

MEMORANDUM

March 27, 2014

TO: Government Operations and Fiscal Policy Committee
Transportation and Environment Committee

FROM: Linda McMillan, Senior Legislative Analyst *LM*
KL Keith Levchenko, Senior Legislative Analyst

SUBJECT: **Property Disposition – Gude Landfill Disposition – Material Terms**

Expected for this session:

Greg Ossont, Deputy Director, Department of General Services
William Gries, Maryland National-Capital Park and Planning Commission

On March 10, 2014 the County Council received a memo from the County Executive with the material terms for an exchange of land between the County Government and M-NCPPC. The Executive's memo is attached at ©1-2. The property disposition process requires the County Executive to send material terms to the Council and the Council has 30 days to provide the Executive with comments. After this comment period, the Executive must also send the Council a Declaration of No Further Need. The Council has 60 days to act on the Declaration of No Further Need or extend the time for action. After the Council approves a Declaration of No Further Need, the Executive disposes of the property. Please note that the Executive's memo says that recordation will take place immediately following the comment period, but it would take place after the approval of the Declaration of No Further Need.

The memo explains that:

- During the operation of the Gude Landfill, waste was unintentionally placed beyond the landfill property onto an adjacent strip of land owned by M-NCPPC.
- DEP needs unrestricted control of the entire waste disposal area per a directive from the Maryland Department of the Environment.
- County Government and M-NCPPC consider the exchange of the strip of land containing waste (16.5 acres) and two nearby parcels (17.1 acres) to be an equal exchange.

- The County and M-NCPPC staff conducted a public meeting with the Concerned Citizens for the Gude Landfill and others to solicit comment.
- The proposed exchange was approved by the Montgomery County Planning Board on October 13, 2011.

The October 3, 2011 packet to the Montgomery County Planning Board is attached at ©3-14. It provides maps, including a map showing the properties to be exchanged (©14).

Council Staff Comment

Council staff agrees this is a reasonable exchange and addresses the need for the County to have control of all property with waste from the Gude Landfill.

The property disposition law says that the County Executive must not dispose of any property owned or controlled by the County at less than full market value unless this requirement is waived by the County Council. Because there is not an appraisal and the land being obtained by the County could potentially be of lower value (because of the landfill waste) than the land being disposed of by the County, Council staff recommends that if the Council approves a Declaration of No Further Need it waives the requirement that the transaction be a full market value disposition.



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

March 10, 2014

To: Craig Rice
Council President

From: Isiah Leggett 
County Executive

Subject: Material Terms - Gude Landfill Disposition

The purpose of this memorandum is to provide the material terms of the exchange of land between Montgomery County and the Maryland National Capital Park and Planning Commission (M-NCPPC). This is being transmitted as a disposition of property in compliance with the provisions of Disposition Regulations 11B-45 of the Montgomery County Code because the exchange with M-NCPPC will require the County to deed a fee simple interest of County property to M-NCPPC. The following is the pertinent background.

- During the operation of the Gude Landfill (1964-1982), waste was unintentionally placed beyond the landfill property boundary onto a strip of land which is part of the grounds of the adjacent Rock Creek Regional Park. The park is owned by the M-NCPPC.
- This situation has been documented in a report prepared by the Division of Solid Waste Services of the Department of Environmental Protection (DEP).
- DEP must obtain long term unrestricted control of the entire waste disposal footprint per a directive from the Maryland Department of the Environment (MDE).
- Exchanging certain non-contaminated land (2 parcels totaling 17.1 acres) for the property containing the waste (16.5 acres) is considered by both the County and M-NCPPC to be an equal exchange that will resolve the issue between the agencies. The two County non-contaminated parcels are "waste free" outlying edges of the Gude Landfill which abut the M-NCPPC land.
- A decision memorandum dated July 20, 2010 directed DEP to enter into a formal agreement for the exchange following all public processes.

Craig Rice
Council President
March 10, 2014
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- Executive Order ORE 01-11 dated May 3, 2011 directed the Department of General Services and the County Attorney to exchange the County property for the M-NCPPC property.

Since the issuance of the Executive Order, the following actions have been completed:

- County and M-NCPPC staff conducted a public meeting with the Concerned Citizens for Gude Landfill and others to solicit comments.
- The County advertised the proposed exchange of land in a local paper once per week for 3 consecutive weeks.
- A letter dated May 19, 2011 was sent to the M-NCPPC formally offering to exchange land for the purposes described above.
- The County obtained a legal description for each parcel and prepared the deeds.
- The proposed exchange was approved by the Montgomery Planning Board on October 13, 2011.

The full M-NCPPC approved the exchange proposal on November 16, 2011. Executive staff believes an appraisal is not appropriate or necessary because the transfer is between two County agencies and there is agreement between Agencies to the exchange. No appraisal is recommended even though the value of the parcels exceeds the threshold as nominal. Per tax assessment records, the County and MNCPPC parcels have an equal base value of \$16,000 per acre. Thus, we are exchanging a parcel worth an estimated value of \$275,000 for land that is also worth an estimated \$275,000, which amounts to an equal exchange. The final action step is the recordation of deeds. The recordation will take place immediately following the expiration of the County Council comment period.

I hope this information is helpful. Please contact Greg Ossont, Deputy Director, Department of General Services if you have any questions.

IL:rbp

cc: Ramona Bell-Pearson, Assistant Chief Admin. Officer
Greg Ossont, Deputy Director, DGS



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

Agenda Item: #5
Agenda Date: October 13, 2011

October 3, 2011

MEMORANDUM:

TO: Montgomery County Planning Board

VIA: Mary Bradford, Director of Parks *[Signature]*
Mike Riley, Deputy Director of Parks *[Signature]*
John Hench, Chief, Park Planning and Stewardship Division *[Signature]*
Mitra Pedoeem, Chief, Park Development Division *[Signature]*

FROM: William Gries, Park Development Division *[Signature]*
Mark Wallis, Park Planning and Stewardship Division *[Signature]*

SUBJECT: Authorization to Exchange Land at the former Gude Landfill adjacent to Rock Creek Regional Park

Staff Recommendation

Staff recommends that the Montgomery County Planning Board adopt the attached resolution authorizing an exchange of land with Montgomery County, Maryland at the former Gude Landfill adjacent to Rock Creek Regional Park. In this exchange, the Commission will convey approximately 16.5 acres to Montgomery County and Montgomery County will convey approximately 17.0 acres to the Commission. The purpose of this exchange is to give the County unrestricted control of the entire solid waste disposal footprint of the Gude Landfill which inadvertently crept onto parkland during the operation of the land fill between 1962 and 1984. The Commission will not experience a net loss of parkland as a result of the exchange and will add undeveloped natural area to the park at appropriate locations. The details of this exchange were presented to and discussed with the Planning Board in closed session on July 14, 2011.

BACKGROUND

As part of the County's Division of Solid Waste Services responsibilities for managing the closed Gude Landfill adjacent to Rock Creek Regional Park, that Division became aware of the inadvertent creep of trash deposits onto Commission owned parkland that apparently occurred during the time that the landfill was operating between 1962 and 1984. This discovery was made as the result of recent mapping of the landfill area for landfill remediation work. The mapping showed that the landfill creep impacted approximately 16.5 acres of parkland.

In that the County needs to have unrestricted control over the entire waste disposal footprint, staff of Solid Waste Services and the Department of Parks have worked together to figure out how to remedy the situation. As part of this work, it was discovered that the County owned Gude Landfill site contained two areas that were not impacted or disturbed by the landfill operation. One was on the north end of the landfill site adjacent to Needwood Golf Course and Crabbs Branch Stream Valley Park, containing

approximately 9.6 acres, and the other was on the south end of the landfill site, fronting on Southlawn Lane, adjacent to Rock Creek Regional Park, containing approximately 7.4 acres. An exchange of the County's two parcels containing approximately 17.0 acres for the 16.5 acres of impacted Commission owned parkland appears to be a workable solution to this problem.

As a result, David Dise, Director, Department of General Services for Montgomery County sent a letter to the Director of Parks, dated May 19, 2011, requesting this exchange of real estate. See copy attached. On the map included with the Dise letter, the 9.6 acre County owned property on the north end of the landfill site is referred to as the "Head" Parcel while the 7.4 acre County owned property on the south end of the landfill site is referred to as the "Foot" Parcel. The 16.5 acre Commission owned property on which the trash deposits are located is referred to on this same map as the "Elbow" Parcel.

Staff of the Department of Park's Park Planning and Stewardship Division and Park Development Division have evaluated the exchange properties and have concluded that this exchange would be mutually beneficial to the County and the Commission. The Commission will receive 17.0 acres of high quality natural areas adjacent to existing parkland, while disposing of 16.5 acres of parkland that is impacted by landfill deposits. There will be a net gain of approximately 0.5 acres of parkland to the park system. The County, on the other hand, will receive title to the 16.5 acres it needs to have unrestricted control of the entire waste disposal footprint of the Gude Landfill.

Staff of the Division of Solid Waste Services and the Department of Parks held a joint public information meeting on Wednesday July 27, 2011 from 7 to 9 P.M. in the Executive Office Building to discuss this proposed land exchange and receive any comments that the public may have had in this regard. See attached Meeting Notice. While the meeting was not heavily attended, there were no adverse comments received relative to this proposed exchange. It should also be noted that the Division of Solid Waste Services has an open dialogue with a group known as "Concerned Citizens for the Gude Landfill" which is made up of adjacent landowners and neighborhood residents. Members of this group also have not expressed any adverse comments relative to the exchange.

At the Board meeting of October 13, 2011, Peter Karasik and Steve Lezinske with the County's Division of Solid Waste Services will be available to answer any questions the Board may have concerning this matter.

CONCLUSION

If the Planning Board agrees with this recommendation and adopts the attached resolution, this matter will then be scheduled for full Commission approval at one of its upcoming meetings in this fall. Full Commission approval is required as the land that is to be exchanged with the County is titled in the name of the Commission.

cc: Gene Giddens
Mike Horrigan
Darien Manley
Mary Ellen Venzke
David Vismara
John Nissel
Sean Dixon



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

MCPB 11-85
M-NCPPC

RESOLUTION

WHEREAS, by deed dated July 29, 1963, recorded in Liber 3113 at Folio 639 among the Land Records of Montgomery County, Maryland, A Gude, Sons Co., a D.C. corporation conveyed to The Maryland-National Capital Park and Planning Commission (the "Commission") 80.62 acres, more or less, unimproved, identified as Tax Account No.4-502-00051613, which land was acquired to be part of Rock Creek Regional Park (the "Park"); and

WHEREAS, between 1964 and 1982, on property immediately adjacent to the acreage described and identified above, Montgomery County, Maryland (the "County") operated a landfill facility that resulted in an inadvertent creep of landfill deposits onto approximately 16.5 acres of said parkland ("Property A"); and

WHEREAS, by letter dated May 19, 2011, the Director of the County's Department of General Services requested an exchange of land between the County and the Commission that would result in the County obtaining from the Commission title to the inadvertent landfill deposit areas that are within the Park and the Commission obtaining from the County title to uncontaminated replacement land adjacent to the Park; and

WHEREAS, staff of Montgomery County Department of Parks and the County's Department of General Services jointly identified approximately 17.0 acres of uncontaminated County owned land adjacent to the Park ("Property B") that is acceptable replacement land for the approximate 16.5 acres of landfill impacted parkland which is to be conveyed to the County; and

WHEREAS, the Montgomery County Planning Board received and considered a recommendation from staff of the Commission at its regularly scheduled meeting on Thursday, October 13, 2011 that the herein described exchange of real estate between the Commission and the County is mutually beneficial to the respective Departments and is in the public's interest; and

WHEREAS, the Montgomery County Planning Board at its regularly scheduled meeting on October 13, 2011 concluded that the 16.5 acres of parkland contaminated by the landfill, as described herein, is no longer needed for public park use or other public purpose of the Commission under Section 5-111, Article 28, Annotated Code of Maryland and is suitable for exchanging with the County;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 5-111, Article 28, Annotated Code of Maryland, The Maryland-National Capital Park and Planning Commission hereby declares that Property A is no longer needed for a park purpose or other public purpose of the Commission and as a result the Commission may transfer Property A to the County in furtherance of the contemplated exchange of real estate with the County as herein described.

BE IT FURTHER RESOLVED, that the Commission hereby acquire Property B from the County in furtherance of the contemplated exchange of real estate with the County as herein described.



DEPARTMENT OF GENERAL SERVICES

Isiah Leggett
County Executive

May 19, 2011

David E. Dise
Director

Ms. Mary Bradford
Director of Parks
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Exchange of Land – Gude Landfill

Dear Ms. Bradford:

The Department of General Services (DGS) is requesting an exchange of land between Montgomery County and the Maryland-National Capital Park and Planning Commission (M-NCPPC) in association with the former Gude Landfill in Rockville.

The Gude Landfill property is owned by Montgomery County. During the operation of the Gude Landfill (1964-1982) waste was placed beyond the landfill property boundary onto a strip of land which is part of the grounds of the adjacent Rock Creek Regional Park owned by the M-NCPPC.

The County will exchange certain non-contaminated land (2 parcels totaling 17.1 acres) for the M-NCPPC property containing the waste (16.5 acres) in order to obtain long term unrestrictive control of the entire waste disposal footprint. The location of the parcels is shown on the attached power point drawing. The staffs of the County's Division of Solid Waste and the Department of Parks have been discussing the proposed exchange of land as a remedy.

Please contact Bernard Fitzgerald, Real Estate Specialist, at 240-777-6076 should you have any questions. Mr. Fitzgerald will handle the due diligence involved with the exchange.

Sincerely,

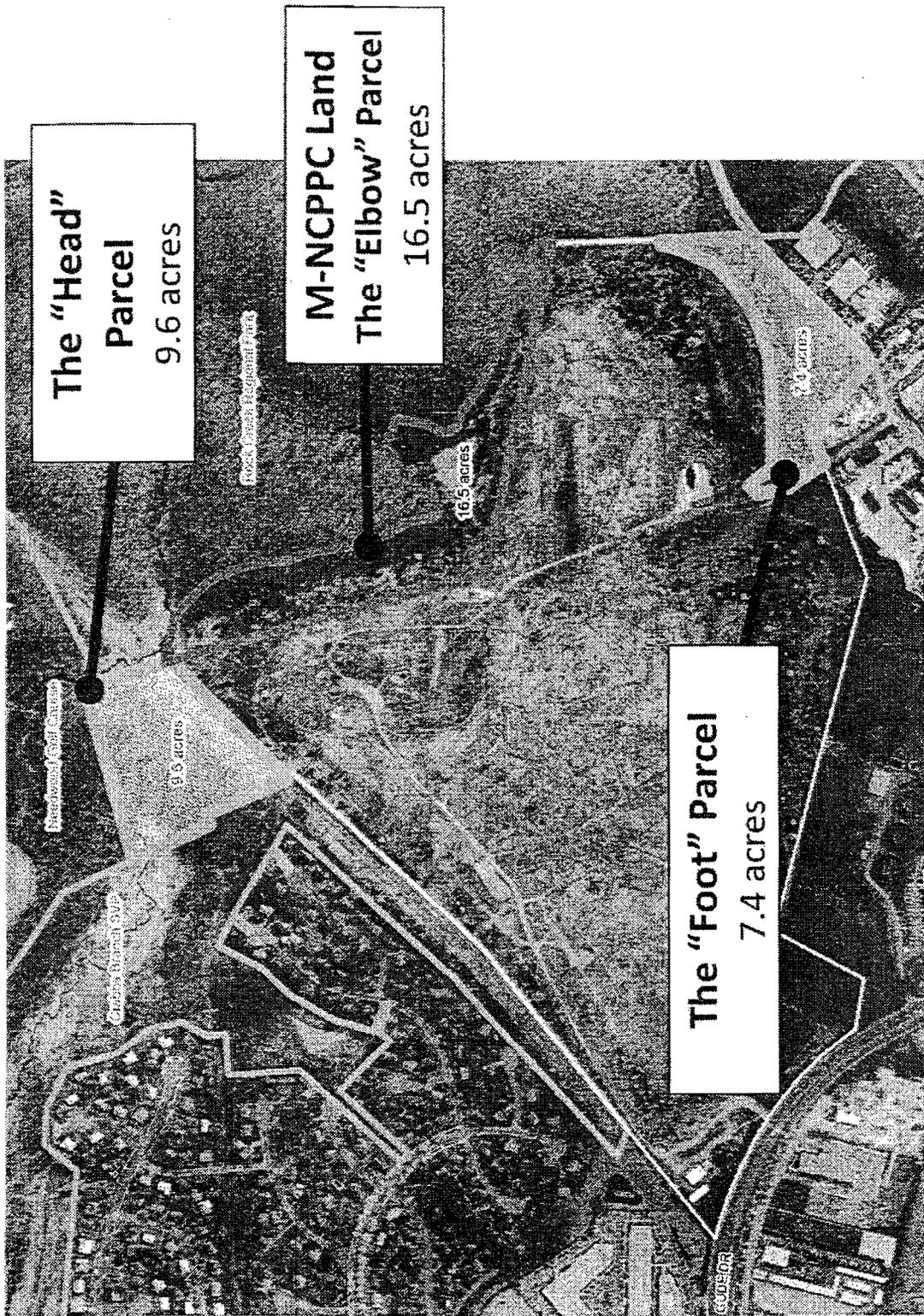

David E. Dise, Director
Department of General Services

DD:bf

cc: Mark Wallis, M-NCPPC
William Gries, M-NCPPC
Bernard Fitzgerald, Department of General Services
Office of the Director

101 Monroe Street, 9th Floor • Rockville, Maryland 20850
www.montgomerycountymd.gov/dgs

Proposed Land-swap





DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert Hoyt
Director

July 8, 2011

**Property Owner located within a ¼ mile
radius of the Gude Landfill and other
Interested Individuals and Organizations**

**Dear Property Owner located within a ¼ mile radius of the
Gude Landfill and other Interested Individuals and Organizations:**

**RE: Requested Exchange of Land between Montgomery County and Maryland-National
Capital Park and Planning Commission in association with the former Gude Landfill**

In accordance with Article 25A of the Annotated Code of Maryland, Montgomery County, Maryland announces that it proposes to enter into an exchange of land of approximately seventeen (17) acres between Montgomery County and the Maryland-National Capital Park and Planning Commission (M-NCPPC) in association with the former Gude Landfill (Refer to Attachment 1) located at 600 East Gude Drive, Rockville, Maryland 20850. A public meeting is being held to provide notification to property owners located within a ¼ mile radius of the Gude Landfill and other interested individuals and organizations and to satisfy County land disposition and M-NCPPC public process requirements regarding the requested exchange of land. Information regarding the public meeting is provided below:

*Date: Wednesday, July 27, 2011
Time: 7:00 PM to 9:00 PM
Place: Executive Office Building
1st Floor Auditorium
101 Monroe Street
Rockville, MD 20850*

Sign language, interpreter services or other accommodations will be provided only upon request with notice as far in advance as possible, but no less than 72 hours prior to the event. Alternative formats of meeting materials will also be made available only upon request with the same advance notice requirements listed above. If you need other services or aids to participate in this activity, please contact Stephen Lezinski, Engineer III at 240-777-6590 or e-mail at steve.lezinski@montgomerycountymd.gov. Taking these steps will help us have sufficient time to best meet your needs.

Interested parties may comment on the proposed exchange of land. Written comments must be received no later than close of business on Friday, August 23, 2011, at:

*Stephen Lezinski, Engineer III
Montgomery County Processing Facility and Transfer Station
16101 Frederick Road
Derwood, MD 20855*

Division of Solid Waste Services

16101 Frederick Road • Derwood, Maryland 20855 • 240-777-6560 • 301-840-2385 FAX
www.montgomerycountymd.gov/solidwaste • Located at the intersection of Route 355 and Shady Grove Road

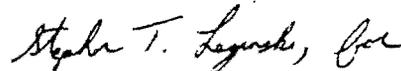
 printed on recycled and recyclable paper

Property Owner located within a ¼ mile
radius of the Gude Landfill and other
Interested Individuals and Organizations
July 8, 2011
2 of 2

The primary reason for the requested exchange of land is that during the operation of the former Gude Landfill (1964-1982), waste was placed beyond the Landfill property boundary (County owned land) onto adjacent Park Land (M-NCPPC owned land). The impacted land parcel of M-NCPPC equates to approximately 16.5 acres (Refer to Attachment 2). The land parcels of County DEP that are free of waste on Landfill property and available for the exchange of land together equate to approximately 17.0 acres (Refer to Attachment 2). Per a directive by the Maryland Department of the Environment (MDE), the County shall obtain long-term unrestricted access to or control of the entire waste disposal footprint of the Landfill. The County Department of Environmental Protection (DEP) maintains post-closure care maintenance and operation responsibilities for the Landfill.

Please contact Stephen Lezinski if you need any additional information or have any questions concerning this matter.

Sincerely,



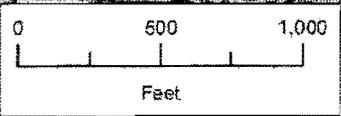
Peter R. Karasik, P.E.
Section Chief, Central Operations
Montgomery County DEP
Division of Solid Waste Services

PRK:sl
Enclosures

cc: Gude Landfill Concerned Citizens (w/encl. via email)
John Kumm, EA Engineering (w/encl. via email)
Stephen Lezinski, Engineer III, DSWS (w/encl.)

ATTACHMENT 1





Gude Landfill
Montgomery County, Maryland

2009

*Note: The location of the property boundary has been approximated.

Source:
Applied Mapping Solutions
(AMS) 2009

H:\projects\166DB_out\WAC\2009 Aerial Survey

ATTACHMENT 2



Gude Landfill Requested Exchange of Land

