



Gaithersburg

A CHARACTER COUNTS!

CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
MONDAY, NOVEMBER 3, 2008

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: City Manager Jones, Assistant City Managers Felton and Tomasello, Police Chief King, Engineering Services Director Mumpower, Planning and Code Administration (P&CA) Director Ossont, Planner Voigt, Director of Housing and Community Development Kauffmann, City Attorney Board, and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Planner Eliza Voigt.

II. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

III. APPROVAL OF MINUTES

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, that the minutes of the Mayor and Council regular meeting held October 6, 2008, be approved.

Vote: 5-0

Motion was made by Council Member Ashman, seconded by Council Member Spiegel, that the minutes of the joint briefing with Rockville held October 20, 2008, be approved.

Vote: 5-0

IV. CONSENT ITEMS

1. Resolution of the Mayor and City Council Authorizing the City Manager to Extend the 2008 Street Reconstruction Contract

This resolution authorized the City Manager to extend the 2008 street reconstruction contract to narrow Russell Avenue with Olney Masonry Corporation, 11343 Maryland Avenue, Beltsville, Maryland 20705, in the estimated amount of Ninety-Nine Thousand Dollars (\$99,000); 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 With Dynamic Surface Applications, Ltd. for the Installation of Decorative Crosswalks on Russell Avenue**

This resolution authorized the City Manager to enter into a contract to install decorative crosswalks on Russell Avenue with Dynamic Surface Applications, LTD, 373 Village Road, Pennsdale, Pennsylvania, 17756, in the amount of Sixty-Five Thousand Dollars (\$65,000); 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-103-08 and R-104-08), be approved.

Vote: 5-0

V. **APPOINTMENTS**

Resolution of the City Council Confirming Appointments and Reappointments by the Mayor

This resolution confirmed the following: Environmental Affairs Committee, Karen Rainbolt (reappointment), 934 Pointer Ridge Drive, 20878, two-year term; Greater Historic District Committee, Chris Kirtz (reappointment), 104 Russell Avenue, 20877, Eydie Searles (reappointment), 18 Walker Avenue, 20877, Dan Searles (reappointment), 18 Walker Avenue, 20877, two-year terms; Multicultural Affairs Committee, Nivea Cordova-Berrios (reappointment), 11408 Rambling Road, 20879, two-year term; and Police Chief's Advisory Council, Andrew Bove (appointment), 157 Bralan Lane, 20877, two year terms.

Motion was made by Council Member Sesma, seconded by, Council Member Ashman, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND REAPPOINTMENTS BY THE MAYOR TO THE TO THE ENVIRONMENTAL AFFAIRS COMMITTEE, GREATER HISTORIC DISTRICT COMMITTEE, MULTICULTURAL AFFAIRS COMMITTEE, AND POLICE CHIEF'S ADVISORY COUNCIL (Resolution No. R-105-08), be approved.

Vote: 5-0

VI. **PRESENTATIONS**

1. Police Chief King introduced Officer Jeffrey Nugent, hired on October 20, 2008. Prior to coming to the Gaithersburg Police Department, he was a police officer with the Baltimore City Police Department.

2. **Proclamations**

- Mayor Katz issued a proclamation designating May 1, 2009, as "*Silver Star Banner Day*" in the City of Gaithersburg. The Silver Star Families of America was formed to honor our nation's combat wounded.
- Mayor Katz issued a proclamation designating November 2008, as "*Municipal Government Works Month*" in the City of Gaithersburg. Local government offers its citizens the opportunity to be heard and to influence the course of our community. Municipal Government Works Month is celebrated in an effort to educate citizens about the role and function of government.

VII. PUBLIC APPEARANCES

Mike Stumborg, Brookes Avenue, referred to letters received from the State Prosecutor and Attorney General Offices regarding complaints filed against illegal contributions made during the City's 2007 Elections. He reported that the State Prosecutor's Office issue an official position that illegal campaign contributions were made to the One Gaithersburg coalition, but no action will be taken at this time. He proposed that the City's Election Code be amended to avoid a repeat of any illegal contributions.

Assistant City Manager Felton gave an update stating that the City did receive a letter from the Attorney General's Office indicating that it may not rise to the level of violation if it was less than \$4,000. The letter from the State Prosecutor's Office stated that the group did appear to be in violation of the law, but he was not going to prosecute because they did not believe that they could meet the burden to prove that specific intent to violate the law were made. The City is still waiting to hear from the State Board of Elections on the issue. The City's committee has been meeting regularly and will come before the Mayor and City Council during a work session in December or January with proposed City Code amendments.

VIII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS**Council Vice President Marraffa**

1. Attended a work session while vacationing in Santa Fe, New Mexico. Stated the meeting was well attended but extremely long and outreach to the public did not occur.
2. Encouraged citizens to get out and vote.

Council Member Spiegel

1. Recognized the Silver Star Families mentioned earlier in the meeting. Echoed the call for citizens to participate in the election process and vote.
2. Reported that the Market Square Advisory Committee met last week. He thanked P&CA Director Ossont for his efforts. The discussion focused on signage in the Kentlands Business District. He asked the City to move forward to address the issue. The committee asked that the City expand its mandate and formally change their name to include the Kentlands Business District.
3. Announced vacancies on various City committees and encouraged citizens to submit letters of interest to serve and fill the vacancies.

Council Member Ashman

1. Echoed the call to vote on Election Day. Congratulated the Quince Orchard High School Marching Band for placing 1st in the State. Staff was directed to invite representatives to attend an upcoming meeting to be recognized.
2. Congratulated and thanked staff for their efforts and a successful Kentlands Oktoberfest event.
3. Expressed support for the Market Square Advisory Committee to move forward and implement ideas to address the signage issue.
4. Invited the community to join the City in its annual Veterans Day Observance on Tuesday, November 11th to honor and recognize U.S. military personnel past and present who play an important role in safeguarding the future. The observance will take place at 11 a.m. at the City Hall Concert Pavilion.

Council Member Sesma

1. Welcomed Police Officer Jeffrey Nugent to the Gaithersburg Police Department. Stated that the City is now fully staff with officers.
2. Stated this election is a historic day and encouraged citizens to vote.
3. Announced that a closed executive session was held by the Mayor and City Council at approximately 9 p.m. at City Hall on Monday, October 6, 2008, for the purpose of discussing a legal and personnel matter. The closed session was held pursuant to Section 10-508(a)(7) and (a)(1)(i), State Government Article of the Annotated Code of Maryland. All members of the City Council were present. City Manager Jones, City Attorney Board, Assistant City Managers Felton and Tomasello were also in attendance for the legal discussion only. The closed meeting adjourned at approximately 9:12 p.m.

Council Member Drzyzgula

1. Reported the Mayors and City Councils of Gaithersburg and Rockville held a joint briefing on October 20, 2008 to receive a presentation from the Council of Governments Climate Change Committee. During the meeting, recommendations were presented for local government to be leaders. She noted that Gaithersburg already had implemented several of the recommendations.
2. Announced that the planting of Crape Myrtle Trees began in the Greater Historic District area. In addition, Russell Avenue is now more pedestrian friendly with wider sidewalks and on Brookes and Walkers, the installation of new street lights, historic house plaques, entry markers, and decorative pavement in the crosswalks.

Mayor Katz

1. Mayor requested the following motion:

Motion was made by Council Member Drzyzgula, seconded by Marraffa that the Mayor and City Council conduct a closed session immediately following the regular meeting of November 3, 2008, pursuant to Section 10-508(a)(7) and (8) State Government Article of the Annotated Code of Maryland for the purpose of consulting with Counsel to obtain legal advice and consulting with staff about pending or potential litigation.

Vote: 5-0

2. Announced Capital for a Day scheduled in Gaithersburg for Thursday, November 6, 2008. An agenda will be posted on the City's website.
3. Announced the following meeting schedule:
 - no work session on Monday, November 10, 2008.
 - next regular meeting Monday, November 17, 2008.

MAYOR KATZ RECESSED THE MAYOR AND COUNCIL MEETING AT 7:55 P.M.
FOR A HISTORIC DISTRICT COMMISSION MEETING. THE MAYOR AND
COUNCIL MEETING RECONVENED AT 7:58 P.M.

IX. ORDINANCES, RESOLUTIONS, AND REGULATIONS**1. Resolution Approving the Designation of a Community Legacy Area and Application and Receipt of Financing for a Community Legacy Project**

This resolution would approve the FY'09 Community Legacy Grant Application which is being submitted to the State of Maryland. The City is requesting \$150,000. If the funds are awarded, it would allow the City to offer matching grants to property owners within the community legacy area who are interested in improving and upgrading their building façade. Priority projects would be those within the Olde Towne Central Business District, followed by properties within the two adjacent Historic Districts. This resolution is a require component of the application.

Motion was made by Council Member Marraffa, seconded by, Council Member Ashman, that a RESOLUTION OF THE MAYOR AND THE CITY COUNCIL APPROVING THE DESIGNATION OF A COMMUNITY LEGACY AREA AND APPLICATION AND RECEIPT OF FINANCING FOR A COMMUNITY LEGACY PROJECT IN AND ADJACENT TO OLDE TOWNE GAITHERSBURG, MARYLAND TO BE FINANCED EITHER DIRECTLY BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT OF THE STATE OF MARYLAND OR THROUGH OTHER DEPARTMENTS OR AGENCIES OF THE STATE OF MARYLAND (Resolution No. R-106-08), be approved.

Vote: 5-0

2. Resolution Amending Local Standards Relating to the Administration of the Olde Towne Enterprise Zone

This resolution amends the local standards relating to the administration of the Olde Towne Enterprise Zone as provided for under the State of Maryland Enterprise Zone Program. The City received State designation in June 2008. In September 2008, the City passed a Resolution R-86-08 establishing local standards. Assistant City Manager Tomasello stated that there is an inconsistency with the terminology between the City and State Department of Assessments and Taxation (SDAT) standards. The City had been advised by the State to match the terminology of SDAT.

Motion was made by Council Member Ashman, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND THE CITY COUNCIL AMENDING LOCAL STANDARDS RELATING TO THE ADMINISTRATION OF THE OLDE TOWNE ENTERPRISE ZONE AS PROVIDED FOR UNDER THE STATE OF MARYLAND ENTERPRISE ZONE PROGRAM (Resolution No. R-107-08), be approved.

Vote: 5-0

X. POLICY DISCUSSION**T-385 - An Ordinance to Amend Chapter 24 of the City Code (City Zoning Ordinance), Entitled, "Zoning," Article V, Entitled, "Site Development Plans," § 24-168 Entitled, "When Required," and to Amend Chapter 24, Article V to Add § 24-168A Entitled, "Residential Site Plans, When Required"**

P&CA Director Ossont stated that a joint public hearing was held on July 7, 2008 and a subsequent joint work session was held on September 22, 2008. At that point, staff provided a revised draft ordinance that uses total square footage, with a threshold of 50 percent and dwellings requiring a Historic Area Work Permit (HAWP) would be exempted from this. The Planning Commission recommended adoption of T-385 on October 15, 2008. As part of the recommendation, the Planning Commission asked staff to come and provide a report on the implementation. The Planning Commission also asked staff to look into the application procedures to further assist homeowners. The Council's record closed at 5 p.m. on October 22, 2008.

In response to questions, Mr. Ossont noted that a Planning Commission review would be required and notification to adjacent property owners would also be required as soon as it hits the 50 percent threshold. Concerns were expressed that the footprint of a home could be almost doubled without having to come before the Mayor and City Council due to the fact that they would still be under 50 percent. Mr. Ossont stated that the applicant would still have to go through the customary permitting process. Staff proposed to the Mayor and City Council implementing design guidelines to issuing building permits for any additions that would change the character of the neighborhood. Staff was asked to include requirements not only for posting and notification, but for tree removal permits. All concurred that if the 50 percent threshold became a problem for the one-story, then staff would come back for further discussion. In response to a question, Mr. Ossont stated that staff received guidance from the work session mentioned above on the minimum lot standards for driveways and paving front yards. Staff was directed to draft text amendment for the Mayor and City Council's review as soon as possible.

Motion was made by Council Member Sesma, seconded by, Council Member Drzyzgula, that AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ENTITLED, "ZONING," ARTICLE V, ENTITLED, "SITE DEVELOPMENT PLANS," § 24-168 ENTITLED, "WHEN REQUIRED," AND TO AMEND CHAPTER 24, ARTICLE V TO ADD § 24-168A ENTITLED, "RESIDENTIAL SITE PLANS, WHEN REQUIRED" (Ordinance No. O-12-08), be approved.

Vote: 5-0

XI. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 8:15 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant