



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

**MEMORANDUM**

MCPB Item #  
 June 4, 2015

May 28, 2015

**TO:** Montgomery County Planning Board

**VIA:** Michael Riley, Director of Parks *MGR*  
 Mitra Pedoeem, Acting Deputy Director of Parks *Mitra Pedoeem*  
 Michael Ma, Acting Chief, Park Development Division *mm*  
 Dr. John E. Hench, Chief, Park Planning & Stewardship Division *jench*

**FROM:** William E. Gries, Land Acquisition Specialist, PDD *weg*  
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**SUBJECT:** Department of Parks Land Acquisition Program and Implementation

**INTRODUCTION**

In February, the Board was given a Program Open Space (POS) Status Report which addressed the new Governor’s then-proposed allocations of POS funds for FY16. At that time, the amount of POS allocated to Montgomery County by the Governor was much less than staff had anticipated. This in turn meant that several important park development projects would be delayed until alternative funding or future year POS funding became available. Fortunately, the State legislature restored significant funding to POS before the end of the legislative session, so all park development projects in the CIP will be adequately funded for FY16.

When facing this potential POS shortfall, the Board requested a report on our parkland acquisition program and its funding mechanisms so that they could evaluate whether it would be wise to attempt to re-allocate POS acquisition funds to the development program. The State POS program is structured to provide a balance of acquisition funds and development funds to localities, and State law requires that 50% of the local funds be used for land acquisition. The Board specifically wanted to know whether a one-time waiver of the 50% acquisition requirement submitted to the Maryland Department of Natural Resources (DNR), the administrator of the POS program, would be feasible or advisable. Fortunately, given state government’s decisions regarding POS funding, there is no longer a need to consider such a request for FY16.

Given that capital budget funding pressures are likely to occur in future years while the need to provide additional parkland to serve a growing population also increases, staff believes that an overview of the Department’s four acquisition programs (Non-Local, Local, ALARF, and Legacy Open Space) would be of assistance to the Board. To provide an understanding of the complex mechanisms and funding of the

Parks acquisition program, this memorandum provides an explanation of the four land acquisition programs that are implemented by the Parks Department through the Land Acquisition Section, Park Development Division, and the Legacy Open Space Section, Park Planning and Stewardship Section. Also included are summaries of how each acquisition program is funded, proposed parkland remaining to be acquired, current funding availability, and properties currently under active negotiation. Staff will supplement this information with a presentation on June 4, 2015.

In short, the POS dollars that are allocated to the acquisition effort are a critical element of the Department's overall capital improvement program. POS acquisition money provides the capital necessary to acquire parkland that will subsequently be used for the delivery of a wide variety of park services associated with both Stewardship and Recreation to a continually growing population.

## **LAND ACQUISITION SECTION**

The Land Acquisition Section of the Department of Parks is part of the Park Development Division that reports to the Deputy Director of Parks for Administration. The Section is staffed with two Land Acquisition Specialist positions. The senior level position is held by Bill Gries and the support level position is held by Josh Kaye. Administrative staff within the Division provides additional support to the Section on an as needed basis.

The primary functions of the Section include:

- Negotiates and acquires real estate for future parklands as recommended in adopted master plans.
- Collaborates with the Park and Trail Planning Section of the Park Planning and Stewardship Division regarding parkland dedications generated through the subdivision review and approval process.
- Negotiates and acquires lands for both park and non-park public uses through the Commission's Advance Land Acquisition Revolving Fund (ALARF).
- Handles the disposition of all Commission lands for utility easements, road rights-of-way, other public and quasi-public uses, land exchanges, etc.
- Maintains real estate records on all lands owned and managed by the Department of Parks, including Commission and Montgomery County owned parklands.
- Responds to queries regarding parkland ownership from customers that are both within and outside the Department.

Because the primary nature of the work performed by the Section is related to the Capital Improvement Program (CIP), the majority of the Section's operating costs (60%) are charged back to the CIP.

## **LAND ACQUISITION PROGRAMS**

There are three separate land acquisition programs administered by the Land Acquisition Section. Each is funded through level of effort projects in the Commission's portion of the County Capital Improvement Program (CIP).

### ***Non-Local Park Acquisition Program***

The Non-Local Park Acquisition Program funds the acquisition of parkland that serves County residents on a County-wide basis. Regional, Recreational, Conservation, Special and Stream Valley Parks are examples of the types of parks funded through this program.

The Non-Local Park Acquisition CIP Budget has a total appropriation of \$1,135,000 in FY15. The funding schedule for the entire current 6-year CIP (FY15-20) is in Attachment 1. Of the current FY15 Non-Local Park appropriation, \$1,000,000 is being funded by Program Open Space (POS) grants for land acquisition and \$135,000 is being funded by County Current Receipts for staff salary chargebacks and other acquisition-related expenses (appraisals, surveys).

State POS funding has varied significantly over the past decade because of fluctuations in the real estate market and state government policy decisions. For an historical perspective, the previous four years of the Non-Local Park Acquisition Program were funded at the following levels:

<b>Non-Local Acquisition</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
<b>Program Open Space</b>	<b>0</b>	<b>0</b>	<b>820</b>	<b>500</b>
<b>G.O. Bonds</b>	1,100	0	0	0
<b>Current Receipts</b>	135	135	135	135
<b>Total</b>	<b>1,235</b>	<b>135</b>	<b>955</b>	<b>635</b>

**Local Park Acquisition Program**

The Local Park Acquisition Program funds the acquisition of parkland that serves County residents on a neighborhood or community basis. Urban, Local, and Neighborhood parks are examples of the types of parks funded through this program. These parks are generally in walking distance for intended users or are facilities that can be reached via a short drive.

The Local Park Acquisition Program has a total appropriation of \$1,035,000 in FY15. The funding schedule for the entire current 6-year CIP (FY15-20) for Local Parks is in Attachment 1. Of the FY-15 Local Park appropriation, \$1,000,000 is being funded by Program Open Space (POS) grants for land acquisition and \$35,000 is being funded by Commission Current Receipts for staff salary chargebacks and other acquisition-related expenses (appraisals, surveys).

Just as for Non-Local Parks, fluctuations in State POS levels have resulted in variable funding for this program over the years. For an historical perspective, the previous four years of the Local Park Acquisition Program was funded at the following levels:

<b>Local Acquisition</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
<b>Program Open Space</b>	<b>0</b>	<b>0</b>	<b>1100</b>	<b>500</b>
<b>G.O. Bonds</b>	0	0	0	0
<b>Current Receipts</b>	35	35	35	35
<b>Total</b>	<b>35</b>	<b>35</b>	<b>1135</b>	<b>535</b>

**Advance Land Acquisition Revolving Fund (ALARF)**

The ALARF Program can be used to acquire property that has been designated on master plans for public uses such as rights-of-way for roads and streets, school sites, library sites, recreation center sites, other government buildings, parklands, etc., when money is not available from other fund sources. This is a “revolving fund” source that, except for parkland purchases, is expected to be paid back when the property is finally transferred to the appropriate construction agency to be used for its intended purpose. At the time of transfer, the Commission is paid its cost to purchase, plus interest.

The Commission has broad discretion in using ALARF for land acquisitions within the constraints of the following criteria:

- a) The proposed acquisition must be shown on the Commission's general plan or another adopted master plan.
- b) The County Council must approve each ALARF purchase by resolution.
- c) For the purchase of a school site, prior approval from the Board of Education has to be obtained.
- d) The land (other than for a State transportation project) may not be within a public construction program current at the time of acquisition.

ALARF currently has an available cash balance of more than \$6,700,000 resulting from reimbursement for several prior ALARF acquisitions. Since it is a revolving fund, it is only resupplied with a new budget appropriation in the CIP when the available cash on hand is spent down to a balance between approximately \$1.5 - 2 Million. At such times, the new funds are provided from ALARF bond sales.

### **LEGACY OPEN SPACE (LOS)**

In addition to the three above described land acquisition programs managed by the Land Acquisition Section, there is a fourth acquisition program, Legacy Open Space (LOS), managed by the Park Planning and Stewardship Division (PPSD) in close collaboration with the Land Acquisition Section. The Legacy Open Space Section is staffed by Brenda Sandberg, Program Manager, and Dominic Quattrocchi, Park Planning Coordinator, with support from the Land Acquisition Section, the rest of the Park Planning and Stewardship Division (especially the Park and Trail Planning Section), and the operating divisions of the Parks Department. The primary functions of the LOS section include:

- Evaluates LOS-designated properties for potential acquisition or other protection efforts,
- Evaluates new properties for potential designation in the LOS Plan, and
- Coordinates initial planning for the cleanup and integration of LOS purchases into the park system.

Since the majority of the LOS staff's work is to implement the LOS Program through the CIP, a portion of the LOS Section's operating costs are charged back to the CIP (\$165K per year).

The *Legacy Open Space Functional Master Plan* is a relatively recent initiative compared to the Program Open Space-funded acquisition program (started in 1969). The LOS Plan was adopted by the Board and County Council in 2001 to preserve the best remaining open spaces across the County in six different categories:

- Environmentally Sensitive Natural Resources
- Water Supply Protection
- Heritage Resources
- Greenway Connections
- Farmland and Rural Open Space
- Urban Open Spaces

The LOS plan identified open space lands not previously considered for acquisition in either the Non-Local or Local Park Acquisition Programs due to prior designation as future parkland in a land use master plan. The Legacy Open Space Plan is a living functional plan that contains criteria for evaluating properties for designation as Legacy Open Space resources. The Legacy Plan envisioned using a variety of tools to protect open space in the County, but the two primary tools used are to protect resources through the development review process and to purchase resources as new parkland. Certain Legacy Open Space-designated properties are recommended for acquisition because they “rise above the rest” due to their exceptional recreational, historic, natural or cultural value.

LOS staff evaluates acquisition opportunities with input from the Legacy Open Space Advisory Group, a committee of citizens that has advised the LOS program since the development of the Master Plan, and from a team of staff from across the Departments of Parks and Planning. This LOS “Implementation Team” and the Land Acquisition Section work hand-in-hand to determine specific Legacy Open Space projects that should be pursued by the Land Acquisition Section for addition to the Park system.

In FY15 the Legacy Open Space Program has a budget of \$3,250,000. An expenditure and funding schedule for the entire current 6 year CIP (FY15-20) for Legacy Open Space is in Attachment 1. The Legacy Open Space CIP only rarely includes POS funding. Of the FY15 Legacy Open Space appropriation, \$2,500,000 is being funded by County Bonds, \$500,000 is being funded by Commission Bonds, and \$250,000 is being funded by County Current Receipts. For an historical perspective, the previous four years of the Legacy Open Space Acquisition Program was funded at the following levels:

<b>Legacy Open Space</b>	<b>FY11</b>	<b>FY12</b>	<b>FY13</b>	<b>FY14</b>
<b>G.O. Bonds</b>	3250	2250	2750	2750
<b>Park Bonds</b>	500	500	500	500
<b>Current Receipts</b>	0	75	200	250
<b>Total</b>	<b>3750</b>	<b>2825</b>	<b>3450</b>	<b>3500</b>

## LAND ACQUISITION PROGRAM FUNDING

There is an interesting split in funding sources for the four distinct acquisition programs described above. A review of that funding will be helpful to the Board in further understanding the nuances of the various acquisition programs.

The **Non-Local Park Acquisition Program** in Montgomery County is funded by County current receipts, County bonds and Maryland’s Program Open Space (POS). Over the last five years the POS funded portion of this program amounts to more than 56% of the program’s expenditures. Properties acquired as non-local parklands are initially funded with County monies and then reimbursed through POS, where POS applications have been filed. The policy decision to have Montgomery County acquire all non-local parklands was made back in the late 1960’s. At that time it was determined that all taxpayers in Montgomery County should pay for the non-local parks (acquisition and development) including municipalities not within the Regional District. Those municipalities are Rockville, Gaithersburg, Poolesville, Washington Grove, Barnesville, Laytonsville and Brookeville. It was believed that residents in those municipalities use the non-local parks and therefore should be a part of the tax base that pays for them. As a result of this policy, the Land Acquisition Section acts as an agent for the Montgomery County in implementing the Non-Local Park Acquisition. It negotiates all land purchase contracts which are approved by the Planning Board, and sends the contracts on to the Montgomery County Attorney’s Office to process for settlement. Titles to all properties so acquired are taken in the name of

Montgomery County, Maryland. An MOU between the County and the Commission dated May 24, 1972, specifies the terms and conditions under which the Commission plans, improves, develops, maintains and polices the County owned lands in the Park system.

The **Local Park Acquisition Program** is funded by Park and Planning bonds and Program Open Space (POS). Over the last five years the POS funded portion of the program amounts to just over 90% of the program's expenditures. As with County acquisitions, properties acquired as local parklands are initially funded with Commission monies and then reimbursed through POS, where POS applications have been filed. The General Counsel's Office of the Commission provides legal advice on all acquisitions. Settlements are handled by outside Counsel with the Land Acquisition Section coordinating all settlement activity. All local parkland acquisitions are titled in the name of the Commission.

The **Advance Land Acquisition Revolving Fund** is funded by Park and Planning bonds, investment interest, and repayment proceeds from land sold to construction agencies of the State or County. No POS monies are used in any ALARF acquisition. As with the Local Park Acquisition Program, the General Counsel's Office of the Commission provides legal advice on all acquisitions. All ALARF acquisitions are titled in the name of the Commission, until they are sold by the Commission at cost, plus interest.

The **Legacy Open Space Program (LOS)** is funded primarily by County bonds (more than 80%), with additional funding coming from Commission bonds (nearly 15%), and County current receipts, and contributions (nearly 5%). POS monies have been used for the acquisition of some LOS sites in a few years of generous state POS allocations, but generally POS is used primarily as a fund source for the Non-Local and Local park acquisition programs. LOS sites acquired with County bonds, County current receipts, or contributions are titled in the name of Montgomery County while LOS sites acquired with Commission bonds are titled in the name of the Commission. County Current Receipts totaling \$250K are appropriated most years to fund One-Time Costs associated with site cleanup, security, structure demolition or stabilization, and other initial projects to integrate the new lands into the park system.

## **PROGRAM OPEN SPACE (POS)**

Maryland's Program Open Space is a State grant program established in 1969 that provides money for the planning, acquisition, and/or development of recreation land or open space across the State. There are two components to the program: one is the Local side which provides monies to the 23 Counties and Baltimore City, and the other is the State side which provides money to the State for the acquisition and development of lands administered by agencies of the Department of Natural Resources. The fund is supported by a ½ % transfer tax on real estate sales throughout the State.

The money allocated on the Local side is determined by a population-based formula and is awarded each year with the adoption of the State budget. The Local side funds are structured to support a balance of parkland acquisition and activation efforts on parkland. By the Maryland state law that authorizes the POS program, half of the local side allocation must be used for acquisition projects on a 100% grant basis, while the other half of the allocation can be used for either acquisition or development projects on a 75%/25% grant basis.

Since the program's inception in 1969, Montgomery County has received over \$162.8 million in grant payments. The municipalities of the County also are eligible to use Local-side POS money, which is again distributed on a population-based formula. The attached chart (Montgomery County Program Open Space Funding 1994-2016, Attachment 2) provides an indication of how the annual POS allocations have been inconsistent over the last 23 years.

**WHAT’S LEFT TO BE ACQUIRED AS PARKLAND**

The Montgomery County park system currently consists of more than 36,500 acres of real estate. It is estimated that there are still approximately 6,400 acres of parkland left to be acquired based on proposed parkland in adopted master plans. Additional acres will be proposed as population grows and needs are established through the PROS Plan or new master plans. In addition, new parkland will be created through donations of land, dedications through the development review process, new designations in the Legacy Open Space Plan, and unique acquisition opportunities that may present themselves. The attached Park Acquisition Map (Attachment 3) shows the current remaining acquisition areas in a red shaded pattern.

Wherever possible, parkland dedications will be pursued through the subdivision/development approval process so as to keep public expenditures for parkland acquisition to a minimum. Records indicate that approximately 5,400 acres or more than 15% of the park system owned today was received in dedication through the subdivision/development approval process.

**CURRENT FUNDING AVAILABILITY**

The current estimate of the amount of acquisition money that will be available to our various acquisition programs through FY-16 including Local, Non-Local and Legacy Open Space is \$7.85 Million, as detailed in Figure 1.

**Figure 1. Current Acquisition Funding: FY15 Balance + FY16 Appropriation**

Acquisition Program	Fund Source, Year	Amount
Local & Non-Local Acquisition PDFs	State POS, FY15 + FY16	\$ 3.4 Million
Legacy Open Space PDF	County Bonds, FY16	\$ 2.5 Million
Legacy Open Space PDF	Park Bonds, FY15 + FY16	\$ 0.9 Million
Legacy Open Space PDF	Est. Contribution (MCDOT Forest Bank), FY16	\$ 1.0 Million
<b>Total</b>	All sources	\$ 7.8 Million

Many acquisition projects are currently under active negotiation, as is often the case in the Land Acquisition Section (see Figure 2). The estimated cost of all those potential acquisitions is approximately \$9.8 Million, about \$2 Million more than the available acquisition funds for the coming fiscal year. Since not all active negotiations will come to fruition in the near future, if at all, this level of active negotiations versus available balance is well within the appropriate range for the acquisition program. If the unlikely scenario occurs that all of the active negotiations come to agreement within the coming year, contracts could be structured to either acquire the property in installments or to delay closing until the next Fiscal Year’s appropriation is available.

**Figure 2. Properties Currently Under Active Negotiation for Acquisition**

Park Name	Owner Name	Acres	Proposed CIP Funding Source
Black Hill Regional Park	Rable	89.3	Legacy Open Space
Olney Manor Recreational Park	Graefe	10.4	Non-Local or ALARF
Olney Manor Recreational Park	Kimble	17.1	Non-Local or ALARF
Ovid Hazen Wells Recreational Park	Johnson	9.7	Local
Bennett Creek Conservation Park	Day	136.4	Legacy Open Space
Upper Paint Branch SVP	Bui	6.0	Legacy Open Space
Ten Mile Creek SVP	Beck	60.0	Legacy Open Space
Josiah Henson Special Park	Myers-Bienefield	0.6	Legacy Open Space
Hoyles Mill Conservation Park	Du	13.4	Legacy Open Space
River Road Shale Barrens	Goldberg	60.0	Legacy Open Space

**CONCLUSION**

It is hoped that the information contained in this memorandum concerning our various Land Acquisition Section programs will be helpful to all members of the Board as they deal with decisions related to our park systems growth and development. Staff believes that Program Open Space funds are essential to our parkland acquisition program, and that all funds available for acquisition must be protected to assure a reasonable ratio between expenditures for acquisition and development projects within our park system.

Attachments

CC: Brooke Farquhar, PPSD  
 Carl Morgan, PDD

**Attachment 1: Acquisition Funding Schedules, FY15-FY20 Approved CIP (000s)**

**Acquisition Non-Local Parks**

	<b>Total 6 Years</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
<b>Current Receipts</b>	810	135	135	135	135	135	135
<b>Program Open Space</b>	5,000	1,000	1,000	500	500	1,000	1,000
<b>Total</b>	5,810	1,135	1,135	635	635	1,135	1,135

**Acquisition Local Parks**

	<b>Total 6 Years</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
<b>Park and Planning Bonds</b>	210	35	35	35	35	35	35
<b>Program Open Space</b>	5,000	1,000	1,000	500	500	1,000	1,000
<b>Total</b>	5,210	1,035	1,035	535	535	1,035	1,035

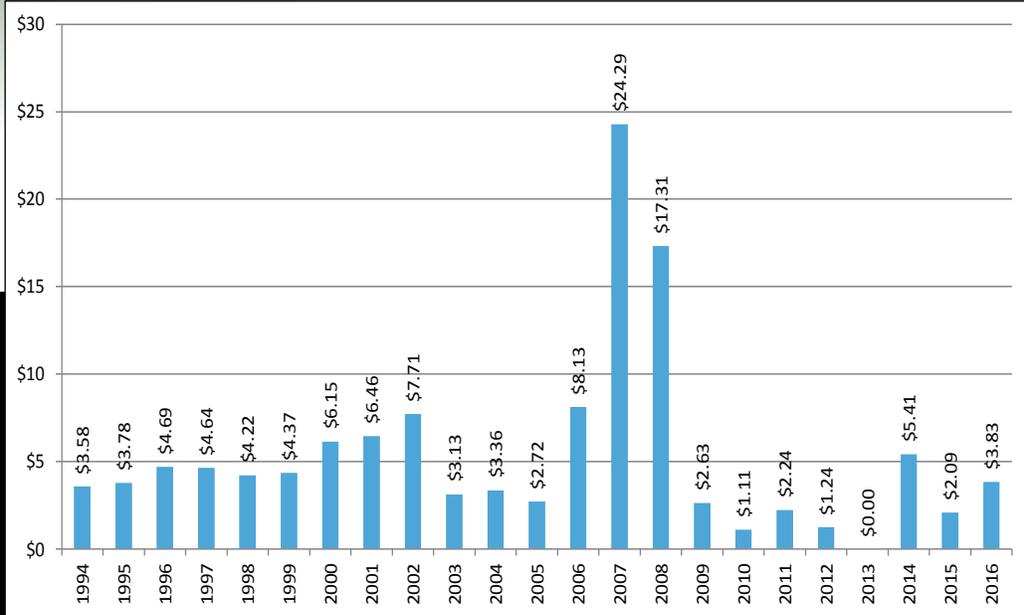
**Legacy Open Space**

	<b>Total 6 Years</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
<b>Current Receipts</b>	1,500	250	250	250	250	250	250
<b>G.O. Bonds</b>	15,500	2,500	2,500	2,500	2,500	2,750	2,750
<b>Park and Planning Bonds</b>	3,000	500	500	500	500	500	500
<b>Program Open Space</b>	2,000	0	0	1,000	1,000	0	0
<b>Total</b>	22,000	3,250	3,250	4,250	4,250	3,500	3,500

Attachment 2: Montgomery County Program Open Space Funding, 1994-2016

# Montgomery County Program Open Space Funding 1994-2016

Funding  
In Millions



Note: This chart indicates total POS annual funding allocated to Montgomery County, of which 50% is currently used for the acquisition program.

**Attachment 3: Park Acquisition Map \***

