



M-NCPPC

Montgomery County
Department of Parks

New Adopted Policy for
Public/Private Partnerships

September 19, 2007

M-NCPPC Proposed New Public Private Partnership Policy Presentation Outline:

1. History and Background
2. Current and New Partnerships
3. Vision Statement
4. Partnership Objectives
5. Public/Private Partnerships – Defined
6. Types of Partnerships
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8. Partnership Benefits:
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Public Private Partnerships

Montgomery County Public/Private Partnership Policy History:

Public/Private Development Guidelines;

Guidelines for the Evaluation and Approval of Solicited and Unsolicited Offers for Joint-Venture Development on Park Property; Adopted March 8, 1996;

Montgomery County Department of Park and Planning Policy And Guidelines on Donations and Public/Private Partnerships; Adopted December 4, 2003;

Proposed M-NCPPC Policy for Public Private Partnerships;
Draft - June 20, 2007.

Examples of Existing Public/Private Partnerships

Montgomery County Has Approximately 12

Examples are:

1. **Montgomery Blair Red Sox Baseball Stadium**
The Maryland Community Baseball, Inc.,
Montgomery Blair High School Baseball Stadium
Silver Spring, Maryland
2. **Maryland SoccerPlex**
Maryland Soccer Foundation; South Germantown
Recreational Park, Germantown, Maryland
3. **Great & Small – Therapeutic Riding Program**
Rickman Farm Horse Park, Boyds, Maryland
4. **Red Wiggler Foundation, Inc.**
Red Wiggler Community Farm
Ovid Hazen Wells Recreational Park, Clarksburg, Maryland
5. **Shirley Povich Baseball Field**
Big Train Baseball
Cabin John Regional Park, Bethesda, Maryland

Existing Partnership Project

1. Montgomery Blair Red Sox Baseball Stadium

Silver Spring – Takoma Park Thunderbolts

The Maryland Community Baseball, Inc., a franchisee of the Cal Ripken Sr. Collegiate Baseball League – a 3-year old league recruits top collegiate amateur baseball players to play a 42-game schedule every June and July.

Project Cost: \$431,000

\$200,000 State bond funding; \$30,000 in County funding; \$151,000 in estimated donation funding; and \$40,000 in donated materials; and \$10,000 in MCB funding.

Partnership Ballfield Improvements:

- 710 stadium seats;
- dugouts;
- concession stand and announcer's booth;
- scoreboard;
- enhanced ballfield lighting; and
- safety netting and sound system.

Lease Term – 20 years

Existing Partnership Project - Continued

2. Maryland SoccerPlex

Maryland Soccer Foundation; South Germantown Recreational Park, Germantown, Maryland.

Project: 22 irrigated soccer fields (21 outdoor fields, one championship tournament stadium field), and one indoor – multi-purpose sports facility.

Project Funding: \$28,081,000 (\$17,110,000 in private funding and \$10,971,000 in public funding).

Lease Term – 40 years

3. Great and Small – Therapeutic Riding Program

Rickman Farm Horse Park, Boyds, Maryland. A therapeutic horse riding program for youth and students with autism, and speech and sensory deprivation and/or severe emotional trauma.

Project Cost: \$125,000 annual budget (with \$103,000 in reserve funds)

Students learn to groom, care for, and ride horses to experience feelings of self-efficacy, trust and affection for the animals that can translate to their daily lives. The program has 18 horses and currently serves approximately 58 students.

Lease Term – 20 years

Existing Partnership Project - Continued

4. Red Wiggler Foundation, Inc.

Red Wiggler Community Farm, Ovid Hazen Wells Recreational Park,
Clarksburg, Maryland

Project Cost: \$585,640

Operating Budget: \$200,000 annually

An environmentally sensitive produce farming operation for 20-30 physically and mentally challenged youth and adults. This partnership program plants and raises local produce for sale to local residents annually. This partnership program provides employment for their clients while practicing good stewardship in farming and fertilizing their crops on 12 acres in Montgomery County's Agricultural Reserve Area. Farming improvements include: a septic system; a new solar house for an on-site residence; a renovated 4,000 square foot bank barn; and a new 2,000 square foot multi-purpose office and administration building.

Lease Term – 20 years

Existing Partnership Project - Continued

5. Shirley Povich BaseBall Field

Big Train BaseBall, Bethesda Community BaseBall Club (BCBC), Cabin John Regional Park, Bethesda, Maryland

Project: \$500,000 donation

In exchange for reserved periods of ballfield play (May-July) BCBC funded the development of an upgraded, irrigated baseball field with dugouts; 550 grandstand seats; a clubhouse and press box; audio equipment; an announcer's booth; and concession stand. This baseball field accommodates approximately 400 games a year including serving for the home field for Georgetown University's baseball team. This baseball field is almost comparable to an NCAA field.

Lease Term – 25 years



Policy for Public/Private Partnerships

Vision Statement

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

1. Political leadership;
2. Public sector involvement;
3. A plan that outlines expectations of the partnership project;
4. 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
5. Selection of the right partner.



Policy for Public/Private Partnerships

Partnership Policy Objectives

Defining the expectations of the Commission by:

1. Setting forth the parameters under which the Commission's program of public private partnerships will operate in order to assure success.
2. 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 – Defined

A Public Private Partnership is an agreement between the Commission and a private sector entity 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 public.

Public/Private Partnerships – Defined - Continued

Types of Partnerships:

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.
2. **Operations and Maintenance.** Private Partner operates and maintains a specified Commission-owned facility.
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.
4. **Lease-Design-Build-Operate.** Commission leases the land to a private partner for the design, construction, and, ultimately, operation of the facility.
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.

Administrative Guidelines

The following 5 questions must be addressed before the Commission considers the substantive benefits of entry into a Public Private Partnership:

1. Is the proposal defined clearly enough for evaluation?
2. Is the proposal aligned with the mission and values of the Commission?
3. Is the proposed relationship a Public Private Partnership, or is the proposal best served through another arrangement with the Commission?
4. Does the Commission have the legal authority to enter into the partnership as proposed?
5. 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?



Benefits of Public Private Partnerships - Objective

1. Benefits to the Commission. First and foremost, a Public Private Partnership must have a clearly defined public purpose.
2. 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.
3. Staff and budgetary resources are often limited or fixed, and public processes sometimes inhibit rapid innovation or technology upgrades.
4. The Commission must be flexible and consider alternative means of delivering needed services sooner by delegating them to appropriate non-public sector partners (when and where they are appropriate).
5. Public Private Partnerships allow the Commission the flexibility to minimize these constraints while achieving its public objectives.



Benefits of Public Private Partnerships - Continued

Benefits to the Private Partner:

1. 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.
2. Private businesses that operate as non-profit entities generally have purposes and goals aligned with the public sector.
3. Private businesses meet these objectives by making strategic investment decisions, seeking new business opportunities, and/or supplying needed services to its clients.
4. Public private partnerships offer private businesses the opportunity to improve profitability, expand their markets, and meet their clients' needs.

Justification for Public Private Partnerships

1. 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;
2. There is support from the users of the service for the involvement of a Private Partner;
3. A project can be expedited by grouping multiple responsibilities in a single agreement (such as combined design and construction);
4. The Commission will receive access to a specialized expertise not otherwise available;
5. The Partnership is reflective of new and emerging trends in the parks and recreation field and provides an opportunity for innovation;
6. The Partnership provides access to proprietary technology not otherwise available;
7. The Partnership provides the ability to apply special incentives and disincentives to improve project performance; or
8. A service or project can be implemented sooner than the Commission's resources alone would allow.

Partnership Constraints

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.

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.

Partnership Constraints - Continued

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.

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.



Partnership Constraints - Continued

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.

Environmental Stewardship:

The mission of the Commission includes the responsibility to protect and steward park natural resources. Therefore, all partnership operations at or on parks or park facilities will be developed and managed in a manner consistent with the environmental guidelines and programs of the Commission.

Partnership Constraints - Continued

Tax-Exempt Bonds:

A Partnership that 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.

Taxes:

Any taxes that are assessed or charged against the Partnership will be the responsibility of the Private Partner.

Compliance with Laws:

All Partnership activities must be within the authority of Article 28 and federal, state, and local laws. Partners must also comply with Commission's Anti-Discrimination Program.

Partnership Management and Public Accountability

Reporting and Monitoring:

All Partnership Agreements will include a provision for regular reporting to the Commission and the right of the Commission to periodically audit the Partner's books and records.

Financial Reporting:

A reasonable schedule will be established between the Commission's Secretary-Treasurer and the Partner. The Partner will provide the following financial reports:

1. Audited financial statements;
2. Annual Budget;
3. Quarterly income statements;
4. Applicable income and/or operating expenses; and
5. Any other information reasonably requested by the Secretary-Treasurer.

Partnership Management and Public Accountability - Continued

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. The Partner will maintain supporting data and accounting records for a period of three (3) years in accordance with generally accepted accounting practices.

Public Reporting:

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. 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.

Partnership Management and Public Accountability - Continued

Processes and Procedures

Incorporation into Commission Regulations

Public Private Partnerships are generally exempt from the Commission's procurement regulations. However, because public assets are involved, Public Private Partnerships are subject to certain competition procedures as outlined in the M-NCPPC 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.



Partnership Management and Public Accountability - Continued

Public Review and Comment:

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.



Managing the Public Private Partnerships

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.

At a minimum, staff from the following departments/divisions should be involved with Public Private Partnerships:

1. Montgomery County Department of Parks, as appropriate:
 - a. Park Planning
 - b. Park Development
 - c. Park/Property/Facility Management
2. Finance/Office of the Secretary-Treasurer
3. Office of General Counsel
4. Procurement
5. Risk Management

The background features a dark blue field with several large, semi-transparent gears of various sizes and colors (blue, grey, and light blue) scattered across it. On the left side, there is a vertical strip with a colorful, abstract, and textured appearance, possibly representing a gear or a mechanical part, with colors ranging from orange and red to green and blue.

Managing the Public Private Partnerships - Continued

Partnership Management Options:

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:

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

Managing the Public Private Partnerships - Continued

Managing the Public Private Partnerships

1. Responsibilities of the Public Private Partnership Staff:
 - a. Act as the single point of entry for the private sector;
 - 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;
 - d. Monitor existing Partnerships to ensure compliance with Partnership Agreements;
 - 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; and
 - f. Keep the Commission and/or the Planning Board regularly informed about the Public Private Partnership program and initiatives.

Montgomery County Department of Parks Public Private Partnership (PPP) Committee Members

- **Terry Brooks**, PPP Chairman
- **Oscar Rodriguez**, Executive Director
- **Patti Barney**, Secretary-Treasurer
- Al Warfield, Accounting Manager, CAS Accounting Division
- **Mary Bradford**, Director, Montgomery County Department of Parks
- **Mike Riley**, Deputy Director, Montgomery County Department of Parks
- **Nancy Keogh**, Chief, CAS Purchasing Division
- Jana Harris, Principal Procurement Specialist, CAS Purchasing Division
- **Donna Calcote**, Legal Counsel, CAS Legal Department
- **Wanda Wesley-Major**, CAS Senior Risk Management Specialist
- **Derrick Rogers**, Legal Counsel, Legal Department
- **Dan McNickle**, Chief, Park Police
- **Christine Brett**, Division Chief, Enterprise Division
- **John Nissel**, Division Chief, Facility Management Division
- Carrye Massey, Manager, Property Management Unit
- **John Hench**, Division Chief, Park Planning and Stewardship Division
- **Al Astorga**, Division Chief, Central Maintenance Division
- **Douglas Alexander**, Acting Division Chief, Park Development Division
- **Michael Ma**, Acting Project Management Supervisor, Park Development Division
- David Tobin, Equine Resources Coordinator
- Tin-Mala, Grants Manager, Special Program Division
- Kristine Marbourg, Administrative Specialist, Special Program Division
- Park Managers (Northern and Southern Region, as appropriate)

• Note: Principal Members are in **bold** type

Partnership Implementation

Public Private Partnership Agreements.

Public Private Partnerships are contractual arrangements. 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; and
- f. Project milestones to assure the timely delivery of a Partnership project.

Staff Contact:

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