



Gaithersburg

A CHARACTER COUNTS!

CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
MONDAY, JANUARY 5, 2009

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, Finance and Administration Director Belton, Planning and Code Administration (P&CA) Director Ossont, Planner Marsh, Police Chief King, Lieutenant Campbell, Community Development Director Kauffmann, Project Manager Herndon, City Attorney Board, and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Alex Ramos, Quince Orchard High School Band Section Leader.

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 Ashman, seconded by Council Member Marraffa, that the minutes of the Mayor and Council work session held December 8, 2008, be approved.

Vote: 5-0

Motion was made by Council Member Sesma, seconded by Council Member Drzyzgula, that the minutes of the Mayor and Council regular meeting held December 15, 2008, be approved.

Vote: 5-0

IV. CONSENT ITEM

Resolution of the Mayor and City Council Authorizing the City Manager to Enter Into a Contract to Purchase Sixty-One (61) M&P Handguns

This resolution authorized the purchase of the above from Smith and Wesson, 2100 Roosevelt Avenue, Springfield, Massachusetts 01102-2208, in the amount of Twenty-Six Thousand Five Hundred Sixty-Two Dollars (\$26,562); said funds to be expended from the Replacement Account.

Motion was made by Council Member Marraffa, seconded by Council Member Sesma, that the Consent Agenda (Resolution No. R-1-09), be approved.

Vote: 5-0

V. APPOINTMENTS**Resolution of the City Council Confirming Appointments and Reappointments**

This resolution confirmed the following: **Community Advisory Board**, PJ Rivera (reappointment), 102 Ladyshire Lane, Rockville, Maryland 20850, two-year term; **Cultural Arts Advisory Committee**, Heidi Bishop (appointment), 861 Clopper Road, 20878, two-year term; **Economic Development Committee**, Matthew Markiewicz (reappointment), 14501 Bellmeade Lane, Darnestown, Maryland 20874, three-year term; **Environmental Affairs Committee**, John Hudson (reappointment), 214 Tulip Drive, 20877, two-year term; and the **Multicultural Affairs Committee**, Dr. Gilberto Zelayo (reappointment), 18545 Cherry Lane, 20879, two-year term.

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 COMMUNITY ADVISORY BOARD, CULTURAL ARTS ADVISORY COMMITTEE, ECONOMIC DEVELOPMENT COMMITTEE, ENVIRONMENTAL AFFAIRS COMMITTEE, AND THE MULTICULTURAL AFFAIRS COMMITTEE (Resolution No. R-2-09), be approved.

Vote: 5-0

VI. PRESENTATIONS**A. Certificates of Recognition**

Mayor Katz presented Certificates to the following members of the Quince Orchard High School Marching Band: Phillip Proctor, Director, Liz Niemiec-Assistant Director, Max Poetzschke-Drum Major, Holly Chiswell-Section Leader, Anna McAllister-Section Leader, Sam Cahill-Section Leader, Danny Gibney-Section Leader, Seth Levine-Section Leader, Michael Walker-Section Leader, Brandon Whiteis-Section Leader, Alex Ramos-Section Leader, Rachel Duff-Section Leader, Matthew Glinkowski-Section Leader, Drew Kaczmarek-Section Leader, Chase Kaczmarek-Section Leader, and Alice Zic-Section Leader. The Band was recognized for becoming Maryland State Champions, Best Color Guard, Music, and Effect, placing 15th in the United States Scholastic Band Association Nationals.

B. Certificates of Appreciation to Partners in the 2008 City Holiday Giving Program

Mayor Katz recognized community partners who donated their time, talent, and resources to make the 2008 Holiday Giving Program a success. Over 175 different organizations, civic groups and congregations supported the program.

The City acknowledged and thanked Ralph and Paula Bunge of Good Shepherd Lutheran Church for over 10 years of service to the program; Steve Saunders of Derwood Bible Church, Pastor Kate Murphy of Grace United Methodist Church; Gaithersburg Church of the Ascension; The Flaming Pit Restaurant and owner Armen Mardirossian; and Guy Brandt, Brooklyn Deli owner; and Lorraine Neff, Anne May and Carole Weikert.

C. FY 2008 Comprehensive Annual Financial Report and Required Communication

Finance and Administration Director Belton stated that the City is required by law to provide communication for the City's Comprehensive Annual Financial Report (CAFR). He thanked City Comptroller Tina Smith and Finance staff for their efforts to publish said report. He introduced auditor Greg Bussink, Clifton Gunderson, LLP.

Mr. Bussink reviewed information about significant matters related to the audit of the financial statements submitted by the City for the year ended June 30, 2008. He noted that there were no

disagreements with management on financial accounting and reporting matters, auditing procedures or other matters which would be significant to the City's financial statements or the firm's report on the financial statements.

Mr. Belton added that the City has received the Government Financial Accounting Award over the last 30 years.

VII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Vice President Sesma

1. Expressed Happy New Year wishes to the public and his colleagues.
2. Thanked partners and donors who contributed to the City's 2008 Holiday Giving Program. Encouraged citizens to give to food banks in need of food and cash donations.
3. Extended best wishes to distinguished citizens and committee members of the City, Richard Arkin and Clark Day, both recovering from illnesses.
4. Announced vacancies on various Committees and encouraged citizens to get involved and seek to become members.

Council Member Drzyzgula

1. Joined in and wished all a Happy New Year.
2. Announced the opportunity for 4th graders to enter an essay contest entitled "If I Were Mayor....," sponsored by the City, the Maryland Municipal League and the Maryland Mayors' Association. One winner will receive a \$250 savings bond. In addition, one winner will be selected to serve as Junior Mayor for one year. Deadline for entries is March 6, 2009. For details visit the City's website at www.gaithersburgmd.gov.

Council Member Marraffa

1. Echoed Happy New Year to all.
2. Announced the City will join Montgomery County, the City of Takoma Park and the Town of Garrett Park in a celebration and tribute to Dr. Martin Luther King, Jr. on Monday, January 19, 2009 at The Music Center at Strathmore.
3. Wished all the best in their recovery to Mr. Arkin and Mr. Day mentioned above.

Council Member Spiegel

1. Echoed the wishes of his colleagues for a happy, healthy, safe and prosperous New Year and best wishes to the friends of the City mentioned above on their recovery.
2. Acknowledged the efforts of the City's Community Services Division for coordinating programs and services throughout the year for the community.
3. Acknowledged the Quince Orchard High School Marching Band on their accomplishment.
4. Informed citizens that a weather advisory is in effect over the next few days. Reported that there are state programs available for home heating assistance and urged those in need to call.

5. Announced a closed meeting was held at City Hall by the Mayor and City Council on Monday, December 15, 2008, at approximately 8:20 p.m., pursuant to a motion adopted unanimously during the scheduled regular meeting on December 15, 2008. The meeting was closed pursuant to Section 10-508(a)(3) and (a)(7), State Government Article, of the Annotated Code of Maryland to discuss property acquisitions and obtain legal advice about pending litigation. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma and Spiegel, City Manager Jones, City Attorney Board, Assistant City Managers Felton and Tomasello and Planning and Code Administration Director Ossont. Upon conclusion of the discussion, the closed meeting was adjourned at approximately 9:05 p.m.
6. Mentioned he has been working with Assistant City Manager Tomasello and staff to develop a bank on program to assistance those not taking advantage of mainstream banking benefits.
7. Wished all a great time celebrating the Dr. Martin Luther King, Jr. Holiday and Inauguration Day.

Council Member Ashman

1. Wished all a Happy New Year and expressed best wishes to his friends Richard Arkin and Clark Day.
2. Encouraged citizens to subscribe to an important service Alert Gaithersburg at Alert.gaithersburgmd.gov.
3. Reported that Ricardo Dunmoody, student of the Gaithersburg High School Brothers Mentoring Program will be honored during the Dr. Martin Luther King, Jr. ceremony.
4. Encouraged homeowners to complete and send in the application for Homestead Tax Credit.
5. Urged citizens to join the Yes Montgomery Can! Campaign, a massive effort launched by County Executive Ike Leggett as part of the Martin Luther King, Jr. Weekend of Service and Sacrifice. The County hopes to raise \$100,000 to meet the challenge of a generous donor to the Montgomery County Community Foundation and to collect food to refill the shelves at the Manna Food Center.

Mayor Katz

1. Mentioned he recently spoke with Richard Arkin who has gone through several many medical procedures, but he is in good spirit. Will stop by to visit Clark Day soon.
2. Referred to the property assessments received by citizens. He asked staff to provide an update on the impact on the City's Budget.
3. Referred to President-Elect Obama's Stimulus Package and asked staff to develop a list of shovel ready requests to go to the Federal government.
4. Directed staff to schedule a work session with Shady Grove Adventist Hospital to receive a briefing on plans for future operations and facility planning in the area.
5. Announced the following meeting schedule:
 - work session scheduled for Monday, January 12, 2009, to receive a report and recommendations from the Ad Hoc Senior Center Committee.
 - closed executive session planned for January 12, 2009, to discuss with staff pending litigation.
 - no meeting the week of January 19, 2009 due to the holiday and inauguration.

- Mayor and City Council Annual Retreat is scheduled for Monday, January 26, televised at City Hall, 7:30 p.m., Session I, to receive a financial presentation and public input. Session II will be held on Saturday, February 7, 2009 at the Gaithersburg Upcounty Senior Center, coffee and pastries 8:30 a.m., formal session 9 a.m. – 3:30 p.m., to receive departmental presentations and strategic plan review, no public input, not televised.
- next regular meeting Monday, February 2, 2009.

VIII. FROM THE CITY MANAGER

Informed the Mayor and City Council that staff has been working with Verizon to bring the FIOS project to the City. She mentioned that staff is seeking to amend the City's Fee Schedule to provide a tool to negotiate with such large scale projects.

IX. PUBLIC HEARING

An Ordinance to Amend Chapter 7A of the City Code Entitled "Ethics Code", Section 7A-1 Entitled "Applicability of Chapter", Section 7A-4 Entitled "Conflicts of Interest" and 7A-5 Entitled "Financial Disclosure Statements" to Amend Applicability, Gift Amounts and Filing of Disclosure Statements

City Attorney Board introduced the above public hearing. The City's Ethics Commission met on May 12, 2008 to review the annual ethics report and noted that the definition of a gift under the Ethics Ordinance as valued at \$10 had not been updated since 1982. Based on research from other jurisdictions, the Commission recommended increasing the gift amount to \$50.

The proposed amends the gift language to redefine a gift as the transfer of anything valued at \$50 or more or a combination of transfers from any one person or entity within a one year calendar period valued at \$100 or more. In addition, the amendments clarify the applicability of the provisions of the Chapter to all elected officials and city employees and all designated appointed officials. The designated appointed official's provisions have been amended to delete the City Downtown Review Committee and the City Historic Preservation Advisory Committee. Staff recommended holding the record open until January 16, 2009, with anticipated adoption on February 2, 2009.

Council Member Ashman stated that he did not have a problem with the increased dollar amount, but expressed concern with language in Section 7A-1. He asked whether it applied to all employees, elected and appointed officials or only those described in Section 7A-5(c)(4) of the chapter. He suggested the following to clarify the applicability: The provisions of this chapter shall apply to all city employees, all elected officials, as well as all appointed officials described in Section 7A(5)(c)(4).

Council Member Spiegel agreed with the above revision by moving the commas to include all employees not listed in Section 7A(5)(c)(4), and to ensure that those exempt are not misinterpreted. Others concurred that the language should include all City employees and agreed to the dollar amount increase. There were further discussions regarding honorary exemption provisions and type of gifts accepted from individuals, organizations and agencies that may be negotiating contracts with the City. Council Member Spiegel referred to Section 7A(5)(a), value of which does not exceed \$50, questioning whether it references the exemptions from the previous section and suggested removing the last clause.

City Attorney Board concluded that the Commission reviews the conflict of interest and financial statements annually and have authority to take action if the conflict of interest provision is violated.

There were no speakers from the public.

Motion was made by Council Member Sesma, seconded by Council Member Drzyzgula, that the Mayor and City Council hold the record on the above open until January 16, 2009.

Vote: 5-0

MAYOR KATZ RECESSED THE MAYOR AND COUNCIL MEETING AT 8:34 P.M.
FOR A HISTORIC DISTRICT COMMISSION MEETING. THE MAYOR AND
COUNCIL MEETING RECONVENED AT 8:35 P.M.

X. POLICY DISCUSSION

A. Resolution Approving an Application to the Maryland Department of Housing and Community Development Under its Neighborhood Conservation Initiative Program for Federal Neighborhood Stabilization Funds

Housing and Community Development Director Kauffmann stated that Maryland State requires under their Neighborhood Conservation Initiative (NCI) program, a public hearing on the above application which was held on December 15, 2008, record closing at 5 p.m. on December 26, 2008. No comments have been received during that time. She added that the resolution is a required component of the application. Following a preliminary application submitted to the Maryland Department of Housing and Community Development in November 2008, staff undertook an examination of the foreclosure activity within the City, focusing on the Brighton West and Brighton East communities. Both of these neighborhoods have experienced high rates of foreclosure.

NCI funds may be used to purchase and rehabilitate foreclosed upon homes which have been vacant for at least 90 days. If grant funds are awarded, the City intends to contract with a private non-profit development organization to purchase and rehabilitate homes in these two neighborhoods. Additionally, grantees are encouraged to increase energy efficiency in the properties to reduce utility costs for the occupants. In addition, the City intends to use a portion of the funds to assist homebuyers with down payment and closing cost assistance or with financing mechanisms that will assist low and moderate income purchasers acquire affordable mortgages.

The State will also give priority to applications that demonstrate significant levels of community partnerships and financial leveraging. To that end, the City intends to offer priority to households displaced by redevelopment, thereby expanding its partnership with the Housing Opportunities Commission. Additionally, the City has agreements with Home Free USA and Family Services, Inc. both of which may offer housing counseling services at no cost to the program.

This resolution would accompany the grant application, if approved, in the approximate amount of Two Million Dollars (\$2,000,000) for the activities mentioned above.

Motion was made by Council Member Ashman seconded by, Council Member Spiegel, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG, MARYLAND, APPROVING AN APPLICATION TO THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT UNDER ITS NEIGHBORHOOD CONSERVATION INITIATIVE PROGRAM FOR FEDERAL NEIGHBORHOOD STABILIZATION FUNDS (Resolution No. R-3-09), be approved.

Vote: 5-0

B. Resolution Amending Section 61 of the City Charter Entitled “Prohibitions and Restrictions Regarding Persons in Classified Service”

Assistant City Manager Felton introduced the above resolution. During the course of conducting research for the Ad Hoc Elections Ordinance Review Committee, City Attorney Lynn Board noted that the restrictions contained in Section 61 of the City Charter concerning political activity by persons in classified service of the City were entirely too broad and were unconstitutional. The proposed Charter Amendment would eliminate the unconstitutional language but would continue to prohibit staff from participating in political activity during working hours or while representing the City in an official capacity.

The Mayor and City Council provided guidance to go to public hearing on the attached draft Charter Amendment at their November 24, 2008 work session. A public hearing was held on December 15, 2008. No one testified at the hearing, and the record was held open until Friday December 26, 2008 at 5:00 p.m. There have been no public submissions to the record.

Motion was made by Council Member Spiegel seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG, MARYLAND, TO AMEND SECTION 61 OF THE CITY CHARTER ENTITLED “PROHIBITIONS AND RESTRICTIONS REGARDING PERSONS IN CLASSIFIED SERVICE” (Resolution No. CA-1-09), be approved.

Vote: 5-0

C. Resolution Amending Section 57 of the City Charter and Adoption of a Resolution Establishing New Administrative Purchasing Procedures

The Mayor and City Council discussed a proposed amendment to Section 57 of the Charter and adoption of a Resolution establishing administrative purchasing procedures. The Charter amendment would delete purchasing limits from the Charter and require adoption of purchasing procedures by resolution. The proposed purchasing procedures would increase the current purchasing limits.

Section 57 of the City Charter establishes dollar limits for purchases requiring sealed bids and Council approval. These dollars limits have not been updated since 1997. The Finance Department has surveyed other jurisdictions to compare the City’s purchasing limits with other governments and found that the City’s purchasing limits are generally below other similar jurisdictions. Finance and Administration Director Belton stated that a public hearing was held December 15, 2008 and noted that the charter amendment would become effective February 24, 2009, if the resolution is approved.

Motion was made by Council Member Ashman seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG, MARYLAND, TO AMEND SECTION 57 OF THE CITY CHARTER ENTITLED “PURCHASING AND CONTRACTS” TO ESTABLISH LIMITS FOR BIDDING OF CONTRACTS AND PURCHASES BY RESOLUTION (Resolution No. CA-2-09), be approved.

Vote: 5-0

D. Resolution Adopting Purchasing Procedures for the City of Gaithersburg

This resolution adopted purchasing regulations pursuant to the charter amendment above which will become effective on February 24, 2009.

Motion was made by Council Member Sesma seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING PURCHASING PROCEDURES FOR THE CITY OF GAITHERSBURG (Resolution No. R-4-09), be approved.

Vote: 5-0

XI. FROM STAFF

Planning and Code Administration Director Ossont referred a memorandum to the Mayor and City Council dated December 18, 2009 regarding building permit notification. He stated that there was discussion at the September 22, 2008 joint work session regarding mansionization on implementing new notification procedures for building and tree removal permits on residential properties in the R-90 Zone. He stated that the county process requires that a placard be posted when a permit has been issued and interested residents can use the reference number from the placard to inquire about the permit. Staff developed four options for consideration by the Mayor and City Council and recommended the 'Permit Issued' Option which is consistent with Montgomery County's process which requires a placard after building/tree removal permit has been issued and permits appeals within 17-days of issuance. He stated that this option could be implemented in the near term with existing City resources.

Concerns were expressed with increasing a burden on private property owners, time table for beginning work, unclear property lines, increased staff time and their involvement with disputes amongst neighbors, permits not issued and tree removals.

Mr. Ossont added that staff does go out for tree removals to verify and ensure property lines. Staff was directed to move forward with Option I – Permit Issued which can be implemented in the near term with a long term approach pending. Staff was thanked for the great job they do.

XII. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:10 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant