

DRAFT



Gaithersburg

A CHARACTER COUNTS!

CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
MONDAY, NOVEMBER 19, 2007

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa, Sesma, and Spiegel. Staff present: Acting City Manager Arnoult, Assistant City Managers Felton and Tomasello, Planning and Code Administration Director Ossont, Community Planning Director Schwarz, Planner Marsh, Human Services Director Carr, Public Information Director Monaco, Information Technology Director Cottrell, Facilities Director Geiling, Cultural Arts Director Kayser, and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Richard Knoebel, Board of Appeals Member.

II. INVOCATION

The invocation was led by Nazaneen Dorost, Baha'i Faith.

III. APPROVAL OF MINUTES

The newly elected Council Members affirmed that they read and reviewed the minutes from previous meetings to vote on the following:

- Minutes of a Regular Meeting of the Mayor and City Council Held October 1, 2007

Motion was made by Council Member Marraffa, seconded by Council Member Sesma, that the minutes of the Mayor and Council regular meeting held October 1, 2007, be approved.

Vote: 5-0
- Minutes of a Special Meeting of the Mayor and City Council Held October 15, 2007

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, that the minutes of the Mayor and Council special meeting held October 15, 2007, be approved.

Vote: 5-0
- Minutes of a Regular Meeting of the Mayor and City Council Held October 15, 2007

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, that the minutes of the Mayor and Council regular meeting held October 15, 2007, be approved.

Vote: 5-0

- Minutes of a Special Meeting of the Mayor and City Council Held November 7, 2007

Motion was made by Council Member Marraffa, seconded by Council Member Ashman, that the minutes of the Mayor and Council special meeting held November 7, 2007, be approved.

Vote: 5-0

IV. CONSENT ITEMS

1. **Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract to Purchase One (1) 2008 Bucket Truck**

This resolution authorized the purchase of the above truck from Criswell Chevrolet, 503 Quince Orchard Road, Gaithersburg, Maryland 20878, in the amount of Sixty-Eight Thousand Four Hundred Thirty Dollars (\$68,430); said funds to be expended from the Operating Budget

2. **Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract to Purchase a Portable Asphalt Grinding Machine**

This resolution authorized the purchase of the above machine from Asphalt Zipper, Inc., 310 West 700 South, Pleasant Grove, Utah 84062, in the amount of Ninety-Seven Thousand One Hundred Forty-Two Dollars (\$97,142); said funds to be expended from the Operating Budget

Motion was made by Council Member Marraffa, seconded by, Council Member Ashman, that the Consent Agenda (Resolution Nos. R-121-07 and R-122-07), be approved.

Vote: 5-0

V. ELECTION OF CITY COUNCIL VICE PRESIDENT

Motion was made by Council Member Sesma and seconded by Council Member Ashman, that Council Member Marraffa be elected to serve as Vice President of the City Council for a period of one (1) year.

Vote: 5-0

VI. APPOINTMENTS

Resolution of the City Council Confirming Appointments and Reappointment by the Mayor to the Historic District Commission

This resolution confirmed the following: Henry F. Marraffa, Jr., (reappointment), 12 Keystone Drive, 20877, Jud Ashman (appointment), 46 Napa Valley Road, 20878, Cathy Drzyzgula, 16 Walker Avenue, 20877, and Ryan Spiegel (appointment), 8 Granite Place, #365, 20878, three-year terms.

Motion was made by Council Member Sesma, seconded by, Council Member Marraffa, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND REAPPOINTMENT BY THE MAYOR TO THE HISTORIC DISTRICT COMMISSION (Resolution No. R-123-07), be approved.

Vote: 5-0

VII. PRESENTATIONS**1. Proclamation**

Mayor Katz along with Jennifer Blackwell, Multicultural Affairs Committee Member, issued a proclamation designating November, 2007, as "*National American Indian and Alaska Native Heritage*" Month in the City of Gaithersburg. Elaine Sands of Apache and Cherokee decent accepted the proclamation and shared a poem with the public.

2. Readings of the Winning Essays from the City's National CHARACTER COUNTS! Week Adult Heroes in OUR Community Writing Contest

Deferred.

3. Gaithersburg Cable Television Upgrade

Public Information Director Monaco and Information Technology Director Cottrell gave a PowerPoint presentation on the operation and alternatives to upgrading and enhancing the City's Cable TV. It was stated that replacement funds had been set aside to replace the existing equipment which is five to ten years old. Through staff's extensive research, it was determined that the alternatives would not only allow the expansion and enhancement for live broadcasts, but for studio and field productions as well within approximately the same replacement budget. The alternatives include new lighting and use of new technologies in the Council Chambers to improve the look and functionality of live meeting broadcasts, the adaptive use of studio space planned for the new youth center in Olde Towne to allow new programming, and significant enhancements to the City's field production capabilities, allowing for significantly increased efficiencies in recording City events and activities, and opening up the possibility of broadcasting live from other City facilities. Staff developed a three-phase plan to replace the equipment which include Council Chambers improvements (Phase I – January to June 2008), Field Production Improvements (Phase II – July to December 2008), and Studio Production Improvements (Phase III – January to June 2009). The cost for the replacement is estimated at \$635,000, which a majority of the funds had been budgeted in the FY 2008 Budget.

4. Status Report on the City Gateway Entry Signs Art in Public Places Project

Cultural Arts Director Kayser gave a PowerPoint presentation. She stated that several artists submitted their qualifications to design the City's Gateway Entry Signs to the Art in Public Places (AIPP) Committee for consideration. Submissions were scored and Tony Glander's design concept was selected to receive the commission based on notability of the visual message, readability, safety standards, affordability, public appeal and features complementary to the overall design them of the city's communities. She further stated that on March 19, 2007, the Mayor and City Council authorized the City Manager to enter into a contract with Mr. Glander for the design. The design consists of three different variations: Major signs for well traveled gateways into the City, Standard signs for gateways into the City, and Overpass signs mounted on highway overpasses that mark a gateway into the City. A prototype of the standard sign will be placed on East Diamond Avenue, traveling west into Olde Towne within the next two to three months. The major and overpass signs require approval by the Maryland State Highway Administration and are slated to be installed over the next two years. Prototypes of the signs and materials were shown to the Mayor and City Council. Staff was asked to investigate alternative signage to replace banners advertising special events.

VIII. COURTESY REVIEW**SDP-07-003 – Proposal to Amend a Schematic Development Plan (SDP), Known as Maryland Carpet and Tile, Located at 305 South Frederick Avenue, Gaithersburg, Maryland. The Amendment Proposes Two Story Mixed Use Building Consisting of 5343 Square Feet. The Property is in the Corridor Development (CD) Zone**

Planning and Code Administration Director Ossont stated that the applicant received schematic development plan approval in September of 2002, for SDP-02-002, 4,489 square feet of mixed used building. The approval consisted of approximately 3,500 square feet of storage and warehouse space and approximately 700 square feet of retail and office use. Since construction in 2004, it was determined that the footing had been constructed in the wrong location and memorandums were sent to the Mayor and Council in January and August of 2007 providing further detail. He stated that staff has been working with the applicant and a significant change has occurred to the companies operations since 2002. The amendment proposes a significant decrease in the amount of warehouse/storage use (2,451 sq. ft.) and an increase in the retail/office component (2,877 sq. ft.) to make the project feasible. Mr. Ossont stated that the building height and architecture remain largely similar to the original plan. The company currently leases warehouse space in Hagerstown, Maryland which will do away with large commercial vehicle trips to the site. Business vans will be associated with any deliveries to said location. The Mayor and City Council directed staff to have the Planning Commission conduct a public hearing on the new site plan and make a final decision on the proposed application. The Planning Commission was asked to look beyond the one business use for the site in regards to commercial vehicle trips.

IX. PUBLIC APPEARANCES

1. *Mary Jo LaFrance, 105 Chestnut Street*, congratulated the newly elected members of the Council. Following a site visit to the Crown Farm property on Fields Road, she expressed support for the historic designation of the England-Crown Farm House, the site and surrounding structures. Also expressed support for the preservation and move of the Heeter-Crown Farm House along side the England-Crown Farm House.
2. *Brett Cosor, 306 Alfandre Street*, referred to the presentation to upgrade the City's Cable TV operations. He expressed concern with the City's financial priorities. He urged the City Council to not approve the expenditure of funds proposed, but use the funds to better staff the City's police department and protect its citizens. Mayor Katz asked staff to provide an update on City revenues at this time.
3. *Thomas McQuighan, 924 Pointer Drive*, strongly urged the City Council to hold candidates and City residents accountable for violating municipal code, particularly election code. He asked the City to respond to citizen complaints regarding alleged violations of political sign offenses and the disclosure of finance contributions and expenditures.

Assistant City Manager Felton, staff liaison for the Board of Supervisors of Elections (BOSE) announced that the Board will meet on Tuesday, November 27, 2007, 6:30 p.m. at City Hall, to discuss the complaints and determine if there is reasonable findings to indicate that violations of election laws had occurred.

4. *Clark Day, 26 Walker Avenue*, welcomed the new City Council and referred to the many pending projects to address. Mentioned his daughter will be singing at the Flaming Pit and wished all Happy Holidays!
5. *Michael Stumborg, 104 Brookes Avenue*, expressed support for the Cable TV upgrades. He referred to "One Gaithersburg" and election violations and asked the City to provide the BOSE with the resources to investigate and determine any wrong doing.

6. *Denise McQuighan, 924 Pointer Ridge Drive*, echoed concern with the violations for posting of campaign signs and the reporting of financial contributions. She stated that laws must be obeyed and asked the City to do a thorough investigation of candidates and supporters.
7. *David Shayt, 15 DeSellum Avenue, Olde Towne Advisory Committee*, echoed congratulation to the new City Council. Asked the Mayor and City Council to read the committee minutes and support Olde Towne revitalization and the Clock Tower Project.
8. *Richard Arkin, 121 Selby Street, Chairman of the Historic Preservation Advisory Committee*, mentioned the committee visited the Crown Farm property and urged the City and citizens to support historic preservation in Gaithersburg.

X. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Sesma

1. Congratulated the new City Council, thanked the other candidates for running, and encouraged citizens to stay involved in the issues addressed by municipal government and its election process. Suggest that the BOSE thoroughly review the City election laws.
2. Attended the National League of Cities (NLC) Conference in New Orleans and reported that the Katrina destruction has yet to be addressed.

Council Member Drzyzgula

1. Attended the Veterans Day celebration and asked that the speaker's speech be available to the public for an educational resource. Reported that she and other Council Members attended the open house of VFW Post 9862 and was reminded of the charitable work they do for the Gaithersburg community.
2. Attended the NLC Conference in New Orleans and reported that people are active and working together to rebuild and make a difference in the lives of others.
3. Announced the City will not conduct work session on November 26, 2007, but will hold a special meeting for the sole purpose of voting to conduct a closed executive session on the same evening. She further announced that the Mayor and City Council plan to conduct a closed executive session on Monday, November 26, 2007, immediately following a special meeting of the Mayor and City Council, pursuant to Section 10-508(a)(1)(i), State Government Article, of the Annotated Code of Maryland, to discuss three personnel topics. The first topic relates to the process the City will follow to hire a new City Manager. The second topic will be the compensation of the Acting City Manager. The third topic will be the process for hiring a City Attorney. The closed executive session will be conducted pursuant to a motion properly adopted during the scheduled special meeting of the Mayor and City Council on Monday, November 26, 2007. She announced that the next regular meeting of the Mayor and City Council will be held on Monday, December 3, 2007.

Council Vice President Marraffa

1. Thanked his colleagues for their support and the nomination to serve as Vice President of the City Council.
2. Attended the NLC Conference and participate in several workshops as a Board of Directors member. He reported the Board discussed new incentives and policies to lobby Congress for funds, immigration action, sustainability of cities, transportation, CDBG funds, and broadband communications.
3. Attended the City's Veterans Day ceremony, thanked those that participated and encouraged citizens to support our troops.

4. Expressed support for the review and amendment of the City's election laws to ensure that they are understandable.
5. Wished all a Happy Thanksgiving!

Council Member Spiegel

1. Attended the City's Veterans Day ceremony and echoed support for citizens to participate and honor our veterans.
2. Expressed congrats to Council Vice President Marraffa for his nomination.
3. Reported he was not able to attend the NLC Conference, but look forward to speaking with his colleagues on ideas and concepts to better Gaithersburg.
4. Thanked citizens for sharing their concerns regarding the violation complaints of the election laws, stating that is part of the process of open government and public forum. Stated he is confident that the BOSE will reach an appropriate result and expressed support for updating and clarifying the current election laws.
5. Wished all a Happy Thanksgiving!

Council Member Ashman

1. Attended the Veterans Day ceremony and noted that it is an event worthy of coverage from the City's Cable TV once the upgrades are made.
2. Attended the NLC Conference and had the opportunity to get to know his colleagues and meet several Maryland Delegations. Stated he toured several areas of destructions in New Orleans, but got to see how private partnerships worked together to get a charter school open and businesses operating. Stated he attended sessions on affordable housing, budgeting, and transportation.
3. Congratulated the Quince Orchard High School Marching Band, Cross Country Team, Girls Soccer Team, Girls Field Hockey Team, and the Football Team for their successes.
4. Announced a sneak preview of the Gaithersburg Winter Lights Festival Friday, November 23 and Saturday, November 24, 2007. The festival will reopen for the season from November 30 through December 30, closed on December 25, 2007. For complete detail visit the City's website at www.gaithersburgmd.gov/winterlights.
5. Wished all a Happy Thanksgiving!

Mayor Katz

1. Reported that The Maryland Roadrunners, a ladies senior softball team sponsored by the City, won the gold medal at the Huntsman World Senior Games. He asked staff to invite the team to an upcoming meeting to be recognized.
2. Asked staff to contact Eric Kuhn, Special Education Resource Teacher at Lakelands Park Middle School to attend an upcoming meeting to be recognized for his actions to save the life of a motorist.

XI. FROM THE ACTING CITY MANAGER

Stated he is committed and looking forward to working with the Mayor and City Council in his new capacity as the Acting City Manager.

XII. PUBLIC HEARING

JOINT - Z-307 - Application Requests Rezoning of a 6.58-Acre Parcel, Known as the Summit Shopping Center (Parcel N182), Located in the Northeast Quadrant of Goshen Road and Girard Street at 559 Girard Street, in Gaithersburg, Maryland, From the Existing C-2 (General Commercial) Zone to the MXD (Mixed Use Development) Zone, in Accordance with § 24-196 of the City Code (Map Amendments). The Property is Adjacent to the Hidden Creek Land Bay III. The Sketch Plan Proposes Seven 4- to 5-Story Residential Structures Containing a Range of 360 to 405 Multiple-Family Dwelling Units, up to 20,000 Square Feet of Commercial/Retail Space and Structured Parking

Community Planning Director Schwarz stated that the joint public hearing was originally scheduled for October 19, 2007, but was postponed and advertised in the *Gaithersburg Gazette* on October 31 and November 7, 2007. Ms. Schwarz oriented the Mayor and City Council and Planning Commission to the site.

Barbara Sears, Linowes and Blocher, LLP, representing the applicant Hearthstone Communities, L.C., gave background on the property and its annexation in 1971 as part of the Casey-Goshen Tract (X-096) and zoned R-20 (Medium density Residential). She stated that the property was rezoned in 1981 to C-2 (General Commercial) Zone. In 1997, the property was designated as Commercial-Office-Residential Land Use in the Neighborhood One Master Plan and retained in the 2003 Master Plan. The property owner submitted a rezoning request to the MXD Zone which was withdrawn in December of 2005. She stated that the applicant is requesting a change from the C-2 Zone to the MXD Zone. The sketch plan was revised and now includes 349 multiple-family dwelling units, including 53 Moderately Priced Dwelling Units (MPDUs). She stated that the deduction in units was to achieve a better design plan and a more usable amenity space. In closing, she stated that the applicant believes the rezoning to the MXD Zone is in compliance with the Master Plan recommendations and the proposed redevelopment achieves the purposes and objectives of the MXD Zone.

Robert Goodill, Torti Gallas and Partners – CHK, Inc., stated that the location is important to the City and its location allows it to be well serviced from a retail and transportation standpoint. He reviewed the constraints to redevelopment the property due to its surroundings such as the 35 foot drop off and street frontages. He stated that the redevelopment is a traditional neighborhood design with pedestrian friendly streetscapes, open space, and retail frontage on the street.

Mark (inaudible), Torti Gallas and Partners – CHK, Inc., reviewed in more detail, the streetscape and its connection to the greenspace, public open spaces, and retail. He further reviewed the conceptual elevations, building styles, and renderings of the proposed architect, siding and materials to be used.

The Mayor and City Council and Planning Commission expressed concerns with the drop off mentioned above, the elevation and visual architect for the structured parking garage, commitment to appealing retail, compliance with the LEED standard initiatives, school projections and generation rates, and on street parking for retail.

Assistant City Manager Felton added that staff supports the retail component in the plan and will recommend approving it without the ability to convert.

Speakers from the public:

1. *Chantel Preuninger, 4 Sanders Court*, expressed opposition to the rezoning of the property and number of units proposed for the redevelopment. She asked the City to address the issues with transportation and increased crime in the area.
2. *Richard Arkin, 121 Selby Street*, expressed concern with the size of the proposed buildings and elevators to service the community. He stated that retail is an essential component and urged the Mayor and City Council and Planning Commission to reject residential conversion. He asked that the parking garage be assessable to the retail and expressed concern with the façade of the garage and the proposed height.
3. *Julian Greenspan, Hidden Creek resident*, in favor of the project to address the eyesore of the vacant property. He asked that the City require the applicant to develop a quality project that will be consistent with the efforts to revitalize Olde Towne and the Gaithersburg community.
4. *Clark Day, 26 Walker Avenue*, expressed concern with the streetscape on Summit Avenue and the size of the buildings. Expressed support for MXD and the retail component.
5. *Al Roma, 521 Cedar Spring Street*, stated he is close to the proposed redevelopment and expressed concern with the density, increased traffic and population for the area. He asked the City to preserve the existing continuity.
6. *David Shayt, 15 DeSellum Avenue*, stated that the property is a gateway into Olde Towne and endorsed a quality project to be built. He suggested art in public places for the proposed redevelopment.

There were no other speakers at the hearing.

Motion was made by Commissioner Levy, seconded by Commissioner Hopkins, that the Planning Commission close their record on Wednesday, December 19, 2007, 5 p.m. (30 days), on the above matter.

Vote: 4-0

Motion was made by Council Member Ashman, seconded by Council Member Spiegel, that the Mayor and City Council close their record on Monday, January 3, 2008, 5 p.m. (45 days), on the above matter.

Vote: 5-0

RECESSED THE MAYOR AND COUNCIL MEETING AT 9:45 PM FOR A HISTORIC DISTRICT COMMISSION MEETING. THE MAYOR AND COUNCIL MEETING RECONVENED AT 9:47 P.M.

XIII. ORDINANCES, RESOLUTIONS, AND REGULATIONS**1. Resolution for The Wells/Robertson House Roof Replacement Project**

This resolution authorized the City Manager to enter into a contract for the above services with James R. Walls Contracting Company, Inc., 7716 Delano Road, Clinton, Maryland 20735, in the amount of One Hundred Thousand Seven Hundred Dollars (\$100,730), plus an additional Ten Thousand Dollars (\$10,000) contingency for unexpected expenses; said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Drzyzgula, seconded by, Council Member Ashman, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE WELLS/ROBERTSON HOUSE ROOF REPLACEMENT PROJECT (Resolution No. R-124-07), be approved.

Vote: 5-0

2. Resolution to Negotiate and Execute Agreements Relating to the Development of Two City-Owned Parcels of Land in Olde Towne Gaithersburg

Assistant City Manager Tomasello stated that staff is seeking approval to negotiate and execute contracts, memorandums of understanding, or other related documents that are needed by the potential developer to commence the planning process. He stated that the City executed a contract with the Staubach Company to provide consulting services relating to the solicitation of development proposals for the "Y" site and 315 East Diamond Avenue in Olde Towne. Staff recommended Clark Reality Capital, LLC for the "Y" Site and Douglas Development for 315 East Diamond Avenue, two City-owned parcels. He gave a PowerPoint presentation to provide background on the process and discussed the two proposals. He further stated that the proposals are not in the planning stages and all opportunities will be provided to the public for review and comment for the proposed projects.

Staff was directed to investigate the widening of the curve line for East Diamond Avenue. Other questions that staff responded to or were asked to consider and factor into negotiations included: the number of proposals received, creation of the atrium feature at the "Y" site with the potential for a second pedestrian bridge in Olde Towne, dimension flexibility of the Fishman site building to give the City a larger plaza, underground parking for the general public and the elimination of surface existing parking, enhancing the area with retail, elevations for the clock tower, stormwater management and retail parking at the "Y" site with respect to other properties in the area, "Y" site not subjected to mandatory affordable housing in the Central Business District, and the advantages for the "Y" site proposal.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that a RESOLUTION OF MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AGREEMENTS RELATING TO THE DEVELOPMENT OF TWO CITY-OWNED PARCELS OF LAND IN OLDE TOWNE GAITHERSBURG (Resolution No. R-125-07), be approved.

Vote: 5-0

3. **Resolution to Negotiate and Execute a Contract With Rifkin, Livingston, Levitan & Silver, LLC**

Assistant City Manager Felton stated that the City has retained the above firm to assist the City with legislative issues pending before the General Assembly. He stated that the regular legislative session will begin in approximately six weeks. Staff is recommending that the firm be retained for legislative issues such as the Hotel/Motel Tax Bill, Excise Tax Bill, and the Senior Center Bond Bill. This resolution authorized the City Manager to negotiate and execute a contract with Rifkin, Livingston, Levitan & Silver, LLC, for legal services associated with the City's 2008 State legislative agenda, in the amount not to exceed Thirty-Two Thousand Five Hundred Dollars (\$32,500); said funds to be expended from the Operating Budget.

Motion was made by Council Member Sesma, seconded by, Council Member Ashman, that a RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH RIFKIN, LIVINGSTON, LEVITAN & SILVER, LLC FOR LEGAL SERVICES ASSOCIATED WITH THE CITY'S 2008 STATE LEGISLATIVE AGENDA (Resolution No. R-126-07), be approved.

Vote: 5-0

XIV. **FROM THE ASSISTANT CITY MANAGERS, CITY ATTORNEY AND OTHER STAFF**

- **Guidance on a Memorandum Dated November 15, 2007 Concerning a Police Training Opportunity at Broadstone Apartments**

Assistant City Manager Felton stated that the Broadstone Apartments had been approved for redevelopment and will be completely vacant in the near future. The City Police is requesting to work with the Montgomery County Police to host a Forced Entry Training program for regional SWAT team members at the vacant apartments. He further stated that the use of explosives will be associated with the training and audible to City residents. If directed to move forward with the request, staff will conduct significant public outreach and notify all nearby residents when the training will be occurring. Staff believes it is an opportunity to provide valuable training for the City's Police Department.

XV. **ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 10:24 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant