APPROVED: Meeting No. 12-12

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
November 28, 2011
7:00 p.m.
Meeting No. 32-11

PRESENT:

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

STAFF PRESENT:

City Manager Scott Ullery, City Attorney Debra Daniel, and Acting City Clerk Brenda

Re: **Executive Session October 24, 2012 - Pursuant to Section 10-508(a)(1)(i) and (ii) and Section 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland to discuss the compensation of an individual over whom it has jurisdiction, to discuss a personnel matter that affects one or more specific individuals, and to consult with counsel to obtain legal advice regarding a personnel matter.**

Motion: to Adjourn to Executive Session pursuant to Section 10-508(a)(1)(i) and (ii) and Section 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland to discuss the compensation of an individual over whom it has jurisdiction, to discuss a personnel matter that affects one or more specific individuals, and to consult with counsel to obtain legal advice regarding a personnel matter.

Motion moved by Councilmember Newton, seconded by Councilmember Pierzchala and unanimously approved.

The Mayor and Council met in Executive Session at 10:36 p.m. on Monday, October 24, 2011, in the Diamondback Conference Room, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland.

Present at the Executive Session were Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala. Also present were City Manager Scott Ullery, City Attorney Debra Yerg Daniel, Patrick Clancy, Esquire, Human Resources Director Carlos Vargas, and Recreation and Parks Director Burt Hall.

The topic of discussion was a personnel matter related to an individual over whom it has jurisdiction and a personnel matter involving one or more specific individuals. The Mayor and Council gave guidance to staff on how to move forward on the personnel matters.

The executive session adjourned at 12:25 a.m.

1. Convene

Mayor Marcuccio convened the first meeting of the newly elected council and offered each member the opportunity to speak.

Councilmember Pierzchala – Is pleased with the opportunity to serve a second term. He welcomed the two new members on the council and said he looks forward to working with the new group. Among his priorities for the new term are budget sustainability and to find a suitable use for the King Farm Farmstead

Councilmember Moore – Thanked his colleagues for welcoming him so warmly. He also thanked his family for giving him this opportunity. Councilmember Moore is in awe of the honor given to him by the citizens of Rockville and pleased to have the opportunity to serve. He intends to work hard to: protect city services and tax payer dollars; hire a new city manager; get the next phase of town center finished; and explore ways to increase voter turnout in City elections.

Mayor Marcuccio noted that this Council will continue to use the processes and procedures that governed the previous Council and to operate under the basic laws of Roberts Rules and Procedures.

2. Agenda Review

There were no changes to the agenda.

3. City Manager's Report

City Manager Ullery congratulated the new Mayor and Council and said that this would be his last meeting before retiring. Mr. Ullery reported that, for the 24th consecutive year, the City has won the National Budget Award (GFOA) and thanked Finance staff for their efforts.

4. Town Center Update

Assistant City Manager Jenny Kimball reported:

1) The last piece of public art in town square was installed and a dedication event for all the installed pieces would be held in the Spring

2) Federal Realty has started construction on a new ice rink in Town Square

3) A tree lighting ceremony will be held in Town Square on December 7 th. Councilmember Pierzchala indicated that he had recently seen the new sculpture in Town Square and that it is strikingly symbolic of who Mr. Gibbs was. It fits perfectly.

5. Presentation 2011 Good Neighbor Awards

Mayor Marcuccio introduced this item and read from the script. Mark Pierzchala read the award for Doreen Brandes. Bridget Donnell
Newton read the award for Mohamed Deen. Mayor Marcuccio read the award for Michael Garson. John Hall read the award for Victor Muzzati. Mark Pierzchala read the award for Tommy Ricketts. Tom Moore read the award for Roald Shrack. Bridget Newton read the award for Rose Sharkey.

6. Announcement of Vacancies

Mayor Marcuccio read the announcements for vacancies.

7. Adoption of resolution commending retiring City Manager Scott J. Ullery

Motion: to adopt resolution commending retiring City Manager Scott J. Ullery

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

8. Citizen's Forum

Citizen	*Issue*
Drew Powell	Congratulations to newly elected council
Glen Looper	Congratulations on election; his business on N. Stonestreet is a Toys for Tots collection spot
Larry Yates	Former Rockville Police Officer – His work on the history of the Police Department
Ruth Hanessian	Congratulations on election; Upcoming Kiwanis Pancake Breakfast; invitation to Science Cafe on December 20th
Roxy Chase	History of her childhood home in Rockville.
Harry Thomas	Time to change batteries in smoke detectors
Brigitta Mullican	Congratulations on election; King Farm Homestead; low voter turnout; good numbers in Twinbrook

9. Mayor and Council's Response to Citizen's Forum and Announcements

The following members of the Mayor and Council responded to comments made during Citizens' Forum. Mayor Marcuccio and Councilmembers Moore, Newton, Pierzchala and Hall.

10. Consent Agenda

A. FY 2012 Caregiver Grant for Chase Partnership House - Re-Allocate FY 12 Funding ($17,000) from Community Ministries of Rockville to Catholic Charities of the Archdiocese of Washington

B. Award of IFB #10-12 for Asphalt/Concrete Repairs and Improvements at various City parks and facilities in an aggregate amount not to exceed $500,000 over a two year contract period.

C. Award of contract #102109-WWG in an aggregate amount not to exceed $480,000 over a 3-year contract period for Hardware Supplies.

D. Award of contract RQ11-217263-22A in an aggregate amount not to exceed $250,000 over a 5-year contract period for Heating Fuel Oil.

E. Award of contract #1001027 for photo speed and photo red light services to ACS State and Local Solutions, Inc. of Germantown, MD for the implementation, use, and servicing of automated photo enforcement technology and services in an aggregate amount not to exceed $5,788,000 for a period of four (4) years with an option to extend for three (3) additional 1-year terms.

F. Appointment and Approval of Terms for Acting City Manager, Jenny Kimball.

G. Adoption of Resolution to authorize signatures for City bank accounts

H. Adoption of Resolution to amend Resolution No. 25-11 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.

Councilmember Hall asked if Consent Items C and D were achieved through the competitive process and Mr. Cohen responded that they had been.

Mayor Marcuccio requested the removal of Consent Agenda Item F so that it could be discussed separately. Councilmember Hall said that items G and H were companion items to F and should likewise come off of consent.

Mayor Marcuccio asked why the grant was being reallocated. Carlos Apparcio responded that earlier this year, the Montgomery County Department of Health and Human Services issued an RFP in order that all the transitional shelters be placed under one governing agency, the Archdiocese of Washington Catholic Charities. There was discussion on the impact to Community Ministries of Rockville, the City's relation with Catholic Charities and Chase Partnership Housing.

Motion: to approve Consent Agenda Items A - E.

Moved by Councilmember Pierzchala. Seconded by Councilmember Newton and unanimously approved.

Re: Item F

Councilmember Newton asked for the removal of the word "terms" inasmuch as the terms and conditions of this appointment were going to be the subject of the Executive Session held later.

Motion: to adopt resolution appointing Jennifer F. Kimball as Acting City Manager

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

Motion: to adopt Resolution to authorize signatures for City bank accounts

Councilmember Newton asked why the City does not require two signatures on its checks. Mr. Cohen said that having two signatures does not offer that much protection and explained the control measures in place due to a program entitled AE Positive Pay that the City utilizes. Mr. Cohen explained that there are three authorized staff to sign city checks, the City Manager, the City Clerk and the Director of Finance. Councilmember Newton mentioned the part of the City Code where it speaks to only the Clerk having the authority to sign.

Motion moved by Councilmember Pierzchala, seconded by Councilmember Moore with Mayor Marcuccio and Councilmembers Hall, Moore and Pierzchala approving and Councilmember Newton abstaining.

Motion: to adopt Resolution to amend Resolution No. 25-11 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 Pierzchala, seconded by Councilmember Moore with Mayor Marcuccio and Councilmembers Hall, Moore and Pierzchala approving and Councilmember Newton abstaining.

11. Mayor and Council Liaisons to Boards and Commissions Report

Councilmember Pierzchala said that he attended the Retirement Board meeting on November 18 and was very pleased with the new actuary reports presented and noted that there will be positive results when the budget is being formulated.

12. Review & Comment regarding Future Agendas

Mayor Marcuccio asked about the FY13 budget Presentation and Director of Finance Cohen reviewed the timeline through its anticipated adoption in late May. Councilmember Newton asked that the Mayor and Council receive information along the way versus receiving a semi final document towards the end. Councilmember Pierzchala asked if the Mayor and Council would once again have the opportunity to complete a priority checklist and Mr. Cohen responded yes.

Regarding the Citizens' Implementation Committee, Mayor Marcuccio said that she would like to revisit this group in terms of purpose, vision, etc. Ms. Kimball said that she would provide an update on the work of that group.

Mayor Marcuccio asked if the Board of Elections would soon have a Post Election Wrap Up meeting and Ms. Bean responded that one was planned for mid-March. Mayor Marcuccio said that it might be wise to schedule something sooner while still fresh in everyone's memory. Ms.

Bean said that the Board of Elections would be meeting in two days and that they could certainly entertain the idea of holding an earlier wrap up meeting.

In terms of the White Tail Deer Task Force report, Mayor Marcuccio asked about the status. Director of Recreation and Parks Burt Hall responded that the presentation of the revised task force report was scheduled for December 12. Councilmember Pierzchala said that he hoped that it would only be the presentation that evening as he did not wish to receive a presentation and make a decision on the same evening.

There was discussion on the conduit debt transaction with the National Lutheran Home. Mr. Cohen provided an overview of the request and the reason for it. He said this was done about 10 years ago for the Fireside Apartment renovation project and that there is very little risk to the City. Mr. Cohen said that a Letter of Intent would be placed on the Mayor and Council agenda on December 5 for approval, followed by a public hearing on December 12. Ensuing discussion included: how this transaction would benefit the City; the request for Bond Counsel for the National Lutheran Home to be present at the December 5th Mayor and Council meeting; and legal public notice requirements. There was consensus to place this item on the December 5th meeting of the Mayor and Council.

Regarding the Glenview Mansion Committee, Mayor Marcuccio said that now that the Glenview Mansion has been established as historic, she would like to address the working relationship of the three groups (Mansion Subcommittee, Cultural Arts Commission and the Historic District Commission.) Director of Recreation and Parks Burt Hall said that the Recreation and Parks Board considered this at their October meeting and recommended that the Mansion Subcommittee continue to function, stating theirs is an important role. Mr. Hall said that the Historic District Commission has also formulated their recommendation, but the Cultural Arts Commission (CAC) has not yet had a chance to formulate their recommendation. He suggested that the CAC be given the opportunity to formally review the matter and provide their recommendation. There was consensus to place this on a future agenda.

Regarding the County's Mediation program that requires the participation of Homeowner's Associations within Rockville, Mayor Marcuccio asked when the program expires. She said the cost was $2.00 per household and it has now gone up to $3.00. She noted that, since the program was implemented, King Farm has not had the occasion to use it once even though they pay the fee. Councilmember Pierzchala said that the he knows that the service has been used because of emails he has seen. Ms. Kimball responded that she would look into the matter and get back with the Mayor and Council.

Councilmember Newton asked if someone had been named to replace former Councilmember John Britton to the Montgomery County Pedestrian Safety Committee. Ms. Kimball said that this is an MML position and that the position is open. She asked the Mayor and Council to let her know who, among them, might be interested in serving.

13. Review & Comment regarding Mayor and Council Action Report

Mayor Marcuccio said there are a number of action items that should filter onto future agendas, the ethics ordinance for one. City Attorney Daniel said that she would check in with Counsel for the State Ethics Commission to see where it is in the pipeline. Councilmember Moore asked if it was possible to make modifications to the document once the State had received it. Mayor Marcuccio described the process as discussed in MML committee meetings and said that municipalities are looking at it now in order to provide comments to Senator Raskin in

January. Councilmember Hall asked about the procedural posture of the matter and Ms. Daniel said that it had been introduced with the understanding that there will likely be amendments. Ms. Daniel said that the State asked that it not be adopted until we receive their changes. Councilmember Newton asked that this item be placed on the Mayor and Council December 12 agenda. She said that if adopted, this law would cover all Article 66B City Boards and Commissions. Ms. Newton said that it is not something that will color your ability to do the job and that the proposed legislation is very far reaching. It has generated great concern by quite a few municipalities. There was consensus to place this item on the agenda for December 12.

Regarding the stolen bike rack at Gordon Biersch, Councilmember Pierzchala said that they have communicated with him and purchased a new one. Consequently, that item can now come off the action item list.

14. Old/New Business

Regarding the Planning Commission approval of the Silverwood /Shady Grove LLC site plan, Councilmember John Hall said that he would like to put this on a future agenda. Because the Court received a petition for judicial review of the Planning Commission's decision, he is interested in reviewing this sooner rather than later because the statute runs in 30 days. Councilmember Hall noted his concerns with respect to this not conforming to the City's APFO and would like to discuss the process and timeline for a remand so that the City Council may have an opportunity to be sure that the standards are following the statute. Councilmember Pierzchala agreed that the matter needs to be discussed stating that he has concerns with the City's standards being different than those of the County. Mayor Marcuccio said that there is only one tool to protect the City and that more than one level might help us with the APFO and its intentions. Councilmember Newton would also like this matter placed on a future agenda for discussion and suggested having input from the former City Attorney, Paul Glasgow as well as former Mayor Larry Giammo to better understand the intent when it was written.

Councilmember Newton said that she would also like to have a discussion on the City seal vs. the new logo at a meeting very soon.

15. Adjournment into Executive Session pursuant to Section 10-508(a)(7), Section 10-508(a)(8) and Section 10-508(a)(1)(i) of the State Government Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice; to consult with staff, consultants or other individuals about pending litigation (Westmore Development); and to discuss the compensation of an employee over whom it has jurisdiction.

Motion: to Adjourn into Executive Session pursuant to Section 10-508(a)(7), Section 10-508(a)(8) and Section 10-508(a)(1)(i) of the State Government Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice; to consult with staff, consultants or other individuals about pending litigation (Westmore Development); and to discuss the compensation of an employee over whom it has jurisdiction.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved, the Mayor and Council adjourned to Executive Session at 10:40 p.m.