



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

MCPB Agenda Item #10  
October 21, 2010

**MEMORANDUM**

**DATE:** October 14, 2010

**TO:** Montgomery County Park Commission

**VIA:** Mary Bradford, Director of Parks *MB*  
Mike Riley, Deputy Director of Parks *MR*  
Mitra Pedoeem, Division Chief, Park Development Division *MP*

**FROM:** Shuchi Vera, CIP Manager, Park Development Division *SV*

**SUBJECT:** Amendments to the Department of Parks' FY11-16 Capital Improvements Program (CIP)

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**Staff Recommendation**

Approve amendments to the Department of Parks' FY11-16 CIP.

**Background**

By November 1 of each *even-numbered* year, the Department is required to submit a biennial CIP to the County Executive and County Council. The biennial CIP process is different from the full CIP process in that the full CIP process is governed by Article 28, which declares that by November 1 of each *odd-numbered* year, the Commission is required to submit a comprehensive six-year CIP. The FY11-16 CIP is the currently-approved CIP that was submitted by the Planning Board to the County Executive and the Council on October 30, 2009. Because the full CIP is submitted every two years, the County Executive and Council have put in place the biennial CIP process, which gives each Department the opportunity to make amendments one year after the Commission submits its full CIP. There are two categories of CIP amendments: (1) new initiatives and (2) significant changes in existing projects' scope, timing, and cost. However, for the most part, the biennial CIP process involves technical adjustments to reflect prior fiscal year expenditures, close out projects, request appropriations for the following fiscal year, and other similar accounting-type updates.

We are currently preparing to submit the FY11-16 Biennial CIP due by November 1, 2010 to the County Executive and County Council. Normally, we do not present the biennial CIP to the Planning Board as most of the changes that we make involve the technical adjustments mentioned above. However, for this year's biennial CIP process, we are considering making amendments in addition to the technical adjustments that we normally make. We would like to add two projects to our CIP and also consider shifting the schedules of certain existing projects in an effort to reduce OBI.

### **Amendments for Consideration**

There are two types of amendments that we would like the Board to consider:

- (1) Addition of two Project Description Forms (PDFs) to the approved FY11-16 CIP
- (2) Revisions to expenditure schedules of certain existing PDFs

(1) *New PDFs.* We request the addition of two PDFs, both of which are needed in order for the Department to comply with the requirements of the American Disabilities Act (ADA). On September 15, 2010, the United States Department of Justice (DOJ) approved revisions to Title II of the ADA. The revisions include requirements for accessible design for several park and recreational facilities, including play areas, boating facilities, and miniature golf facilities. Local and State governments will be required to comply with these revisions, which will go into effect on March 15, 2011. The revised Title II of the ADA requires local and state governments, within one year of the effective date of the Act, to conduct a self-evaluation of constructed and altered facilities built between July 1992 and September 2010 for compliance with the 1991 ADA standards.

In 2006, Montgomery County was selected by the DOJ for a Project Civic Access (PCA) review. PCA is a proactive, ongoing initiative of the Disability Rights Section (DRS) of the DOJ Civil Rights Division to ensure ADA compliance in local and state governments throughout the County. DOJ has inspected over 112 County facilities, including 15 local parks that fall under the Commission's jurisdiction. Montgomery County received a draft settlement agreement from DOJ in March 2009 and is now negotiating a legally binding settlement to address the findings, both those related to buildings and other facilities and those related to policies. This agreement will require the County and its agencies to remediate any problems identified by DOJ within a negotiated timeline and to place assurances for self assessing and remediation for the future, including efforts to comply with the new Title II requirements. In order to comply with these mandates in a timely manner, the Department needs to create a program supported by funding in the CIP. We have created two PDFs In order to comply with the Council and County's policy of keeping the funding separate for local and non-local parks.

(2) *Revisions to Schedules of Existing PDFs.* New parks and park expansions impact our operating budget. These impacts are called Operating Budget Impacts (OBI) and are calculated for each project approved in the CIP. OBI includes the operating and maintenance costs associated with the addition of parkland, parks, and park facilities. As a

result of the recent and drastic cuts in our operating budget, we have not received OBI for new parks and park facilities that have opened in the last few years. As operating funds continue to diminish and new parks continue to be built, it is becoming increasingly difficult to adequately maintain our park system. In order to reduce the impact of new parks to the operating budget, we are considering delaying a number of CIP projects. These delays should be reflected in the CIP as shifts in project design and construction schedules, and will be considered amendments to the current CIP. We would like to reflect these schedule shifts in our biennial CIP submission due to the County Executive and County Council by November 1, 2010. The following is a list of major parks, park expansions and new amenities that have OBI, are approved in our CIP, and are currently scheduled to open in the next three fiscal years:

- Black Hill Trail Extension
- Brookside Gardens Entrance and Parking Improvements
- Darnestown Square Heritage Park
- East Norbeck Local Park Renovation and Expansion
- Evans Parkway Neighborhood Park Renovation and Expansion
- Falls Road Local Park Parking Lot Expansion
- Germantown Town Center Urban Park
- Greenbriar Local Park
- Rock Creek Trail Pedestrian Bridge
- Takoma-Piney Branch Local Park Renovation
- Woodlawn Barn Visitors Center
- Woodstock Equestrian Center

We would also like to note that OBI is generated not only from projects approved in our CIP, but also from what are commonly referred to as “Non-CIP” projects. These “Non-CIP” projects include developer-built parks, parks built in partnership with private entities, ICC Environmental Stewardship and Compensatory Mitigation projects, and new mandates, such as the federally-mandated National Pollutant Discharge Elimination System (NPDES) permit that includes stricter stormwater management requirements.

We will return to the Board on October 28 with an in-depth and project-by-project analysis of the implications and recommendations related to potential delays of CIP projects and “Non-CIP” projects for the purposes of reducing OBI.

### **Conclusion**

Staff seeks approval of the new ADA PDFs, which are attached to this memo, and also feedback on potentially delaying CIP projects for the purposes of reducing OBI.

### *Attachments*

## ADA Compliance: Local Parks -- No. 128701

Category M-NCPPC  
 Subcategory Development  
 Administering Agency M-NCPPC  
 Planning Area Countywide

Date Last Modified  
 Required Adequate Public Facility  
 Relocation Impact  
 Status

October 13, 2010  
 No  
 None  
 On-going

### EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY09	Est. FY10	Total 6 Years	FY11	FY12	FY13	FY14	FY15	FY16	Beyond 6 Years
Planning, Design, and Supervision	500	0	0	500	0	100	100	100	100	100	0
Land	0	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	1,200	0	0	1,200	0	0	150	250	350	450	0
Construction	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1,700</b>	<b>0</b>	<b>0</b>	<b>1,700</b>	<b>0</b>	<b>100</b>	<b>250</b>	<b>350</b>	<b>450</b>	<b>550</b>	<b>*</b>

### FUNDING SCHEDULE (\$000)

Park and Planning Bonds	1,700	0	0	1,700	0	100	250	350	450	550	0
<b>Total</b>	<b>1,700</b>	<b>0</b>	<b>0</b>	<b>1,700</b>	<b>0</b>	<b>100</b>	<b>250</b>	<b>350</b>	<b>450</b>	<b>550</b>	<b>0</b>

#### DESCRIPTION

This program provides for an on-going comprehensive effort to ensure that all local parks and park facilities are built and maintained in compliance with Title II of the Americans with Disabilities Act (ADA) and the ADA Accessibility Guidelines (ADAAG) standards. This program includes both the correction of deficiencies identified by the United States Department of Justice (DOJ) during its proactive Project Civic Access (PCA) assessment of 15 local park facilities, as well as efforts to comply with the revisions to Title II of the ADA, which will go into effect on March 15, 2011.

This program also includes policy development and advanced technical training for Department of Parks' architects and engineers to ensure that ADA compliance and accessibility are incorporated throughout the park system's planning, design and construction processes in order to ensure that parks and park facilities comply with the new revisions to Title II of the ADA.

New Title II requirements include revisions to the existing 1991 ADAAG and additional standards for facilities not addressed in the 1991 ADAAG including swimming pools, recreational facilities, and playgrounds.

#### JUSTIFICATION

Montgomery County was selected by the DOJ for a Project Civic Access (PCA) review in 2006. PCA is a proactive, ongoing initiative of the Disability Rights Section (DRS) of the DOJ Civil Rights Division to ensure ADA compliance in local and state governments throughout the County. DOJ has completed reviews and signed settlement agreements with over 150 districts to date. DOJ has inspected over 112 County facilities, including 15 local parks that fall under the M-NCPPC's jurisdiction. Montgomery County received a draft settlement agreement from DOJ in March 2009 and is now negotiating a legally binding settlement to address the findings, both those related to buildings and other facilities and those related to policies. This agreement will require the County and its agencies to remediate any problems identified by DOJ within a negotiated timeline and to place assurances for self assessing and remediation for the future, including efforts to comply with the new Title II requirements.

On September 15, 2010, DOJ approved revisions to Title II of the ADA, which impact park and recreational facilities such as swimming pools, recreation facilities, and playgrounds. Local and State governments will be required to comply with these revisions, which will go into effect on March 15, 2011; full compliance is required by March 15, 2012. The revised Title II of the ADA requires local and state governments, within one year of the effective date of the Act, to conduct a self-evaluation of constructed and altered facilities built between July 1992 and September 2010 for compliance with the 1991 ADA standards.

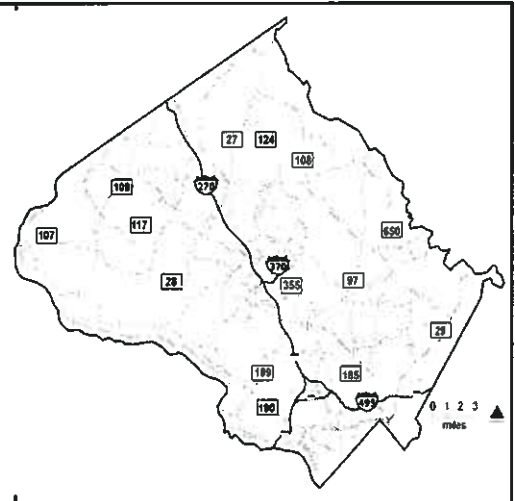
\* Expenditures will continue indefinitely.

#### APPROPRIATION AND EXPENDITURE DATA

Date First Appropriation	FY	(\$000)
First Cost Estimate		
Current Scope	FY12	1,700
Last FY's Cost Estimate		0
Appropriation Request	FY11	0
Appropriation Request Est.	FY12	100
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		0
Expenditures / Encumbrances		0
Unencumbered Balance		0
Partial Closeout Thru	FY08	0
New Partial Closeout	FY09	0
Total Partial Closeout		0

#### COORDINATION

United States Department of Justice  
 Department of Health and Human Services  
 Department of Transportation  
 County Attorney's Office  
 Montgomery County Public Schools  
 Revenue Authority  
 Department of General Services  
 ADA Compliance: Non-Local Parks, PDF 128702



## ADA Compliance: Non-Local Parks -- No. 128702

Category M-NCPPC  
 Subcategory Development  
 Administering Agency M-NCPPC  
 Planning Area Countywide

Date Last Modified  
 Required Adequate Public Facility  
 Relocation Impact  
 Status

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 No  
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### EXPENDITURE SCHEDULE (\$000)

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Land	0	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	1,200	0	0	1,200	0	0	150	250	350	450	0
Construction	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1,700</b>	<b>0</b>	<b>0</b>	<b>1,700</b>	<b>0</b>	<b>100</b>	<b>250</b>	<b>350</b>	<b>450</b>	<b>550</b>	<b>*</b>

### FUNDING SCHEDULE (\$000)

Current Revenue: General	200	0	0	200	0	0	50	50	50	50	0
G.O. Bonds	1,500	0	0	1,500	0	100	200	300	400	500	0
<b>Total</b>	<b>1,700</b>	<b>0</b>	<b>0</b>	<b>1,700</b>	<b>0</b>	<b>100</b>	<b>250</b>	<b>350</b>	<b>450</b>	<b>550</b>	<b>0</b>

#### DESCRIPTION

This program provides for an on-going comprehensive effort to ensure that all non-local parks and park facilities are built and maintained in compliance with Title II of the Americans with Disabilities Act (ADA) and the ADA Accessibility Guidelines (ADAAG) standards. This program includes efforts to comply with the revisions to Title II of the ADA, which will go into effect on March 15, 2011.

This program also includes policy development and advanced technical training for Department of Parks' architects and engineers to ensure that ADA compliance and accessibility are incorporated throughout the park system's planning, design and construction processes in order to ensure that parks and park facilities comply with the new revisions to Title II of the ADA.

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#### OTHER

Beginning in FY13, \$50,000 is budgeted for required ADA retrofits to leased properties that cannot be funded with general obligation bonds.

- \* Expenditures will continue indefinitely.

#### APPROPRIATION AND EXPENDITURE DATA

Date First Appropriation	FY	(\$000)
First Cost Estimate		
Current Scope	FY12	1,700
Last FY's Cost Estimate		0
Appropriation Request	FY11	0
Appropriation Request Est.	FY12	100
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		0
Expenditures / Encumbrances		0
Unencumbered Balance		0
Partial Closeout Thru	FY08	0
New Partial Closeout	FY09	0
Total Partial Closeout		0

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 Department of Health and Human Services  
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