



Gaithersburg

A CHARACTER COUNTS!

CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
MONDAY, JUNE 15, 2009

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa, Sesma and Spiegel. Staff present: City Manager Jones, Assistant City Managers Felton and Tomasello, Planning and Code Administration Direction Ossont, Director of Informational Technology Cottrell, Environmental Specialist Director Shingara, Animal Control Director Holland, Human Resources Director Daily, City Attorney Board and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Justin Williams, City Manager Intern.

II. INVOCATION

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

III. APPROVAL OF MINUTES

Motion was made by Council Member Ashman, seconded by Council Member Drzyzgula, that the minutes of the Mayor and Council regular meeting held May 18, 2009, be approved.

Vote: 3-0-2 (Abstained: Sesma and Spiegel)

Motion was made by Council Member Drzyzgula, seconded by Council Member Sesma, that the minutes of the Mayor and Council work session held May 26, 2009, be approved.

Vote: 4-0-1 (Abstained: Spiegel)

IV. CONSENT ITEM

Resolution for Microsoft Software Licenses and Maintenance

This resolution authorized the City Manager to make the second year payments for Microsoft software licenses and maintenance from SHI, 33 Knightsbridge Road, Piscataway, New Jersey 08854, in the amount of Eighty Thousand Dollars (\$80,000); said funds to be expended from the Software Replacement Fund and Operating Budget.

Motion was made by Council Member Sesma, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO MAKE SECOND YEAR PAYMENTS FOR MICROSOFT SOFTWARE LICENSES AND MAINTENANCE UNDER AN EXISTING ENTERPRISE AGREEMENT (Resolution No. R-43-09), be approved.

Vote: 5-0

V. APPOINTMENT**A. Resolution of the City Council Confirming Appointments**

This resolution confirmed the following appointments: **Commission on Landlord and Tenant Affairs**, Connie S. Reese, (as Tenant), 802 Gallop Hill Road, 20879, three-year term; **Cultural Arts Advisory Committee**, Jorge Bonilla, 114 Summit Hall Road, 20877, two-year term; and **Multicultural Affairs Committee**, Connie and Corban Reese, 802 Gallop Hill Road, 20879, two-year terms.

Motion was made by Council Member Drzyzgula, seconded by, Council Member Ashman, that a Resolution of the City Council Confirming Appointments by the Mayor to the Commission on Landlord and Tenant Affairs, Cultural Arts Advisory Committee and Multicultural Affairs Committee (Resolution No. R-44-09), be approved.

Vote: 5-0

VI. PRESENTATIONS**A. Certificate of Appreciation Presented to Marshall and Marilynn Grotenhuis**

Deferred for the Mayor and City Council meeting of July 6, 2009.

B. Proclamation

Mayor Katz issued a proclamation designating the week of June 22, 2009, as Amateur Radio Week in the City of Gaithersburg, honoring their ongoing assistance to the community in critical moments and the promotion of events. Accepting the Proclamation were Chris Duncan – 4D4G, Field Day Chairman, Montgomery Amateur Radio Club, Inc. and Jason Foster, President of the MARC Club.

C. GREAT Award

Mayor Katz joined by Gaithersburg High School Principal Handy-Collins, recognized and presented a GREAT Award to PTSA President, Laurie Augustino. She was recognized for 13 years of untiring commitment and involvement in PTSAs and 4 years as PTSA president. Her supportive, active and knowledgeable service to the students and community has led to many accomplishments, programs, and partnerships.

GREAT stands for "Gaithersburg Recognizing Educational Achievement Today" and its mission is to promote and celebrate higher achievement and successes in Gaithersburg area schools.

VII. PUBLIC APPEARANCES

No speakers from the public.

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

1. Announced that the Mayor and City Council on Monday, June 8, 2009, at approximately 8:45 p.m., conducted a closed executive session pursuant to Section 10-508(a)(1)(ii), (7) and (8), State Government Article of the Annotated Code of Maryland, to discuss a personnel matter; consult with counsel to obtain legal advice; and to consult with staff about pending or potential litigation. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma, and Spiegel, City Manager Jones, City Attorney Board, and Assistant City Managers Felton and Tomasello. Upon conclusion of the discussion, the closed meeting was adjourned at approximately 9:30 p.m.
2. Congratulated PTSA President, Laurie Augustino on her GREAT Award.

Council Member Marraffa

1. Attended the Board of Directors COG meeting on the Chesapeake Bay.
2. Attended the Board of Directors Retreat.
3. Announced the upcoming 4th of July Big Bang Weekend in the City of Gaithersburg.

Council Member Spiegel

1. Wished Council Member Marraffa a Happy Birthday.
2. Wished the public a happy 4th of July holiday and encouraged all to celebrate our independence and freedom safely. Further stated that the scheduled free outdoor movie on July 2nd is new addition to the 4th of July Big Bang Weekend activities.
3. Expressed condolences to the family of Stephen Tyrone Johns, a six-year veteran of Washington's Holocaust museum security staff, died in the line of duty when a shooting occurred at the museum.
4. Reported that the Council of Governments has created a new committee which he will be serving on to focus on climate, energy and the environment. The committee will focus on environmental policies that include many of the cities and counties in the D.C., VA, and MD areas.
5. Reported that the State will host a public hearing at Gaithersburg Middle School on June 16, 2009, to allow citizens the opportunity to receive information and testify on the I-270/US Multi-Modal Corridor Study project (*Corridor Cities Transitway and Widening of I-270*).
6. Congratulated PTSA President, Laurie Augustino on her GREAT Award and many accomplishments.

Council Member Ashman

1. Echoed congratulations to PTSA President, Laurie Augustino on her achievements and work with Gaithersburg High School and the community. He also recognized the service of her husband.
2. Attended a welcome ceremony for new police officers. Thanked staff for coordinating the event.
3. Reported the 1st Annual Book Festival event date is set for May 15, 2010.
4. Urged citizens to subscribe to the Alert Gaithersburg emergency notification system.

Mayor Katz

1. Referred to a letter received from the Market Square Advisory group on suggestions for the Kentlands area and asked for an update from staff.

City Manager Jones reported that a letter was received from the Kentlands Citizens Assembly Commercial District Advisory Committee (*subcommittee of the KCA*). Staff reviewed the listed items in the letter for cost and implementation. The list was submitted back to the group to prioritize during their next meeting. She stated that those items funded in the FY'10 Budget will move forward. Other items that fall outside of the FY'10 Budget will be addressed during the FY'11 Budget process or discussed at a future work session. Mayor Katz suggested a work session once the information is received back from the group. Council Member Spiegel pointed out the correction to the group's name and reported that the City is in the process of having way finding signage made for the Main Street shops and restaurants.

2. Received inquiries on the scheduled road closing, repairs of the Humpback Bridge and the railroad crossing in Olde Towne. He reported that staff has been in contact with CSX for several months to determine a date when the work will begin to give area motorist notice.
3. Announced the following meeting schedule:
 - work session, Monday, June 22, 2009, to receive 501(c)(3) updates from the Friends of Wells/Robertson House, Arts and Monuments Funding Corp., and the Gaithersburg Police Foundation on current activities and future plans.
 - no work session June 29, 2009.

IX. FROM THE CITY MANAGER

City Manager Jones sought guidance on a memorandum dated June 9, 2009 regarding an application fee waiver request. She stated that the request is associated with the Stevenson Property, an application fee to establish a sketch and schematic development plan for Parcel 214, Metropolitan Grove Road. It was pointed out that the waiver was based on the old rate of \$8,000. Since June 1, 2009, the fee is now \$10,000. The Mayor and several City Council Members supported waiving the fee because the City would benefit from the project moving forward and it is consistent with the City's Strategic Directions. In response to a question from Council Member Spiegel, Planning and Code Administration Director Ossont stated that the parcel which is zoned MXD, had not had any established use for a long time. The owner now would like to establish a use which by ordinance requires a sketch plan, schematic development plan and then a final site plan. To expedite the application, staff is seeking to combine the sketch plan and schematic development plan. In the future, if the owner comes back and ask to use the parcel for another use, the owner would have to go through an additional process and pay an additional fee.

City Manager Jones added that staff would bring such items for guidance on an individual basis for discussion. The City is looking to balance the support for local development and the impact on revenues.

X. ORDINANCES, RESOLUTIONS, AND REGULATIONS**A. Resolution to Provide Medical Insurance to Qualified Employees**

The City contracted to participate with the Metropolitan Washington Council of Governments Health Care Coalition to provide medical insurance to qualified City employees in FY 2009. Staff recommended that the City continue its partnership with the Coalition in FY 2010. Providing medical care coverage through the Coalition, which contracts with United Health Care, will ensure no service disruptions for City employees. Continuing coverage through the Coalition will also provide some enhanced benefits to City employees with the offering of the United Health Care Open Access Plan (i.e., broader provider network throughout the country, referrals from primary

care physician no longer required, etc.). Additionally, the City and its employees will realize a greater cost savings than if the City contracted with a health care provider on its own (5.9% premium increase in FY 2010).

This resolution authorized the City Manager to enter into a contract to provide medical insurance benefits to qualified City employees with the Metropolitan Washington Council of Governments Health Care Coalition, 777 North Capitol Street, N.E., Suite 300, Washington, D.C. 20002; said contract to be effective July 1, 2009.

Motion was made by Council Member Marraffa, seconded by, Council Member Spiegel, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT TO PROVIDE MEDICAL INSURANCE TO QUALIFIED EMPLOYEES (Resolution No. R-45-09), be approved.

Vote: 5-0

B. Resolution Adopting the Personnel Rules & Regulations of the City of Gaithersburg

Following the recent adoption of amendments to the City Charter and Personnel Ordinance by the Mayor and City Council on May 4, 2009, Personnel Rules & Regulations governing the employees of the City were developed at the direction of the City Manager. Staff recommended approval of the Resolution and Rules & Regulations by the Mayor and City Council, to be effective on July 1, 2009, concurrent with the amended Personnel Ordinance and Fiscal Year 2010 Budget. The Mayor and City Council thanked staff for their work on the document.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING THE PERSONNEL RULES & REGULATIONS OF THE CITY OF GAITHERSBURG (Resolution No. R-46-09), be approved.

Vote: 5-0

C. Resolution Approving a Waiver of the Environmental Standards for Development Regulation at The Spectrum at Watkins Mill (Casey East)

BP Realty LLC is requesting an environmental waiver for impacts to the stream valley buffer that will affect, at a maximum, 0.4 acres. In order to compensate for the 0.4 acres of disturbance within the buffer, a mitigation plan will provide supplemental native plantings within the stream valley buffer at a ratio of two times the area of disturbance. The applicant will also provide an invasive species management and woodland restoration plan to ensure the long term maintenance of the stream valley buffer and plantings.

This resolution included eight conditions and staff will continue to work with the applicant and outside agencies during the final design process to ensure that the final engineering and construction details further minimize impacts.

Motion was made by Council Member Sesma, seconded by, Council Member Drzyzgula, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING A WAIVER OF THE ENVIRONMENTAL STANDARDS FOR DEVELOPMENT REGULATION TO PERMIT, AT A MAXIMUM, 0.4 ACRES OF DISTURBANCE WITHIN THE STREAM VALLEY BUFFER AT THE SPECTRUM AT WATKINS MILL (CASEY EAST) (Resolution No. R-47-09), be approved.

Vote: 5-0

D. Introduction of Amendments to the Gaithersburg Moderately Priced Dwelling Unit (MPDU) and Workforce Housing Unit (WFHU) Program Regulations

On June 1, 2009, staff requested that the City Council sponsor a text amendment to lower the MPDU income minimums from 60 to 50 percent of Area Median Income. Lowering the minimum income requires an amendment to both the Affordable Housing Ordinance and to the Affordable Housing Regulations. Staff also recommended changes that would make the program more consistent with other affordable housing programs and other housekeeping changes that include:

- Replace current language exempting new development in the Olde Towne Central Business District and update to include designating properties with the Enterprise Zone.
- Reduce the number of years of previous homeownership from five to three.
- Remove the residency requirement for priority participants and to give multi-family property owners the flexibility to lower minimum incomes to correspondence with the market rate units.
- Recommend that the fee in lieu of remain at \$1 for residential units constructed in the Enterprise Zone.

Motion was made by Council Member Sesma, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ADOPTING AMENDMENTS TO THE GAITHERSBURG MODERATELY PRICED DWELLING UNIT AND WORKFORCE HOUSING UNIT PROGRAM REGULATIONS AS PROVIDED BY CHAPTER 2 OF THE CITY CODE ENTITLED "ADMINISTRATION", be introduced for public hearing July 6, 2009.

Vote: 5-0

E. Introduction of an Ordinance to Amend Chapter 4 of the City Code Entitled "Animals and Fowl"

Animal Control Director Holland noted that Chapter 4 of the City Code entitled *Animals and Fowl*, had not been amended in its entirety since August 23, 2000. The Animal Control Board conducted a public hearing on November 13, 2007 eliciting citizens' input regarding amendments. On June 26, 2008, the Board held a work session to discuss the input received. In addition to assisting staff in resolving citizens' complaints, the amendments would bring the City's Code up-to-date with current legislation in other jurisdictions. Staff believes that the amendments will clarify Chapter 4, enhancing animal control service to the community and eventually decreasing the number of public nuisance complaints.

Motion was made by Council Member Spiegel, seconded by, Council Member Sesma, that AN ORDINANCE TO AMEND CHAPTER 4 OF THE CITY CODE ENTITLED "ANIMALS AND FOWL", be introduced for public hearing July 6, 2009.

Vote: 5-0

XI. PUBLIC HEARINGS**A. An Ordinance to Award a Cable Services Franchise to RCN**

Assistant City Manager Tomasello stated that the City Code provides that a cable system may not be installed or operated in the City without obtaining a cable franchise from the Council. The proposed Cable Franchise Agreement with RCN grants a cable franchise on a nonexclusive basis as required by Section 6-4 of the City Code and is similar to the existing cable franchises approved by the City in terms of costs and services.

Dick Beville, Vice President and General Manager for RCN, D.C. Metro area, stated the City is currently operating under an open video system and asked the City to consider granting a cable services franchise in accordance with the terms and conditions provided in the Cable Franchise Agreement between the City of Gaithersburg and RCN.

There were no other speakers from the public.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that the City Council record on the above ordinance, be held open until 5 p.m. June 26, 2009.

Vote: 5-0

B. Resolution of the Mayor and City Council to Amend Section 32 of the City Charter "Election Places, Ballots, Machines, Hours of Polls"

Assistant City Manager Felton stated that the public hearing was advertised on May 29, 2009. On May 19, 2008, the Mayor and City Council appointed an Ad Hoc Elections Review Committee to review and provide recommendations on changes to the City's Elections Ordinance. The majority of the Committee's recommendations were related to campaign finance issues; however, the Committee had one recommendation that required a Charter Amendment. Pursuant to Section 32 of the City Charter, the Board of Supervisors of Elections (BOSE) is required to keep the polls open from 7:00 a.m. to 7:00 p.m. unless the Council, by resolution, shall fix longer or shorter hours. The Ad Hoc Committee recommended that the Charter be amended to give the BOSE the authority to extend the hours the polls are open in the event of extraordinary circumstances on Election Day.

There were no speakers from the public.

Motion was made by Council Member Spiegel, seconded by, Council Member Ashman, that the City Council record on the above resolution, be held open until June 25, 2009.

Vote: 5-0

XII. POLICY DISCUSSION**A. An Emergency Ordinance to Amend Chapter 6C Entitled "Elections" of the City Code**

Assistant City Manager Felton reiterated that the Mayor and City Council appointed the Ad Hoc Elections Ordinance Review Committee with the charge to review the City's election ordinance and to provide recommendations to improve the City's elections process. The majority of the Committee's recommendations were related to campaign finance issues. On April 27, 2009, the staff presented the Ad Hoc Committee's report. During the work session, the Mayor and City Council generally concurred with the committee's recommendations and directed staff to bring an ordinance forward for introduction. On June 1, 2009 a public hearing was held on the proposed ordinance.

During the public hearing, the Mayor and City Council asked for language clarifying that a candidate could only accept a maximum of \$500 from any given donor over the entire four years of a campaign cycle. He stated that language in the first sentence of Section 6C-12 had been modified to address this concern. In addition, the Mayor and City Council indicated that they would like see a requirement that candidates campaign accounts be separate and not commingled funds with their personal bank accounts. City Attorney Board indicated that a separate public hearing would be required for significant changes from the advertised ordinance.

There was also discussion during the hearing as to whether or not candidates for Mayor and City Council could donate campaign funds to individuals seeking office at the County or State level. City Attorney Board indicated that such practices were not prohibited by the City's Code and would be governed by State election law which does permit transfers of this nature. The Ad Hoc Elections Ordinance Review Committee was thanked for their efforts.

Motion was made by Council Member Ashman, seconded by, Council Member Spiegel, that AN EMERGENCY ORDINANCE TO AMEND CHAPTER 6C ENTITLED "ELECTIONS" OF THE CITY CODE (Ordinance No. O-7-09), be adopted, effective immediately.

Vote: 5-0

XIII. FROM THE ASSISTANT CITY MANAGERS, CITY ATTORNEY AND OTHER STAFF

A. Memorandum Dated June 9, 2009 Concerning the Neighborhood Matching Grant Program

Assistant City Manager Felton stated that the above program had been successful, but for the last three fiscal years, all the funds had been awarded in the first quarter. The Mayor and City Council held a work session in November 2008, and staff based on Council guidance drafted modifications to the criteria for the program. The proposed criteria were sent to all neighborhood associations and property managers for comment. One comment was received which staff had incorporated. Modifications included an application submittal window and priority given to neighborhoods that have not received grants within the last two fiscal years and projects that enhance public safety. He added that a multi-departmental staff team was developed to review the applications. It was noted that funds for the program was increased from \$50,000 to \$60,000 in the FY'10 budget.

Staff was directed to come back with recommendations from the staff team based on concerns expressed by the Mayor and City Council.

B. City Attorney Board

Announced that the BOSE are scheduled to meet, review, and finalize election candidate packets with anticipated availability to the public on July 2, 2009.

XIV. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 8:45 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant