. Ms. Bennett indicated that she will have her Risk Management team present an overview on workers' compensation cases along with recommendations that have been presented to division chiefs to Department Directors.
- With regard to the upcoming Social Security tax increase stemming from federal government decisions, Vice Chair Hewlett inquired if notices will be sent to employees. Mr. Zimmerman responded that a memo will be included with the payroll statements to employees this Friday and next Friday. Ms. Bennett offered that her team could assist with posting of notices on InSite and sending a broadcast email to all employees. The Executive Committee supported sending out multiple forms of communication to reach employees.

There being no further business to discuss, the meeting adjourned at 12:05 p.m.

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Gayla I. Stringfield, Senior Technical Writer



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Patricia Colihan Barney, Executive Director



115 Trust (OPEB)  
Meeting Minutes  
PRA 3<sup>rd</sup> Floor Conference Room

Wednesday, April 18, 2012

Attending: Commissioner Marye Wells-Harley, Vice-Chairman, Trustee;  
Patricia Colihan Barney, Commission Executive Director, Trustee;  
Joseph Zimmerman, Commission Secretary-Treasurer, Trustee;  
William Spencer, Commission Human Resources Director, Trustee;  
Abbey Rodman, Commission Investment Manager, Administrator;  
Barbara Walsh, Commission Accounting Manager, Staff;  
Barry Bryant, Investment Consultant, DAHAB Associates  
Bill Dahab, Investment Consultant, DAHAB Associates

Absent: Commissioner John Squire, Chairman, Trustee;

Vice-Chairman Marye Wells-Harley called meeting to order at 8:28 a.m.

Minutes of the last meeting were previously distributed. Ms. Barney motioned to approve, it was seconded by Mr. Spencer and unanimously passed.

Mr. Bryant began by introducing Bill Dahab, who was there to serve as a backup on the account. He then began to review the composition of the portfolio recently created by the trustees. It included a 30% allocation to a tactical asset allocation fund, a 40% allocation to equity, and a 30% allocation to an international bond fund.

The purpose of the allocation, he explained, was to give the portfolio a high projected return while limiting volatility compared with the former all-equity portfolio. In addition, he said this construction had good anti-inflation characteristics relative to a traditional portfolio because of the investment flexibility inherent in the tactical asset allocation fund and in the unconstrained bond fund.

A more diversified allocation also protects the trustees from allegations of imprudence, which an all-equity allocation could invite. However, moving from an all-equity allocation hurt performance in the recent two quarters because the equity markets were so strong.

For the December quarter, the portfolio returned 7.3%. The all-equity allocation was still in place during October during which most of the equity appreciation occurred. The existence of \$2 million in cash in the portfolio, which has been temporarily set aside for a specific use, acted as a performance drag. The return still ranked in the 7th percentile within the public fund universe.

The return for the first quarter was 6.5%. This is the first quarter for which the new portfolio was in existence for the entire quarter. Mr. Bryant explained that rankings were not available because the report was generated so early in the season, but thought the

rank would be high. The portfolio returned 3.7% for one year, 20.6% for three years, and 5.8% for five years.

The diversified portfolio returned 7%, the equity portfolio 11.9%, and the fixed income portfolio 1.7%. Again cash acted as a return drag. Mr. Bryant noted that the over allocation to emerging markets pulled up the equity average as that market increased 14%, while the unconstrained bond portfolio outperformed the Barclay's Aggregate, a domestic bond index, by more than a full percentage point.

Mr. Bryant questioned whether the two million in cash will be needed. Mr. Zimmerman said the cash could potentially be needed in June for current retiree medical costs, but if not it will be invested. He also mentioned that July 1st there will be more money available to invest. Mr. Bryant ended by saying he had some concern that the portfolio might now be more conservative, but that this could be addressed by allocating more of the new money coming in to equities. It was agreed that this issue could be addressed in a conference call when the money came in, or at the July meeting which was scheduled for the 18th.

Patti requested more information on the HFR (Hedge Fund Research) benchmark.

Abbey Rodman asked about rebalancing, and it was decided to do it once the July 1<sup>st</sup> money came in. She also requested that reports be delivered electronically, and Mr. Bryant agreed to do that. Committee members asked that Dahab continue, for the moment, to deliver paper reports as well, but held open the possibility of going all-electronic in the future.

A date for Ethics Training for the Trustees and Administrator was selected for May 11, 2012, 9:00 a.m. at EOB, Merit Board room.

The next meeting was scheduled for July 18, 2012 at MRO.

Meeting adjourned at 9:04 a.m.

Respectfully Submitted,

  
Abbey Rodman



115 Trust (OPEB)  
Meeting Minutes  
MRO 3<sup>rd</sup> Floor Conference Room

Wednesday, July 18, 2012

Attending: Patricia Colihan Barney, Commission Executive Director, Trustee  
Joseph Zimmerman, Commission Secretary-Treasurer, Trustee;  
William Spencer, Commission Human Resources Director, Trustee;  
Barbara Walsh, Commission Accounting Manager, Staff;  
Barry Bryant, Investment Consultant, DAHAB Associates

Absent: Commissioner Marye Wells-Harley, Vice-Chairman, Trustee;  
Abbey Rodman, Commission Investment Manager, Administrator;

Trustee Patricia Colihan Barney called meeting to order at 9:00 a.m.

Minutes of the last meeting were previously distributed. Ms. Barney suggested two modifications, the first to indicate the use of the \$2mil being held temporarily in the fund, and the second to soften the language Mr. Bryant had used to describe the benefit of being more fully diversified. The adoption of the minutes was delayed, pending Mr. Spencer's arrival.

Mr. Bryant began his presentation by explaining that because of the early date of the meeting, the performance book lacked both an economic/market overview and rankings for the fund's performance.

He noted that the economy's continued sluggish growth was characteristic of recovery from a recession caused by excessive leverage, and was unlikely to be affected by fiscal policy regardless of who was elected president. He characterized the second quarter as a "risk off" quarter, with domestic stocks declining 3%-4% and foreign stocks declining 5%-6%, while bonds increased 2%-3%. The second quarter is in contrast to the first, in which stocks increased 12%-13% while gains for bonds were low single digit.

The portfolio lost 1.6% for the quarter. Active management contributed about 50 bps to performance. He noted that the two Pimco strategies, Pimco All-Asset / All-Authority and Pimco Unconstrained Bond Fund, both outperformed their indices while the various RAFI equity strategies under performed. The equity strategies did not do well because the RAFI fundamental index approach does not do as well in a severely "risk-off" quarter. Detailed manager attribution was not yet available.

The overall portfolio return would, he thought, rank well when universe rankings became available, but it remained to be seen how high the YTD ranking would be combining the relatively weaker first quarter, with the stronger second quarter.

Mr. Bryant said he thought when the change was made from an all-equity strategy to a more diversified strategy, they may have taken too much risk out of the portfolio. This could be corrected placing future cash inflows into existing equity, or establishing a new

small cap allocation, and shifting the asset allocation from 30% diversified, 40% equity, 30% bonds to 30% diversified, 50% equity, 20% fixed income. He characterized this as fine tuning the new diversified allocation.

With Mr. Spencer's arrival, Ms. Barney moved to approve, it was seconded by Mr. Spencer and unanimously passed. Ms. Barney suggested that it might help to have the meetings at a later date after the end of the quarter, so that more complete information would be available.

The next meeting was scheduled for November 21, 2012 at MRO.

Meeting adjourned at 9:30 a.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Abbey Rodman", with a long horizontal flourish extending to the right.

Abbey Rodman



## Retiree Healthcare Programs

2012 Actuarial Valuation Review

January, 2013



# 2012 Valuation Review – OPEB Plan

- GASB 45 Overview
- Net OPEB Obligation (NOO) Summary
- Valuation Results Summary

# Overview of GASB Rules

## Primary Features/Disclosures – for Plan Sponsor:

- Book actuarial cost as an expense on financial statements
- Accrue liability on financial statements – actual contributions vs. expense (Not Actuarial Accrued Liability)

## Overview of GASB Rules

- Key financial statement components – GASB #45
  - Annual Required Contribution (annual expense) – ARC
  - Annual OPEB Cost (adjusted annual expense) – AOC
  - Net OPEB Obligation (balance sheet liability) – NOO
- Advance funding is not required; however there are some advantages
  - The Net OPEB Obligation will be close to zero
  - The actuary can use a more favorable discount rate to value the plan

# To Fund or Not To Fund?

## Discount Rate Basis

Per GASB 45: Basis for setting Discount Rate is determined by the source of funds used for paying benefits

- Assuming the Plan is pre-funded:
  - Benefits paid through Trust Fund
  - Investment portfolio similar to pension plans
  - Use Discount Rate – about 7.5%
- Assuming the Plan is not pre-funded:
  - Benefits paid through General Fund
  - Low fixed interest return
  - Use Discount Rate – about 4.5%
- Partial Funding: Pro-rate Discount Rate; utilize 6.0%
- Phase-in Approach: Move from 4.5% to 7.5%; blended rates

# Actuarial Valuation Process

## Major Cost Drivers

- Assumptions
  - Discount rate assumption – increased from 5.17% (for accounting) to 5.64%/7.5%
  - Healthcare trend rate assumption – 9.00% to 4.50%
  - Per Capita Claims Costs/Premium Rates Experience – utilized 7/1/2012 rates
  - Retirement – per Pension Plan Assumptions
- Plan Design
  - Retiree cost sharing – Moved from 85%/15% to 80%/20% Basis, effective 1/1/2013
  - Eligibility (Retirement) – per Pension Plans
  - Spousal coverage – continued; pay retiree premium rates



# Potential Impact of Accounting

## Bond Rating Agency views

- Looking for “funding plan”; may include:
  - Funding annual costs
    - Full
    - Partial
    - Phase In
  - Plan design revisions
- Funding approach/plan changes and impacts – “on watch list”

# Net OPEB Obligation (NOO) Summary

## 7/1/2011 – 6/30/2012

(\$ in thousands)

Note: Based on accounting Select and Ultimate rates

	<u>FY ending 6/30/2011</u>	<u>FY ending 6/30/2012</u>
<u>Annual Required Contribution (ARC)</u>	\$ 23,871.5	\$ 28,552.9
<u>Annual OPEB Cost (AOC)</u>		
ARC	\$ 23,871.5	\$ 28,552.9
Interest on Net OPEB Obligation (NOO)	1,144.0	2,165.7
Adjustment to ARC	<u>(1,080.0)</u>	<u>(2,642.8)</u>
Total AOC	\$ 23,935.0	\$ 28,075.8
<u>Employer Contributions</u>		
Increase in NOO	\$ 9,210.0	\$ 16,243.4
NOO – 7/1	\$ 14,725.0	\$ 11,832.4
NOO – 6/30	\$ 36,232.0	\$ 50,957.0
Contribution Rate	\$ 50,957.0	\$ 62,789.4
	38%	58%

# Valuation Results Summary

## 2012 Valuation

- Valuation Date – 7/1/2012
- Funding Approach – Phased-in/Full Funding
- Discount Rate – 7.5%
- Level % of Pay Amortization
- Reduced number of Participants from prior valuation

<u>Number of Participants</u>	<u>Police</u>	<u>Non-Police</u>	<u>Total</u>
• Actives	174	1,763	1,937
• Retirees and Spouses	118	759	877
• Long Term Disability	<u>6</u>	<u>6</u>	<u>12</u>
• Total	298	2,528	2,826

# Valuation Results Summary

	Police	Non-Police	Total
Discount Rate: Select and Ultimate rates – at 5.64%			
Actuarial Accrued Liability (AAL)	\$ 53,229	\$ 259,481	\$ 311,710
Asset Value 6/30/2012	2,983	14,818	17,800
Unfunded Actuarial Accrued Liability (UAAL)	\$ 49,246	\$ 244,663	\$ 293,910
<b><u>Annual Required Contribution (ARC)</u></b>			
Normal Cost	\$ 876	\$ 5,232	\$ 6,108
30 Year Amortization of UAAL	2,606	13,098	15,704
Total ARC	\$ 3,482	\$ 18,330	\$ 21,812
<b><u>Annual OPEB Cost (AOC)</u></b>			
ARC	\$ 3,482	\$ 18,330	\$ 21,812
Interest on Net OPEB Obligation (NOO)	593	2,948	3,541
Adjustment to ARC	(658)	(3,267)	(3,924)
Total AOC	\$ 3,418	\$ 18,011	\$ 21,429
<b><u>Expected Contributions</u></b>			
Retirees Premiums	\$ 1,506	\$ 7,908	\$ 9,414
To Trust Fund	665	5,715	6,380
Implicit Rate Subsidy Credit	392	3,875	4,266
Total	\$ 2,562	\$ 17,498	\$ 20,060
Increase in NOO	\$ 856	\$ 513	\$ 1,369
NOO 6/30/2012	\$ 10,521	\$ 52,269	\$ 62,789
Expected NOO – 6/30/2013	\$ 11,377	\$ 52,782	\$ 64,158

# Valuation Results Summary

	Police	Non-Police	Total
	(\$ in thousands)		
Discount Rate: 7.5%			
Actuarial Accrued Liability (AAL)	\$ 49,273	\$ 244,794	\$ 294,066
Asset Value 6/30/2012	<u>2,983</u>	<u>14,818</u>	<u>17,800</u>
Unfunded Actuarial Accrued Liability (UAAL)	\$ 46,290	\$ 229,976	\$ 276,266
<b><u>Annual Required Contribution (ARC)</u></b>			
Normal Cost	\$ 827	\$ 4,935	\$ 5,762
30 Year Amortization of UAAL	<u>2,466</u>	<u>12,404</u>	<u>14,869</u>
Total ARC	\$ 3,293	\$ 17,339	\$ 20,632
<b><u>Annual OPEB Cost (AOC)</u></b>			
ARC	\$ 3,293	\$ 17,339	\$ 20,632
Interest on Net OPEB Obligation (NOO)	789	3,920	4,709
Adjustment to ARC	<u>(701)</u>	<u>(3,485)</u>	<u>(4,186)</u>
Total AOC	\$ 3,380	\$ 17,775	\$ 21,155
<b><u>Expected Contributions</u></b>			
Retirees Premiums	\$ 1,506	\$ 7,908	\$ 9,414
To Trust Fund	665	5,715	6,380
Implicit Rate Subsidy Credit	<u>392</u>	<u>3,875</u>	<u>4,266</u>
Total	\$ 2,562	\$ 17,498	\$ 20,060
Increase in NOO	\$ 818	\$ 277	\$ 1,095
NOO 6/30/2012	\$ 10,521	\$ 52,269	\$ 62,789
Expected NOO – 6/30/2013	\$ 11,339	\$ 52,546	\$ 63,884

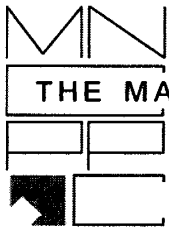
## Valuation Highlights

- ARC reduced from \$29.7M to \$21.8M
- Primary reasons for cost/liability decreases are:
  - Plan changes: Retiree cost sharing
  - Increase in discount rate
  - Increases in assets
  - Plan experience: 2012 claims costs/premium rates
  - Reduced number of Plan Participants
- Slight increase in NOO expected at 6/30/2013
- Move Accounting Discount Rate from Select/ Ultimate basis to 7.5%?

# Questions









## THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

January 9, 2013

To: The Commission

Via: Patricia C. Barney, Executive Director 

From: Anju Bennett, Chief   
Corporate Policy & Management Services Division

Subject: Proposed Amendments to Administrative Practices 1-31, Organization and Functions of the Audit Committee and 3-31, Fraud, Waste, and Abuse.

**Requested Action**

The Commission is asked to consider proposed amendments to two M-NCPPC policies: Administrative Practice 1-31, Organization and Functions of the Audit Committee (Attachment A), and Administrative Practice 3-31, Fraud, Waste, and Abuse (Attachment B). Updates to both policies stem from research of best practices, government auditing standards, and programs adopted by other public agencies. The amendments also considered input from the M-NCPPC Audit Committee, Internal Audit, Department Directors, Office of the General Counsel, and the Executive Committee.

**Background**

Recommended updates to the policies originated with consideration of recommendations identified in the Show Place Arena audit. In its report, the Audit Committee recommended that the agency consider measures to protect the integrity of investigations, including the process related to dissemination of information. In consideration of the Audit Committee's recommendations, the policy unit reviewed Administrative Practice 1-31, which addresses audit investigations. During the course of that review, we also considered whether updates were needed in a related policy, Administrative Practice 3-31, Fraud, Waste, & Abuse.

Our evaluation considered key reporting and investigation responsibilities assigned to employees, management, and investigators. It also included an analysis of applicable federal "Generally Accepted Government Auditing Standards" as they apply to preserving the integrity of investigations. We found existing policies adequately address managers'/employee responsibilities for reporting concerns and cooperating with investigations. However, the policies could benefit from additional guidance on the expected role of investigators. This guidance is addressed through proposed amendments to Practice 1-31 and Practice 3-31.

Additional amendments to Practice 3-31 (Fraud, Waste, & Abuse) also are being proposed to:

- Reflect the restructured role of Internal Audit in assuming the lead for most fraud, waste, and abuse investigations.
- Update and clarify responsibilities for employees and management with respect to reporting and handling allegations.
- Incorporate additional reporting options.
- Consolidate and streamline the Practice and its supporting documents. Viable portions of accompanying Administrative Procedures 05-02 (of the same title) have been incorporated into the revised Practice.

**Attachments:**

- A: Draft Revisions to Administrative Practice 1-31: Organization and Functions of the Audit Committee  
B: Draft Revisions to Administrative Practice 3-31: Fraud, Waste, & Abuse



Proposed Amendments to  
Administrative Practice 1-31, Organization and Functions of the Audit Committee  
(for Commission review)

**Key to Proposed Policy Amendments:**

Text that is shaded: Recommended insertions

Text with ~~strikeout~~: Recommended deletions

**AUTHORITY** The Commission adopted amendments to this Practice on January \_\_\_\_\_ 2013. ~~this Practice on April 23, 2008, to establish the Audit Committee. The Commission approved updates to this policy on June 15, 2011.~~

**PURPOSE/  
BACKGROUND** This Practice was initially adopted April 23, 2008, to establish an Audit Committee and explain its composition and functions. The Audit Committee was put in place to ensure prudent organizational standards stemming from:

- The Sarbanes-Oxley legislation. Although this legislation applies principally to private sector organizations, its requirement to establish audit committees represents best financial practices and public transparency.
- “Recommended Practice” for organizational oversight as issued by the Government Finance Officers Association of the United States and Canada.

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

- June 15, 2011: ~~Amendments to the Practice were approved by the The~~ Commission adopted amendments to incorporate restructuring of the internal audit program and to clarify the Audit Committee’s role and responsibilities.
- January \_\_\_\_\_ 2013: The Commission adopted amendments to further clarify responsibilities related to investigations and dissemination of audit reports.

**REFERENCES**

- Division II of the Land Use Article of the Annotated Code of Maryland, the Maryland-National Capital Park and Planning Commission.
- Commission Administrative Practice 1-10, Organization and Functions of the Commission and Planning Boards.
- Government Auditing Standards, United States Government Accountability Office (July 2007/December 2011, as amended).
- Sarbanes-Oxley Act (enacted July 2002, as amended).
- Government Finance Officers Association Recommended Practice Audit Committees 2008.

**APPLICATION** This Administrative Practice applies to all employees including Merit System and contract employees, volunteers, and appointed officials. In the event that any portion of this Administrative Practice conflicts with a Collective Bargaining Agreement, the Agreement shall prevail for members of the respective Collective Bargaining Unit.

**DEFINITIONS** Appointed Officers: This term refers collectively to the following positions: Executive Director, General Counsel, and Secretary-Treasurer.

1 **The Commission:** The governing body of the Maryland-National Capital Park and Planning  
2 Commission ("M-NCPPC" or agency) which is comprised of five members from each of the  
3 agency's two Planning Boards for Montgomery County and Prince George's County.  
4

5 **Commissioners:** Members of the Commission.  
6

7 **Executive Committee:** A three-member committee that is comprised of the Commission  
8 Chair, the Commission Vice-Chair, and the Executive Director.  
9

10 **Independent External Auditor:** An external certified public accounting firm that is  
11 engaged to provide independent auditing services in compliance with Generally  
12 Accepted Government Auditing Standards or in relation to providing an opinion on certain  
13 portions of the comprehensive annual financial statement for M-NCPPC.  
14

15 *Note to Draft Reviewer: Staff recommends using the term "External Auditor" as the term*  
16 *"Independent Auditor" implies that only the external auditor is independent whereas both internal*  
17 *and external auditors are to conduct independent reviews.*  
18

19 **Generally Accepted Government Auditing Standards:** The various standards applicable to  
20 governmental auditing as may be promulgated formally from time to time by the United  
21 States Government Accountability Office (GAO) by authority of the United States  
22 Comptroller General. For this purpose, the Generally Accepted Government Auditing  
23 Standards include, but are not limited to, the comprehensive standards commonly referred  
24 to as the "Yellow Book," those captioned as "guidance" or "interim guidance," and those  
25 captioned as "answers to questions."  
26

27 **Internal Auditor:** An individual or group of individuals employed by the M-NCPPC to  
28 conduct special investigations and routine internal auditing functions in compliance with  
29 Generally Accepted Government Auditing Standards.  
30

31 **The Maryland-National Capital Park and Planning Commission:** For purposes of this  
32 Practice, "M-NCPPC" or "agency" shall be used to reference the entity acting in its  
33 organizational capacity.  
34

35 **POLICY**

Pursuant to ~~Article 28~~ Division II of the Land Use Article of the Annotated Code of  
36 Maryland, the Maryland-National Capital Park and Planning Commission (M-NCPPC) is  
37 governed by a ten-member Commission. An Audit Committee shall be established to assist  
38 the Commission in corporate governance and independent oversight of the agency's  
39 financial reporting processes. The Committee shall undertake responsibilities to ensure  
40 that the organization develops and implements a sound system of internal controls and  
41 adheres to the highest standards of public accountability and integrity, including, but not  
42 limited to, the auditing process.  
43

44 The Audit Committee also shall serve as a forum, separate from management, in which  
45 auditors and other interested parties may identify and discuss concerns related to financial  
46 reporting and internal controls. This Practice outlines these responsibilities, establishes a  
47 process for communicating concerns to the M-NCPPC, and identifies duties for  
48 implementing corrective or other necessary actions.

1  
2 **ORGANIZATION**

**Composition of Audit Committee**

3 The Committee will consist of either three (3) or five (5) members. All members of the  
4 Audit Committee shall possess or obtain a basic understanding of governmental financial  
5 reporting and auditing.

- 6  
7 1. All except one of the members will be members of the Commission (Commissioners),  
8 an equal number from each Planning Board as appointed by the Chairperson of each  
9 Board.
- 10  
11 2. The Commissioners who are members of the Audit Committee shall elect a public  
12 member to the Committee who shall:  
13 a. Be qualified as a voting resident of Maryland; and  
14 b. Except as disclosed and approved by the Commission members of the Committee,  
15 have no other existing relationship to the M-NCPPC, its employees or  
16 management, the ~~Independent~~ External Auditor, or the Internal Auditor.
- 17  
18 3. The Committee shall nominate and elect a Chair from the Commission members. The  
19 Chair’s contact information shall be provided to the Executive Director so it may be  
20 made available to internal and external parties for matters that should be addressed to  
21 the Audit Committee.
- 22  
23 4. To ensure the Committee’s independence and effectiveness, none of its members may:  
24 a. Exercise managerial responsibilities or provide contracted services for M-NCPPC.  
25 b. Receive any fee for services provided as an Audit Committee member. Authorized  
26 expenses for travel and parking related to Audit Committee work may be  
27 reimbursed when supported by receipt. Such expenses must be authorized by the  
28 Committee Chair.

29  
30 *Note to Draft Reviewer: Amendment in 4b (above) responds to the Audit Committee’s request that the*  
31 *policy address whether compensation is available to External members of the Audit Committee. Policy*  
32 *conducted analysis of government auditing standards and researched programs established by other public*  
33 *agencies. Government auditing standards discourage compensation for Committee members. Of the 10*  
34 *public organizations surveyed, 6 have Audit Committees. No agency provides compensation to any*  
35 *Committee member. One agency permits business expense reimbursements for travel. Staff recommends*  
36 *incorporating language which permits reimbursement of travel/parking expenses that are approved by the*  
37 *Committee Chair. Research of government agencies including respective composition of each agency’s*  
38 *Audit Committee is provided below:*

39  
40 Agencies with Audit Committees

41 *Frederick County, Maryland – Comprised of internal and external members;*  
42 *Howard County - County Council serves as informal Audit Committee;*  
43 *Metropolitan Council (Minnesota Twin Cities) – Comprised of Internal and external member(s); External*  
44 *members only receive travel reimbursement;*  
45 *Montgomery County – Comprised only of internal members;*  
46 *San Diego City – Comprised of internal and external member(s); and*  
47 *Washoe County, Nevada - Internal and external members;*

48  
49 Agencies without Audit Committees:

50 *Prince George’s County, Anne Arundel, Baltimore City, and Frederick County- Virginia.*

1  
2 **Audit Committee Resources**

3 The Committee shall be assisted by M-NCPPC staff as it may require.  
4

5 The Audit Committee shall appoint a secretary to maintain minutes of meetings and  
6 actions. The secretary may be a Committee member or staff assigned by the Commission  
7 Chair or Vice-Chair. The Audit Committee may consult with the General Counsel for any  
8 legal advice deemed necessary to perform the functions of the Committee as established  
9 under this Practice.  
10

11 The Audit Committee also should have access to the service of at least one financial expert,  
12 as either a Committee member or an outside party engaged by the Committee for this  
13 purpose. The Committee shall evaluate the qualifications of the expert to assure he/she  
14 has an adequate financial background and can provide independent and objective advice  
15 free from conflicts of interest.  
16

17 The financial expert should, through both education and experience and in a manner  
18 specifically relevant to the government sector, possess:

- 19 1. An understanding of generally accepted accounting principles and financial statements;
- 20 2. Experience in preparing or auditing financial statements of comparable entities;
- 21 3. Experience in applying such principles in connection with the accounting for estimates,  
22 accruals, and reserves;
- 23 4. Experience with internal accounting controls; and
- 24 5. An understanding of audit committee functions.  
25

26 **Audit Committee Meetings and Quorums**

27 In order to fulfill its role, the Committee shall be governed in the following manner:

- 28 1. The Committee holds at least four (4) regularly scheduled meetings during each  
29 calendar year to discuss proposed audits and investigations, the results of audit reports  
30 and investigations issued by the Internal Auditor, reports of the Independent External  
31 Auditor, and/or other matters that come before the Audit Committee. Additional  
32 meetings may be held as circumstances dictate.

33 Meetings may be conducted in person or by means of telephone conference call, video  
34 conference, or such other means that allow each participant to hear and be heard by  
35 all other participants at the same time.

- 36 2. A majority of the members of the Committee shall represent a quorum. Two members  
37 shall constitute a quorum when the Audit Committee is comprised of three members.  
38 Three members shall constitute a quorum when the Audit Committee is comprised of  
39 five members.
- 40 3. Any member of the Committee may call a meeting of the Committee with adequate  
41 notice to the other members.
- 42 4. The Committee may take action/vote on issues when a quorum is present or may act  
43 by unanimous written consent taken in lieu of a meeting.
- 44 5. Meetings generally are not subject to the requirements of the Maryland Open  
45 Meetings Act to the extent the topics of discussion by the Committee are limited to  
46 the implementation of existing law and policy.

1 **RESPONSIBILITIES/**  
2 **FUNCTIONS**

3 *Note to the Commission: The following section has been amended to incorporate input from*  
4 *Commissioner/Audit Committee Member Presley to further emphasize the Committee's responsibility to*  
5 *ensure independence in the audit process and address the handling of Committee communications.*  
6 *Amended language in this section considers suggestions from the Executive Committee and the General*  
7 *Counsel, including references to handling of any dissenting opinions in Audit Committee*  
8 *communications.*

9  
10 Pursuant to Generally Accepted Government Auditing Standards, the Audit Committee shall uphold the  
11 principles of independent review and public accountability of the audit process. This approach  
12 encourages:

- 13 ■ A system of sound internal controls and adherence to legal and ethical standards by management  
14 and employees.
- 15 ■ Confidence that audit reports and any associated recommendations by the Audit Committee are  
16 made with the citizens' interest as the primary focus.

17  
18 To maintain accuracy and consistency of information and the Committee's response to internal and  
19 external stakeholders, formal communications regarding audits shall be issued under the signature of  
20 the entire Committee, with any dissenting opinion expressed within the report. Pursuant to Section 2  
21 b., Responsibilities Assigned to the Members of the Executive Committee, public dissemination of any  
22 Final Audit report must be authorized by the Commission Chair and Vice-Chair.

23 Oversight responsibilities of the Audit Committee are described below for certain areas that fall within  
24 its purview. Responsibilities of the Commission Chair/Vice-Chair, Appointed Officers and management  
25 as they pertain to the audit process are also outlined by relevant section.

26 **1. Independent External Auditor**

27 *Note to Draft Reviewer: Staff recommends renaming section to External Auditor the present term*  
28 *"independent auditor" implies that only the external auditor is independent whereas both internal and*  
29 *external auditors are to conduct independent reviews.*

30  
31 The Audit Committee is responsible for appointment, compensation, retention, and oversight of  
32 the work of any ~~independent~~ External Auditor engaged for the purpose of performing independent  
33 audit services, reviews, or attest services. The Committee shall:

- 34 a. Examine and evaluate the qualifications of the Auditor and the Auditor's ability to issue  
35 opinions that are free from conflicts of interest.
- 36 b. At least annually, request and review formal reports from the Auditor to ensure that the level  
37 of independence required by Generally Accepted Government Auditing Standards is  
38 maintained.
- 39 c. Evaluate the work and services of the ~~independent~~ External Auditor generally to assure  
40 compliance with Generally Accepted Government Auditing Standards.
- 41 d. At least annually, report to the Commission a summary of significant findings or  
42 recommendations stemming from auditing reports or other services performed by the  
43 ~~independent~~ External Auditor. Throughout the year, the Audit Committee is responsible for  
44 communicating to the Commission's Chair and Vice-Chair any concerns and recommendations  
45 stemming from its review of specific audit reports and investigations.

- 1 e. Advise the Commission on the Committee’s decisions related to the selection, retention and, if  
2 the Committee deems necessary, the replacement of the Independent External Auditor when  
3 concerns exist related to the individual’s or firm’s independence, competence, quality, or  
4 integrity.

5  
6 **2. Internal Audit Function**

7 The Audit Committee provides technical and substantive oversight and direction for the Internal  
8 Audit program. The Audit Committee’s role does not include direct responsibility for performance  
9 management of the Internal Auditor or others involved in the Internal Auditor’s work program.  
10 This role shall be carried out by members of the Executive Committee as described below.

11  
12 a. **Responsibilities assigned to the Audit Committee shall include:**

- 13 1) Review and approval of the Internal Audit charter, which outlines the authority and  
14 responsibilities of the Internal Audit function.  
15  
16 2) On an annual basis, review and approval of an Internal Audit Plan for M-NCPPC.  
17  
18 3) Review of the Annual Summary of Significant Audits as prepared by the Internal Auditor.  
19 (See also, subsection 6. Review of Audit Findings/Reports).  
20  
21 4) Review of Final Audits and investigations prepared by the Internal Auditor (see also  
22 subsection 6, Review of Audit Findings/Reports) and submission of Audit Committee  
23 recommendations arising from such review to the Commission’s Chair and Vice-Chair.  
24  
25 5) The adoption of written operating procedures, in consultation with the Internal Auditor  
26 and Commission Chair and Vice-Chair, to govern the process and reporting of internal audit  
27 activities. Without limiting the generality of the foregoing, the operating procedures shall:  
28 a) Comply with Generally Accepted Government Auditing Standards.  
29

30 *Note to Draft Reviewer: Section 5b has been amended in response to Executive Committee input  
31 that the provision be further clarified to explain when law enforcement agencies and the  
32 General Counsel must be consulted.*

- 33  
34 b) Outline the internal audit process to ensure the Internal Auditor consults with law  
35 enforcement agencies and the General Counsel as appropriate when  
36 audits/investigations reveal material criminal conduct has occurred or is likely to have  
37 occurred. coordinates in appropriate instances with agencies of law enforcement.  
38



*Note to Draft Reviewer: Amendments to Section 5c incorporate recommendations stemming from the Show Place Arena Audit in which the Audit Committee recommends strengthening the integrity of audit investigations. Staff has incorporated Generally Accepted Government Auditing Standards (Sections 1.17 and 1.20) that specifically address auditor responsibilities.*

- c) Establish responsibilities for conducting audits to ensure objective, consistent and fact-based audit reports including any findings and constructive recommendations. The Audit Committee shall provide guidance and oversight of the audit process to ensure:
- Auditors perform their professional responsibilities with integrity and in accordance with the relevant technical and professional standards. Auditors shall conduct their work in a manner that is objective, fact-based, nonpartisan, and non-ideological with regard to audited services/programs/individuals.
  - Accountability for the proper use and prudent management of government resources. The Auditor's position, information obtained through audits, and/or the use of agency resources are to be used for official purposes and not for any personal gain. Auditors must refrain from:
    - (1) Misusing or sharing information for financial or other personal interest.
    - (2) Disclosing information on audits to third parties. Section 2.b.(1)(f) of this policy requires that the Commission Chair and Vice-Chair approve any public dissemination of final audit reports.
- d) Require the Internal Auditor to circulate a Draft Audit Report so management has an opportunity provide its response for consideration in development of the Final Audit Report.
- The Draft Audit Report shall be circulated to any Department Director with responsibility for a work unit involved in the audit. The Department Director shall respond consistent with the parameters established in Section 2.b.(1)(b) (Responsibilities Assigned to Members of the Executive Committee).
  - Management's complete written response to the Draft Audit Report shall be included as an appendix to the Final Audit Report.

*Note to Draft Reviewer: Section e) has been amended to clarify any recommendations stemming from the Audit Committee's review of final reports shall be provided to the Commission Chair and Vice-Chair.*

- e) Require the Internal Auditor to send all Final Audit Reports to the Audit Committee and to the Commission's Chair and Vice-Chair along with management's complete written response received in connection with the Draft Audit Report. The Auditor shall also be required to provide a copy of the Final Audit Report to each Appointed Officer of the M-NCPPC and the affected Department Director(s). (See also subsection 6, Review of Audit Findings/Reports).

~~Following review of Final Audits, the Audit Committee shall forward to the Commission Chair and Vice-Chair, any recommendations pertaining to additional or modified audit recommendations, or requests for additional review of the matter.~~  
*(Note to Draft reviewer: proposed language has been moved and consolidated into subsection 6 which already addresses Audit Committee recommendations.)*

- 1
- 2 f) To resolve questions of law or regulation, require the Internal Auditor to consult with
- 3 the Office of the General Counsel. Outside Counsel may be used when determined
- 4 appropriate by the Commission's Chair and Vice Chair.
- 5
- 6 g) Describe the process for releasing any information to external entities/parties,
- 7 including handling of sensitive and/or confidential information. Pursuant to Section 2
- 8 b., Responsibilities Assigned to the Members of the Executive Committee, public
- 9 dissemination of any Final Report must be authorized by the Commission Chair and
- 10 Vice-Chair.
- 11
- 12 6) The Audit Committee shall consider any additional concerns or requests to meet by any
- 13 Appointed Officer or Department Director affected by the Final Audit Report.
- 14
- 15

16 b. **Responsibilities assigned to members of the Executive Committee shall include:**

17 1) The Commission's Chair and Vice Chair shall:

- 18 a) Conduct the performance management responsibilities (including the periodic
- 19 review/evaluations) for the Chief Internal Auditor with input from the Audit
- 20 Committee, and as to routine administrative functions, from the Executive Director.
- 21
- 22 b) Internal Audits:
- 23 ▪ Consistent with the handling of all internal or ~~independent~~ external Audits,
- 24 ensure that management and employees cooperate with audit reviews/
- 25 investigations including requests for information.
- 26 ▪ Require any affected Department Director to provide a written response to a
- 27 Draft Audit Report within 30-calendar days of receiving the report. The Chair
- 28 and Vice-Chair may grant an extension in the response period when additional
- 29 time is required to respond to complex Audit issues/findings.
- 30

31 Management's response shall indicate agreement or disagreement with the report's

32 findings and recommendations; provide facts to support any disagreement or

33 concerns, and/or suggest remedies (including applicable timetable) to address

34 concerns identified in the draft report.

- 35 c) Consider recommendations from the Audit Committee stemming from its review
- 36 of Final Audit Reports and/or investigations and determine appropriate actions that
- 37 should be implemented.
- 38
- 39 d) Take or direct necessary action, including the submission by appropriate
- 40 management, within a stated timeframe, of action plans to respond to
- 41 recommendations made by the Audit Committee, issues raised in a Final Audit
- 42 Report or investigation, and/or other actions identified by the Chair and Vice-Chair.
- 43
- 44 e) Monitor management's implementation of action plans or other actions directed
- 45 by the Commission Chair and Vice-Chair as a result of an audit or investigation.
- 46

1  
2 *Note to Draft Reviewer: Section 1)f) and 2)c) below have been amended to clarify that the*  
3 *Executive Director is responsible for coordinating dissemination/posting after authorization is*  
4 *provided by the Chair and Vice-Chair.*

5 f) Determine and approve, in consultation with the General Counsel, whether any Final  
6 Audit Report is appropriate for public dissemination. If dissemination is determined  
7 appropriate, the Chair shall notify the Executive Director who will coordinate the process  
8 for release and/or posting of reports, the process for shall be coordinated through the  
9 Executive Director.

10  
11 2) The Executive Director shall:

12 a) Provide routine administrative oversight of the Internal Auditor, to include day-to-day  
13 functions such as general compliance with M-NCPPC administrative policies and  
14 procedures, review of leave requests, and approval of time and attendance  
15 requirements; and

16  
17 b) Serve as the custodian of record for all Final Audit Reports and Audit Committee  
18 records, coordinate the Commission's compliance with the Maryland Public Information  
19 Act, and coordinate the Commission's response to press inquiries pertaining to  
20 Commission audit functions.

21  
22 c) Coordinate any dissemination/posting of Final Audit Reports which have been authorized  
23 for release by the Commission's Chair and Vice-Chair.

24  
25 3. **Accounting Practices and Principles**

26 The Audit Committee shall review the following reports/assessments, request additional  
27 investigation of concerns as needed, and make recommendations to the Chair and Vice-Chair of  
28 the Commission when deviations or problems are identified:

29  
30 a. Financial reports to ensure sound implementation and management of accounting policies  
31 and processes. These reports include:

- 32 1) The Comprehensive Annual Financial Report (CAFR) as issued by the Secretary-Treasurer;  
33 2) The Management Letter as issued by the ~~Independent External~~ Auditor; and  
34 3) Single Audit reports as issued by the ~~Independent External~~ Auditor.

35  
36 b. The ~~Independent External~~ Auditor's assessments of accounting practices. The ~~Independent~~  
37 ~~External~~ Auditor shall report on and provide recommendations to the Audit Committee  
38 pertaining to:

- 39 1) Accounting practices;  
40 2) Accounting adjustments arising from ~~independent~~ audits;  
41 3) Suspected fraud or illegal acts;  
42 4) Disagreement or difficulties encountered in working with management; and  
43 5) Any other material event identified in accordance with Generally Accepted Government  
44 Auditing Standards.

1 **4. Review of Internal Control Systems and Processes**

2 The Audit Committee shall receive and evaluate findings presented by the ~~Independent~~ External  
3 Auditor and the Internal Auditor that address the effectiveness and efficiency of internal controls.  
4 Auditors shall disclose any concerns including, but not limited to:  
5 a. Significant deficiencies and material weaknesses in the design or operation of internal controls  
6 required to protect the agency from immediate or potential risks.  
7 b. Suspected instances of fraud, waste, or other abuses of public trust, mismanagement of public  
8 assets, and concerns related to breaches of ethics or fiduciary responsibility.

9  
10 Subsection 6, Review of Audit Findings/Reports provides specific guidance on the issuance  
11 of these reports by the ~~Independent~~ External Auditor and the Internal Auditor. The Audit  
12 Committee may request additional investigation of concerns as needed and recommend  
13 corrective actions to Commission's Chair and Vice-Chair to address any identified concerns,  
14 deviations, or problems.

15  
16 **5. Compliance with Financial Regulations and M-NCPPC Policies**

17 The Committee shall review the agency's application and adherence to federal/state financial  
18 regulations and internal standards/policies related to financial management; ethics;  
19 whistleblowers; and fraud, waste, and abuse.

20  
21 The Committee may request briefings from Appointed Officers, the ~~Independent~~ External  
22 Auditor, the Internal Auditor, and/or any Department Director responsible for compliance with  
23 the applicable regulations, standards, or policies. Subsequent to its review, the Audit Committee  
24 shall recommend to the Commission's Chair and Vice-Chair any follow-up or corrective actions  
25 needed to address any identified concerns, deviations, or problems.

26  
27 **6. Review of Audit Findings/Reports**

28 The Committee shall review audit reports and investigation reports issued by the Internal  
29 Auditor and the ~~Independent~~ External Auditor. The Audit Committee may request, as necessary,  
30 input from the respective Planning Board, the Commission, Appointed Officers, Department  
31 Directors whose work unit is affected by an audit or investigation, and/or parties who are the  
32 subject of an audit or investigation.

33  
34 The Committee shall advise the Commission's Chair and Vice-Chair of any concerns related to  
35 Audit findings or Audit process/investigation, along with the Committee's recommendations or  
36 proposals for resolving the concerns.

37 a. Reports Issued by the Internal Auditor: The Audit Committee shall receive and review the  
38 following reports on departmental and operational audits.

- 39  
40 1) Final Audit Reports: The Auditor shall provide to the Committee a Final Audit Report for  
41 each completed audit, along with the complete written management response received in  
42 connection with the Draft Audit Report. The Committee shall consider the Report's  
43 findings and management's input, and examine any difficulties or disputes encountered in  
44 connection with an audit. Following its review, the Audit Committee shall issue  
45 recommendations to the Commission's Chair and Vice Chair for consideration and  
46 appropriate action. This may include, but is not limited to, additional or modified audit  
47 recommendations, or requests for additional review of the matter.  
48

1 2) Annual Summary of Significant Audit Findings: The Internal Auditor shall provide to the  
2 Audit Committee, a synopsis of all audits conducted during the 12-month fiscal cycle with  
3 an explanation of significant audit findings, recommendations, and corrective actions  
4 taken. Following its review, the Committee shall share the report with the Commission.  
5

6 3) Reports on Internal Control Systems and Processes: Consistent with subsection 4 (Review of  
7 Internal Control Systems and Processes), the Internal Auditor shall report to the  
8 Committee on the effectiveness of M-NCPPC internal control systems and processes. These  
9 reports shall be presented at least semi- annually either orally or in writing.  
10

11 b. Reports Issued by the Independent External Auditor: The Audit Committee shall meet with the  
12 Independent External Auditor as required, and shall report the results of such meetings to the  
13 Commission at least annually.  
14

15 During its meetings with the Independent External Auditor, the Committee shall review  
16 reports/recommendations on accounting practices, internal controls, and other matters that  
17 fall under the purview of the Independent External Auditor's evaluation. The Committee may  
18 discuss with the Independent External Auditor any matter pursuant to Statement on Auditing  
19 Standards No. 61 (~~"Communication with Audit Committee"~~114, "The Auditor's Communication  
20 with Those Charged with Governance," published by The American Institute of Certified Public  
21 Accountants (AICPA). The review shall include an evaluation of any problems or difficulties  
22 the Independent External Auditor encountered in the course of an audit, any restrictions  
23 placed on the scope of activities or in the access to requested information, and any substantive  
24 disagreement that arose with management. (*Note to Draft Reviewer: Amendment reflects the  
25 updated SAS standards. SAS No. 114 supersedes SAS No. 61.*)  
26

27 Internal Control Systems and Processes: Consistent with subsection 4 (Review of Internal  
28 Control Systems and Processes), the Independent External Auditor shall include in audit  
29 reports any findings and recommendations related to the effectiveness of M-NCPPC internal  
30 control systems and processes that come to their attention during the performance of an  
31 audit.  
32

### 33 7. Review of Concerns/Complaints

34 The Audit Committee shall establish procedures for the receipt, retention, and treatment of  
35 complaints regarding internal financial controls and practices, or auditing matters. Complaints,  
36 which may be filed any individual internal or external to the agency, should be directed to the  
37 Internal Audit Division.  
38

39 The Audit Committee shall advise the Commission Chair and Vice-Chair of any Committee  
40 concerns filed, arising from audit/investigation reports, along with the Audit Committee's any  
41 recommendations or proposals to resolve the concerns.  
42

### 43 8. Reports to the Commission

44 In addition to any requirements outlined in subsections # 1-7 (above), the Audit Committee shall  
45 present to the Commission annually:

46 a. A written report that addresses how the Committee discharged its duties and met its  
47 responsibilities. The report shall confirm that the Committee held separate, private discussions  
48 on financial statements prepared by the Finance Department with each of the following:  
49

- 1 1) The Secretary-Treasurer and the Accounting Manager;
- 2 2) The Independent External Auditor; and
- 3 3) Among Committee members.

4  
5 The report shall indicate whether the financial statements are fairly presented, to the extent  
6 such a determination can be made solely on the basis of such conversations.

- 7
- 8 b. A Summary of Significant Audit Findings as prepared by the Internal Auditor and reviewed
- 9 by Audit Committee (see subsection 6. Review of Audit Findings/Reports).
- 10
- 11 c. A summary report, prepared by the Committee, of its evaluation of the adequacy of internal
- 12 controls, the agency's adherence to financial regulations/policies, and any other significant
- 13 concerns/complaints that were filed with or identified by the Audit Committee. This report
- 14 is intended to provide a synopsis of significant issues that were communicated throughout
- 15 the year to the Commission's Chair and Vice-Chair.

Proposed Amendments

Administrative Practice 3-31, Fraud, Waste, & Abuse

**Key to Proposed Policy Amendments:**

Text that is shaded: Recommended insertions

Text with strikeout: Recommended deletions

**Proposed Revisions:**

- *Reflect the restructuring of the Internal Audit program which includes oversight of fraud, waste, and abuse complaints. Investigation of these complaints previously rested with the Secretary-Treasurer as the audit function was organized under the Department of Finance. The Investigative Guidelines that were formerly provided as an appendix to guide managers in their investigations of fraud, waste, and abuse allegations are not needed, as these investigations should be coordinated directly by the Internal Audit Office.*
- *Consolidate Practice 3-31 with viable portions of accompanying Administrative Procedures #05-02 as the documents contained a great deal of duplicate information.*

**AUTHORITY**                    The Commission adopted amendments to this Administrative Practice on \_\_\_\_\_ . This Administrative Practice was approved by the Commission at its meeting on April 20, 2005.

**PURPOSE / BACKGROUND**                    As a taxpayer supported entity, the M-NCPPC has an ongoing and paramount responsibility to ensure the highest level of integrity in the appropriate use of M-NCPPC property/resources. This Administrative Practice was initially approved by the Commission on April 20, 2005. The purpose of this Practice is to:

- Strengthen the prohibition of fraud, waste, and abuse with respect to M-NCPPC property/resources;
- Clearly communicate the affirmative obligation of all employees to report known or suspected fraud, waste, and abuse of M-NCPPC property/resources; and
- Outline the responsibilities in connection with the reporting of fraud, waste, and abuse.

The Practice was last revised by the Commission on \_\_\_\_\_ to incorporate the restructured Internal Audit Office and its role in investigations.

- REFERENCES**
- Division II of the Land Use Article of the Annotated Code of Maryland, the Maryland-National Capital Park and Planning Commission;
  - Merit System Rules and Regulations;
  - Administrative Practice 1-12, "Organization and Functions of the Finance Committee";
  - Administrative Practice 1-31, "Organization and Functions of the Audit Committee";
  - Administrative Practice 2-14, "Non-Commission Employment and Non-Commission Business";
  - Administrative Practice 2-15, "Employee Use of Commission Property";
  - Administrative Practice 2-16, "Seasonal/Intermittent, Temporary and Term Employment";
  - Administrative Practice 2-24, "Ethics";
  - Administrative Practice 4-10, "Purchasing"; and
  - Administrative Practice 6-13, "Electronic Communications Policy"

1 **APPLICATION**

This Administrative Practice applies to all employees including Merit System and contract employees, volunteers, and appointed officials. In the event that any portion of this Administrative Practice conflicts with a Collective Bargaining Agreement, the Agreement shall prevail for members of the respective Collective Bargaining Unit.

6 **DEFINITIONS**

In the context of this Administrative Practice, the terms below are defined as follows:

8 **Appointed Officers:** This term refers collectively to the following positions:  
9 the Executive Director, the General Counsel, and the Secretary-Treasurer.

11 **The Commission:** The governing body of the Maryland-National Capital Park and  
12 Planning Commission ("M-NCPPC" or agency) which is comprised of five members from  
13 each of the agency's two Planning Boards for Montgomery County and Prince  
14 George's County.

16 **Commissioners:** Members of the Commission.

18 **Conflict of Interest:** Any relationship, which is or appears to be not in the best interest of  
19 the organization. A conflict of interest would prejudice an individual's ability to carry out  
20 their duties and responsibilities objectively. Conflict of interest is further defined in these  
21 related Commission Administrative Practices:

- 22 ▪ Administrative Practice 2-14, "Non-Commission Employment and Non-Commission  
23 Business"
- 24 ▪ Administrative Practice 2-14, "Ethics" (ethical standards)
- 25 ▪ Administrative Practice 4-10, "Purchasing"

27 **Executive Committee:** A three-member committee that is comprised of the  
28 Commission Chair, the Commission Vice-Chair, and the Executive Director.

30 **Fraud, Waste, and Abuse:**

- 31 ▪ **Fraud:** Any act, omission, fraud statement/report or concealment involving the  
32 intentional breach of a legal or equitable duty or the violation of federal, state, local  
33 laws or M-NCPPC policies which results in damage to the agency in any way,  
34 including, without limitation, the misappropriation of any M-NCPPC  
35 property/resources as defined below, including cash. Fraud includes, without  
36 limitation, false financial reporting.
- 37 ▪ **Waste:** Neglect and/or other improper conduct that result in destruction, damage or  
38 loss in value of M-NCPPC property/resources.
- 39 ▪ **Abuse:** Improper use or misapplication of actual or apparent M-NCPPC authority,  
40 including, without limitation, authority granted or exercised in conjunction with the  
41 Commission Merit System Rules and Regulations or other official agency policies,  
42 Administrative Practices or Procedures.

44 Examples of "fraud, waste, and abuse" include, but are not limited to, theft, potential or  
45 actual conflicts of interest as defined in various Administrative Practices referenced  
46 above, abuse of office, trust or other fiduciary obligation, corruption, violations of



1 federal, state or local law or regulations, acceptance of bribes and prohibited gratuities  
2 and vendor kickbacks.

3  
4 **Internal Audit:** Office of the M-NCPPC that conducts internal auditing functions and  
5 special investigations.

6  
7 **The Maryland-National Capital Park and Planning Commission:** For purposes of this  
8 Practice, "M-NCPPC" or "agency" shall be used to reference the entity acting in its  
9 organizational capacity.

10  
11 **M-NCPPC Property/Resources:** Any service or physical asset owned, purchased, leased,  
12 or under control of the M-NCPPC. This means (a) real property, (b) personal property  
13 whether tangible or intangible, or (c) rights of the agency existing under contract. M-  
14 NCPPC property/resources includes, but is not limited to, cash (currency, checks, money  
15 orders, credit card receipts); facilities; general equipment and tools; vehicles and  
16 machinery; office equipment and supplies; computer hardware, software, and other  
17 electronic equipment; printers and copiers; telecommunication services such as  
18 telephones; mobile devices; paging devices; facsimile machines; internet/intranet;  
19 electronic mail and data stored on, received by, or transmitted by the agency's operating  
20 systems; M-NCPPC- issued uniforms, and staff services delivered by employees,  
21 contractors, or volunteers of the agency.

22  
23 **POLICY**

24 The M-NCPPC prohibits all conduct constituting fraud, waste, and abuse. This prohibition  
25 covers the participation in, or assistance of others engaged in fraud, waste, or abuse,  
26 including specifically and without limitation, any intentional acts or omissions that have  
the purpose or effect of concealing fraud, waste, or abuse.

27 The use of M-NCPPC property/resources is intended for the conduction of official  
28 business of the agency. The use of agency property/resources for non-M-NCPPC  
29 employment, non-agency business, or for personal gain is prohibited unless specifically  
30 permitted under "Allowable Exceptions" in Administrative Practice 2-15, titled *Employee*  
31 *Use of Commission Property/Resources*. The terms "Non-Commission employment" and  
32 Non-Commission business" are defined within Administrative Practice 2-14, titled *Non-*  
33 *Commission Employment and Non-Commission Business*."

34 *Note to draft reviewer: the following section has been amended to consolidate and clarify*  
35 *duplicated portions of the policy found within this Practice and its accompanying Administrative*  
36 *Procedures of the same title. Some language, which is shown as new text, reflects reorganized*  
37 *sections from other policy sections.*

38  
39 The M-NCPPC requires all individuals covered by this policy, including Merit System and  
40 contract employees, volunteers, appointed officials, vendors and individuals doing or  
41 seeking to do business with the M-NCPPC, to:

- 42 ■ Refrain from committing fraud, waste, and abuse with respect to agency  
43 property/resources.

- 1           ▪ Refrain from participating in or assisting others engaged in fraud, waste or abuse,  
2           including specifically and without limitation any intentional acts or omissions that  
3           have the purpose or effect of concealing fraud, waste, or abuse.
- 4           ▪ Report any known or suspected instances of fraud, waste, or abuse by any person or  
5           entity including, but not limited to, M-NCPPC employees and appointed officials,  
6           volunteers, vendors doing, or seeking to do, business with the agency, or any other  
7           individual using M-NCPPC property/resources. Reports shall be made in accordance  
8           with Section II., Allegations of Fraud, Waste, or Abuse. Individuals will have a  
9           confidential mechanism to report fraud, waste, or abuse by any person or entity  
10          including, but not limited to, M-NCPPC employees and appointed officials,  
11          volunteers, vendors seeking to or doing business with the agency or any other  
12          individual using M-NCPPC property/resources. *(Note to Draft Reviewer: this section  
13          has been deleted as it is now addressed in Section II, which addresses the handling of  
14          allegations.)*
- 15          ▪ Cooperate fully in the review of reported allegations. Individuals, including  
16          managers, are required to cooperate in any investigation conducted by any unit  
17          authorized by the M-NCPPC Cooperation includes without limitation, providing  
18          relevant documents, participating in requested interviews, and providing sworn or  
19          recorded statements.
- 20          ▪ Refrain from retaliation on the basis of an individual's cooperation with the review of  
21          allegations.

22  
23          Any individual who fails to meet requirements outlined above report and/or commits  
24          fraud, waste, or abuse with respect to M-NCPPC property/resources is in violation of this  
25          policy.

26          It is the policy of the M-NCPPC that reporting persons Individuals making a report shall  
27          not suffer any adverse consequences from the agency as a result of a report made in  
28          good faith under the provisions of this Administrative Practice.

29          Any individual who fails to report and/or commits fraud, waste, or abuse with respect to  
30          M-NCPPC property/resources is in violation of this policy. All individuals are required to  
31          cooperate fully in the review of reported allegations. Retaliation is prohibited on the  
32          basis of an individual's cooperation with the review of allegations. *(Note to Draft  
33          Reviewer – the deleted provision has been incorporated above.)*

34          Procedural guidance for reporting and handling of fraud, waste and abuse shall be  
35          established in Administrative Procedures issued to implement this policy. *(Note to Draft  
36          Reviewer: This section is no longer needed as viable guidance from the Administrative  
37          Procedures document has been updated and incorporated into this document.)*

1 **RESPONSIBILITIES**

(Note to Draft Reviewer: The section below has been deleted as it repeats concepts that have been addressed in the introduction to the Policy Section).

2  
3 All persons covered by this Administrative Practice, including Merit System and contract  
4 employees, volunteers, appointed officials, vendors and individuals doing or seeking to  
5 do business with the M-NCPPC, have an affirmative responsibility to:

- 6 ■ Refrain from committing fraud, waste, and abuse with respect to agency  
7 property/resources.
- 8 ■ Refrain from participating in or assisting others engaged in fraud, waste or abuse,  
9 including specifically and without limitation any intentional acts or omissions that  
10 have the purpose or effect of concealing fraud, waste, or abuse.
- 11 ■ Report any known or suspected instances of fraud, waste, or abuse to the  
12 appropriate M-NCPPC management provided in accompanying Administrative  
13 Procedures.

14  
15 Reporting persons shall not suffer adverse consequences from the agency as a result of a  
16 report made in good faith under the provisions of this Administrative Practice.

17  
18 Individuals, including managers, are required to cooperate in any investigation conducted  
19 by the M-NCPPC function authorized to conduct investigations and furnish any  
20 appropriate and relevant documents requested. Cooperation includes without  
21 limitation, providing relevant documents, participating in requested interviews, and  
22 providing sworn or recorded statements. Failure to cooperate will be considered a  
23 violation of policy.

24  
25 Responsibilities for implementing this policy and handling concerns of fraud, waste and  
26 abuse are outlined below.

27 **Management:**

28  
29 **I. Communication of Policy:**

- 30 ■ Management shall ensure that this policy is well communicated through  
31 supervisory communications, agency training, publications, and/or website  
32 access.
- 33 ■ Managers are Management is responsible for ensuring that employees under  
34 their supervision understand and comply with the provisions of this  
35 Administrative Practice.
- 36 ■ The Department of Finance is responsible for communicating and providing of  
37 this policy to all vendors.

1 **II. Handling of Reports—Allegations of Fraud, Waste, or Abuse:**

2 Individuals are provided a number of options for reporting fraud, waste, and abuse.  
3 Reports of fraud, waste, and abuse shall be reviewed in a timely manner and  
4 investigated, as appropriate, in accordance with this Administrative Practice. (Note  
5 to Draft reviewer, this section was moved up from Section III, Investigations.)  
6

7 **A. Reporting Concerns**

8 Individuals may report concerns in writing or orally.

- 9
- 10 ■ **Employees/ Volunteers/Management** are required to report any suspected  
11 or known fraud, waste, or abuse. Individuals may direct their concerns to  
12 any of the following resources, as appropriate, given the circumstances of  
13 the matter: directly to their respective Department Head. Individuals also  
14 have the option of reporting fraud, waste, or abuse to the Secretary-  
15 Treasurer or the Executive Director. (Note to draft reviewer: the deleted  
16 options have been placed below along with other available resources.  
17 Appropriate resources were identified with legal input.)
    - 18 - The Department Director responsible for the program in which Fraud,  
19 Waste and Abuse is suspected.
    - 20 - M-NCPPC's Internal Audit Office: (301) 454-1441; 6611 Kenilworth  
21 Avenue, Riverdale Maryland 20737. Online reporting via email to  
22 \_\_\_\_\_: (Note to Draft Reviewer: Policy staff recommends  
23 including an email link such as  
24 [FraudWasteAbuseReporting@mncppc.org](mailto:FraudWasteAbuseReporting@mncppc.org));
    - 25 - The M-NCPPC Fraud, Waste and Abuse Hot Line at 1-800-363-5524;
    - 26 - Park Police at:
      - 27 ■ 301-949-8010 for Montgomery offices/operations
      - 28 ■ 301-459-9088 for Prince George's and bi-county offices/operations;
      - 29 or
    - 30 - The Executive Director at 301-454-1740.

31  
32 (Note to Draft reviewer: The following section has been taken from the existing  
33 Administrative Procedures 05-02 which are being consolidated into this Practice  
34 and updated as indicated below.)

- 35 ■ **Vendors** shall report any suspected or known fraud, waste, or abuse directly  
36 to the Secretary Treasurer at 301-454-1540.  
37  
38

1  
2 **B. Handling of Reported Concerns**

3 While concerns of fraud, waste and abuse may be communicated in writing or orally,  
4 the intake source of such reports shall ensure that any information received in  
5 connection with the report of suspected fraud, waste or abuse shall be is  
6 documented in writing.

7  
8 **▪ Department Directors/Management**

- 9 - Will take reasonable steps, to the extent legally viable, to maintain the  
10 confidentiality of any individual who makes a report under this  
11 Administrative Practice.  
12 - Management may May not take action or in any other way retaliate against  
13 any employee who makes a good faith report, pursuant to provisions of this  
14 Administrative Practice.  
15 - If an allegation of fraud, waste and abuse is suspected, known, or filed  
16 directly with the Department Director, he/she must promptly report the  
17 matter to the Internal Audit Office. The matter must also be reported to the  
18 Park Police, if criminal activity is apparent or suspected.  
19 - Management must report to the Secretary-Treasurer for review, any  
20 instances of suspected non-compliance by vendors or other individuals  
21 doing/seeking to do business with the M-NCPPC.

22  
23 **▪ Internal Audit Office**

- 24 - Upon receipt of an allegation of fraud, waste, and abuse from  
25 employees/vendors/management, the Office shall review the concern to  
26 determine necessary follow up actions. (See also Section III, Investigation of  
27 Reports of Fraud, Waste, or Abuse.)  
28 o The Internal Audit Office shall ensure that the concern is shared with the  
29 affected Department Director, as appropriate.  
30 o The Executive Director shall be advised on any allegation affecting any  
31 employees, volunteers and management to ensure relevant review of  
32 employment concerns including collective bargaining provisions. (Note to  
33 Draft Reviewer, this section was added to correspond with the duties  
34 assigned to the Executive Director).  
35 - Allegations concerning noncompliance from vendors or other individuals  
36 doing/seeking to do business with the M-NCPPC shall be referred to the  
37 Secretary-Treasurer for review.  
38 - **Required Record Keeping**  
39 The Internal Audit Office will track all allegations of fraud, waste and abuse.  
40 In cases where an investigation is warranted, notification shall be provided to  
41 the Commission Chair and Vice-Chair.

42  
43 As part of the annual process, Internal Audit will meet with the Executive  
44 Director and the Secretary-Treasurer to review the list, in its entirety, of all  
45 allegations reported during the previous fiscal year.  
46

1                   ▪ **The Executive Director**

- 2                   - Will forward any suspected or known fraud, waste, or abuse to the Internal  
3                   Audit Office. A copy of the concern shall be shared with the affected  
4                   Department as appropriate.
- 5                   - Shall advise the M-NCPPC Chair and Vice Chair of the Commission of any  
6                   allegations against Department Heads, Department Directors, Deputy  
7                   Directors, Board Members, Auditors, Superintendent of Parks, and/or  
8                   Division Chiefs.
- 9                   - Must communicate to the Internal Audit Office and the affected department,  
10                  as appropriate, any concerns related to investigations including relevant  
11                  collective bargaining provisions.
- 12                  - In preparation of external financial reviews of the agency, shall meet with the  
13                  Internal Audit Office to examine its tracked listing of all reported or  
14                  suspected cases of fraud, waste, and abuse.

15

16                   *Note to Draft Reviewer: The second bullet (above) incorporates an existing*  
17                   *section of Administrative Procedures 05-02, which is being consolidated into this*  
18                   *Practice. Department Directors/Executive Committee agreed that this*  
19                   *responsibility should continue to rest with the Executive Director.*

20

21                   ▪ **The Secretary-Treasurer**

- 22                   - Shall receive and review all concerns related to vendors or other individuals  
23                   doing/seeking to do business with the Commission.
- 24                   - Must forward to the Internal Audit Office any known or suspected cases of  
25                   fraud, waste, or abuse. A copy of the concern shall be forwarded to the  
26                   Executive Director.
- 27                   - In preparation of external financial reviews of the agency, shall meet with the  
28                   Internal Audit Office to examine its tracked listing of all reported or  
29                   suspected cases of fraud, waste, and abuse.

30

31                   ▪ **The Park Police**

32                   Shall communicate any suspected or known fraud, waste, and abuse with  
33                   Internal Audit.

34

35                   **III. Investigation of Reports of Fraud, Waste, or Abuse**

36

37                   **A. Investigation of Allegations Filed by Employees/Volunteers/Management**

38                   Outside of vendor related concerns, the appropriate investigative approach shall be  
39                   determined by the Internal Audit Office after a review of the specific allegation(s),  
40                   the scope of the violation(s), and the alleged parties involved. Pursuant to  
41                   Administrative Practice 1-31, the Commission's Audit Committee provides oversight  
42                   of the Internal Audit Function and issues operating procedures for audits and  
43                   investigations.

44

45                   While these allegations of fraud, waste, and abuse will be pursued by the Internal  
46                   Audit Office, in some cases it may be appropriate for other parties to assist with or

1 perform an investigation (e.g., Park Police, other law enforcement agencies, the  
2 Office of the General Counsel, external resources, etc.).

- 3
- 4 ▪ As appropriate, the Internal Audit Office should consult law enforcement  
5 agencies and/or the Office of the General Counsel on matters pertaining to  
6 potential or known criminal activities to ensure that necessary investigative  
7 measures are taken.
  - 8 ▪ The Executive Director shall advise the Internal Audit Office on any concerns  
9 pertaining to investigations involving employees represented by collective  
10 bargaining.
    - 11 - All received reports of fraud, waste and abuse shall be treated seriously and  
12 investigated timely in accordance with this Administrative Practice and its  
13 accompanying Administrative Procedures. *(Note to Draft Reviewer: deleted  
14 text has been reorganized above.)*
    - 15 - Prior to commencement of any investigation, Department Heads must  
16 provide the Secretary-Treasurer details of any reports involving fraud, waste,  
17 and abuse brought to their attention. *(Note to Draft Reviewer: deleted text  
18 has been reorganized above.)*
    - 19 - Management shall refer to the accompanying Administrative Procedures  
20 (also titled Fraud, Waste, and Abuse), to this Administrative Practice, for  
21 specific procedural responsibilities related to the review and handling of  
22 fraud, waste and abuse allegations. *(Note to Draft Reviewer: This provision  
23 is no longer needed as all viable portions of the stand-alone Administrative  
24 Procedures have been incorporated into this Practice.)*
- 25

26 **B. Investigation of Vendor Related Allegations**

27 The appropriate investigative approach shall be determined by the Secretary-  
28 Treasurer consistent with relevant procurement policies and regulations.

29

30

31 **IV. Handling of Issuance and Review of Fraud, Waste and Abuse Investigation Reports**  
32 **Violations**

33 Final investigation reports shall be distributed to the Audit Committee, the Commission  
34 Chair and Vice-Chair and the Director of the affected department. Copies of the reports  
35 shall also be provided to the Commission's appointed officers (the Executive Director, the  
36 General Counsel, and the Secretary Treasurer).

- 37 ▪ The General Counsel shall be advised by the and/or Department Heads of any  
38 findings requiring action. The General Counsel shall furnish advice and guidance on  
39 legal issues and procedures to be followed.
- 40 ▪ The Executive Director shall ensure that findings of fraud, waste, or abuse are  
41 addressed consistently.
- 42 ▪ The Department Director shall respond within 30 calendar days to ensure that any  
43 recommendations and/or corrective actions from a Final Investigation Report. Such  
44 response shall of fraud, waste, or abuse violations are responded to set forth a  
45 schedule for implementation, within 60 calendar days after the issuance of such  
46 recommendations and/or corrective actions, as appropriate. The Chair and Vice-  
47 Chair may grant an extension in the response period when additional time is required  
48 to respond to complex Audit issues/findings. *(Note to draft reviewer: The 30-day*

1 time frame was incorporated for consistency with procedures adopted within Practice  
2 1-31 governing reports issued by Internal Audit).

- 3 ■ The Secretary-Treasurer Audit Committee shall include findings and  
4 recommendations/corrective actions of incidents of fraud, waste, and abuse as part  
5 of the regular audit/financial reports to the Commission Chair and Vice Chair.  
6

## 7 VIOLATIONS

8 **Employees**, who violate any portion of this Administrative Practice, are subject to  
9 disciplinary action up to and including termination of employment. Disciplinary actions  
10 shall be handled in accordance with the Merit System Rules and Regulations, Chapter  
11 1900, Workplace Conduct and Discipline Chapter; applicable Collective Bargaining  
12 Agreements; and Commission Administrative Practice 2-16, "Seasonal/Intermittent,  
13 Temporary, and Term Employment," Discipline Section. Employees covered under the  
14 Law Enforcement Office's Bill of Rights (LEOBR) shall be afforded their rights pursuant to  
15 the LEOBR statute as well as any applicable Collective Bargaining Agreement.  
16 Department Directors shall consult with the Human Resources Director before  
17 implementing any disciplinary action to ensure appropriate action is taken. (Note to  
18 Draft Reviewer: this amendment incorporates concepts from the existing Administrative  
Procedures.)

19 In addition to disciplinary actions up to termination, violations of policy also may result in  
20 criminal prosecution and recovery of losses. Any expenses incurred from an employees  
21 unauthorized use/misuse or loss of M-NCPPC property/resources may be recovered by  
22 the agency through direct repayment of such expenses by the employee, or collection of  
23 such expenses through payroll deduction. The M-NCPPC reserves the right to determine  
24 the method of recovery of such expenses and to pursue legal action for collection of any  
25 monies owed by an employee. Disciplinary and recovery actions shall be coordinated  
26 through the Department of Human Resources and Management and the Office of the  
27 General Counsel.

28 **Vendors** may be held financially responsible for loss/damage to M-NCPPC  
29 property/resources resulting from violation of this Administrative Practice or any  
30 applicable federal, state or local law. Vendors and individuals doing business, or seeking  
31 to do business, with the M-NCPPC are required to comply with the terms of their  
32 contract or agreement and all applicable Administrative Practices and Procedures.  
33 Failure to comply may result in the vendor or individual being debarred from doing  
34 business with the agency or, if applicable, action pursuant to Administrative Practices  
35 and Procedures and federal, state or local laws.

36 Any sanctions for violations by vendors or persons conducting/wishing to do business  
37 with the agency shall be handled pursuant to Administrative Practice 4-10, Purchasing,  
38 and any applicable contract provisions or laws. (Note to Draft Reviewer: this Section was  
39 incorporated from the existing Administrative Procedures 05-02 which are being  
40 consolidated into this Practice.)

## 41 PROCEDURES

42 Executive Director shall issue Administrative Procedures as needed, for implementation  
of this Administrative Practice in areas such as guidance response to investigations to



1 include specific procedures on reporting mechanisms, review and investigation of  
2 allegations, and handling of findings.

3  
4 Pursuant to Administrative Practice 1-31, the Commission's Audit Committee shall issue  
5 operating procedures governing the investigation process used by the Internal Audit  
6 Office. *(Note to Draft Reviewer: Audit Committee provides oversight of the Internal Audit  
7 function.)*  
8  
9

*Note to Draft Reviewer: These Procedures are recommended for deletion as many portions relate to former structure for investigating Fraud, Waste and Abuse concerns. These investigations are now handled through the Internal Audit Office therefore many portions of the procedures are no longer viable. Portions of the Procedures that continue to be relevant have been incorporated into the updated Practice of the same title to avoid duplication of information and provide one consolidated document that is easier to follow.*

**Administrative Procedures 05-02, Fraud, Waste & Abuse  
FRAUD, WASTE, and ABUSE (page 1)**

These Administrative Procedures accompany Administrative Practice 3-31, "Fraud, Waste, and Abuse." These Procedures were adopted effective April 20, 2005, to provide administrative guidance and implement policy contained in Practice 3-31.

**DEFINITIONS**

For purposes of these Administrative Procedures, definitions are provided in the accompanying Administrative Practice 3-31, "Fraud, Waste, and Abuse."

**PROCEDURES AND RESPONSIBILITIES**

**I. Reporting of Fraud, Waste, and Abuse**

Pursuant to Administrative Practice 3-31, the Commission requires all individuals covered by this policy to report known or suspected fraud, waste, or abuse. Individuals will have a confidential mechanism to report fraud, waste, or abuse.

~~A. **Employees and Volunteers** shall report any suspected or known fraud, waste, or abuse directly to their respective Department Head. Individuals also have the option of reporting fraud, waste, or abuse to the Secretary-Treasurer or the Executive Director. Reports may be made orally or in writing. Additionally, the Commission will initiate and publicize a Fraud, Waste and Abuse Hot Line to which individuals may call who have information concerning fraud, waste, and abuse.~~

~~B. **Department Heads, Secretary-Treasurer, & Executive Director**~~

- ~~• **Department Heads** shall promptly report any suspected or known fraud, waste, or abuse to the Secretary-Treasurer.~~
- ~~• **The Secretary-Treasurer** will advise the Executive Director of reports received from Departments, or any investigations cases of fraud, waste, or abuse initiated by the Department of Finance.~~
- ~~• **The Executive Director** shall:
  - ~~• The Secretary-Treasurer shall be consulted on any complaints that are filed directly with the Office of the Executive Director.~~
  - ~~• Shall advise the Chair and Vice Chair of the Commission of any allegations against Department Heads, Deputy Directors, Superintendent of Parks, and/or Division Chiefs.~~~~

~~C. **Vendors or other persons doing business with the M-NCPPC and patrons** shall report instances of suspected or known fraud, waste, or abuse to the Secretary-Treasurer.~~

**II. Handling Reports of Fraud, Waste, and Abuse**

Pursuant to Practice 3-31, *Fraud, Waste and Abuse*, it is the policy of the M-NCPPC that reporting persons will not suffer adverse consequences from the agency as a result of a report made in good faith.

1 **A. All Employee/Volunteer Allegations Filed With Department Heads**

- 2     ▪ Department Heads shall ensure that all reports of fraud, waste, and abuse, which are filed within  
3     their respective departments, are reported Secretary Treasurer. Prior to the commencement of  
4     an investigation, the Department Head shall consult with the Secretary Treasurer to ensure that  
5     appropriate steps and individuals are included in the review of an allegation. This is to ensure  
6     that the agency has adequate internal controls in place.  
7  
8     ▪ The appropriate investigative approach shall be determined by the Secretary Treasurer after a  
9     review of the specific allegation(s), the scope of the violation(s), and the alleged parties involved.  
10    ▪ If determined appropriate by the Secretary Treasurer, the investigation may be conducted by the  
11    Department Head or his/her designee. However, the Secretary Treasurer shall have the final  
12    determination as to who will conduct the investigation (e.g., the Department, the Department of  
13    Finance, and/or an external party).

14  
15    Investigations shall be comprehensive and include review of all relevant documents, interviews,  
16    witness statements, and, policies and procedures. Appendix A, *Investigative Guidelines*, outlines  
17    basic steps that should be followed in an investigation. These guidelines are not all inclusive, as they  
18    may be supplemented as directed by the Secretary Treasurer after review of circumstances  
19    surrounding a specific allegation.  
20

21    If the investigation is at the departmental level, then the Department Head must furnish to the  
22    Secretary Treasurer a report of investigation steps, findings, and subsequent actions taken or  
23    recommended. If the Secretary Treasurer concludes that the action of the Department Head, in  
24    response to a Fraud, Waste, and Abuse investigation, is inadequate, the Secretary Treasurer will  
25    meet with the Department Head to resolve these issues. The Secretary Treasurer may consult with  
26    that the General Counsel and the Personnel Manager be involved in these discussions. If the issues  
27    cannot be resolved, the Secretary Treasurer has the discretion and authority to conduct a  
28    supplemental investigation and/or bring the matter to the Finance Committee as defined by  
29    Commission Practice 1-12, "Organization and Functions of the Finance Committee."  
30

31 **B. Employee/Volunteer Allegations Filed Directly With The Secretary Treasurer or Executive Director**

32    Allegations filed directly with the Executive Director reviewed with the Secretary Treasurer for  
33    appropriate review and action. Appropriate action may include, referring the matter back to the  
34    Department Head for investigation having the investigation conducted internally by the Department  
35    of Finance, or using external resources. Any investigation or inquiry conducted by the Department of  
36    Finance will be documented in a written report directed to the appropriate Department Head or  
37    Executive Director. Investigative findings involving Department Heads, Deputy  
38    Directors/Superintendent of Parks, and Division Chiefs shall be reported to the Executive Director.  
39    The Executive Director will share the findings of these reports with the Chair and Vice Chair of the  
40    Commission.

41 **C. Allegations of Fraud, Waste, or Abuse by Vendors or Persons Doing Business with the M-NCPPC**

42    All allegations involving vendors or persons doing/wishing to do business with the M-NCPPC shall be  
43    forwarded to the Secretary Treasurer for appropriate review and action.

44 **III. Implementation of Investigation Findings/Violations**

45    If the investigation findings reveal actions or inactions by employees or volunteers, the Department Head  
46    must consult with the Personnel Manager to determine appropriate employment/administrative action.  
47    Employment actions are carried out by the Department Head.

48    Any sanctions for violations by vendors or persons conducting/wishing to do business with the agency  
49    shall be handled pursuant to Administrative Practice 4-10, *Purchasing*, and any applicable contract  
50    provisions or laws.



ITEM 6D (1)

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 LATE PERFORMANCE EVALUATION REPORT  
 BY DEPARTMENT AS OF DECEMBER 2012

	31 - 60 DAYS		61 - 90 DAYS		91 + DAYS		DEPARTMENT TOTALS	
	11/12	12/12	11/12	12/12	11/12	12/12	11/12	12/12
CHAIRMAN, MONTGOMERY COUNTY	0	1	0	0	0	0	0	1
CHAIRMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	0	0	1	0	0	1	1	1
INTERNAL AUDIT	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	0	0	0	0	0	0	0	0
LEGAL DEPARTMENT	4	1	0	0	0	0	5	1
FINANCE DEPARTMENT	0	0	0	0	0	0	0	0
PRINCE GEORGE'S PLANNING	0	2	0	0	0	0	0	2
PRINCE GEORGE'S PARKS & RECREATION	0	0	0	0	0	0	0	0
MONTGOMERY COUNTY PARKS	0	0	0	0	0	0	0	0
MONTGOMERY COUNTY PLANNING	2	1	0	1	0	0	2	2
**DEPARTMENT TOTAL BY DAYS LATE**	6	5	1	1	0	1	---	---
<b>COMMISSION WIDE TOTAL:</b>							<b>8</b>	<b>7</b>

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





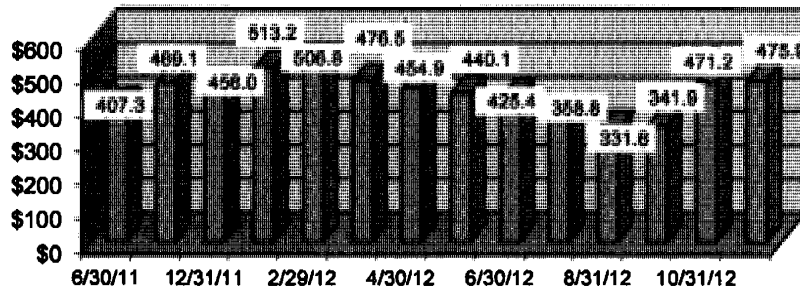
**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**TREASURY OPERATIONS, FINANCE DEPARTMENT**  
 6611 Kenilworth Avenue, Suite 302, Riverdale, MD 20737  
 Telephone (301) 454-1541 / Fax (301) 209-0413

**MEMO**

**TO:** Commissioners  
**VIA:** Joseph Zimmerman, Secretary-Treasurer  
**FROM:** Abbey Rodman, Investment & Treasury Operations Manager *AR*  
**DATE:** 12/7/2012  
**SUBJECT:** Investment Report – November 2012

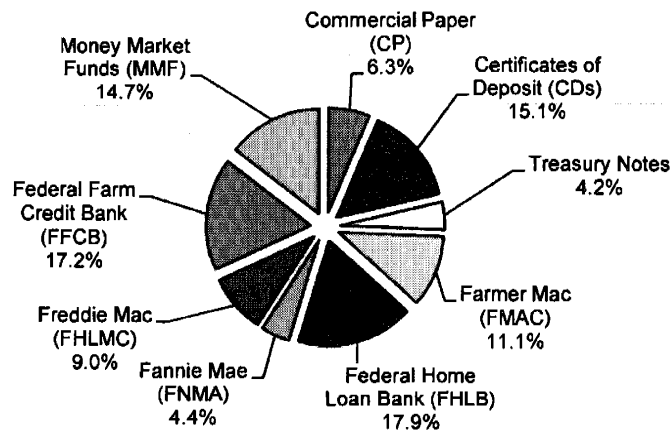
The Commission's pooled cash investment portfolio totaled \$475.9 million as of November 30, 2012, with a 1 % increase from October 31, 2012. Details are as follows:

**Pooled Cash Portfolio Outstanding**  
 (in \$ mil.)



The composition of the pooled cash portfolio as of November 30, 2012 is summarized below:

**Pooled Cash Portfolio as of 11/30/12**

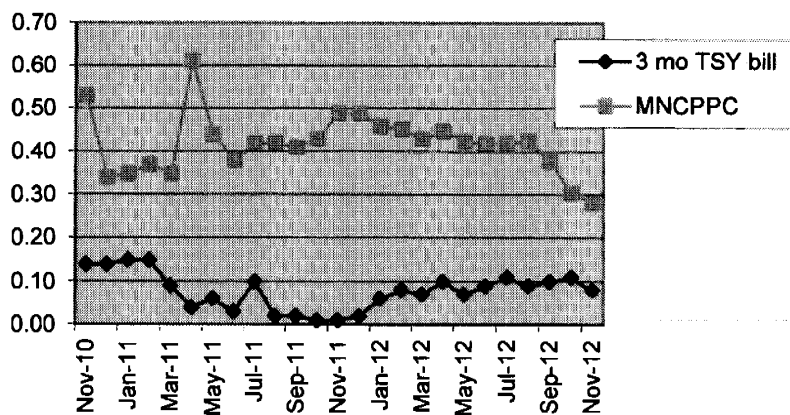


**Current Investment Portfolio - November 2012**

Instrument	Policy		Par Value	Wtd. Avg. Return (B/E)
	Limit**	Actual		
Federal Home Loan Banks	20%	18%	\$ 85,000,000	0.28%
Federal Farm Credit Bureau	20%	17%	82,076,000	0.23%
Certificates of Deposit	50%	15%	72,000,000	0.32%
Money Funds	25%	15%	69,948,996	n/a
Farmer Mac	20%	11%	53,000,000	0.25%
Freddie Mac	20%	9%	43,000,000	0.30%
Commercial Paper	10%	6%	30,000,000	0.79%
Fannie Mae	20%	4%	20,970,000	0.20%
Treasury Notes	100%	4%	20,000,000	0.23%
Bankers Acceptances	50%	0%	-	0.00%
Repurchase Agreements	60%	0%	-	0.00%
			<b>\$ 475,994,996</b>	<b>0.28%</b>

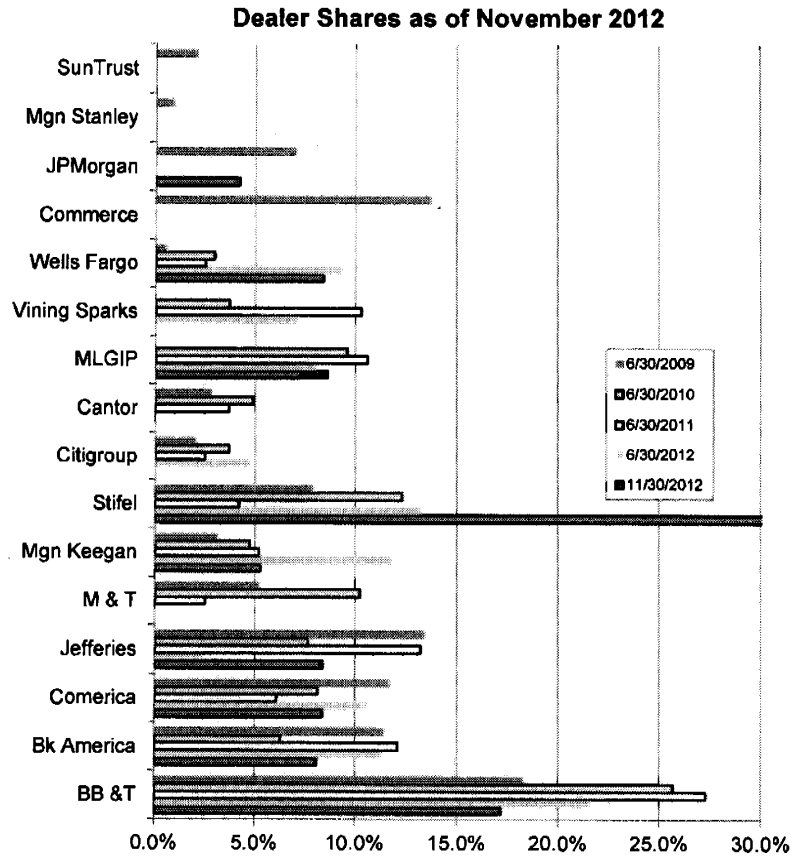
The pooled cash portfolio complied with all policy limits with regard to product types and proportions throughout the month.

**MNCPPC Rate of Return vs. 3-mo. Treasuries**





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



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

<b>Market Value- 11/30/12</b>	
Montgomery County (MC-2012A)	\$ 3,367,186
Montgomery County (MC-2012B)	1,316,932
	<b>\$ 4,684,118</b>

The Commission had debt service payments during the month totaling \$2,400,318, of which \$1,676,252 was principal and \$724,066 was interest.

Details by issue of debt outstanding as of November 30, 2012 appear below:

<b>Debt Balances - November 2012</b>					
	<b>Initial Par</b>	<b>Amount Outstanding</b>	<b>% Outstanding</b>	<b>Issue Date</b>	<b>Maturity Date</b>
<b>Bi-County</b>					
<b>Total Bi-County</b>	<b>\$ -</b>	<b>\$ -</b>	<b>0%</b>		
<b>Prince George's County</b>					
BB-2	21,110,000	2,380,000	11%	Dec-02	Jul-14
KK-2 (Refunded AA-2)	17,300,000	10,707,663	62%	Apr-08	May-18
NN-2 (Refunded Z-2)	14,080,000	11,745,000	83%	Mar-10	May-21
EE-2	37,525,000	21,650,000	58%	Mar-04	Jan-24
JJ-2	8,900,000	7,125,000	80%	May-07	May-27
<b>Total Prince George's County</b>	<b>\$ 98,915,000</b>	<b>\$ 53,607,663</b>	<b>54%</b>		
<b>Montgomery County</b>					
Little Bennett	3,154,000	-	0%	Dec-03	Nov-12
Cabin John Ice	6,000,000	444,450	7%	Apr-99	Nov-13
HH-2	5,445,000	680,000	12%	Jul-05	Jul-14
DD-2(ALA)	1,550,000	465,000	30%	Dec-02	Dec-14
LL-2	8,405,000	6,190,000	74%	May-09	Nov-20
CC-2	12,155,000	1,400,000	12%	Dec-02	Dec-14
FF-2 (ALA)	2,000,000	1,440,000	72%	Nov-04	Dec-24
FF-2	4,000,000	1,200,000	30%	Nov-04	Dec-24
II-2	4,700,000	3,775,000	80%	Mar-07	Apr-27
MM-2	5,250,000	4,410,000	84%	May-09	Nov-28
MC-2012A	12,505,000	12,505,000	100%	Apr-12	Dec-32
MC-2012B	3,000,000	3,000,000	100%	Apr-12	Dec-32
<b>Total Montgomery County</b>	<b>\$ 68,164,000</b>	<b>\$ 35,509,450</b>	<b>52%</b>		
<b>Total</b>	<b>\$ 167,079,000</b>	<b>\$ 89,117,113</b>	<b>53%</b>		

**ATTACHMENT A**

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**  
**REPORT ON COMPLIANCE TO INVESTMENT POLICY** Approved March 21, 2012  
**FISCAL YEAR 2013 - November 30, 2012**

OBJECTIVES		Met Objective	Within Limits	Comments
<b>Protection of principal</b>		<b>Yes</b>		
<b>Limiting types and amounts of securities</b>	Limit		<b>Yes</b>	
US Government	100%			All securities purchases were within the limits established by the Investment Policy at the time of purchase of the investments. This monthly report is prepared for the Secretary-Treasurer to demonstrate compliance with investment policy objectives and limitations.
US Federal Agencies - combined	60%			
US Federal Agencies - each	20%			
Repurchase Agreements	60%			
CD's and Time Deposits	50%			
Commercial Paper	10%			
Money Market Mutual Funds	25%			
MD Local Gov't Investment Pool	25%			
Investing Bond Proceeds:				
State and local agency securities	100%			
Money Market Mutual Funds	10%			
Bond Proceeds:				
Highly-rated state / local agency securities			<b>Yes</b>	T. Rowe Price managed all funds within limits
Highly-rated money market mutual funds (Max. 10% in lower-rated funds)				
<b>Pre-qualify financial institutions, broker/dealers, intermediaries and advisers</b>			<b>Yes</b>	All firms must meet defined capital levels and be approved by the Secretary-Treasurer
<b>Ensure competition among participants</b>	30%		<b>Yes</b>	No dealer share exceeded 30%
<b>Competitive Bidding</b>			<b>Yes</b>	All purchases awarded competitively.
<b>Diversification of Maturities</b>				
Majority of investments shall be a maximum maturity of one (1) year. A portion may be as long as two years.			<b>Yes</b>	All maturities within limits
<b>Require third-party collateral and safekeeping, and delivery-versus-payment settlement</b>			<b>Yes</b>	M&T Investments serves as custodian, monitoring compliance daily
<b>Maintain sufficient liquidity</b>		<b>Yes</b>		Sufficient funds available for all cash requirements during period
<b>Attain a market rate of return</b>		<b>Yes</b>		Exceeded by 20 basis points.
The pro-rated rates of return for the portfolio and T-bills were 0.28% and 0.08%, respectively.				





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

*Reply To*

January 16, 2013

**Adrian R. Gardner**  
General Counsel  
6611 Kenilworth Avenue, Suite 200  
Riverdale, Maryland 20737  
(301) 454-1670 • (301) 454-1674 fax

**MEMORANDUM**

**TO:** The Maryland-National Capital Park and Planning Commission  
**FROM:** Adrian R. Gardner  
General Counsel  
**RE:** Litigation Report for the Month of December 2012

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Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, January 16, 2013. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

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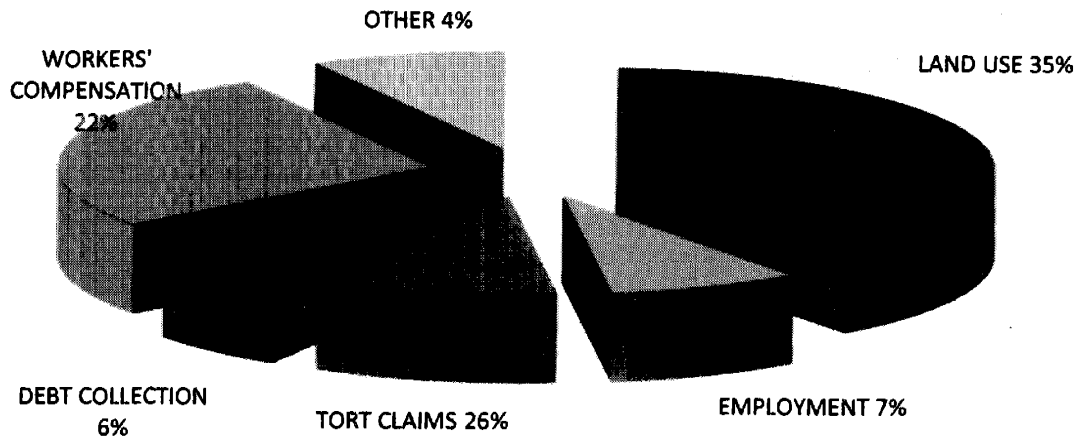
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**Composition of Pending Litigation  
(By Subject Matter and Forum as of December 2012)**

	State Trial Court	Federal Trial Court	Maryland COSA	Maryland Court of Appeals	Federal Appeals Court	U.S. Supreme Court	Subject Matter Totals
Admin Appeal: Land Use	12		6				18
Admin Appeal: Other							0
Land Use Dispute	1						1
Tort Claims	5						5
Employment Dispute		3	1				4
Contract Dispute	1						1
Property Dispute	1		1				2
Civil Enforcement							0
Workers' Compensation	11		2				13
Debt Collection	3						3
Bankruptcy							0
Miscellaneous			1				1
<b>Per Forum Totals</b>	<b>34</b>	<b>3</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>48</b>

**OVERVIEW OF PENDING LITIGATION**



By Major Case Categories as of November 2012

**Litigation Activity Summary  
(As of December 2012)**

	Count For Month			Count For Fiscal Year 13			
	Pending Last Month	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD	Resolved Cases F/YTD	Pending Current Month
Admin Appeal: Land Use	18	1	3	20	6	10	16
Admin Appeal: Other				0			0
Land Use Disputes	1			1	1	1	1
Tort Claims	7		2	5	5	5	5
Employment Disputes	4			4			4
Contract Disputes	1			1			1
Property Disputes	2			3	1	2	2
Civil Enforcement	1			0	1		1
Workers' Compensation	14			15	2	3	14
Debt Collection	3			3			3
Bankruptcy				0			0
Miscellaneous	1			1			1
<b>Totals</b>	<b>52</b>	<b>1</b>	<b>5</b>	<b>53</b>	<b>15</b>	<b>21</b>	<b>48</b>

**Index of New and Resolved Cases**

**A. New Trial Court Cases.**

Rollins, et al. v. PGPB

**Unit**

PGPB

**Subject Matter**

Admin Appeal: Land Use

**B. New Appellate Court Cases.**

**C. Trial Court Cases Resolved.**

Sandler, et al. v. MCPB

MCPB

Admin Appeal: Land Use

South-East Rural Civic Assn v. MCPB

MCPB

Admin Appeal: Land Use

South-East Rural Olney Civic Assn v. MCPB

MCPB

Admin Appeal: Land Use

Quick v. Gathers

PGParks

Tort

Quick v. Legal Department

PGParks

Tort

**D. Appellate Court Cases Resolved.**



Office of the General Counsel  
 Litigation Report for December 2012  
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**EMPLOYEES RETIREMENT SYSTEM**

**Office of the General Counsel**  
**Litigation Report for December 2012**  
**Disposition of FY13 Closed Cases Sorted By Department**

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
<b>Employees Retirement System</b>		
<b>Finance Department</b>		
<b>Department of Human Resources and Management</b>		
<b>Montgomery County Department of Planning</b> Rounds v. Commission Case No. 350954-V	Defense of claim for Maryland Constitutional violations and declaratory relief concerning alleged Farm Road easement.	Appeal filed.
<b>Montgomery County Department of Parks</b> Ticklin, et al. v. Commission, et al. Case No. 360940-V	Defense of claim arising from minor child skating at Cabin John Skating Rink.	Case Dismissed with Prejudice.
<b>Montgomery County Park Police</b>		
<b>Montgomery County Planning Board</b> Anne and Julius Cinque, Peter and Cynthia Eeg v. Hilltop Farms Limited Partnership September Term 2011, No. 373	Property dispute. Appeal filed by Petitioners Anne and Julius Cinque and Peter and Cynthia Eeg	Commission will not participate in this Appeal.
<b>Bacon v. Arey, et al.</b> September Term 2012, Petition Docket No. 157	Petition to appeal the Court of Special Appeals reported opinion entering a declaratory judgment in favor of the Commission and other defendants against an ingress/egress easement crossing a conservation easement, and dismissing the constitutional and tort claims.	Decision issued. Order denying Petition for Writ of Certiorari.
<b>Bethesda Place LP v. Montgomery County Planning Board</b> Case No. 361573V	Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in Project Plan No. 920120010 and Preliminary Plan 120120070.	Petitioner filed Notice of Appeal to the Maryland Court of Special Appeals. Judge ruled from the bench in favor of the Commission on 10/24/12.
<b>Commission v. McDonnell</b> Case No. 355825-V	Commission is appealing Workers' Compensation Commission's decision.	Order-Remanded to Workers' Compensation Commission. Case settled.

Hyde v. Montgomery County Planning Board Case No. 363941-V	Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in Subdivision Plat 220120830.	Planning Board approved the Rural Open Space Easement; approved the Plate of Correction for Plat No. 220120830; reaffirmed the validity of the Plat Nos. 220120260, 220120270, 220120280, 220120290, and 220120300 to implement the Court's Order.
Montgomery Preservation, Inc. et. al. v. Montgomery County Planning Board September Term 2011, No. 72	Plaintiff appealing Montgomery County Circuit Court's grant of Commission's Motion to Dismiss. Plaintiff complained below about Montgomery County Planning Board's recommendation against designating a certain property as a historical resource. Final decision was County Council, not Planning Board's. Mandate issued by Court of Special Appeals. Judgment for Montgomery County affirmed. Appellants filed Petition for Certiorari.	Court issued opinion denying Plaintiffs appeal and affirming Court of Special Appeals decision.
<b>Prince George's County Department of Parks and Recreation</b>		
Commission v. Poole September Term 2011, No. 00032	Workers' Compensation Commission awarded Claimant permanent partial disability benefits on one case while he was receiving temporary total disability benefits on another. Case remanded to Workers' Compensation Commission. Commission appealing.	Prince George's Circuit Court enters final judgment and remands case to Workers' Compensation Commission.
Commission v. Prince George's County, MD and Larman Case No. CAL11-09261	Commission is appealing award findings by Workers' Compensation Commission, including the decision that the Commission was the employer at the time of the last injurious exposure.	Case remanded to Workers' Compensation Commission.
Quick v. Dick Case No. 0502-0021301-2012	Defense of Commission employee against suit alleging defamation against Sportsplex staff.	Judgment in favor of the Commission.
<b>Prince George's County Planning Department</b>		
Royal Plaza Community Assoc., Inc. v. Bonds, et al. Case No. CAE12-06297	Defense of claims arising from non-conforming use of common area of townhouse community alienated during tax sale.	
<b>Prince George's County Planning Board</b> Accokeek, Mattawoman, Piscataway, et al. v. Commission Case No. CAL-08-16311	Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-07076 in Estate of Pleasant Valley.	Remanded to Prince George's Planning Board.

<p>Commission v. Greater Baden-Aquasco Citizens, et al. September Term 2009, No. 19</p>	<p>Defense against Administrative Appeal of decision by the Planning Board to approve preliminary plan 4-05141 for the Schultze Property.</p>	<p>Circuit Court issued Order of Court remanding this case back to the Planning Board for further proceedings not inconsistent with the January 22, 2010 Opinion of the Court of Appeals.</p>
<p><b>Prince George's Park Police</b> Suarey v. Grace Case No. CAL11-00134</p>	<p>Defense of claim for motor vehicle accident.</p>	<p>Judgment in favor of the Commission.</p>



**CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND**

**Galloway v. Commission**

Case No. 02C11164910

Lead Counsel: Chagrin  
Other Counsel: Harvin

Abstract: The Workers' Compensation Commission awarded Claimant 22% permanent partial disability to his left leg (knee). Claimant is appealing this award.

Status: Trial Scheduled

Docket:

10/18/11	Petition filed
10/27/11	Response to Petition filed
06/20/12	Pretrial conference held
2/28/13-3/1/13	Trial scheduled

DISTRICT COURT OF MARYLAND FOR PRINCE GEORGE'S COUNTY

**Commission v. Burke**

Case No. 0502-0008216-2009

Lead Counsel: Harvin  
Other Counsel:

Abstract: Commission filed confessed judgment against Defendant for failure to pay rental fee for park property. Currently attempting to locate defendant in order to enforce judgment.

Status: Confessed Judgment Filed

Docket:

03/10/09	Confessed Judgment filed
05/14/12	Notice of Lien filed

**Commission v. Nyagbona**

Case No. 0502-0033330-2011

Lead Counsel: Harvin  
Other Counsel:

Abstract: Commission filed suit to recover funds paid to repair a Commission vehicle that was struck by Defendant's uninsured automobile.

Status: On hold - Defendant is in active military service

Docket:

09/26/11	Complaint filed
11/01/11	Summons issued for Defendant

**Commission v. Eludoyin**

Case No. 0502-0006727-2012

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Commission filed suit to recover funds paid to employee under Workers' Compensation Act due to a vehicle accident caused by Defendant.

Status: Currently attempting to locate Defendant to serve summons and complaint

Docket:

03/28/12	Complaint filed
04/02/12	Summons issued for Defendant
09/04/12	Motion filed to Vacate Order of Dismissal
10/02/12	Order vacated - awaiting summons.



**Japones v. Montgomery**  
Case No. 0502-0023010-2012

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of Commission employee against suit for personal injury resulting from automobile accident.

Status: Awaiting Trial

Docket:

08/08/12	Complaint filed
9/20/12	Notice of Intention to Defend Filed
01/24/13	Trial Scheduled

**Quick v. Gathers**  
Case No. 0502-0024294-2012

Lead Counsel: Harvin  
Other Counsel: Mills

Abstract: Defense of claim for alleged violations of the Americans with Disabilities Act

Status: Dismissed

Docket:

08/29/12	Complaint filed
09/19/12	Commission Motion to Dismiss filed
09/19/12	Commission Notice of Intention to Defend filed
12/17/12	Defendant's Motion to Dismiss Granted

**Quick v. Legal Department**  
Case No. 0502-0024295-2012

Lead Counsel: Harvin  
Other Counsel: Mills

Abstract: Defense of claim for injuries arising from alleged defective exercise bike.

Status: Dismissed

Docket:

08/29/12	Complaint filed
09/14/12	Commission Motion to Dismiss filed
09/14/12	Commission Notice of Intention to Defend filed
12/17/12	Defendant's Motion to Dismiss Granted

**CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**Accokeek, Mattawoman, Piscataway Creeks, et al. v. Commission**

Case No. CAL12-09816

Lead Counsel: Johnson  
Other Counsel: Mills

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Special Exception 4669 in Robin Dale Property.

Status: Oral Argument Re-scheduled  
Docket:

03/29/12	Petition for Judicial Review filed
04/23/12	Commission's Response to Petition filed
04/23/12	Commission's Motion to Dismiss filed
04/24/12	Commission's Notice of Appeal filed
04/24/12	Commission's Certificate of Compliance filed
05/07/12	Petitioner's Opposition to Motion to Dismiss filed
05/24/12	Respondents Chaney Enterprises Limited and Southstar Enterprises Response to Petition for Judicial Review filed
05/24/12	Respondents Chaney Enterprises Limited and Southstar Enterprises Motion to Dismiss Petition for Judicial Review filed
07/20/12	Commission's Motion to Stay the Underlying Proceedings Pending this Court's Consideration of the Commission's Rule 7-204(b) Motion to Dismiss filed
08/06/12	Order granting Commission's Motion to Stay
09/12/12	Joint Motion for Continuance
09/12/12	Order granting Joint Motion for Continuance
10/26/12	Oral Argument re-scheduled
10/26/12	Petitioners' filed Motion to Withdraw and Notice of Voluntary Dismissal
10/26/12	Oral Argument and Joint Motion for Continuance held – Judge Cotton Granted Motions and Petition Notice of Voluntary Dismissal in case

**Commission v. Batson**

Case No. CAL11-34093

Lead Counsel: Chagrin  
Other Counsel: Harvin

Abstract: Commission is appealing the Worker's Compensation Commission's decision.

Status: Dismissed  
Docket:

11/23/11	Petition filed
12/22/11	Response to Petition filed
12/29/11	Cross Petition filed
02/17/12	Pretrial Hearing cancelled
09/21/12	Stipulation of Dismissal filed

**Commission v. Brown**  
Case No. CAL03-24561

Lead Counsel: Harvin  
Other Counsel:

Abstract: Commission won Summary Judgment in suit to collect money owed for unpaid rental fees for boarding horses at the Prince George's Equestrian Center.

Status: Post-judgment Collection Activity

Docket:

11/21/03	Complaint filed
07/02/04	Summary judgment granted
09/13/04	Hearing on damages – Award: \$11,680.00
05/14/12	Renewal of Judgment filed

**Commission v. Hill**  
Case No. CAL11-18303

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Remanded to WCC

Docket:

08/03/11	Petition filed
08/12/11	Response to Petition filed
02/16/12	Pretrial Conference cancelled
10/04/12	Stipulation of Dismissal filed. Case remanded to WCC.
10/29/12	Remanded to WCC

**Commission v. Kohlheim**  
Case No. CAL03-24560

Lead Counsel: Harvin  
Other Counsel:

Abstract: Commission won Summary Judgment in suit to collect money owed for unpaid rental fees for boarding horses at the Prince George's Equestrian Center.

Status: Post-judgment Collection Activity

Docket:

11/21/03	Complaint filed
06/18/04	Motion for Summary Judgment filed
07/21/04	Summary Judgment granted
05/11/12	Case closed; judgment uncollectible

**Commission v. Pinkney**  
Case No. CAL11-31133

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Trial Scheduled

Docket:

11/07/11	Petition filed
11/11/11	Response to Petition filed
11/29/11	Commission's Certificate Regarding Discovery filed
07/13/12	Scheduling Order filed
12/19/12	Pretrial Conference scheduled
02/27/13	Trial Scheduled

**Corsetti v. Commission**  
Case No. CAL12-02521

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Petitioner is appealing the Workers' Compensation Commission's award of compensation to her right shoulder.

Status: Trial Scheduled

Docket:

01/26/12	Petition filed
02/13/12	Response to Petition filed
05/01/12	Pretrial Conference cancelled
04/18/13	Trial scheduled

**Donaldson v. Commission**  
Case No. CAL12-14411

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Claimant is appealing the Workers' Compensation Commission's Order denying compensability of his claim.

Status: Trial Scheduled

Docket:

02/13/12	Petition filed
03/02/12	Commission filed Motion to Dismiss or Change of Venue
03/15/12	Plaintiff filed Line consenting transfer
04/30/12	Notice of Case Transfer issued
10/30/12	Pretrial conference scheduled

06/13/13	Trial scheduled
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**Keller Brothers Inc. v. Commission**  
Case No. CAL11-18249

Lead Counsel: Calcote  
Other Counsel:

Abstract: Defense of claim for Judicial Review of construction change order request for Glenarden Community Center and Theresa Banks Pool.

Status: Briefing Scheduled

Docket:

07/29/11	Complaint filed
10/19/11	Joint Motion to Stay Case filed
10/31/11	Order Staying Case
01/06/12	Status Hearing rescheduled
02/23/12	Status Hearing scheduled
03/15/12	Administrative Record filed
05/15/12	Appellant brief due
06/15/12	Commission brief due
11/09/12	Appellant brief due
12/10/12	Commission brief due
01/03/13	Oral argument scheduled

**Kelly Canavan & Randy Pheobus, et al. v. Commission**  
Case No. CAL12-14365

Lead Counsel: Johnson  
Other Counsel: Mills

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-07076 in Estate of Pleasant Valley.

Status: Oral Argument Re-scheduled

Docket:

04/27/12	Petition for Judicial Review filed
05/15/12	Commission filed Response to Petition
05/15/12	Commission filed Certificate of Compliance
05/15/12	Commission filed Notice of Appeal
05/21/12	Saddle Creek, LLC filed Response to Petition
07/13/12	Commission filed Record and Transcript
08/02/12	Petitioners filed Motion for Completion of the Record
08/13/12	Petitioners filed Memorandum in Support of the Petition for Judicial Review
08/17/12	Order granting Petitioners' Motion for Completion of the Record
08/20/12	Commission filed Response to Petitioners' Motion for Completion of the Record
09/12/12	Saddle Creek, LLC filed Memorandum of Law
09/17/12	Commission filed Memorandum of Law
09/18/12	Joint Motion for Continuance of Oral Argument filed

09/21/12	Order granting for Continuance
11/7/2012	Received Petitioners' Reply Memorandum
11/09/12	Oral Argument held, Under Advisement
12/07/12	Commission filed Letter and Proposed Findings of Fact and Conclusions of Law per Judge Nicholas E. Rattal request
12/07/12	Applicant Saddle Creek, LLC filed its Proposed Findings of Fact and Conclusion of Law

**Lake Marlon Limited Partnership, et al. v. Commission**  
Case No. CAL11-37406

Lead Counsel: Johnson  
Other Counsel: Mills

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-11003 in Heathermore.

Status: Oral Argument Scheduled  
Docket:

12/20/11	Petition for Judicial Review Filed
01/10/12	Commission filed Response to Petition
01/10/12	Commission filed Notice of Appeal
01/10/12	Commission filed Certificate of Compliance
03/01/12	Commission filed Record and Transcript
03/19/12	Parties filed Joint Motion to Continue Oral Argument
03/26/12	Order from Circuit Court
03/28/12	Continuance Notice from Circuit Court
04/06/12	Heathermore Associates filed a Motion To Extend Time For Filing A Response, Or In the Alternative, Motion To Intervene As A Party Defendant
04/18/12	Petitioners filed Response to Motion To Extend Time For Filing A Response, Or In the Alternative, Motion To Intervene As A Party Defendant
04/18/12	Heathermore Associates filed Supplemental Motion To Extend Time For Filing A Response, Or In the Alternative, Motion To Intervene As A Party Defendant
04/27/12	Commission filed Response to Motion To Extend Time For Filing A Response, Or In the Alternative, Motion To Intervene As A Party Defendant
05/10/12	Order from Circuit Court that Heathermore Associates may file a response in this case if it can establish that it is a successor in interest to the applicant
05/24/12	Heathermore Associates filed Response to Petition
07/10/12	Joint Motion to Continue Oral Argument Hearing and Stipulation to Extend Time for Filing Memoranda filed
08/09/12	Order granting Continuance of Oral Argument
08/14/12	Petitioners filed Memorandum of Law
09/06/12	Petitioner, Lake Marlon Limited Partnership, filed Line of Dismissal
10/19/12	Oral argument rescheduled

**Lawson v. Commission**  
Case No. CAL11-13546

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim arising from injury to minor child playing game at playground camp held at Carrollton Elementary School.

Status: Case Settled

Docket:

05/26/11	Complaint filed
07/14/11	Commission Preliminary Motion to Dismiss filed
08/22/11	Opposition to Preliminary Motion to Dismiss filed
09/16/11	Order – Motion to Dismiss denied
11/03/11	Answer filed
03/29/12	Pretrial Conference held
06/20/12	Pretrial Conference held
09/14/12	Case settled

**Pollard v. Commission**  
(WCC No. B629255)  
Case No. CAL11-25999

Lead Counsel: Chagrin  
Other Counsel:

Abstract: The Workers' Compensation Commission awarded Claimant 15% permanent partial disability to his right lower extremity (knee), and 5% was found to be due to a pre-existing condition. Claimant is appealing this award.

Status: Trial Scheduled

Docket:

10/11/11	Petition filed
10/25/11	Response filed
04/05/12	Pretrial Conference scheduled
12/13/12	Motion to Remand to WCC
01/08/13	Trial scheduled

**Pollard v. Commission**

(WCC No. B629257)  
Case No. CAL11-26000

Lead Counsel: Chagrin  
Other Counsel:

Abstract: The Workers' Compensation Commission awarded Claimant 37% permanent partial disability reasonably attributable to the accidental injury, and 24% was found to be due to pre-existing conditions. Claimant is appealing this award.

Status: Trial Scheduled

Docket:

10/11/11	Petition filed
10/25/11	Response filed
04/05/12	Pretrial Conference scheduled
12/13/12	Motion to Remand to WCC
01/08/13	Trial scheduled

**Rogers v. Commission**

Case No. CAL08-17670

Lead Counsel: McCarthy  
Other Counsel:

Abstract: Plaintiff filed complaint for declaratory judgment and injunctive relief claiming easement rights concerning Commission property in Prince George's County.

Status: In Discovery

Docket:

07/10/08	Complaint filed
08/19/08	Complaint served
09/17/08	Commission Answer filed
11/05/08	Amended Complaint served
11/24/08	Commission Answer to Amended Complaint filed
03/04/09	Second Amended Complaint served
03/20/09	Commission Answer to Second Amended Complaint filed
08/28/09	Commission Motion for Partial Summary Judgment filed
08/31/09	Plaintiff's Motion for Partial Summary Judgment filed
09/28/09	Plaintiff's Motion for Leave to file Third Amended Complaint filed
09/29/09	Pretrial Conference
12/10/09	Pretrial Conference
02/22/10	Pretrial Conference
09/17/10	Motion Hearing held
01/19/11	Pretrial Conference held
05/3-5/11	Trial continued



**Rollins v. Commission**  
Case No. CAL-11-17871

Lead Counsel: Borden  
Other Counsel: Johnson

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-10026 in Middleton Lane

Status: In Discovery

Docket:

08/01/11	Petition for Judicial Review filed
12/06/12	Petitioner's Filed Motion to Compel Filing of the Administrative Record and to Reschedule Oral Argument Hearing
12/10/12	Commission Filed Opposition to Motion to Compel Filing of the Administrative Record and to Reschedule Oral Argument Hearing
12/10/12	Commission Filed Response to Petition
12/10/12	Commission Filed Notice of Appeal
12/10/12	Commission filed Certificate of Compliance
12/10/12	Commission filed Record & Transcript
12/13/12	Oral Argument Scheduled

**Schwartz v. Dobbins**  
Case No. CAL12-25208

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim arising from motor vehicle accident.

Status: In Discovery

Docket:

08/13/12	Complaint filed
09/24/12	Answer filed

**Tipton, et al. v. Commission**  
Case No. CAL12-15935

Lead Counsel: Johnson  
Other Counsel: Mills

Abstract: Defense against Administrative Appeal of decision by the Planning Board to approve Preliminary Plan 4-11028 in Salubria Center

Status: Planning Board decision affirmed

Docket:

05/16/12	Petition for Judicial Review Filed
06/11/12	Commission Response to Petition filed
06/11/12	Commission Certificate of Compliance filed

06/11/12	Commission Notice of Appeal filed
06/21/12	Respondent Pinnacle Harbor LLC filed Notice of Intent To Participate
08/06/12	Commission filed Record and Transcript
09/04/12	Petitioners' filed Motion to Extend Time for Filing of Memorandum and for Continuance of Oral Argument Hearing Date
09/05/12	Order granting Motion to Extend Time; Oral Argument date to remain
09/12/12	Memorandum of Law filed
10/18/12	Commission's filed Memorandum of Law
10/19/12	Pinnacle Harbor LLC's filed its Response to Memorandum of Law
10/31/12	Petitioners' filed Reply Memorandum of Law
11/02/12	Oral Argument held, Under Advisement
11/9/2012	Commission filed its Proposed Order per Judge request on 11/02/12
12/10/12	Opinion and Order for Circuit Court (entered 11/30/12) affirming Planning Board decision

**White v. Commission**  
Case No. CAL12-07503

Lead Counsel:  
Other Counsel:

Chagrin

Abstract:

Petitioner is appealing the Workers' Compensation Commission's order.

Status:

Trial Scheduled

Docket:

03/07/12	Petition filed
03/26/12	Response to Petition filed
09/18/12	Pretrial Conference scheduled
04/23/13	Trial scheduled

**CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**Beatty v. Montgomery County, et al.**

Case No. 360768V

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Claimant is suing for torts arising from slip and fall.

Status: Pretrial Conference Scheduled

Docket:

03/29/12	Complaint filed
04/25/12	Commission's Answer to Complaint filed
04/27/12	Montgomery County Motion to Dismiss and/or for Summary Judgment filed
06/04/12	Conference scheduled re: Motion to Dismiss
06/15/12	Scheduling hearing
08/16/12	Motion for Summary Judgment scheduled
09/27/12	Motion for Summary Judgment continued
12/19/12	Oral argument for Summary Judgment
12/19/12	Summary Judgment in favor of Commission Granted
12/27/12	Pretrial Conference scheduled

**Commission v. Hoffmaster**

Case No. 360767V

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Trial Scheduled

Docket:

03/14/12	Petition filed
03/30/12	Response to Petition filed
08/13/12	Pretrial Statement due
08/23/12	Pretrial Hearing scheduled
11/27/12	Order issued postponing trial
2/4/13	Trial Scheduled

**Commission v. Martinez**

Case No. 369652V

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Pretrial Hearing Scheduled

Docket:

10/15/12	Petition filed
10/23/12	Response to Petition filed
03/21/13	Pretrial Hearing scheduled

**Commission v. Rivera**

Case No. 369970V

Lead Counsel: Chagrin

Other Counsel:

Abstract: Commission appealing the Workers' Compensation Commission's decision.

Status: Pretrial Hearing Scheduled

Docket:

10/23/12	Petition filed
04/04/13	Pretrial Hearing scheduled

**Commission v. Johnson**

Case No. 366677-V

Lead Counsel: Harvin

Other Counsel:

Abstract: Commission is seeking enforcement of the Montgomery County Planning Board's Order regarding the various environmental violations on Defendant's property.

Status: Judgment obtained in favor of the Commission.

Docket:

08/07/12	Complaint filed
09/16/12	Defendant served with summons and complaint
10/19/12	Judgment granted in favor of the Commission.

**Commission v. Mereos**

Case No. 369081-V

Lead Counsel: Harvin

Other Counsel:

Abstract: Commission is seeking enforcement of the Montgomery County Planning Board's Order regarding the various environmental violations on Defendant's property.

Status: Awaiting service upon Defendant

Docket:

9/28/12	Petition to Enforce Planning Board Order filed
10/02/12	Summons issued

**Kambiz Kazemi v. Commission**

Case No. 351430-V

Lead Counsel: Lieb  
Other Counsel: Sorrento

Abstract: Request for Judicial Review filed by Kambiz Kazemi in the case of Alvermar Woods, Lot 17, Preliminary Plan 11999034A.

Status: Stayed until December 31, 2012

Docket:

08/25/11	Petition for Judicial Review filed
09/07/11	Petitioner's Motion for Stay of Proceedings filed
09/23/11	Order Staying Proceedings
03/05/12	Petitioner's Motion for Extension of Stay of Proceedings filed
04/04/12	Order – Proceedings shall be stayed until July 1, 2012
07/27/12	Petitioner's Motion to Extend Stay of Proceedings until December 31, 2012 filed
10/19/12	Order Staying Proceedings

**McClure v. Montgomery County Planning Board**

Case No. 362946-V

Lead Counsel: Lieb  
Other Counsel:

Abstract: Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21611 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 12-38.

Status: Oral Argument Scheduled

Docket:

05/09/12	Petition filed
07/09/12	Motion to Stay Order of the Montgomery County Planning Board and Request for hearing
07/24/12	Answer of the Montgomery County Planning Board to Motion for Stay Pending Appeal
09/19/12	Motions hearing held, ruling from the Bench
09/20/12	Order – Hon. Joseph M. Quirk – staying enforcement of Planning Board's Order
09/28/12	Petitioner's memorandum filed
11/11/12	Commission's answering memorandum filed
11/16/12	Petitioner's Reply Memorandum filed
12/18/12	Hearing scheduled
01/29/13	Oral Argument Scheduled

**Sahady v. Montgomery County Planning Board**

Case No. 364354-V

Lead Counsel: Lieb  
Other Counsel:

Abstract: Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21533 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 12-50.

Status: Oral Argument Held, Matters Taken Under Advisement  
Docket:

06/15/12	Petition filed
06/09/12	Motion to Stay May 17, 2012 Order of the Montgomery County Planning Board and Request for hearing
07/24/12	Answer of the Montgomery County Planning Board to Motion for Stay Pending Appeal filed
08/16/12	Line and Administrative Record filed
09/19/12	Motions Hearing held, ruling from the Bench
09/20/12	Order – Hon. Joseph M. Quirk – staying enforcement of Planning Board's Order
	Petitioner's memorandum filed
11/22/12	Commission's answering memorandum due
12/05/12	Petitioner's Reply Memorandum filed
12/18/12	Oral Argument Held, Matters Taken Under Advisement

**Sandler, et al. v. Montgomery County Planning Board**

Case No. 361631-V

Lead Counsel: Lieb  
Other Counsel:

Abstract: Petition for Judicial Review filed for Decision of the Montgomery County Planning Board regarding enforcement action: Violation of category I conservation easement in connection with forest conservation plan 120020730.

Status: Decision Pending

Docket:

04/04/12	Petition for Judicial Review filed
04/25/12	Response to Petition filed
06/18/12	Notice of Hearing – Scheduled for September 5, 2012
07/10/12	Petitioners' Memorandum filed
08/10/12	Commission's Answering Memorandum filed
08/23/12	Petitioners' Motion for Extension of Time filed
08/27/12	Commission's Opposition to Motion for Extension of Time filed
08/28/12	Order extending filing of Reply Memo until August 31, 2012
09/04/12	Line – Withdrawal of Appearance of Petitioners' Counsel
09/05/12	Petitioners' Reply Memorandum
09/05/12	Oral Argument held
10/18/12	Final order entered affirming Planning Board decision

**Shady Grove Technical Center Associates v. Montgomery County Planning Board**

Case No. 359937-V

Lead Counsel: Rubin  
Other Counsel: Lieb

Abstract: Petition for Judicial Review of Resolution by Montgomery County Planning Board in Case MCPB NO. 11-108.

Status: Oral Argument scheduled for April 3, 2013

Docket:

03/02/12	Petition filed
03/08/12	Response, Certificate of Compliance/Notice
03/15/12	Line of Appearance
03/19/12	Notice of Withdrawal of Appearance
03/21/12	Response – Notice of Intention to Participate in Petition for Judicial Review filed by Woodfield/Meridian Shady Grove, LLC
04/30/12	Line and Administrative Record filed
05/29/12	Order granting Motion of Petitioners for Extension of Time to File Memorandum of Law
07/17/12	Order granting extension of time to file Memorandum of Law
07/31/12	Consent Motion to Stay Proceedings filed
08/01/12	Order granting 30-day stay of proceedings
08/31/12	Request to Extend Stay on Consent Motion of all Parties filed by joint letter granted by Court
11/30/12	Scheduling Order
04/03/13	Oral Argument Scheduled

**Smith v. Montgomery County Planning Board**

Case No. 367472-V

Lead Counsel: Lieb  
Other Counsel:

Abstract: Petition for Judicial Review filed regarding the decision of the Montgomery County Planning Board in enforcement action 21627 Ripplemead Drive, Laytonsville, MD 20882, Resolution No. MCPB No. 10-180.

Status: Hearing Scheduled

Docket:

08/27/12	Petition filed
09/05/12	Motion to Stay Order of the Montgomery County Planning Board and Request for hearing
09/04/12	Scheduling Order – Hon. Ronald B. Rubin
09/06/12	Response to Petition for Judicial Review filed by Commission
09/13/12	Notice of pending events
11/27/12	Plaintiff's Memorandum filed
12/21/12	Joint Stipulation as to Briefing Schedule filed
02/08/13	Hearing scheduled

**South-East Rural Civic Assn v. Montgomery County Planning Board**

Case No.360396-V

Lead Counsel: Lieb  
Other Counsel:

Abstract: Petition for Judicial Review filed of the decision of the Montgomery County Planning Board in the case of Preliminary Plan 120100250 and Site Plan 820100080 First Baptist Church of Wheaton.

Status: On September 4, 2012, Judge Sharon v. Burrell issued Opinion and Order Reversing the Decision of the Montgomery County Planning Board and Remanding to the Planning Board for the issuance of Preliminary and Site Plan Resolutions consistent with the findings of the Court.

Docket:

03/09/12	Petition for Judicial Review filed
03/16/12	Notice of New Case Number
03/22/12	Response to Petition for Judicial Review and Certificate of Compliance filed by the Commission
03/27/12	Response to Petition for Judicial Review filed by GOCA
03/30/12	Petition for Judicial Review filed by Montgomery Countryside Alliance
04/02/12	Petition for Judicial Review filed by GOCA and Withdrawal of Response to Petition
04/09/12	Notice of Hearing
04/27/12	Petitioner's Motion for New Hearing Date and Extended Oral Argument
06/26/12	Petitioner's Memoranda due
07/12/12	Petitioner's Motion for Limited Remand to the Planning Board and Request for Hearing filed
07/26/12	Response to Co-Petitioners' Motion for Limited Remand filed
07/30/12	Answering Memorandum of the Montgomery County Planning Board filed
07/30/12	Answer to of the Montgomery County Planning Board in Opposition to Motion for Remand filed
08/17/12	Petitioner's Rule 7-207 Reply Memorandum filed
08/29/12	Petitioner's Amended Surreply to Answer of Montgomery County Planning Board in Opposition to Motion for Remand
09/04/12	Opinion and Order Hon. Sharon V. Burrell
09/10/12	Final order reversing Planning Board decision issued and remand to Board to deny preliminary and site plans

**South-East Rural Olney Civic Assn et al. v. Montgomery County Planning Board**

Case No.360544-V

Lead Counsel: Lieb  
Other Counsel:

Abstract: Civil Compliant for Declaratory Judgment and Injunctive Relief filed in connection with Preliminary Plan 120100250 and Site Plan 820100080.



Status: Preliminary Motions Pending

Docket:

03/12/12	Civil Complaint for Declaratory Judgment and Injunctive Relief
03/19/12	First Amended Civil Complaint for Declaratory Judgment and Injunctive Relief
04/18/12	Line and Proof of Service of Process
04/27/12	Line and Proof of Service of Process – Defendant First Baptist Church of Wheaton
05/10/12	Montgomery County Maryland's Motion to Dismiss or in the Alternative, for Summary Judgment
05/11/12	State of Maryland, Dept. of the Environment's Motion to Dismiss or in the Alternative, Motion for Summary Judgment
05/16/12	Motion to Dismiss and Alternative Motion for Summary Judgment of the Montgomery County Planning Board.
05/18/12	First Baptist Church of Wheaton, Inc.'s Motion to Dismiss or in the Alternative, Motion for Summary Judgment
06/18/12	Plaintiff's Opposition of First Baptist Church of Wheaton, Inc.'s Motion to Dismiss or in the Alternative, for Summary Judgment and Request for Hearing
06/18/12	Plaintiff's Opposition to Montgomery County's Motion to Dismiss or in the Alternative, for Summary Judgment and Request for Hearing
06/18/12	Petitioner's Opposition to Motion to Dismiss and Alternative Motion for Summary Judgment of the Montgomery County Planning Board and Request for Hearing
06/26/12	Defendant First Baptist Church of Wheaton, Inc.'s Reply to Plaintiff's Opposition to its Motion to Dismiss or in the Alternative for Summary Judgment
09/18/12	Motions Hearing scheduled
10/17/12	Complaint voluntarily dismissed by Plaintiffs

**Town of Washington Grove v. M-NCPPC**

Case No. 370437-v

Lead Counsel: Lieb  
Other Counsel: Rubin

Abstract: Petition of Judicial Review of Forest Conservation Plan

Status: Petition filed

Docket:

11/08/2012	Petition for Judicial review filed by Town of Washington Grove.
12/06/2012	Response to Petition filed by Applicant, Towne Crest Apts.
12/07/2012	Commission's Response filed

**MARYLAND COURT OF SPECIAL APPEALS**

**Albert Arking, et al. v. Montgomery County Planning Board**

September Term 2011, No. 02346

Lead Counsel: Rubin  
Other Counsel:

Abstract: Petitioner filed an Appeal in the Circuit Court for Montgomery County of the Order dated December 12, 2011, denying the Petition for Judicial Review and affirming the Planning Board's decision.

Status: Court opted to decide case on the Briefs. Decision pending.

Docket:

01/10/12	Notice of Appeal and Civil Information Report filed
01/23/12	Civil Information Report filed by Commission to clarify information filed by Petitioner
05/17/12	Scheduling Order
06/15/12	Appellants Request for Extension of Time for Filing of Appellant's Brief
06/20/12	Commission's Opposition to Appellant's Request for Extension to Time to File Brief
07/03/12	Scheduling Order from Hon. Peter B. Krauser
07/23/12	Appellant's Brief due
09/14/12	Commission's Brief filed
10/4/12	Appellant's Reply Brief
10/25/12	Notice to Parties from Court – Case to be decided without oral argument

**Bethesda Place LLP v. MCPB**

Case No. (Unavailable)

Lead Counsel: Sorrento  
Other Counsel:

Abstract: Notice of Appeal filed regarding the Judge's ruling in favor of the Commission on October 24, 2012.

Status: Appeal filed

Docket:

9/28/12	Petition to Enforce Planning Board Order filed
10/02/12	Summons issued

**Hall, et al. v. Commission**

September Term 2009, No. 01247

Lead Counsel: Johnson  
Other Counsel:

Abstract: Defense against Administrative Appeal of Planning Board's decision to approve Bundy's Subdivision of Birdlawn Preliminary Plan 4-06158.

Status: Decision Pending  
Docket:

01/10/08	Petition for Judicial Review filed
02/04/08	Commission filed Response to Petition; Certificate of Compliance and Notice of Appeal
03/12/08	Commission filed Record and Transcript
06/09/08	Petitioner filed Memorandum
07/14/08	Commission filed Memorandum
09/26/08	Oral Argument
07/15/09	Circuit Court Opinion affirming Planning Board decision issued
07/24/09	Petitioners Aimee Gray and the Estate of Affie Gray filed Notice of Appeal
11/04/09	Commission received Appellants' Brief
11/23/09	Commission filed a Stipulation For Extension of Time for Filing Memoranda (Commission's Brief)
12/18/09	Commission's Brief filed

**Jones v. McNeal**  
September Term 2011, No. 01928

Lead Counsel: Mills  
Other Counsel:

Abstract: Defense of suit under Maryland Public Information Act against Alvin McNeal. Plaintiff appeals decision of Circuit Court.

Status: Motion pending

Docket:

10/31/11	Plaintiff Appeals to Court of Special Appeals
12/27/11	Mr. Jones' Brief due
01/26/12	A. McNeal Brief due
06/1-12/12	Oral Argument scheduled
09/12/12	A. McNeal Motion to Dismiss Appeal filed

**Prince George's County, Maryland v. Mazzei et al.**  
September Term 2011, No. 02656

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Order from Workers' Compensation Commission which found that he did not sustain an occupational disease arising out of and in the course of his employment from either Prince George's County or the Commission. Prince George's County is appealing decision from court in favor of Claimant, Mazzei.

Status: Briefing Scheduled

Docket:

01/23/12	Order -- Commission dismissed from appeal without prejudice
02/23/12	Notice of Appeal filed by Prince George's County, Maryland

08/2012	Motion for Extension to file Brief granted
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**Pringle v. Montgomery County Planning Board**

September Term 2011, No. 02334

Lead Counsel: Sorrento  
Other Counsel: Rubin

Abstract: Gregory Pringle filed a petition of judicial review of the decision of the Montgomery County Planning Board in the case of Seneca Meadows Preliminary Plan 11998004A and Site Plan 820100140.

Status: Oral Argument Scheduled

Docket:

01/03/12	Petitioner filed Notice of Appeal and Civil Information Report
02/21/12	Order – Appeal to proceed without a Prehearing Conference
07/02/12	Appellant Brief due
08/03/12	Commission's Brief filed
08/06/12	Brief of Appellee Minkoff Development Corporation filed
01/04/13	Oral Argument scheduled

**Rounds v. Commission**

Case No. TBA

Lead Counsel: Gardner and Mills  
Other Counsel:

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

Status: Appeal Filed

Docket:

07/06/12	Notice of Appeal filed
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**Slover et al. v. Montgomery County Planning Board**

September Term 2011, No. 01460

Lead Counsel: Lieb  
Other Counsel: Rubin

Abstract: Petition for Judicial review of the Planning Board decision to approve two-lot subdivision located at 9490 River Road in Potomac filed by project opponents. Circuit Court issued Order affirming Preliminary Plan. Plaintiff appeals Order.

Status: Oral argument held. Decision pending.

Docket:

09/09/11	Plaintiff's Notice of Appeal filed
11/08/11	Order to proceed without pre-hearing conference

01/25/12	Appellants' Memorandum of Law in Support of Notice of Judicial Review and Record Extract
03/01/12	Scheduling Order from the Court
03/08/12	Brief of Appellee, Montgomery County Planning Board
03/08/12	Brief of Appellees, Louis Donatelli and Ann Donatelli
03/28/12	Reply Brief of Appellants
10/10/12	Oral argument held – matter taken under advisement

**Wilson v. Commission**  
September Term 2011, No. 02362

Lead Counsel: Harvin  
Other Counsel:

Abstract: Appeal of dismissal of claim alleging discriminatory termination.

Status: Oral Argument Scheduled

Docket:

01/12/12	Notice of Appeal filed
07/24/12	Mr. Wilson's Brief filed
08/22/12	Commission's Brief filed
02/05/13	Oral Argument Scheduled

**U.S. DISTRICT COURT OF MARYLAND**

**Freeman v. Commission**  
Case No. CAD 11-CV-2894

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim alleging discrimination in employment by former employee.

Status: Awaiting Trial  
Docket:

10/11/11	Complaint filed
11/14/11	Motion for Summary Judgment filed
05/25/12	Second Motion for Summary Judgment filed
07/26/12	Reply to Plaintiff's Opposition to Motion for Summary Judgment filed
11/08/12	Hearing held on Motion for Summary Judgment. All counts dismissed as to Defendant Gathers and six of seven counts dismissed as to the Commission.
10/1/13	Trial Scheduled

**Streeter v. Commission**  
Case No. RWT 12-CV-0976

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim alleging discrimination and retaliatory termination.

Status: Preliminary Motion Pending  
Docket:

01/17/12	Complaint filed in Circuit Court for Prince George's County
04/03/12	Case removed to U.S. District Court
04/10/12	Commission's Preliminary Motion to Dismiss filed

**Neal v. Commission**  
Case No. RWT 12-CV-1186

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim alleging discrimination.

Status: Oral Argument Scheduled  
Docket:

04/23/12	Complaint filed
04/25/12	Waiver of Summons filed
06/25/12	Motion for Summary Judgment filed
09/12/12	Reply to Defendant's Opposition filed
1/7/13	Oral Argument Scheduled