

**DRAFT**



**Gaithersburg**

*A CHARACTER COUNTS!*

CITY OF GAITHERSBURG  
MINUTES OF A REGULAR CITY COUNCIL MEETING  
MONDAY, MARCH 17, 2008

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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, Planning Director Pruss, Planners Marsh and Robinson, GIS Planner Eby, Capital Projects/Facilities Director Geiling, Engineering Services Director Mumpower, Human Services Program Manager Herndon, Police Sergeant Stanton, and Executive Assistant Stokes. Planning Commissioners present for joint public hearing: Chair Bauer, Vice-Chair Levy, Hopkins, Kaufman, and Lanier (Alt.).

**I. PLEDGE OF ALLEGIANCE**

The Pledge was led by Miranda Levin, Student Government Association President, Diamond Elementary School.

**II. INVOCATION**

The invocation was led by Deacon Carlo Caraballo, St. John Neumann Catholic Church.

**III. CONSENT ITEMS**

**1. Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Contract for Land Surveying and Engineering Services in Olde Towne**

This resolution authorized the City Manager to negotiate and execute a contract for the above services with Gutschick, Little & Webber, P.A., 3909 National Drive, Suite 250, Burtonsville, Maryland 20866, in the amount of Twenty-Three Thousand Dollars (\$23,000); said funds to be expended from the Capital Improvements Budget.

**2. Resolution of the Mayor and City Council Authorizing the City Manager to Enter into a Contract to Perform Maintenance and Repairs to Various City Stormwater Management Facilities**

This resolution authorized the City Manager to enter into a contract for the above services with Environmental Quality Resources, LLC, 1405 Benson Court, Unit C, Arbutus, Maryland 21227, in the amount of Forty-One Thousand Five Hundred Ninety-Eight Dollars (\$41,598); said funds to be expended from the Capital Improvements Budget.

3. **Resolution of the Mayor and City Council of Gaithersburg Authorizing the City Manager to Enter Into a Contract to Construct a Brick Sidewalk From the Cannery to the Old Fire House Along the South Side of East Diamond Avenue**

This resolution authorized the City Manager to enter into a contact for the above services with Olney Masonry Corp., 11343 Maryland Avenue, Beltsville, Maryland 20733, in the amount of Seventy-Five Thousand Eight Hundred Twelve Dollars (\$75,812); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that the Consent Agenda (Resolution Nos. R-22-08 through R-24-08), be approved.

Vote: 5-0

IV. **PRESENTATIONS**

**Presentation of GREAT (*Great Recognizing Educational Achievement Today*) Awards**

Mayor Katz was joined at the podium by Council Members Sesma and Spiegel, former members of the City's Education Committee, to present GREAT Awards to the following schools and representatives:

**Brown Station Elementary School**, Principal Jan Riley, Assistant Principal Dog Robbins, PTA President Steve Lanham, and NAACP Parent Representative Angela Suggs. The school was recognized for working collaboratively to implement monthly "Parenting for Academic Success" Workshops.

**Diamond Elementary School**, Principal Carol Lange, Principal Intern Dan Walder, Counselor Robyn Strauss, and Student Government Association (SGA) Officers Miranda Levin and Katerina Lake. The school was recognized for their PTA and SGA.

**Fields Road Elementary School**, Principal Jan Rupp. The school was recognized for their implementation of its Positive Behavior Intervention System.

V. **PUBLIC APPEARANCES**

1. *Daniel Reeder, 11520 Game Preserve Road*, appalled at the comments by Council Member Spiegel during the last meeting in regards to the complaints against his violations of election laws. He stated that Mr. Spiegel was not vindicated by the Board of Supervisors of Elections opinion and should not have belittled those citizens who filed complaints against him.
2. *Ellie Shaw-Belblidia, 340 Tschiffely Square Road*, spoke on the complaints and criticism received regarding the financial campaigning of Council Member Spiegel. She expressed support for the character of Mr. Spiegel.
3. *Tom McQuighan, 924 Pointer Ridge Drive*, referred to Council Member Spiegel proclaiming his innocence in the complaints as mentioned above and the financial campaigning by One Gaithersburg, stating that they were without merit. He stated that his community had been misled.
4. *Mike Stumborg, Brookes Avenue*, spoke on the complaints received regarding violations of the election laws. He believes there were many disconnects during the elections with what one considered to be legal, ethical, and moral. He asked that the City's election laws be made stronger.

5. *JoAnn Schimke, 734 Tiffany Court, West Riding Citizens Association President*, stated there are several communities that do not have a homeowners association and have to pay a higher expense for trash collection. She stated that it is time for the City and County to consider providing trash service to certain communities through their taxes to improve the aesthetics of the communities and a safer environment. Mayor Katz directed staff to create a citizens committee to research and give recommendations and for staff to comeback with suggestions.
6. *Mike Novelli, 350 Market Street West*, commented on complaints regarding Council Member Spiegel and election laws. He testified to Mr. Spiegel's integrity and honesty.
7. *Wilson Faris, 711 Hope Lane*, candidate in the City's recent elections. Commented that the City elections was done fairly, but asked the City to make revisions in the City Code for future elections.

Assistant City Manager Felton stated the draft election committee charge will be in the next Mayor and City Council package for review. Staff was directed to prepare the document for public review and comment.

## **VI. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS**

### **Council Member Ashman**

1. Reminded citizens to subscribe to the City's Alert Gaithersburg emergency notification system.
2. Thanked Brown Station Elementary School for the invite to an event he and Mayor Katz attended several weeks ago.
3. Reported a wonderful time during the St. Patrick's Day Parade and commended the youngsters that performed at the Young Artist Award Concert at the Arts Barn.
4. Announced and recommended that the public attend the performance of Les Miserables at Northwest High School.

### **Council Member Spiegel**

1. Wished all a Happy St. Patrick's Day. Congratulated the organizers and participants for an excellent event enjoyed by many.
2. Announced Gaithersburg's Annual State of the City event to be held on Thursday, April 3, 2008 from 6:30 to 9 p.m. at the Gaithersburg Hilton.
3. Congratulated the award winners of the Young Artist Awards and the GREAT Awards presented this evening.
4. Thanked citizens that offered comments of support earlier in the meeting under public appearances.

### **Council Vice President Marraffa**

1. Thanked the efforts of the organizers and participants of the St. Patrick's Day Parade.
2. Congratulated Diamond Elementary School and the other recipients of the GREAT Awards presented earlier.
3. Attended a National League of Cities Conference. Reported that the Board of Directors drafted a booklet on issues and questions for presidential candidates to address for our cities.

**Council Member Sesma**

1. Echoed Happy St. Patrick's Day and congratulated the many award recipients.
2. Attended the National League of Cities Conference and participated for the first time as a member of the Energy, Environment and Natural Resources Steering Committee. He shared that Congress has created a block grant and the committee discussed ways to urge Congress to appropriate funding. The Mayor and City Council all concurred and directed staff to contact the City's Delegation for their support. He mentioned that sustainability policies were also discussed. Attended seminars on foreclosures and will pass material on to staff for review.
3. Reminded citizens of Earth Day coming in April and reported that the City will have activities and events to recognize the need to work toward energy conservation and environmental awareness.
4. Mentioned the GE Tract and FenMarc properties. He expressed concern with potential county uses for various reasons, including the lost of revenue, zoning control, and uses. Reported that the City Officials and staff will be meeting with county staff in April. He asked for further discussion between the City Council and the public on the properties. Mayor Katz suggested talking with the county before conducting a public work session to discuss the matter. Many expressed concern with the lack of county communication with City staff and the public. City Attorney Board was asked to look into jurisdictional aspects of property claims and authority.

**Council Member Drzyzgula**

1. Reported she recently attended a Metropolitan Washington Air Quality Committee meeting. She stated there are plans in process to keep the air quality in the region improving and alternatives are being reviewed. Also attended the Chesapeake Bay Water Quality Committee meeting who are looking at the long term health of our drinking supply.
2. Attended the National League of Cities Information, Technology and Communications meeting where the main discussion was the ruling issued by the FCC's that would greatly effect the ability of municipalities and franchises.

**Mayor Katz**

1. Reported that the City was contacted by District 39 Senator Nancy King reporting that the City did receive \$200,000 from the Senate for the Senior Center. Expressed thanks to Senator Forehand and Delegates from District 15 and 39, as well as District 17. Publicly thanked former City Council member Blanche Keller and many seniors that attended the bond hearing with staff.
2. Thanked Governor O'Malley and the State of Maryland for the Community Legacy Award in the amount of \$75,000 for the neighborhood revitalization program. He thanked City staff Louise Kauffmann and Mary Boyle for writing the grant.
3. Participated as a judge for Mr. Gaithersburg High School and reported that many of the young man expressed appreciation for the many programs made available to them to change their lives.
4. Announced the following meeting schedule:
  - no work session on Monday, March 24, 2008, Easter Monday.
  - work session on Monday, March 31, 2008 to receive preliminary guidance on development of the proposed FY'09 Budget
  - next regular meeting on Monday, April 7, 2008.

**VII. FROM THE ACTING CITY MANAGER**

1. Thanked staff for their cooperative efforts to make the St. Patrick's Day event a success.
2. Announced that he will host a public forum for the City's Fiscal Year 2009 Budget on Wednesday, March 26, 2008, 7:30 p.m., 2<sup>nd</sup> floor Gallery at City Hall, 31 South Summit Avenue. A formal public hearing and work sessions will be scheduled for May, followed by adoption of the final budget in early June.

**VIII. PUBLIC HEARING****JOINT - MP-1-08, Master Plan Amendment: Kentlands Commercial District Special Study Area Amendment to the 2003 Land Use Plan, an Element of the City of Gaithersburg Master Plan**

Planning Director Pruss stated the joint public hearing was advertised on January 9 and 16, 2008, in the *Gaithersburg Gazette* and introduced Colin Greene of HOK Planning Group, to present the draft plan.

*Colin Greene, HOK Planning Group*, gave a presentation on the elements of the plan and the process. His presentation consisted of a community outreach summary, the framework of the plan, goals, term recommendations, and block recommendations. The process began with a charrette and three public outreach programs which included educational workshops on topics such as the public realm and urban design, retail and transportation, and a citizen phone survey. The feedback received assisted the team to prepare short and long term goals.

The plan goals focused on promoting land use and future growth of the Kentlands downtown with a healthy mix of uses to support the needs of the neighborhood and region and increased intensity as the market demand grows and as infrastructure can support it. Two other important elements were transportation and streetscapes. Mr. Greene stated that different options were being considered by the Maryland Transit Authority for the location and alignment of the station and the trajectory of the Corridor Cities Transitway. Through the process, the recommendation was given to the Mayor and City Council and the Planning Commission to locate the transitway on the Kentlands side of Great Seneca Highway. This reinforced the idea that the City of Gaithersburg had been promoting throughout all of its projects that transit stops should be in town centers, and that a public civic space in the northern sector of the district should be established. The HOK Planning Group is looking to improve pedestrian crossings at key locations along Kentlands Boulevard, replace surface parking by using structured parking and taller buildings, and create a place that is welcoming and pedestrian friendly. The immediate recommendations included developing a unified wayfinding and signage system for the shops and businesses which includes the component of live work units located along Main Street, as well as for the bigger tenants and the larger shopping venues that are in the more traditional shopping centers. It was also recommended that the Kentlands Boulevard Commercial District have a more appropriate and recognizable name such as Downtown Kentlands. A wayfinding and signage package would focus on the Main Street units, giving clear directional and understanding where parking is located and what tenants are located where. Physical improvements to Kentlands Boulevard were recommended to improve the walk ability and traffic calming of the existing streets, reducing pedestrian conflicts. The HOK Planning Group is promoting to remove all dedicated left turn lanes to create a friendlier pedestrian environment. Other immediate recommendations included the use of technology to help retrain drivers to understand when pedestrians are in the crosswalk and encourage more restaurant and dining establishments in Downtown Kentlands to meet market demands. Mr. Greene added that a thorough review of the current parking standard would have to be done to relieve some of the shared parking scenarios.

Mr. Greene briefly reviewed the block recommendations proposed for each of the areas of both the northern sector and the southern sector. Block E is the prime location for the CCT station and station parking. Block E is currently a surface parking lot that serves the KB existing Kmart building and the existing Lowes Home Improvement Center. Block D would be the new Kentlands Square supporting at least two-acres of public space. Block A2, B, and the front of H which is H1 would be promoted as having the most intense redevelopment opportunities due to their proximity of the transit station. He

further stated that most of the buildings in A1, C, F, G, and the other blocks are in the four to six story range. Ideas of redevelopment from current property owners have been expressed. The possibilities of redeveloping some of those surface lots, but also future of blocks like J and M which would engage Kentlands Boulevard, helping to clarify what Kentlands Boulevard is from a pedestrian standpoint, as well as individually support small parking decks totally enclosed inside their boundaries. Goal recommendations for Block I would be to create parking garages to provide needed parking to support future uses. Block L preserves low scale buildings and open space of Market Square, but could stand to grow several stories. Mr. Greene showed several renderings to get a feel for the scale of existing buildings and surrounding structures. Lastly, he showed an image of what Kentlands would look like from the air.

Speakers from the public:

1. *John Schlichting, 207 Kent Oaks Way*, stated he has been a strong advocate for this planning exercise for many years and has worked hard to get it in the budget and on the calendar. He stated that the City had to take a position on the alignment of the CCT as it would relate to the Kentlands, Lakelands, and Quince Orchard Park. He further stated that with this plan, the Commercial District of Kentlands can now become one of the most important town centers and the extensive planning effort is extremely visionary and necessary. He stated that it represents excellence in community planning and accomplishes all of the original goals over a very long term period of time.
2. *Tom McQuighan, 924 Pointer Ridge Drive*, questioned the alignment of the CCT and the plan to have it cross Great Seneca Highway.
3. *Jim Savitz, 177 Kentlands Boulevard*, speaking on behalf of the Market Square Advisory Committee which was established by the Mayor and City Council in 2002. The Committee strongly supports the goals and objectives of the plan which focuses on land use intensities, transportation issues, public space, streetscapes and the overall character of the commercial center. The Committee also supports the short and long term implementation strategies that the plans suggest, particularly the potential CCT realignment to the Kentlands Boulevard side of Great Seneca Highway. He urged the City Council and Planning Commission to welcome more businesses, particularly dining establishments.
4. *Richard Arkin, 121 Selby Street*, member of the Market Square Advisory Committee, former Kentlands Citizens Assembly President, and Board of Trustee Chairman, testifying as an individual. Stated he has been participating in the planning and transportation aspects of the charrette that Johns Hopkins is conducting and attended the Kentlands charrettes since the community was first planned. He expressed full support of the vision for the Kentlands downtown, Gaithersburg uptown, development proposals, transportation aspect, public spaces, and the streetscapes. He stated that the proposed plan creates a real commercial and residential core for a more sustainable mixed use urban pedestrian friendly center in Gaithersburg.
5. *Randy Turner, One Medlummne Way*, representing Medlummne express concern with the return path of the CCT which bisects the last bay of the corporations parking structure which has already been approved. He asked that an alternate path be considered.
6. *Josh Wooldridge, 684 Heathwalk Mews*, stated his home borders the south eastern border of the Commercial District Master Plan. He commended the Mayor and Council, Planning Commission, staff and the fellow stakeholders on their long term vision for Kentlands, Lakelands, and the urban core. He expressed support to improve the Commercial District, but had concern with a negative impact of a parking garage bordering his property. He asked that he and neighbors, whose property line shares the border with the Commercial District, be included on the direct mailing list.

There were no other speakers.

Mayor Katz directed staff to do a supplementary mailing informing the public of the closing date for the record.

Chair Bauer questioned how staff would proceed to implement the immediate recommendations which are not necessarily land use goals of the Master Plan. Mr. Ossont responded that there are several things City staff can do to facilitate the planning and budgeting process. Several members of the City Council and Commission expressed support for the vision of the draft plan. Former Council Member John Schlichting was recognized for his proactive forcefulness in getting the City to the point of now implementing some of the immediate goals to integrate the separate areas and begin resolving some of the issues with Kentlands Boulevard.

Motion was made by Commissioner Hopkins, seconded by Commissioner Kaufman, that the Planning Commission hold the record on MP-1-08, open until 5 p.m., Tuesday, April 8, 2008.

Vote: 5-0

Motion was made by Council Member Sesma, seconded by Council Member Drzyzgula, that the Mayor and City Council hold the record on MP-1-08, open until 5 p.m., Friday, April 18, 2008.

Vote: 5-0

#### **IX. ORDINANCES, RESOLUTIONS, AND REGULATIONS**

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MAYOR KATZ RECUSED HIMSELF FROM THE MEETING DUE TO A CONFLICT WITH THE NEXT AGENDA ITEM. COUNCIL VICE PRESIDENT MARRAFFA PRESIDED OVER THE MEETING.

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#### **1. RC-42, Road Code Waivers for Variable Road Sections for the Archstone at Olde Towne**

Planning and Code Administration Director Ossont stated there are six elements of the road code waiver. The road code waivers apply to Teacher's Way and the private road on the east side of the development. The applicants are proposing to: 1) Modify the standard roadway section to incorporate on-street parallel parking with planting islands/bulb-outs; 2) Reduce the minimum right-of-way and paving width for Teacher's Way; 3) Reduce and remove the grass strip between the curb and sidewalk of Teacher's Way; 4) Reduce the separation between the right-of-way line and sidewalk to six inches on Teacher's Way; and 5) Reduce the minimum paving width for the private road; and 6) Modify the cross-slope of the private road to allow for a slope greater than three percent.

Staff recommended the road code waivers be approved with the condition that the Department of Public Works, Parks Maintenance and Engineering and the City Fire Marshal approve the final design.

Motion was made by Council Member Sesma, seconded by Council Member Ashman, that **RC-42 – RESOLUTION OF THE MAYOR AND CITY COUNCIL GRANTING APPROVAL OF ROAD CODE WAIVER FOR VARIABLE ROAD SECTIONS FOR THE ARCHSTONE AT OLDE TOWNE REDEVELOPMENT, FINAL SITE PLAN SP-08-0001 (Resolution No. R-25-08)**, be approved.

Vote: 5-0

- **Provide Staff Guidance on Granting a Utility Easement on City Property**

Acting City Manager Arnoult stated that the City will dedicate a small part of the right-of-way for Teachers Way. He further stated that the Archstone at East Diamond project requires a utility easement on City property as well as a fairly significant power transformer area on City property. Staff has asked the developer to eliminate the overhead utilities on the north side of the project. Mr. Ossont provided a brief overview of the concept utility plan and oriented the City Council with the area affected by the easement. It was suggested that the easement take into account future redevelopment and staff was directed to continue working with developers on under grounding in Olde Towne.

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MAYOR KATZ RETURNED TO PRESIDE OVER THE MEETING

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**2. Resolution for Photo-Speed Services**

This resolution authorized the City Manager to negotiate and execute a contract for the above services with ACS State & Local Solutions, Inc., 1800 M Street NW, Washington, D.C. 20036, in an amount not to exceed Five Hundred Fifty Thousand Dollars (\$550,000) for FY'08; said funds to be expended from the Operating Budget.

Motion was made by Council Member Marraffa, seconded by, Council Member Spiegel, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR PHOTO-SPEED SERVICES (Resolution No. R-26-08), be approved.

Vote: 5-0

**3. Resolution Adopting the Strategic Plan for the City of Gaithersburg**

On an annual basis, the City refines its Vision, Mission Statement, Guiding Principles, and Strategic Directions. The City Manager utilizes the approved Strategic Plan as a basis for developing the proposed FY'09 Operating and Capital Budget. On February 19, 2008, staff gave an overview of the Mayor and City Council retreat process and presentation on the Strategic Directions. The Plan was placed on the City website for public comment and several comments were incorporated into the plan. Staff was asked to correct the spelling of the name Johns Hopkins.

Motion was made by Council Member Ashman, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING THE STRATEGIC PLAN FOR THE CITY OF GAITHERSBURG (Resolution No. R-27-08), be approved.

Vote: 5-0

**4. Resolution for a Street Reconstruction Project**

This resolution authorized the City Manager to enter into a contact for the above services with Olney Masonry Corp., 11343 Maryland Avenue, Beltsville, Maryland 20705, in the amount of Seven Hundred Two Thousand Dollars (\$702,000); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Drzyzgula, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR A STREET RECONSTRUCTION PROJECT (Resolution No. R-28-08), be approved.

Vote: 5-0

**X. POLICY DISCUSSION****MP-2-07 Community Facilities Element, an Amendment to the 2003 Master Plan**

GIS Planner Eby stated a joint public hearing was held December 17, 2007 and the Planning Commission recommended approval at their March 5, 2008 meeting by Resolution PCR-1-08. He stated that the Mayor and City Council closed their record on February 20, 2008. Staff recommended that Mayor and City Council re-open their record to accept the Planning Commission's recommendation and other exhibits received which were addressed via memorandum from Planning and Code Administration Director Ossont.

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, to re-open the record on MP-2-07.

Vote: 5-0

Council Member Sesma referred to page 57 which mentioned the Shady Grove Library, and asked that language be added in the plan for the existing Montgomery County Public Library in Montgomery Village. Staff recommended expanding the language in Objective 14 regarding the Shady Grove Library to read "and support any expansion plans for the Gaithersburg Library."

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, to close the record on MP-2-07.

Vote: 5-0

Motion was made by Council Member Ashman, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING THE COMMUNITY FACILITIES ELEMENT AMENDMENT TO THE GENERAL PLAN FOR THE CITY OF GAITHERSBURG MASTER PLAN AS APPROVED AND RECOMMENDED BY THE PLANNING COMMISSION ON MARCH 5, 2008 (Resolution No. R-29-08), be approved as modified.

Vote: 5-0

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

- **Provide Staff Guidance on a Memorandum Dated March 15, 2008 Concerning Orchard Pond Apartments**

Assistant City Manager Felton mentioned that JPI Development Services, LP has had a contract for sometime on the above. The Housing Opportunities Commission of Montgomery County (HOC) was considering exercising right of first refusal to purchase the complex in order to retain the affordable housing. Staff had been in extensive discussions with both parties and Montgomery County. JPI has agreed to maintain 10 percent of the units as MPDUs to families earning 65 percent of Area Median Income (AMI). An additional 7.5 percent of the units will be set aside for families earning 80 percent of AMI. Mr. Felton noted that under current market conditions, the 7.5 percent is not meaningful; however, it could be significant in the future if housing costs continue to rise. Staff recommended that the Mayor and City Council formally request that Montgomery County and HOC not exercise the right of first refusal and permit JPI to acquire the property. The administrative challenges of the City Housing program were questioned with the different levels of MPDUs and percentages. Staff was asked by the Mayor and City Council to be as consistent as possible for future projects during negotiations.

**XII. ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:15 p.m.

Respectfully submitted,

*Doris R. Stokes*

Doris R. Stokes  
Executive Assistant