APPROVED: Meeting No. 31-12

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
April 30, 2012
7:00 p.m.
Meeting No. 17-12

Re: Executive Session pursuant to Sections 10-508(a)(1)(ii) and Section 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland to discuss a personnel matter (independent personnel review); and to consult with counsel to obtain legal advice regarding mandatory referral.

The Mayor and Council met in Executive Session on April 30, 2012, at 6:05 p.m. in the Diamond Back Terrapin Conference Room, City Hall, 111 Maryland Avenue, Rockville, Maryland

Councilmember Newton made the motion to convene in Executive Session and it was seconded by Councilmember Moore and unanimously passed.

Present at the Executive Session were Mayor Phyllis Marcuccio, Councilmembers John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala. Also present were Acting City Manager Jenny Kimball, City Clerk/Treasurer Doug Barber, Acting City Clerk Brenda Bean, City Attorney Debra Daniel, Director of Community Planning and Development Services (CPDS) Susan Swift, Chief Engineer of Transportation Emad Elshafei and Director of Public Works Craig Simoneau.

The topics of discussion were the Montgomery Community College expansion and a Personnel Issue.

The Mayor and council adjourned the Executive Session at 7:12 p.m.

PRESENT:

Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala

STAFF PRESENT:

Acting City Manager Jenny Kimball, City Clerk/Treasurer Doug Barber, Deputy City Clerk Brenda Bean and City Attorney Debra Daniel.

1. Convene

The Mayor and Council convened in a regular meeting at 7:12 p.m. on Monday, April 30, 2012, in City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

City Clerk Barber advised that there were no changes to the agenda.

4. City Manager's Report

Acting City Manager Kimball reported to the Mayor and Council that College Gardens Park Storm Water Project has been selected as the winner for the 2012 American Public Works Association Project of the Year Award and advised that the award will be presented at the Public Works Associations national conference in August 2012. Ms. Kimball thanked the Department of Public Works and the contractors involved in the project for their work. Councilmember Pierzchala noted that the College Gardens Park has received numerous awards at the County, State and now National levels. He thanked the neighborhood for their work as well.

Mayor Marcuccio advised that the Mayor and Council had received an update from Acting City Manager Kimball and City Attorney Daniel on the efforts to respond to complaints raised by former City employees. Acting City Manager Kimball and City Attorney Daniel are proceeding quickly to secure an outside law firm to complete the work, and are currently in the process of securing a contract with a preferred firm.

5. Citizens' Forum

Citizen	*Issue*
Helen Heneghan	Congratulated the Mayor and Council on the hiring of the new City Clerk and welcomed City Clerk Barber to the City of Rockville
Ramtih Arablorei	Addressed the recent articles in the Sentinel on Rockville, thanked the Mayor and Council for addressing the issue, and keeping the residents informed.
Roald Schrack	Addressed the City's proposed Charter Review Commission and his concerns with the parameters given to the commission.
Anita Summerour	Addressed the recent articles in the Sentinel on Rockville, stating her concerns to the Mayor and Council regarding the complaints and her hopes the issue would be investigated by the State.
Judy Miller	Thanked Mayor Marcuccio for bringing forward the Charter Review Commission. She would like to see the Commission look at changes to the electoral processes to ensure a fair process and to address critical issues.

6. Mayor and Council's Response to Citizens' Forum and Announcement.

Councilmember Moore	Addressed the comments made on the proposed Charter Review Commission. Councilmember Moore noted that the proposed resolution allows for the commission to add to their scope of work.
Councilmember Hall	Addressed the comments made on the proposed Charter Review Commission. Councilmember Hall noted his appreciation for those residents who came out to the meeting to air their concerns.
Mayor Marcuccio	Thanked Ms. Helen Heneghan for her presence and acknowledging new City Clerk Barber.

7. Adoption of Resolution to designate Douglass A. Barber as City Clerk

Motion: To adopt a Resolution to designate Douglass A. Barber as City Clerk.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

8. Adoption of Resolution to amend Resolution No. 40-11 designating Branch Banking and Trust Company (BB&T) as the custodian for funds of the City of Rockville so as to modify the authorized signatories.

Mayor Marcuccio noted that the adoption of this resolution adds new City Clerk/Treasurer Barber as an authorized signatory.

Motion: To adopt a Resolution to amend Resolution No. 40-11 designating Branch Banking and Trust Company (BB&T) as the Custodian for funds of the City of Rockville so as to modify the authorized signatories.

Moved by Councilmember Moore, seconded by Councilmember Pierzchala, and unanimously approved.

9. Adoption of Resolution to designate Douglass A. Barber, City Clerk/Treasurer, as the Resident Agent for the Mayor and Council of Rockville.

Motion: To adopt a Resolution to designate Douglass A. Barber, City Clerk/Treasurer, as the Resident Agenda for the Mayor and Council of Rockville.

Moved by Councilmember Newton, seconded by Councilmember Hall, and unanimously approved.

10. Announcements of Vacancies

Mayor Marcuccio read the vacancies for the following Board and Commissions: Compensation Commission, Human Rights Commission, Landlord Tenant Affairs Commission, Sign Review

Board and the Senior Citizens Commission. Mayor Marcuccio closed by encouraging residents to visit the City's website for information on how to apply.

11. Proclamation declaring May ALS Awareness Month in the City of Rockville

Councilmember Newton read the proclamation.

Motion: To approve a proclamation declaring May as Amyotrophic Lateral Sclerosis (ALS) Awareness Month in the City of Rockville.

Moved by Councilmember Newton, seconded by Councilmember Hall, and unanimously approved.

Ms. Judy Bailey, President of the Board of Directors of the Amyotrophic Lateral Sclerosis (ALS) Association – DC/MD/VA Chapter, and Mr. Bruce Barcome, a chapter member, accepted the proclamation and thanked the City of Rockville for the proclamation.

12. Consent Agenda

A. Award of Request for Proposal (RFP) #13-12, Storm Drain Inspection Services, in an Aggregate Amount Not to Exceed $400,000 over a 5-year period.

B. Award of contract for the purchase of new radio equipment and Bi-Directional Amplifiers and Repeaters (BDA's) for the new Police Station in the amount of $104,185.39.

C. Adoption of an Ordinance to Revise Rockville City Code Chapter 22, "Taxation" to add a new Article IX, "High Performance Building Tax Credit for Existing Buildings."

D. Award of Invitation for Bid (IFB) #19-12, Meadow Hall Pedestrian Safety Improvements, in the amount of $135,532.00.

E. Award of Invitation for Bid (IFB) #28-12, Furnish and Install Playground Equipment at Dawson Farm Park and Calvin Park in the amount of $289,590.

Motion: To approve the Consent Agenda.

Councilmember Newton questioned Consent Item # E as to whether the play equipment was new. Director of Recreation and Parks Hall responded that the equipment was new and will replace equipment that is at least 21 years old.

Moved by Councilmember Moore, seconded by Councilmember Hall, and unanimously approved.

13. Worksession with the Cultural Arts Commission regarding funding for the Art in Public Places program; changes to the "Incorporation of Works of Art In Public Architecture" (1%) ordinance; and direction on the Gude Drive Maintenance Facility and Rockville City Police Station Art Projects

Mr. John Moser, Chairman of the Cultural Arts Commission, introduced the members of the Commission to the Mayor and Councilmembers. Mr. Moser provided a brief overview of the Cultural Arts Commission and his reason for addressing the Council. He noted the important recommendations before the Mayor and Councilmembers regarding decisions which need to be made concerning funding and two pieces of art work. They also addressed their request to restore the $1 per capita. Mr. Moser addressed expenditures since 2009 in three of the Cultural Arts Commission programs: Public Architecture, Art in Public Places, and Friends of the Arts. He also addressed how funding from the City of Rockville was used in each of these programs. Mr. Moser closed by advising the Mayor and Council that funding is needed and strongly recommended the restoration of the $1 per capita. Director of Recreation and Park responded to questions of clarification of the Arts Projects and how in the past the funding has been allocated. Director Hall explained in detail how use and non-use of funds applies to the following ordinance.

> **Motion:** To restore funding for the Art in Public Places Program ($1 per capita) in the FY2013 budget at a cost of $ 62,759.
>
> Moved by Councilmember Newton, seconded by Councilmember Moore and approved with Councilmember Pierzchala abstaining.

Mr. John Moser, Chairman of the Cultural Arts Commission and the Mayor and Council discussed at length the proposed change to the "Incorporation of Works of Art in Public Architecture" Ordinance. The commission proposed the following changes in the ordinance: to enhance communications between the City Manager and the Cultural Arts Commission; and to increase flexibility to how the funds are allocated to art projects. The Mayor and Council along with Chairman Moser discussed the issue at length. The Mayor and Council requested staff to come back with the proper language. The Council addressed their concerns as to what future councils may or may not want to fund in future art projects.

> **Motion:** To direct the commission to issue a second call for entries for the Police Station public art that would be distributed to local, regional and national artists with a recommended budget of $75,000 (the same as in the first round).
>
> Moved by Councilmember Moore, seconded by Councilmember Pierzchala and unanimously approved.
>
> **Motion:** To award to David Hess of Phoenix, Maryland the amount of $50,000 for his steel and stainless steel sculpture at the Gude Drive Maintenance Facility.

The Mayor and Council discussed briefly the commission's recommendation for the art work that is being proposed at the Gude Drive Maintenance Facility.

> Moved by Councilmember Moore, seconded by Councilmember Pierzchala
>
> **Vote:** Councilmembers Hall, Moore, and Pierzchala approving, and Mayor Marcuccio and Councilmember Newton opposing. Motion carries 3-2

Note for the Record: Mayor Marcuccio called for a short recess and advised that the meeting would resume shortly.

14. Work Session FY 2013 Budget Work Session # 3 – Operating Budget and Capital Improvements Program

This was the third budget worksession scheduled for the Mayor and Council to discuss the FY 2013 Proposed Operating and Capital Improvement Program (CIP) budgets.

Department of Public Works

Director of Public Works Simoneau presented an overview of the operating budget and capital improvements for the Department of Public Works. Mr. Simoneau started by highlighting projects and accolades received to date in FY12 as the department has remained consistent with FTE's as approved in the FY12 Budget. Mr. Simoneau noted the largest fiscal impact was seen in the sewer fund due to the Blue Plains operating expense increase in the amount of $727,700. Mr. Simoneau also noted some cost savings due to the use of in-house resources. Mr. Simoneau used the example of the use of closed circuit television inspection of the City's sewer lines.

Mr. Simoneau closed by highlighting some key initiatives and accolades the department has received. He noted the following initiatives that were completed and are being considered cost savings for the future: battery backups at all intersections; and installation of 100 LED Traffic Lights. Mr. Simoneu noted that Rockville's Recycling Program was named one of the top three small residential recycling programs in the nation by Waste and Recycling News and Rockville's College Gardens Storm Water Project was named project of the year by the American Public Works Association. We have leveraged grants and loans to help our programs. We continue to look for grant funding to assist with programs and improvements to the City.

Capital Improvements Budget for the Department of Public Works

Director of Public Works Simoneau addressed the Mayor and Council with the proposed FY13 Capital Improvement Budget for the Department of Public Works. Mr. Simoneau provided the following as highlights:

Transportation Area – Due to the fiscal constraints of the City, the Asphalt program has moved to a 12 year cycle instead of a preferred 10 year cycle. Mr. Simoneau stated he would not be in support of expanding the cycle for additional years, as the asphalt program is already underfunded in FY13.

Bridge Program – Mr. Simoneau spoke about the uncertainty of bridge inspections that occur every two years on the 19 long span bridges and slightly longer on the 36 smaller span bridges, and 43 pedestrian bridges in the City of Rockville. The funding for the inspections of the City's bridges are included in the proposed FY13 Budget. However, any extensive repairs that are required after the inspections have been completed are not included in the proposed budget.

Storm Water Program – Funds in the FY13 Budget will be used for projects in the Horizon Hill ponds, the MDE permits will be finalized in the spring, and the City will analyze the project for the next budget cycle. The Horizon Hill Ponds project is the most extensive project in the proposed FY13 Budget under the Storm Water Program.

Sewer Rehab Replacement Projects – Director Simoneau stated that adequate and timely inspections of our sewer pipes keep them in good shape. Director Simoneau noted this area as being a cost savings to the City, as this process has been brought in house with the use of closed circuit television for the inspections.

Vehicle for City Use – The use of vehicles continues to be scheduled for the long scale of 15 years. The replacement for the light weight vehicles is on the 12-13 year cycle; replacement of the medium and larger heavy duty vehicles is in the 15 year cycle replacement range.

Director of Public Works Simoneau responded to questions of clarification posed by the Mayor and Councilmembers on the proposed FY13 budget presentation for the Department of Public Works.

Chief Engineer Susan Straus responded to questions posed by the Mayor and Council regarding the natural drainage area at Horizon Hills. Chief Engineer Straus noted that prior to the area being built it was a natural spring and in the 1970's storm water management was incorporated as part of the development. Councilmember Newton requested that we continue to work with the Fallsmead neighborhood, as storm water management is very expensive. Ms. Straus noted that the City will continue to provide technical support to the area.

Community Planning and Development Services

Director of Community Planning and Development Services Swift presented an overview of the operating budget and capital improvements for the Department of Community Planning and Development Services. Ms. Swift highlighted the following from the department: current staffing at 40.8 FTE's with daily tasks reviewing permits and sight plans. The department's main focus during the FY12 fiscal year was the following: the Pike Plan, the APFO committee report, working with the citizen implementation committee and the streamlining of our permitting procedures. The departments focus for FY13 will be on improving the permitting and inspection services and bringing forward the Planning Commission's recommendations on the Pike Plan and the APFO report to the Mayor and Council.

Director Swift noted a major change in the department's proposed FY13 Budget is a result of the decrease in Community Development Block Grant (CDBG) funds.

Director Swift highlighted initiatives of the department that were implemented during FY12:

- Permits – Have increased this year compared to last year. The City has had more MPDU applications.

- Data Tracking – The Mayor and Councilmembers received more data from the department as their monthly report has been provided to the Mayor and Councilmembers in "The Week That Was" report.

- Plan Review – The Plan review process has become more efficient and concurrent as zoning, fire and building review are done all together.

- Permit Process – The department has started the concept for the review of permits known as the cradle to grave reviewer, which entails that a reviewer is assigned to each permit and stays with the permit through its inception to approval.

Construction Inspection Supervisor Purkey addressed the Mayor and Council and responded to questions on performance measures for the department and the state qualifications requirements for licenses.

Acting City Manager Kimball highlighted the next steps for the City with regards to the FY13 Budget process.

15. Introduction of Ordinance to Approve Zoning Text Amendment TXT2012-00233, to Delete Sec. 25.08.05.d of the Zoning Ordinance, the Provision Allowing the Expansion of Off-Street Parking in Connection with a Nonconforming Use; Mayor and Council of Rockville, Applicants

Councilmember Newton introduced the Ordinance to Approve Zoning Text Amendment TXT2012-00233, to Delete Sec. 25.08.05.d of the Zoning Ordinance, the Provision Allowing the Expansion of Off-Street Parking in Connection with a Nonconforming Use; Mayor and Council of Rockville, Applicants.

Zoning Administrator Mellander noted that the Ordinance will be prepared for adoption at the next Council Meeting.

16. Discussion and Instructions for SCA 2012-00100 – Application to Permanently Close and Abandon an Unimproved Public Right-of-Way Between Anderson Avenue and Beall Avenue

Transportation Planner II Folden addressed the Mayor and Council and was present to receive direction from the Mayor and Council on the item # 16. There was no formal presentation, but highlights were provided from the public hearing held March 26, 2012. Staff recommends abandonment of the public right-of-way. The Mayor and Council directed staff to come back with an ordinance to complete the process.

17. Discussion and Instructions for SCA 2012-00101- Application to Permanently Close and Abandon and Improved Public Right-of-Way, Pleasant Drive, Between Piccard Drive and the Northern City Limit.

Transportation Planner II Folden addressed the Mayor and Council and was present to receive direction from the Mayor and Council on item # 17. There was no formal presentation, but highlights were provided from the case. Mr. Folden noted that as this is an administrative action moving from the Department of Public Works to the Department of Recreation and Parks, the City would still maintain ownership of the parcel, could grant ownership if that need should arise, and the Mayor and Council could also rededicate as a public roadway if that need should present itself in the future. The Mayor and Councilmembers agreed with the recommendation provided by staff and took no further action.

18. Adoption of a Resolution to Establish a Charter Review Commission

Acting City Administrator Kimball addressed the Mayor and Council regarding their discussion of establishing a Charter Review Commission at the Council Meeting of April 9, 2012. The Mayor and Council considered the duties and responsibilities of a commission, the appointment process, and a timeline. As a next step the Mayor and Council directed staff to draft a resolution to establish a Charter Review Commission based on the 2002 Resolution. A proposed

resolution was presented to the Mayor and Council and discussed at length. The Mayor and Council discussed attachment C that was provided by City Attorney Daniel as a proposed resolution modified from one submitted by Councilmember Moore.

Councilmember Pierzchala addressed the Mayor and Council with overall support of the proposed resolution that creates a Charter Review Commission

Councilmember Hall proposed amendments to the proposed resolutions for the creation of a Charter Review Commission as follows:

(1a) The Charter Review Commission shall be comprised of no more than eleven members, all of whom shall be residents in the City.

(1c) From the pool of applications received, the Mayor and Council shall select members of the Charter Review Commission.

The Mayor and Council discussed prior meetings where the proposed creation of the Charter Review Commission was discussed.

(1d) – ensure that the Chair of the Supervisors of Elections shall additionally serve as an ex officio representative to the Charter Review Commission. – The council has agreed.

(2c) process should be processes

(2d)To prepare a final report and deliver it to the Mayor and Council no later than December 15, 2012 instead of January 1, 2013

Item # (1a) and Item # (1c) were additionally discussed with the Mayor and Council each expressing their comments regarding the number of members being considered in (1a) and how they(the Commission) were to be chosen by the Mayor and Councilmembers in (1c). The Mayor and Council discussed each point given by Councilmember Hall at length.

Motion: To pass the resolution with certain changes made by the City Attorney in the title to read as the following: RESOLUTION: To establish a Charter Review Commission to review and make recommendations to the Mayor and Council on certain provisions related to elections contained in the charter of the City of Rockville; and in the 4th WHEREAS to read as the following: WHEREAS, the Mayor and Council desire to establish a Charter Review Commission for the purpose of reviewing Article II, "The Mayor and Council," Section 1, "Number, Selection, Term Qualification, and Payment," Part (a), and Article III, "Registration, Nominations and Elections," Section 4, "Election of Mayor and Council," of the City Charter, as well as any additional provisions of the City Charter and Rockville City Code related to these topics; and

(1) Accepted Councilmember Hall recommendation in 1(a) The Charter Review Commission shall be comprised of _____, all who shall be residents of the City.

(2) Changed (2b) to read as follows: To review and evaluate any additional provisions of the City Charter and Rockville City Code related to the topics in 2.a. that the Commission believes are appropriate.

(3) Change (2c) to read as follows: To solicit citizen input regarding these issues by public forums or other processes

(4) Change (2d) to read as follows: To prepare a final report and deliver it to the Mayor and Council no later than December 15, 2012, setting for the findings, recommendations, and any proposals for amendments to the Charter, or changes to the Code, of the City of Rockville.

Moved by Councilmember Moore, seconded by Councilmember Pierzchala

Mayor Marcuccio noted that the proposed resolution still states that the proposed Charter Review Commission will be comprised of fifteen members; and that each Councilmember shall select three members of the proposed commission, and that the first order of business of the Charter Review Commission shall be to elect a chair. The Mayor and Council continued the discussion of the issue. The Mayor and Council agreed to vote on the motion, as proposed during the discussion.

Vote: Councilmembers Moore and Pierzchala approving and Mayor Marcuccio, Councilmembers Hall, and Newton opposing. Motion failed 2-3

Motion: to accept all the changes in the proposed resolution provided by City Attorney Daniel as follows:

(4th WHEREAS) RESOLUTION: To establish a Charter Review Commission to review and make recommendations to the Mayor and Council on certain provisions related to elections contained in the charter of the City of Rockville; and in the 4th WHEREAS to read as the following: WHEREAS, the Mayor and Council desire to establish a Charter Review Commission for the purpose of reviewing Article II, "The Mayor and Council," Section 1, "Number, Selection, Term Qualification, and Payment," Part (a), and Article III, "Registration, Nominations and Elections," Section 4, "Election of Mayor and Council," of the City Charter, as well as any additional provisions of the City Charter and Rockville City Code related to these topics; and

(1a) The Charter Review Commission shall be comprised of _____, all who shall be residents of the City.
(2b) to read as follows: To review and evaluate any additional provisions of the City Charter and Rockville City Code related to the topics in 2.a. that the Commission believes are appropriate.

(2c) to read as follows: To solicit citizen input regarding these issues by public forums or other processes.

2(d) to read as follows: To Prepare a final report and deliver to the Mayor and Council no later than December 15, 2012, setting forth the findings, recommendations, and any proposals for amendments to the Charter, or changes to the Code, of the City of Rockville.

(1a) to read as follows: The Charter Review Commission shall be comprised of 11 members, all who shall be residents of the City.

(1c) to read as follows:° Each member of the Mayor and Council may choose one member to serve on the Charter Review Commission. The Mayor and Council shall select and approve five additional members.

Councilmember Pierzchala amended his motion to include (1e) as follows: The Mayor shall nominate and the Council shall approve an additional member to serve as the Chair of the Charter Review Commission

Moved by Councilmember Pierzchala, seconded by Councilmember Hall and unanimously approved

19. Mayor and Council Liaison to Board and Commissions Report

Councilmember Newton noted hers and other's attendance at the EPA regional administrator's visit. She also attended the 30th birthday celebration for the Croydon Creek Nature Center. Council Member Hall noted that he too had attended the events along with Councilmember Newton.

20. Review and Comment Mayor and Council Action Report

No items to report.

21. Review and Comment Future Agenda

Councilmember Newton reminded the public of the upcoming FY13 Budget Hearing at the meeting scheduled for Monday, May 7, 2012.

22. Old/New Business

Nothing was discussed.

23. Adjournment

There being no further business, the Mayor and Council adjourned at 11:25 p.m.

Motion: to adjourn.

Moved by Councilmember Pierzchala, seconded by Councilmember Hall and unanimously approved.