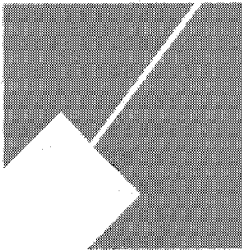


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
Item # 16
May 4, 2006

DATE: May 4, 2006

TO: Montgomery County Planning Board

VIA: Mary Bradford, Director of Parks

FROM: Terry H. Brooks, *[Signature]* Special Program Coordinator
Office of the Director

SUBJECT: Proposed Policy for Park Playground Donations

Purpose: To establish policies and guidelines for accepting donations for Montgomery County Parks as part of the Commission's Playground Development Program.

Adopted Policy Guidance: Montgomery County Department of Park and Planning Policy and Guidelines on Donations and Public/Private Partnerships;
Adopted: December 4, 2003. (Copy Attached)

Staff Recommendation: Circulate Draft Playground Donation Policy and Playground Donation Implementation Guidelines for public review and comment for a period of thirty (30) days.

DRAFT PLAYGROUND DONATION POLICIES

- The Maryland-National Park and Planning Commission (the “Commission”) is committed to providing safe, accessible and secure public playgrounds for children and the residents, visitors and workers in Montgomery County.
- The Commission is committed to open, equitable and fair processes in which decisions are made to develop, renovate and maintain its playgrounds.
- The Commission welcomes the support and involvement of the community in providing equipment donations and financial contributions to enhance the public playground program.
- Contributions and donations will be accepted, pursuant to the guidelines for playground donations.
- The Commission will not accept donations that result in superior or elite playgrounds for a particular community or neighborhood even if the community is able to raise all the necessary funds in order to maintain equitable playground programs across the county.
- Donations must not create in actuality or contribute to perceptions of disparate playground facilities in communities and/or regions of the county.
- Playground donations should not displace playground development projects that are scheduled in the Capital Improvement Program.
- The Commission will work in partnership with the Montgomery County Parks Foundation, Inc., to support of the Capital Improvement Program (CIP) for the design, development, construction, modification, renovation and installation of its playgrounds.

These donation policies are recommended for adoption by the Planning Board. Implementation strategies and guidelines will be discussed with the Board during the meeting.

INTRODUCTION

The Maryland-National Capital Park and Planning Commission (M-NCPPC), Montgomery portion, includes some 32,725 acres of parkland for the present enjoyment and conservation for future generations. Some of the most popular and heavily used resources are the 275 playground facilities in the parks. These recreational spaces are safe places for wholesome recreation that also help to create a sense of place and identity for communities and neighborhoods.

Current funding allows for the renovation of approximately 10-12 playgrounds each year. The playground donation policies and guidelines create a formal methodology and guidance to govern donations to accelerate replacement, renovation and even development of current and new playgrounds. Improving the local playground is often a project that a community of interest can rally around, creating a residual benefit of community pride and accomplishment. Past playground partnership donations have been as small as \$ 3,000 and as large as \$1,000,000 as in the case of Hadley's Playground in Falls Road Local Park and included multiple funding sources.

The proposed playground donation policy has been created in collaboration with the Montgomery Parks Foundation as a parallel playground renovation and development program in order to accommodate the growing demand for renovated playgrounds. This demand is outstripping the fiscal and staff resources that is available in the Parks Department current Capital Improvements Program (CIP). The playground donation development policy and implementation guidelines, if approved, will help increase the immediate delivery of more new and renovated playgrounds in response to this growing public demand.

BACKGROUND

At the direction of the Planning Board, staff received input, through a series of community meetings that were sponsored by the Recreation Area Advisory Boards on the Department of Park and Planning's Playground Development Program and a proposed policy addressing the public's desire to donate funding and/or equipment for the renovation or development of existing or new playgrounds within the park system. (See Exhibit A)

A that time, the Planning Board also requested that any proposed Playground Donation Policy be fair and equitable to all of the residents of Montgomery County irrespective of the financial ability of any given community to raise private funds to assist in or advance the schedule for the publicly funded development or renovation of a playground. The Board stated that neither the playground donation policy nor the playground development program should displace playground development projects currently scheduled in the Commission's Capital Improvements Program (CIP). Lastly, the Planning Board requested that the playground donation program provide a simple process and clear distinction between the donation for the funding of the replacement of individual pieces of equipment and the donation of a full playground.

This staff report outlines the following factors:

- Draft Playground Donation Policies;
- A description of the Commission's experience with Playground Donations;
- *Appendix A*, which describes the Playground Development Program;
- *Appendix B*, The Montgomery County Department of Park and Planning Policy and Guidelines on Donations and Public/Private Partnerships
- *Appendix C*, which describes the adopted policy by the Montgomery County Public Schools for "Facility Improvements that are not funded with Montgomery County Revenues." This information provides an additional perspective on the donations issues as addressed by another public agency.

1. EXPERIENCE WITH DONATIONS:

Periodically, communities wish to have a playground online more quickly or on a larger scale than what the adopted and funded CIP playground projects list provides. More affluent neighborhoods are often willing to raise funds to provide for that playground. This ability raises concerns relating to: (1) equity in playground development, (2) unanticipated work program items that might override planned projects within the Park Development Division, (3) unanticipated impacts to the Operating Budget such as increased maintenance requirements, (4) the increase in scale of the project that might create a play space attracting a larger user group than the support facilities in the park can support, and (5) the unanticipated increased maintenance of a larger playground. One example of an unintended consequence if not managed might be the limited size of a parking lot being forced to accommodate patrons of a larger than normal local playground.

Staff has experienced three basic levels of playground donation proposals:

Level 1: Most park playground donations are small 1, 2, or 3 pieces of play equipment, ranging in value from \$3,000 to \$12,000. Historically, these donations have been made directly to the Commission or to the Park Foundation. The playground program manager, park manager and playground inspector review and approve the proposed donation with the consent of the Director of Parks. Most of these types of donations do not require construction permits. Commission staff labor has already been programmed and budgeted for minor repairs and replacements in the Department's operating budget and is typically scheduled for the installation.

Level 2: Another level of playground donation may involve several pieces of playground equipment or the proposed development or re-development of an entire local park playground. In these situations, larger amounts of funds, ranging from \$12,000 to \$60,000, may be involved. Playground development projects of this size and scope require construction drawings and specifications. Many of these proposals may also contain donated community or business contractor installation commitments as well. Therefore, performance bonds and liability insurance requirements are also needed, and will be required in the Development Agreement between the Parks Foundation and the Commission.

If the donation is for funding a project already in the Playground CIP but not scheduled until another funding cycle, this project may be moved up and scheduled with currently funded CIP playgrounds for design, construction permits, and construction bidding by the Montgomery Parks Foundation during the fiscal year for private contractor design and installation as part of The Park Foundation's approved annual work program enhancement of the Commission's PLAR

Playground Development Program.

If a request is made to accept funds for either a totally new playground not in the CIP or in the parks system as either a new or planned park site, the Director of Parks (or their designee), in consultation with the Executive Director of the Montgomery Parks Foundation, evaluates the merits of such a proposal and makes a recommendation to the Planning Board if the proposal is for a totally new park playground, as to whether the proposal has merit or cannot be accommodated because of: non-compliance with LPPRP Plan policies, poor site conditions, budget constraints, environmental restrictions, maintenance problems, the effect of the project on other CIP playground development priorities, etc. If the playground donation proposal is found to be acceptable by the Planning Board, the proposal will be scheduled for final design and construction by the Parks Foundation. These types of proposals always go through the Parks Foundation for dissemination of donated funds for equipment purchase and installation.

Level 3: This level involves donations of more than \$80,000 or for new playgrounds not in the CIP. Proposals for more than \$80,000 should be considered for regional and recreational parks only. Requests involving new site locations or sites not planned for a park may be compounded by the fact that the sponsoring community group has initiated a playground donation campaign. Donations at this level should always go to the Planning Board for review and acceptance and should be channeled through the Park Foundation.

Summary

The established park playground type development budget standards insure equity among all playgrounds within the Parks System. Budget limits for the park playground types (neighborhood, local, special, recreational and regional parks) must be maintained in order to support the Commission's playground equity commitment. The budget limits are established by the Montgomery Parks Department and are adjusted each year for inflation and/or other cost factors.

Donations to the Park Playground Development Program may be made to the Montgomery County Parks Foundation, Inc. or directly to the Commission through the Small Grants and Donations project. To further meet the Commission's commitment to provide development, renovation and maintenance of all of its playgrounds in an equitable manner throughout Montgomery County, five percent (5%) of all such donations collected for any single project valued at, or over \$50,000 shall be dedicated and dedicated to help support a scholarship fund for the design and construction of playgrounds in underserved communities in Montgomery County.

Exceptions to the budget limits and donation requirements may be granted by the Director of Parks with the approval of the Planning Board if the Montgomery Parks Foundation, the donor and/or the Department of Parks can demonstrate that the development or renovation of the proposed playground and/or equipment will not adversely affect the equity of facility service for playgrounds across the Park System or adversely increase the maintenance burden on the park system.¹

¹ This staff report was prepared with the assistance of Steven Joseph, Executive Director of the Montgomery Parks Foundation; Carol Rubin and Chris Malone, Associate General Counsel. The observations and policy recommendations were drawn from their collective experiences in working with various communities across the County in general and on Playground Donations in particular.

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

Adopted 12-4-03

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 responsibility of the Commission to educate and assist the public in understanding it's important role in the continued stewardship of a growing and dynamic park system. PPP are one means by which community groups can actively exercise this stewardship role.

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. 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; educating the public regarding their important stewardship role and the potential related benefits of PPP; 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, for individuals or non-profit organizations who come forward with restricted donations that are limited in their intended scope (e.g. a project of less than \$50,000 and the generation of less than 25 new peak vehicle trips), the Commission may request that the Foundation take on a more definitive management role by implementing 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.

Receiving and Dispensing Funds

Just as the Parks Foundation receives and dispenses funds on behalf of various "Friends" of the Parks organizations, this role may also be appropriate for certain projects as well. One purpose may be to relieve the Commission of this function and cost while expediting the flow of funds and the project. This will only be done when approved as appropriate 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.

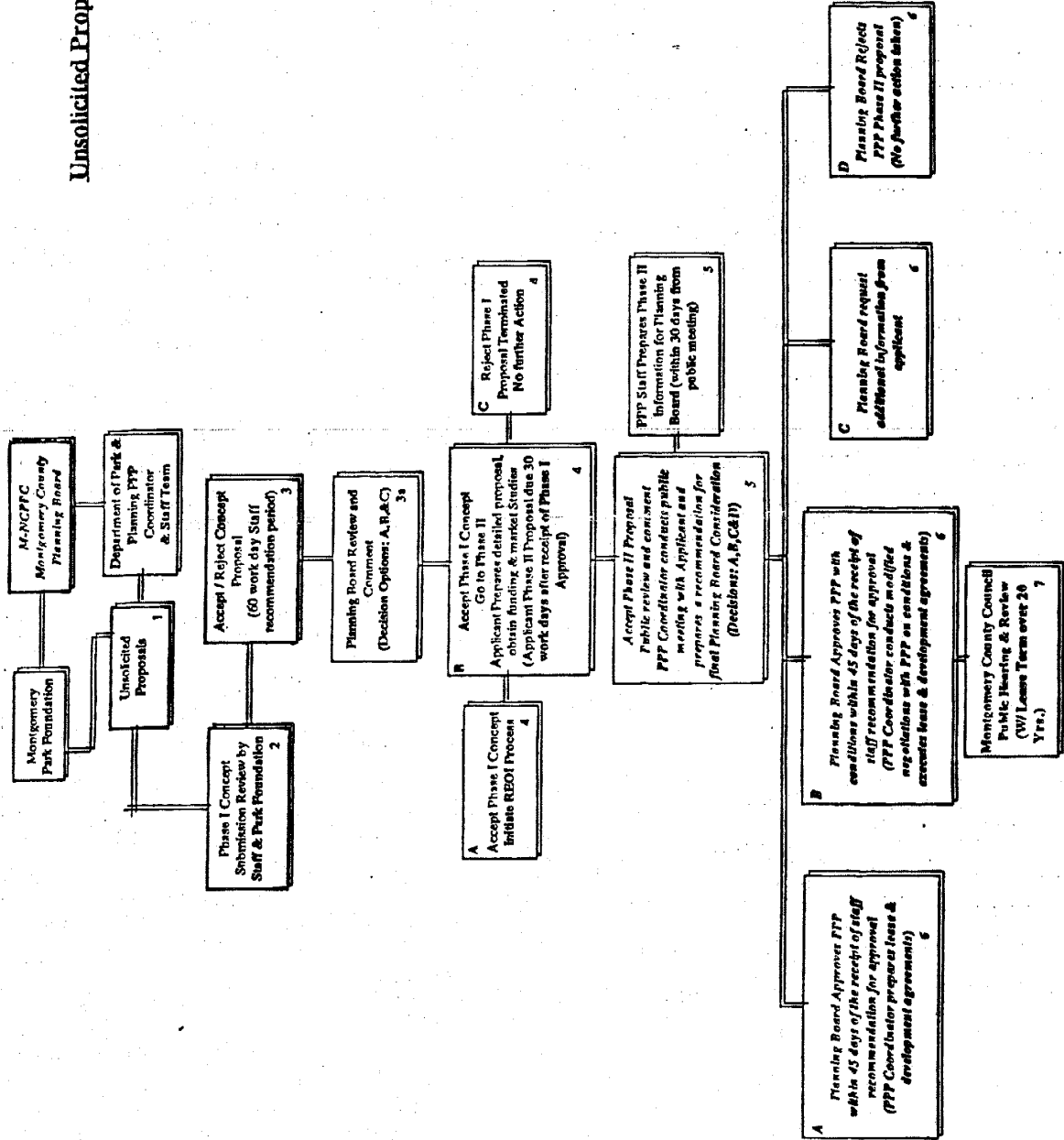
Achieving Equity

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.

Review & 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.

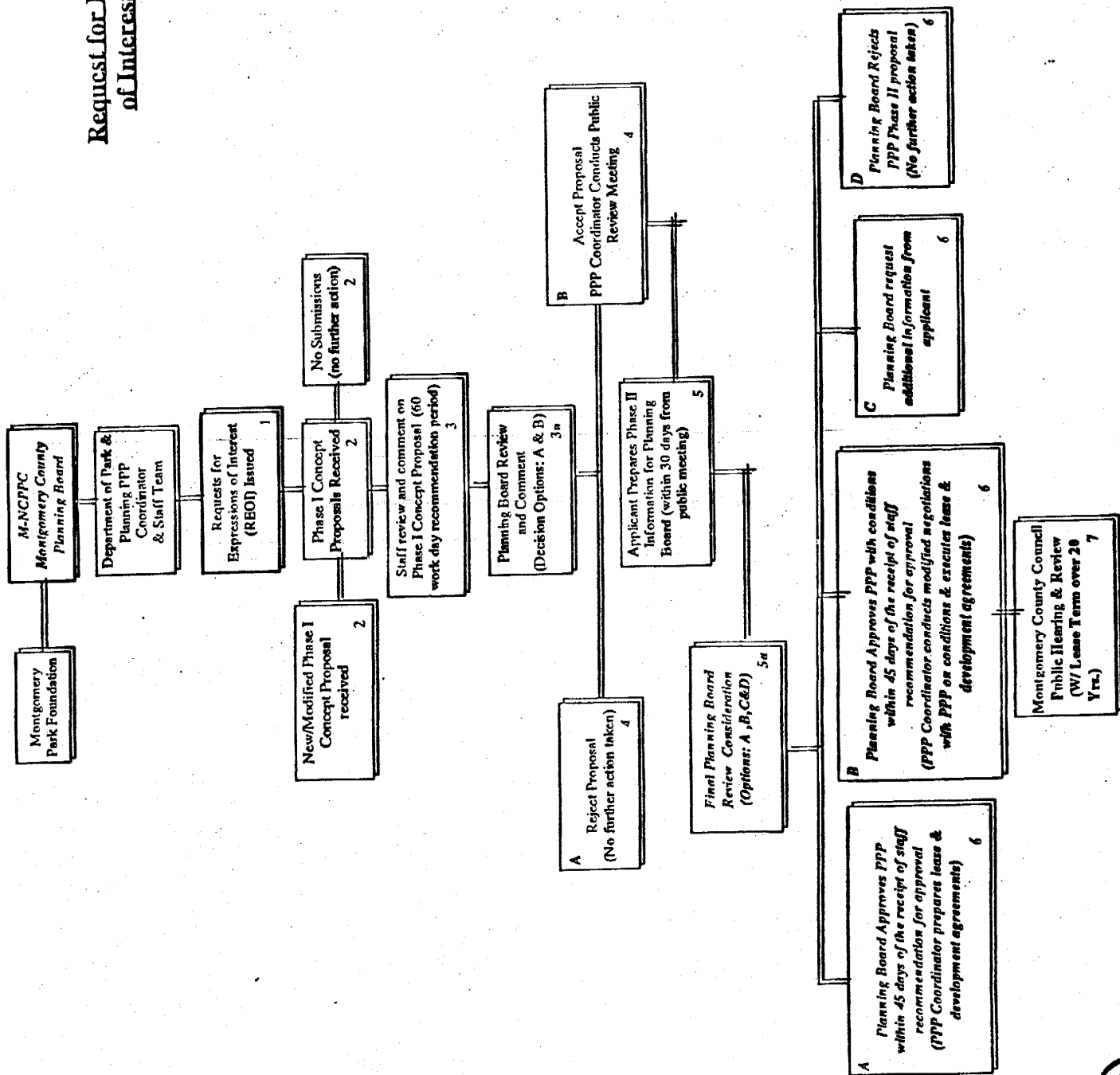
M-NCPPC Public / Private Partnership Process



Unsolicited Proposal Process

- Notes:
1. Montgomery Park Foundation may serve as a Facilitator, fundline 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 change 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

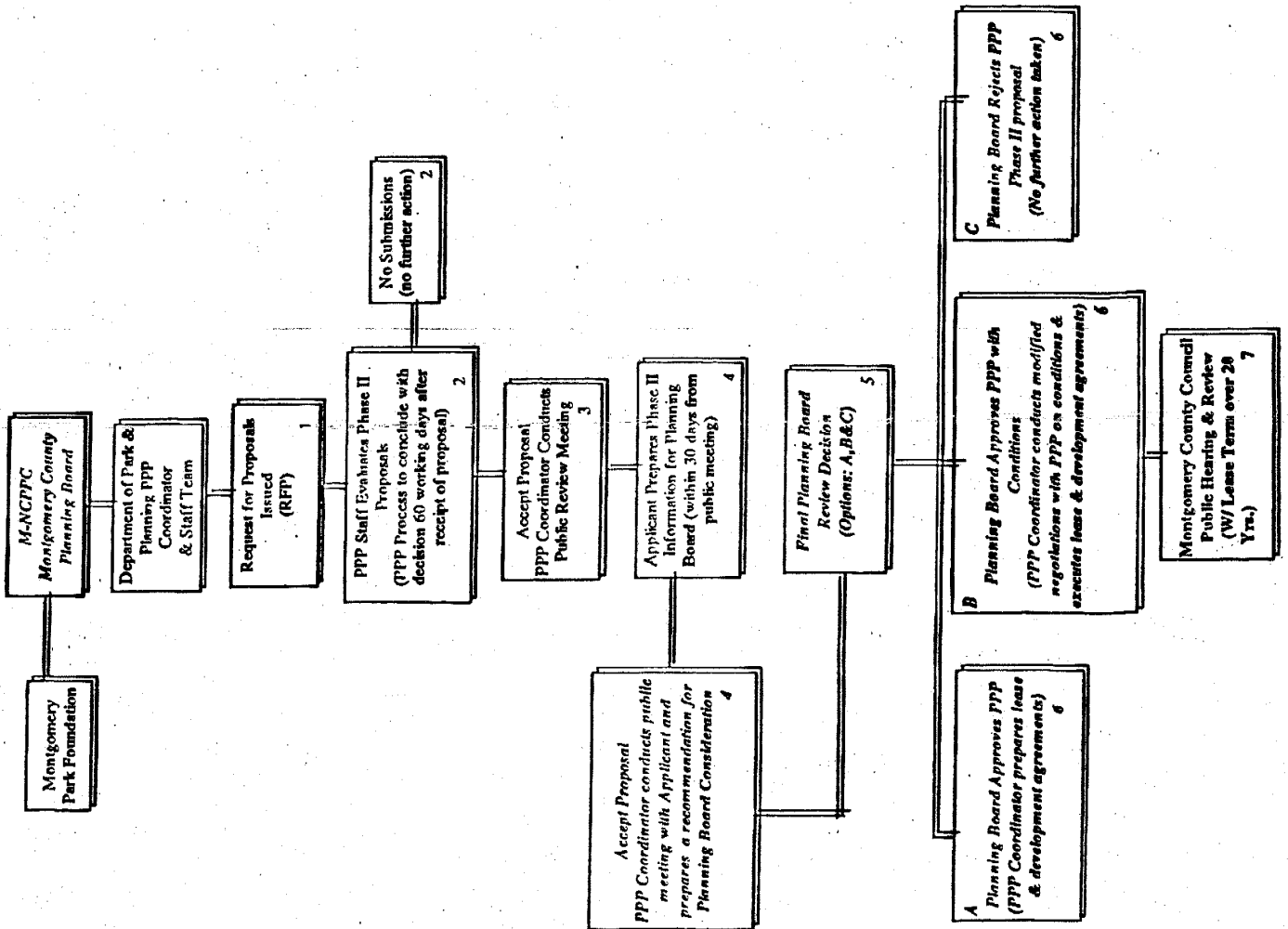
Request for Expressions of Interest Process



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

POLICY

BOARD OF EDUCATION OF MONTGOMERY COUNTY

Related Entries: CND
Responsible Office: Facilities Management

Facility Improvements That Are Not Funded with Montgomery County Revenues

A. PURPOSE

To provide guidelines for accepting non-Montgomery County government funds for facility improvements that qualify as capital investments. Acceptable improvements to be considered under this policy are limited to physical plant or site improvements that are considered a fixed asset, meet established capital budget funding criteria, and have a minimum life cycle of fifteen (15) years. This policy is not intended for equipment or items that do not meet the capital asset criteria, or for activities covered by Policy CND: *School-Related Fund Raising*.

B. ISSUE

The Board of Education recognizes that private organizations, parent and community groups, businesses, or non-Montgomery County governmental agencies at times want to provide financial support for facility improvements that would normally not be funded as part of county supported programs. The Board also recognizes that while these improvements are not essential, they do provide opportunities to create facility features that are compatible with neighboring buildings or enhance community and school activities.

C. POSITION

1. Except as outlined in Item 2 below, the acceptance of Non-Montgomery County government funds may be considered for facility improvements that:
 - a) Support activities that benefit a school sponsored activity or the school as a whole; such as play ground equipment, stadium lights, or theatrical equipment
 - b) Supplement architectural, landscaping, or aesthetic enhancements to the facility for neighborhood compatibility

- c) Enhance community use of schools; such as a larger gymnasium than would normally be provided as part of a new school, modernization, or addition project
 - d) Provide for the construction of community or recreational improvements funded by other governmental entities for joint community and school use
2. Funds may not be received under this policy for capital projects which are the responsibility of the school system, county government, and/or state to provide for student capacity, including core support space, and maintenance of physical plant.
3. Appropriate funding sources include:
- a) Parent and community organizations and foundations
 - b) Non-Montgomery County governmental agencies
 - c) Private organizations and businesses
 - d) Bequests and trusts
4. Guidelines
- a) Requests to provide financial support for facilities improvements must be reviewed in advance of any such activities by the director of the Department of Facilities Management in collaboration with the principal or site administrator to ensure compliance with this policy.
 - b) The request must include a plan for financial support and sufficient assurances that the entity donating the funds will meet the agreed upon financial obligation.
 - c) If the proposed improvement is less than \$50,000, the director of the Department of Facilities Management is authorized to approve the plan provided it complies with the provisions of this policy. Improvements approved by the director of the Department of Facilities Management will be reported periodically to the Board of Education.
 - d) If the proposed improvement exceeds \$50,000, the director of the Department of Facilities Management will present the request for facilities improvement and the funding plan to the Board of Education for its approval prior to notifying the entity whether they may proceed with the fund raising activities.

- e) In making decisions whether to grant approval for facility improvements under this policy, the following shall be considered:
 - (1) Whether the improvement would foster or exacerbate inequity
 - (2) Whether the Board of Education, Montgomery County Government, or Maryland State Department of Education have responsibility for funding similar improvements at all schools using tax supported revenue or bonds sales to the extent available
 - (3) Whether the improvement will cause a future financial liability in annual operating costs
 - (4) Whether the improvement will create safety, security, or other school operation impacts
 - (5) Whether the funds donated would expedite the implementation of county supported programs
 - (6) Whether the improvements would meet or support a greater community need for services
- f) The group providing the funds for facility improvements under this policy will plan and supervise all fundraising activities sponsored by the organization, and will abide by established financial management procedures.
- g) All funds received for facility improvements under this policy must be appropriated in accordance with Montgomery County financial regulations.
- h) The director of the Department of Facilities Management will ensure that the necessary appropriation requests are presented to the Board of Education for approval and the funding is allocated by the Montgomery County Council before any work begins on the facility improvements.

D. DESIRED OUTCOMES

This policy is designed to allow for contributions for facilities improvements from non-Montgomery County funding sources, without creating inequities among school communities. This will strengthen the relationships between the school system and various groups within the community.

E. IMPLEMENTATION STRATEGIES

The superintendent will establish administrative regulations or other administrative procedures that may be necessary for implementing the guidelines outlined in this policy.

F. REVIEW AND REPORTING

This policy will be reviewed on an ongoing basis in accordance with the Board of Education policy review process.

Policy History: Adopted by Resolution No. 530-02, November 21, 2002.