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COMMITTEE TO RECOMMEND FUNDING  
FOR THE  
PUBLIC ELECTION FUND

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

2017 JUN 23 AM 8:49

Hon. Roger Berliner, President  
Montgomery County Council  
100 Maryland Ave.  
Rockville, MD 20850

**Re: 2017 Report of Committee to Recommend Funding for the Public Election Fund**

Dear President Berliner and Councilmembers:

**Recommendation No. 1 – Increase Fund By \$1 Million Due to Term Limits**

Last year, we recommended that the County budget \$10 million for the Public Election Fund for the 2018 budget cycle. This amount should be provided by May 2017, which would be in time for the Director of Finance’s July 2017 determination whether the Fund is sufficient to allow payment of the full matching amounts provided in the law

The Council spoke favorably about our recommendation. As a result, the current balance of the Public Election Fund is approximately \$6 million (\$1 million was appropriated in Fiscal Year 2016 and \$5 million was appropriated in Fiscal Year 2017).

In November 2016, voters approved Question B, enacting term limits that created vacancies in five of the ten County offices and a public expectation that the number of candidates in 2018 would be significantly larger than would otherwise be the case.

The Committee has been urged by several citizen organizations to increase its recommendation so the Fund will total \$11 million, to meet an anticipated increase in demand.

The Committee met with Matthew Sollars, Press Secretary for the New York City Campaign Finance Board, which operates a matching fund program similar to ours. Mr. Sollars provided data showing total matching fund payouts for all City offices in 2013 were \$38 million (see Attachment I).

Since New York has a population eight times the size of Montgomery County, and has almost 30 years of experience with public financing, it might seem that \$10 million would be sufficient for Montgomery County’s 2018 election cycle.

However, there are significant differences. First, New York does not prohibit participating candidates from raising additional contributions greater than the \$175 (which is the limit of what New York will match), and second, their Fund doesn’t distribute its matching payments until relatively close to the date of the election.

Because our program prohibits participants from raising any contributions over the \$150 matchable limit, they will find themselves considerably more dependent on public funds than New York participants, and will be highly motivated to try to earn the maximum public contribution.

Additionally, four of the five 2018 term-limited vacancies in Montgomery County are county-wide (i.e. more expensive), whereas New York has a much smaller percentage of city-wide offices.

Finally, it must be noted that New York, notwithstanding their extensive experience with predicting how much public money would be needed for matching, actually appropriated \$50 million to their Fund for 2013 -- to be sure they would be able to provide full matching amounts to all qualifying candidates, even if the number of candidates should turn out to far exceed their estimates.

As we noted last year, 'protective over-budgeting' in this type of program does not waste any public monies: only the amounts actually earned by candidates are paid out; any surplus remaining is unspent, simply rolling over to the next election cycle. And it protects incumbents from criticisms of self-interest that could accompany last-minute decisions on supplemental appropriations.

With these considerations in mind, and to provide an additional margin of safety against a shortfall at the commencement of Montgomery County's important program, the Committee recommends an **FY2018 appropriation of \$5 million, which would bring the Fund total to \$11 million as of July 1, 2017.**

The Committee approved the foregoing report by a vote of 3-2. Members Greene, Schwartz and Scull voted in favor. Members Annis and Cohen voted against. The dissenters' view is appended as Attachment II.

## **Recommendation No. 2 -- Fund A Position Dedicated to Program Administration**

The Committee, by a vote of 4-0 with one abstention (Cohen), **recommends the County fund a position to assist with managing the Public Election Fund** in 2017 and 2018. Montgomery County's pioneering program is fortunate to have such a knowledgeable administrator as Jared DeMarinis at the State Board of Elections, and the County Department of Finance's David Crow has his office well on the way to being ready to receive and process requests for matching payments; but both of these officials have many other responsibilities, and it is expected that the program will generate many questions and requests for assistance.

We therefore suggest a new position, perhaps an intern, supervised by Mr. DeMarinis and available to work evenings, conducting training sessions, meeting with participating campaign staff, etc.

The Committee thanks the Council for the opportunity to assist in the development of the Public Election Fund program.

Respectfully submitted,

David Scull, Chair  
Sharon Cohen, Vice-Chair  
Lee Annis  
Margaret Greene  
Paul Schwartz

**PRIMARY**

	AVG_OPEN_P	AVG_OPEN_P	AVG_INC_PM	AVG_INC_PC	AVG_CH_PMT	AVG_CH_PCT
Mayor	4.5	69.9%				
PA/COMP	3.8	55.9%	1.0	57.2%	2.0	38.4%
Borough President	3.8	72.7%	1.0	42.3%	1.0	40.8%
City Council	3.3	84.1%	1.0	87.7%	1.8	83.9%

	Expected # of Seats	Expected # of Payments	Expected Payment (as % of max)	Maximum Public Funds	Expected Public Funds Payments
MAYOR (OPEN)	1	4.5	69.9%	\$3,534,300	\$11,115,810
PA/COMP (BOTH OPEN)	2	7.5	55.9%	\$2,209,900	\$9,271,974
BOROUGH PRESIDENT (5 OPEN)	4	15.2	72.7%	\$795,300	\$8,785,758
CITY COUNCIL (OPEN)	23	76.8	84.1%	\$92,400	\$5,966,650
CITY COUNCIL (INCUMBENTS)	14	14.0	87.7%	\$92,400	\$1,134,210
CITY COUNCIL (CHALLENGERS)	14	24.9	83.9%	\$92,400	\$1,932,442
<b>TOTAL</b>		<b>142.9</b>			<b>\$38,206,843</b>

Dissenting View of Sharon L. Cohen, Committee Vice Chair\*  
And Lee Annis, Committee Member

The Majority's 2017 Funding Recommendation

We strongly believe that, the majority's 2017 recommendation to add an additional \$1,000,000 to the Committee's 2016 recommendation for the County's Public Election Fund (PEF) program -- for a total of \$11,000,000 for the 2018 election cycle -- is unwarranted. We ask the County Council to REJECT this funding recommendation.

The County's PEF program is in its inaugural run. PEF matching funds will become available to qualifying candidates as early as late June 2017 for the 2018 election. Until recently, however, there has been virtually no easily identifiable information about the PEF program on either the Maryland Board of Elections website, our County's Elections website, or the County Council's website for that matter.

The PEF has been hidden from view until now. Other than incumbents and a few insiders who keep close tabs on the county's election-related processes, few, if any likely candidates for local office would even be aware that a PEF program exists. It is therefore entirely unreasonable to expect all 2018 candidates for local Montgomery County office to choose the PEF program.

Likewise, for those that do participate, participation does not mean all who participate will qualify to receive matching funds much less raise sufficient funds to receive the maximum pay out. Why? The thresholds to qualify and maximums are steep. And at the same time, the PEF program prohibits receipt of contributions over \$150.00 while also prohibiting candidates from accepting ANY contributions from unions, corporations, political action committees, and political parties. All together, many candidates simply will not qualify, NOR will they raise enough to receive the maximum payout from the PEF.

As was done last year, the majority's 2017 recommendation points to the New York PEF program. While interesting, the New York PEF program funding amount -- the \$50,000,000 noted by the majority -- in our opinion should have no bearing on our County's PEF program. These are two entirely different programs and they

are NOT comparable to one another. Furthermore, the New York PEF has been in existence for 30 years, while our program is in its infancy. We urge the Council to ignore any references to the New York PEF program when considering what amounts to allocate to our County's PEF program.

The calculations used by the majority to come up with a \$11,000,000 recommendation for 2017 were based on math that assumes all candidates who choose the PEF program WILL raise sufficient funds for all of them to receive the maximum payout. The \$11,000,000 amount is not an error of math it is an error in political judgment.

The majority opinion of the Committee also claims that the new County term limits provision -- starting in 2018 -- will cause droves of candidates to run for local office, and this likely uptick in candidates is another rationale for the additional \$1,000,000 for their PEF recommendation. It is indeed likely that more candidates may seek county office following the adoption of term limits; but for the aforementioned reasons, it is unreasonable to assume they will all participate in the PEF program, or that they all of them will qualify and raise sufficient funds to receive the maximum payouts. At a certain point, there are NOT enough politically active residents in Montgomery County who can -- much less will give -- to candidates for local office.

Another argument the majority on the Committee raises is, "it is better to overfund the PEF so there is no potential for a PEF short fall." Therefore, best to add another \$1,000,000 to the previous \$10,000,000 recommendation. There is absolutely nothing that would prevent the County Council from adding more funds to the PEF as part of the 2018 budget process or via a supplemental appropriation if, indeed, the PEF pot goes dry. In fact, the County Council passes supplementals all the time.

The last red herring proffered as an argument to overfund the PEF is that the current County Council members who are running for office as PEF candidates in 2018 would be uncomfortable adding more funds to the PEF if there is a shortfall, as it smacks of them putting funds into the PEF for their own campaigns. Surely if non-incumbent PEF candidates qualified to receive matching funds, raised sufficient funds to receive the maximum payout but the PEF was short, the Council's failure to appropriate a supplemental would be seen by the public as

unfair incumbent protection of current Council Members. Perhaps we should just ask the current County Council members, if there were a PEF shortfall due to challengers qualifying and maxing, would they commit to adding more funds to the PEF?

In closing, we point out the majority's recommendation has moved from one of adequate funding for the PEF to one of "overfunding." We do not agree nor support any need to make an "overfunding recommendation." We ask the County Council to REJECT the majority's funding recommendation.

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\* Committee, Vice Chair maintains her opposition to the majority's 2016 \$10M recommendation and continues to support funding in the \$2.5 to \$2.3M range.