



MAYOR AND CITY COUNCIL WORK SESSION AGENDA

Monday, April 13, 2009

7:30 p.m.

City Hall Council Chambers

(Please turn off all cellular phones and pagers prior to the meeting. Hand held signs brought into the Council Chambers may not be displayed in a manner which disrupts the meeting, blocks the view of spectators or cameras and poses a safety concern [e.g., signs mounted on stakes]. Your cooperation is appreciated.)

- I. Call to Order**
- II. Request for Motions**
 - A. Special Meeting**
 - B. Executive Session**
- III. Work Session Topics**
 - A. Resolution of the Mayor and City Council to Amend Section 59 of the City Charter Entitled "Personnel Regulations; Merit System; Classified and Unclassified Service May be Established," and Section 60 of the City Charter Entitled "Composition of Classified and Unclassified Service"**
 - B. An Ordinance to Repeal and Reenact with Amendments Chapter 17 of the City Code Entitled "Personnel"**
- IV. Adjournment**

This schedule is subject to change. Work Sessions are broadcast over Cable TV, Channel 13 and on the Internet at www.gaithersburgmd.gov/tv. Receive City agendas, minutes and news via e-mail. Log on to the myGaithersburg e-mail-based news service at www.gaithersburgmd.gov/myGaithersburg. Please contact 301-258-6310 prior to meetings to confirm accessibility accommodations.

TO CONFIRM ACCESSIBILITY ACCOMMODATIONS,
PLEASE CONTACT DORIS STOKES AT CITY HALL, 301-258-6310

SPECIAL MEETING ANNOUNCEMENT

Notice to the general public is hereby given that the Mayor and City Council of Gaithersburg plan to conduct a special meeting at City Hall on Monday, April 13, 2009, immediately following the scheduled work session, solely to vote to introduce and notify the public that a public hearing will be held on Monday, May 4, 2009, to discuss the proposed amendments to Section 59 of the City Charter Entitled "Personnel Regulations; Merit System; Classified and Unclassified Service May be Established," and Section 60 of the City Charter Entitled "Composition Of Classified And Unclassified Service" and to discuss an Ordinance to Repeal and Reenact with Amendments to Chapter 17 of the City Code Entitled "Personnel." The special meeting will be conducted pursuant to a motion properly adopted during the work session on Monday, April 13, 2009.

EXECUTIVE SESSION ANNOUNCEMENT

Notice to the general public is hereby given that the Mayor and City Council of Gaithersburg plan to conduct a closed Executive Session at City Hall, Monday, April 13, 2009, immediately following the scheduled special meeting of the Mayor and City Council, pursuant to Section 10-508(a)(8), State Government Article of the Annotated Code of Maryland to discuss pending or potential litigation. The purpose of the session is to consult with counsel, staff, and other individuals about pending or potential litigation. The closed executive session will be conducted pursuant to a motion properly adopted during the session of the Mayor and City Council on Monday, April 13, 2009.

UPCOMING COUNCIL MEETING

This list is not all-inclusive, and does not reflect priorities or scheduling
But is intended to provide a glance at future items to come before the City Council.

Regular Meeting of the Mayor and City Council

- | | | |
|-----------------|----------------|--|
| Mon., Apr. 20 - | Presentations | - Certificate of Appreciation "Warren Johnson" |
| | | - Proclamations "Holocaust/Days of Remembrance" "Arab-American Month" "Green Week/Arbor Day" |
| | Consent | - Paving Green Park Paths and Parking Lot at Dog Exercise Area |
| | Public Hearing | - Verizon Franchise Agreement |
| | Ord./Res./Reg. | - Introduction of the FY '10 Proposed Budget Ordinance |
| | | - Notification of Constant Yield Tax |
| | | - Introduction of RCN Cable Franchise Agreement Renewal |
| | | - Purchase of Public Art for Market Square Plaza |
| | | - Neighborhood Business Works Program Financing |
| | | - 2009 Street Resurfacing Contract |
| | | - 2009 Street Reconstruction Project |

Call to Order

Request for Motions

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Topics

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

April 13, 2009

CALL TO PODIUM:

Lynn Board, City Attorney

RESPONSIBLE STAFF:

Lynn Board, City Attorney

Margaret Daily, Department of Human Resources

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input checked="" type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE: WORK SESSION
Resolution of the Mayor and City Council to Amend Section 59 of the City Charter Entitled "Personnel Regulations; Merit System; Classified and Unclassified Service May be Established," and Section 60 of the City Charter Entitled "Composition of Classified and Unclassified Service"

SUPPORTING BACKGROUND:
This Resolution would amend Sections 59 and 60 of the City Charter to provide for consistency with Personnel provisions of the City Code and to clarify and reflect all City officials and employees included in the classified and unclassified service.

DESIRED OUTCOME:
Conduct work session.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL TO AMEND SECTION 59 OF THE CITY CHARTER ENTITLED “PERSONNEL REGULATIONS; MERIT SYSTEM; CLASSIFIED AND UNCLASSIFIED SERVICE MAY BE ESTABLISHED” AND SECTION 60 OF THE CITY CHARTER ENTITLED “COMPOSITION OF CLASSIFIED AND UNCLASSIFIED SERVICE”.

WHEREAS, Sections 59 and 60 of the Charter of the City of Gaithersburg establish the classified and unclassified service for personnel employed by the City of Gaithersburg; and

WHEREAS, City Staff is recommending amending Sections 59 and 60 of the Charter for consistency with Personnel provisions of the City Code and to reflect all city officials and employees included in the classified and unclassified service.

WHEREAS, the amendment of Sections 59 and 60 of the Charter of the City of Gaithersburg was duly considered by the Mayor and City Council at a public hearing held on _____, 2009.

NOW, THEREFORE, BE IT RESOLVED, that Sections 59 and 60 of the City Charter are hereby amended as follows:

Section 1 – That Sections 59 and 60 of the Charter of the City of Gaithersburg be, and the same are, repealed and reenacted with amendments as follows:

Sec. 59. Personnel regulations; merit system; classified and unclassified service may be established.

The council shall have the power to adopt personnel regulations governing the employees of the city which may include the establishment of a merit system. Among other things, these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from termination, suspension or demotion ~~dismissal or other disciplinary action~~, and fringe benefits ~~vacation and sick leave regulations~~. If such merit system be established, the employees and officers of the city shall be divided into the classified service and the unclassified service.

Sec. 60. Composition of classified and unclassified service.

- (a) The unclassified service shall comprise the following offices and positions, which shall not be included within the merit system:
- (1) The mayor, the council ~~men~~ members, and persons appointed to fill vacancies in these positions.
 - (2) ~~The heads of all offices, departments, and agencies and m~~Members of city boards, ~~and commissions, committees, agencies and foundations.~~
 - (3) The city manager, the assistant city manager(s), the city attorney and ~~the assistant city attorney~~ the heads of all departments established by the City Manager.
 - (4) Part-time, temporary, ~~and~~ unpaid offices and positions, and employees by contract or agreement.
- (b) The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted.

Section 2 – BE IT FURTHER RESOLVED that the date of the adoption of this resolution is _____, and that the amendment to the Charter of the City of Gaithersburg, as herein adopted, shall be and become effective on _____, unless on or before said date a proper petition for referendum of this resolution shall be filed as permitted by law.

Section 3 – BE IT FURTHER RESOLVED that a complete and exact copy of this resolution shall be posted at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland 20877, until _____, and a fair summary of the proposed Charter amendment contained in this resolution shall be published in a newspaper of general circulation in the City of Gaithersburg not fewer than four (4) times at weekly intervals before _____.

Section 4 – AND BE IT FURTHER RESOLVED that as soon as the Charter amendment hereby enacted shall become effective, either as herein provided or following a referendum, the City shall send or cause to be sent to the Department of Legislative Reference the following information concerning this Charter resolution: (1) the complete text of this resolution; (2) the date of enactment of the Charter amendment; (3) the date of the referendum election, if any; (4) the number of votes cast for or against this resolution whether by the City Council or in a referendum; and (5) the effective date of the Charter amendment contained herein.

ADOPTED by the City Council this _____ day of _____, 2009.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing
Resolution was adopted by the City Council In a
public meeting assembled on the ____ day of
_____, 2009.

Angel L. Jones, City Manager

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

April 13, 2009

CALL TO PODIUM:

Lynn Board, City Attorney

RESPONSIBLE STAFF:

Lynn Board, City Attorney

Margaret Daily, Department of Human Resources

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
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<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input checked="" type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE: WORK SESSION
An Ordinance to Repeal and Reenact with Amendments Chapter 17 of the City Code entitled "Personnel"

SUPPORTING BACKGROUND:
<p>This Ordinance repeals and reenacts with amendments the City's Personnel Ordinance (Chapter 17 of the City Code).</p> <p>The Personnel Ordinance in its current form serves as the City's "personnel regulations," developed by the City Manager and adopted by the City Council as currently provided for in the Charter. The current ordinance has not been significantly revised since 1990. The City is much larger and must address many more personnel issues than it did nearly 20 years ago. To try and reflect everything that should be addressed in personnel rules and regulations within an ordinance would be cumbersome and nearly impossible to keep up to date.</p> <p>Therefore, the Personnel Ordinance revisions propose for the ordinance itself to provide the basic framework for the City's personnel system and its administration and supervision by the City Manager. Then, as provided in the Ordinance, the City Manager would develop the "rules and regulations" to set forth personnel specifics (such as details about benefits, compensatory leave, etc.) and the rules and regulations would be subsequently adopted by the City Council (as provided in Section 59 of the City Charter).</p> <p>The approval of the Rules & Regulations by the City Council would coincide with the effective date of the Personnel Ordinance, if the Ordinance is repealed and reenacted as proposed.</p> <p>Many local governments (including Rockville and Frederick) follow this same set-up with the Personnel Ordinance/rules and regulations.</p>

DESIRED OUTCOME:
Conduct work session.

ORDINANCE NO. ____ -09

AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS CHAPTER 17 OF THE CITY CODE ENTITLED "PERSONNEL".

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that certain sections of Chapter 17 of the City Code, are hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 17-1. Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Classified employee. Classified employees comprise all positions not specifically included by this section in the unclassified service. All ~~offices and~~ positions included in the classified service shall be subject to the adopted merit system rules and regulations.

Exempt employee. An exempt employee is any ~~classified or unclassified~~ employee who is employed in a bona fide executive, administrative or professional capacity as outlined by the Fair Labor Standards Act (FLSA), and who is not subject to the FLSA overtime pay and compensatory leave provisions of FLSA ~~the act~~.

Merit system. A system of personnel rules and regulations for classified employees which may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by classified employees from termination, suspension or demotion ~~dismissal or other disciplinary action~~ and fringe benefits ~~vacation and sick leave regulations~~.

Non-exempt employee. A non-exempt employee is a ~~classified or unclassified~~ any employee who is not employed in a bona fide executive, administrative or professional capacity as outlined by the Fair Labor Standards Act (FLSA), and who is subject to the FLSA overtime pay and compensatory leave provisions of FLSA ~~the act~~.

Unclassified service employee. Unclassified service shall be comprised of public officials and employees in the following offices and positions and are not included within the merit system:

Comment [ky1]: Where noted below, these sections will move to the Rules and Regulations with some amendments anticipated. The full set of Rules and Regulations will be presented to the Mayor and Council for approval as noted in the City Charter.

Comment [ky2]: Clarification of all definitions

(a) Unclassified officials:

(1) The mayor, council members and persons appointed to fill vacancies in these positions.

~~(2) The heads of all offices, departments and agencies and members of city boards, and commissions, committees, agencies and foundations.~~

(b) Unclassified employees:

(1) The city manager, assistant city manager(s), and city attorney and the heads of all departments established by the city manager.

(2) Part-time, temporary, unpaid offices and positions, and employees by contract or agreement, ~~but not including independent contractors and volunteers.~~

~~(c)~~

~~(d)~~

Sec. 17-2. Responsibility for administration.

The city manager or his designee shall have the responsibility for implementing the provisions of this chapter and the authority to issue regulations to administer the provisions of this chapter. The city manager shall also have the responsibility for establishing and modifying the classification and compensation plans and for the general supervision of the personnel system.

~~Sec. 17-3. Personnel records.~~

~~The city shall keep personnel records for its employees as required by pertinent federal, state and local laws, and as the city manager shall determine necessary. The city manager shall be the custodian of all such records.~~

Comment [ky3]: Removed – not required, covered by Federal and State law

ARTICLE II. COMPENSATION AND BENEFITS

~~Sec. 17-34. Fringe Medical, dental and other insurance benefits.~~

Comment [ky4]: New Section 17-3

Comment [ky5]: Clarification and consolidation of benefits

~~(a) The city may pay or contribute to the cost of benefits, including, but not limited to, group medical, dental, life and disability or other insurance benefit plans for all employees, elected officials, retirees and retiree and disabled surviving spouses and eligible dependents eligible to participate as defined in the personnel rules and regulations, benefit plan documents. (hereafter "eligible employees"). Coverage may be secured for dependents of eligible employees on a family plan basis, in which case, the city will pay a portion thereof as determined by resolution of the city council. Payments shall be deducted from the employees' compensation for the remaining amount.~~

~~(b) The city may establish and pay or contribute to the cost of retirement plans for all employees and elected officials eligible to participate as defined in the personnel rules and regulations.~~

~~(c) The city may establish leave for classified and unclassified employees as defined in the personnel rules and regulations.~~

~~The mayor and members of the city council may elect to join or become members of any group medical or dental plan offered to eligible employees of the city on an individual or family plan basis provided that the subscriber pays the full cost of coverage without contribution or reimbursement from the city. The city may pay or contribute to the cost of any other insurance benefit plans for the mayor and members of the city council as determined by resolution of the city council.~~

Comment [ky6]: Remainder of this section moving to Rules and Regulations

~~(b) Medical, dental, and other insurance benefits will be provided to retired and disabled employees on the same basis as for active employees. Life insurance will be carried in the amount in force on the date of retirement or disability, or as modified by the terms of the group policy. When eligible therefor, Medicare Part A and Medicare Part B shall become the primary medical insurance carrier and the city's insurance carrier shall become the supplemental and secondary medical insurance carrier. The city may pay or contribute to the cost of the supplemental and secondary insurance, but shall not pay any of the Medicare premium. In the event of the death of a retiree or disabled employee, the surviving spouse may continue coverage under the benefit plans available to retirees as if he/she was the retiree, under the same terms and conditions as the retiree, except that the surviving spouse may only cover other dependents who were eligible for coverage at the time of the retiree's death, including an unborn child.~~

~~The mayor and members of the city council who leave city service may continue medical, dental, and/or other insurance benefits through the city's group plans provided they are eligible therefor and provided they~~

~~have served as mayor and/or member of the city council for a cumulative total of eight (8) years prior to leaving city service.~~

~~Benefits added after an employee's retirement/disability date, or after the date a mayor or a member of the city council leaves city service, will not be provided to the retiree/disabled employee or mayor or member of the city council.~~

~~(c) For purposes of this section, disabled means being eligible to receive benefits under the city's long-term disability program.~~

~~(d) For purposes of this section, an employee may retire under the General Retirement Plan at age fifty (50) years with at least fifteen (15) years of service provided that the total of age (in years) plus years of service shall equal at least seventy-five (75). An employee may, at his option, use his accumulated sick leave as additional service to meet eligibility requirements. Any sick leave so used would not then be subject to a payment therefor as specified in section 17-127.~~

~~(e) For the purposes of this section, an employee may retire under the Early Retirement Plan at age forty-six (46) years with at least twenty (20) years of service. When an employee retires under the Early Retirement Plan, the employee who elects to continue medical and/or dental insurance coverage through the city shall contribute five (5) percent more in employee share cost of premiums than paid by employees in the General Retirement Plan. All other benefits afforded to employees retiring under the General Retirement Plan shall be afforded to employees retiring under the Early Retirement Plan. An employee under the Early Retirement Plan may at employee's option use accumulated sick leave as additional service to meet eligibility requirements. Any sick leave so used would not then be subject to a payment therefor as specified in section 17-127 of this chapter.~~

Sec. 17-45. Conflicts with law enforcement officers' bill of rights.

In the event of any conflict between this chapter and the law enforcement officers' Bill of Rights (Article 24, sections 727 to 734D of the Annotated Code of Maryland), the latter shall prevail.

~~Secs. 17-6--17-25. Reserved.~~

ARTICLE II. CLASSIFICATION PLAN

Comment [ky7]: Consolidating old Sec. 17-26 thru Sec. 17-30; further details will be in Rules and Regulations

Sec. 17-526. Classification Plan. Establishment of classifications.

The city manager shall classify all those positions in the city service which are required by section 60 of the Charter to be classified. The classification plan may contain a specification of the duties and responsibilities of positions in each class and the qualifications required for appointment.

Except as provided in the Charter, all unclassified employees hired or appointed after June 30, 2009 shall serve at the pleasure of the city manager.

Sec. 17-27. Class descriptions.

~~The classification plan may contain a specification of the duties and responsibilities of positions in each class and the qualifications required for appointment. Such specification shall not be held to exclude other duties or responsibilities not mentioned, if such other duties and responsibilities are similar as to kind and quality.~~

Sec. 17-28. New positions.

~~The city manager shall study the duties and responsibilities of each new position as it is created and place it in the appropriate classification.~~

Sec. 17-29. Changes in duties and responsibilities of positions.

~~Whenever a department head makes a substantial change in the permanent duties or responsibilities of a classified position, he shall report such change to the city manager, who may place the position in a different class.~~

Sec. 17-30. Periodic review of classifications.

~~The city manager, as part of the annual budgetary process, shall periodically review the classification of positions and, as a result, may combine existing classes or establish new ones, or reclassify positions as the needs of the city may require.~~

Comment [ky8]: Moving to Rules and Regulations

~~Sec. 17-31. Reserved.~~

~~Secs. 17-32-17-45. Reserved.~~

ARTICLE III. RECRUITMENT AND EMPLOYMENT

Sec. 17- 646. Equal employment opportunity.

All personnel actions shall be based on merit and ability and no person shall be discriminated against on the basis of race, color, sex, sexual orientation, gender identity, ancestry, age, religion, national origin, marital or parental status, disability or serious medical condition handicap in practices involving recruitment, selection, training, promotions, transfers, disciplinary action and other terms and conditions of employment.

Comment [ky9]: Changed for consistency with Discrimination and Harassment Policy

Sec. 17-47. Job openings and applications for employment.

Comment [ky10]: Moving to Rules and Regulations

Applications for employment shall be accepted at any time. As a result of a single employment application, candidates may be considered for all positions for which they are qualified. Each candidate for employment shall make application in the manner prescribed by the city manager or his designee.

Sec. 17-48. Selection procedures.

Comment [ky11]: Moving to Rules and Regulations

(a) The fitness and relative ability of applicants shall be examined in one or more of the following ways:

- (1) An evaluation of education, training and experience as shown on the application or by other information submitted;
- (2) An interview;
- (3) A pre-employment physical examination;
- (4) Verification of ability and character through checking with references;
- (5) Any testing procedures established for the particular position.

(b) Selection procedures for any classified position shall be approved by the city manager and shall apply to all applicants for that position.

Sec. 17-49. Physical examinations.

Comment [ky12]: Moving to Rules and Regulations

The city manager may require every applicant for a position in the city service, prior to appointment, to complete successfully a physical examination by a physician designated by the city. The city shall bear the cost of such an examination. The city manager may for good cause require an employee, after appointment, to complete successfully a physical examination relating to the employee's fitness for duty. The city shall bear the cost of such an examination.

Sec. 17-50. Restriction concerning supervision of relatives.

Comment [ky13]: Moving to Rules and Regulations

~~No supervisor of a permanent full-time classified employee who is related to such employee by blood or marriage shall make recommendations or decisions directly affecting such employee's regular pay, any awards to the employee, job classification, promotion, transfer or disciplinary actions amounting to suspension, demotion or dismissal. In such matters enumerated herein, recommendations and decisions shall be made by the next highest level supervisor or the city manager. For purposes of this section, "related" shall mean being a parent, spouse, brother, sister, son, daughter, grandparent, uncle or aunt.~~

~~Sec. 17-51. Probation period.~~

Comment [ky14]: Moving to Rules and Regulations

~~After the effective date of this section, every classified employee except police officers shall be on probation for the first twelve (12) months of his employment. During such twelve (12) months, the probationary period may be extended for a maximum of an additional six (6) months by the city manager. The employee's department head may request the extension, or the city manager may extend the period without such a request. The probation period shall be used for closely observing the employee's work, for obtaining the most effective adjustment of the employee in his position and for the rejecting and termination of any employee whose performance does not meet the required standards. A classified employee who successfully completes this probationary period shall be referred to in this chapter as a permanent employee. During the probation period, employees may use accrued sick and annual leave and any earned compensatory leave. Any probationary employee who believes that he or she has been discriminated against in the course of their employment on account of race, creed, color, sex, age, national origin, handicap, or marital status may follow the provisions set forth in Article VI of this chapter. No other appeal rights are provided to probationary employees.~~

~~Sec. 17-52. Performance evaluations.~~

Comment [ky15]: Moving to Rules and Regulations

~~An evaluation system may be introduced by the city manager for the purpose of appraising employee performance. Performance evaluation may be used by department heads and the city manager as a basis for more effective personnel control. The quality of service rendered by the employee in the past will, in any case, receive due consideration in such personnel matters as promotions, transfers, demotions, lay-offs, dismissals and salary adjustments. Performance evaluations, where used, shall be reviewed by the employee, but such evaluations may not be seen by unauthorized persons.~~

~~Sec. 17-53. Travel and moving expenses.~~

Comment [ky16]: Moving to Rules and Regulations

~~(a) *Travel, conference, etc., expenses.* With the approval of the city manager, travel expenses may be reimbursed or advanced to employees or municipal officials attending authorized municipal or professional meetings and conferences or on official business of the city outside of the city. Such expenses shall include registration, transportation, meals and lodging. The payment of expenses of any other persons who are not employees of the city must be authorized by the city manager.~~

~~(b) *Moving expenses for new employees.* When specifically authorized by the city manager, all or a portion of the moving expenses incurred by new employees moving to the city to accept employment may be borne by the city. Allowable expenses shall include interview transportation costs and transportation charges for moving household belongings.~~

~~Sec. 17-54. Outside employment.~~

Comment [ky17]: Moving to Rules and Regulations

~~No classified employee of the city may engage in additional employment without express written permission of the city manager. The standards of such employment shall be based on whether outside employment will cause or could cause a conflict of interest and whether such outside employment will interfere with the employee's performance of the duties and responsibilities of his position.~~

~~Sec. 17-55. Hours of work.~~

Comment [ky18]: Moving to Rules and Regulations

~~The established number of hours of work constituting a normal work week for classified employees shall be designated by the city manager. Different work groups may have different work schedules, and the total number of hours worked per week need not be the same for all work groups.~~

~~Sec. 17-56. Employee complaints.~~

Comment [ky19]: Moving to Rules and Regulations

~~(a) *Permanent classified employees.* All complaints which any permanent classified employee may have because of any action affecting his status or conditions of employment shall be handled in accordance with the following:~~

~~(1) The employee shall discuss the complaint with his immediate supervisor to effect a settlement.~~

~~(2) A complaint not so settled shall be presented in writing by the employee to the supervisor. The employee may appear before the supervisor in his own behalf.~~

~~(3) The supervisor shall write a disposition of the complaint and send a copy to the employee and the respective department head within two (2) working days after receipt of the written complaint or the appearance of the employee, whichever is later.~~

~~(4) If the employee is not satisfied with that disposition and if the supervisor is not the department head, the employee shall present the complaint in writing to the department head, who shall have three (3) working days in which to write a disposition of the matter with reasons therefor. The employee may appear before the department head to discuss the matter. If the matter has not been resolved under previous steps, a written complaint may be made to the city manager.~~

~~(5) Within five (5) days after receipt of a complaint, the city manager shall call a meeting, which will include the department head, the complainant and any other persons involved in the complaint. The city manager will preside at the meeting and hear the entire case and obtain all the facts. The city manager will make a written report of the decision, which shall be delivered to the employee and the department head. The city manager's decision shall be final for all situations other than those stated in section 17-56.~~

~~(b) *Unclassified temporary full-time or permanent part-time employees.* Any permanent part-time or temporary full-time employee who has been dismissed and/or who believes that he has been discriminated against in the course of his employment with the city on account of race, creed, color, sex, age, national origin, handicap or marital status, may follow the provisions set forth in Article VI of this chapter. No other appeal rights are provided to such employee.~~

~~Secs. 17-47—17-56. Reserved.~~

~~Sec. 17-57. Personnel review board.~~

Comment [ky20]: Moving to Sec. 17-8

~~(a) The city council shall be empowered to act as the personnel review board for the city until such time as the establishment of such board and the appointment of members thereto. In the event that the city council shall act as the personnel review board, the provisions of Article VI of this chapter shall apply, with the exception that any action on an appeal shall be a final decision, not a recommendation, and shall not require further hearings.~~

~~(b) The personnel review board shall consist of three (3) members, to be appointed by the mayor with the approval of the council. Each member shall be appointed to a three-year term; except, that the first appointments shall be made in such fashion that no more than one term expires in any one year. One member of the board may be, but need not be, a member of the council. All members of the board shall be subject to removal at any time upon a vote of the majority of the council.~~

The personnel review board shall have such duties and responsibilities as are stated in this chapter and as may be assigned to it from time to time by the city council by resolution.

Sec. 17-58. Department heads and city manager.

Comment [ky21]: Clarification – Refer to Sec. 17-1(b)(1)

(a) Department heads shall be permanent unclassified employees appointed by the city manager to administer departments and offices of the city government. Department heads shall have the benefits of, be subject to and be governed by the provisions of this chapter to the same extent as classified employees.

(b) The following sections of this chapter shall apply to the city manager: 17-4, 17-46, 17-48, 17-50, 17-122 through 17-126, 17-127, 17-128, 17-129, except the last paragraph thereof, 17-130 and 17-131.

Secs. 17-59 – 17-85. Reserved.

ARTICLE IV. COMPENSATION PLAN

Comment [ky22]: See Article II. Compensation and Benefits – moving to Rules and Regulations

Sec. 17-786. Annual recommendations by city manager and approval.

The city manager shall present once each year, as part not later than the submission of the annual budget, a proposed compensation plan for the next succeeding fiscal year. Such plan shall be deemed to be approved by the city council unless it is modified by the council as part of ~~prior to~~ the adoption of the budget. Such plan shall establish minimum and maximum rates of pay for each classification.

Sec. 17-87. Purpose of plan; comparative studies by city manager.

~~The purpose of the compensation plan is to provide fair compensation for all classes in light of rates of pay for similar employment in private establishments and other governmental jurisdictions in the area, the financial condition of the city and other factors. To this end, the city manager shall make comparable studies of all the factors affecting the level of salary ranges as part of the annual budgetary process.~~

Sec. 17-88. Salary and wage increases.

~~Salary and wage increases are not automatic, but shall be based on work performance as reflected in periodic performance evaluations,~~

~~giving due consideration to length of service. No increases shall be made by the city manager except upon the recommendation of the department head in writing, which shall include a justification for the increase and a performance evaluation of the employee.~~

~~Sec. 17-89. Awards for outstanding service.~~

~~An employee who performs the duties and responsibilities of his position in an outstanding manner and whose work generally is well above expectations shall be eligible to be considered for an outstanding service award. Such award shall be initiated by the employee's department head, who shall submit a statement in writing setting forth the reason(s) for recommending such award to the city manager.~~

~~Sec. 17-90. Pay rates in promotion, demotion or transfer.~~

~~When an employee is promoted, demoted or transferred, the employee's rate of pay in the employee's new position shall be established by the city manager.~~

~~Sec. 17-91. Pay for temporary and part-time work.~~

~~The city manager shall determine the basis upon which temporary and part-time employees shall be paid.~~

~~Sec. 17-92. Fair Labor Standards Act, minimum wage, overtime pay, and compensatory leave.~~

~~(a) *Permanent classified employees.* Any classified non-exempt employee shall be entitled to compensation at the rate of one and one-half (1 1/2) times the normal rate of compensation for hours actually worked in excess of the normal work week, except as otherwise provided herein, subject to the following conditions:-~~

~~(1) One and one-half (1 1/2) time compensation shall be paid for positions eligible for paid overtime as identified by the city manager for actual hours worked in excess of the normal work week; for the purpose of this section, actual hours worked shall include holidays, annual leave approved in advance and approved sick leave.~~

~~(2) Overtime hours worked must be required by an actual emergency or such other unusual circumstance requiring the assignment of employees to overtime hours of work and must be authorized by the department head and approved by the city manager. Compensation for overtime work without prior approval may be authorized by the city manager when the work is deemed to be in the best interest of the city.~~

~~(3) Twice the normal rate of compensation shall be paid for overtime hours occurring on Sunday in excess of the normal work week, and for work performed on an official city holiday.~~

~~(4) As determined by the city manager, compensatory leave time may be granted in lieu of overtime pay at the same rate as overtime pay is awarded to positions eligible for compensatory leave time as identified by the city manager. Accumulated compensatory leave time shall be subject to the provisions of section 17-93.~~

~~(5) Classified exempt employees whose positions or regular duties involve working beyond the established work week as determined by the city manager shall not be eligible for overtime pay nor compensatory leave time, but may be eligible for other time off.~~

~~(b) *Unclassified full-time temporary employees.* Any unclassified full-time temporary employee who shall, with prior approval of his supervisor, work more hours in any week than his normal work week, as established by the city manager, shall be entitled to be compensated in cash at the rate of one and one-half (1 1/2) times his regular rate of pay.~~

~~Sec. 17-93. Accumulation of compensatory time.~~

~~Compensatory time may be accumulated up to a maximum of eighty (80) hours at the end of any calendar year subject to the provisions outlined below:~~

~~(1) Classified exempt employees will not be reimbursed for unused other time.~~

~~(2) Compensatory time in excess of eighty (80) hours accumulated at the end of a calendar year by a classified employee shall be paid at the rate of one and one-half (1 1/2) times regular rate of pay.~~

~~Sec. 17-94. Payment for compensatory time upon termination of employment.~~

~~Permanent classified non-exempt employees who have earned compensatory time and who resign, retire, are dismissed or are laid off shall be paid in full for unused compensatory time.~~

~~Secs. 17-95 - 17-120. Reserved.~~

ARTICLE V. LEAVE

Comment [ky23]: Everything concerning leave and other benefits moving to Rules and Regulations

~~Sec. 17-121. Leave of absence without pay.~~

~~In the discretion of the city manager, requests for leave of absence without pay for periods not to exceed six (6) months may be granted. In cases exceeding ten (10) working days, employees shall not earn annual or sick leave and will be required to pay the cost incurred by the city for their own hospitalization, life insurance, disability insurance and other fringe benefits.~~

~~Sec. 17-122. Official leave with pay.~~

~~The city manager may grant official leave with pay for the purpose of having employees attend professional meetings, technical conferences, short-term courses in matters relating to official duties or for other valid purposes. Such leave will not be deducted from any other leave earned by employees.~~

~~Sec. 17-123. Maternity leave.~~

~~Accrued sick leave may be used pursuant to the provisions of this chapter for any disability caused or contributed to by pregnancy, miscarriage, childbirth and recovery therefrom whenever an employee is unable to work. A pregnant full-time classified employee may continue to work whenever the pregnancy does not adversely impair the employee's work performance and such continuation at work does not conflict with the attending physician's advice. For purposes of sick leave use, a pregnant full-time classified employee, who does not wish to work, shall be presumed to be temporarily disabled for the performance of duty commencing at approximately six (6) weeks before the anticipated date of birth and ending not more than eight (8) weeks after the date of birth; provided, that the employee shall submit two (2) written certifications from the attending physician, one verifying approximate date of birth and one verifying the date of delivery. For other periods of the pregnancy, a full-time classified employee who is not able to report to work because of pregnancy or childbirth complications of the employee shall be eligible to use accrued sick leave. In such cases, the employee shall notify the department head or have someone else notify the department head on the first day of absence and at such other reasonable times following the first day of absence as may be required by the department head. Certification of use of sick leave requirements provided in this chapter shall be applicable to this type of use of sick leave.~~

~~Sec. 17-124. Jury leave.~~

~~Any employee called upon for jury service shall be granted leave for that purpose for each day that he is required to report for jury service and shall be paid for each such day his full salary. Where the release from jury service on any given day will permit an employee to reach his city office one hour or more prior to the end of his regular day, he shall report for work. Such leave will not be deducted from any other leave earned by the employee.~~

~~Sec. 17-125. Military leave.~~

~~Any classified city employee who is a member of any United States Military Reserve or National Guard Unit and is required to engage in training exercises will be granted military leave not to exceed~~

~~two (2) weeks in any one year. Such employee, for each regular working day or holiday that he is required to engage in training, shall be paid his full regular salary. Such leave will not be deducted from any other leave earned by the employee. Leave without pay may be granted to a full-time employee called for military service other than training exercises.~~

~~Sec. 17-126. Vacation leave.~~

~~(a) Amount earned.—~~

~~(1) If hired before April 12, 1983, classified employees:~~

~~a. With three (3) years or less service shall earn vacation leave at the rate of one and one-fourth (1 1/4) days for each month of service;~~

~~b. Who have completed three (3) years of service shall earn vacation leave at the rate of one and one-half (1 1/2) days for each month of service, after their third year;~~

~~c. Who have completed six (6) years of service shall earn vacation leave at the rate of one and three-fourths (1 3/4) days for each month of service after their sixth year;~~

~~d. Who have completed nine (9) years of service shall earn vacation leave at the rate of two (2) days for each month of service after their ninth year.~~

~~(2) If hired on or after April 12, 1983, classified employees:~~

~~a. With three (3) years or less service shall earn vacation leave at the rate of one day for each month of service;~~

~~b. Who have completed three (3) years of service shall earn vacation leave at the rate of one and one-fourth (1 1/4) days for each month of service after their third year;~~

~~c. Who have completed six (6) years of service shall earn vacation leave at the rate of one and one-half (1 1/2) days for each month of service after their sixth year;~~

~~d. Who have completed nine (9) years of service shall earn vacation leave at the rate of one and three-fourths (1 3/4) days for each month of service after their ninth year;~~

~~e. Who have completed twelve (12) years of service shall earn vacation leave at the rate of two (2) days for each month of service after their twelfth year.~~

~~(b) Schedules. The city manager shall require that vacation schedules be prepared in advance and shall have the authority to adjust such schedules so as to maintain an effective working force at all times.~~

~~(c) Accumulation. Vacation leave in excess of thirty (30) days accumulated at the end of any calendar year shall be credited to accumulated sick leave.~~

~~(d) Crediting to employee. Vacation leave shall be credited to each employee after it is earned. No provision will be made for advance crediting of vacation leave.~~

~~(e) Payment for unused leave upon termination of employment. Classified employees who have earned vacation leave and who resign from the city service or are laid off may take such unused portion of vacation leave, or they may request payment in full for all unused vacation leave. Classified employees who are dismissed shall be paid for their unused vacation leave. In no event shall such leave, taken or paid for, exceed thirty (30) days.~~

~~(f) Payment for unused leave under unusual circumstances. In the city manager's discretion, a classified employee may receive payment for unused vacation leave under unusual circumstances; provided, that the classified employee requests such in writing, stating the unusual circumstances. Any such payment shall be reported promptly by the city manager to the city council.~~

Sec. 17-127. Sick leave.

~~(a) Amount per month; accumulation. All employees shall earn one and one-fourth (1 1/4) days of sick leave for each month of service. Sick leave may be accumulated with no maximum.~~

~~(b) Use by employee. Conditions under which sick leave may be taken are:~~

~~(1) Personal illness.~~

~~(2) Illness of a parent, spouse or child residing in the employee's household, not to exceed five (5) days in any one year.~~

~~(3) Quarantine.~~

~~(4) Visit to an outpatient unit, a doctor's office or a therapy session.~~

~~(5) Birth of a child, as specified in section 17-123 for female employees, or up to five (5) days for a male employee, to assist in the birth or care of such newborn child.~~

~~(c) Proof of need. Any employee who desires to use five (5) or more days of sick leave consecutively shall submit a certificate by a physician or other licensed medical or dental practitioner confirming the illness or injury and the employee's inability to report to work in order to be granted such leave. For periods of absence of less than five (5) workdays, caused by illness or injury, the employee's department head may accept the employee's oral statement as to the reason for the absence. However, the department head may, after consulting with the city manager, require written certification from a physician or other licensed medical or dental practitioner if it is deemed appropriate.~~

~~(d) Advancements. In exceptional cases, a classified employee with more than two (2) years' service may be advanced unearned paid sick leave up to a maximum of sixty (60) days of such leave upon recommendation of his department head and approval by the city manager. Written certification from a physician or other licensed medical or dental practitioner as required in section 17-127 shall be submitted prior to any authorization. In the event an employee who has been advanced unearned paid sick leave is terminated from city employment before such leave is earned by the employee, the remaining portion of unearned paid sick leave that has not been repaid to the city shall be deducted from the employee's final paycheck.~~

~~(e) Payment for unused sick leave. Upon retirement from the service of the city, a classified employee shall be paid one day's pay for every four days of sick leave which he has accumulated to his credit as of the date of his retirement. For the purposes of this section, the definition of "retirement" shall be that which is set forth in section 17-4 except that for employees employed on or before August 6, 1990, the definition of "retirement" shall be the termination of employment after either the attainment of age fifty-five (55) or the completion of twenty (20) years of service.~~

~~(f) Use when on annual leave. When an employee becomes ill or injured or quarantined while on annual leave, the period of such illness, injury or quarantine may be charged to sick leave, if the employee submits a written certification from a physician or other licensed practitioner confirming the illness, injury or quarantine and that such illness, injury or quarantine would have prevented the employee from reporting to work if the employee had been in a normal work status.~~

~~(g) Sick leave bank. The city manager shall have the authority to establish a sick leave bank which will provide for a central repository of sick leave.~~

~~Sec. 17-128. Personal leave.~~

~~Any permanent classified employee is eligible to use the equivalent to two (2) days of their sick leave each calendar year to attend to personal obligations. If the personal leave days are not used during the calendar year, they shall convert back to accrued sick leave.~~

~~Sec. 17-129. Holidays.~~

~~(a) The following days shall be official city holidays: New Year's Day; Dr. Martin Luther King, Jr. Day; Presidents' Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Thanksgiving Friday (in lieu of Columbus Day); and Christmas Day. Additionally, all eligible employees shall be entitled to one and one-half days off as floating holidays each year with prior approval from their department head. The city manager is authorized to designate additional days as official city holidays; provided, that the manager shall first notify a majority of the members of the council.~~

~~(b) When a holiday falls on a Sunday, the following Monday shall be observed as an official holiday. When a holiday falls on a Saturday, the preceding Friday shall be observed as an official holiday. Except as otherwise provided herein, classified employees shall be granted holiday leave on each official holiday. Holiday leave will not be deducted from any other leave earned by the employee.~~

~~(c) Any classified employee whose duties require him to work on one of the holidays specified herein shall be paid, in addition to his regular pay for the hours worked, twice his normal pay for the hours worked in excess of the normal work week. For the purpose of this section, actual hours worked shall include holidays, annual leave approved in advance and approved sick leave under such rules as may be established by the city manager. At the discretion of the city manager, compensatory leave may be awarded, at the same rate, in lieu of hours worked on a holiday.~~

~~Sec. 17-130. Bereavement leave.~~

~~Any classified employee shall be granted three (3) working days off with pay immediately following the death of the employee's spouse, any child, parent, brother or sister, or any blood relative residing in the employee's household. A classified employee shall be granted one working day off with pay following the death of a grandparent, not living~~

in the employee's household, or a grandchild, mother-in-law or father-in-law. The first two (2) days of additional time off shall be charged to sick leave. Any further time off will be charged to vacation leave. The three (3) or one working days off allowed in the case of death in the employee's family shall not be chargeable to either sick leave or vacation time.

Sec. 17-131. Workers' compensation for disability.

In the event an employee shall be temporarily totally disabled by an injury while on the job for the city, he shall receive his regular rate of pay, not to exceed ninety (90) days. Any workers' compensation payments other than those for medical expenses during the period of temporary total disability shall be submitted to the city. No charge shall be made against any accrued leave time during the period of such temporary disability.

Secs. 17-32-17-150. Reserved.

ARTICLE III VI. APPEALS LAYOFFS, DEMOTION, SUSPENSION AND DISMISSAL

Sec. 17-151. Layoffs.

(a) The city manager is authorized to release any employee on the city payroll because of lack of work or funds or abolishment of position. The city manager will consider first the types of activities to be curtailed and the classes of positions thereby affected and will then proceed to the selection of individual employees to be released.

(b) Employees' previous service will be a factor in determining the order in which employees should be released.

(c) The possibility of demoting employees in higher classifications to lower classifications for which they are qualified and laying off those in the lower classifications will also be considered.

Sec. 17-152. Dismissal, suspension or demotion.

(a) *General regulations.* The city manager may dismiss, suspend with or without pay or demote any permanent classified employee at any time for any of the following reasons:-

(1) The employee has been convicted of a felony, or of a misdemeanor involving moral turpitude.

(2) The employee has willfully, wantonly, unreasonably, unnecessarily or through gross negligence been guilty of brutality or cruelty to a person in custody.

Comment [ky24]: Defining of Personnel Board and clarification of appeals process.

Comment [ky25]: To be addressed in Rules and Regulations

Comment [ky26]: Moving to Rules and Regulations

- ~~(3) The employee has violated any of the provisions of this chapter or any laws, ordinances or regulations of the city.~~
- ~~(4) The employee has violated any lawful official city regulation or order or failed to obey any proper direction made and given by a superior officer.~~
- ~~(5) The employee has possessed, distributed or used illegal drugs/intoxicants, or misused legal drugs at the city's workplace.~~
- ~~(6) The employee has been guilty of insubordination or of disgraceful conduct, either on or off duty.~~
- ~~(7) The employee has been offensive in conduct and language in public or towards the public, city officials or employees, either on or off duty.~~
- ~~(8) The employee has been afflicted with any disease or has any mental or physical ailment or defect which, in the opinion of the city manager and the department head, makes the employee unfit for the assigned position.~~
- ~~(9) The employee is careless or negligent with money or other property of the city.~~
- ~~(10) The employee is incompetent or inefficient in the performance of assigned duties.~~
- ~~(11) The employee has failed to pay or make reasonable provisions for future payments of personal debt to such an extent that such failure shall be detrimental to the city service.~~
- ~~(12) The employee has used, threatened to use or attempted to use personal or political influence in securing promotion, leave of absences, transfer, change of rate of pay or nature of work.~~
- ~~(13) The employee has induced, or has attempted to induce, an officer or employee in the service of the city to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order.~~
- ~~(14) The employee has taken for personal use, from any person, any fee, gift or other valuable thing in the course of work or in connection with it, when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.~~
- ~~(15) The employee has engaged in political activity during working hours or while representing the city in an official capacity.~~
- ~~(16) The employee has misrepresented material facts relating to the use of sick leave.~~
- ~~(17) The employee has committed acts detrimental to the good order, discipline and repute of the city or the city service.~~

~~(b) *Hearing.* Before dismissing, suspending, demoting or laying off a permanent classified employee, the city manager shall provide the employee a reasonable opportunity to be heard; provided, that an employee may be suspended without a hearing when, in the city manager's judgment, immediate suspension is required.~~

Sec. 17-153. Fringe benefits during suspension.

Comment [ky27]: Moving to Rules and Regulations

~~Any classified employee who is suspended, whether with or without pay, shall be entitled to all fringe benefits and shall continue to earn vacation leave and sick leave during the period of suspension.~~

~~Secs. 17-151-17-152. Reserved.~~

Sec. 17-8153. Personnel Board.

The personnel review board shall consist of three (3) members, to be appointed by the mayor with the approval of the council. Each member shall be appointed to a three-year term; except, that the first appointments shall be made in such fashion that no more than one term expires in any one year. One member of the board may be, but need not be, a member of the council. All members of the board shall be subject to removal at any time upon a vote of the majority of the council.

Sec. 17-9154. Filing of appeal.

Any permanent classified employee and department head or assistant city manager hired or appointed prior to June 30, 2009 who has been suspended, demoted, laid off or terminated-dismissed, or who claims to have been discriminated against in the course of his employment on account of race, creed, color, sex, age, national origin or handicap, may file an appeal in writing to the personnel review board and may request a hearing thereon. Such appeal shall state the pertinent facts relative to the action which is being appealed and shall be signed by the employee and filed with the personnel review board within five (5) days after receipt by the employee of the notice of such suspension, demotion or termination, layoff, dismissal or discriminatory action.

Comment [ky28]: Included in Discrimination and Harassment Policy which will be part of Rules and Regulations

Sec. 17-10155. Consideration of appeal; setting date for hearing.

If no request for hearing is contained in such appeal, the personnel review board, after making such investigation as it deems necessary, shall make and file with the city council its recommendation with reference thereto. If a request for hearing is contained in such appeal, a hearing shall be had thereon within twenty (20) days after the filing of such appeal, at such time and place as shall be fixed by the personnel review board. Such hearing shall be open to the public or closed to the public if the ~~appellant~~ employee appellant shall so request in writing. If the employee appellant makes no such request, the board may determine whether the hearing will be open or closed to the public.

Comment [ky29]: Wording change suggested by City Attorney

Sec. 17- ~~11156~~. Hearing.

(a) *Notice.* Notice of the time and place of the hearing shall be given promptly by the city manager to the employee ~~appellant~~ at least five (5) days prior to the date of the hearing by mail, addressed to the employee appellant at the last known post office address for the employee appellant.

(b) *Postponement; failure to appear.* The hearing may be postponed only upon good cause shown, and in the event that the employee appellant shall fail to appear in person or by counsel at the hearing, it shall be presumed that the employee appellant has waived the right to a hearing.

(c) *Representation of employee~~appellant~~.* The employee appellant may be represented by counsel.

(d) *Conduct.* The hearing shall be conducted in an orderly manner, with a view to the presentation of all material facts so that a fair and impartial decision may be made. The personnel review board shall have full authority at all times to maintain orderly procedure and to limit the hearing to relevant facts.

Sec. 17- ~~12157~~. Recommendation of personnel review board, further hearing by city council.

Promptly after the conclusion of the hearing, the personnel review board shall forward to the city council the appeal, all of the evidence received by it and its recommendation as to the appropriate action to be taken by the council. Copies of the recommendation shall be delivered to the city manager and the employee. ~~The city council may, but shall not be required to, hold a further public hearing on the appeal, following reasonable notice to the employee and the city manager.~~

Sec. 17- ~~13158~~. Decisions of city council.

The decision of the city council shall be promptly reduced to writing and shall be filed with the city manager, and a copy shall be delivered to the employee. The city council may affirm, reverse or modify the action of the city manager.

Secs. 17 – 14 – 17-158. Reserved.

ADOPTED this ____ day of _____, 2009 by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this ____ day of _____, 2009. APPROVED by the Mayor of the City of Gaithersburg, this ____ day of _____, 2009.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the ____ day of _____, 2009 and that the same was approved by the Mayor of the city of Gaithersburg on the ____ day of _____, 2009 This ordinance will become effective on July 1, 2009.

Angel L. Jones, City Manager

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>



CITY OF GAITHERSBURG PERSONNEL RULES & REGULATIONS MANUAL

PREFACE

The Personnel Rules & Regulations of the City of Gaithersburg are authorized under Chapter 17 of the City of Gaithersburg City Code entitled "Personnel." The Personnel Rules and Regulations were prepared by the City Manager and adopted by the Mayor and City Council on _____.

This Manual does not constitute an employment contract and may be amended by the City Manager as necessary, with the approval of the Mayor and City Council.

The rules, regulations, policies, and procedures contained herein shall replace and supersede all previous versions of the same.

TABLE OF CONTENTS

SECTION 100. INTRODUCTION

- 101. Welcome
- 102. City Mission, Vision & Guiding Principles
- 103. Strategic Plan
- 104. Organizational Structure

SECTION 200. RECRUITMENT AND SELECTION

- 201. Diversity and Equal Employment Opportunity
- 202. Employment Policy
- 203. Job Postings
- 204. Employment Application Form
- 205. Employment Application Submittal
- 206. Eligibility to Work in the USA
- 207. Rejection of Employment Applications
- 208. Application Review and Referral
- 209. Employment Testing Provisions
- 210. Hiring Procedures
- 211. Physical Examinations
- 212. Background Checks
- 213. Reference Checks
- 214. Employment of Relatives
- 215. Re-Employment
- 216. Privacy of Employee Records
- 217. Probation
- 218. Employee Orientation

SECTION 300. CLASSIFICATION PLAN

- 301. Definition of Classification Plan
- 302. Class Specifications
- 303. Exempt & Non-Exempt Defined

- 304. Position Assignments to Classification/Salary Grades
- 305. Categories of Employment
- 306. Periodic Review of Classification Plan
- 307. Reclassifications
- 308. Reclassification Appeals

SECTION 400. COMPENSATION

- 401. Compensation Plan
- 402. City Salary Schedules Defined
- 403. Standards for Development of Pay Plan
- 404. Administration & Amendments of Pay Plan
- 405. Pay Schedule
- 406. Salary & Wage Increases
- 407. Pay for Part-Time & Temporary Work (Part-Time Employment)
- 408. Fair Labor Standards Act
- 409. Minimum Wage
- 410. Overtime Pay
- 411. Compensatory Pay
- 412. Accumulation of Compensatory Time
- 413. Payment for Compensatory Time Upon Termination
- 414. Acting Appointment Compensation
- 415. Emergency Callback/Standby
- 416. Holiday Pay Procedures
- 417. Incentive & Bonus Pay/Outstanding Service Awards
- 418. Multilingual Skills Compensation
- 419. Police Sergeants Roll Call Compensation
- 420. Promotions, Reclassifications, Transfers, Demotions & New Hires
- 421. Shift Differential Pay

SECTION 500. LEAVE, ATTENDANCE AND HOLIDAYS

- 501. Leave Definitions
- 502. Attendance and Punctuality
- 503. Annual Leave
 - Amount Earned
 - Maximum Accrual Allowed
 - Scheduling of Annual Leave
 - Crediting to Employee
 - Payment for Unused Annual Leave upon Termination
 - Payment for Unused Annual Leave under Unusual Circumstances
 - Donating Annual Leave
- 504. Sick Leave
 - Amount & Use
 - Accumulation
 - Proof of Need
 - Advancements
 - Payment for Unused Sick Leave
 - Use when on Annual Leave
 - Sick Leave Bank
- 505. Personal Leave
- 506. Bereavement Leave
- 507. Holiday Leave
- 508. Military Leave
- 509. Jury Duty or Court Duty
- 510. Family & Medical Leave Act
- 511. Leave of Absence Without Pay
- 512. Official Leave with Pay (Administrative Leave)

- 513. Leave Without Pay Status
- 514. Workers' Compensation Pay Status

SECTION 600. FRINGE BENEFITS

- 601. Medical Insurance
- 602. Dental Insurance
- 603. Long-Term Care Insurance
- 604. Long-Term Disability Insurance
- 605. Workers' Compensation Insurance
- 606. Life Insurance – Basic Life & Accident Insurance
- 607. Life Insurance – Accidental Death & Dismemberment
- 608. Fringe Benefits for Mayor & City Council Members
- 609. Unemployment Insurance
- 610. Flexible Spending Accounts
- 611. Domestic Partner Benefits
- 612. Employee Assistance Program (EAP)
- 613. Employee Recognition Program
- 614. GFit Wellness Program
- 615. Housing Stipend
- 616. Personal Cell Phone Program
- 617. Uniforms
- 618. Direct Deposit
- 619. Credit Union
- 620. Employee Recreational Opportunities
- 621. Employee Newsletter "The CheckMate"
- 622. COBRA

SECTION 700. RETIREMENT BENEFITS

- 701. Retirement Criteria
- 702. 401A Money Purchase Retirement Plan (ICMA-RC)
- 703. 401A Money Purchase Supplemental Retirement Plan (ICMA-RC)
- 704. 401K Profit Sharing Retirement Plan (ICMA-RC)
- 705. 457 Deferred Compensation Plan (ICMA-RC)
- 706. Roth IRA (ICMA-RC)
- 707. Social Security

SECTION 800. WORK RULES

- 801. Alternative Work Schedules
- 802. Commuter Van Pool
- 803. Emergency Notification
- 804. Facility Closure & Emergency Leave
- 805. Hours of Work
- 806. Lunch Periods
- 807. Required Breaks
- 808. Parking at City Facilities
- 809. Purchasing
- 810. Work Attire
- 811. Travel Expenses & Mileage Reimbursement
- 812. Travel & Moving Expenses
- 813. Vehicle Use

SECTION 900. EMPLOYEE CONDUCT

- 901. City Identification & Security Standards
- 902. Disciplinary Action
- 903. Discrimination & Harassment
- 904. Drug-Free Workplace – Drug & Alcohol Testing

- 905. Ethics
- 906. Information Technology Resources Use
- 907. Political Activity
- 908. Secondary Employment
- 909. Smoking in the Workplace
- 910. Special Event Support

SECTION 1000. HEALTH & SAFETY

- 1001. Accidents on City Property
- 1002. Americans with Disabilities Act
- 1003. Bloodborne Pathogens
- 1004. Driver Safety
- 1005. Working with Hazardous Materials

SECTION 1100. EMPLOYEE DEVELOPMENT & TRAINING

- 1101. Employee Development & Training Objectives
- 1102. Performance Evaluations
 - Employee Work Plan
 - Self-Evaluation & Supervisor Feedback
 - Performance Improvement Plan
- 1103. Tuition Assistance
- 1104. Certification Examinations

SECTION 1200. MANAGEMENT AUTHORITY & RESPONSIBILITY

- 1201. City Manager's Open Door
- 1202. Human Resources Department
- 1203. Management & Supervision
- 1204. Employee Responsibilities
 - Reporting Changes in Personal Status
- 1205. Personnel Records Retention

SECTION 1300. COMPLAINT & GRIEVANCE RESOLUTION

- 1301. Complaints
- 1302. Grievances
- 1303. Appeals

SECTION 1400. DISCIPLINARY ACTIONS

- 1401. Purpose
- 1402. Authority to Take Disciplinary Action
- 1403. Voluntary & Involuntary Transfers
- 1404. Suspension, Demotion & Other Disciplinary Actions
- 1405. Employees Involved in Job Misconduct or Criminal Activities

SECTION 1500. TERMINATION/SEPARATION

- 1501. Employee Resignation
- 1502. Involuntary Separation
- 1503. Layoffs or Abolishment/Non-Funding of Positions
- 1504. Return of City Uniforms & Equipment
- 1505. Exit Interview
- 1506. Disbursement of Final Paycheck

Adjournment



Gaithersburg

A CHARACTER COUNTS! CITY

City of Gaithersburg
AGENDA FOR A **SPECIAL CITY COUNCIL MEETING**
IMMEDIATELY FOLLOWING THE SCHEDULED WORK SESSION
MONDAY, APRIL 13, 2009

(Please turn off all cellular phones and pagers prior to the meeting. Hand held signs brought into the Council Chambers may not be displayed in a manner which disrupts the meeting, blocks the view of spectators or cameras and poses a safety concern [e.g., signs mounted on stakes]. Your cooperation is appreciated.)

I. CALL TO ORDER

II. ORDINANCES, RESOLUTIONS, AND REGULATIONS

(ordinances, resolutions, and regulations to be introduced or adopted following appropriate procedures required by the City Code, or resolutions that may require discussion by the Mayor and Council prior to approval)

- A. Introduction of a Resolution of the Mayor and City Council to Amend Section 59 of the City Charter Entitled "Personnel Regulations; Merit System; Classified and Unclassified Service May be Established," and Section 60 of the City Charter Entitled "Composition of Classified and Unclassified Service"
- B. Introduction of an Ordinance to Repeal and Reenact with Amendments Chapter 17 of the City Code entitled "Personnel"

III. ADJOURNMENT

**MAYOR & CITY COUNCIL MEETINGS ARE TELEVISED LIVE ON
CABLE CHANNEL 13 AND ON THE INTERNET AT www.gaithersburgmd.gov/tv**

**Receive City agendas, minutes and news via e-mail.
Log on to the myGaithersburg e-mail-based news service at
www.gaithersburgmd.gov/myGaithersburg**

Replays are televised daily at 7 a.m. and 7 p.m. on Cable TV, Channel 13 and the Internet at
www.gaithersburgmd.gov/tv.

THE NEXT REGULAR MEETING OF THE MAYOR AND CITY COUNCIL
WILL BE HELD MONDAY, APRIL 20, 2009, 7:30 P.M.
COUNCIL CHAMBERS, 31 SOUTH SUMMIT AVENUE

TO CONFIRM ACCESSIBILITY ACCOMMODATIONS,
PLEASE CONTACT DORIS STOKES AT CITY HALL, 301-258-6310

Call to Order

Ordinances, Resolutions, and Regulations

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

April 13, 2009

CALL TO PODIUM:

Lynn Board, City Attorney

RESPONSIBLE STAFF:

Lynn Board, City Attorney

Margaret Daily, Department of Human Resources

AGENDA ITEM:
(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	Resolution (Charter Amendment) Introduction for Public Hearing
<input type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	4/13/09
Advertised	4/15/09
Hearing Date	5/4/09
Record Held Open	
Policy Discussion	

TITLE: SPECIAL MEETING

Introduction of a Resolution of the Mayor and City Council to Amend Section 59 of the City Charter Entitled "Personnel Regulations; Merit System; Classified and Unclassified Service May be Established," and Section 60 of the City Charter Entitled "Composition of Classified and Unclassified Service"

SUPPORTING BACKGROUND:

This Resolution would amend Sections 59 and 60 of the City Charter to provide for consistency with Personnel provisions of the City Code and to clarify and reflect all City officials and employees included in the classified and unclassified service.

DESIRED OUTCOME:

Staff recommends that the Mayor and City Council vote to introduce the Charter Amendment, and notify the public that the hearing will be held on May 4, 2009, with final action taken.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL TO AMEND SECTION 59 OF THE CITY CHARTER ENTITLED “PERSONNEL REGULATIONS; MERIT SYSTEM; CLASSIFIED AND UNCLASSIFIED SERVICE MAY BE ESTABLISHED” AND SECTION 60 OF THE CITY CHARTER ENTITLED “COMPOSITION OF CLASSIFIED AND UNCLASSIFIED SERVICE”.

WHEREAS, Sections 59 and 60 of the Charter of the City of Gaithersburg establish the classified and unclassified service for personnel employed by the City of Gaithersburg; and

WHEREAS, City Staff is recommending amending Sections 59 and 60 of the Charter for consistency with Personnel provisions of the City Code and to reflect all city officials and employees included in the classified and unclassified service.

WHEREAS, the amendment of Sections 59 and 60 of the Charter of the City of Gaithersburg was duly considered by the Mayor and City Council at a public hearing held on _____, 2009.

NOW, THEREFORE, BE IT RESOLVED, that Sections 59 and 60 of the City Charter are hereby amended as follows:

Section 1 – That Sections 59 and 60 of the Charter of the City of Gaithersburg be, and the same are, repealed and reenacted with amendments as follows:

Sec. 59. Personnel regulations; merit system; classified and unclassified service may be established.

The council shall have the power to adopt personnel regulations governing the employees of the city which may include the establishment of a merit system. Among other things, these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from termination, suspension or demotion ~~dismissal or other disciplinary action~~, and fringe benefits ~~vacation and sick leave regulations~~. If such merit system be established, the employees and officers of the city shall be divided into the classified service and the unclassified service.

Sec. 60. Composition of classified and unclassified service.

- (a) The unclassified service shall comprise the following offices and positions, which shall not be included within the merit system:
- (1) The mayor, the council ~~men~~ members, and persons appointed to fill vacancies in these positions.
 - (2) ~~The heads of all offices, departments, and agencies and m~~Members of city boards, ~~and commissions, committees, agencies and foundations.~~
 - (3) The city manager, the assistant city manager(s), the city attorney and ~~the assistant city attorney~~ the heads of all departments established by the City Manager.
 - (4) Part-time, temporary, ~~and~~ unpaid offices and positions, and employees by contract or agreement.
- (b) The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted.

Section 2 – BE IT FURTHER RESOLVED that the date of the adoption of this resolution is _____, and that the amendment to the Charter of the City of Gaithersburg, as herein adopted, shall be and become effective on _____, unless on or before said date a proper petition for referendum of this resolution shall be filed as permitted by law.

Section 3 – BE IT FURTHER RESOLVED that a complete and exact copy of this resolution shall be posted at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland 20877, until _____, and a fair summary of the proposed Charter amendment contained in this resolution shall be published in a newspaper of general circulation in the City of Gaithersburg not fewer than four (4) times at weekly intervals before _____.

Section 4 – AND BE IT FURTHER RESOLVED that as soon as the Charter amendment hereby enacted shall become effective, either as herein provided or following a referendum, the City shall send or cause to be sent to the Department of Legislative Reference the following information concerning this Charter resolution: (1) the complete text of this resolution; (2) the date of enactment of the Charter amendment; (3) the date of the referendum election, if any; (4) the number of votes cast for or against this resolution whether by the City Council or in a referendum; and (5) the effective date of the Charter amendment contained herein.

ADOPTED by the City Council this _____ day of _____, 2009.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing
Resolution was adopted by the City Council In a
public meeting assembled on the ____ day of
_____, 2009.

Angel L. Jones, City Manager

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

April 13, 2009

CALL TO PODIUM:

Lynn Board, City Attorney

RESPONSIBLE STAFF:

Lynn Board, City Attorney

Margaret Daily, Department of Human Resources

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input checked="" type="checkbox"/>	Ordinance (Introduction)
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	4/13/09
Advertised	4/15/09
Hearing Date	5/4/09
Record Held Open	
Policy Discussion	

TITLE: SPECIAL MEETING
Introduction of an Ordinance to Repeal and Reenact with Amendments Chapter 17 of the City Code Entitled "Personnel"

SUPPORTING BACKGROUND:
<p>This Ordinance would repeal and reenact with amendments the City's Personnel Ordinance, Chapter 17 of the City Code.</p> <p>The reenacted Ordinance establishes the basic framework for the City's personnel system, which is administered and supervised by the City Manager. The Ordinance also provides for the establishment and implementation of policies, procedures, rules and regulations to interpret and implement the provisions of the Ordinance, rather than including those specifics within the Ordinance itself. Such policies, procedures, rules, and regulations would be developed by the City Manager and subsequently adopted by the City Council by resolution (already provided for in Section 59 of the City Charter).</p>

DESIRED OUTCOME:
Staff recommends that the Mayor and City Council vote to introduce the Ordinance, and notify the public that the hearing will be held on May 4, 2009, with final action taken.

ORDINANCE NO. ____ -09

AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS CHAPTER 17 OF THE CITY CODE ENTITLED "PERSONNEL".

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that certain sections of Chapter 17 of the City Code, are hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 17-1. Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Classified employee. Classified employees comprise all positions not specifically included by this section in the unclassified service. All ~~offices and~~ positions included in the classified service shall be subject to the adopted merit system rules and regulations.

Exempt employee. An exempt employee is any ~~classified or unclassified~~ employee who is employed in a bona fide executive, administrative or professional capacity as outlined by the Fair Labor Standards Act (FLSA), and who is not subject to the FLSA overtime pay and compensatory leave provisions of FLSA ~~the act~~.

Merit system. A system of personnel rules and regulations for classified employees which may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by classified employees from termination, suspension or demotion ~~dismissal or other disciplinary action~~ and fringe benefits ~~vacation and sick leave regulations~~.

Non-exempt employee. A non-exempt employee is a ~~classified or unclassified~~ any employee who is not employed in a bona fide executive, administrative or professional capacity as outlined by the Fair Labor Standards Act (FLSA), and who is subject to the FLSA overtime pay and compensatory leave provisions of FLSA ~~the act~~.

Unclassified service employee. Unclassified service shall be comprised of public officials and employees in the following offices and positions and are not included within the merit system:

Comment [ky1]: Where noted below, these sections will move to the Rules and Regulations with some amendments anticipated. The full set of Rules and Regulations will be presented to the Mayor and Council for approval as noted in the City Charter.

Comment [ky2]: Clarification of all definitions

(a) Unclassified officials:

(1) The mayor, council members and persons appointed to fill vacancies in these positions.

~~(2) The heads of all offices, departments and agencies and members of city boards, and commissions, committees, agencies and foundations.~~

(b) Unclassified employees:

(1) The city manager, assistant city manager(s), and city attorney and the heads of all departments established by the city manager.

(2) Part-time, temporary, unpaid offices and positions, and employees by contract or agreement, ~~but not including independent contractors and volunteers.~~

~~(c)~~

~~(d)~~

Sec. 17-2. Responsibility for administration.

The city manager or his designee shall have the responsibility for implementing the provisions of this chapter and the authority to issue regulations to administer the provisions of this chapter. The city manager shall also have the responsibility for establishing and modifying the classification and compensation plans and for the general supervision of the personnel system.

~~Sec. 17-3. Personnel records.~~

~~The city shall keep personnel records for its employees as required by pertinent federal, state and local laws, and as the city manager shall determine necessary. The city manager shall be the custodian of all such records.~~

Comment [ky3]: Removed – not required, covered by Federal and State law

ARTICLE II. COMPENSATION AND BENEFITS

~~Sec. 17-34. Fringe Medical, dental and other insurance benefits.~~

Comment [ky4]: New Section 17-3

Comment [ky5]: Clarification and consolidation of benefits

~~(a) The city may pay or contribute to the cost of benefits, including, but not limited to, group medical, dental, life and disability or other insurance benefit plans for all employees, elected officials, retirees and retiree and disabled surviving spouses and eligible dependents eligible to participate as defined in the personnel rules and regulations, benefit plan documents. (hereafter "eligible employees"). Coverage may be secured for dependents of eligible employees on a family plan basis, in which case, the city will pay a portion thereof as determined by resolution of the city council. Payments shall be deducted from the employees' compensation for the remaining amount.~~

~~(b) The city may establish and pay or contribute to the cost of retirement plans for all employees and elected officials eligible to participate as defined in the personnel rules and regulations.~~

~~(c) The city may establish leave for classified and unclassified employees as defined in the personnel rules and regulations.~~

~~The mayor and members of the city council may elect to join or become members of any group medical or dental plan offered to eligible employees of the city on an individual or family plan basis provided that the subscriber pays the full cost of coverage without contribution or reimbursement from the city. The city may pay or contribute to the cost of any other insurance benefit plans for the mayor and members of the city council as determined by resolution of the city council.~~

Comment [ky6]: Remainder of this section moving to Rules and Regulations

~~(b) Medical, dental, and other insurance benefits will be provided to retired and disabled employees on the same basis as for active employees. Life insurance will be carried in the amount in force on the date of retirement or disability, or as modified by the terms of the group policy. When eligible therefor, Medicare Part A and Medicare Part B shall become the primary medical insurance carrier and the city's insurance carrier shall become the supplemental and secondary medical insurance carrier. The city may pay or contribute to the cost of the supplemental and secondary insurance, but shall not pay any of the Medicare premium. In the event of the death of a retiree or disabled employee, the surviving spouse may continue coverage under the benefit plans available to retirees as if he/she was the retiree, under the same terms and conditions as the retiree, except that the surviving spouse may only cover other dependents who were eligible for coverage at the time of the retiree's death, including an unborn child.~~

~~The mayor and members of the city council who leave city service may continue medical, dental, and/or other insurance benefits through the city's group plans provided they are eligible therefor and provided they~~

~~have served as mayor and/or member of the city council for a cumulative total of eight (8) years prior to leaving city service.~~

~~Benefits added after an employee's retirement/disability date, or after the date a mayor or a member of the city council leaves city service, will not be provided to the retiree/disabled employee or mayor or member of the city council.~~

~~(c) For purposes of this section, disabled means being eligible to receive benefits under the city's long-term disability program.~~

~~(d) For purposes of this section, an employee may retire under the General Retirement Plan at age fifty (50) years with at least fifteen (15) years of service provided that the total of age (in years) plus years of service shall equal at least seventy-five (75). An employee may, at his option, use his accumulated sick leave as additional service to meet eligibility requirements. Any sick leave so used would not then be subject to a payment therefor as specified in section 17-127.~~

~~(e) For the purposes of this section, an employee may retire under the Early Retirement Plan at age forty-six (46) years with at least twenty (20) years of service. When an employee retires under the Early Retirement Plan, the employee who elects to continue medical and/or dental insurance coverage through the city shall contribute five (5) percent more in employee share cost of premiums than paid by employees in the General Retirement Plan. All other benefits afforded to employees retiring under the General Retirement Plan shall be afforded to employees retiring under the Early Retirement Plan. An employee under the Early Retirement Plan may at employee's option use accumulated sick leave as additional service to meet eligibility requirements. Any sick leave so used would not then be subject to a payment therefor as specified in section 17-127 of this chapter.~~

Sec. 17-45. Conflicts with law enforcement officers' bill of rights.

In the event of any conflict between this chapter and the law enforcement officers' Bill of Rights (Article 24, sections 727 to 734D of the Annotated Code of Maryland), the latter shall prevail.

~~Secs. 17-6--17-25. Reserved.~~

ARTICLE II. CLASSIFICATION PLAN

Comment [ky7]: Consolidating old Sec. 17-26 thru Sec. 17-30; further details will be in Rules and Regulations

Sec. 17-526. Classification Plan. Establishment of classifications.

The city manager shall classify all those positions in the city service which are required by section 60 of the Charter to be classified. The classification plan may contain a specification of the duties and responsibilities of positions in each class and the qualifications required for appointment.

Except as provided in the Charter, all unclassified employees hired or appointed after June 30, 2009 shall serve at the pleasure of the city manager.

Sec. 17-27. Class descriptions.

~~The classification plan may contain a specification of the duties and responsibilities of positions in each class and the qualifications required for appointment. Such specification shall not be held to exclude other duties or responsibilities not mentioned, if such other duties and responsibilities are similar as to kind and quality.~~

Sec. 17-28. New positions.

~~The city manager shall study the duties and responsibilities of each new position as it is created and place it in the appropriate classification.~~

Sec. 17-29. Changes in duties and responsibilities of positions.

~~Whenever a department head makes a substantial change in the permanent duties or responsibilities of a classified position, he shall report such change to the city manager, who may place the position in a different class.~~

Sec. 17-30. Periodic review of classifications.

~~The city manager, as part of the annual budgetary process, shall periodically review the classification of positions and, as a result, may combine existing classes or establish new ones, or reclassify positions as the needs of the city may require.~~

Comment [ky8]: Moving to Rules and Regulations

~~Sec. 17-31. Reserved.~~

~~Secs. 17-32-17-45. Reserved.~~

ARTICLE III. RECRUITMENT AND EMPLOYMENT

Sec. 17- 646. Equal employment opportunity.

All personnel actions shall be based on merit and ability and no person shall be discriminated against on the basis of race, color, sex, sexual orientation, gender identity, ancestry, age, religion, national origin, marital or parental status, disability or serious medical condition handicap in practices involving recruitment, selection, training, promotions, transfers, disciplinary action and other terms and conditions of employment.

Comment [ky9]: Changed for consistency with Discrimination and Harassment Policy

Sec. 17-47. Job openings and applications for employment.

Comment [ky10]: Moving to Rules and Regulations

Applications for employment shall be accepted at any time. As a result of a single employment application, candidates may be considered for all positions for which they are qualified. Each candidate for employment shall make application in the manner prescribed by the city manager or his designee.

Sec. 17-48. Selection procedures.

Comment [ky11]: Moving to Rules and Regulations

(a) The fitness and relative ability of applicants shall be examined in one or more of the following ways:

- (1) An evaluation of education, training and experience as shown on the application or by other information submitted;
- (2) An interview;
- (3) A pre-employment physical examination;
- (4) Verification of ability and character through checking with references;
- (5) Any testing procedures established for the particular position.

(b) Selection procedures for any classified position shall be approved by the city manager and shall apply to all applicants for that position.

Sec. 17-49. Physical examinations.

Comment [ky12]: Moving to Rules and Regulations

The city manager may require every applicant for a position in the city service, prior to appointment, to complete successfully a physical examination by a physician designated by the city. The city shall bear the cost of such an examination. The city manager may for good cause require an employee, after appointment, to complete successfully a physical examination relating to the employee's fitness for duty. The city shall bear the cost of such an examination.

Sec. 17-50. Restriction concerning supervision of relatives.

Comment [ky13]: Moving to Rules and Regulations

~~No supervisor of a permanent full-time classified employee who is related to such employee by blood or marriage shall make recommendations or decisions directly affecting such employee's regular pay, any awards to the employee, job classification, promotion, transfer or disciplinary actions amounting to suspension, demotion or dismissal. In such matters enumerated herein, recommendations and decisions shall be made by the next highest level supervisor or the city manager. For purposes of this section, "related" shall mean being a parent, spouse, brother, sister, son, daughter, grandparent, uncle or aunt.~~

~~Sec. 17-51. Probation period.~~

Comment [ky14]: Moving to Rules and Regulations

~~After the effective date of this section, every classified employee except police officers shall be on probation for the first twelve (12) months of his employment. During such twelve (12) months, the probationary period may be extended for a maximum of an additional six (6) months by the city manager. The employee's department head may request the extension, or the city manager may extend the period without such a request. The probation period shall be used for closely observing the employee's work, for obtaining the most effective adjustment of the employee in his position and for the rejecting and termination of any employee whose performance does not meet the required standards. A classified employee who successfully completes this probationary period shall be referred to in this chapter as a permanent employee. During the probation period, employees may use accrued sick and annual leave and any earned compensatory leave. Any probationary employee who believes that he or she has been discriminated against in the course of their employment on account of race, creed, color, sex, age, national origin, handicap, or marital status may follow the provisions set forth in Article VI of this chapter. No other appeal rights are provided to probationary employees.~~

~~Sec. 17-52. Performance evaluations.~~

Comment [ky15]: Moving to Rules and Regulations

~~An evaluation system may be introduced by the city manager for the purpose of appraising employee performance. Performance evaluation may be used by department heads and the city manager as a basis for more effective personnel control. The quality of service rendered by the employee in the past will, in any case, receive due consideration in such personnel matters as promotions, transfers, demotions, lay-offs, dismissals and salary adjustments. Performance evaluations, where used, shall be reviewed by the employee, but such evaluations may not be seen by unauthorized persons.~~

~~Sec. 17-53. Travel and moving expenses.~~

Comment [ky16]: Moving to Rules and Regulations

~~(a) *Travel, conference, etc., expenses.* With the approval of the city manager, travel expenses may be reimbursed or advanced to employees or municipal officials attending authorized municipal or professional meetings and conferences or on official business of the city outside of the city. Such expenses shall include registration, transportation, meals and lodging. The payment of expenses of any other persons who are not employees of the city must be authorized by the city manager.~~

~~(b) *Moving expenses for new employees.* When specifically authorized by the city manager, all or a portion of the moving expenses incurred by new employees moving to the city to accept employment may be borne by the city. Allowable expenses shall include interview transportation costs and transportation charges for moving household belongings.~~

~~Sec. 17-54. Outside employment.~~

Comment [ky17]: Moving to Rules and Regulations

~~No classified employee of the city may engage in additional employment without express written permission of the city manager. The standards of such employment shall be based on whether outside employment will cause or could cause a conflict of interest and whether such outside employment will interfere with the employee's performance of the duties and responsibilities of his position.~~

~~Sec. 17-55. Hours of work.~~

Comment [ky18]: Moving to Rules and Regulations

~~The established number of hours of work constituting a normal work week for classified employees shall be designated by the city manager. Different work groups may have different work schedules, and the total number of hours worked per week need not be the same for all work groups.~~

~~Sec. 17-56. Employee complaints.~~

Comment [ky19]: Moving to Rules and Regulations

~~(a) *Permanent classified employees.* All complaints which any permanent classified employee may have because of any action affecting his status or conditions of employment shall be handled in accordance with the following:~~

~~(1) The employee shall discuss the complaint with his immediate supervisor to effect a settlement.~~

~~(2) A complaint not so settled shall be presented in writing by the employee to the supervisor. The employee may appear before the supervisor in his own behalf.~~

~~(3) The supervisor shall write a disposition of the complaint and send a copy to the employee and the respective department head within two (2) working days after receipt of the written complaint or the appearance of the employee, whichever is later.~~

~~(4) If the employee is not satisfied with that disposition and if the supervisor is not the department head, the employee shall present the complaint in writing to the department head, who shall have three (3) working days in which to write a disposition of the matter with reasons therefor. The employee may appear before the department head to discuss the matter. If the matter has not been resolved under previous steps, a written complaint may be made to the city manager.~~

~~(5) Within five (5) days after receipt of a complaint, the city manager shall call a meeting, which will include the department head, the complainant and any other persons involved in the complaint. The city manager will preside at the meeting and hear the entire case and obtain all the facts. The city manager will make a written report of the decision, which shall be delivered to the employee and the department head. The city manager's decision shall be final for all situations other than those stated in section 17-56.~~

~~(b) *Unclassified temporary full-time or permanent part-time employees.* Any permanent part-time or temporary full-time employee who has been dismissed and/or who believes that he has been discriminated against in the course of his employment with the city on account of race, creed, color, sex, age, national origin, handicap or marital status, may follow the provisions set forth in Article VI of this chapter. No other appeal rights are provided to such employee.~~

~~Secs. 17-47—17-56. Reserved.~~

~~Sec. 17-57. Personnel review board.~~

Comment [ky20]: Moving to Sec. 17-8

~~(a) The city council shall be empowered to act as the personnel review board for the city until such time as the establishment of such board and the appointment of members thereto. In the event that the city council shall act as the personnel review board, the provisions of Article VI of this chapter shall apply, with the exception that any action on an appeal shall be a final decision, not a recommendation, and shall not require further hearings.~~

~~(b) The personnel review board shall consist of three (3) members, to be appointed by the mayor with the approval of the council. Each member shall be appointed to a three-year term; except, that the first appointments shall be made in such fashion that no more than one term expires in any one year. One member of the board may be, but need not be, a member of the council. All members of the board shall be subject to removal at any time upon a vote of the majority of the council.~~

The personnel review board shall have such duties and responsibilities as are stated in this chapter and as may be assigned to it from time to time by the city council by resolution.

Sec. 17-58. Department heads and city manager.

Comment [ky21]: Clarification – Refer to Sec. 17-1(b)(1)

(a) Department heads shall be permanent unclassified employees appointed by the city manager to administer departments and offices of the city government. Department heads shall have the benefits of, be subject to and be governed by the provisions of this chapter to the same extent as classified employees.

(b) The following sections of this chapter shall apply to the city manager: 17-4, 17-46, 17-48, 17-50, 17-122 through 17-126, 17-127, 17-128, 17-129, except the last paragraph thereof, 17-130 and 17-131.

Secs. 17-59 – 17-85. Reserved.

ARTICLE IV. COMPENSATION PLAN

Comment [ky22]: See Article II. Compensation and Benefits – moving to Rules and Regulations

Sec. 17-786. Annual recommendations by city manager and approval.

The city manager shall present once each year, as part not later than the submission of the annual budget, a proposed compensation plan for the next succeeding fiscal year. Such plan shall be deemed to be approved by the city council unless it is modified by the council as part of ~~prior to~~ the adoption of the budget. Such plan shall establish minimum and maximum rates of pay for each classification.

Sec. 17-87. Purpose of plan; comparative studies by city manager.

~~The purpose of the compensation plan is to provide fair compensation for all classes in light of rates of pay for similar employment in private establishments and other governmental jurisdictions in the area, the financial condition of the city and other factors. To this end, the city manager shall make comparable studies of all the factors affecting the level of salary ranges as part of the annual budgetary process.~~

Sec. 17-88. Salary and wage increases.

~~Salary and wage increases are not automatic, but shall be based on work performance as reflected in periodic performance evaluations,~~

~~giving due consideration to length of service. No increases shall be made by the city manager except upon the recommendation of the department head in writing, which shall include a justification for the increase and a performance evaluation of the employee.~~

~~Sec. 17-89. Awards for outstanding service.~~

~~An employee who performs the duties and responsibilities of his position in an outstanding manner and whose work generally is well above expectations shall be eligible to be considered for an outstanding service award. Such award shall be initiated by the employee's department head, who shall submit a statement in writing setting forth the reason(s) for recommending such award to the city manager.~~

~~Sec. 17-90. Pay rates in promotion, demotion or transfer.~~

~~When an employee is promoted, demoted or transferred, the employee's rate of pay in the employee's new position shall be established by the city manager.~~

~~Sec. 17-91. Pay for temporary and part-time work.~~

~~The city manager shall determine the basis upon which temporary and part-time employees shall be paid.~~

~~Sec. 17-92. Fair Labor Standards Act, minimum wage, overtime pay, and compensatory leave.~~

~~(a) *Permanent classified employees.* Any classified non-exempt employee shall be entitled to compensation at the rate of one and one-half (1 1/2) times the normal rate of compensation for hours actually worked in excess of the normal work week, except as otherwise provided herein, subject to the following conditions:-~~

~~(1) One and one-half (1 1/2) time compensation shall be paid for positions eligible for paid overtime as identified by the city manager for actual hours worked in excess of the normal work week; for the purpose of this section, actual hours worked shall include holidays, annual leave approved in advance and approved sick leave.~~

~~(2) Overtime hours worked must be required by an actual emergency or such other unusual circumstance requiring the assignment of employees to overtime hours of work and must be authorized by the department head and approved by the city manager. Compensation for overtime work without prior approval may be authorized by the city manager when the work is deemed to be in the best interest of the city.~~

~~(3) Twice the normal rate of compensation shall be paid for overtime hours occurring on Sunday in excess of the normal work week, and for work performed on an official city holiday.~~

~~(4) As determined by the city manager, compensatory leave time may be granted in lieu of overtime pay at the same rate as overtime pay is awarded to positions eligible for compensatory leave time as identified by the city manager. Accumulated compensatory leave time shall be subject to the provisions of section 17-93.~~

~~(5) Classified exempt employees whose positions or regular duties involve working beyond the established work week as determined by the city manager shall not be eligible for overtime pay nor compensatory leave time, but may be eligible for other time off.~~

~~(b) *Unclassified full-time temporary employees.* Any unclassified full-time temporary employee who shall, with prior approval of his supervisor, work more hours in any week than his normal work week, as established by the city manager, shall be entitled to be compensated in cash at the rate of one and one-half (1 1/2) times his regular rate of pay.~~

~~**Sec. 17-93. Accumulation of compensatory time.**~~

~~Compensatory time may be accumulated up to a maximum of eighty (80) hours at the end of any calendar year subject to the provisions outlined below:~~

~~(1) Classified exempt employees will not be reimbursed for unused other time.~~

~~(2) Compensatory time in excess of eighty (80) hours accumulated at the end of a calendar year by a classified employee shall be paid at the rate of one and one-half (1 1/2) times regular rate of pay.~~

~~**Sec. 17-94. Payment for compensatory time upon termination of employment.**~~

~~Permanent classified non-exempt employees who have earned compensatory time and who resign, retire, are dismissed or are laid off shall be paid in full for unused compensatory time.~~

~~Secs. 17-95 - 17-120. Reserved.~~

ARTICLE V. LEAVE

Comment [ky23]: Everything concerning leave and other benefits moving to Rules and Regulations

~~**Sec. 17-121. Leave of absence without pay.**~~

~~In the discretion of the city manager, requests for leave of absence without pay for periods not to exceed six (6) months may be granted. In cases exceeding ten (10) working days, employees shall not earn annual or sick leave and will be required to pay the cost incurred by the city for their own hospitalization, life insurance, disability insurance and other fringe benefits.~~

~~Sec. 17-122. Official leave with pay.~~

~~The city manager may grant official leave with pay for the purpose of having employees attend professional meetings, technical conferences, short-term courses in matters relating to official duties or for other valid purposes. Such leave will not be deducted from any other leave earned by employees.~~

~~Sec. 17-123. Maternity leave.~~

~~Accrued sick leave may be used pursuant to the provisions of this chapter for any disability caused or contributed to by pregnancy, miscarriage, childbirth and recovery therefrom whenever an employee is unable to work. A pregnant full-time classified employee may continue to work whenever the pregnancy does not adversely impair the employee's work performance and such continuation at work does not conflict with the attending physician's advice. For purposes of sick leave use, a pregnant full-time classified employee, who does not wish to work, shall be presumed to be temporarily disabled for the performance of duty commencing at approximately six (6) weeks before the anticipated date of birth and ending not more than eight (8) weeks after the date of birth; provided, that the employee shall submit two (2) written certifications from the attending physician, one verifying approximate date of birth and one verifying the date of delivery. For other periods of the pregnancy, a full-time classified employee who is not able to report to work because of pregnancy or childbirth complications of the employee shall be eligible to use accrued sick leave. In such cases, the employee shall notify the department head or have someone else notify the department head on the first day of absence and at such other reasonable times following the first day of absence as may be required by the department head. Certification of use of sick leave requirements provided in this chapter shall be applicable to this type of use of sick leave.~~

~~Sec. 17-124. Jury leave.~~

~~Any employee called upon for jury service shall be granted leave for that purpose for each day that he is required to report for jury service and shall be paid for each such day his full salary. Where the release from jury service on any given day will permit an employee to reach his city office one hour or more prior to the end of his regular day, he shall report for work. Such leave will not be deducted from any other leave earned by the employee.~~

~~Sec. 17-125. Military leave.~~

~~Any classified city employee who is a member of any United States Military Reserve or National Guard Unit and is required to engage in training exercises will be granted military leave not to exceed~~

~~two (2) weeks in any one year. Such employee, for each regular working day or holiday that he is required to engage in training, shall be paid his full regular salary. Such leave will not be deducted from any other leave earned by the employee. Leave without pay may be granted to a full-time employee called for military service other than training exercises.~~

~~Sec. 17-126. Vacation leave.~~

~~(a) Amount earned.—~~

~~(1) If hired before April 12, 1983, classified employees:~~

~~a. With three (3) years or less service shall earn vacation leave at the rate of one and one-fourth (1 1/4) days for each month of service;~~

~~b. Who have completed three (3) years of service shall earn vacation leave at the rate of one and one-half (1 1/2) days for each month of service, after their third year;~~

~~c. Who have completed six (6) years of service shall earn vacation leave at the rate of one and three-fourths (1 3/4) days for each month of service after their sixth year;~~

~~d. Who have completed nine (9) years of service shall earn vacation leave at the rate of two (2) days for each month of service after their ninth year.~~

~~(2) If hired on or after April 12, 1983, classified employees:~~

~~a. With three (3) years or less service shall earn vacation leave at the rate of one day for each month of service;~~

~~b. Who have completed three (3) years of service shall earn vacation leave at the rate of one and one-fourth (1 1/4) days for each month of service after their third year;~~

~~c. Who have completed six (6) years of service shall earn vacation leave at the rate of one and one-half (1 1/2) days for each month of service after their sixth year;~~

~~d. Who have completed nine (9) years of service shall earn vacation leave at the rate of one and three-fourths (1 3/4) days for each month of service after their ninth year;~~

~~e. Who have completed twelve (12) years of service shall earn vacation leave at the rate of two (2) days for each month of service after their twelfth year.~~

~~(b) Schedules. The city manager shall require that vacation schedules be prepared in advance and shall have the authority to adjust such schedules so as to maintain an effective working force at all times.~~

~~(c) Accumulation. Vacation leave in excess of thirty (30) days accumulated at the end of any calendar year shall be credited to accumulated sick leave.~~

~~(d) Crediting to employee. Vacation leave shall be credited to each employee after it is earned. No provision will be made for advance crediting of vacation leave.~~

~~(e) Payment for unused leave upon termination of employment. Classified employees who have earned vacation leave and who resign from the city service or are laid off may take such unused portion of vacation leave, or they may request payment in full for all unused vacation leave. Classified employees who are dismissed shall be paid for their unused vacation leave. In no event shall such leave, taken or paid for, exceed thirty (30) days.~~

~~(f) Payment for unused leave under unusual circumstances. In the city manager's discretion, a classified employee may receive payment for unused vacation leave under unusual circumstances; provided, that the classified employee requests such in writing, stating the unusual circumstances. Any such payment shall be reported promptly by the city manager to the city council.~~

Sec. 17-127. Sick leave.

~~(a) Amount per month; accumulation. All employees shall earn one and one-fourth (1 1/4) days of sick leave for each month of service. Sick leave may be accumulated with no maximum.~~

~~(b) Use by employee. Conditions under which sick leave may be taken are:~~

~~(1) Personal illness.~~

~~(2) Illness of a parent, spouse or child residing in the employee's household, not to exceed five (5) days in any one year.~~

~~(3) Quarantine.~~

~~(4) Visit to an outpatient unit, a doctor's office or a therapy session.~~

~~(5) Birth of a child, as specified in section 17-123 for female employees, or up to five (5) days for a male employee, to assist in the birth or care of such newborn child.~~

~~(c) Proof of need. Any employee who desires to use five (5) or more days of sick leave consecutively shall submit a certificate by a physician or other licensed medical or dental practitioner confirming the illness or injury and the employee's inability to report to work in order to be granted such leave. For periods of absence of less than five (5) workdays, caused by illness or injury, the employee's department head may accept the employee's oral statement as to the reason for the absence. However, the department head may, after consulting with the city manager, require written certification from a physician or other licensed medical or dental practitioner if it is deemed appropriate.~~

~~(d) Advancements. In exceptional cases, a classified employee with more than two (2) years' service may be advanced unearned paid sick leave up to a maximum of sixty (60) days of such leave upon recommendation of his department head and approval by the city manager. Written certification from a physician or other licensed medical or dental practitioner as required in section 17-127 shall be submitted prior to any authorization. In the event an employee who has been advanced unearned paid sick leave is terminated from city employment before such leave is earned by the employee, the remaining portion of unearned paid sick leave that has not been repaid to the city shall be deducted from the employee's final paycheck.~~

~~(e) Payment for unused sick leave. Upon retirement from the service of the city, a classified employee shall be paid one day's pay for every four days of sick leave which he has accumulated to his credit as of the date of his retirement. For the purposes of this section, the definition of "retirement" shall be that which is set forth in section 17-4 except that for employees employed on or before August 6, 1990, the definition of "retirement" shall be the termination of employment after either the attainment of age fifty-five (55) or the completion of twenty (20) years of service.~~

~~(f) Use when on annual leave. When an employee becomes ill or injured or quarantined while on annual leave, the period of such illness, injury or quarantine may be charged to sick leave, if the employee submits a written certification from a physician or other licensed practitioner confirming the illness, injury or quarantine and that such illness, injury or quarantine would have prevented the employee from reporting to work if the employee had been in a normal work status.~~

~~(g) Sick leave bank. The city manager shall have the authority to establish a sick leave bank which will provide for a central repository of sick leave.~~

~~Sec. 17-128. Personal leave.~~

~~Any permanent classified employee is eligible to use the equivalent to two (2) days of their sick leave each calendar year to attend to personal obligations. If the personal leave days are not used during the calendar year, they shall convert back to accrued sick leave.~~

~~Sec. 17-129. Holidays.~~

~~(a) The following days shall be official city holidays: New Year's Day; Dr. Martin Luther King, Jr. Day; Presidents' Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Thanksgiving Friday (in lieu of Columbus Day); and Christmas Day. Additionally, all eligible employees shall be entitled to one and one-half days off as floating holidays each year with prior approval from their department head. The city manager is authorized to designate additional days as official city holidays; provided, that the manager shall first notify a majority of the members of the council.~~

~~(b) When a holiday falls on a Sunday, the following Monday shall be observed as an official holiday. When a holiday falls on a Saturday, the preceding Friday shall be observed as an official holiday. Except as otherwise provided herein, classified employees shall be granted holiday leave on each official holiday. Holiday leave will not be deducted from any other leave earned by the employee.~~

~~(c) Any classified employee whose duties require him to work on one of the holidays specified herein shall be paid, in addition to his regular pay for the hours worked, twice his normal pay for the hours worked in excess of the normal work week. For the purpose of this section, actual hours worked shall include holidays, annual leave approved in advance and approved sick leave under such rules as may be established by the city manager. At the discretion of the city manager, compensatory leave may be awarded, at the same rate, in lieu of hours worked on a holiday.~~

~~Sec. 17-130. Bereavement leave.~~

~~Any classified employee shall be granted three (3) working days off with pay immediately following the death of the employee's spouse, any child, parent, brother or sister, or any blood relative residing in the employee's household. A classified employee shall be granted one working day off with pay following the death of a grandparent, not living~~

in the employee's household, or a grandchild, mother-in-law or father-in-law. The first two (2) days of additional time off shall be charged to sick leave. Any further time off will be charged to vacation leave. The three (3) or one working days off allowed in the case of death in the employee's family shall not be chargeable to either sick leave or vacation time.

Sec. 17-131. Workers' compensation for disability.

In the event an employee shall be temporarily totally disabled by an injury while on the job for the city, he shall receive his regular rate of pay, not to exceed ninety (90) days. Any workers' compensation payments other than those for medical expenses during the period of temporary total disability shall be submitted to the city. No charge shall be made against any accrued leave time during the period of such temporary disability.

Secs. 17-32-17-150. Reserved.

ARTICLE III VI. APPEALS LAYOFFS, DEMOTION, SUSPENSION AND DISMISSAL

Sec. 17-151. Layoffs.

(a) The city manager is authorized to release any employee on the city payroll because of lack of work or funds or abolishment of position. The city manager will consider first the types of activities to be curtailed and the classes of positions thereby affected and will then proceed to the selection of individual employees to be released.

(b) Employees' previous service will be a factor in determining the order in which employees should be released.

(c) The possibility of demoting employees in higher classifications to lower classifications for which they are qualified and laying off those in the lower classifications will also be considered.

Sec. 17-152. Dismissal, suspension or demotion.

(a) *General regulations.* The city manager may dismiss, suspend with or without pay or demote any permanent classified employee at any time for any of the following reasons:-

(1) The employee has been convicted of a felony, or of a misdemeanor involving moral turpitude.

(2) The employee has willfully, wantonly, unreasonably, unnecessarily or through gross negligence been guilty of brutality or cruelty to a person in custody.

Comment [ky24]: Defining of Personnel Board and clarification of appeals process.

Comment [ky25]: To be addressed in Rules and Regulations

Comment [ky26]: Moving to Rules and Regulations

- ~~(3) The employee has violated any of the provisions of this chapter or any laws, ordinances or regulations of the city.~~
- ~~(4) The employee has violated any lawful official city regulation or order or failed to obey any proper direction made and given by a superior officer.~~
- ~~(5) The employee has possessed, distributed or used illegal drugs/intoxicants, or misused legal drugs at the city's workplace.~~
- ~~(6) The employee has been guilty of insubordination or of disgraceful conduct, either on or off duty.~~
- ~~(7) The employee has been offensive in conduct and language in public or towards the public, city officials or employees, either on or off duty.~~
- ~~(8) The employee has been afflicted with any disease or has any mental or physical ailment or defect which, in the opinion of the city manager and the department head, makes the employee unfit for the assigned position.~~
- ~~(9) The employee is careless or negligent with money or other property of the city.~~
- ~~(10) The employee is incompetent or inefficient in the performance of assigned duties.~~
- ~~(11) The employee has failed to pay or make reasonable provisions for future payments of personal debt to such an extent that such failure shall be detrimental to the city service.~~
- ~~(12) The employee has used, threatened to use or attempted to use personal or political influence in securing promotion, leave of absences, transfer, change of rate of pay or nature of work.~~
- ~~(13) The employee has induced, or has attempted to induce, an officer or employee in the service of the city to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order.~~
- ~~(14) The employee has taken for personal use, from any person, any fee, gift or other valuable thing in the course of work or in connection with it, when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons.~~
- ~~(15) The employee has engaged in political activity during working hours or while representing the city in an official capacity.~~
- ~~(16) The employee has misrepresented material facts relating to the use of sick leave.~~
- ~~(17) The employee has committed acts detrimental to the good order, discipline and repute of the city or the city service.~~

~~(b) *Hearing.* Before dismissing, suspending, demoting or laying off a permanent classified employee, the city manager shall provide the employee a reasonable opportunity to be heard; provided, that an employee may be suspended without a hearing when, in the city manager's judgment, immediate suspension is required.~~

Sec. 17-153. Fringe benefits during suspension.

Comment [ky27]: Moving to Rules and Regulations

~~Any classified employee who is suspended, whether with or without pay, shall be entitled to all fringe benefits and shall continue to earn vacation leave and sick leave during the period of suspension.~~

~~Secs. 17-151-17-152. Reserved.~~

Sec. 17-8153. Personnel Board.

The personnel review board shall consist of three (3) members, to be appointed by the mayor with the approval of the council. Each member shall be appointed to a three-year term; except, that the first appointments shall be made in such fashion that no more than one term expires in any one year. One member of the board may be, but need not be, a member of the council. All members of the board shall be subject to removal at any time upon a vote of the majority of the council.

Sec. 17-9154. Filing of appeal.

Any permanent classified employee and department head or assistant city manager hired or appointed prior to June 30, 2009 who has been suspended, demoted, laid off or terminated-dismissed, or who claims to have been discriminated against in the course of his employment on account of race, creed, color, sex, age, national origin or handicap, may file an appeal in writing to the personnel review board and may request a hearing thereon. Such appeal shall state the pertinent facts relative to the action which is being appealed and shall be signed by the employee and filed with the personnel review board within five (5) days after receipt by the employee of the notice of such suspension, demotion or termination, layoff, dismissal or discriminatory action.

Comment [ky28]: Included in Discrimination and Harassment Policy which will be part of Rules and Regulations

Sec. 17-10155. Consideration of appeal; setting date for hearing.

If no request for hearing is contained in such appeal, the personnel review board, after making such investigation as it deems necessary, shall make and file with the city council its recommendation with reference thereto. If a request for hearing is contained in such appeal, a hearing shall be had thereon within twenty (20) days after the filing of such appeal, at such time and place as shall be fixed by the personnel review board. Such hearing shall be open to the public or closed to the public if the ~~appellant~~ employee appellant shall so request in writing. If the employee appellant makes no such request, the board may determine whether the hearing will be open or closed to the public.

Comment [ky29]: Wording change suggested by City Attorney

Sec. 17- ~~11156~~. Hearing.

(a) *Notice.* Notice of the time and place of the hearing shall be given promptly by the city manager to the employee ~~appellant~~ at least five (5) days prior to the date of the hearing by mail, addressed to the employee appellant at the last known post office address for the employee appellant.

(b) *Postponement; failure to appear.* The hearing may be postponed only upon good cause shown, and in the event that the employee appellant shall fail to appear in person or by counsel at the hearing, it shall be presumed that the employee appellant has waived the right to a hearing.

(c) *Representation of employee~~appellant~~.* The employee appellant may be represented by counsel.

(d) *Conduct.* The hearing shall be conducted in an orderly manner, with a view to the presentation of all material facts so that a fair and impartial decision may be made. The personnel review board shall have full authority at all times to maintain orderly procedure and to limit the hearing to relevant facts.

Sec. 17- ~~12157~~. Recommendation of personnel review board, further hearing by city council.

Promptly after the conclusion of the hearing, the personnel review board shall forward to the city council the appeal, all of the evidence received by it and its recommendation as to the appropriate action to be taken by the council. Copies of the recommendation shall be delivered to the city manager and the employee. ~~The city council may, but shall not be required to, hold a further public hearing on the appeal, following reasonable notice to the employee and the city manager.~~

Sec. 17- ~~13158~~. Decisions of city council.

The decision of the city council shall be promptly reduced to writing and shall be filed with the city manager, and a copy shall be delivered to the employee. The city council may affirm, reverse or modify the action of the city manager.

Secs. 17 – 14 – 17-158. Reserved.

ADOPTED this ____ day of _____, 2009 by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this ____ day of _____, 2009. APPROVED by the Mayor of the City of Gaithersburg, this ____ day of _____, 2009.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the ____ day of _____, 2009 and that the same was approved by the Mayor of the city of Gaithersburg on the ____ day of _____, 2009 This ordinance will become effective on July 1, 2009.

Angel L. Jones, City Manager

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

Adjournment

Executive Session

From Staff



Gaithersburg
A CHARACTER COUNTS! CITY

April 1, 2009

The Honorable Adrienne A. Jones
Capital Budget Subcommittee
House of Appropriations Committee
House Office Building, Room 312
Annapolis, MD 21401

Dear Chairman Jones,

We are concerned that the Report on the *April 2009 House Committee on Appropriations—Capital Budget* contains a provision deauthorizing \$200,000 for the Gaithersburg Olde Towne Youth Center that was originally approved by the General Assembly during the 2005 Legislative Session. Unfortunately, we were not aware that this measure was under consideration and did not appear before your subcommittee to testify prior to your committee taking action.

Planning and design of this facility was completed in the spring of 2008, and the contract for construction was awarded in October of 2008. Construction began immediately, and remains underway with completion anticipated in September of 2009. I am pleased to note that this youth center is being constructed as a Green building, and will achieve LEED Silver certification from the US Green Building Council.

This project is being funded through a combination of local funds, Community Development Block Grant funds (CDBG), and State bond bill funds. We are currently in the process of drawing CDBG funds, and anticipate requesting payment from the State by June of 2009. Accordingly, we respectfully request that the House of Delegates not deauthorize the \$200,000 approved in 2005.

Your consideration is greatly appreciated. Please feel free to contact me or Assistant City Manager Fred Felton at 301-258-6310 if you have any questions or wish to discuss.

Sincerely,

Sidney A. Katz
Mayor

cc: District 17 Delegation
City Council
Angel L. Jones, City Manager
Frederick J. Felton, Assistant City Manager

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MAYOR
Sidney A. Katz

COUNCIL MEMBERS
Jud Ashman
Cathy C. Drzyzgula
Henry F. Marraffa, Jr.
Michael A. Sesma
Ryan Spiegel

CITY MANAGER
Angel L. Jones



March 25, 2009

Nancy Sturgeon
Principal Planner
Montgomery County Department of Park & Planning
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Ms. Sturgeon:

Thank you for forwarding the draft *Gaithersburg West Master Plan* for our review. We appreciate the opportunity to comment on this well thought out and very thorough plan. The draft Plan has been reviewed by city Staff and we offer the following comments:

General Comments

- The Plan refers to several unincorporated areas as “enclaves” and describes these areas as being surrounded by the City. The term “enclave” suggests that these unincorporated areas are in violation of the Maryland Annotated Code which prohibits “...any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the municipality...” In fact, only the National Institute of Standards and Technology (NIST) property and the Londonderry/Hoyle’s Addition neighborhood is an “enclave.” Furthermore, the NIST property is a federally recognized enclave not within County jurisdiction. The remaining neighborhoods are only partially surrounded by the City.

Accordingly, the City of Gaithersburg recommends that an alternate word be used to refer to these areas, or that the definition of “enclave” be revised to state “completely or nearly completely surrounded by a municipality”, since four of the six areas described are only partially surrounded by a municipality.

- The first paragraph of the subsection “Annexation” describes the statutory requirements for municipal establishment of Maximum Expansion Limits. This paragraph is concluded with the statement “Ideally, the boundaries between the County and the municipalities would be logical and well-defined, following roads or natural features such as streams.” The incorporation of this County-stated policy within this paragraph infers that the state regulations require conformance with this statement, when, in fact, the state regulations include no such statement.

Accordingly, it is recommended that this statement be removed from this paragraph. It is more appropriately placed within the subsequent paragraph which clearly states the County's position regarding the City's Municipal Growth Element.

- On page 51, the Plan states "Both the Londonderry and Hoyle's Addition areas are appropriate for annexation by the City of Gaithersburg." Please be advised that in regard to property other than Belward and McGown, the City has a policy of not actively seeking annexation. In all cases, annexation into the City is a purely voluntary action initiated by the property owner. Because of this policy, the City recommends that the language be modified to state "Both the Londonderry and Hoyle's Addition areas are appropriate for annexation into the City of Gaithersburg."

Furthermore, on page 48 the plan recommends that the City prepare annexation fact sheets and hold information seminars with residents to inform them of requirements for annexation. Because the City does not actively seek annexation of these areas, we request that this language be removed entirely.

- The Plan should clearly state the alternative build scenarios during the six year update of the plan in the event that the MTA does not support the proposed CCT realignment or if the CCT is not constructed in the near-term.
- The City does not support a grade-separated interchange at Diamondback Drive and Sam Eig Highway and this recommendation should be summarily removed. Beginning in 2005, the City of Gaithersburg annexed both the Crown Farm and the Crowne Pointe subdivisions. During these annexations, preliminary plans were submitted for these areas, neither showing a grade separated interchange, nor Diamondback Drive extended across Sam Eig Highway. The County was aware of these designs and approved the right-in-right-out, left-in entrance into the Crown Farm from Sam Eig Highway. Single family homes have been occupied, and entitlements have been granted for residential and commercial buildings that are sited within areas that would be used for the right-of-way of a grade separated interchange.
- While we support improvements to county and state roads, the ROW recommendations for North and South Frederick Avenue are not feasible. The City has been, and will continue to plan for future improvements within a 120 foot ROW.
- The retention of a CCT stop near the existing DANAC stop, possibly at the intersection of Diamondback and Decoverly Drives would seem to make sense given the proposed densities for the LSC North and the existing densities within the Decoverly neighborhood.
- What is the timing for the LSC Central? Have the current landowners accepted the realignment and conceptually agreed to any dedication of CCT ROW, at the time of CCT approval? In the absence of the County fully funding the construction of the CCT, or any

agreement which fast tracks the construction of the CCT, the City of Gaithersburg would oppose an approved realignment that would delay the overall project waiting for numerous owners to allow what is being proposed.

- The staging plan does not include housing – it only includes nonresidential development. The Plan should more clearly articulate the allowable residential and commercial growth that is permitted without ties to the CCT.
- The Plan should also reference the municipal growth element for the Town of Washington Grove.
- The plan divides the LSC into several isolated “super blocks” separated by high-volume, wide roads that act as barriers between the blocks, which is not consistent with the plan’s overall vision for a walkable community. The plan or subsequent design guidelines should include mechanisms or recommendations to ensure that these “super blocks” become better integrated through the build-out of the plan.
- The housing associated with FAR should encourage a variety of unit types and sizes, to discourage a proliferation of 500 sq ft studio apartments.
- No description or recommendation is provided for Washingtonian Residential and Hi Wood, although maps are provided.
- Where is the additional ROW needed for the re-aligned CCT coming from within the City of Gaithersburg?
- The design guidelines should include a graphic showing the various buffers and environmental settings, the location of the Belward CCT station, and the environmental setting for the historic farmstead. Larger buffers should be required for commercial and mixed use development, whereas smaller buffers could be applied for strictly residential development.

Specific Comments, page by page

Page 3: The map should include the alternate Kentlands CCT station and route.

Page 6: The City of Gaithersburg boundary shown on this map is not correct – it does not include the Crown Farm or Crown Pointe annexations. In addition, several red circles of varying size are shown but the legend does not include an explanation of what these circles represent and what the different sizes indicate.

Page 8: The MEL shown for the City of Gaithersburg should be updated to reflect the City’s latest proposal. The MEL for Washington Grove should be shown as well. The map should include the alternate Kentlands CCT station and route.

- Page 11: The introductory description of the LSC should include a description of the existing housing at Decoverly and Traville.
- Page 13: The CCT discussion should include a statement that the City has proposed to relocate the primary Crown Farm station and eliminate the second station. The CCT discussion should include a description of the “critical density” (both commercial/jobs and residential) required to make the CCT cost-effective and efficient. A more detailed rationale for eliminating the DANAC station should be provided since there is no clear indication that the LSC North area has less potential for growth than the LSC Central or West areas, apart from the absence of a CCT station.
- Page 14: The map should include the alternate Kentlands CCT station and route.
- Page 15: Show the ¼ mile radius around the Crown Farm Station and show a black dotted ¼ mile radius around the Decoverly and DANAC stations. In the text of the document, need to explain the larger gap between the Crown Farm station and the LSC station (versus the gap between the Crown Farm Station and DANAC stations) and how this will impact transit use.
- Page 16: The existing housing and density at Washingtonian Center (1,368 units – 28 du/ac), Traville (750 units - 16 du/ac), and Decoverly (1,144 units - 13 du/ac) are not discussed in the housing section, so it is difficult to make a comparison between the existing development and the proposed 5,000 housing units. In addition, it is not clear that the Washingtonian residential area is included in this plan and no description of the existing units or density is provided in the text – the number of units is only provided on the accompanying map. No density is given for either the 2,000 housing units for the PSTA (39 du/ac) nor the additional 3,000 housing units spread throughout the remainder of the LSC. Because of the proximity of residential areas in the Potomac Master Plan, the housing description and accompanying map should include information about the type and density of this Potomac area housing, since the world does not end at the plan’s boundary. The 5,000 housing units number is not consistent with the information presented in the table on page 21, which only lists 4,700.
- Page 20: The map should include existing trails, such as the hiker-biker trail along Great Seneca Highway. This will help illustrate the proposed trail connections to existing trails and surrounding areas.
- Page 21: The table lists 3,300 existing residential units within the plan, but the text on page 30 lists only 1,144 (Decoverly) plus another 750 listed on page 32, for a total of 1,894 existing units. It is not clear that the 1,368 units in the Washingtonian residential area is included in the LSC study area, since the unit count is only provided on two maps and not discussed in the main text of the Plan and the area is not dashed on the maps like the rest of the LSC study area.
- Page 25: The text should include a description of the proposed housing density (38 du/ac) for the 52-acre PSTA site and provide a comparison to housing density at other transit-oriented developments, such as the Shady Grove metro station.
- Page 40: The map should include the alternate Kentlands CCT station and route.
- Page 41: The map should include the alternate Kentlands CCT station and route.
- Page 42: The map should include the proposed CCT alignments, including the alternate Kentlands CCT station and route.

- Page 44: The map should include the proposed CCT alignments, including the alternate Kentlands CCT station and route.
- Page 49: The map should include the alternate Kentlands CCT station and route.
- Page 62: Stage 1 of the plan includes “up to 6 million square feet (including existing and pipeline development) of non-residential development”, but the table on page 21 shows an existing amount of 6.94 million square feet and a pipeline amount of 3.7 million square feet, for a total existing/pipeline of 10.7 million. No residential allowance is included in Stage 1, Stage 2, or Stage 3.
- Page 63: Stage 3 allows “up to 15 million square feet of non-residential development” but the table on page 21 shows the 2009 Plan includes 20 million square feet.
- Page 65: The map should include the alternate Kentlands CCT station and route.
- Page 67: Footnote 3 should be revised since it is used for other roads besides Watkins Mill Road.
- Page 70: The map should include the alternate Kentlands CCT station and route. There is no gap in the existing bikeway along Great Seneca Highway south of the PEPCO power lines.
- Page 75: The map should include the alternate Kentlands CCT station and route.

You may contact me with any questions you have on these comments.

Sincerely,



Lauren Pruss
Planning Director

Cc: Greg Ossont, Director of Planning and Code Administration
Rob Robinson, Planner
Kirk Eby, GIS Planner

CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone:301-258-6330

A CHARACTER COUNTS! CITY

BOARD OF APPEALS
NOTICE OF ADMINISTRATIVE REVIEW

In accordance with Section 24-187 through 190 of the City of Gaithersburg Zoning Ordinance, the City of Gaithersburg Board of Appeals will conduct Administrative Reviews as noted below.

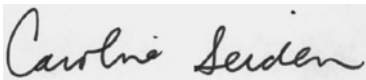
Application Type: **ADMINISTRATIVE REVIEW**
File Numbers: **A-538**
Location: **WEST END AT WATKINS MILL TOWN CENTER**
Petitioner: **BP REALTY INVESTMENTS, LLC**
Day/ Date/Time: **THURSDAY, APRIL 16, 2009, 7:30 P.M.**
Place: **COUNCIL CHAMBERS**
 31 SOUTH SUMMIT AVENUE

The application requests an Administrative Review of a final determination by City staff requiring an amendment to a previously approved Sketch Plan (Z-297) and Schematic Development Plan (SDP-05-002) prior to an application to amend SP-05-0013 for a temporary parking/storage use at the West End at Watkins Mill Town Center.

As per Section 2.4(b) of the Board of Appeals Rules of Procedure, persons or associations intending to appear in opposition to a petition whether or not represented by counsel, must file a prehearing statement no later than seven (7) days prior to the date of the hearing. Nothing in this section should be construed to limit the rights of individual members of the public to submit testimony during the hearing or to submit pertinent written materials at any time while the record remains open. However, please note Section 2.4(d) relating to the Board's authority to prohibit the testimony of a party's witness not identified due to the failure to comply with Section 2.4(a) and/or (b).

Further information may be obtained from the Department of Planning and Code Administration at City Hall, 31 South Summit Avenue, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

CITY OF GAITHERSBURG

By: 
Caroline H. Seiden
Planner

NOTICES SENT THIS 1ST DAY OF APRIL, 2009 TO:

PETITIONER :

BP Realty Investment, LLC, c/o Rodgers Consulting, Inc., 19847 Century Blvd, Germantown, MD 20874

INTERESTED PARTIES AND PROPERTY OWNERS WITHIN 200 FEET OF SUBJECT PROPERTY:

(A complete list of property owners notified is available in the Planning and Code Administration.)

CITY STAFF:

Angel Jones, City Manager
Lynn Board, City Attorney
Britta Monaco, Public Information Office
Doris Stokes, City Manager's Office
Greg Ossont, Director of Planning &
Code Administration
Lauren Pruss, Planning Director
Trudy Schwarz, Community Planning Dir.
Jeff Baldwin, City Web Administrator (via email)

BOARD OF APPEALS MEMBERS:

Harvey Kaye, Chairperson
Richard Knoebel, Vice Chairperson
Gary Trojak
Victor Macdonald
Carol Rieg
David Friend, Alternate

PLANNING COMMISSION

A-538 – West End at Watkins Mill Town Center





March 24, 2009

Chairman Royce Hanson
Maryland National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Chairman Hanson:

Congratulations on the near completion of the *Gaithersburg West Master Plan!* It is a well thought out and thorough document which champions the elements of smart growth. Thank you for forwarding the draft for our review. The draft Plan was discussed by the Gaithersburg Planning Commission at our regular meeting on March 18, 2009 and we offer the following comments:

1. The smart growth elements of the plan are in keeping with the *City of Gaithersburg Smart Growth Policy*, a master plan element adopted in 1999. As such, the City is encouraged to see such elements embodied within the plan.
2. The annexation of the McGown property would be a logical extension of the City's corporate limits. Accordingly, the City supports the plan's recommendation for the McGown property.
3. The City supports the County fully funding construction of the CCT from the Shady Grove Metro Station to the proposed Belward station.
4. The City supports the plan to utilize multi-story schools with shared recreational fields.
5. The Commission would like to reiterate the City's request that the name of the document be changed to "The Mid-County South Regional Plan." Additionally, we add that the County may want to consider a more evocative name for the Life Sciences Center; one which is more representative of the mixed use nature of the plan, and which provides a sense of place and respect to the historic roots of the property.
6. The Plan refers to several unincorporated areas as "enclaves" and describes these areas as being surrounded by the City. The term "enclave" suggests that these unincorporated areas are in violation of the Maryland Annotated Code which prohibits "...any unincorporated area which is bounded on all sides by real property presently within the corporate limits of the municipality...." In fact, only the National Institute of Standards and Technology (NIST) property and the Londonderry/Hoyle's Addition neighborhood is an "enclave." Furthermore, the NIST property is a federally recognized enclave not

within County jurisdiction. The remaining neighborhoods are only partially surrounded by the City.

Accordingly, the City of Gaithersburg recommends that an alternate word be used to refer to these areas, or that the definition of “enclave” be revised to state “completely or nearly completely surrounded by a municipality”, since four of the six areas described are only partially surrounded by a municipality.

7. The first paragraph of the subsection “Annexation” describes the statutory requirements for municipal establishment of Maximum Expansion Limits. This paragraph is concluded with the statement “Ideally, the boundaries between the County and the municipalities would be logical and well-defined, following roads or natural features such as streams.” The incorporation of this County-stated policy within this paragraph infers that the state regulations require conformance with this statement, when, in fact, the state regulations include no such statement.

Accordingly, it is recommended that this statement be removed from this paragraph. It is more appropriately placed within the subsequent paragraph which clearly states the County’s position regarding the City’s Municipal Growth Element.

8. On page 51, the Plan states “Both the Londonderry and Hoyle’s Addition areas are appropriate for annexation by the City of Gaithersburg.” Please be advised that in regard to property other than Belward and McGown, the City has a policy of not actively seeking annexation. In all cases, annexation into the City is a purely voluntary action initiated by the property owner. Because of this policy, the City recommends that the language be modified to state “Both the Londonderry and Hoyle’s Addition areas are appropriate for annexation into the City of Gaithersburg.”

Furthermore, on page 48 the plan recommends that the City prepare annexation fact sheets and hold information seminars with residents to inform them of requirements for annexation. Because the City does not actively seek annexation of these areas, we request that this language be removed entirely.

9. All maps showing the CCT should include the alternate Kentlands station and route adjustment along the south side of Great Seneca Highway. For consistency, all of the area/enclave maps should show the proposed CCT alignments, including the alternate Kentlands CCT station and route (two of the maps do not show the CCT).
10. The Plan should clearly state the acceptable alternative build scenarios in the event that the MTA does not support the proposed CCT realignment or if the CCT is not constructed in the near-term.

11. Specific height limits and dimensions of the buffers for the portion of LSC Belward directly adjacent to the Mission Hills neighborhood should be provided within the LSC Belward subsection.
12. The Mayor and City Council have publicly opposed Longdraft Road retaining the four lane arterial road classification. The City of Gaithersburg supports Longdraft Road remaining in its current configuration with spot improvements.
13. There is no room for a grade-separated interchange at Diamondback Drive and Sam Eig Highway and this recommendation should be summarily removed. Beginning in 2005, the City of Gaithersburg annexed both the Crown Farm and the Crowne Pointe subdivisions. During these annexations, preliminary plans were submitted for these areas, neither showing a full diamond interchange, nor Diamondback Drive extended across Sam Eig Highway. The County was aware of these designs and approved the right-in-right-out, left-in entrance into the Crown Farm from Sam Eig Highway. Single family homes have been occupied, and entitlements have been granted for residential and commercial buildings that are sited within areas that would be used for the right-of-way of a grade separated interchange.
14. The proposed master plan of streets shows an increase in the ROW for most of the major roads. No details are provided to explain the need for this additional ROW, how the additional ROW will be used, nor any impacts to the transportation mode split. No information is provided on how this increased ROW acquisition will be funded or whether it is supported by the Maryland State Highway Administration.

The City is particularly concerned with the ROW recommendations for Frederick Avenue, Muddy Branch Road, Quince Orchard Road, Sam Eig Highway. However, it is difficult to comment without a detailed discussion on the recommendations. Accordingly, it is recommended that a more thorough discussion of these needs be provided within the document.

15. The retention of a CCT stop near the existing DANAC stop, possibly at the intersection of Diamondback and Decoverly Drives would seem to make sense given the proposed densities for the LSC North and the existing densities within the Decoverly neighborhood.
16. What is the timing for the LSC Central? Have the current landowners accepted the realignment and conceptually agreed to any dedication of CCT ROW, at the time of CCT approval? In the absence of the County fully funding the construction of the CCT, or any agreement which fast tracks the construction of the CCT, the City of Gaithersburg would oppose an approved realignment that would delay the overall project waiting for numerous owners to allow what is being proposed.

Chairman Royce Hanson


March 24, 2009

Page 4 of 4

17. The staging plan does not include housing – it only includes “nonresidential development.” No information is given as to the impact of the proposed additional 4,700 residential units on schools, traffic, water/sewer, and other community facilities. Without incorporating the housing within the staging plan, it would seem that housing is permitted without any ties to the CCT or other developmental milestones within the LSC.
18. The future pedestrian stations should be designed and located so as to promote free and accessible access to patrons from throughout the region. Specifically, the Commission would object to any “gating” of the campus areas which would restrict access to only those who are permitted access to the gated areas.
19. The County has done an excellent job of reaching out to the public during the development of this plan. The Commission encourages the County to continue such efforts in the future planning and development of the Life Sciences Center.

We thank you for the opportunity to comment on the Plan. Your consideration is appreciated. If you have any questions contact me at 301-258-6310.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bauer', with a long horizontal flourish extending to the right.

John Bauer, Chair
Planning Commission
City of Gaithersburg



Distributed to M&CC:4/13/09

Britta Monaco
Public Information Director
301-258-6310

www.gaithersburgmd.gov

For Release March 30, 2009

Arts Barn Invitational Gallery Presents the Oil Paintings of Stephen Salwierz

Gaithersburg, MD. The oil paintings of self-taught artist Stephen Salwierz will be on display in the Arts Barn Invitational Gallery April 1 through 30, 2009. An artist's reception will be held on Tuesday, April 22 from 7 to 8:30 p.m.

Stephen Salwierz strives to paint "from the heart." He is intrigued by the ability of nature to "paint" its own beautiful pictures with light and color. Salwierz believes that nature's art is fleeting, never being the same twice. He hopes to share the beauty he sees in nature and to leave a lasting impression. His work can be found year round in the Arts Barn's City Art Shop.

Please note that all images are copyrighted by the artists. The Arts Barn is located at 311 Kent Square Road in Gaithersburg. Viewing hours are Wednesday through Friday from 10 a.m. to 5 p.m. and Saturday and Sunday from 10 a.m. to 2 p.m. For more information please call Andi Rosati, Arts Barn Director, at 301-258-6394 or visit the City's website at www.gaithersburgmd.gov/artsbarn.

###

Mayor
Sidney A. Katz

City Manager
Angel L. Jones

Council Members

Jud Ashman Cathy C. Drzyzgula Henry F. Marraffa, Jr. Michael A. Sesma Ryan Spiegel



Britta Monaco
Public Information Director
301-258-6310

www.gaithersburgmd.gov

For Release March 30, 2009

Gaithersburg Skate Park Invites Preschoolers to Roll Around

Gaithersburg, MD. The City of Gaithersburg invites young children to roll around the Skate Park, located at the Activity Center at Bohrer Park, 506 S. Frederick Avenue, for two mornings of endless motion. Preschoolers from ages two to six will be allowed to play on the lower ramps of the Skate Park with scooters, Big Wheels, and just about anything else that can roll. These Saturday programs will take place on April 25 and June 6, 2009 from 10 a.m. to noon. Admission is \$3 per resident child and \$5 for nonresidents. Parents are welcome to watch for free.

In addition to rolling and scooting, children can check out a real fire engine or bulldozer. There will also be snow cones for your enjoyment.

Pre-registration is not necessary. Payment will be accepted at the gate. For more information please call 301-258-6350 x144 or visit the Skate Park online at www.gaithersburgmd.gov/skate.

###

Mayor
Sidney A. Katz

City Manager
Angel L. Jones

Council Members

Jud Ashman Cathy C. Drzyzgula Henry F. Marraffa, Jr. Michael A. Sesma Ryan Spiegel



For Release March 26, 2009

Mayor Katz to Present State of the City Address at Annual Dinner

Gaithersburg, MD. Gaithersburg Mayor Sidney Katz and members of the City Council will host the annual State of the City dinner on Wednesday, April 29, 2009 at the Washington DC North – Gaithersburg Hilton on Perry Parkway.

Invited guests include civic partners who serve on City boards, commissions and committees, community leaders, county and state representatives, and others whose involvement is invaluable to our community.

In his annual address, Mayor Katz will highlight accomplishments from the past year and outline challenges and opportunities facing Gaithersburg in the months and years to come. After the event his address will be available on the City's website at www.gaithersburgmd.gov.

Should space be available after invited guests have submitted their reservations, the dinner will be opened to the public on a first come, first served basis. Those interested in being placed on the waiting list may contact the City's Public Information Office at 301-258-6310 or e-mail cityhall@gaithersburgmd.gov.

###

Mayor
Sidney A. Katz

City Manager
Angel L. Jones

Council Members

Jud Ashman Cathy C. Drzyzgula Henry F. Marraffa, Jr. Michael A. Sesma Ryan Spiegel



For Release April 1, 2009

Explore Another of Neil Simon's Odd Couples as the Arts Barn Hosts "They're Playing Our Song"

Gaithersburg, MD. The Arts Barn, the City of Gaithersburg's premiere cultural arts facility, invites you to explore another of Neil Simon's odd couples as the Damascus Theatre Company presents *They're Playing Our Song*. With music by Marvin Hamlisch and lyrics by Carole Bayer Sager, "*They're Playing Our Song*" can be seen weekends from May 1 through 17. Friday and Saturday shows are at 8 p.m., Sunday matinees are at 2 p.m. Admission is \$16, \$14 for City of Gaithersburg residents. The show contains adult language and may not be suitable for all audiences.

America's premier funny man and the Tony® Award winning composer of *A Chorus Line* collaborated on this hit musical – a funny, romantic show about an established composer and his relationship with an aspiring young female lyricist, not unlike Carole Bayer Sager. Musically their relationship works beautifully, but this leads to conflict on the home front. Can their romance survive their musical success?

The Arts Barn is located at 311 Kent Square Road, Gaithersburg. For more information and tickets call 301-258-6394 or visit online at www.gaithersburgmd.gov/artsbarn.

###

Mayor
Sidney A. Katz

City Manager
Angel L. Jones

Council Members

Jud Ashman Cathy C. Drzyzgula Henry F. Marraffa, Jr. Michael A. Sesma Ryan Spiegel

Outside Correspondence



City of Rockville
 111 Maryland Avenue
 Rockville, Maryland
 20850-2364
 www.rockvillemd.gov

Mayor & Council
 240-314-8280
 TTY 240-314-8137
 FAX 240-314-8289

Distributed to M&CC:4/13/09

March 31, 2009

The Honorable Norman H. Conway
 Chairman
 House Appropriations Committee
 House Office Building
 6 Bladen Street, Room 121
 Annapolis MD 21401

APR - 1 2009

Same letter went to all members of the House Appropriations Committee

Dear Delegate Conway:

Before you make any final budget decisions, I respectfully request that you please consider the following information.

The House Appropriations and Senate Budget and Taxation Committees included in their budgets Highway User Revenue (HUR) cuts that will result in a loss of \$12.4 million for municipal governments in Maryland in FY 2010 and FY 2011. This change equates to a total revenue loss of approximately \$790,521 for the City of Rockville in FY 2010. This change impacts the City's recommended budget by \$581,364 since the budget was balanced using a \$2,500,000 estimate.

Prior to this cut, the City had prepared a balanced "no growth budget" for FY 2010 that includes reduced department operating budgets and overall position count, and postponed several capital projects. In addition to HUR, many of the City's other major revenues are decreasing or flattening due to current economic conditions. With this new information the City may have to make significant reductions including further cuts to department operating budgets, including promised employee COLA's, and to projects in the capital budget, which support the City's basic infrastructure and the greater service needs of the City's growing and increasingly diverse population.

While municipalities receive only 8.5% of local HUR revenues, they could suffer a 30% loss if these proposed cuts are adopted. In comparison, counties will receive \$62 million in Federal transportation stimulus funding to backfill their HUR losses, while municipalities will not. The vast majority of municipalities will not see a penny of transportation stimulus funding. This is in addition to millions of dollars lost in municipal HUR revenue during the 2007 special session, and a worsening economy that will likely bring more HUR losses in 2009 and 2010.

Rockville, Gaithersburg, and the Maryland Municipal League are requesting that you save municipal HUR revenues. A reduction in HUR funding allocated to municipalities would be devastating to Maryland cities and towns, especially in the midst of a deep recession.

Thank you in advance for your consideration of this urgent request.

Sincerely,

Susan R. Hoffmann
 Mayor

cc: Rockville City Council
 Scott Ullery, City Manager
 Gaithersburg Mayor and Council

MAYOR
 Susan R. Hoffmann

COUNCIL
 John B. Britton
 Piotr Gajewski
 Phyllis Marcuccio
 Anne M. Robbins

CITY MANAGER
 Scott Ullery

CITY CLERK
 Claire F. Funkhouser

CITY ATTORNEY
 Debra Yerg Daniel



City of Rockville
 111 Maryland Avenue
 Rockville, Maryland
 20850-2364
 www.rockvillemd.gov

Mayor & Council
 240-314-8280
 TTY 240-314-8137
 FAX 240-314-8289

March 31, 2009

Distributed to M&CC:4/13/09

APR - 1 2009

The Honorable David R. Brinkley
 Senate Budget & Taxation Committee
 James Senate Office Building
 11 Bladen Street, Room 423
 Annapolis MD 21401

Same letter went to all members of the Senate Budget & Taxation Committee.

Dear Senator Brinkley:

Before you make any final budget decisions, I respectfully request that you please consider the following information.

The House Appropriations and Senate Budget and Taxation Committees included in their budgets Highway User Revenue (HUR) cuts that will result in a loss of \$12.4 million for municipal governments in Maryland in FY 2010 and FY 2011. This change equates to a total revenue loss of approximately \$790,521 for the City of Rockville in FY 2010. This change impacts the City's recommended budget by \$581,364 since the budget was balanced using a \$2,500,000 estimate.

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While municipalities receive only 8.5% of local HUR revenues, they could suffer a 30% loss if these proposed cuts are adopted. In comparison, counties will receive \$62 million in Federal transportation stimulus funding to backfill their HUR losses, while municipalities will not. The vast majority of municipalities will not see a penny of transportation stimulus funding. This is in addition to millions of dollars lost in municipal HUR revenue during the 2007 special session, and a worsening economy that will likely bring more HUR losses in 2009 and 2010.

Rockville, Gaithersburg, and the Maryland Municipal League are requesting that you save municipal HUR revenues. A reduction in HUR funding allocated to municipalities would be devastating to Maryland cities and towns, especially in the midst of a deep recession.

Thank you in advance for your consideration of this urgent request.

Sincerely,

Susan R. Hoffmann
 Mayor

cc: Rockville City Council
 Scott Ullery, City Manager
 Gaithersburg Mayor and Council

MAYOR
 Susan R. Hoffmann

COUNCIL
 John B. Britton
 Piotr Gajewski
 Phyllis Marcuccio
 Anne M. Robbins

CITY MANAGER
 Scott Ullery

CITY CLERK
 Claire F. Funkhouser

CITY ATTORNEY
 Debra Yerg Daniel

From: Sidney Katz
Sent: Thursday, April 02, 2009 9:57 AM
To: gabijake1@aol.com
Cc: Grace Whipple; Michele Potter; Angel Jones; Doris Stokes; Fred Felton; Marie Best; Monica Sanchez; Sidney Katz
Subject: RE: Appointment letter for Lilia R. Jacob

Dear Ms. Jacob,

Thank you for your e-mail and your interest!

I am sending a copy of your e-mail to our staff so that they may keep you informed about the Senior Council.

Sincerely,
Sidney Katz

From: gabijake1@aol.com [mailto:gabijake1@aol.com]
Sent: Wednesday, April 01, 2009 7:30 PM
To: Sidney Katz
Subject: Appointment letter for Lilia R. Jacob

Dear Major Katz,

I have been asked to submit this appointment letter to you, and to let you know a little more about myself. My name is Lilia Romero Jacob, I am 77 years old and I am a new member of the senior council of Gaithersburg Upcounty Senior Center. I moved to Maryland 3 years ago and have been an active member of the senior center for 2 1/2 years. I moved from McLean, Virginia, where I lived for 47 years and where I was also a member of the senior council at the Lewinsville Center for 5 years. I am an organizer of the Bazaars and bake sales and enjoy being involved in various activities throughout the year. I am of Latin descent and my goal is to represent the latin senior community through the senior council.

Thank you for this appointment.

Sincerely,

Lilia R. Jacob
19232 Walters Avenue
Pooleville, MD 20837
(301) 349-4466

Get there faster with the MapQuest Toolbar. [Try it now.](#)

From: conniereesemba@gmail.com [mailto:conniereesemba@gmail.com]
Sent: Tuesday, April 07, 2009 9:57 AM
To: Kevin Roman
Subject: Re: Commission on Landlord and Tenant Affairs

Greetings Mr. Roman,

To confirm, I am a tenant at the Hunt Club and I am interested in the tenant vacancy on the board. Thank you very much for your time and consideration.
Sent via BlackBerry by AT&T

From: Kevin Roman
Date: Tue, 7 Apr 2009 09:45:13 -0400
To: conniereesemba@gmail.com<conniereesemba@gmail.com>
Subject: Re: Commission on Landlord and Tenant Affairs

Ms. Reese

Thank you for the email and interest on serving on the Commission on Landlord/Tenant Affairs. Reviewing your email and resume I noted you're a tenant at Hunt Club Apartments, and therefore I am assuming your interested in the tenant vacancy on the commission. If you could please confirm, I will then forward your letter of interest to Mayor Katz for review. Thank you.

Kevin Roman
Neighborhood Services Director
Planning and Code Administration

From: Connie S. Reese, MBA [mailto:conniereesemba@gmail.com]
Sent: Monday, April 06, 2009 9:52 PM
To: Kevin Roman
Subject: Commission on Landlord and Tenant Affairs

Greetings Kevin Roman,

My name is Connie S. Reese a resident of the Gaithersburg community. I'm emailing you in reference to the committee vacancies posted on the city's website. I'm interested in serving on the Commission on Landlord and Tenant Affairs. I'm willing to provide my time and service where it's most needed. I recently moved to Gaithersburg from Atlanta, Georgia and I would like to get involved in serving my community locally. I look forward to speaking with you more in detail on how I can be active and helpful in Gaithersburg. I have attached my resume which details my work history and expertise; please feel free to contact me via email or by mobile at 678-772-0061 Thank you for your time.

I remain,

C. S. Reese, MBA

Greetings Mrs. Woods, 4/1/09

Thank you very much for your help and direction in the process for help w/ summer camp. Losing my job was a shock. I was very upset, however your thought of my family and assisted us during our time of need. I'm still job hunting!! Thank you again for being a source of comfort to our family.

May God Always Bless You

Sandy West + Family

Greetings, 4-1-09

We wanted to extend a special thanks for your donation to our family. I lost my job & lost our earned custody of our step-daughter 2/23/09. Your donation was a great help to our family.

God Bless You,

From a Grateful Family

Sandy West + Family

Many Thanks!!