



*Gaithersburg*

*A CHARACTER COUNTS!*

CITY OF GAITHERSBURG  
MINUTES OF A REGULAR CITY COUNCIL MEETING  
MONDAY, FEBRUARY 2, 2009

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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, Sesma and Spiegel. Staff present: City Manager Jones, Assistant City Managers Felton and Tomasello, Planning and Code Administration Director Ossont, Planner Robinson, Police Chief King, Police Sergeant Whalen, Police Officer II Hurtt, Building and Equipment Maintenance Supervisor Prithviraj, Olde Towne Revitalization Coordinator Hines, Public Information Director Monaco, Executive Assistant Paxton, Administrative Assistant Sanchez, Recreation Program Specialist Poole, Community Services Director Carr, Board of Appeals Members Kaye, Knoebel and Rieg, City Attorney Board, and Executive Assistant Stokes. Planning Commission present for joint public hearing: Bauer, Hopkins, Kaufman, Levy and Winborne.

**I. PLEDGE OF ALLEGIANCE**

The Pledge was led by Kyle VanCoutren, Gaithersburg High School, Naval Junior Reserve Officers Training Corps (NJROTC).

**II. INVOCATION**

The invocation was led by Maxine Oliver, Baha'i Faith.

On behalf of the City, Mayor Katz offered condolences and asked for a moment of silence for the families of the following individuals: Montgomery County Councilman Don Praisner, Juanita Bohrer, mother of former Mayor Edward W. Bohrer, Jr. and Wilmot Arnoult, Jr., father of Public Works Director Jim Arnoult.

**III. APPROVAL OF MINUTES**

Motion was made by Council Member Ashman, seconded by Council Member Sesma, that the minutes of the Mayor and Council regular meeting held January 5, 2009, be approved.

Vote: 4-0

Motion was made by Council Member Spiegel, seconded by Council Member Drzyzgula, that the minutes of the Mayor and Council work session held January 12, 2009, be approved.

Vote: 4-0

**IV. APPOINTMENTS****A. Resolution Confirming Various Reappointments**

This resolution confirmed the following reappointments: **Gaithersburg Senior Council**, Jeannie Pizzonia, 9816 Island Side Drive, Montgomery Village, Maryland 20886, two-year term; and the **Multicultural Affairs Committee**, Washington Nsangou, 903 North Frederick Avenue, 20879 and Patricia Rogers, 4A Crestwood Drive, 20877, two-year terms.

Motion was made by Council Member Ashman, seconded by, Council Member Sesma, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING REAPPOINTMENTS BY THE MAYOR TO THE GAITHERSBURG SENIOR COUNCIL AND THE MULTICULTURAL AFFAIRS COMMITTEE (Resolution No. R- 5-09), be approved.

Vote: 4-0

**B. Resolution Confirming Reappointments to the Board of Appeals**

This resolution confirmed the following reappointments: **Board of Appeals**, Harvey Kaye, 522 Chestertown Street, 20878, Richard Knoebel, 202 Rolling Road, 20877 and Carol Rieg, 936 Pointer Ridge Drive, 20878, three-year terms.

Motion was made by Council Member Sesma, seconded by, Council Member Ashman, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING REAPPOINTMENTS BY THE MAYOR TO THE BOARD OF APPEALS (Resolution No. R-6-09), be approved.

Vote: 4-0

**V. OATH OF OFFICE**

Mayor Katz administered the Oath of Office to Harvey Kaye, Richard Knoebel and Carol Rieg to execute the office of Board of Appeals, three-year terms.

**VI. PRESENTATIONS****A. Second Quarter 2008 Employee Recognition Awards**

City Manager Jones joined by Mayor Katz congratulated and recognized the following recipients:

**Employees of the Quarter****Sunil Prithviraj, Building and Equipment Maintenance Supervisor, Public Works**

As a member of the Facilities team, Sunil supervises, coordinates and participates in the servicing, maintenance and repair of building facilities and equipment. He demonstrates both tremendous customer service and a willingness to perform duties outside his regular scope of work. He is being recognized for excellence, productivity and quality of work.

**Mary Whalen, Sergeant, Administrative Bureau, Police Department**

Mary is being recognized for consistent performance and demonstrating outstanding judgment in an emergency situation. In a recent incident, Mary responded to a call for two individuals being held a gunpoint. On the scene, the suspect threatened Mary with a shotgun. Due to her quick response and ability to calmly evaluate and respond to the potential threat, the incident was

resolved without injury. Her training, good judgment and professionalism allowed her to de-escalate the situation without tragedy or use of lethal force.

### **Teams of the Quarter**

**Capital for a Day Organizing Committee: Fred Felton, Cindy Hines, Britta Monaco, Sarah Paxton, Monica Sanchez (City Manager's Office) and Laura Sarno (Public Works)**

Gaithersburg was named Maryland's Capital for a Day on November 6, 2008. Planning for the event, which relied heavily on input from the Governor's office, could not commence until mid-October. In all, six press events were planned and executed throughout the City on November 6. Meeting frequently over just a three-week period, organizing committee members, while juggling their regular job duties, were tasked with arranging all of the logistics to ensure that both the City's and the State's needs were met throughout the day. The organizing team is to be commended for their outstanding quality of work under extremely tight deadlines.

**Shift 4 Special Search & Rescue Effort Team: Kathy Fairfield, Brian Hurtt and Dan McCarthy - Police**

This team was nominated for exceptional performance in locating and rescuing a critical missing person. Searching on foot at night, members of the team successfully located a missing elderly woman who had wandered from her home. She had fallen in a stream on a frigid evening and was in an advanced state of hypothermia. The officers stabilized her as they waited for an ambulance, and eventually had to carry her from an area that was inaccessible to even a four-wheel drive vehicle. The victim was transported to the hospital for treatment and her family was truly appreciative. Without the efforts of these three officers, this situation might have had a much different ending.

Thanks were expressed to the Employee Recognition Committee for their efforts to select the recipients of the recognition awards.

### **B. Certificates of Recognition**

Mayor Katz presented certificates to members of the Gaithersburg High School NJROTC Drill/Color/Academic teams on being awarded: 1<sup>st</sup> place for Color Guard Osbourn Park; 1<sup>st</sup> place for Academic Team Northwestern Meet; and 2<sup>nd</sup> place for Armed/Unarmed Basic Drill.

### **C. Certificates of Appreciation**

Mayor Katz presented certificates to the 2008 Winter Lights Sponsors and donations to several charities. The following sponsors gave generous support by cash donations and/or in kind services: Comcast - \$77,589 in kind; Mix 107.3 Radio Station - \$54,000 in kind; Lakeforest Shopping Center -\$5,000 cash/\$15,000 in kind; Gazette Newspapers - \$8,000 in kind; Shady Grove Adventist Hospital - \$5,000 cash; OBA Bank - \$1,000 cash/\$4,000 in kind; MedImmune - \$1,000 cash; Hughes Network Systems - \$1,000 cash; Insight Magazine -\$1,000 in kind; The Beacon Newspaper - \$1,000 in kind; and Washington Parent Magazine - \$1,000 in kind.

The following charities received funds from the 2008 Winter Lights Program: Shady Grove Adventist Hospital - Neonatal Intensive Care Unit \$4,500; Friends of Wells/Robertson \$800; Dolores Swoyer Scholarship Fund \$800; Upper Network Assistance Network \$800; and Friends of Seneca Creek State Park \$800

**D. Readings and Certificates of Recognition Presented to the 18<sup>th</sup> Annual Dr. Martin Luther King, Jr. Literary Arts Contest Winners**

Mayor Katz was joined at the podium by Patricia Rogers, Multicultural Affairs Committee and Community Services Director Carr. The 1<sup>st</sup> place winners of the City of Gaithersburg and Gazette Newspapers 18<sup>th</sup> Annual Martin Luther King Jr. Literary Arts Contest were in attendance and had presented their essays during the County Martin Luther King Celebration held Monday, January 19<sup>th</sup> at the Music Center at Strathmore.

Their work was judged and chosen as exceptional by members of the City's Educational and Multicultural Affairs Committees. This year the students addressed the theme, "Dr. Luther King Jr.: Truth, Justice and Equality". All work was judged anonymously and a scoring system was used. The following 1<sup>st</sup> place authors read their essays and received certificates and awards: Edward Krasniewski, 12<sup>th</sup> grader, Northwest High School; Jersie Mbu, 9<sup>th</sup> grader, Gaithersburg High School; and Katherine Rodas, 5<sup>th</sup> grader, Washington Grove Elementary School.

**VII. PUBLIC APPEARANCES**

1. *Tom Rowse, 101 Dogwood Drive*, shared some Gaithersburg history from 1879. Expressed the importance of securing funds for the revitalization of Olde Towne and asked the City to budget properly.
2. *Adrienne Gillen, as President, spoke on behalf of the Kentlands Citizens Assembly*, asked the Mayor and City Council to develop an implementation strategy for the Kentlands Boulevard Commercial District. She urged the City to adhere to the 2009 Draft Strategic Plan and include \$50,000 for expenditures on wayfinding and signage consultants as well as costs for infrastructure improvements.

**VIII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS****Council Member Drzyzgula**

1. Announced her nomination as Chair of the Council of Governments Chesapeake Bay Water Quality Committee.
2. Recognized the students that read their essays during the Dr. Martin Luther King, Jr. (MLK) Ceremony at the Music Center at Strathmore.
3. Attended the County Council hearing on January 22, to hear discussions regarding GE Tech Park. In addition, she attended the City's Employee Recognition Awards Breakfast.
4. Received feedback from citizens concerned over the loss of businesses in Gaithersburg. Citizens were encouraged to support local businesses by shopping and dining in Gaithersburg.
5. Announced applications are being accepted for the annual Edward Bohrer Memorial CHARACTER COUNTS! Scholarships. Deadline for entries is 3 p.m. on March 17, 2009.

**Council Vice President Sesma**

1. Noted several City events. Thanked Community Services and Parks, Recreation and Culture staff for their efforts on the MLK ceremony. Recognized the historical inaugural event that occurred and expressed hope for the future.
2. Congratulated all the award recipients recognized earlier during the Mayor and City Council meeting.
3. Echoed remarks of Council Member Drzyzgula to help the economy and encouraged citizens to buy Gaithersburg first.

4. Announced the City will conduct several public meetings to discuss the use of FY '10 Community Development Block Grant funds. Public meetings will be held at the Activity Center at Bohrer Park on Wednesday, February 4 and Wednesday, February 11 at 7 p.m. and on Thursday, February 5 at 11:30 a.m. at City Hall.

**Council Member Spiegel**

1. Announced vacancies on various Committees and encouraged citizens to get involve and seek to become members.
2. Recognized the MLK event and the historic inauguration of President Obama which he along with other Council Members traveled to Washington, D.C. to witness. Gave kudos to the local and regional public safety employees for their efforts to make the inauguration event incident free. Thanked Community Services staff and the many volunteers who helped with the MLK event at the Music Center at Strathmore.
3. Noted that the City was able to assist and promote the County's Yes Montgomery Can initiative to make MLK Day a day of community service and volunteerism.
4. Echoed condolences to the families mentioned above.
5. Congratulated the award recipients mentioned above during presentations and the reappointees to the various City Boards and Committees. Thanked the sponsors of the Winter Lights program and organizations that provide services to the community.
6. Attended the Employee Recognition Awards Breakfast and congratulated those employees that received special recognition for their outstanding performance and years of service. In addition, he recognized those recipients of quarterly awards mentioned earlier during the meeting.
7. Announced that on January 22, 2009, he and others attended the United Way reception at the Kentlands Mansion and recognized the non-profit groups that were recipients of United Way grants. Asked citizens to support their non-profit groups.
8. Joined other City Council members on January 22 and attended the County Council hearing on the Smart Growth Initiative to ensure that the City's concerns were communicated to the County Council.
9. Announced the City will host a African American History Month celebration on Tuesday, February 17, 6:15 p.m. in the City Hall Gallery.
10. He and Council Member Drzyzgula traveled to Annapolis and met with several State Delegates to expressed thanks for their past support of Gaithersburg and encouraged support for City's legislative priorities for 2009.
11. Announced "Gaithersburg Day" in Annapolis on Thursday, February 5, to urge legislators to support the City's priorities.
12. Reminded residents and businesses that they are required under City law to clear sidewalks in front of their properties. Stated it is a matter of public safety.
13. Reported that recycling not picked up on the normal day due to severe weather, pick-up will occur on Saturday.

City Manager Jones clarified that staff is working it out that during inclement weather, if there is a missed pick-up, the next scheduled pick-up will be the following Saturday, but it is not the current practice.

**Council Member Ashman**

1. Echoed the remarks of his colleagues and marveled at the MLK essays read by the students recognized above.
2. Announced Session II of the Mayor and City Council Annual Retreat scheduled for Saturday, February 7, 2009, coffee and pastries 8:30 a.m., formal session 9 a.m. - 3:30 p.m. at the Gaithersburg Upcounty Senior Center to receive Departmental Presentations and a Strategic Plan Review. Public participation will not be permitted during the session.
3. Encouraged residents to subscribe to Alert Gaithersburg.

**Mayor Katz**

1. "Gaithersburg Day" in Annapolis scheduled for Thursday, February 5, 2009, 11:30 a.m. to 1 p.m. Assistant City Manager Felton gave an update on the City's legislative priorities on funding (new senior center, Gaithersburg Community Museum in Olde Towne, and seeking a grant for an energy assistance program for low to moderate income homeowners) and transportation (Watkins Mill Road Interchange, Corridor Cities Transitway and the scheduled completion of the Intercounty Connector on schedule). He added Nancy King is supporting the City on the passage of a bill that would prevent Maryland's violent offenders from receiving Diminution Credit, time off for good behavior.
2. Announced the following meeting schedule:
  - work session scheduled for Monday, February 9, 2009, to discuss MP-2-08 - Municipal Growth Element, an Amendment to the 2003 Master Plan and Discussion With Montgomery County Officials on the Proposed Smart Growth Initiative (*includes the acquisition and reuse of the GE and Finmarc Parcels in Gaithersburg*)
  - next regular meeting Tuesday, February 17, 2009.

**IX. PUBLIC HEARING**

- A. JOINT – T-389, Application Requests to Amend Chapter 24 of the City Code (City Zoning Ordinance) Article III, Entitled, "Regulations Applicable to Particular Zones," Division 2, Entitled, "R-90 Zone, Medium Density Residential," § 24-32, Entitled, "Dimensional Restrictions," to Modify Subsection (d) to Establish New Standards for Impervious Areas in Front and Side Yards**

Planner Robinson stated the joint public hearing was advertised in the *Gaithersburg Gazette* on January 14 and 21, 2009. The issue of front yard coverage in the R-90 Zone was raised during discussions for text amendment application T-385 – Mansionization. The current development standards for the R-90 Zone limit structures to no more than 30 percent lot coverage. The proposed amendment will limit the amount of impervious area found in the front yard. He added that no structures can be built within areas defined as yard setbacks in the R-90 Zone. The amendment provides two methodologies depending on the size of the lot and would not apply to those properties reviewed under Historic Area Work Permit. The methodologies are a contiguous area that is no more than 25 percent of the area of the front yard or a contiguous area 25 feet wide and the depth of the front yard, whichever is less. Lead walks (walkway to front door) measuring not more than five feet in width are excluded. He stated that the purpose for the two methodologies is to address the atypical lot size scenarios found within the R-90 Zone and minimize both the physical and visual impacts of any impervious areas. Several scenarios were shown. He further stated that the proposed amendment is not retroactive on existing conditions, but for new construction and site development permits. The ordinance basically addresses environmental and parking issues.

Concerns were expressed by the Mayor and Council and Planning Commission regarding impervious pavers and areas for parking, configuration of lots, front and side yards in relation to the 25 percent of the total area, special exception process and new construction, variance qualifications, setbacks regardless of the depth of the house, lot coverage, unconventional designs and number of lead walks permitted.

Speakers from the public:

1. *William Fallon, 822 Jonker Court*, endorsed the proposed amendments and expressed displeasure of a neighbor paving over the majority of his yard.
2. *JoAnn Schimke, 734 Tiffany Court*, expressed support for the proposed amendments to the ordinance to avoid excessive paving by neighbors and the visual loss of a residential community.

There were no other speakers.

Motion was made by Commissioner Kaufman, seconded by Commissioner Winborne, that the Planning Commission hold their record on T-389 open until 5 p.m. on February 20, 2009, anticipated recommendation on March 4, 2009.

Vote: 5-0

Motion was made by Council Member Drzyzgula, seconded by Council Member Sesma, that the Mayor and City Council hold the record on T-389 open until 5 p.m. on March 11, 2009, anticipated policy discussion on April 6, 2009.

Vote: 4-0

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

### **A. Resolution Amending a Schedule of Fees, Charges, Fines and Expenses**

The proposed amendment to the fee schedule would enable the Mayor and City Council to adopt an alternative fee schedule for City-wide telecommunications projects by separate resolution. Staff had been working with representatives from Verizon in their efforts to bring Fiber Optic Services (FiOS) to Gaithersburg. It was determined that the current permit fees for telecommunication facilities in the public right-of-way would be nearly \$500,000 for the City-wide project. Verizon believes that a reduction in the fees for this project is appropriate. The amendment would be not only for Verizon but for future telecommunication companies doing a City-wide project.

Motion was made by Council Member Ashman, seconded by, Council Member Sesma, that a RESOLUTION AMENDING A SCHEDULE OF FEES, CHARGES, FINES AND EXPENSES AS PROVIDED FOR IN THE ORDINANCES OF THE CITY OF GAITHERSBURG (Resolution No. R-7-09), be approved.

Vote: 4-0

**XI. POLICY DISCUSSION**

- A. T-388, An Ordinance to Amend Chapter 24 of the City Code (City Zoning Ordinance), Entitled, "Zoning," Article IX, Entitled, "Signs," § 24-211 Entitled, "Signs Permitted In All Zones," Subsection (e), Entitled, "Election Campaign And Ballot Questions Signs," to Eliminate Conflicting Provisions and Renumber Accordingly**

The American Civil Liberties Union of Maryland (ACLUM) had provided case law from the City of Baltimore and Prince George's County asserting that the time limit restrictions regarding Election Campaign and Ballot Questions signs found that the City's zoning ordinance are unconstitutional. Staff reviewed the correspondence and City Attorney Board concurred with the ACLUM. The text amendment would modify Section 24-211(e) by removing subsections (2) and (3) that are deemed unconstitutional.

Motion was made by Council Member Spiegel seconded by, Council Member Ashman, that AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ENTITLED, "ZONING," ARTICLE IX, ENTITLED, "SIGNS," § 24-211 ENTITLED, "SIGNS PERMITTED IN ALL ZONES," SUBSECTION (E), ENTITLED, "ELECTION CAMPAIGN AND BALLOT QUESTIONS SIGNS," TO ELIMINATE CONFLICTING PROVISIONS AND RENUMBER ACCORDINGLY (Ordinance No. O-1-09), be adopted.

Vote: 4-0

**XII. ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:17 p.m.

Respectfully submitted,

*Doris R. Stokes*

Doris R. Stokes  
Executive Assistant