

**Report of Takoma Park's
Task Force on Sustainable Banking and Investments
March 22, 2022**

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Table of Acronyms

ACH	Automated Clearing House
CD	Certificate of Deposit
DOL	Department of Labor
ERISA	Employee Retirement Income Security Act
ESG	Environmental, Social, and Governance
ETF	Exchange-traded fund
EU	European Union
FDIC	Federal Deposit Insurance Corporation
GABV	Global Alliance for Banking on Values
GHG	Greenhouse gas
HLRW	High-level radioactive waste
ICAN	International Campaign to Abolish Nuclear Weapons
IFRS	International Financial Reporting Standards
ISS	Institutional Shareholder Services
ISSB	International Sustainability Standards Board
MBS	Multibank Securities, Inc.
MLGIP	Maryland Local Government Investment Pool
NFTPC	Nuclear-Free Takoma Park Committee
NFZA	Nuclear-Free Zone Act
NGO	Nongovernmental organization
NRC	Nuclear Regulatory Commission
OCC	Office of the Comptroller of the Currency
RFP	Request for Proposal
SRI	Socially responsible investing
SEC	Securities and Exchange Commission
SRPS	[Maryland] State Retirement and Pension System
SBIC	Sustainable Banking and Investment Committee
TCFD	Task Force on Climate-Related Financial Disclosures
VRF	Value Reporting Foundation

Executive Summary

This report examines how the City of Takoma Park can screen its banking arrangements and investments against a set of Environmental, Social, and Governance (ESG) criteria. The City, like each of us, has a choice – to allow our money and investments to be used for whatever purpose someone else chooses or to intentionally put our money and investments in places that support the goals and values of our community. We recommend to the Mayor and Council that the latter course is the wiser one for the reasons detailed in the report. The City could change the bank that provides its checking account and other banking services. The City’s investments are limited, and are mostly short-term debt instruments, certificates of deposit (CDs) and amounts invested through the Maryland Local Government Investment Pool (MLGIP). Longer-term investments, including in corporate stock, are held by the police pension fund, but the fund’s investment policy is not directly under the City’s control.

The task force recommends that the City:

- revise its investment policy to require consideration of ESG criteria in all banking and investment decisions;
- mandate divestment from large fossil fuel reserve holders in its directly managed investments;
- issue a request for proposal (RFP) for institutions that can provide banking services to the City, and include ESG criteria as a required or “preferred” evaluation factor in review of the proposals or offers received;
- favor the purchase of CDs issued by financial institutions that are ESG-friendly;
- urge the pension fund to consider ESG criteria and divestment from major fossil fuel reserve holders in administering its investments;
- work with other governmental entities participating in the MLGIP and encourage the MLGIP to consider more explicitly the social impact of its investments.

The task force recommends that the Nuclear Free Takoma Park Committee (NFTPC) --

- continue to review work within the City that may violate the prohibition on working with or investing in companies that produce nuclear weapons;
- continue to be able to review purchases to assure compliance with City Code prohibitions on contracting with nuclear weapons producers;
- review compliance of the City’s investment policy with the Nuclear Free Zone Act;
- continue its educational and research functions.

The task force does not believe it is in a position to provide a recommendation on nuclear power. Separate views of some task force members on nuclear power are set forth in Appendix D to this report.

Introduction

The task force on sustainable banking and investments (“task force”) was established by City of Takoma Park Resolution 2021-31, with a mandate to make recommendations to the City Council

on how to implement a sustainable banking and investment policy, as well as how to update the implementation of the City’s Nuclear-Free Zone Act. This report provides background on the City’s banking and investment arrangements, discusses the definition of environmental, social and governance (ESG) criteria, what other jurisdictions have done, and the operations of the Nuclear Free Takoma Park Committee. The report also provides recommendations.

Takoma Park is a small jurisdiction. What we do as a city may not make a huge amount of difference to the world if the amounts of emissions we reduce or the finance we redirect are looked at on their own. However, Takoma Park can play a role, as it has done in the past, for example by enacting and implementing the Nuclear Free Zone Act and taking action on climate change. Takoma Park can join and reinforce the actions of others and it can be a leader.

This report looks at actions other jurisdictions have taken, and proposes steps and approaches that other jurisdictions, organizations, investors, and individuals can take into account in determining their own response to the existential issues of nuclear proliferation and climate change.

I. Background

A. Takoma Park Banking and Investments

1. Banking

The City of Takoma Park, Maryland (“the City”) receives financial services from Truist Bank,¹ where it holds checking accounts. These accounts include a general fund checking account (\$12.9 million, as of November 2021), as well as checking accounts for specific funds, including the American Rescue Plan Fund (\$8.7 million), the Stormwater Fund (\$430 thousand), and Speed Camera Fund (\$5.2 million). The funds need to be accounted for separately, but the City has discretion on where to hold the accounts. There is a \$200 to \$300 monthly service charge for online banking. The City reports a day’s delay in seeing transactions.

The City receives cash and checks for various municipal services that must be deposited into its general fund checking account. Montgomery County and the State of Maryland also make direct deposits into the City’s checking accounts. City employees must go to a branch to make deposits; a branch of Truist Bank is located on Laurel Avenue, in Old Town Takoma Park. Most City staff are paid via direct deposit, but approximately 20 prefer physical checks, which they can cash at the local Truist Bank branch. In addition to the checking accounts, the City holds 25 credit cards issued by Truist Bank, which are used by city directors and managers. The bank does not charge fees for these credit cards.

Approximately 2,700 vendors work with the City and are paid via check from the City’s checking accounts. Sometimes the City makes ACH deposits to vendors or uses wire transfers. The City’s financial software is used to approve payments to vendors. The City’s

¹Suntrust Bank merged with another bank to become Truist Bank.

current plans to modernize its financial system reportedly include a plan to move to electronic vendor payments.

2. Investments

The City invests primarily in highly liquid, low-risk assets, including certificates of deposit (CDs). The longest-term CD it holds is five years; most are shorter-term. In making investments in CDs, the City makes FDIC-protected investments limited up to \$250,000. Amounts invested in excess of \$250,000 are not FDIC-insured. Public funds are required to be collateralized, per Maryland law.² The balances of the City's Public Fund checking accounts are collateralized by Truist, thus providing security for repayment. The Federal Reserve Bank provides safekeeping for the collateralized securities.

The City also holds approximately \$1.4 million in the Maryland Local Government Investment Pool (MLGIP). The MLGIP is managed by PNC Bank and administered by the Maryland State Treasurer. It was created in 1982 to provide local governments in Maryland with an investment vehicle for short-term investments with the following objectives: preserve the capital invested, provide a competitive rate of return, and offer a readily available source of daily liquidity. The MLGIP is rated 'AAAm' by Standard & Poor's and primarily invests in short-term U.S. Treasury obligations, commercial paper, federal agency paper, corporate notes, and other money-market funds, in addition to repos collateralized by U.S. Treasuries or Agencies. The City has limited discretion over how MLGIP funds are invested, but has some choice between mutual fund and other investments.³

The City invests in CDs with Multibank Security, Inc., which is a CD brokerage. The broker is Marshall Hoffman. As noted above, each CD is \$250,000 or less and offered by various banks with FDIC insurance. The City can decide with which banks it purchases CDs; it favors local banks. The criteria that the City uses to determine which CD it purchases are term and yields, in that order of preference.

3. Police Pension Fund

The police employees' retirement plan is governed by chapter 4.24 of the City Code. Under section 4.24.170, the City is responsible for making contributions sufficient to fund the benefits provided by the plan. The police pension plan is a defined benefit plan, based on retiring participants' compensation and years of service.⁴ The plan is administered by a retirement plan committee. A majority of the members of the committee are employees of or appointed by the

² See Maryland Code, Local Government Article sections 17-101 through 17-208. These provisions provide the framework for how local governments can invest their assets.

³ Sections 17-301 through 17-309 of the Local Government Article of the Annotated Code of Maryland establish the Maryland Local Government Investment Pool and assign to the State Treasurer's office the responsibility for administering the Pool. The management of the Pool has been contracted out to the PNC Financial Services Group, Inc.

⁴ Takoma Park City Code, section 4.24.220.

City.⁵ The retirement plan committee must exercise its duties in a fiduciary capacity “solely in the interest of the participants and beneficiaries.”⁶

There are several implications of this arrangement. The City Council cannot decide on the pension fund’s investment policies, since these are determined independently by the retirement plan committee. The pension fund is free to adopt ESG criteria, subject to the constraint of its fiduciary responsibility. For example, its fiduciary responsibility calls for a certain degree of diversification of pension fund investments. Bolton (the pension fund’s financial advisor and actuarial service) gives an update every six months to the retirement plan committee, which makes investment decisions. The police pension fund is composed of assets invested in several mutual funds (currently about nine), with a limited amount in Treasury bills, and totals to about \$20-25 million at current market value. The precise asset allocations vary from time to time; as of January 1, 2021, the pension fund’s assets were invested about 54 percent in domestic equities, 13 percent in international equities, 31 percent in fixed income assets (bond funds), and 2 percent in cash. Most of the value of the mutual funds held by the pension fund was in index funds.

B. Policy Background

The City’s current investment policy was adopted in 2001.⁷

In resolution 2019-15, the City Council declared a climate change emergency, and called for accelerating an update of its Sustainable Energy Action Plan that would “propose nation-leading policies for our community.”

In resolution 2020-6, the City Council reiterated its support for policies to confront climate change, including the adoption of: “Sustainable investment and banking policies and practices, including phasing out the use of financial funds or institutions that support or benefit from the fossil fuel industries, as feasible.”

By resolution 2021-6, the City adopted the following among several other priority goals for 2021:

“Goal: Adopt sustainable investment and banking policy and practices.

Strategy: Identify and work with a consultant to determine potential next steps in adopting sustainable investment and banking policies and practices, taking into account the concerns raised by the Nuclear Free Committee about Truist Bank...and considering required City staff resources and financial cost to implement.

⁵ Id. section 4.24.430.

⁶ Id. section 4.24.460.

⁷ See infra note 60.

Desired Outcome: Work to align the City’s banking and investments with the community’s social responsibility values.”

On Sept. 22, 2021, the Takoma Park City Council adopted resolution 2021-31, “ESTABLISHING A TASK FORCE ON SUSTAINABLE BANKING AND INVESTMENTS.” This resolution built on previously adopted city policies to be nuclear-free and engaged in policies to slow global warming.

The Takoma Park Nuclear Free Zone Act (City Code Chapter 14.04), adopted in 1983, established the City as a nuclear-free zone “in that work on nuclear weapons is prohibited and that harmful exposure to high-level nuclear waste is limited within the City limits” (14.04.020). The Nuclear Free Zone Act contemplates a socially responsible investment policy and implementation plan (Section 14.04.050), specifically addressing investments in industries and institutions engaged in the production of nuclear weapons.

The City’s Climate Emergency Response Framework (2020) sets a goal of aggressively moving to net zero greenhouse gas emissions by 2035 and identifies updating the City’s sustainable investment and banking policies and practices as a priority strategy, including phasing out the use of financial funds or institutions that support or benefit from the fossil fuel industries, as feasible.

C. Legal Framework

The City is constrained by the city code and Maryland law in terms of what to do with its money. Section 17-101⁸ limits the City to investing in time deposits and CDs that are FDIC-insured or are collateralized, or to investing in the MLGIP. Section 17-102 provides much more flexibility for how the assets of a city pension fund may be invested, while requiring fiduciary standards to be met for such investments. Section 17-204 requires the City to follow investment guidelines promulgated by the State Treasurer by regulation. Section 17-205 requires the City to adopt by resolution a local investment policy. The City must invest its funds in accordance with its adopted local investment policy.⁹

II. Sustainable Investing: Definitions, Frameworks, and Methods

A. Defining Sustainable Investment

Sustainable investing typically refers to investing whereby investors screen companies based on their performance against a holistic set of ESG criteria.¹⁰ The terms “impact investing” and “socially responsible investing” (SRI) are often used interchangeably with ESG investing, although impact investing can more specifically refer to investment that has a positive impact in some way, whereas SRI can actively eliminate or select investments according to specific ethical

⁸ Section references are to the Maryland Code, Local Government Article.

⁹ Section 17-206.

¹⁰ <https://www.investopedia.com/terms/e/environmental-social-and-governance-esg-criteria.asp>.

guidelines.¹¹ ESG investing can also target such outcomes, but tends to adopt a more diversified approach assessing a company's comprehensive performance against the following metrics:

Environment: Can encompass a company's energy use, waste management, pollution/emissions (including greenhouse gas, or GHG, emissions), water and biodiversity conservation, protection of the natural environment and treatment of animals, or a combination thereof.

Social: Can address how a company manages relationships with employees, suppliers, customers and the communities in which it operates. This can include labor standards and employee relations, gender equity, production quality and safety, local community impact, equal employment opportunities, unionization, and health care, education, and housing services.

Governance: Can address how a company deals with its leadership, executive pay, audits, internal controls, board diversity, and shareholder rights.

B. Sustainable Investing Has a Sustainability Objective While also Seeking Competitive Financial Returns

Investors are increasingly adopting sustainability or ESG criteria to help guide their investment strategies. Total U.S.-domiciled assets under management using ESG strategies increased by 42 percent from the end of 2017 to \$17.1 trillion in 2020.¹² The Organization for Economic Co-Operation and Development cites research that “firms with strong ratings on material sustainability issues have better future performance than firms with inferior ratings.”¹³ According to Morningstar: “Every one of the baker's dozen ESG index funds outperformed the S&P 500 during the 2020-21 period, and all finished comfortably in the category's top quartile.”¹⁴

C. ESG Investing Relies on a Voluntary System of Company Sustainability Disclosures

There is no one agreed set of standards to define sustainability or ESG. Companies can voluntarily report on their ESG performance and their climate risks and opportunities through a broad set of nongovernmental organization (NGO) frameworks and standard setters.¹⁵ ESG disclosures are often conveyed through company sustainability reports.

¹¹ <https://www.investopedia.com/financial-advisor/esg-sri-impact-investing-explaining-difference-clients/>

¹² <https://www.ussif.org/trends>

¹³ www.oecd.org/finance/ESG-Investing-Practices-Progress-and-Challenges.pdf

¹⁴ <https://www.morningstar.com/articles/1074881/sustainable-index-funds-produce-strong-gains-in-2021>

¹⁵ Companies may soon be required to include climate disclosures in financial filings to the SEC in a new proposed rule expected in Q1.

Third-party ESG rating agencies assign scores to public companies based on their ESG performance. However, ESG scores can be inconsistent and unreliable. Investors can assess more meaningful ESG information by interacting with companies and assessing their disclosures using established frameworks, including but not limited to:

Task Force on Climate-Related Financial Disclosures (TCFD): The TCFD is the leading framework to help public companies and other organizations disclose climate-related risks and opportunities. Its recommendations are structured around four thematic areas: governance, strategy, risk management, and metrics and targets.

The Value Reporting Foundation (VRF): The VRF operates the SASB Standards, sector-specific ESG disclosure topics that are likely to affect an organization's financial condition. More than half of the companies in the S&P Global 1200 index, which captures approximately 70 percent of global market capitalization, use SASB Standards in their external communications to investors.

International Sustainability Standards Board (ISSB): Launched at COP26 by the IFRS Foundation, which will be developing a baseline of sustainability disclosure standards to be adopted by jurisdictions globally, the ISSB is consolidating with other ESG standard-setters this year (including the VRF). The launch of the ISSB is the most significant step so far in the effort to make ESG data consistent and comparable globally.

CDP (Formerly known as the Carbon Disclosure Project): CDP runs a global disclosure system for investors, companies, cities, states, and regions to manage environmental impacts, and provides scores based on performance. It focuses on climate, water, and forests. Takoma Park has received an A rating from CDP.¹⁶

D. Active vs. Passive ESG Investment

While the majority of sustainably invested assets are in actively managed funds (which directly interact with companies and assess their disclosures), passive ESG investing may better suit certain investors due to lower fees and less maintenance.¹⁷

In the United States, there are more than 600 ESG funds and Exchange Traded Funds (ETFs) available, representing \$161 billion in assets under management.¹⁸ Diversified ESG Funds broadly invest in stocks and bonds with differing ESG styles and objectives. They can avoid investments in companies that do not meet certain ESG criteria, but the specifics can vary.¹⁹

¹⁶<https://takomaparkmd.gov/news-alert/takoma-park-one-of-95-global-cities-named-as-climate-leaders/>

¹⁷https://www.ussif.org/files/Publications/Rise_of_ESG_%20passiveinvestments_2020.pdf

¹⁸ Source: Morningstar Direct. Data as of July 31, 2020.

¹⁹ <https://investor.vanguard.com/investment-products/esg>. For example, the Vanguard ESG US stock ETF does not own shares in businesses that produce alcohol, tobacco, or certain other controversial products, produce nuclear

Other sustainable funds that are less diversified than ESG fund options may present *greater risk*, such as **Impact Funds**, which take a more thematic approach and exclude certain investment categories; **Sustainable-Sector Funds** that focus on “green economy” industries;²⁰ and **Climate-Aware Funds** which are climate-focused products that seek to invest in companies with low carbon footprints or clean energy commitments.²¹ To limit greenwashing concerns, Morningstar Sustainability Ratings and other services measure fund portfolios’ aggregate exposures to ESG risks.

E. Regulation of ESG

Jurisdictions are beginning to regulate what investors and companies can claim as sustainable or ESG investments.²²

F. The Risks of Divestment

For various reasons, applying ESG criteria might increase or decrease the risk or return of a portfolio. If a specific set of sustainability criteria, for example, is so restrictive that it prevents diversification across a broad range and types of investments, it can increase the risk that the portfolio will underperform against benchmarks. On the other hand, proactively divesting out of carbon intensive industries, for example, particularly exploration, extraction, and sale of fossil fuels, may decrease a portfolio’s performance risk because those companies lose value as the world decarbonizes. Other companies dependent on fossil fuels as an input for production of other goods may also lose value from cost increases and other structural risks such as “stranded assets” that are too expensive to operate or are required to cease operating. Similar scenarios apply to other kinds of targeted divestment across the entire spectrum of ESG investment goals. Questions that readers of this report might consider in deciding whether and how to apply ESG criteria are found in Appendix A to this report.

III. Learning from Other Jurisdictions

A. Divestment and Sustainable Investment History in Other Jurisdictions

The term “ESG” is relatively new in the history of sustainable banking and investment policies in U.S. cities and states. Beginning around 2010, municipalities took up divestment from fossil-fuel interests in response to climate change independently of broader objectives in social, racial, and economic equity that comprise the “S” and “G” of what we know as ESG today. Takoma Park and other cities considered in this section now often discuss divestment from fossil fuels as

power, do not meet certain diversity criteria, have violations under the UN Global Compact Principles, or own proved or probable reserves in fossil fuels such as coal, oil or gas.

²⁰<https://www.morningstar.com/articles/1032486/how-to-find-the-right-esg-fund>.

²¹<https://www.morningstar.com/articles/1062299/the-number-of-new-sustainable-funds-hits-an-all-time-record>.

²² See Section III for more detail.

a tool of ESG. In that regard, the following section discusses both divestment and ESG in the broader context of Takoma Park’s sustainability goals.

Divestment traces its roots to the Anti-Apartheid movement in the 1960s, which has been credited with helping to end that system in the 1980s.²³ Some trace the fossil fuel divestment movement to Bill McKibben and Naomi Klein’s “Do The Math” tour in 2012, which encouraged universities to divest their endowments from fossil fuels. Since that time, at least 21 universities and about 45 cities have divested from fossil fuels in the United States.²⁴ These cities include:

- Boston
- Denver
- New York City
- San Francisco
- Seattle
- Washington, DC

There is no national database for state and local government adoption of ESG guidelines for managing public assets.²⁵ In contrast, there is a global database for divestment from fossil fuels managed by a collaboration of nonprofits.²⁶ By all accounts, the number of jurisdictions and the total asset value under management for both categories are very large and growing rapidly. According to one source, city and state assets worldwide “involved in sustainable investment portfolios” increased to \$2.9 trillion by 2019.²⁷ For divestment from fossil-fuel industries, the comparable figure is about \$40 trillion worldwide for all institutions. A more complete list of cities in the United States and around the world which have divested can be found in Appendix B.

B. Divestment Rationale

Early divestment rationales focused on challenging the moral implications of investing in fossil fuels. But the argument has shifted in recent years to be focused on the economic importance of considering sustainability as a fiduciary duty. As New York’s Controller Thomas P. DiNapoli said in December 2020 regarding the state’s decision to divest, this decision was made “to protect long-term value of the pension fund.”²⁸

²³[History-of-Divestment.pptx \(live.com\)](#).

²⁴ Ibid.

²⁵<https://www.scu.edu/ethics/all-about-ethics/trends-in-the-implementation-of-esg-policies-in-state-and-local-governments/>

²⁶<https://divestmentdatabase.org/about/>

²⁷<https://www.scu.edu/ethics/all-about-ethics/trends-in-the-implementation-of-esg-policies-in-state-and-local-governments/>.

²⁸<https://www.nytimes.com/2020/12/09/nyregion/new-york-pension-fossil-fuels.html>.

C. Federal Government

President Biden’s Executive Order 14030 directs a whole-of-government approach to climate-related financial risk.

In March 2021, the Securities and Exchange Commission (SEC) established a Climate and ESG Task Force in the Division of Enforcement to identify ESG-related misconduct, including the identification of any material gaps or misstatements in issuers’ disclosure of climate risks under existing rules and analyzing disclosure and compliance issues relating to investment advisers’ and funds’ ESG strategies.²⁹ SEC staff is now drafting a proposed rule on climate disclosures that would require companies to include information on their climate risks and opportunities in their financial filings. The proposed rule is expected shortly.

In October 2021, the U.S. Department of Labor’s Employee Benefits Security Administration published proposed rules on fiduciary responsibility in selecting ERISA plan investments and exercising shareholder rights. The rules intend to warm the chilling effect on ESG investments created through 2020 DOL rules that limited consideration of ESG-type factors by fiduciaries when selecting ERISA plan investments. The Biden administration had ceased enforcing the 2020 rules earlier in 2021.³⁰ The October 2021 proposed rule retains “the rule that investment decisions and the exercise of shareholder rights must be based solely on risk and return factors... and do not offer a “safe harbor” for adding an ESG-themed fund to a 401(k) or 403(b) plan lineup.”³¹ However, if finalized, the proposed rules “should provide ERISA fiduciaries with some comfort that they will not be penalized for appropriately considering ESG-type factors when weighing investment alternatives, where those factors are material to the risk-return analysis.”³² The City’s police pension plan needs to comply with ERISA rules.

Other agency actions are also ongoing with new guidance and regulations expected in 2022. The Financial Stability Oversight Council released a report in October 2021 identifying “climate change as an emerging and increasing threat to U.S. financial stability,” and recommending that federal agencies take actions on climate change data, disclosure, and scenario analysis.³³ The Treasury Department has announced a coordinated climate policy that will leverage finance and financial risk mitigation to confront climate change.³⁴ The Federal Reserve is recommending that member banks perform climate stress testing to test the resilience of financial institutions to climate-related risks and has established staff committees to address climate issues.³⁵ The Office of the Comptroller of the Currency (OCC) is requesting feedback on draft principles designed to support the identification and management of climate-related financial risks at OCC-regulated institutions with more than \$100 billion in total consolidated assets, to inform any future

²⁹<https://www.sec.gov/sec-response-climate-and-esg-risks-and-opportunities>.

³⁰<https://www.arnoldporter.com/en/perspectives/publications/2021/03/biden-dol-announces-nonenforcement-policy-on-esg>.

³¹ <https://www.jdsupra.com/legalnews/dol-s-latest-esg-proposal-the-more-8559840/>

³²<https://www.jdsupra.com/legalnews/dol-s-latest-esg-proposal-the-more-8559840/>.

³³<https://home.treasury.gov/news/press-releases/jy0426>.

³⁴<https://home.treasury.gov/news/press-releases/jy0134>.

³⁵ <https://www.complianceweek.com/risk-management/fed-recommends-member-banks-perform-climate-change-stress-tests/30916.article>.

guidance.³⁶ The Commodity Futures Trading Commission established a “climate risk unit” to assess derivatives markets.

D. International Regulation

Jurisdictions internationally have also begun to take a wide variety of actions to regulate how companies are disclosing ESG information and mitigating climate risks in the financial system.

Notably, in the EU, public companies with more than 500 employees are now required to disclose in their annual reports what percentage of the operations fall under the EU’s “green taxonomy.”³⁷ The United Kingdom’s Financial Conduct Authority (FCA) also began requiring large companies to report against the TCFD-aligned climate disclosures in January 2022.³⁸

In November 2021, the International Financial Reporting Standards (IFRS) Foundation announced the creation of the International Sustainability Standards Board (ISSB) to create a global benchmark for sustainability reporting, in response to investors’ requests for more consistent, comparable, and reliable ESG information. The ISSB is intended to bring sustainability reporting to the same level as financial reporting, and act as a sister organization to the International Accounting Standards Board (IASB). The ISSB will begin by developing a climate disclosure benchmark and continue with other ESG categories over the next few years. It is expected that jurisdictions internationally will fully adopt or align their ESG regulations with the ISSB’s benchmarks.³⁹

E. Technical and Process Issues in Other Jurisdictions

This section describes *what* other U.S. cities have done to meet similar mandates and *how* they approached the challenge. Not surprisingly, how sustainable investment goals are achieved varies among cities.

While there is no standard policy for sustainable investment and banking for municipalities, there is an extensive amount of academic research, general information, and shared experiences available to interested parties. Sources reviewed for this study indicate that the path toward a climate-friendly approach to investment management includes narrowly defined ESG criteria that are either more prohibitive or proactive on climate on balance. For example, some divestment policies focus more on what should *not* be in a climate-friendly portfolio (e.g., New York State pension fund) than what should be (e.g., targeting renewable energy companies). Notably, some investment policies that refer to a third-party, publicly available

³⁶<https://www.occ.treas.gov/news-issuances/news-releases/2021/nr-occ-2021-138.html>.

³⁷ See Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment.

³⁸<https://www.esgtoday.com/fca-announces-rules-requiring-climate-disclosure-for-asset-managers-listed-companies-starting-2022/>.

³⁹<https://www.ifrs.org/news-and-events/news/2021/11/ifrs-foundation-announces-issb-consolidation-with-cdsb-vrf-publication-of-prototypes/>.

resource for identifying specific companies or funds become outdated if that resource is not maintained or ceases to exist.

Overall, a review of other jurisdictions shows that the process for adopting a sustainable investment policy (after the mandate is created) appears to follow these steps:

1. Identify the critical stakeholders: city management, citizen representation, investment and banking service providers.
2. Identify types of city assets and how they are governed.
3. Do due diligence on the legal and regulatory requirements on changing investment policies.
4. Define terms – what do we mean by ESG, social sustainability, climate-friendly, fossil-fuel free? For example, the state of Massachusetts was explicit in identifying the fossil-fuel industry as upstream exploration and extraction, e.g. “the oil and gas majors” and not industries depending on fossil fuels in their processes (e.g. auto industry, aluminum production, cement industry, et al). This can be facilitated by the widely accepted measurements of “Scope 1, 2 and 3” emissions of a given industry.
5. Identify “success” with objectives and targets, with stakeholder input.
6. Ensure responsible parties (e.g., financial managers and administrators) have resources to implement new policies, whether internally or externally.
7. Adopt a plan with timelines and milestones, as well as monitoring and reporting protocols

F. City Examples

Some examples of cities follow below:

Baltimore

The City of Baltimore passed legislation in October 2021 requiring all three municipally administered pension funds to divest from fossil fuels within five years starting January 1, 2022.⁴⁰ These include the \$3.5 billion Baltimore City Fire & Police Employees’ Retirement System, the \$2.2 billion Baltimore City Employees’ Retirement System and the \$31 million Baltimore Elected Officers’ Retirement System. The Executive Director of the Fire & Police Employees’ Retirement System supported the change, noting that increasing rules around ESG were “redefining” the future of pension funds.⁴¹ The law requires the pension funds to divest from companies listed on the Carbon Underground 200 or any successor index, “[an index that] identifies the top 100 coal and the top 100 oil and gas publicly-traded reserve holders globally — ranked by the potential carbon emissions of their reported reserves.”⁴²

⁴⁰<https://baltimore.legistar.com/LegislationDetail.aspx?ID=4918058&GUID=11F71D0D-C54E-4684-9539-61159ECCB467&Options=&Search=>.

⁴¹<https://www.marylandmatters.org/2021/10/05/baltimore-mayor-signs-bill-mandating-city-pension-funds-divest-from-fossil-fuels/>.

⁴² <https://fossilfreefunds.org/carbon-underground-200>.

Boston

The Boston ordinance was signed into law in December 2021 and requires divestment from fossil-fuels, tobacco products, and private prison industries. The ordinance prohibits the use of public funds (including pension funds) from being invested in the stocks, securities, or other obligations of these industries. It prescribes a revenue threshold for fund administrators to identify divestment targets, which states that any company that derives more than 15 percent of its revenue from fossil fuels, tobacco products, or private prisons must be excluded from the investment portfolio, with full divestment to be achieved by 2025.⁴³

Questions have arisen about entities – such as power generation companies that burn coal, gas, and oil - that earn 15 percent of their revenue from the *combustion* of fossil fuels. Some jurisdictions (e.g., Massachusetts) have avoided targeting utilities and power generation companies because they perceive them as performing critical social functions and key to the transition to non-fossil electricity.

Massachusetts

The State of Massachusetts Pension fund will not divest from fossil-fuel industry. Instead, in partnership with the NGO Climate Finance Action,⁴⁴ the Massachusetts State Employees' Pension fund will engage as a shareholder with all companies in its portfolio, including fossil-fuel companies, to force change through shareholder activism, following the examples of recent shareholder actions at ExxonMobil and Chevron.⁴⁵ If a given company does not adopt a plan to reduce greenhouse gases in line with science based targets for capping global warming at 1.5 degrees Celsius, the pension's board of directors will vote against the company's slate of directors at the next annual company board meeting. Part of the rationale for this approach, according a representative of Climate Finance Action, is that the Massachusetts pension funds' investments in fossil fuel represent a very small fraction of its total assets (ca. 2 percent), thus the state should leverage other shareholders' power through active engagement to "cover a much bigger portion of the \$95 billion pension portfolio that we have."⁴⁶ Further information on this approach is available from the Institutional Shareholder Services group of companies (ISS).⁴⁷

Berkeley

The City of Berkeley has adopted a "Responsible Investing" objective in its investment policy that includes seven distinct sub-objectives, each linked to discrete city ordinances.

⁴³ <https://www.boston.gov/news/mayor-wu-signs-ordinance-divest-city-funds-fossil-fuel-industry>.

⁴⁴ <https://www.climatefinanceaction.org/>.

⁴⁵ <https://www.theguardian.com/business/2021/may/26/exxonmobil-and-chevron-braced-for-showdown-over-climate>.

⁴⁶ <https://www.bostonglobe.com/2021/11/18/science/beyond-divestment-massachusetts-pension-fund-may-soon-be-used-fight-against-climate-change/>.

⁴⁷ <https://www.issgovernance.com/library/2021-us-proxy-season-climate-related-voting-trends/>.

The Responsible Investing objective is the last of four primary objectives listed in order of priority for investment managers, after protection of principal, liquidity, and yield. The most recently added sub-objective under Responsible Investing includes ESG principles applicable to all investing, in contrast to the specific industries and sectors called out in the others (non-nuclear, fossil-free, gun and tobacco industries, prison and detention camp industries, business involved in the Mexico border wall, and weapons writ large).⁴⁸ The ESG clause refers to an appendix which includes descriptors for ESG screening without reference to a preferred portfolio or index. Notably, for fossil fuel divestment, it refers to a third party monitoring group, similar to Baltimore’s policy, stating, “a ‘fossil fuel company’ shall be defined as any of the two hundred publicly-traded companies with the largest coal, oil and gas reserves as measured by the gigatons of carbon dioxide that would be emitted if those reserves were extracted and burned, as listed in the Carbon Tracker Initiative’s “Unburnable Carbon” report.”⁴⁹ This kind of target, tied to a specific measurement of avoided CO₂ from fossil fuel consumption, is associated with science-based targeting that caps global warming at 1.5 degrees Celsius.

New York City

The New York City pension fund’s divestment from fossil fuels is one of the most prominent examples because of its size (approximately \$260 billion). Specifically, climate-divestment targets were adopted in January 2018 and completed in December 2021. The process laid out in 2018 included a legal opinion on whether or not divesting would be consistent with trustees’ fiduciary duties to beneficiaries. The oversight agency (Bureau of Asset Management) also commissioned a study on “risk and return characteristics” of a divested portfolio, as did the State of New York.⁵⁰

Copenhagen

Like Boston, Copenhagen, Denmark established revenue thresholds to screen for companies that should be excluded from investment portfolios. In this case, any company deriving more than 5 percent of its revenue from coal, oil, or gas would be excluded. Distinct from some other cities, Copenhagen did choose to target electric utilities. In this case, any utility that relied on coal for more than 50 percent of its total generating capacity would be excluded. According to one source, this approach affected 5 percent of Copenhagen’s total investment portfolio.⁵¹

G. Banking Services

The City has a checking account through which it receives income and makes payments. It also invests cash in CDs, which are issued by various banks and are FDIC-insured. If the City makes

⁴⁸<https://www.cityofberkeley.info/uploadedFiles/Finance/Home/Reports/Investment%20Policy.pdf>.

⁴⁹<https://www.cityofberkeley.info/uploadedFiles/Finance/Home/Reports/Investment%20Policy.pdf>.

⁵⁰Decarbonization Advisory Panel for New York State.

⁵¹Divesting From Fossil Fuels, Investing in our Future: A Toolkit for Cities; C40 Cities Climate Leadership Group; October 2019.

a decision to obtain banking services or CDs from different financial institutions, what options are available in terms of what other jurisdictions have done?

One option would be a public bank. There are very few public banks in the United States. An example is the Bank of North Dakota, founded in 1919. The Bank of North Dakota serves as the depository agency and provider of banking services for all state agencies.⁵² The Philadelphia City Council voted on March 3, 2022, to establish the Philadelphia Public Financial Authority, which would be the first public bank chartered by an American city. Since Maryland does not have a public bank, this is not an option for the City of Takoma Park at this time.

Green banks are specialized financial institutions, typically established with public funds. Montgomery County, within which Takoma Park is located, has a green bank. The Montgomery County Green Bank is a publicly-financed nonprofit dedicated to clean energy investments. It is not, however, a traditional bank in the sense of offering financial services such as checking accounts and CDs. Therefore, it would also not be an option for the City's banking services.

In February 2017, Seattle's City Council voted not to renew its contract with Wells Fargo, citing the bank's role in the Dakota Access Pipeline as well as other problems with Wells Fargo. The city council of Davis, California also voted not to renew its contract with Wells Fargo. However, Seattle found it difficult to locate another bank to offer it banking services, and therefore ended up sticking with Wells Fargo. The City of Los Angeles' Office of Finance has successfully moved away from Wells Fargo. It issued an RFP for banking services on January 5, 2018, and reported to the City Council on April 11, 2019, its decision to award contracts for banking services to several banks that had submitted proposals in response to the RFP.⁵³

Not many financial institutions have explicitly adopted socially responsible values. The Global Alliance for Banking on Values includes only about 14 banks in the United States, and these are typically small institutions. The Green Energy Federal Credit Union is a specialized credit union that was founded in 2017 and focuses on loans for renewable energy. It does not have any physical offices and so could not conveniently provide checking account services to the City, but it does offer CDs that are insured by the National Credit Union Share Insurance Fund (up to \$250,000). It is one of the few banks in the United States that focuses on renewable energy lending.⁵⁴

IV. Takoma Park as a Nuclear-Free Zone

Takoma Park's concern with socially responsible investment dates from 1983, initially being focused on investments in nuclear weapons producers. This concern was embodied in the Nuclear Free Zone Act, which the Nuclear-Free Takoma Park Committee helps to implement. In

⁵²See Yolanda Kodrzycki and Tal Elmatad, *The Bank of North Dakota: A Model for Massachusetts and Other States?*, New England Public Policy Center Research Reports 2011. In 2011, a commission set up by Massachusetts recommended not to establish a public bank in that state.

⁵³See the report to the City Council by LA's Office of Finance. http://clkrep.lacity.org/onlinedocs/2017/17-1259_rpt_OOF_04-11-2019.pdf

⁵⁴See <https://carbonswitch.co/the-best-climate-friendly-banks-in-2021>.

2017, the NFTPC brought to the City Council’s attention the City’s reliance on a bank that provides financing to nuclear weapons producers. The City Council held a working session on February 8, 2017, to discuss an NFTPC recommendation to change the bank that the City uses to one that does not provide finance to nuclear weapons manufacturers.

The City Council has asked the task force to review not only the socially responsible investment aspects of the NFTPC’s work, but also “the implementation specifics of the nuclear-free ordinance, to best fulfill the purposes of the ordinance and to coordinate with the city’s greenhouse gas emissions reduction goals and other priorities...”⁵⁵

A. The Nuclear-Free Zone Act

The City Council made Takoma Park a Nuclear-Free Zone in 1983 by enacting the Takoma Park Nuclear-Free Zone Act (NFZA).⁵⁶ The NFZA:

- Prohibited the production of nuclear weapons within the City;
- Contemplated a socially responsible investment policy, specifically addressing City investments in nuclear weapons producers;
- Prohibited City purchases from nuclear weapons producers, unless the City Council voted a waiver or the purchase was needed on an emergency basis;
- Established the Nuclear-Free Takoma Park Committee (NFTPC);
- Charged the NFTPC with making recommendations to the Council on how best to protect residents from harmful exposure to high-level nuclear waste transported through the City;
- Urged both City residents and City representatives (presumably, the Council) “to redirect resources previously used for nuclear weapons and nuclear power generation towards endeavors which promote and enhance life....”

The NFZA indicated a concern with both nuclear weapons and nuclear power, but its specific rules apply in different ways to each. With respect to nuclear weapons, the NFZA prohibits their production in the City, limits purchases from nuclear weapons producers, and calls for a socially responsible investment policy that addresses investment in nuclear weapons producers. The NFZA does not explicitly prohibit the City from doing business with banks that provide financing to nuclear weapons producers. On the other hand, the NFZA calls for the City to establish a socially responsible investment policy that could include such a prohibition (in line with the provision of the Nuclear Free Zone Act that urges redirection of resources away from nuclear weapons production).

The NFZA expresses a concern about the transport of nuclear waste through the City, but does not include specific steps to protect the City, leaving them for the NFTPC to make recommendations. Further, the NFZA does not explicitly call for the City to divest from nuclear

⁵⁵ Resolution 2021-31.

⁵⁶<https://www.codepublishing.com/MD/TakomaPark/#!/TakomaPark14/TakomaPark1404.html>.

power producers, although it does urge the redirection of resources away from nuclear power generation. For its part, the City has redirected its electricity purchasing power for municipal facilities to 100 percent wind power and is educating its residents on how to do the same.⁵⁷

B. The Nuclear-Free Takoma Park Committee

Resolution 2021-31 charged the task force to “Review and recommend updates to the implementation specifics of the nuclear-free ordinance, to best fulfill the purposes of the ordinance and to coordinate with the city’s greenhouse gas emissions reduction goals and other priorities, including: (a) clarify how the ordinance should apply to City uses and impacts of nuclear generated electric power as well as nuclear weapons, (b) update specific tasks and assignments in the ordinance, (c) consider specific tasks assigned to the Nuclear Free Committee...” The task force was not specifically asked whether the Nuclear Free Takoma Park Committee should continue as a City Council-appointed committee. The task force assumes that the City Council will wish to continue the NFTPC and accordingly has focused its recommendations on the specific tasks assigned to the NFTPC.

C. Listing Nuclear Weapons Producers

The NFTPC has advised the City on how to identify companies that are nuclear weapons producers. In 2014, the City followed the NFTPC’s recommendations by subscribing to the Morgan Stanley Capital Investment Custom DataFeed Service for this purpose. The list was updated in 2015 and 2016, and the subscription subsequently has lapsed. At that time, the NFTPC recommended that the City use the free annual subscription available online to the International Campaign to Abolish Nuclear Weapons’ (ICAN) “Don’t Bank on the Bomb” directory of nuclear weapons manufacturers (now top 25 manufacturers) and those financial institutions that support those nuclear weapons manufacturers.⁵⁸

D. Transport of High-Level Nuclear Waste

The NFTPC is to “make recommendations to the City Council ...on how best to promote the safety and welfare of the City from harmful exposure to high-level nuclear waste.”⁵⁹ To date, no High-Level Radioactive Waste (HLRW) has been proposed for transport in or near the City limits, and accordingly, the issue of risk to the City and its residents from such transport has not arisen. Nonetheless, with the recent federal licensing of two centralized interim storage systems in the western United States, there has been a resumption of federal planning for the mass transportation of HLRW principally generated from operating and decommissioning nuclear power stations.

⁵⁷ City of Takoma Park, Neighborhood Energy Challenge: Wind Edition, <https://takomaparkmd.gov/sustainability/renewable-energy-challenge/>.

⁵⁸ “Don’t Bank on the Bomb,” <https://www.dontbankonthebomb.com/>

⁵⁹ Takoma Park Code, section 2.16.250(E).

On February 2, 2022, an NFTP representative participated in the first of a series of upcoming public meetings convened by the U.S. Nuclear Regulatory Commission (NRC) to plan for potential large-scale shipments of spent nuclear fuel.⁶⁰ There are significant public health, safety, and security risks accompanying the contemplated transport of nuclear waste by the CSX railroad line that runs immediately next to the Takoma Metro Station and potentially on the Washington Beltway on a westward route to interim storage facilities now licensed in Texas and New Mexico - or potentially to a western deep geological nuclear waste repository at Yucca Mountain, Nevada.⁶¹

V. Recommendations

A. Socially Responsible Investment Policy

Current situation

The City's financial officials are required to invest City funds in accordance with the investment policy adopted by the City Council. The City's current investment policy has a section titled "Socially responsible investments."⁶² This section defines socially responsible investments by listing a number of general criteria and stating that: "When possible, these criteria will be considered in the process of investment of assets." The policy is more specific in the case of investment in nuclear weapons producers, stating that: "the City shall not invest in any industries and institutions which are knowingly and intentionally engaged in the production of nuclear weapons." The policy also spells out how to determine whether a particular company is a nuclear weapons producer.

Reasons for Change

The City's Climate Emergency Response Framework (2020) sets a goal of aggressively moving to net zero greenhouse gas emissions by 2035, and identifies updating the City's sustainable investment and banking policies and practices as a priority strategy, including phasing out the use of financial funds or institutions that support or benefit from the fossil fuel industries, as feasible.⁶³ While the City's investment policy is explicit about

⁶⁰ "NRC Preparations for Potential Large-Scale Commercial Shipments of Spent Nuclear Fuel," US Nuclear Regulatory Commission, Public Meeting, February 2, 2022, PowerPoint slides.<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML22032A322>

⁶¹ Department of Energy Final Supplemental Environmental Impact Statement (FSEIS) (2002) for the transport of HLRW westward to Yucca Mt., NV, MD railroad route: https://beyondnuclear.org/wp-content/uploads/2022/02/HLRW_transport-rte_-MD_Affected.pdf; OE FSEIS (2002), Yucca Mt. HLRW repository, DC railroad route: https://beyondnuclear.org/wp-content/uploads/2022/02/HLRW_transport_DC-States_Affected.pdf; DOE FSEIS (2002), Yucca Mt. repository, VA railroad route; https://beyondnuclear.org/wp-content/uploads/2022/02/HLRW_rte_VA_Affected.pdf

⁶² Adopted by Resolution 2001-7.

⁶³ E.g., <https://www.marylandmatters.org/2022/02/21/study-md-pension-fund-is-losing-money-by-holding-on-to-fossil-fuel-investments/>.

investments in nuclear weapons producers, the application of other ESG (including climate) criteria is vague. The policy essentially allows ESG criteria to be considered but does not set forth a clear mechanism for how they should be considered and what weight they should have. A requirement to consider ESG criteria and greater clarity on exactly how to do so would provide key operational guidance to City finance officials.

While upholding community values, ESG investing is also linked with strong financial performance (see Section II.B).

Section IX of the City's investment policy contains an outdated reference to a list of nuclear weapons contractors produced by Nuclear-Free America, an organization that is no longer operational.⁶⁴ This reference needs to be updated; the most appropriate way to do so is to reference the Nuclear-Free Takoma Park Committee, which is in a position to keep track of the most current and useful list of nuclear weapons contractors.

Proposal

The City should revise its investment policy to require consideration of ESG criteria in all banking and investment decisions and to provide specific, concrete guidance on how ESG criteria shall be taken into account. The City should consider a two-pronged approach that (1) proactively seeks to divest from securities (stocks, bonds, mutual funds, etc.) that include fossil-fuel companies; and (2) invest in securities that include a detailed ESG management plan, procedure, and record of implementing the corporate ESG policy.

There is no one-size-fits all approach to ESG investing. The City already uses exclusionary screening for nuclear weapons producers and should expand its exclusionary screening to large fossil fuel reserve holders, as outlined below. In the near-term, the task force recommends City staff assess other investments by referencing company ESG scores or investing in passive ESG investment funds. If the company does not have an ESG score, e.g. a private company, the City should assess that company's exposure to negative ESG criteria, specifically its exposure to fossil fuels, engagement in nuclear weapons, poor track record on racial justice and equity issues, and impact on deforestation. In the longer term, as resources are available, the City should review companies' sustainability disclosures via ESG and climate disclosure frameworks, such as the TCFD and the Value Reporting Foundation, to evaluate companies based on the ESG criteria outlined in the investment policy below. An investment advisor with expertise in ESG investing could help the City pursue an ESG portfolio aligned with the City's values while maximizing returns.

The task force did not come to an agreement about whether to recommend the City divest from nuclear power generators. While divestment from nuclear power generators could further the mission of the NFZA, task force members noted that several companies with

⁶⁴ Nuclear Free America (1945-2003), Special Collection and Archives. Oregon State University, <http://scarc.library.oregonstate.edu/findingaids/?p=collections/findingaid&id=3157>.

existing nuclear power assets actively engage in wind and solar project development. More research is needed to determine how divestment from nuclear power generators could affect the City's investment into companies positively contributing to the energy transition.

Recommended changes to sections IV and IX of the City's Investment Policy are as follows:

IV INVESTMENT OBJECTIVES

The primary investment objectives for all funds covered by this investment policy shall be, in order of priority, as follows:

[add a 4th investment objective]: 4. Social Responsibility.

The investment portfolio shall incorporate environmental sustainability, social responsibility, and governance (ESG) into the investment evaluation process as part of its overall risk assessment in its investments decision making. The integration of ESG considerations within the investment process supports Takoma Park's sustainability and climate objectives.

IX SOCIALLY RESPONSIBLE INVESTMENTS

Integrate ESG Principles in All Investment Decision Making

An ESG investment policy screens investments based on their performance against a diverse set of sustainability criteria. ESG criteria should be considered in the process of investment of assets with the same weight as other material factors influencing investment. While ESG criteria are intentionally diverse, as detailed below, and should be assessed holistically for each investment, the City prioritizes specific criteria core to our community's values, such as reduction of greenhouse gas emissions, increased renewable energy use, avoidance of fossil fuels, avoidance of exposure to nuclear weapons, racial justice and equity, and impact on deforestation.

Environment: Such as energy use, waste management, pollution, greenhouse gas emissions, climate opportunities, renewable energy utilization, water and biodiversity conservation, protection of the natural environment, and treatment of animals.

Social: Such as how a company manages relationships with employees, suppliers, customers, and the communities in which it operates. This can include labor standards and employee relations, affirmative action, gender equity, production quality and safety, job creation and local community impact, equal employment opportunities, peace and non-weapons production, human rights, unionization, worker health and safety, and health care, education, and housing services.

Governance: Such as how a company deals with its leadership, executive pay, audits, internal controls, board diversity, and shareholder rights.

There is not one agreed set of standards to define positive ESG performance. The City will consider the ESG scores of public companies from climate-focused, third-party ESG rating companies such as CDP, World Benchmarking Alliance, MCSI and Sustainalytics. The City and its investment advisors can also interact directly with companies to assess the sustainability disclosures they disclose voluntarily, including those reported using widely-used ESG frameworks such as CDP, the Task Force on Climate-Related Financial Disclosures (TCFD), and the Value Reporting Foundation (VRF). As appropriate, the city will also consider investing in ESG index funds that avoid investments in companies that do not meet certain ESG criteria, or in impact funds such as climate-aware funds that invest in companies with low-carbon footprints or clean energy commitments. The decision to invest in such funds should be made with an attitude of flexibility. The ESG criteria used by a particular fund may not align completely with the criteria preferred by the City, but this should not rule out investing in such a fund.

Divestment from Large Fossil Fuel Reserve Holders

The City of Takoma Park will suffer economic and financial losses from unchecked climate change. The City shall prohibit investments into companies that are included in the Carbon Underground 200™, which identifies the top 100 coal and the top 100 oil and gas publicly traded reserve holders globally. The City's pursuit of an ESG investment portfolio directed towards reducing carbon emissions upholds the City's goal of aggressively moving to net zero greenhouse gas emissions by 2035.

Divestment from Nuclear Weapons Producers

In addition to all other restrictions on City investments established by this Investment Policy and applicable law, the City shall not invest in any industries and institutions which are knowingly and intentionally engaged in the production of nuclear weapons. In determining whether or not an investment or proposed investment is with an institution which is a nuclear weapons producer, the City shall be guided by the list recommended by the Nuclear-Free Takoma Park Committee.

B. Banking Services

Current situation

The City receives banking services from Truist Bank, including checking accounts and credit cards.

Reasons for Change

Truist provides significant financing to nuclear weapons producers, according to the International Campaign to Abolish Nuclear Weapons (ICAN). There are several financial institutions with branches in the area that might meet ESG criteria, for example Sandy Spring Bank, State Employees Credit Union (SECU), and City First Bank of D.C.

Proposal

The City should issue an RFP for an institution that would provide banking services to the City. In addition to specifying the banking services required, the RFP should ask financial institutions responding to the request to report whether they provide financing to nuclear weapons producers (the City would supply a list of companies that the City considers to be nuclear weapons producers) or financing for fossil fuel extraction.

More broadly, the RFP could include a criterion requiring that the financial institution present an ESG policy that includes progressive divestment from fossil fuels and that can show progress on implementing its ESG policy over the past two to three years. This criterion could be included as one of the evaluation factors in an RFP, along with standard criteria of timely, low-cost and low-risk services. Or, the evaluation criteria could be written so that this ESG-compliance factor is noted as an attribute that will give the financial institution preference in the overall evaluation of proposals.

With the closure of the Bank of America branch, the only bank branch within walking distance of the municipal center is Truist. The convenience of the location of a bank branch is a relevant factor in determining which financial institution to bank with. However, there are financial institutions with branches that are close to Takoma Park. Convenience of the location of a bank branch is relevant both to the City's Finance Department, since it involves travel time to make deposits and other transactions, as well as for City staff who may want to cash paychecks.⁶⁵ These are factors that will have to be weighed in any decision. If the current branch location of Truist is considered important, one possible solution is to use more than one financial institution to provide banking services to the City. The use of more than one institution could also facilitate a transition, since it means that it would not be necessary to completely close out existing accounts. Other differences in banking services, such as the convenience of online banking, will also have to be taken into account in deciding which financial institution is best for the City. This may only become apparent once the RFP is issued and responses are obtained.

C. Certificates of Deposit

Current Situation

To meet the City's daily, weekly, and monthly financial needs and properly fund the City's general checking account needed for daily operations (especially for payroll and weekly accounts payable check issuance), the City must constantly purchase short- and long-term CDs. CDs, in general, have term lengths between three months and five years. Depending on when the money is needed, CDs can be purchased in such a way that their term expires in time to meet the funding needs as described above. CDs generally have

⁶⁵ The task force did not ascertain how important a factor it is for City employees to be able to cash paychecks at a convenient bank branch. This depends in part on the number of employees involved, and the convenience of branch location, possibly outside Takoma Park but not that far away.

low interest rates but are considered a safe and secure investment as they are insured by the FDIC up to a \$250,000 limit. To assist in managing the constantly changing monthly liquidity demands while attempting to find a reasonable rate of return, the City uses Multi-Bank Security, Inc. (MBS), a veteran-owned, fixed-income securities broker-dealer that has been serving institutional investors nationwide since 1988. The use of a multi-bank system to acquire CDs and other financial services is a common practice. A multi-bank system permits an investor to review CDs of various terms from many financial institutions at the same time, allowing them to find an appropriate CD to meet their needs.

Currently, the City and the City's broker do not explicitly consider ESG-friendly financial institutions when selecting CDs. In addition, the City has not looked into the option to purchase CDs from ESG-friendly financial institutions but is open to such a consideration.

Reasons for Change

Because CDs are issued by numerous financial institutions across the United States, it should be very feasible to require that the City's broker screen the banks offering eligible CDs using ESG filters. The City's policy should be to purchase CDs from a bank meeting as many ESG criteria as possible, as long as the terms of the CD (rate, length of term, and FDIC insurance) are not inferior to the terms that can be obtained from an institution that does not meet ESG criteria.

Proposal

Investigate whether there is an option to purchase CDs from socially responsible, or ESG-friendly, financial institutions, as long as the terms of the CD are otherwise competitive with banks that do not meet ESG criteria. The ESG criteria should be as spelled out in the City's investment policy, as amended. It may require extra resources for the City to maintain and refer to a list of ESG-friendly financial institutions and compare that list to those institutions offering CDs at each time of need. Additionally, the number of banks that identify as socially responsible is limited, so the City could also consider larger banks that offer ESG-focused CD options or banks committed to a more limited set of environmental or social values.

The City should start by referring to Mighty Deposits, B Corp banks, and the GABV and other networks that maintain lists of banks who have committed to ESG, green, and inclusive banking goals, as well as to banks that are certified as B Corporations, which are required to balance profit and purpose. For example, Amalgamated Bank is both a certified B Corp and a member of GABV. Nonprofit credit unions that prioritize members, community development financial institutions, and minority-owned banks may also have reduced exposure to negative ESG criteria; however, such institutions are not limited from investing in fossil fuels. Lastly, certain large banks offer ESG or green CDs. For example, in 2019, Credit Suisse launched a CD to refinance a portfolio of eligible

green assets. If, during conversations with MBS or possibly while researching other multi-bank servicers, the City identifies the option to purchase CDs from ESG-friendly financial institutions from one of the resources noted above or other ESG-friendly groupings or filters, the task force encourages the City to strongly consider doing so.

D. Investments by Police Pension Fund

Current situation

The police pension fund is not governed by the City's investment policy, but rather is administered independently and is subject to laws, regulation, and policies which take precedence over any City mandates. The pension fund does not currently apply ESG criteria when considering which assets to invest in. The pension fund consults with an investment advisor to manage its investment portfolio. Section VII of policies of the Maryland State Retirement and Pension System (SRPS) states "ESG investment strategies, or other investments that provide collateral benefits, may only be considered to the extent consistent with the fiduciary duties of the Board of Trustees. The focus of the System's fiduciaries is on the financial returns and risks to the System. Any such investment must be economically equivalent, such that the expected rate of return is commensurate to the rates of return of alternative investments with similar risk characteristics that are available to the System, and the investment is an appropriate investment for the System in terms of such factors as diversification and the System's investment policies."⁶⁶ Other pension funds around the country are pursuing ESG and related climate divestment policies.

Reasons for Change

The police pension fund represents the largest long-term investment assets of the City, notwithstanding the Fund's separate and independent administration. The Board of the police pension fund also includes citizen representation from the City of Takoma Park. The City has determined it wants to invest all funds under its purview, albeit not necessarily under its control, in a socially responsible way. In addition, there is sufficient evidence, both modeled and empirical, that pursuing climate risk-adjusted investment strategies does not increase the risk of financial losses compared to non-adjusted strategies to consider such a strategic shift. A new study found that the Maryland SRPS "has sacrificed returns of more than 15 percentage points since 2010 in the public equities portion of the fund by buying and holding dirty energy stocks." Therefore, not only should the City have a concern about how the pension fund determines and implements investment policy, the City and the police pension fund also have a common interest under the existing governance for exploring ways to jointly achieve the investment goals of the City insofar as they do not violate any laws, regulations, or policies governing the police pension fund.

⁶⁶ The Investment Policy Manual for the Board of Trustees of the Maryland State Retirement and Pension System of the Maryland State Retirement Agency (MSRA), updated November 2021.

Proposal

The City should urge the pension fund to consider ESG criteria and/or divestment in administering its investments. At a minimum, the City should urge the police pension fund to consider adopting the ESG policies of the SRPS as articulated in the current Investment Policy manual published by the MSRA. The pension fund could also take inspiration from the City's investment policy as proposed to be revised, adopting similar language for its investment policy. The pension fund could begin by consulting with its investment advisor to develop a phased strategy to direct all or a portion of its funds into diversified ESG investment options. For example, it could begin by investing in a lower risk, high performance ESG index fund such as the Vanguard ESG US Stock ETF. In addition, the City should strive to support the police pension fund's adoption of an ESG or similar sustainable investment policy with research and data acquired during its own efforts at adopting a sustainable investment policy for assets which the City controls. The City can refer the pension fund to Section II of this report for definitions and considerations associated with ESG investing approaches.

E. Maryland Local Government Investment Pool

Current situation

The City has limited influence on investment by the MLGIP, since the Maryland State Treasurer's Office is responsible for administering the pool. The pool was designed to provide all local government units of the state with an investment vehicle for short-term investment of funds with the following investment objectives: preserve the capital value in dollars invested; provide a competitive rate of return; and offer a readily available source of daily liquidity.

Reasons for Change

The MLGIP represents a substantial pool of assets (in excess of \$9 billion as of September 2021) that could be invested in a socially more responsible way. Given that the MLGIP is invested very conservatively in debt instruments, it is possible that a carefully formulated socially responsible investment policy could not only allow public funds to be invested in a way that has a more positive impact on society, but also result in a higher rate of return for agencies participating in the pool.

Proposal

The City could work with other governmental agencies participating in the MLGIP and encourage the MLGIP to consider more explicitly the social impact of its investments.

F. Nuclear-Free Takoma Park Committee

Current situation

City Council Resolution 2021-31 asks the task force to “review and recommend updates to the implementation specifics of the nuclear-free ordinance, to best fulfill the purposes of the ordinance and to coordinate with the city’s greenhouse gas emissions reduction goals and other priorities, including... (b) update specific tasks and assignments in the ordinance, (c) consider specific tasks assigned to the Nuclear Free Committee.” This section of the report responds to that request.

The NFTPC currently has a membership of 3, all of whom have served on the committee off and on for many years. The NFTPC has had difficulty completing its tasks with its current membership; it has also been unable to recruit new members for the past several months because the City Council froze the addition of new members. The NFTPC has now been in existence for nearly 40 years, so its activities should be seen in a longer-term context. Over the years, the level of activity of the NFTPC has fluctuated and the focus varied. Educational and outreach efforts have always been at the forefront. In addition, the NFTPC initiated the concern about sustainable banking that led to the first City Council discussion on sustainable banking about 5 years ago. While transportation of high level nuclear waste has been part of the NFTPC’s responsibility since its inception, this issue has not been a major focus for the committee because there were no proposals to transport high-level waste near Takoma Park - but recently such proposals have surfaced so the committee has directed its attention to this matter. The NFTPC was also instrumental in Takoma Park’s recognition as the first U.S. municipality to declare its compliance with the United Nations Treaty on the Prohibition of Nuclear Weapons after it was adopted in July 2017 and the City’s Mayoral Proclamation of the international treaty’s entry into force on January 22, 2021. This is part of the NFTPC’s networking and outreach focus. Compliance with the NFZA’s prohibition on doing business with nuclear weapons producers has been a smaller part of the committee’s work since the issue does not arise frequently and the committee has left compliance largely to city staff. The NFTPC has, however, advised the city on current lists of nuclear weapons producers.

Reasons for change

As discussed in detail in Appendix B, the specific tasks assigned to the NFTPC are largely appropriate, although a few specific changes are needed to bring the municipal code up to date and to align the NFTPC’s responsibilities with the responsibilities of a committee on sustainable banking and investments, if the City Council establishes one.

Proposal

New members of the NFTPC should be recruited (with greater diversity in terms of age, race, and ward residence) having the energy and skills to carry out the committee’s functions. The Council should be involved in recruitment and appoint members with care so as to assure the effectiveness of the NFTPC’s work. The main focus of the NFTPC’s work would continue to be education and outreach, but its other tasks should be

kept and can be expected to have greater or less importance over time. For example, the issue of high-level nuclear waste transport might end up being quite significant or not depending on discussions at the NRC. Review of the City's compliance with the NFZA should continue to be part of the NFTPC's responsibilities, although the amount of effort this requires might be small in any given year. Appendix C sets forth the proposals concerning each of the NFTPC's tasks in greater detail.

Separate views of some task force members on this issue are set forth in Appendix D.

G. Application of Nuclear Free Zone Act to Nuclear Power

Chapter 14.04.020 (Purpose) of the Takoma Park Municipal Code states, "Residents and representatives are urged to redirect resources previously used for nuclear weapons and nuclear power generation towards endeavors which promote and enhance life, such as human services, including childcare, housing, schools, health care, emergency services, public transportation, energy conservation, public assistance and jobs."

The task force is staffed by nine (9) residents with "a mix of expertise and skills in municipal finance, banking and investment; environmental, energy and nuclear free sustainability; public education and outreach; and related public policy issues."⁶⁷ Expertise in nuclear free sustainability is not an expertise of the majority of task force members. The majority of members primarily have expertise in banking, finance, investments, environmental issues, and energy conservation. As such, the task force does not believe they are in a position to provide a recommendation on the redirection of resources previously used for nuclear power generation. The task force recommends that the current City Code language be kept until a body with the appropriate subject matter expertise (from all sides of the discussion) convene, discuss, and provide a recommendation.

Separate views of some task force members on this issue are set forth in Appendix D.

H. Continuation of Work

The recommendations of the task force are by and large not self-executing, and would require substantial follow-up that will take time and to some degree will be ongoing. Establishment of a new Sustainable Banking and Investment Committee (SBIC) would provide ongoing support to the city to carry out this implementation. For purposes of this document, the term "SBIC" will be used as a placeholder for a new Committee regardless of its composition and requirements.

⁶⁷ Takoma Park City Council Resolution 2021-31 (Sept. 22, 2021).

For banking services, the follow up would require preparation and issuance of an RFP for banking services, and evaluation of responses. If the City Council decides to switch service providers, the work will subsequently be operational, falling under the responsibility of the city's Finance Department, rather than requiring advice from the SBIC.

For the police pension fund, the SBIC could engage in ongoing dialogue with the pension fund committee, and provide guidance in the area of sustainability.

For the MLGIP, the SBIC could likewise enter into dialogue with the Maryland Treasurer and other jurisdictions that invest in the MLGIP, so as to encourage changes to the investment policy of the pool. This is not a small undertaking, as it involves not only the application of ESG criteria, but potentially also looking at the overall investment strategy of the pool. The pool currently invests extremely conservatively. This has the advantage of preserving capital, but at the expense of giving up potentially significant return. It is not clear what the best approach is, but given the size of the pool (around \$10 billion) it makes sense to cast a critical eye on these assets. At the moment, such an eye seems to be lacking, and Takoma Park could take a leadership role in establishing a more critical review of how this large amount is invested. This is easier said than done, of course, and in the absence of a committee prepared to do the necessary networking, it is beyond the capacity of city staff who have to focus on other operational priorities.

For investment in CDs, the SBIC could provide advice to the Finance Department on selecting sustainable investments on an ongoing basis (largely by reviewing issuing banks against ESG criteria). Operational responsibility, including selecting specific investments, should of course remain with the Finance Department.

Finally, the SBIC could provide ongoing advice to the City Council by way of reviewing the overall investment approach of the Finance Department. This involves issues like how much is invested in CDs or other instruments, as opposed to sitting in a bank account. Even if the current approach followed by the Finance Department is considered to be fine on review, it would be a good idea to have an outside committee confirm this so that the City Council is assured that the City is investing its funds wisely. The task force notes that it was not within its mandate to review how the City is investing its funds as a general matter, so we have not had the chance to form a view on this issue. The SBIC could do so.

In the formulation and application of ESG criteria, the SBIC could benefit from advice from other City committees. In particular, the NFTPC could advise the SBIC about what companies should be considered nuclear weapons producers, and what banks should be considered particularly problematic from the point of view of financing nuclear weapons producers. In respect of environmental aspects of ESG, the Sustainable Maryland committee could provide guidance to the SBIC. If the City Council creates an SBIC, it should delineate responsibilities between the SBIC and the NFTPC.⁶⁸

⁶⁸ See below Appendix C, sections 3 and 4 for preliminary thoughts on how this could be done.

Appendix A. Questions and Additional Resources on ESG

Here are some questions the task force had in mind while preparing this report. We recommend that readers of this report consider these questions in deciding how to act on the report.

There is potentially value in aligning Takoma Park's sustainability criteria with the ongoing ESG movement and the diversified options that ESG investments provide. Moreover, residents of Takoma Park, through their elected representatives, have voiced a desire that public assets be invested sustainably.

Anti-nuclear: *Are companies engaged in nuclear weapons production included in ESG funds/products?*

Deforestation: *Can we avoid supporting companies contributing to deforestation?*

Climate: *How sensitive should the city's portfolio be to investments that present climate risks?*

Clean energy: *ESG investing can accelerate the energy transition by directing funds into companies which are using renewable energy.*

Racial justice and equity: *How sensitive are social and governance performance to racial justice and equity issues?*

There may be more comfort with a multi-phased approach, beginning with an option that represents lower risk and is low cost.

Other questions to help guide the City's next steps:

- 1) *What are the costs associated with active vs. passive ESG investment?*
- 2) *What cost/benefit is worthwhile to the City (what tolerance is there for lower returns with more restrictive criteria which incorporate more of the City's values?)*
- 3) *Which specific ESG index funds could the City consider, what are their criteria, and how are they performing compared to current investments?*
- 4) *If the City focuses on divestment from specific categories rather than a more diversified ESG-focused approach, how would such a portfolio perform compared to its current investments? What would be the implications of recommending a hybrid approach, including divestment from the top 200 fossil fuel producing companies and a diversified ESG fund beyond that?*
- 5) *Does the City have the resources to undertake a more active investing strategy now or as part of a longer-term investment strategy?*
- 6) *How are the pension funds that have previously adopted ESG investing strategies faring? What challenges, if any, have they experienced?*
- 7) *What criteria should the City use to select a socially responsible bank, as opposed to socially responsible/sustainable investments? For example, the proximity of the bank may*

be important, but should not be decisive. The City could put out an RFP and not preselect one bank. One criterion that could be useful is “selecting a bank that has a stated ESG policy that includes progressive divestment from fossil fuels and that can show progress on implementing its ESG policy over the past 2-3 years.” This criterion could be included as one of the evaluation factors in a standard RFP, along with the criteria of timely, low-cost and low-risk services. Alternatively, the evaluation criteria could be written so that this ESG-compliance factor is stated as a quality that will give the bank/service offeror preference in the overall evaluation of proposals.

Additional resources:

- <https://publications.iadb.org/publications/english/document/The-Business-Case-for-ESG-Investing-for-Pension-and-Sovereign-Wealth-Funds.pdf>
- <https://www.funds-europe.com/esg-report-october-2021/sustainable-etfs-a-friend-not-foe-for-pension-schemes>
- Discusses risks: <https://crr.bc.edu/wp-content/uploads/2020/10/SLP74.pdf>
- <https://pensionresearchcouncil.wharton.upenn.edu/blog/can-pension-funds-integrate-environmental-social-and-governance-principles/>
- <https://www.womblebondnickinson.com/uk/insights/articles-and-briefings/how-can-pension-schemes-align-esg-goals>
- On potential risks to pension funds: <https://www.theguardian.com/environment/2021/nov/15/how-workers-unknowingly-fund-climate-crisis-pensions>
- On fossil-free index funds: <https://www.oursphere.org/the-index>
- For an example of risk-return analysis on fossil-free portfolios, see “Doing the Investment Math: Building a Carbon-Free Portfolio”; Aperio Group (2013) and “Building a Carbon Free Equity Portfolio”; Aperio Group (2016).
- *ESG and Financial Performance: Uncovering the Relationship by Aggregating Evidence from 1,000 Plus Studies Published between 2015-2020.* NYU Stern Center for Sustainable Business and Rockefeller Asset Management. https://www.stern.nyu.edu/sites/default/files/assets/documents/NYU-RAM_ESG-Paper_2021%20Rev_0.pdf

Appendix B: List of Cities with Fossil Fuel Divestment Policies as of February 2022

For a comprehensive database of institutions and jurisdictions that have divested from the fossil fuel industry, see: <https://divestmentdatabase.org/>

Ann Arbor, MI	Great Barrington, MA	San Luis Obispo, CA
Ashland, OR	Ithaca, NY	Sante Fe, NM
Amherst, MA	Kansas City, MO	Santa Monica, CA

Bayfield, WI	Madison, WI	Seattle, WA
Belfast, ME	Minneapolis, MN	Sudbury, MA
Berkeley, CA	Mountain View, CA	Sunnyvale, CA
Boulder, CO	New London, CT	Truckee, CA
Brisbane, ME	Northampton, MA	Truro, MA
Burlington, VT	Oakland, CA	New Orleans, LA
Cambridge, MA	Palo Alto, CA	New York City, NY
Concord, MA	Portland, OR	Pittsburgh, PA
Corballis, OR	Provincetown, MA	Rochester, MN
Denver, CO	Richmond, CA	San Francisco, CA
Eugene, OR	San Diego, CA	Seattle, WA
Fairfax, CA	San Jose, CA	State College, PA
Framingham, MA		
Fremont, CA		

Appendix C: Recommendations on Tasks of Nuclear Free Takoma Park Committee

This appendix contains recommendations on specific tasks assigned to the Nuclear Free Takoma Park Committee (NFTPC) under the municipal code.

- 1. Review of work within the City**

Current situation

The NFTPC may review any work within the City that may violate the Nuclear Free Zone Act’s prohibition on production of nuclear weapons in the City.⁶⁹

Reasons for Change

There is no one producing nuclear weapons in the City, so this provision is not currently applicable, and in light of zoning rules is unlikely to apply to physical manufacturing. There are, however, some situations where the provision might apply, for example the provision of design services to a nuclear weapons producer where the City may request a review by the NFTPC.

Proposal

No change is needed to section 2.16.250(A) of the City Code.

2. Review of existing and proposed contracts

Current situation

The NFTPC is required to review existing City contracts, and may review proposed contracts, to assure compliance with provisions of the Nuclear Zone Act which prohibit contracts with nuclear weapons producers.⁷⁰

The NFTPC has not undertaken a full review of existing City contracts and purchase orders, etc. since the 1990s. Instead, the informal practice has been that the City will refer any questionable contracts, purchase orders, etc. to the NFTPC for review and, if necessary, subject the item to the waiver process.

The NFTPC’s task to “review” contracts, awards, and purchase orders should be seen in the context of the City’s overall procurement procedures. Procurement is governed by chapter 7.04 of the municipal code. Under that chapter, the City considers a number of factors when deciding whether to procure an item, including environmental factors such as greenhouse gas emissions.⁷¹ The City Manager has the authority to adopt and enforce rules needed to comply with the municipal code’s procurement provisions.⁷² The City Manager is “responsible for the administration of a centralized system of purchasing and procurement of goods and services for the City and for effectuating the provisions of this

⁶⁹ Takoma Park Code section 2.16.250(A).

⁷⁰ Takoma Park Code section 2.16.250(B).

⁷¹ Takoma Park Code section 7.04.015(A)(1)(d).

⁷² Takoma Park code section 7.04.030.

division.”⁷³ Chapter 7.04 does not explicitly mention the NFZA, but this is not really needed, since the NFZA is part of the municipal code and the City’s procurement system must comply with the Code, as well as other applicable laws.

In this context, the NFTPC’s responsibility to “review” City contracts, awards, and purchase orders can be seen as a responsibility to assure that the City’s procurement system is properly taking the provisions of the Nuclear Free Zone Act into account.

Reasons for change

The NFTPC’s role in surveillance of the City’s compliance with the ordinance in terms of contracts seems appropriate. The City Code talks about “review” of existing City contracts, but does not specify what procedures such reviews might follow.

There would be a number of ways to carry out such a review, the purpose of which would be to assure compliance with the City’s procurement policies, including compliance with the NFZA. One approach would be to require the NFTPC to inspect each contract before approval and, based on City regulations, make a recommendation to approve or deny the services proposed. Another approach would be to review overall procedures, rather than specific transactions. This would involve questions like the following: (1) Do the City’s procurement regulations reflect the provisions of the NFZA? (2) What are the actual steps and documentation required when procurement decisions are made? For example, are staff required to document that they have checked compliance with the NFZA? Another approach, which could be combined with the first one, might involve spot checking. Particular procurement transactions could be examined to see whether the procurement rules have been followed. Finally, there could be an approach of reviewing larger transactions. In this context, the provisions of section 7.04.060(A), which require City Council approval of expenditures in excess of \$50,000, should be kept in mind. Again, review might be procedural, for example by making sure that when the Council is asked to approve an expenditure under this provision, the Council documents include a statement about compliance with the NFZA. The NFTPC might also be more directly involved; for example when the Council is asked to make an approval, an opinion of the NFTPC that the proposed transaction is in compliance with the NFZA might be sought as a routine matter. This needs to be seen in the overall context: compliance with the NFZA is only one of the issues that the Council might want to be advised on before approving a procurement, and the issue is what other information the Council needs to make its decision and whether it wants to consult with advisory committees (such as the Sustainable Maryland committee) or just City staff.

It is not obvious how the NFTPC should best carry out a review. An important issue is whether it makes sense to look just at whether the City is complying with the NFZA, or whether it also makes sense to see how the City is complying with other aspects of its

⁷³ Takoma Park code section 7.04.050(C)(2).

procurement policies (for example, how is the City taking greenhouse gas emissions into account). The NFTPC does not have competence in the latter area. Should it participate with others in reviewing how the City's procurements are being carried out, and if so, how?

The reference in section 2.26.250(B) to "existing City contracts, awards, purchase orders and investments" presumably refers to arrangements existing in 1983, and therefore could be removed as deadwood, i.e. as not being any longer applicable.

Proposal

No change is needed to section 2.16.250(B) of the City Code, except possibly for deleting the words "shall review existing City contracts, awards, purchase orders and investments and" as deadwood. The task force recommends that the City Council, City Manager, and NFTPC determine a formal process for when and how the NFTPC shall conduct this review.

How to implement and review compliance with the City's procurement policies is beyond the scope of responsibility of the task force, and raises questions that also go beyond the responsibility of the NFTPC. The exact nature of the procedures to be adopted depends on the City's overall procurement policies, the role of city staff and possibly other committees, as well as the capacity of the NFTPC.

3. Socially responsible investment policy

Current situation

The Committee, in conjunction with the City Manager, shall propose a socially responsible investment policy and implementation plan as specified in Section 14.04.050 and, upon the adoption of the policy and plan, shall annually thereafter review the investment policy to ensure its conformity to the Takoma Park Nuclear-Free Zone Act.⁷⁴

The NFTPC has not proposed any specific investment policy to the City. The NFTPC's effort towards that goal has been to provide a reliable and sustainable foundation for such a policy.

Reasons for change

Given that the task force has been charged with proposing a sustainable investment policy for the City, it no longer seems necessary for the NFTPC to be charged with that task. However, once the City adopts a new policy, it would be appropriate for the NFTPC to propose changes in that policy if circumstances warrant in the future. For example, there may be revisions to the way that nuclear weapons producers or financial institutions providing financing to nuclear weapons producers are listed, and the NFTPC

⁷⁴ Takoma Park Code section 2.16.250(C).

should appropriately make recommendations in that respect to the extent that this affects the City’s investment policy.

Proposal

Takoma Park Code section 2.16.250(C) should be amended to read: “The Committee, in conjunction with the City Manager, shall annually review the City’s investment policy to ensure its conformity to the Takoma Park Nuclear-Free Zone Act.”

If the City Council establishes a sustainable banking and investment committee (SBIC) (see section G below), it would be appropriate to revise the City Code to demarcate the lines of responsibility between the NFTPC and the SBIC. The role of the NFTPC might be to provide information and advice to the SBIC.

4. Review of investments

Current situation

“The Committee shall review existing City ... investments and may review proposed ... investments to assure compliance with Sections 14.04.050 ... of the Takoma Park Nuclear-Free Zone Act. If the Committee finds any ... investments in violation of the Takoma Park Nuclear-Free Zone Act, it shall, in conjunction with the City Manager, make recommendations to the Mayor and Council regarding the existence of reasonable alternatives.”⁷⁵

The City’s investment policy (in line with section 14.04.050 of the city code) prohibits investments in nuclear weapons producers, but given the city’s investments, which are limited to CDs and investments in the MLGIP, the question of investments in nuclear weapons producers has not arisen. It is true that the police pension fund has investments in nuclear weapons producers (through holdings in diversified mutual funds), but the police pension fund is outside the scope of section 14.04.050 of the City code.

Reasons for change

If the City adopts an investment policy with strengthened ESG criteria, this policy may call for applying ESG criteria to banks issuing CDs purchased by the City, with the result that bank financing of nuclear weapons producers becomes relevant. In this case, the NFTPC would have a more relevant role in reviewing city investments.

Proposal

The role of the NFTPC in reviewing compliance with the City’s investment policy will depend on what that policy says, as well as whether the City ends up establishing an SBIC. If such a committee were established (see section V G of the report) it would have the primary role in reviewing city investments. In this case, it may be appropriate to limit

⁷⁵ Takoma Park Code section 2.15.250(B).

the NFTPCC's role to providing advice to the SBIC in the area of nuclear weapons producers, as well as banks that finance such producers. The same would be the case if the City included nuclear power as an ESG factor in its investment policy.

No change is needed to section 2.15.250(B) of the municipal code if no SBIC is created.

5. Public education

Current situation

The Committee shall, through the collection of materials, newsletter articles, cable television programming, public forums and other means, provide public education and information on issues related to the intent and purpose of the Takoma Park NFZA. In performing this task, the Committee shall cooperate with City staff, the Nuclear Freeze Task Force and other interested community groups and individuals.⁷⁶

Reasons for change

Some of the references in section 2.26.250(D) are obsolete (reference to the Nuclear Freeze Task Force, which no longer exists, and cable television).

Proposal

Revise section 2.26.250(D) of the City Code to read: "The Committee shall, on request of the City Council or on its own initiative with input from the City Council, through the collection of materials, public forums, and other means, provide public education and information on issues related to the intent and purpose of the Takoma Park Nuclear-Free Zone Act and for advancement of the purposes of such Act."

6. Collection of materials on nuclear weapons production and nuclear waste transport

Current situation

The Committee shall maintain a collection of current materials concerning the production of nuclear weapons and the components thereof and the transportation of high-level nuclear waste resulting from the production of nuclear weapons and nuclear energy. From this information and from consultations with individuals and organizations involved in the nuclear weapons and nuclear energy debate, the Committee shall annually prepare and report to the City Council a list of nuclear weapons producers to guide the City, its officials, staff and agents in the implementation of Sections 14.04.050 and 14.04.060 of the Takoma Park Nuclear-Free Zone Act. The Committee shall also make recommendations to the City Council from this information and from consultations with individuals and organizations involved in the transportation of high-level nuclear waste

⁷⁶ Takoma Park Code section 2.16.250(D).

on how best to promote the safety and welfare of the City from harmful exposure to high-level nuclear waste.⁷⁷

Reasons for Change

The language of Section 2.16.250, subsection E seems appropriate. The NFTPC has not maintained a collection of current materials concerning the production of nuclear weapons and the components thereof and the transportation of high-level nuclear waste resulting from the production of nuclear weapons and nuclear energy. There is a “Documents of Interest” section located on the NFTPC website that can be used as a repository.

Proposal

No change is needed to section 2.16.250(E) of the City Code. The City should enforce section 2.16.250(E) and require the NFTPC to maintain a collection of materials concerning the production of nuclear weapons and the components thereof and the transportation of high-level nuclear waste resulting from the production of nuclear weapons and nuclear energy.

7. Waivers

Current situation

Before a waiver of the provisions of Sections 14.04.060(A), (B) or (C) pursuant to Section 14.04.060(F) may be sought, the Committee, in conjunction with the City Manager or his or her designee, shall conduct a diligent search to determine the availability of reasonable alternative sources for a necessary product or service, except, however, the City Manager or his or her designee and/or the Committee’s unwillingness or inability to conduct such a search shall not preclude actions by the Mayor and Council pursuant to Section 14.04.060(F). (Ord. 2021-39 § 1, 2021)

The waiver procedure previously called for the NFTPC to conduct a search for alternatives before a waiver could be sought.⁷⁸ This provision was recently amended so that NFTPC review is no longer a required procedural step in obtaining a waiver.

Reasons for Change

The streamlining of the waiver provision made in 2021 made it clear that a waiver need not wait for NFTPC action. This seems appropriate.

Proposal

⁷⁷ Takoma Park Code section 2.16.250(E).

⁷⁸ Takoma Park Code section 14.04.110(C)(6), as in effect before 9/29/2021.

No change is needed to section 2.16.250(F) of the City Code.

Appendix D: Supplemental Views on (1) Nuclear Power and the (2) the Nuclear Free Takoma Park Committee (NFTPC)⁷⁹

D.1. View in Support of Continuing Investments in Nuclear Power

Several members of the task force have concerns regarding divestment from nuclear power companies. These concerns fall into two categories: 1) investment constraint and; 2) climate risk. It should be noted that each member of this opinion recognizes the inherent and substantial risks currently presented by nuclear power. This view should not be construed as an endorsement of nuclear power. But instead a recognition of the likely necessity of the power source absent a substantial power generation breakthrough innovation.

Investment Constraint

Prohibiting investment in companies involved in nuclear power generation will limit Takoma Park's ability to invest funds in most investor-owned utilities which are often a key component of many investment funds. Further, several of the companies who are contributing significant capital to decarbonizing electricity in the United States (e.g. Berkshire Hathaway) would be prohibited from city investments.

Climate Risk versus Nuclear Power Risk

The climate change mitigation strategies understood by this position entail a two part approach to decarbonization: 1) electrify as much of the economy as possible; 2) decarbonize that electricity.

Fossil fuels (coal/natural gas/oil) are the fuel source for over 60% of the United States' electricity supply. Non fossil sources are led by nuclear (20%), solar and wind (13% combined), and hydropower (6%). Shifting the majority of the world's power supply from fossil fuel sources to carbon-free sources is a gargantuan task. But, reaching net zero will also mean decarbonizing sectors of the economy that are very hard to electrify. These hard-to-abate sectors include fertilizer, cement and steel. All told, it is estimated that an additional 200% to 300% of current electricity capacity will be needed by 2050 to reach global net zero goals.

Reaching decarbonization goals within the timeframe we need will involve the continued use of commercially available technologies like nuclear power. Further, while wind and solar scale to provide a greater source of the grid's power supply, they face challenges such as intermittency and transmission issues that require the support of non-intermittent clean technologies like nuclear. As such, Takoma Park should keep carbon-free options on the table until renewables are in a place to fully displace fossil incumbents

Due to the conflict with the city's stated decarbonization goals and the limitations placed on the city's investment potential, this group believes the nuclear-free goals of the city should be limited to nuclear weapon proliferation.

⁷⁹ The Final Report is a consensus report of the Task Force. The views contained in this Appendix D reflect additional information which individual Task Force Members wished to communicate directly to the City Council. The Task Force as a whole has agreed that these views should be included in the Final Report.

D.2 View in Support of Discontinuing Investments in Nuclear Power

The Task Force was asked to clarify implementation of wording in the City’s Nuclear-Free Zone Act that states: “Residents and representatives are urged to redirect resources previously used for nuclear weapons and nuclear power generation towards endeavors which promote and enhance life...” [emphasis added]. This provision does not specifically prohibit investments in and contracts with nuclear power companies.

The city is already purchasing 100% renewable energy and educating its constituents to do the same. Consistent with this initiative, we believe that the City should place nuclear power on the same footing as nuclear weapons production, revising its investment policy to prohibit investments in nuclear power generation, which can be done by selecting among the several ESG funds that are free of investments in nuclear power. Here are a few compelling reasons to do this:

1. Any new nuclear reactor and continued old reactor operations will generate more dangerous high-level radioactive waste for which there is no demonstrated safe long-term storage facility.
2. Any reactor is subject to risks of accident or attack, with unknown probability. Only until recently, few were concerned that an operational reactor would find itself in a war zone.
3. Nuclear power is recognized for its nuclear weapons proliferation risks. Non-proliferation groups warn that the spread of Small Modular Reactors will accelerate the risk of nuclear war.
4. Arguments for new nuclear power as a climate solution fail to account for unpredictably long construction times, poor economies of scale, and chronic historical cost overruns of nuclear projects that repeatedly result in suspensions, cancellations and abandonment. The price of renewables is dropping so deeply as to render nuclear power obsolete by the time any new reactors might be ready for market. As Stanford University physicist and civil engineer, Amory Lovins, demonstrates, “To protect climate requires avoiding the most carbon at the least cost in the least time. A low-carbon but costly or slow choice... retards climate protection.”
5. Continued reliance on aging and degrading US nuclear power plants retards expediting the progress on climate mitigation by diverting significant resources and time from the deployment of real solutions such as renewable energy, energy efficiency and conservation.
6. Nuclear power relies on uranium mined largely on Indigenous land who endure all of the negative health outcomes and none of the financial rewards. Much of US uranium imports come from Russia. SMR designs increasingly rely on HALEU fuel made only in Russia. Nuclear power violates the tenets of environmental justice and energy security that the City holds dear.

The strength of Takoma Park’s nuclear-free ordinance, and the City’s worldwide reputation as a leader in establishing a truly nuclear-free zone, rests on its recognition that nuclear power and nuclear weapons have always been — and remain — inextricably linked. In the volatile times in which we live, now is not the time to weaken this internationally admired position.⁸⁰

⁸⁰ Readers may supplement this condensed discussion with info on <https://beyondnuclear.org>.

D.3. View that the NFTPC has Performed Poorly and Should be Held to Account

The City Council has asked the SBIC Task force to “consider specific tasks assigned to the Nuclear Free Committee, such as review of existing City contracts, awards, purchase orders; annual list of nuclear weapons producers; recommendations on transport of high-level nuclear waste; research on waivers of purchasing requirements; and outreach, and education on nuclear weapons issues...”⁸¹ Though the reason for this request was not made explicit, upon consideration of the tasks assigned to the Nuclear Free Committee, it became clear that there was a significant gap between the required tasks and actual actions taken by the committee.

After an extensive review, we believe the operational/managerial capacity of the Nuclear Free Takoma Park Committee (NFTPC) to be considerably deficient.⁸² Of the NFTPC’s assigned tasks, this view believes the NFTPC has continually met the requirements of Task D (provide public education). This view can find very little evidence of the NFTPC meeting, or even attempting to meet, their other requirements. For example, Requirement E requires the NFTPC to “...maintain a collection of current materials concerning the production of current nuclear weapons...” Not only has the NFTPC failed to maintain a collection but (after a search of the NTPC minutes from 2012-2022) has not even contemplated meeting this requirement. Similarly, Requirement C requires the NFTPC to, “...annually thereafter review the investment policy to ensure its conformity to the Takoma Park Nuclear-Free Zone Act.” Again, not only has the NFTPC not conducted an annual review, but there is no evidence of them contemplating this requirement or asking the Council for guidance if the requirement could not be completed. The SBIC Task Force notes of an “informal” practice where the Council will refer any questionable contracts, purchase orders, etc., to the NFTPC for review. This view was unable to find evidence of this “informal” practice being enacted. There is no evidence in the minutes of the NFPTC reviewing any contracts or even considering this “informal practice.” Overall, there is little to no evidence of the NFTPC meeting Requirements A, B, C, E, or F.

The NFTPC has stated that they are unable to meet their requirements without an increase in membership. This view notes that even when the NFTPC had more members, it failed to meet many of their requirements, or even consider those requirements. Therefore, this view encourages the Council to place greater scrutiny on the NFTPC and determine the best course of action to meet their requirements provided to the NFTPC, including modifying specific tasks. It is not clear that simply adding more members would correct many years of inaction by the NFTPC and ensure they would meet their requirements going forward.

⁸¹ <https://takomaparkmd.gov/government/boards-commissions-and-committees/task-force-on-sustainable-banking-and-investments/>

⁸² <https://takomaparkmd.gov/government/boards-commissions-and-committees/nuclear-free-takoma-park-committee/>

D.4. View that the NFTPC has Performed Sufficiently and Requires Council's Attention

The preceding view concludes that “it is not clear that simply adding more members would correct many years of inaction by the NFTPC and ensure that they would meet their requirements going forward.” However, the task force report does not suggest that “simply adding more members” would suffice to reinvigorate the NFTPC. The task force recommends that “New members of the NFTPC should be recruited (with greater diversity in terms of age, race, and ward residence) having the energy and skills to carry out the committee’s functions.”⁸³ An increase in membership from the current level of 3 also seems warranted; most City committees have 9 members, although some number between 3 and 9 might be appropriate for a specialized committee like the NFTPC.

Implicit in the task force recommendation is that the NFTPC could be more effective. Elimination of nuclear weapons – which pose an existential threat to humanity – is both hugely important and immensely difficult. While the NFTPC cannot accomplish this by itself, it can surely be more active in leveraging the modest resources available in Takoma Park to this end.

In assessing the work of the NFTPC over the years, the best approach is to ask to what extent the NFTPC has been effective in advancing the purposes of the Nuclear Free Zone Act. While the other view on this subject is correct that the NFTPC underemphasized some tasks or did not do certain things contemplated by the ordinance, that does not necessarily point to a significant deficiency, as long as the deficiency did not result in impeding accomplishment of the NFZA’s purposes.

For example, the NFTPC’s failure to “review the investment policy to ensure its conformity to the Takoma Park Nuclear-Free Zone Act”⁸⁴ is not very significant. Takoma Park’s investment policy prohibits investment in nuclear weapons producers, so there is not much to review. Moreover, the City does not invest in stocks anyway, so even the implementation of the investment policy would not raise a concern. Where the NFTPC has been active is in encouraging the City Council to switch banks,⁸⁵ on the basis that the institution the City banks with finances nuclear weapons producers.

Concerning review of City contracts to ensure they do not involve doing business with nuclear weapons producers, the ordinance states that the NFTPC “may review” such contracts: there is no requirement to review them. The issue does not come up very often, and in the few cases where it has come up, the NFTPC has been involved. The NFTPC should arguably be more active in reviewing contracts but, as the task force report explains,⁸⁶ how to do this is not straightforward, since it must be done in the context of the City’s overall procurement policies.⁸⁷

⁸³ See supra page 30.

⁸⁴ Takoma Park Municipal Code section 2.16.250(C).

⁸⁵ See supra page 19.

⁸⁶ See supra pages 36-38.

⁸⁷ To some degree, the NFTPC’s inactivity in respect of some functions contemplated by the City Code is best remedied by streamlining those functions, as recommended by the task force. (see pp. 38-41 of Final Report)