



MONTGOMERY COUNTY DEPARTMENT OF PARKS
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Office of the Director of Parks – Special Programs
Suite 517 1400 Spring Street, Silver Spring, Md. 20910
O: 301-650-5675 F: 301-650-5685

Agenda Item 13
MCPB 07/05/07

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Mary Bradford, Director

FROM: Terry H. Brooks, Chairman, Public / Private Partnership Committee
Carol Rubin, Associate General Council

SUBJECT: Proposed Public Private Partnership Policy

Staff Recommendation: Approval

Attached, for your review and consideration, is a new draft Public Private Partnership Policy developed by staff with the intention of ultimate consideration and adoption by the full Commission as a Commission-wide Policy. This new Public Private Partnership Policy has also been prepared at Chairman Parker's suggestion as an important initiative of the Commission.

The Montgomery County Planning Board adopted its first Public/Private Development Guidelines on March 8, 1996. After seven (7) years experience in using these guidelines the Commission decided to change it's policies to be clearer and more time sensitive and a new set of Public Private Partnership policies were adopted on December 4, 2003. The adopted 2003 Public Private Partnership policies are also attached for your reference.

The Montgomery Public Private Partnership Policies are intended to be reviewed on a periodic basis in an effort to keep current to the changing market and address the changing concerns of the Department. As currently drafted, the adopted public private partnership policies do not meet those objectives.

The purpose of this Public Private Partnership Policy is to provide consistent, effective and clear guidance for the consideration and implementation of these Partnerships, both internally and externally. The Commission staff need consistent, effective and clear guidance so they know what is expected from a Partnership proposal, what the



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Commissioners will consider in a Partnership proposal, and ultimately what the Commissioners will expect to be addressed in the contractual obligations of both the Commission and its Private Partners.

The private sector needs consistent, effective and clear guidance so they understand the acceptable parameters of a proposed Partnership and how their proposal will be evaluated; and the impacted community needs consistent, effective and clear guidance to understand how their needs will be better served through a Public Private Partnership.

Although implementation of the Policy directives may be carried out through different processes in Prince George's and Montgomery Counties, a Commission-wide Policy will provide greater consistency for potential private sector Partners and greater opportunities for the Commission in its Public Private Partnership programs.

Policy for Public Private Partnerships

Section 1: Introduction

1.1 Purpose

A partnership is a cooperative relationship between people or groups who agree to share responsibility for achieving some specific goals, while also achieving the respective goals of each partner. Public Private Partnerships are contractual arrangements between public agencies and private sector entities that provide the prospect for greater opportunities for the general public and greater benefits to the private sector partner by combining and leveraging the resources and risks of each through cooperation and consolidation of their respective resources.

We have entered an era of growing demand for additional programs, enhanced parks and recreational facilities, and limited resources in competition with the growing demand for other publicly funded projects. Public Private Partnerships, when properly applied, will work to the mutual advantage of the Maryland-National Capital Park and Planning Commission ("Commission"), users of services generally offered by the Commission, the taxpayers, and private companies seeking new business opportunities or a means in which to contribute to its community. However, only by establishing clear priorities and a user-friendly framework within which both the Commission and the private sector partner can reasonably operate, will Public Private Partnerships work and best serve the interests of all parties. The Public Private Partnership provide added value to each partner through its participation in the partnership.

According to the National Council for Public Private Partnerships, five critical components are required for successful public private partnerships:

- Political leadership;
- Public sector involvement;
- A well thought out plan that outlines all the expectations for the public private partnership project;
- Communication with all stakeholders, including affected employees, residents of the impacted community, the portion of the public receiving the service, and relevant interest groups; and
- Selection of the right partner.

This Policy for Public Private Partnerships (this "Policy") addresses all of these critical components by defining the expectations of the Commission and setting forth the parameters under which the Commission's program of public private partnerships will operate in order to assure success of its public private partnerships. This Policy is intended to achieve these results while adhering to

the principles of preservation and use of parkland, Commission facilities and resources in the best interests of the public.

Public Private Partnerships should not be considered a 'silver bullet' remedy, but they can offer innovative and competitive solutions when:

- The value of the Partnership is demonstrated;
- Risk is allocated to the partner best able to manage and mitigate it; and
- Processes are open, fair and transparent.

Clearly, there are roles for both the public and private sectors. The challenge, which the Policy is designed to address, is to determine the optimum mixture of public and private resources that will lead to the optimum method of providing public services at acceptable levels of quality, cost, and risk. Furthermore, the Commission recognizes that public private partnerships require significant investment, and the Commission must consider all costs, including opportunity costs and operating budget impacts before committing its resources to a proposed Public Private Partnership. Prior to the Commission's entry into a Public Private Partnership, the essential terms of the Partnership as set forth in this Policy will be presented in open session to the Commission or the relevant Planning Board for approval after public review and comment.

1.2 Public Private Partnerships Defined

A Public Private Partnership (sometimes referred to herein as a "Partnership") is an agreement between the Commission and a private sector entity (sometimes referred to herein as "Partner" or "Private Partner"), through which the skills, assets and resources of the Commission and the Partner are shared in delivering a service or facility for the use of the general public¹. It is a cooperative relationship between the Commission and its Partner, who agree to share responsibility for achieving specific goals. The Commission and the Private Partner share in the risks assumed and rewards gained by the delivery of the service and/or facility. The roles, risks and rewards must be contractually agreed, setting forth incentives for maximum performance while allowing for the flexibility necessary to achieve the desired results.

Not every agreement between the Commission and a private entity is a public private partnership. For example, private donations or private sponsorships of Commission programs do not necessarily create a public private partnership. The proposal by the private entity must be evaluated to determine the true nature of the relationship, and what, if any, risks, resources, and responsibilities are shared. For example, donations may appear to be partnership. But they may be conditional donations instead of partnerships. A concessionaire, where a private party is simply given the right to undertake and profit from a particular activity on

¹ The Commission's entry into any agreement with a private entity under this Policy is not intended to, and does not create a legal partnership.

Commission property, is not a public private partnership. Leases that do not extend beyond a typical landlord-tenant relationship with the typical rights and obligations of the respective parties are not public private partnerships. And agreements with other public entities do not qualify as public private partnerships. That does not mean that any of those arrangements are not, or should not be guided by a clear set of priorities and establish the roles and responsibilities of each party. But such relationships do not fall within the framework of this Policy.

1.3 Types of Partnerships

Public private partnerships are developed in a wide variety of forms. The following are examples of existing or potential types of Partnerships appropriate for the Commission, so long as the terms of the Partnership and all Partnership Agreements (as defined later in this Policy) are in compliance with this Policy.

1.3.1. *Adopt a Field/Playground/Facility.* Private Partner agrees to maintain or upgrade a specified Commission-owned field, playground or facility, either due to the location of the field, playground or facility or in exchange for the benefit of use at particular times, and the maintenance or upgrade is in accordance with established Commission standards.

1.3.2. *Operations and Maintenance.* Private Partner operates and maintains a specified Commission-owned facility.

1.3.3. *Design-Build-Donate.* Commission provides access to the land to a Private Partner. The design and construction of the facility is fully or partially funded by the Private Partner, who donates the facility to the Commission. The Commission may be responsible for, or have oversight and review for a portion of the design or construction of the facility (including necessary infrastructure), as agreed in a development agreement between the Commission and the Partner, and the Commission operates the facility.

1.3.4. *Lease-Design-Build-Operate.* Commission leases the land to a private partner for the design, construction and, ultimately, operation of the facility. Responsibility of the respective partners for the design and construction of the facility (including necessary infrastructure) is negotiated through a development agreement. The Private Partner maintains and operates the facility under the lease.

1.3.5. *Commission Investment.* Commission provides resources, such as redevelopment or construction funding to a Private Partner to use on the privately owned property in exchange for an in-kind benefit to the Commission. For example, the Commission may prepay rent to the private partner to be used for construction funding of a facility in exchange for a long-term leasehold to the Commission in the facility.

Section 2: Guiding Principles

2.1 Review of Public Private Partnerships

In order for the Commission to efficiently and effectively manage its Public Private Partnership opportunities, all proposals will be vetted through an initial review process. The following questions must be addressed before the Commission considers the substantive benefits of entry into a Public Private Partnership:

- Is the proposal defined clearly enough for evaluation?
- Is the proposal aligned with the mission and values of the Commission?
- Is the proposed relationship a Public Private Partnership, or is the proposal best served through another arrangement with the Commission?
- Does the Commission have the legal authority to enter into the Partnership as proposed?
- Can the Secretary-Treasurer ensure that the tax exempt status of bonds or other financing mechanisms issued for the Commission assets to be impacted by the proposal will not be at risk?²

2.2 Benefits of Public Private Partnerships

If benefits inure to both partners, the Public Private Partnership may be justified.

2.2.1. Benefits to the Commission. First and foremost, a Public Private Partnership must have a clearly defined public purpose. An objective of the Commission is to provide standardized public services and facilities while making the most efficient use of public resources in an equitable manner with a strong emphasis on a stable baseline level of service. At the same time, staff and budgetary resources are often limited or fixed, and public regulations sometimes inhibit rapid innovation or technology upgrades. This does not mean that challenges related to delivery of services are unimportant, but rather that the Commission must consider alternative means of delivering services, or delegating them to appropriate non-public sector partners. Public private Partnerships allow the Commission the flexibility to minimize these constraints while achieving its public objectives.

2.2.2. Benefits to the Private Partner. Private businesses are generally seeking a return on company resources and/or a means by which to contribute to the community of which it is a part. Private businesses that operate as non-profit entities generally have purposes and goals aligned with the public sector. Private

² There are strict IRS regulations regarding tax exempt bond financing and the impact from private uses on projects with outstanding tax exempt bonds. There are some ways to structure a transaction with private use without triggering a tax-exempt bond problem, but the terms of the transaction must be vetted through the Commission's Secretary-Treasurer. They would involve very limited "private payments" to the Commission and/or an operating contract based on a fixed fee. Private payments include not just rent, but other investment such as private construction of facilities and private party operation/maintenance responsibilities.

businesses meet these objectives by making strategic investment decisions, seeking new business opportunities, and/or supplying needed services to its clients. Public private partnerships offer private businesses the opportunity to improve profitability, expand their markets, and meet their clients' needs.

2.3 Justification for Public Private Partnerships.

However, a Public Private Partnership should be considered if there is no legal, regulatory or legislative prohibition to involving the Private Partner in the provision of the service or the project, and one or more of the following conditions exist:

- a. The Partnership leverages the assets of both the public and the private sector while increasing the quality or level of service over that which the public resources alone would provide, such as relief for overburdened Commission staff in the development, construction or operations of parks facilities, or providing access to private investment and innovative financing to augment public resources;
- b. There is support from the users of the service for the involvement of a Private Partner;
- c. A project can be expedited by grouping multiple responsibilities in a single agreement (such as combined design and construction);
- d. The Commission will receive access to a specialized expertise, not otherwise available;
- e. The Partnership is reflective of new and emerging trends in the parks and recreation field and provides an opportunity for innovation;
- f. The Partnership provides access to proprietary technology not otherwise available;
- g. The Partnership provides the ability to apply special incentives and disincentives to improve project performance; or
- h. A service or project can be implemented sooner than the Commission's resources alone would allow.

2.4 Constraints

2.4.1. *Equity of Service.* The Commission attempts to maintain equity of service throughout Montgomery and Prince George's Counties, respectively. Partnership Agreements should include means to ensure that Partnerships do not create an imbalance of services and projects so that the county residents with greater economic needs are not underserved in relation to those residents who are more able to raise private funds for Partnerships.

2.4.2. *Access Not Limited.* Participation in the activity that is the subject of the Public Private Partnership must be available to all constituents of the Commission. The Private Partner cannot limit access in the form of a "private club," which would require membership in a particular organization in order to participate.

2.4.3. *Legal Authority.* Participation in the activity that is the subject of the Public Private Partnership, and all obligations of the Commission must be within the legal authority of the Commission.

2.4.4. *Lease Limitations.* Pursuant to Section 5-110, Article 28 of the Maryland Annotated Code, all leases exceeding 20 years must be approved by the County Council for the County in which the property is located, no lease of Commission land can be for a term exceeding 40 years, and at the expiration or termination of the lease, all improvements to the property must convey to the Commission at no cost to the Commission, regardless whether the improvements were added by the lessee during the term of the lease.

2.4.5. *Level of Maintenance.* All Partnership Agreements must include a requirement for the Private Partner, if responsible for maintenance of Commission assets, to maintain them at a level no less than the Commission's standards for maintenance. In order to assure such level of maintenance, in addition to specific maintenance obligations in a lease, the Private Partner will be required to maintain capital and operating reserve funds during the term of lease.

2.4.6. *Environmental Stewardship.* The mission of the Commission includes the responsibility to protect and steward natural resources. The Commission operates its parks and facilities consistent with that mission and in compliance with sound environmental practices. Therefore, all operations at or on parks or park facilities will be in a manner consistent with the environmental guidelines and programs of the Commission.

2.4.7. *Tax-Exempt Bonds.* A Public Private Partnership that includes or anticipates the use of Commission assets must be reviewed and approved by the Commission's Secretary-Treasurer to ensure that the tax-exempt status of Commission or publicly issued bonds is not impacted by the private contribution of or through such Partnership.

2.4.8. *Taxes.* Any taxes that are assessed or charged against the Partnership due to the activities of Public Private Partnership will be the responsibility of the Private Partner.

2.5 Compliance with Laws

The Partnership Agreements and the activities of all Partnerships must be within the authority of the Commission under Article 28 of the Maryland Annotated Code, and must be in compliance with Commission regulations, federal, state, and, if applicable, local laws. Partners must comply with Commission regulations such as the Commission's Anti-Discrimination Program, federal, state, and local laws.

Section 3: Communications Strategy and Public Accountability

3.1 Reporting and Monitoring

Once a Public Private Partnership has been established, the Commission must remain actively involved in the Partnership and the activities provided by the Partnership. On-going monitoring of the performance of the Partnership is important means of assuring its success by maintaining open, fair and transparent processes and sustaining the support of relevant interest groups, including the public receiving the service. Therefore, all Partnership Agreements must include provisions for regular reporting to the Commission and the right of the Commission to periodically audit the Partner's books and records.

3.1.1. *Financial Reporting.* In accordance with a reasonable schedule to be established between the Commission's Secretary-Treasurer and the Partner, the Partner will provide the following financial reports to the Commission's Secretary-Treasurer for review and comment. The extent of the financial information will be dependent on the type of partnership and complexity of the transaction. Required reporting may include:

- a. Audited financial statements, including an independent certification of the amount of payments, if any, due to the Commission that are based on performance;
- b. Annual Budget
- c. Quarterly income statements;
- d. Applicable income and/or operating projections, compared to budget, and prior year actual results; and
- e. Any other information reasonably requested by the Secretary-Treasurer.

3.1.2 *Audit.* The Commission, through its Secretary-Treasurer, will have the right to access the Partner's books, records, and financial accounts pertaining to any matters related to or derived from the Partnership and the Partnership Agreements to ensure compliance with the Agreements and this Policy. The Partner will maintain supporting data and accounting records for a period of three (3) years in accordance with generally accepted accounting practices.

3.1.3 *Public Reporting.* More people are affected by a public private partnership than the Commission and the Partner. Portions of the public receiving the service, impacted communities and relevant interest groups will all have opinions about a Public Private Partnership and its value to the public. It is important to communicate openly and candidly with these stakeholders to maximize continuing support for, and minimize potential resistance to establishing and maintaining a Partnership. Therefore, the Partner must make an annual presentation to the Commission, in open session before the appropriate Planning Board to report significant activities conducted in support of the Partnership during the previous year, provide details about its business plan for the forthcoming year, and any other information reasonably requested by the

Commission, including but not limited to volunteer activity and patronage use. Additionally, if requested by the Commission, the Partner will participate in the meetings of relevant advisory boards to advise the Commission on matters of interest to the Commission that impact the continued successful operations of the Partnership, including its impact on neighboring communities.

Section 4: **Processes and Procedures**

4.1 Incorporation into Commission Regulations

Public Private Partnerships are generally exempt from the Commission's procurement regulations under its Purchasing Manual [see Section 1-500(o)]. However, because public assets are involved, Public Private Partnerships are subject to certain competition procedures as outlined in Section 9 of the Purchasing Manual. If a prospective Private Partner is uniquely qualified, or if an unsolicited proposal is received, unless the Executive Director determines that it is in the best interest of the Commission to competitively compete the partnership opportunity, an RFP for the partnership opportunity does not need to be issued. However, the Private Partner must engage in competitive processes in the provision of services to be provided by the Partnership, and MFD and Non-Discrimination requirements must be included in all Partnership Agreements. In order to assure the proper and uniform implementation of this Policy, upon adoption by the Commission, this Policy will be managed through amendments to Section 9 of the Commission Purchasing Manual.

4.2 Public Review and Comment

Subject to Section 4.5.3, prior to the Commission's entry into a Public Private Partnership, the essential terms of the Partnership will be presented in open session to the Commission or the relevant Planning Board for approval after public review and comment. The Planning Board may require that the Partnership Agreements be presented in open session, as well.

4.3 Managing the Public Private Partnerships

4.3.1 *Staffing the Public Private Partnership Program.* Effective management of Public Private Partnerships requires special expertise at many levels. This includes evaluation of the proposed Partnership, project development and implementation, and ongoing contract management. It is essential to involve personnel that clearly understand the Commission's objectives and regulations, and private business and contracting conventions. Most Public Private Partnerships require assessment of the financial capabilities of the Private Partner, as well as impacts to public financing and budgets. At a minimum, staff from the following departments/divisions should be involved with Public Private Partnerships:

- a. Prince George's County Department of Parks and Recreation or Montgomery County Department of Parks, as appropriate

- i. Park Planning
- ii. Park Development
- iii. Park/Property/Facility Management
- b. Finance/Office of the Secretary-Treasurer
- c. Office of General Counsel
- d. Procurement
- e. Risk Management

To create responsive, efficient and effective management of Public Private Partnerships, any of the following organizational options could be undertaken and should reflect the present organizational structure and decision-making process within each County:

- a. Create a special or select committee to deal with Public Private Partnerships;
- b. Expand the role of an existing committee to include responsibility for Public Private Partnerships; or
- c. Delegate responsibility for Public Private Partnerships to a department with support from other departments and/or divisions.

4.3.2 Responsibilities of the Public Private Partnership Staff. The Commission must know what to expect of a Public Private Partnership before the Partnership is established. A carefully evaluated and developed plan for the Partnership and on-going monitoring of the performance of the Partnership will substantially increase the Partnership's probability of success. Within the parameters of this Policy, and in order to make appropriate and timely recommendations to the Commission or the relevant Planning Boards, the Public Private Partnership staff will:

- a. Act as the single point of entry for the private sector to approach the Commission with Public Private Partnership initiatives;
- b. Identify existing and future Public Private Partnership opportunities, and develop Requests for Expressions of Interest (REOIs) and/or Requests for Proposals (RFPs) to provide competitive Partnership opportunities that allows the Commission to compare and select the proposals that best serve the public interests;
- c. Evaluate proposals for Public Private Partnerships, whether such proposals are solicited or unsolicited, based on the criteria established in this Policy;
- d. Monitor existing Partnerships to ensure compliance with Partnership Agreements and this Policy, and evaluate revisions, expansions or changes to such Partnerships, whether requested by the Private Partner or by the Commission;
- e. Develop implementation strategies for specific Public Private Partnerships, including recommendations for designation of a project manager and project team who will be responsible on behalf of the Commission to work directly with the Private Partner to assure successful

project implementation and success of the Partnership on an ongoing basis; and

- f. Keep the Commission and/or the Planning Board regularly informed about the Public Private Partnership program and initiatives.

4.4 Evaluations and Recommendations

4.4.1 *Initial Submission.* In order for the Commission to appropriately evaluate proposals for Public Private Partnerships, whether solicited or unsolicited, the initial Partnership proposal must include, at a minimum:

- a. A clear and complete description of the purpose and outline of the expectations of the respective partners, sufficient to vet the proposal through an initial review process as set forth in Section 2.1 of this Policy;
- b. Justification why a Public Private Partnership is the appropriate mechanism for delivery of the project or activities of the proposed Partnership consistent Section 2.3 of this Policy;
- c. A description of the proposed Partner, including relevant experience and references, and the proposed form of the Partnership;
- d. A business plan, including a market analysis of the proposed activities and a financial plan for the Partnership;
- e. A facility plan, if relevant; and
- f. Any other information required by the Commission for staff to complete its evaluation of the initial submission.

4.4.2 *Review of the Proposal.* The following comprises the minimum criteria and/or conditions of a proposal that staff should consider in its evaluation of a specific Partnership proposal when making its recommendation to the Planning Board:

- a. Whether the proposal meets the guiding principles outlined in this Policy and is otherwise consistent with this Policy;
- b. Whether the activities and terms of the proposal are acceptable for coverage of the Commission's risk by the Montgomery County Self Insurance Fund;
- c. Whether a proposed project is consistent with existing Commission policy plans, or has been identified by the Commission and/or Planning Board for a potential Partnership;
- d. Whether the proposed project and the Partnership is commercially reasonable;
- e. Whether the Private Partner has the financial capability, a sound financial plan and an appropriate level of experience to deliver the project and/or conduct the activities required of it in the Partnership;
- f. Anticipated short and long-term costs to Commission in resources, including workload and CIP or operating budget impacts;
- g. Whether the proposed project has a clearly identified and dedicated funding source to support the obligations of the Private Partner;

- h. Whether the level of entitlements and rights of the Private Partner are supported by economic value consistent with such Partner's contribution to the Partnership in resources and risks;
- i. Whether the output of the service can be measured and valued in a manner that allows the Commission to easily determine compliance with the purpose of the Partnership;
- j. The level of support for the Partnership from the proposed users of the service or project proposed;
- k. Whether the Partnership provides opportunities for access for underserved communities;
- l. Park Police must be involved in review of the proposed partnership activities and the Partnership Agreements so that, if appropriate, Crime Prevention through Environmental Design Concepts (CPTED) are utilized; and
- m. Whether the Commission has the availability to effectively oversee the Partnership, including design and construction of the project, and on-going activities of the Partnership.

4.5 Implementation

4.5.1. *Public Private Partnership Agreements.* Public Private Partnerships are contractual arrangements. Allocating and assigning the proper roles, risks and rewards to the respective partners provides incentives for maximum performance, flexibility necessary to achieve the desired results, and is vital to the success of the Partnership. Therefore, every Partnership requires appropriate written documentation that sets forth the terms of the Partnership and the respective rights and obligations of the Commission and the Private Partner ("Partnership Agreements"). The Partnership Agreements can be in the form of one or more written agreements such as memoranda of understanding, leases, development agreements, joint use agreements and funding agreements. The Partnership Agreements, in addition to standard contractual provisions required in agreements between the Commission and third parties, will include, at a minimum the following detail of expectations and deliverables:

- a. The purpose of the Partnership;
- b. A description of the services to be provided or the activities to be conducted by the Partnership;
- c. Designation of the roles and responsibilities/risks and rewards of each partner, which should be based on a fair deal structure;
- d. A level of quality for the project consistent with standards established by the Commission for projects of a similar nature;
- e. The Partner must assign experienced and, if applicable, licensed professionals, dedicated to the project, to support the private sector responsibilities;
- f. Project milestones to assure the timely delivery of a Partnership project;

- g. Benchmarks that can be measured and valued to demonstrate the success of the Partnership, and that the purpose of the Partnership is being met;
- h. Appropriate obligations for sound financial management of the project or service offered by the Partnership;
- i. Obligations of the private Partner to provide regular reporting consistent with this Policy in order to assure that the activities and processes of the Partnership are open, fair and transparent to the community;
- j. Risk allocation to the partner best able to manage and mitigate such risks, with appropriate supporting indemnifications;
- k. The Private Partner must provide insurance with the types and amounts of coverage required by the Commission's Risk Management Office naming the Commission as an additional insured or loss payee, as appropriate;
- l. Provision of services or development of facilities in the park system must address the public's interests with regard to access, affordability, customer service, hours of operation, variety of programming, and diversity of staff;
- m. The Park Police must maintain jurisdiction in the parks;
- n. A clearly defined method of dispute resolution;
- o. The Private Partner will have no right to assign or otherwise transfer its obligations in the Partnership without the Commission's consent; and
- p. Provisions addressing the requirements that are otherwise set forth in this Policy.

4.5.2. *Construction on Park Property.* A hearing and review by the Planning Board of the proposed plans for the project may be required, which will follow the standards of review applicable to private development in the applicable County. Prior to commencement of construction on Commission-owned property, the Private Partner must apply to the appropriate department for a Permit to Construct on Park Property ("Park Permit"). Along with the application, the Private Partner must submit construction plans, a project schedule, and a project budget for review and approval. Construction of any improvements will be completed in a good and workmanlike manner, and in accordance with all applicable laws, regulations, approval and permitting processes, including any applicable CIP process for the County in which the property is located. Facilities must be constructed in accordance with the design, safety, maintenance standards, and construction specifications established or approved by the Commission. The Commission's issuance of a Park Permit will be conditioned upon the following:

- a. All necessary Partnership Agreements have been reviewed and endorsed by the Office of General Counsel, the Secretary-Treasurer, and Risk Management;
- b. All necessary Partnership Agreements have been fully executed by all authorized parties;
- c. The Commission has approved the construction plans and project schedule;

- d. The Commission has approved the project budget, and the Secretary-Treasurer has confirmed the Private Partner's certification that all funds as set forth in the approved budget are available for use in the project;
- e. The Commission has received all required insurance certificates and completion bonds;
- f. The Private Partner has provided the Commission with copies of all required governmental permits and approvals³;
- g. Any other requirements required by the Partnership Agreements have been met, such as public hearings and approvals of the appropriate Planning Board, or CIP funding approval by the County Council;
- h. The Private Partner must provide the Commission with as-built plans and assignment of any warranties upon completion of the construction of the improvements; and
- i. The Private Partner must, in a timely manner, meet all conditions required by relevant governmental agencies to close all permits issued for the project.

4.5.3. *Administrative Management.* Partnerships will be managed administratively if they do not meet a minimum threshold dollar value to the Commission of \$50,000 or more, or the active relationship will not extend beyond a six month time period.

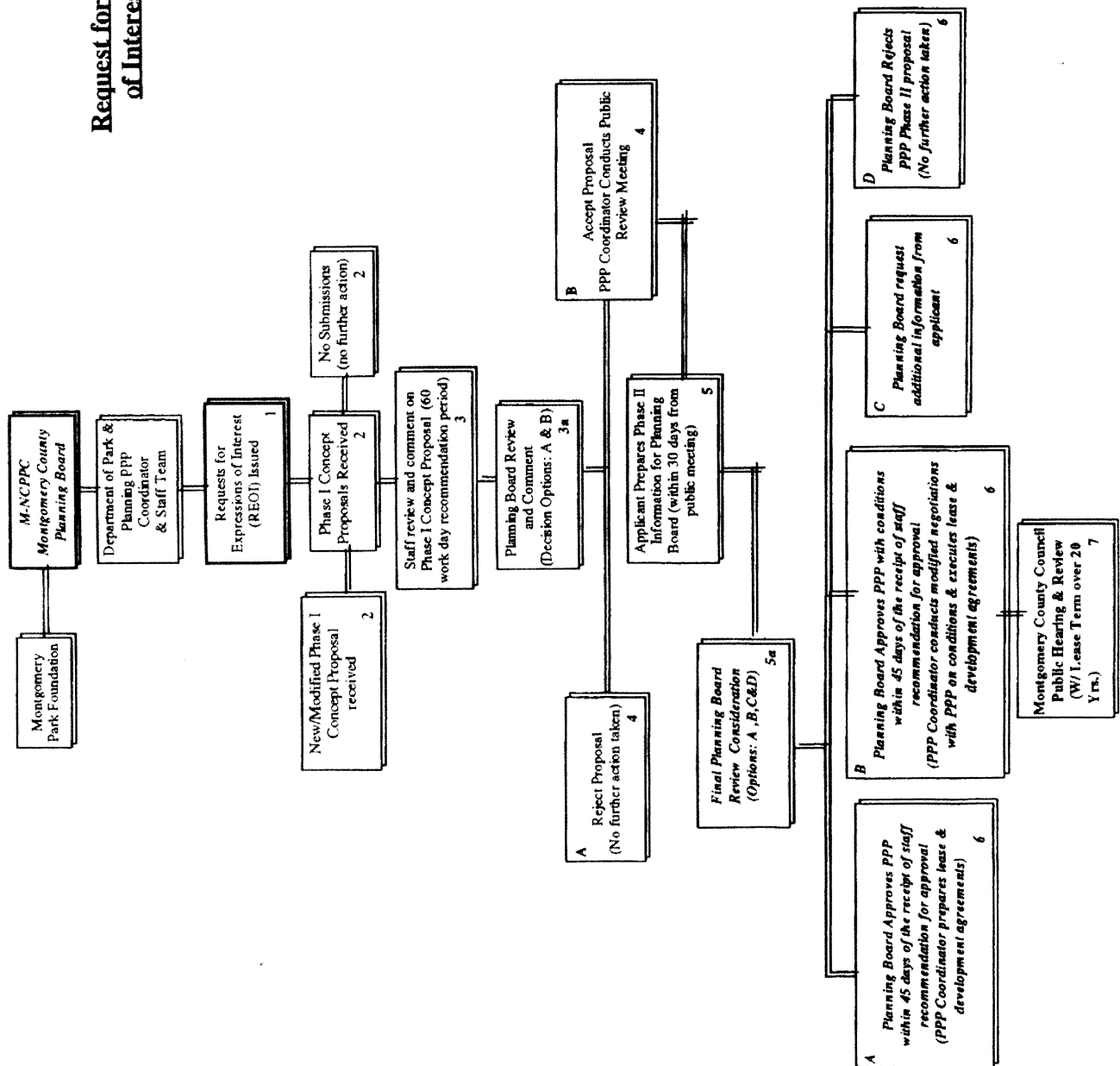
³ The Private Partner will be the named applicant on such governmental permits. However, under extraordinary circumstances, including but not limited to financial hardship, the Private Partner may apply to the Commission for a waiver and request that the Commission be the named applicant. Regardless, the Partner must post any bonds that would be required for the issuance of such permits, without regard to the Commission being exempt from any such bonding requirements.

Unsolicited Proposal Process



M-NCPPC Public / Private Partnership Process

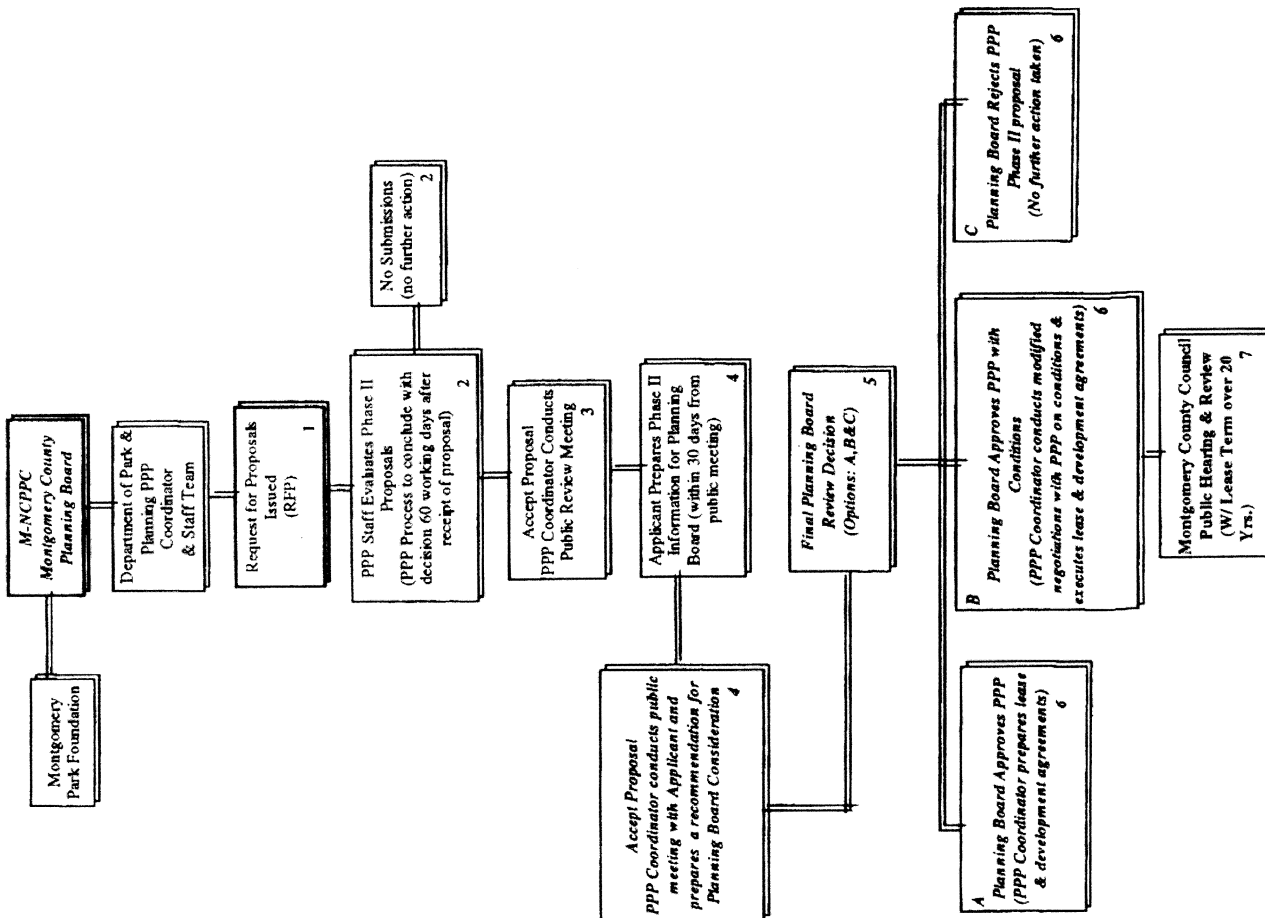
Request for Expressions of Interest Process



Notes:

1. Montgomery Park Foundation may serve as a Facilitator, funding and/or Private Procurement Coordinator for PPP Project Implementation (At phase II);
2. The term of the process is subject to changed due to project specific negotiations;
3. Process Steps: REOI -steps 1-7

M-NCPPC Public / Private Partnership Process



Request for Proposals Process

Notes:

1. Montgomery Park Foundation may serve as a Facilitator, funding and/or Private Procurement Coordinator for PPP Project Implementation (At phase II);
2. The term of each process (ie. Unsolicited, REOI, RFP) is subject to changed due to project specific negotiations;
3. Process Steps: RFP -steps 1-7



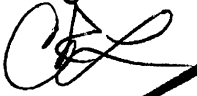
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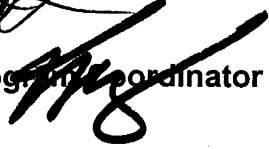
December 1, 2003

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

TO: Montgomery County Planning Board

Via: Charles Loehr, Director 

From: Terry H. Brooks, Special Program Coordinator
Office of the Director 

Subject: Policy and Guidelines on Donations and Public / Private Partnerships – Work Session # 1

Staff Recommendation:

Approve the proposed Policy and Guidelines on Donations and Public / Private Partnerships and recommended staff amendments as a replacement for the adopted May 8, 1996 Public / Private Development Guidelines.

Background:

On November 13, 2003 the Planning Board conducted a public meeting on the proposed policy and guidelines on donations and public / private partnerships (PPP) (see attachment # 1).

The staff's sentiments about the significance of the Public / Private Partnership Policy were very clearly articulated by Mr. Steinbreaker in his statements to the Planning Board (see attachment # 2).

The Planning Board also and received comments from the public on the staff proposal (see attachment # 3).

Staff 's review of these comments reveals the fact that the public, including some of the Commission's current public / private partnership partners and the Park Foundation, Inc. generally support the policy and guidelines for donations and public / private partnerships.



The sentiments expressed can generally be summed up as follows:

- 1. The Commission is to be commended for revising the policy for donations and guidelines for public / private partnerships (PPP);**
- 2. The proposed policy and guidelines must be managed with a proactive, time sensitive, product oriented staff in order to be successful. People make the program work not just well meaning words;**
- 3. The team leader is a key component of the process. The Public / Private Partnership Leader must be an open thinker, willing to think out of the box in order to achieve the desired outcome and product for the public;**
- 4. The policy must be flexible and changeable over time. The PPP must be reviewed and updated on a routine basis and the public must be part of the proposed changes in policy and/or guidelines;**
- 5. Timely decision-making in the process is key, wheather a decision is made for either the approval or rejection of a PPP proposal;**
- 6. There should be a special fund program within the proposed PPP to accommodate activities and /or proposals from groups without the financial resources to create special PPP's. The special fund should be established and managed by the Park Foundation to provide funding for comparable park facilities and/or services across Montgomery County in order to sustain equity and balance in the Park System for all users; and**
- 7. The public should be informed and involved as an integral part of the PPP's project identification, priority identification and criteria for selection, rejection and /or development.**

Based upon the comments received, the staff recommends the Planning Board consider additional amendments to the PPP as identified in attachment # 4.

Summary Conclusion & Recommendation:

Based upon the public comments presented to the Planning Board staff recommends the Policy on Donations and Public / Private Partnership Guidelines, as amended, be adopted and replace the currently adopted May 8, 1996 Public / Private Development Guidelines.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Item# 14

MCPB

11/13/03

ATTACHMENT #1

MEMORANDUM

DATE: November 7, 2003

TO: Montgomery County Planning Board

Via: Charles Loehr, Director

From: Terry H. Brooks, Special Program Coordinator
Office of the Director

Subject: Policy and Guidelines on Donations and Public/Private Partnerships

Staff Recommendation:

Approve the proposed Policy and Guidelines on Donations and Public / Private Partnerships as a replacement for the adopted May 8, 1996 Public / Private Development Guidelines.

Background:

The Maryland-National Capital Park and Planning Commission (the "Commission") maintains public stewardship over some 382 parks sprinkled across parklands comprising more than 30,000 acres. The Commission, in partnership with the Montgomery County Recreation Department and the Public School System, helps to deliver a remarkable array of athletic and recreational opportunities, including trails, athletic fields, playgrounds, boating, golf, ice skating, tennis, recreation centers, historic structures, and conference facilities. Serving this role for Montgomery County's citizens is at the core of the Commission's mission and is an important reason why County residents enjoy the quality of life they do today.

As the Commission addresses the uncertainties of the new millennium, several fiscal, park user, and park resource trends are readily apparent and

good stewardship demands that they be taken into account and addressed in a proactive and dynamic manner.

Creating and sustaining a flexible approach for financing new or expanded park features requested by the public in circumstances where tax-funded resources are unavailable or insufficient requires the Commission to proactively engage in and seek out partnerships with others that serve to enhance and maintain Montgomery County's nationally recognized, award winning Park System. There are two key factors leading toward this conclusion:

First, for the foreseeable future, the Commission will continue to be challenged by serious budget constraints with a limited tax base struggling to support current services, new programs and initiatives.

Second, and at the same time, the demand for parks and recreation services is expected to grow as the number of children and elderly are expected to balloon over the next few decades.

For these reasons, the Commission began grappling with a growing pressure on the park system for more active and passive park development and recreational services and facilities. Another growing influence has been the Commission's recognition and acceptance of the need for shared responsibility and ownership for assistance in delivering both park conservation and recreational services. Often this involves the non-profit, civic, religious community, educational establishment, clubs, businesses, and, for some projects, the for-profit community.

Toward this objective, over the course of the past several years, the Commission has entered into approximately 16 public/private partnerships. The types and sizes of these partnerships have varied considerably in their purpose, nature and scope.

Also, in 1992 the Commission sponsored the creation of a very important organization to support the Commission's mission, the Montgomery Parks Foundation (the Foundation).

The Foundation is a public, 501©(3) tax-exempt organization founded to solicit large and small corporate and private citizen donations in order to help the Commission fund the unmet park and open space needs in Montgomery County. The Foundation works in cooperation with private citizens, businesses, foundations, the Commission, and the Department of Park and Planning to improve and sustain park properties. The Foundation also assists the Commission by facilitating the acquisition of new parkland and/or facilities. In addition, the Foundation facilitates efforts to promote park related programs, purchase needed equipment and solicit private

funding to augment the growing unfunded and unmet needs of the park system in Montgomery County.

Prior to 1996 the Commission did not have a well defined process or procedure to receive, review, evaluate, accept or reject unsolicited proposals by either for-profit or non-profit groups wishing to partner with the Commission to use parkland for various park related, privately funded projects.

In March of 1996 the Commission adopted Public/Private Development Guidelines for both solicited, as well as unsolicited proposals requesting the use of parkland for park related projects.

Over the course of the past several years the Commission has used those guidelines to receive, review and evaluate a wide variety of partnership proposals ranging in size, budget and scope from regional recreational facilities to single recreational amenities. Two examples of public/private partnerships are: the non-profit Maryland Soccer Foundation's \$15.7 million private donation supported South Germantown Soccerplex which is 162 acres in size with 19 soccer fields with a 3,200 seat championship field and indoor arena in Germantown; and the non-profit Red Wiggler Foundation, Inc.'s initial \$ 10,000 private donation for the development of a 10 acre organic farm park for mentally and physically challenged youth and adults at Ovid Hazen Wells Recreational Park in Clarksburg.

The Commission's partners and our staff found the adopted 1996 Public/Private Partnership Guidelines to be helpful but lacking in certain areas. Small donation projects like playground equipment donations from small community groups were not as easily accommodated. The typical proposal review and evaluation often took too long to render a decision; did not clearly identify the Park Foundation's role; and was not consistently staffed, causing frustration and disinterest from both potential private donor partners as well as among Commission staff in receiving, reviewing and evaluating a proposed partnership program and/or facility.

During the past year staff as well as a consultant have been re-evaluating the Public Private Partnership guidelines, processes and our responsiveness to private proposals.

As a result of this public private partnership program re-evaluation effort, a new and modified program document has emerged. The new program (See Attachment # 1) addresses the concerns expressed by the public, our partnership partners, the Foundation, the Department, and the Commission.

The new July 24, 2003 Policy and Guidelines on Donations and Public/Private Partnerships program document:

- **Defines the types of donations and public private partnerships;**
- **Defines the roles and responsibilities of the donor, the Foundation, the staff, the Commission and the general public in the process;**
- **Creates a dedicated departmental staff to provide a responsive, coherent assessment of all proposals submitted to the Commission;**
- **Creates time-frames for responsive reviews of proposed donations and/or public/private partnership proposals;**
- **Identifies the process the Commission will use to establish partnership priorities within the park system; and**
- **Identifies the criteria by which all proposals will be evaluated for either acceptance or rejection by the Commission.**

In order to summarize the processes identified in the report, three (3) public/private partnership process flow diagrams are attached illustrating: (1) the unsolicited proposal process (See Attachment # 2); the Request for Expressions of Interest (REOI) (See Attachment # 3); and the Request for Proposals (RFP) (See Attachment # 4).

Community Outreach:

The proposed draft policy document on donations and public / private partnerships inviting comments was placed on the Commission's web site in June.

In addition, during the month of June staff issued letters inviting comments to: the Commission's current Public Private Partnership Partners; The Montgomery Parks Foundation, Inc.; the Montgomery County Government; civic, and citizens groups; the Montgomery County Recreation Advisory Boards; park user groups as well as local business organizations like the Chamber of Commerce.

Staff also issued a second letter inviting comments again in October notifying the public that the Planning Board would be considering the subject policy and program for adoption on November 13, 2003.

Staff has received general public comments that the proposed policy and guidelines are much improved and will serve the Commission well in

receiving park donations and engaging in future public private partnerships.

Summary & Recommendation:

Based upon the attached report, staff recommends the proposed Montgomery County Department of Park and Planning Policy and Guidelines on Donations and Public/Private Partnerships document dated July 24, 2003 be approved by the Planning Board as the new policy and guidelines to replace the adopted March 8, 1996 Public/Private Development Guidelines.

DRAFT

**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
POLICY AND GUIDELINES ON DONATIONS
AND PUBLIC/PRIVATE PARTNERSHIPS**

Prepared for the Montgomery County Planning Board

By Charlie Steinbraker

7/24/03

PURPOSE

The purpose of this policy is to define the circumstances under which it is appropriate for the Montgomery County Department of Park and Planning to receive certain donations and enter into public private partnerships. It is also intended to provide guidelines regarding the development and evaluation of partnerships.

BACKGROUND

The Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission ("Commission") administers some 400 parks and manages nearly 32,000 acres of land in Montgomery County for the benefit and enjoyment of county residents and the protection and preservation of the environment. Facilities and services provided on park land have historically come through the capital and operating budgets of the Commission. However, competition for public tax dollars has led the Commission to look beyond traditional funding sources to carry out its mission.

The Commission recognizes that from time to time individuals or organization want to provide support to the park system through the donation of funds, land or other capital items. The Commission also recognizes that public private partnerships for the development of park land and/or the provision of much needed recreational services have and continue to enable it to bring on line facilities and programs that otherwise may not have been provided. Private partners can also bring to the table development or program proposals that are reflective of new and growing trends in the parks and recreation field far in advance of the public park systems pace, thus enabling the Commission to stay closer to the forefront of emerging needs and interests of its park patrons.

At the same time, public park land is held in trust for the benefit and enjoyment of all Montgomery County citizens now and in the future and should not be exploited for the private interests or benefit of any individual, group or organization. This public trust is a critical value and guiding principle of the Commission, and public private partnerships must be developed and managed in a manner that is consistent with this principle.

This policy is intended to provide a framework by which the Commission can receive and acknowledge the generosity of individuals and organizations desiring to give to the park system (donations) as well as to stimulate and enter into strategic joint ventures (public private partnerships) that will enhance its mission. This policy is also intended to achieve these results while also strictly adhering to the principles of preservation and use of parkland in the best interests of the public, now and in the future.

DONATIONS

Donations may come to the Commission in a variety of ways and are governed by Commission practice 3-14. Donations of up to \$50,000 may be accepted at the discretion of the Director of Park and Planning. Donations exceeding \$50,000 must be approved by the Planning Board. In addition, all major contributions which result in the development of a capital project on publicly owned land require the notification and approval of the County Council. A list of all donations received by the Commission will be published on an annual basis.

Donations will be either unrestricted or restricted.

Unrestricted Donations

Unrestricted donations offered to the Commission may come in the form of land, real or personal property, services or funds. They may be offered immediately or at a planned time in the future, typically established by agreement, will, or trust. These donation offers are made without stipulation or regard to the subsequent disposition of the asset after its transfer to the Commission.

Restricted Donations

Restricted donations also may take the same form as unrestricted (i.e. land, facilities etc.), and may also be offered at a present or future time. Restricted donations, however, come with a contingency or requirement of the donor, usually related to the nature of the donation itself. These designations or stipulations may include: nature of the use of the property or facility, limitations or parameters related to user groups, affiliated fee structures, specific use of funds, matching requirements, naming rights or other forms of recognition, etc.

PUBLIC PRIVATE PARTNERSHIPS

For the intents and purposes of this policy, a public private partnership is defined as the "voluntary and strategic joining of the Commission with an individual, group and/or organization(s), non-profit or profit, to achieve a common purpose by the sharing of resources, risks, responsibilities and rewards."

It is the intention of the Commission to actively seek out public private partnership agreements that will:

- 1) allow park services to be continued or enhanced, while maintaining or reducing public tax support, or
- 2) advance or enhance recreation/park facility development through the investment of private resources.

Both solicited and unsolicited proposals will be considered by the Commission to advance this goal.

Every two years, in a timeframe proximate to the approval of the CIP, the Commission will identify priority areas of its mission and work program which are suitable for and likely to attract donations or partnerships. These will be designated as the Commission's "*priorities for donations and partnerships*". Prior to establishing these, the Commission will hold a public forum or otherwise seek citizen input regarding these priorities.

After establishing the priorities, the Commission may solicit partnerships through "requests for proposals" (RFP's) or "requests for expressions of interest" (REOI's) in some specific priority areas. These will include timeframes for response. However, the Commission will be open to unsolicited proposals as well that may come forth at any time.

Types of partnerships

Public private partnerships may take on a wide variety of forms, and the Commission is open to the creative ideas of any proposer who can advance its public mission while reducing its public tax commitment. Examples of existing or potential types of partnerships considered appropriate by the Commission include:

Adopt-a Field: Where a private partner agrees to maintain specified ballfields, according to an established standard, for the consideration of exclusive use for certain times and/or days of the week. (Currently regulated by the related Adopt-a Field policy.)

Operations and Maintenance: Where the Commission establishes an agreement with a private partner to operate and maintain a facility owned by the Commission.

Design-Build- Donate: Where the land is provided by the Commission or donated by a partner, with the design and construction of the facility fully or partially funded by the private partner. It may be operated by the Commission, the partner or a third party.

Lease- Design-Build-Operate: Where a private partner fully or partially funds the design and construction of a facility and subsequently operates and maintains it. The Commission leases the land for this purpose. Facility ownership may be retained up to 40 years or ownership could be transferred to the Commission at no cost.

Under the terms of any partnership agreement, facilities developed on MNCPPC land must have ownership transferred to the Commission at the end of 40 years, if not transferred before that time.

THE STEPS FOR RECEIVING AND PROCESSING PUBLIC PRIVATE PARTNERSHIPS AND RESTRICTED DONATIONS

A. PLANNING

Every two years the Planning Board will establish a "priority" list for potential project and/or service areas which are the most appropriate and desirable for either donations or public private partnerships. Prior to establishing these priorities, public input will be sought to solicit the views of user groups and other interested citizens regarding their needs and interests. This will include discussions with the Parks Foundation and the Recreation Advisory Boards. In addition, the Planning Board will take into consideration the projects that are approved in the six year Capital Improvements Program (CIP) and the ability of these projects to meet the recreation and park needs identified by the Parks and Recreation Open Space (PROS) plan. Major gaps between needs in the PROS plan and the ability of the adopted CIP to meet these needs, as well as trends and desires articulated by citizens, should be the focus of interest for public private partnerships. Preservation and Legacy Open Space, as well as historic preservation, also will be considerations for actively seeking donations and public private partnerships.

The Planning Board will consider the financial and workload impact of proposed projects on Commission resources. It is important that potential requirements for additional staff time and on-going costs that must be sustained in the operating budget be identified. Based on all of these considerations, the Planning Board may decide to actively seek out one or more public private partnerships and direct the issuance of specific RFP's or REOI's.

While the Planning Board may decide to move forward at any time with initiation of a public private partnership, its desired course of action is to focus and consider such ventures only every other year, at a time soon after the CIP is approved by the County Council. Unique and unexpected opportunities which could potentially result in significant public benefit may be considered an important and valid reason for the exception to this planned approach.

B. REQUESTS FOR EXPRESSION OF INTEREST/REQUEST FOR PROPOSALS

As a general principle, partnerships with the Commission will be established through a competitive process. This provides an equal opportunity for all interested parties to respond and allows the Commission the opportunity to compare and select the proposals which best serve the public interest.

When there is opportunity for considerable variation in the respective roles and responsibilities of the partners, and/or when the Commission believes that an open appeal to the private sector may result in creative and entrepreneurial responses, an REOI will be issued. An REOI is a form of broad solicitation intended to determine the level of interest that may exist. It will request the submission of a *concept plan or partnership proposal*, but without the depth of detail, analysis and cost required to respond to a formal RFP.

The REOI will provide for sufficient information in the concept plan to allow the Planning Board to make a judgment whether or not to move forward with the project. This information may include: description of the project or service, the benefits to the public, proposed financing or cost sharing, anticipated roles and responsibilities of the Commission and the private partner(s), estimated impacts on Commission capital or operating budgets, anticipated traffic or other community impacts, identification of potential risks and how the risks would be shared, means/mechanism for community/citizen input, etc.

If the decision is made to move forward, typically a more detailed RFP will be issued for competitive responses. However, some REOI's may be issued with a provision to allow the Commission to move forward directly into negotiations and make a selection through the negotiation process.

When the specific roles, responsibilities and intended results of a proposed partnership are very clear, and/or the timeframe for moving forward is limited, an RFP will be issued (without first issuing an REOI). This will provide specific details about what is being requested of the private partner, the terms that will be required in a written, joint agreement, and the criteria by which the partner will be selected. RFP's will require respondents to spend the time and resources necessary to present a compelling case that the proposal is viable and desirable. This typically will mean the presentation of financial projections, financing commitments, market analyses, traffic studies, as well as select other variables required for the concept plan in an REOI.

C. *UNSOLICITED PROPOSALS*

While the Commission will establish a specific, planned timeframe within which to consider public private partnerships every two years, it recognizes that opportunities may present themselves from time to time that, in the best interests of the public, should be considered out of sequence. This situation may apply to both public private partnerships and restricted donations of significant benefit to the public.

When the Commission first becomes aware of an intention to offer a restricted donation or to enter into an unsolicited public private partnership, the proposer will be directed to the *public private partnership team*. This team maintains a clear knowledge and understanding of what the Commission needs to make a judgment on a proposal. There are three guiding principles that the team will use to determine the Commission's initial response the proposal:

- 1) Is the opportunity unique or rare and/or would it be lost if not responded to within a specific, limited timeframe;
- 2) Is the proposal consistent with the core mission;
- 3) Is the likely result a significant net public benefit, in relation to the potential public costs.

If the proposal is not within the core mission or likely to produce a significant public benefit, the offer should be declined. If timing is not an issue, consideration should be given to deferring the proposal until the next planning cycle and priority list.

If it is a rare opportunity that is within the core mission and likely to result in a significant public benefit, the team should respond by encouraging and working with the proposer to develop the information typically required in an REOI (concept paper or partnership proposal). The Commission recognizes the importance of being responsive to such proposers in a timely fashion. At the same time, the Commission also realizes that a decision on whether to accept or proceed with such an offer, and/or how to proceed, needs to be based on sufficient and reliable data and information. If a proposer is not forthcoming with requested information within reasonable timeframes subsequently established by the Commission, the proposal may be delayed until the next planning cycle or otherwise suspended or denied.

There may be occasions when acceptance of unsolicited proposals could result in one or more communities receiving an imbalance of public benefits. In such cases, those making the proposal(s) may be asked to consider doing the project in another location, consider duplicating a similar project in another community, or contributing to a fund to be managed by the Parks Foundation for the purpose of providing projects that will assist in working toward a higher level of balance or equity among communities.

D. EVALUATION AND DECISION

The Commission staff will make a recommendation to the Planning Board regarding all solicited and unsolicited proposals and offers of donations in excess of \$50,000.

For unsolicited proposals and responses to REOI's, the Planning Board has four options: 1) approve the proposal and decide to move forward by either issuing an RFP or moving directly into negotiations 2) approve the proposal with conditions (which could include acceptance at a later date, when Commission resources are better able to manage the project) 3) defer the proposal until the next planning cycle and re-establishment of priorities, or 4) reject the proposal. The Planning Board should seek public input prior to selecting the course of action.

Evaluation guidelines will be used by the Commission staff in establishing their recommendation and the Planning Board in making their final decision regarding public private partnerships and restricted donations. These guidelines may include:

- *Project/service need:* Is the project or service in a priority area established by the Planning Board? Does the project address a need identified by master plans or the PROS plan and not able to be met by existing resources? Does it respond to a service reduction made because of budget limitations?
- *Project benefits/impact:* Does the project result in improved levels of service? Will significant numbers of people be served? Would the facility or service otherwise not be provided?

- *Project cost/ability to sustain:* How will the project be funded? What portion of the development costs be borne by the private partner? Will the Commission be required to provide operating/maintenance costs, and can they be sustained through the budget process? Will there be a private endowment, friends group or other provisions for on-going maintenance/operating support?
- *Risks:* What level of the risk will the Commission assume in relation to the partners risk? What is the impact to the Commission if the project fails?
- *Relationship to plans:* Is the project consistent with master, sector and/or park plans? Is it consistent with the "one third active /two thirds conservation" policy for regional parks? Does it advance the goals of the PROS plan?
- *Uniqueness:* Is this an opportunity that if not acted on now may never be available again, or at least not for a long period of time?
- *Project advancement:* Would the timeline for a planned project be advanced without overburdening demands on operating/maintenance budgets?
- *Leveraging capacity:* Does the project allow for a limited investment of public dollars that will result in the more significant investment of private, state and/or federal resources?
- *Access:* Does the project result in access to services by underserved populations? Would access by the general public be restricted?
- *Equity:* Will the project result in an imbalance of amenities for one particular community or part of the county? Is there a provision to address equity issues?
- *Market:* Has a market analysis or other means determined that the project/service is needed and has a high likelihood to meet projected participation levels and revenue forecasts?
- *Fee structures:* Would projected fees allow for reasonable public access? Are there provisions for access by those who cannot afford the fees?
- *Corporate capability/Experience/Past performance:* What is the capacity/ability of the proposer to deliver the product; is there a track record of positive performance?
- *Financial Viability:* Does the proposer have the financial capability and a sound financial plan to deliver the product?
- *Minority involvement:* Has there been consideration and planning for solicitation of minority contractors?

The Commission may use this entire list or may identify specific guidelines from this list to evaluate proposals, depending on the nature of the project or service. The Commission may also weigh certain guidelines as more important than others, and may add new guidelines to this list. Answers to the questions posed in the guidelines should result in the potential for a strong public benefit with limited or reasonable public cost.

A staff recommendation will be made to the Planning Board regarding an REOI, RFP or an unsolicited proposal within 60 days of receipt of all requested information. The Planning Board is committed to making a decision within 45 days of receipt of the staff recommendation.

E. NEGOTIATION AND CONTRACT

The Commission will enter into written agreements with all private partners and those from whom restricted donations are accepted. All RFP's and certain REOI's will contain specific terms required to reach an agreement. Each will be tailored to the procurement being issued.

Unsolicited proposals will be initially discussed and negotiated on behalf of the Commission by the *public private partnership team*. After an agreement is reached, it will be brought before the Planning Board with a staff recommendation. If during negotiations certain issues could not be resolved, these will also be noted for Planning Board information and consideration. The Planning Board will approve the final terms of all agreements.

Restricted donations or public private partnerships that result in the development of a project will most frequently require two general agreements. These are:

- 1) A development agreement that governs the construction phase. This includes a specific description of the improvements to be built; the review and approval process for construction drawings (both by Commission staff and appropriate permitting agencies); a requirement that the partner obtain a park construction permit; insurance and bonding requirements; and warranty provisions. If the improvements are to be donated to the Commission, the development agreement will provide for the Commission's acceptance of the improvements and appropriate liability release clauses; and
- 2) A lease agreement, if the partner intends to maintain ownership of the improvements, which govern the long-term use of the property. This agreement will dictate the terms of the lease; rental provisions (if any); operation and management provisions (e.g. hours of operation, permitted uses, fees to be charged, payment of utilities); indemnification, liability and insurance clauses; signage and naming rights provisions (if any); other miscellaneous provisions that may apply to a particular use, such as Commission oversight of fees, user groups, assignment, default and/or audit rights.

As a general rule, major public private partnership agreements will be subject to public review and comment before final Planning Board action. In accordance with Maryland law, any lease that extends beyond 20 years must also be approved by the Montgomery County Council. Typically this process includes public hearings and/or work sessions before a Council committee and the full Council. Also in accordance with Maryland law, all improvements constructed on Commission property revert to Commission's ownership at the end of any lease, at no cost to the Commission.

Major projects constructed on public land, even with private funding, also require notification and approval of the County Council. This process can run concurrently with the lease negotiation and review process.

Commission property cannot be mortgaged. For private partners who seek private capital or funding sources, the only interest that can be mortgaged is the leasehold interest itself.

F. EVALUATION

Effective partnerships are based on trust, communication and commitment. It is the desire of the Commission to periodically evaluate the effectiveness of its major public private partnerships by evaluating some or all of them. The purpose of the evaluations will be to: 1) commit to continuous excellence and improvement by learning from success and failures; 2) provide a means by which all partners may present concerns about any issues related to the contract, communications or commitment; and 3) provide an independent perspective about how the partnership might be further strengthened (if needed).

Each contract establishing a public private partnership will specify respective roles and responsibilities of the partners and detail certain expectations and deliverables. These may include such things as: acquisition of financing (public or private), securing of permits, method of plan review, construction of a facility, standards for maintenance, projected revenue, etc. Timeframes for reaching certain development milestones may be an important consideration and targeted in the contract. Since public benefit and cost savings are such critical forces underpinning the desire to enter into public private partnerships (from the standpoint of the Commission,) the Commission may also wish to establish measures by which these factors can also be evaluated.

An evaluation team will be appointed by the Director of Park and Planning. It will consist of not more than 7 people, including representative(s) of the Commission and the private partner. There must be at least three volunteer members of this team who are not associated with either partner and represent an independent point of view.

The evaluation team will be responsible for studying and reporting back to the Planning Board the level to which the partners have produced their deliverables, met their timeframes and achieved their agreed upon objectives. The team will also make any recommendations that it determines necessary and desirable to strengthen the partnership. The evaluation will be completed within eighteen months after the contract is signed.

THE ROLE OF THE PUBLIC PRIVATE PARTNERSHIP TEAM

The Commission has established one senior management position which will have primary responsibility for all public private partnership and donation activities. This person will serve as leader to a designated team of staff made up of representatives from: Office of the General Counsel, Enterprise Division, Park Development and Finance. Finance will have two representatives, as needed. One will specialize in procurement matters while the other will provide for financial analysis, particularly matters related to risk, the potential consequences of failure, due diligence and pro formas. The Executive Director of the Parks Foundation will also serve as a member of the team to provide a key linkage between the Commission and the Parks Foundation related to public private

partnerships. This team will focus and develop specialized expertise in the expedited facilitation and management of public private partnerships and major donations.

This senior manager designated as team leader will report directly to the Director of Park and Planning and be charged with a variety of responsibilities. These include (but are not limited to): serving as the primary contact and focal point within the Commission for all matters related to restricted donations and public private partnerships; working with the team to facilitate partnerships through required processes and within timeframes determined to be reasonable and acceptable to the partner(s) during the negotiation stage; guiding the team in developing and managing RFP's and REOI's; actively seeking respondents; developing recommendations for the Commission regarding priorities for consideration every two years; assisting with contract negotiations; serving as the Commission staff liaison to the Parks Foundation and maintaining consistent communication with partners.

The designation of this team and team leader demonstrates the commitment of the Commission to invite and engage in public private partnerships as a means to further its mission.

THE ROLE OF THE MONTGOMERY PARKS FOUNDATION

The Montgomery Parks Foundation was founded and incorporated to "preserve, promote and advance the acquisition, protection, use and development of parkland....in order to more adequately serve and provide facilities for the citizens and residents of Montgomery County and thereby lessen the burdens of government". The Commission envisions and invites a strong and proactive role of the Montgomery Parks Foundation with respect to donations and public private partnerships. Providing assistance in these areas is part of the core mission of the Parks Foundation.

The specific projects to be targeted and services to be rendered will be established on an annual basis through dialogue between the Parks Foundation and the Planning Board. The Planning Board has agreed to provide an annual service fee to the Parks Foundation for this work, the level of which will be established through this dialogue and the annual operating budget.

The projects will relate to the list of "*priorities for donations and partnerships*" established every other year by the Planning Board. Recommendations regarding the projects and the specific services to be provided by the Foundation will be made by the *public private partnership team*. The Executive Director of the Parks Foundation will serve as a member of that team and assist in formulating these recommendations. Although the specific work program related to targeted public private partnerships and donations will be established annually, the tasks will typically fall within one or more of the following categories:

Identification and Outreach to Funding Sources:

Identifying individual and corporate contributors and partners, and matching donors with priority needs is a role that is best suited to, and can most ably be carried out, by the Parks Foundation. In addition, seeking and obtaining grants, endowments, gifts, and special program funding from federal, state, county and foundation entities, is a key part of the core mission of the Parks Foundation, as it serves to support the Commission's goals, priorities and work program. The range of solicitation should be broad, from modest donations to major gifts and endowments, with a special emphasis on identifying individuals who have a personal interest and means to enhance one or more segments of the park system.

Managing Some Projects

The Commission envisions the *public private partnership team* (rather than the Parks Foundation) playing the primary role of managing major restricted donations and public/private partnerships. However, the Parks Foundation plays an important role of reaching out and interacting with a wide variety of community groups on behalf of park interests. In this way the Parks Foundation may act as a gateway to initially bring forth donation and partnership proposals from individual, corporate or community organizations. When such proposals are limited in their size and scope, the Commission team may request that the Parks Foundation manage all aspects of the donation. This could include direct procurement, liaison with appropriate Commission staff, assistance with permitting and other actions needed to fulfill the request. The public Private partnership team will recommend specific roles and responsibilities of the Parks Foundation for specific public private partnership projects.

Receiving and Dispensing Funds

Just as the Parks Foundation receives and dispenses funds on behalf of various "Friends" of the Parks organizations, this role will often be appropriate and desirable for public private partnerships as well. The Parks Foundation may assist the Commission by relieving it of this cost and work task, while, at the same time, expediting the flow of funds and the project. Whenever it is in the best interest of the project, the Commission and the Parks Foundation, all or some portion of private funding for public private partnerships should be received and dispensed by the Foundation. This must be approved by the Commission.

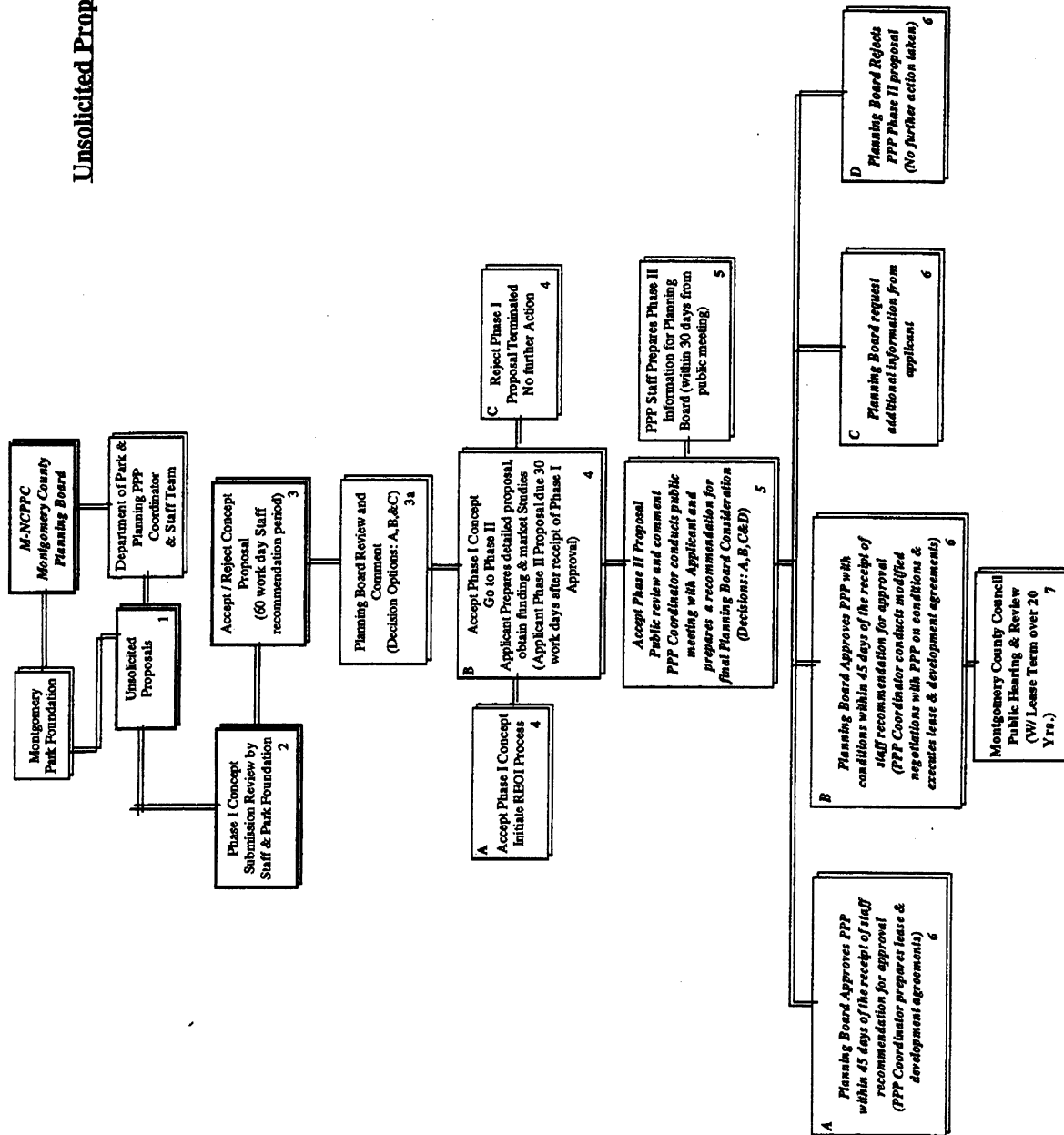
Appreciation/Recognition

The Commission believes it is important to provide appreciation and recognition to community, corporate and individual benefactors. This is true to those who have provided valuable services as well as monetary gifts. The Parks Foundation can play an important role in assisting with appreciation/recognition efforts, which may vary depending on the interests and desires of the donor.

Achieving Equity

One potential consequence of donations is that certain communities may become the benefactors of an imbalanced amount of services or facilities. The Commission may request that the Foundation play a key role in establishing and managing an "equity" fund. A percentage of some donations or a portion of the revenue/proceeds from certain public/private partnerships would be put into this fund to provide facilities or services in communities or areas of the county that otherwise may not benefit from these opportunities. When equity is an issue, the Commission may require a donation to such a fund prior to approval of a restricted offer or partnership proposal.

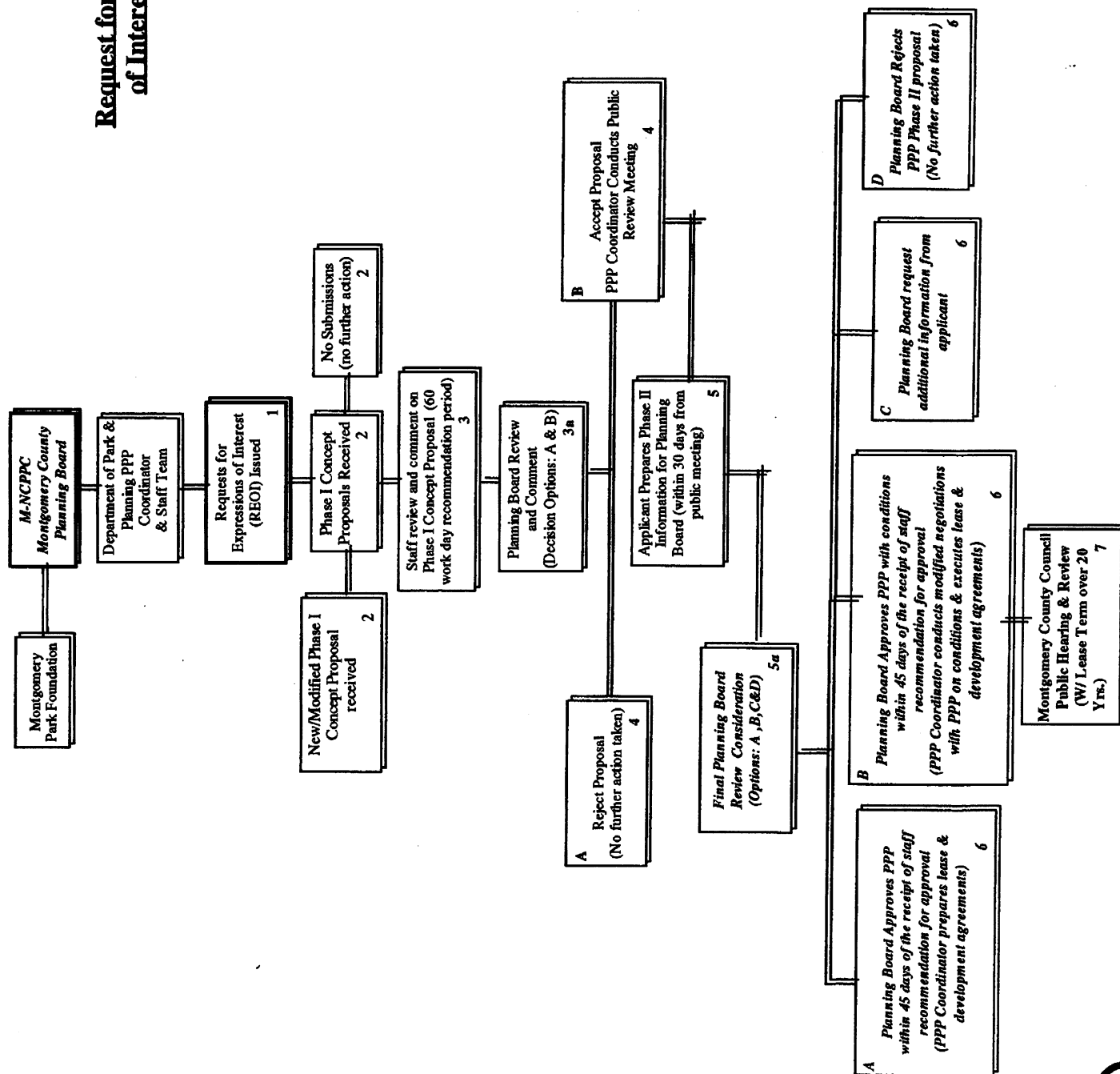
M-NCPPC Public / Private Partnership Process



Notes:

1. Montgomery Park Foundation may serve as a Facilitator, funding and/or Private Procurement Coordinator for PPP Project Implementation (At phase II);
2. The term of each process (i.e. Unsolicited, REOI, RFP) is subject to changed due to project specific negotiations;
3. The REOI Process may require a second round RFP review process with an additional public meeting and Planning Board Hearing or the RFP Process may be waived by the Planning Board for final approval;
4. Process Steps: -steps 1-7 Unsolicited

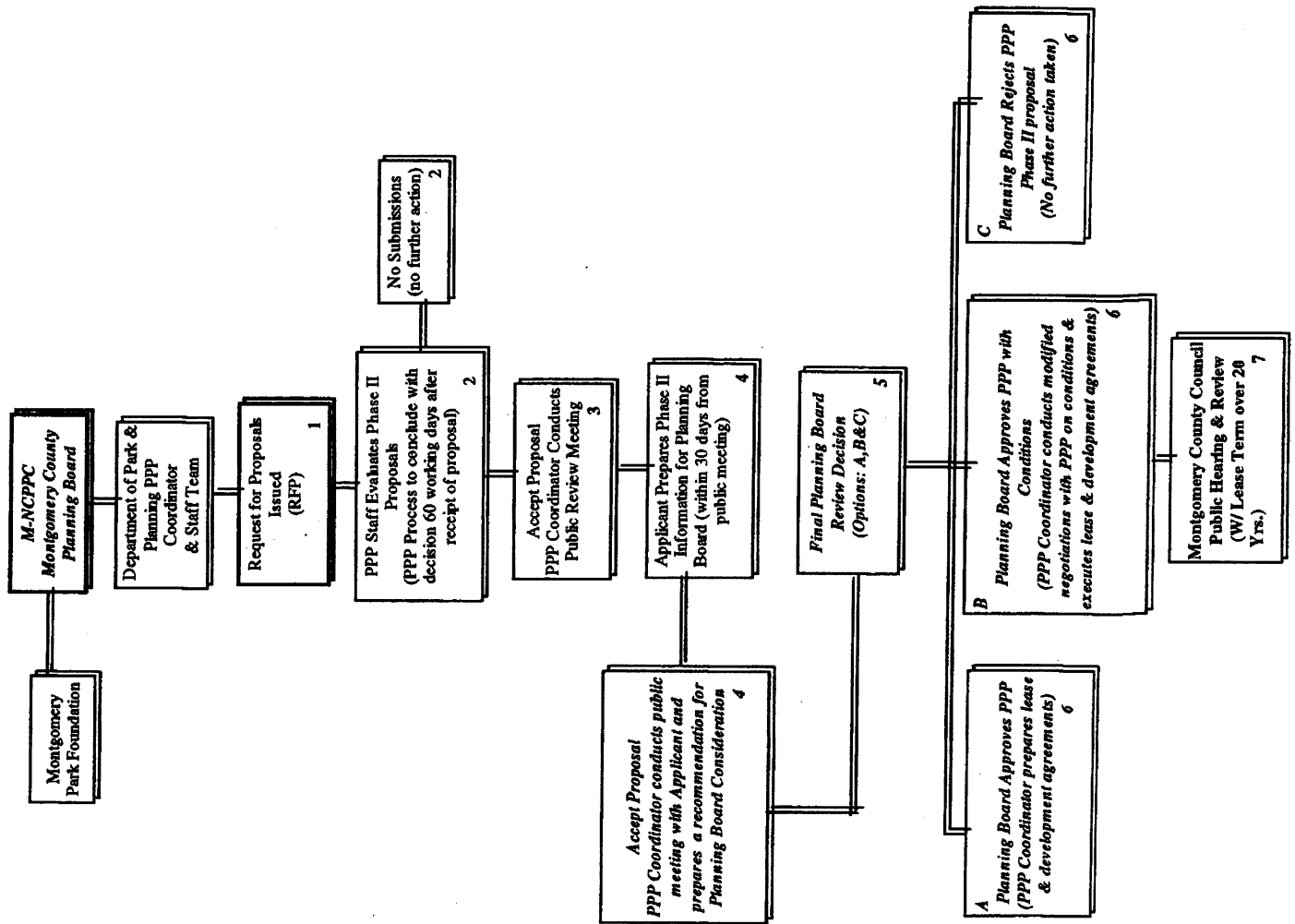
Request for Expressions of Interest Process



Notes:

1. Montgomery Park Foundation may serve as a Facilitator, funding and/or Private Procurement Coordinator for PPP Project Implementation (At phase II);
2. The term of the process is subject to changed due to project specific negotiations;
3. Process Steps: REOI -steps 1-7

Request for Proposals Process



Notes:

1. Montgomery Park Foundation may serve as a Facilitator, funding and/or Private Procurement Coordinator for PPP Project Implementation (At phase II);
2. The term of each process (ie. Unsolicited, REOI, RFP) is subject to changed due to project specific negotiations;
3. Process Steps: RFP -steps 1-7

Montgomery County Planning Board

Montgomery Regional Office Auditorium
8787 Georgia Avenue, Silver Spring, Maryland 20910

Donations and Public/Private Partnerships

Thursday, November 13, 2003

7:30 p.m.

Thank you for testifying on the Proposed Policy and Guidelines on Donations and Public-Private Partnerships. The times allowed for testimony are listed below with the speakers.

The timer includes a green, yellow and red light. At the yellow light you have one minute remaining. At the red light, please finish your thought.

We encourage coordinated testimony and appreciate having one or two spokespersons for a group. Time used for questions by Board members will not be deducted from your time.

Written testimony is also appreciated and will be read by each Board member. If you turn in written testimony, please provide **10 copies**. Thank you for your cooperation.

No.	Time	Name	Representing
✓ 1.	5	Trish Heffelfinger <i>written</i>	Maryland Soccer Foundation
✓ 12.	5	John Carman	Montgomery Parks Foundation
✓ 13.	5	Dick Pettit <i>no written</i>	Montgomery Parks Foundation
✓ 14.	5	Bruce Adams <i>no written</i>	Bethesda Community Baseball Club
✓ 15.	5	Jim Erickson <i>written</i>	Countywide Recreation Board
✓ 16.	5	Thomas Barse	Hyattstown Mill Arts Project
✓ 17.	5	Larry Gordon <i>written</i>	Friends of Recreation
~~18.~~	~~5~~	~~Y. M. C. A.~~	~~International Croquet Club~~
✓ 19.	3	Cherian Eapen <i>no written</i>	Individual
✓ 110.	5	Norman Knapf	Chelsea Lower Condo.

Testimony
Of
Trish Heffelfinger, Executive Director
Maryland Soccer Foundation
Re: Public Private Partnerships
November 13, 2003

Good evening, my name is Trish Heffelfinger. I'm the Executive Director of the Maryland Soccer Foundation, a successful public/private partnership with the Commission, the result of which is the Maryland SoccerPlex, Discovery Sports Center and South Germantown Recreational Park.

In 1997, when a few local soccer parents had a vision to build a premiere soccer facility for Montgomery County youth, it was clear that the cost to purchase land and then build upon it would be prohibitive. At the same time, the local soccer clubs and leagues were turning away kids who wanted to play soccer because there were not enough fields. In 1995, the Commission developed a master plan for South Germantown Recreational Park that contemplated development through a series of public/private partnerships and was designed with a soccer complex. As a wise man said at the time, the stars were aligned.

The first test of any public/private partnership is that it must meet the missions of both parties. In the case of the SoccerPlex, our Foundation wanted to build 24 high quality soccer fields that would be used by local Montgomery County players, but we could not afford to purchase the land and build the complex we envisioned. The Commission, which was dealing with increasing demands for ball fields and a shrinking capital improvements budget, had an exploding soccer population that could no longer be served by the County's inventory of ball fields, however they had available land. By developing the SoccerPlex through a public/private partnership, the interests of both parties were achieved and the citizens of Montgomery County are enjoying a magnificent

recreational park much faster than would have been possible without the mutually reinforcing and beneficial leverage of the partnership.

We are certainly proponents of public/private partnerships and believe that they can be excellent vehicles for the Commission to use to develop and enhance the Montgomery County Parks system. We applaud the Commission and its staff for seeking to develop a policy that will create a more consistent, streamlined process that addresses the needs of the private sector partner while it maintains the public sector's stewardship responsibilities.

We concur with the recommendations outlined in the *Draft Report on Public Private Partnerships*, and in particular, strongly support the appointment of one person within the Commission as the point person for partnerships. In our opinion, this position is critical to the success of this initiative. Once the Commission has determined that the project meets its mission and is in the public interest, this individual should become an advocate and mentor for the partnership and the project. Many of your potential partners will not be versed in the "public process" that they will inevitably be thrust into. They will need guidance and support to prepare for what can be a challenging and lengthy process.

In addition to the Partnership Director we also support the following points:

- As with any type of partnership, trust is essential for success. Both parties must be committed to the success of the project and the partnership. And they must be willing to share in the risks and be flexible as conditions change and opportunities emerge.
- The partners must be peers or close to peers for the partnership to function with maximum efficiency and effectiveness. We are as committed to the overall success of the Park as the Commission. Again, trust is critical.
- Positive regular communication is another key to a successful partnership.
- Conflicting focus on "process" vs "product" can derail the private partner from taking advantage of new business opportunities and changes in market conditions. On a related point, more rapid decision making than the Commission is normally used to is a critical factor that may be

addressed through the appointment of a Partnership Director, depending on the scope of the Director's authority.

- And lastly, mutual support is essential. Each party has resources or access to resources that can be beneficial to the other and each should be willing to share those for the benefit of the partnership.

The Maryland Soccer Foundation supports the *Draft Report on Public Private Partnerships*, and we commend Charlie Steinbreaker for producing a report that presents both the challenges and benefits of public/private partnerships. We are proud of our partnership with the Commission and are committed to ensuring that it remains a venture that provides significant benefits for the citizens of Montgomery County. We look forward to working with the Commission to perfect the ground rules and procedures for public/private partnerships. Thank you.

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November 5, 2003

Derick Berlage, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Chairman Berlage,

In your correspondence of July 29, you asked the Countywide Recreation Advisory Board to review and comment on your proposed Policy and Guidelines for Donations and Public/ Private Partnerships. Our board has been exploring Public/Private Partnerships for several years and has made recommendations to the Executive to have processes better defined and resources specifically dedicated. We can see many of our recommendations reflected in your draft policy.

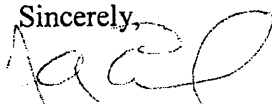
In these days of decreased tax revenues and expanding county budget priorities, it is prudent to consider all potential resource providers who may be able to contribute to Park & Planning service goals. The lack of a clear policy and process has been an impediment to success in the past.

This draft policy well defines the issues and balancing required in evaluating possible service benefits against potential risks, expenses, and other negative impacts. Public notification and involvement are critical to the process. These are well addressed in your processes for setting priorities and evaluating proposals. The Recreation Advisory Boards are available to assist in these processes. The importance of equity and scope of public benefits has also been stressed by our board. We feel that it is important to evaluate benefits to the larger public as opposed to a particular user group.

This proposed policy is a strong first step in codifying the intent of the Planning Board and establishing a method of implementation. The Countywide Recreation Advisory Board agrees with the proposed policy and offers our support in its future operation.

Thank you for giving us the opportunity to participate in this review.

Sincerely,



Jim Erickson, Chair
Countywide Recreation Advisory Board

TESTIMONY OF LARRY GORDON, CHAIRMAN OF FRIENDS OF
RECREATION,
IN SUPPORT OF PROPOSED POLICY AND GUIDELINES
ON DONATIONS AND PUBLIC/PRIVATE PARTNERSHIPS

Board of Directors

Larry A. Gordon
Chairman

Mark Rittenberg
Vice Chairman

Larry Goldberg
Secretary/Treasurer

Robert Metz

Jurg Siegenthaler
Charlie Steinbraker

MCPB AGENDA ITEM NO. 14
November 13, 2003

Good evening Chairman Berlage and Members of the Planning Board. My name is Larry Gordon and I am testifying this evening in my capacity as Chairperson of the Friends of Recreation ("FOR") for Montgomery County.

FOR was created this year as an affiliate of the Montgomery Parks Foundation. The mission of FOR is to support, promote and provide revenue for public recreation programs, projects, facilities and services of the Montgomery County Department of Recreation. As such, private sector donations and public/private partnerships are the core of our efforts.

Moreover, FOR was established as a result of a two year study conducted by the Public/Private Partnership Committee of the County-wide Recreation Advisory Board and a subsequent written recommendation from the County-wide Board to County Executive, Douglas Duncan. A copy of that August 2, 2002 recommendation to Executive Duncan is attached to this testimony for your consideration. (See, Attachment "A"). The findings and recommendations

contained in that letter are generally consistent with those of the draft Policy and Guidelines before you tonight.

Board of Directors

Larry A. Gordon
Chairman

Mark Rittenberg
Vice Chairman

Larry Goldberg
Secretary/Treasurer

Robert Metz

Jurg Siegenthaler

Charlie Steinbraker

Mr. Charlie Steinbraker, who is the author of your July 24, 2003 Draft Policy and Guidelines as well as a member of the FOR Board of Directors, presented his report and recommendations to FOR at our September 2003 Board meeting. The FOR Board subsequently voted to endorse the proposed Policy and Guidelines that you are considering this evening.

While FOR supports tonight's proposal, we do so subject to certain caveats. These caveats are as follows:

1. A permanently assigned team of government representatives should be established to become expert in and lead the application and review and process for Public/Private Partnership projects. The existence and identification of this team should be well publicized and promoted throughout the County.
2. The adopted Policy and Guidelines should be reviewed every two (2) years by a Committee of government and private sector members who have been actively involved with Public/Private Partnerships, and which Committee will

prepare and present a status report and any recommendations for change to the
Planning Board.

Board of Directors

Larry A. Gordon
Chairman

Mark Rittenberg
Vice Chairman

Larry Goldberg
Secretary/Treasurer

Robert Metz

Jurg Siegenthaler

Charlie Steinbraker

3. The Policy and Guidelines should not be given the status of law or viewed as "one-size-fits-all." They should be sufficiently flexible to allow for case-by-case interpretations that will foster creativity and ingenuity, while still protecting the public interest.
4. The Policy and Guidelines should create a review and approval process that is goal-oriented and sensitive to time and financial constraints.
5. Finally, the Policy and Guidelines must foster the creation of true partnerships between the public and private sectors wherein both partners understand, share in, and commit to work expeditiously towards the achievement of common objectives.

Thank you for your consideration of our comments.

G:\128\Public Private Partnership\Speech.wpd



COUNTY-WIDE RECREATION ADVISORY BOARD

August 8, 2002

Honorable Douglas M. Duncan
 County Executive
 Montgomery County
 101 Monroe Street
 Rockville, Maryland 20850

Re: Public/Private Partnerships in Montgomery County

Dear Mr. Duncan:

This letter is submitted on behalf of the Montgomery County-wide Recreation Advisory Board (the "Board") to request your support and assistance in promoting and facilitating the establishment of public/private partnerships in recreation, parks and other service areas in Montgomery County.

Two years ago, our Board established a Public/Private Partnership Committee (the "Committee") to study the scope and status of public/private partnerships in Montgomery County and to foster the creation of such partnerships with the Recreation Department. The Committee hosted numerous presentations by private sector parties and government staff who had been involved with the creation of public/private partnerships in Montgomery County in order to learn how such partnerships had been created, documented, approved and implemented. Additionally, the Committee sought to identify any common problems or concerns associated with these ventures to help the Recreation Department avoid possible pitfalls.

Specific public/private partnership-related problems commonly identified by speakers included the following:

1. There is no full-time or part-time expert or advocate in the County to provide guidance and assistance.
2. It takes too long to complete the governmental review and approval process.
3. The review and approval process is confusing and typically involves participation by multiple agencies.
4. There is a lack of standard form documents or agreements.
5. Proposed projects are customarily given a low priority by government agencies.
6. There is no County information clearinghouse or archives center related to public/private partnership projects and procedures.
7. There is no comprehensive public policy statement by the County Executive or County Council regarding the establishment of public/private partnerships.

Department of Recreation

12210 Bushey Drive • Silver Spring, Maryland 20902-1099
 240/777-6800, TDD 240/777-6891, FAX 240/777-6803

In response to these concerns, the Recreation Department, in conjunction with our Committee and with assistance from representatives of the Montgomery Parks Foundation, is actively pursuing the establishment of a "Friends of Recreation" or Montgomery Recreation Foundation 501c3 organization to facilitate recreation-related public/private partnership projects and contributions.

However, while we believe that this new 501c3 organization will help alleviate some of the identified concerns, additional steps must be taken by the County and M-NCPPC to further streamline the County's public/private partnership processes and procedures and to make them more user-friendly. To that end, our Board has unanimously endorsed our presenting the following recommendations for your consideration:

1. The County Executive should designate a single government staff point person to coordinate and advocate for public/private partnership projects and contributions. This should be a senior level position charged with developing knowledge and expertise (and publicizing the same) regarding procedures, precedents, and agency/501c3 contacts for public/private partnership activities throughout the County. This could be either a full-time or part-time position and would involve working directly with such entities as the Montgomery Parks Foundation, "Friends of" organizations, agency staff personnel who coordinate public/private partnership proposal reviews and approvals, and designated representatives of the County Attorney's Office and Park and Planning Legal Department. In particular, their highest priority should be given to recreation, parks and other human services.
2. The County and Planning Board should designate one or more existing attorneys in their respective legal offices to develop expertise in working with private foundations, 501c3 entities, "Friends of" organizations and other non-profit entities. This expertise would include knowledge of rules and procedures for forming such entities, advantages and disadvantages associated with the various forms of entities, applicable County/State/Federal rules and regulations, etc. These legal office designees would also be charged with creating standardized form documents to accommodate streamlining of public/private partnership document preparation and review.

Finally, due to our close working relationship with the Parks Department and Planning Board and because of the specific nature of our recommendations, we have taken the liberty of copying the individuals listed below with this letter.

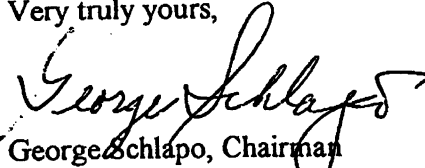
In sum, the County-wide Recreation Advisory Board strongly supports the formation of public/private partnerships in recreation and parks, as well as in other areas of County services, as a means of expanding available revenues/facilities/services, and accommodating direct allocation of funds for specific needs. To accomplish this goal, necessary entities must be

Honorable Douglas M. Duncan
August 8, 2002
Page 3

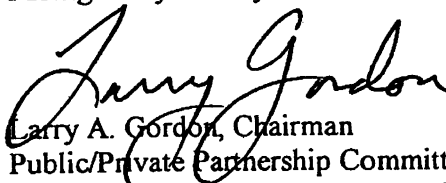
formed and government staff assigned to develop the expertise required to facilitate and promote public/private partnership ventures for the greater good of our County and its citizens.

We thank you for your consideration of these matters and look forward to your earliest possible response and action, and to the opportunity to work with you in achieving these objectives. We remain available to meet with you and your staff to discuss these matters at your convenience.

Very truly yours,



George Schlapo, Chairman
Montgomery County-wide Recreation Advisory Board



Larry A. Gordon, Chairman
Public/Private Partnership Committee
Montgomery County-wide Recreation Advisory Board

cc: Honorable Steven A. Silverman
Honorable Derick Berlage
Mr. Gregory Bayor
Mr. Donald Cochran
Mr. David W. Edgerley
Ms. Trudye Johnson
Ms. Andrea Jolly
Mr. Ken Nicholls
Michele Rosenfeld, Esq.
Charles W. Thompson, Esq.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

ITEM ~~DUE~~ ✓
ATTACHMENT #4

November 23, 2003

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Charlie Steinbraker

SUBJECT: Draft Policy Addition

The public comments on the proposed PPP policy were generally supportive of the language as it is written. However, at least one speaker (Larry Gordon) pointed out a deficiency that I believe needs to be addressed.

The policy contains no provision for review or modification. To correct this, I am recommending the following language be added as the final section to the policy:

REVIEW AND MODIFICATION

It is the desire of the Commission to review this policy on a periodic basis in an effort to keep it current and sensitive to the needs and concerns of public park interests. Every two years, at the time when the Commission requests input regarding priorities, the opportunity will also be offered for public comment on the policy itself. This should include consideration of both the language of the policy and its implementation. While the Planning Board may amend this policy at its discretion at any time, this public input opportunity every two years provides for a scheduled review and planned time to consider potential changes.

The work session on the December 4th will provide us the opportunity to discuss this proposed addition.