MAYOR AND COUNCIL

MEETING NO. 16-20
Monday, May 11, 2020 – 6:00 PM

AGENDA

Agenda item times are estimates only. Items may be considered at times other than those indicated.

Any person who requires assistance should call the ADA Coordinator at 240-314-8108.

Rockville City Hall will be closed through May 15, due to recent issued state directives for slowing down the spread of the coronavirus COVID-19 and social distancing.

Viewing Mayor and Council Meetings

To support social distancing, the Mayor and Council are conducting meetings virtually. The virtual meetings can be viewed on Rockville 11, channel 11 on county cable, livestreamed at www.rockvillemd.gov/rockville11, and available a day after each meeting at www.rockvillemd.gov/videoondemand.

Participating in Community Forum & Public Hearings

If you wish to submit comments in writing for Community Forum or Public Hearings, please email the comments to mayorandcouncil@rockvillemd.gov by no later than 2:00 p.m. on the date of the meeting. All comments will be acknowledged by the Mayor and Council at the meeting and added to the agenda for public viewing on the website.

If you wish to participate virtually in Community Forum during the live Mayor and Council meeting, please send your name and phone number to mayorandcouncil@rockvillemd.gov no later than 9:00 am on the day of the meeting. You will be connected with the City's Information Technology Department to receive all the information you need to join the meeting by audio to share your Community Forum comments.

Participating in Mayor and Council Drop-In (Mayor Newton and Councilmember Pierzchala)

Drop-In Sessions will be held by phone on Monday, May 11 from 5:00-5:45 p.m. Please sign up by 2 p.m. on the meeting day using the form at: https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227

6:00 PM **1. Convene**

2. Pledge of Allegiance

3. Agenda Review

6:05 PM **4. City Manager's Report**

6:15 PM **5. COVID-19 Update**

6:45 PM **6. Proclamation**

A. Proclamation Declaring May 16, 2020 as National Parks to Kids Day (Mayor Newton)

B. Proclamation Recognizing May 18-22, 2020 as National Public Works Week (Councilmember Ashton)

6:55 PM **7. Presentation**

A. Board of Supervisors of Elections - 2019 Vote by Mail Election Report

7:55 PM **8. Community Forum**

Any member of the community may address the Mayor and Council for 3 minutes during Community Forum. Unless otherwise indicated, Community Forum is included on the agenda for every regular Mayor and Council meeting, generally between 7:00 and 7:30 pm. Call the City Clerk/Director of Council Operation's Office at 240-314-8280 to sign up to speak in advance or sign up in the Mayor and Council Chamber the night of the meeting.

9. Mayor and Council's Response to Community Forum

8:15 PM **10. Consent**

A. Authorize the City Manager to Award a Rider Contract for Diesel Fuel for City Vehicles and Equipment for a Contract Period Up to Five (5) Years in the Aggregate Amount Not to Exceed $1,200,000

B. Authorization to Release and Extinguish an Existing Stormwater Management Easement and Inspection & Maintenance Agreement on Lot 29, Block 2 of the Autrey Heights Subdivision

C. Authorize the City Manager to Execute a Memorandum of Understanding with Rockville Economic Development Inc. (REDI), in a Form Acceptable to the City Attorney, to Provide City Staff Resources for REDI's Response to the COVID-19 Emergency

8:20 PM **11. Cancellation of the City's Independence Day Celebration**

8:35 PM **12. Introduction and Possible Adoption of an Ordinance to Grant Text Amendment Application TXT2019-00251 -To Adopt Regulations for the Installations of Small Cell Antennas; Mayor and Council of Rockville, Applicant**

9:10 PM **13. Authorize the City Manager to Execute the Seventh Amendment to the Interim Management Agreement Between the Mayor and Council of Rockville and Street Retail, Inc. (Herein Referred to as "FRIT") to Temporarily Manage the Town Square Commercial District and the Town Square Street and Area Lighting District (Collectively, the "Town Square Management District") and the Plaza at Rockville Town Square**

9:30 PM **14. Introduction and Possible Adoption of an Ordinance to Amend City Code Chapter 18, Titled “Rental Facilities and Landlord-Tenant Relations,” to Prohibit the Increase of Certain Rent Above Rent Guidelines During and After a Certain Declared Emergency; to Prohibit Certain Notices to Tenants; to Require Certain Notices to Tenants; and to Generally Amend City Law Concerning Rental Facilities and Landlord-Tenant Relations. OR Introduction and Possible Adoption of an Ordinance to Amend City Code Chapter 18, Titled “Rental Facilities and Landlord-Tenant Relations,” to Prohibit the Increase of Certain Rent During and After a Certain Declared Emergency; to Prohibit Certain Notices to Tenants; to Require Certain Notices to Tenants; and to Generally Amend City Law Concerning Rental Facilities and Landlord-Tenant Relations.**

9:35 PM **15. COVID-19 Staffing Strategy Update**

10:05 PM **16. Adoption of a Resolution to Close Completed Capital Improvements Program Projects**

10:10 PM **17. Adoption of an Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year 2021**

10:15 PM **18. Adoption of a Resolution to Establish the Service Charge Rate for Municipal Refuse Collection**

10:20 PM **19. Adoption of Resolution to Declare the Official Intent of the Mayor and Council to Bond Finance Certain Projects Under U.S. Treasury Income Tax Regulation Section 1.150-2**

10:25 PM **20. Introduction, and Possible Adoption, of an Ordinance to Levy Special Assessments For Driveway Aprons Constructed in Fiscal Year 2019, Project TC16**

10:30 PM **21. Introduction, and Possible Adoption, of an Ordinance to Amend Chapter 24 Entitled "Water, Sewers and Sewage Disposal, " Article III, "Rates and Charges" So as to Establish the Water and Sewer Usage Charges and Water and Sewer Ready to Serve Charges for Fiscal Year 2021**

10:40 PM **22. Review and Comment - Mayor and Council Action Report**

A. Action Report

23. Review and Comment - Future Agendas

A. Future Agendas

24. Old/New Business

11:00 PM **25. Adjournment**

The Mayor and Council Rules and Procedures and Operating Guidelines establish procedures and practices for Mayor and Council meetings, including public hearing procedures. They are available at: http://www.rockvillemd.gov/mcguidelines.

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Proclamation
Department: City Clerk/Director of Council Operations Office
Responsible Staff: Jacqueline Mobley

Subject

Proclamation Declaring May 16, 2020 as National Parks to Kids Day

Recommendation

Staff recommends that the Mayor and Council read and approve the proclamation.

Discussion

A Virtual Park Celebration

COVID-19 has impacted everyone and has limited our ability to interact with our beloved national, local and state parks. With this in mind, National Park Trust has decided to take the 10th anniversary of Kids to Parks Day digital and instead celebrate May 16, 2020, as Parks to Kids Day--bringing a much-needed infusion of the outdoors to kids and families as they isolate at home and practice social distancing. We know that this is not ideal, but we also know that we are all in this together. We encourage kids and families to continue their celebration and join us by bringing the parks home on May 16th.

Thousands of children nationwide and in Rockville will take part in a grassroots movement to celebrate America's parks through play on Saturday, May 16, 2020, commemorating the National Park Trust's tenth annual National Parks to Kids Day. This event will remind families across America to engage our youth with the natural and historical treasures, and the pure fun, available in the neighborhood, state, and national parks as the summer season begins.

Kids to Parks Day offers students from urban and rural communities the opportunity to participate in hands-on environmental education, while also providing health and wellness through outdoor recreation.

Public Notification and Engagement

The May 16th National Parks to Kids virtual celebration is available by also downloading the free ParkPassport mobile app as the perfect companion for outdoor adventure and has been updated with new resources for Parks to Kids Day – including virtual park experiences and new digital badges. Click the link to visit the outdoor adventure. https://kidstoparks.parktrust.org/

Attachments

Attachment 6.A.a: 2020 National Parks to Kids Day (PDF)

Sara Taylor-Ferrell, City Clerk/Director of Council Operations 5/7/2020

Proclamation

ROCKVILLE · MARYLAND

WHEREAS, May 16, 2020, is the 10th annual National Parks to Kids Day organized and launched by the National Park Trust; and

WHEREAS, National Parks to Kids Day empowers kids and encourages families to get outdoors and visit America's parks; and

WHEREAS, it is important to introduce a new generation to our nation's parks because of the decline in park attendance over the last decades; and

WHEREAS, we should encourage children to lead a more active lifestyle to combat the issues of childhood obesity, diabetes mellitus, hypertension and hypercholesterolemia; and

WHEREAS, National Kids to Parks Day is open to all children and adults across the country to encourage a large and diverse group of participants; and

WHEREAS, National Parks to Kids Day will broaden children's appreciation for nature and the outdoors.

NOW, THEREFORE, the Mayor and Council of Rockville do hereby proclaim May 16, 2020, as National Parks to Kids Day and urge the residents of Rockville to take their children to one of the many great City of Rockville Parks.

Bridget Donnell Newton

Bridget Donnell Newton, Mayor

Monique Ashton, Councilmember

Beryl L. Feinberg

Beryl L. Feinberg, Councilmember

David E. Myles

David Myles, Councilmember

Mark Pierzchala, Councilmember

May 11, 2020

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Proclamation
Department: PW - Management & Support
Responsible Staff: Susan Straus

Subject

Proclamation Recognizing May 18-22, 2020 as National Public Works Week

Recommendation

Staff recommends that the Mayor and Council read and approve the proclamation.

Discussion

The designation of Public Works Week recognizes the important services provided by Public Works, which are integral to the quality of life for residents and businesses. The Public Works Week Proclamation celebrates the men and women in Rockville who provide and maintain the infrastructure and services collectively known as Public Works. Instituted as a public education campaign by the American Public Works Association in 1960, National Public Works Week calls attention to the importance of public works in community life. The services provided by Public Works employees ensure that Rockville remains a sustainable, attractive community which provides a high quality of life for its residents and a positive economic environment for its businesses. The Week seeks to enhance the prestige of the Public Works professionals who serve the public good every day with quiet dedication.

Recognizing the Public Works employees is particularly significant during COVID-19. While most Marylanders are sheltering in place, Rockville's Public Works employees continue to provide critical services to maintain the health and safety of Rockville residents. Services such as recycling and refuse collection; providing traffic and street lighting; producing and delivering drinking water; and conveying wastewater for treatment and disposal are the cornerstone of communities. Rockville's dedicated Public Works employees will continue to provide these services.

Typically, the Department of Public Works hosts an Equipment Show during Public Works Week; however, due to COVID-19 restrictions on public gatherings, the event is cancelled.

Mayor and Council History

This is the 13th consecutive year that the Mayor and Council have recognized National Public Works Week.

Attachments

Attachment 6.B.a: 2020 National Public Works Week (PDF)

Rob DiSpirito, City Manager 5/7/2020

Proclamation

ROCKVILLE · MARYLAND

WHEREAS, public works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, wastewater, stormwater management, environmental, streets, and recycling and refuse collections; and

WHEREAS, the health, safety and comfort of this community greatly depends on these facilities and services; and

WHEREAS, the quality and effectiveness of these facilities, as well as the planning, designing and construction thereof, is vitally dependent upon the efforts and skill of public works officials; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff the City's public works department are materially influenced by the people's attitude and understanding of the importance of the work they perform.

NOW, THEREFORE, the Mayor and Council of Rockville do hereby proclaim the week of May 18-22, 2020, as National Public Works Week in the City of Rockville and call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing public works services and to recognize the contributions which public works officials make every day to our health, safety, comfort and quality of life.

Bridget Donnell Newton

Bridget Donnell Newton, Mayor

Monique Ashton, Councilmember

Beryl L. Feinberg

Beryl L. Feinberg, Councilmember

David E. Myles

David Myles, Councilmember

Mark Pierzchala, Councilmember

May 11, 2020

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Presentation and Discussion
Department: City Clerk/Director of Council Operations Office
Responsible Staff: Sara Taylor-Ferrell

Subject

Board of Supervisors of Elections - 2019 Vote by Mail Election Report

Recommendation

Receive the Rockville Board of Supervisors of Elections 2019 Vote by Mail Report.

Discussion

On November 6, 2017, the Board of Supervisors of Elections (BSE) presented to the Mayor and Council its recommendations to change the main method of voting in City of Rockville elections from in-person voting to vote by mail-in ballot. On January 22, 2018, the BSE provided additional information to the Mayor and Council on mail-in ballot voting. On February 5, 2018, the Mayor and Council held a public hearing on the BSE's recommendation to change the City's main method of voting to vote by mail. On February 26, 2018, the Mayor and Council directed staff to prepare the necessary amendments to Chapter 8 of the City Code to implement the BSE's recommendation to vote by mail. On April 8, 2018, the Mayor and Council approved the ordinance in support of the BSE's goals to enhance voter participation and voter turnout.

The vote by mail election was held on November 5, 2019, and the BSE held two post-election forums on January 30 and February 8, 2020, which were open to the public. Invitations to the forums were sent to all candidates, campaign treasurers, jurisdictions and other interested parties. Notification of the two post-election forums was provided in Rockville Reports, by the City Manager in his report at the Mayor and Council meeting, and on the City's website.

Based upon the information gathered at the post-election forums, other input from citizens and candidates, and recommendations from the BSE and City staff, the BSE is able to provide data and information to the Mayor and Council on the election process and voter turnout.

As the BSE's presentation demonstrates, the BSE facilitated a successful vote-by mail election. The election process increased the voter turnout, in part by "meeting people where they are"; and taking the vote to the voter. The election process also cleaned up the City's voter database; reduced certain expenses; removed obstacles associated with voting in person; provided more options for citizens to become involved in the election; and improved efficiency, voter

outreach, and education. In its presentation, the BSE concludes that the 2019 City election was a positive and successful first implementation of the vote by mail in the State of Maryland.

The following attached documents are the metrics and findings of the 2019 Vote by Mail election data.

A. Board of Supervisors of Elections Report
B. City of Rockville Election Cost – 2011, 2013,2015 and 2019
C. 2019 BSE Vote by Mail Data Collecting

Mayor and Council History

This is the first time this 2019 Election Report has been brought before the Mayor and Council.

Public Notification and Engagement

The BSE held two Post-Election Forums on January 30 and February 8, 2020, which were open to the public. The purpose of these forums was to provide the BSE an opportunity to hear comments about the 2019 election process, suggestions for ways to facilitate the voting process and ideas for how to enhance voter participation and obtain information for future election.

Next Steps

The BSE will schedule and hold an inter-jurisdictional forum with municipalities, clerks, boards of elections and interested parties by virtual session in May/June 2020. At that time the BSE will also come back before the Mayor and Council with information and recommendations.

Attachments

Attachment 7.A.a: 2019 BSE Vote by Mail Final Report 4.6.2020 (DOCX)

Sara Taylor-Ferrell, City Clerk/Director of Council Operations 5/6/2020

Rockville
Board of Supervisors of Elections
November 5, 2019
Election Report

City of Rockville Board of Supervisors of Elections

Dr. Lois Neuman, Chair

Graham Johnson

Sofya Orlosky

Robert Kurnick

Stephen Weiner

City of Rockville Staff

Debra Daniel, City Attorney

Nicholas Dumas, Assistant City Attorney

Sara Taylor-Ferrell, City Clerk/Director of Council Operations

Judy Penny, Election Specialist

*

* Approved 04.06.2020

Attachment 7.A.a: 2019 BSE Vote by Mail Final Report 4.6.2020 (2937 : Board of Supervisors of Elections - 2019 Vote by Mail Election Report)

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Abstract

The City of Rockville's successful Vote by Mail (VBM) election in 2019 capped an intense 4-year period of activity by the City's Board of Supervisors of Elections (BSE). The City's primary goal in implementing VBM was to increase voter turnout, and it worked; voter turnout in the 2019 election nearly doubled the turnout in 2015. Implementing VBM also allowed the City to update its voter database, which is now more accurate than ever. Among the most significant of the BSE's other accomplishments over the past 4 years was simplifying the Campaign Finance Reports (CFRs), converting the reporting process so that the reports could be submitted electronically rather than manually, and hosting the Second Interjurisdictional Symposium on Election Administration.

None of these accomplishments, especially the VBM election, would have been possible without the support of dedicated and talented City of Rockville staff, Montgomery County elections professionals, election personnel from jurisdictions that have held VBM elections, outside organizations (e.g., U.S. Postal Service and vendors), and of course, the Mayor and Council.

Introduction

This report summarizes the accomplishments of the City of Rockville Board of Supervisors of Elections (BSE) from 2015 through 2019. The primary purpose of this report is to provide information on the Vote by Mail (VBM) election held by the City in November 2019. To that end, this report:

- Provides some basic information about the City.
- Identifies decreasing voter turnout as a problem the BSE wanted to address.
- Summarizes the potential solutions the BSE considered to address the problem of decreasing turnout.
- Explains why the BSE selected VBM as the solution.
- Details the implementation of VBM.
- Reports on the results of VBM.

BSE Accomplishments 2015–2019

Although the successful VBM election was the highlight of the BSE's accomplishments since the City election in 2015, it was not the BSE's only accomplishment.

The BSE:

- Conducted two post-election forums early in the year following the November 2015 election.
- Hosted the Second Election Administrator Forum, now called an Interjurisdictional Symposium on Election Administration, on March 28, 2017.
- Simplified the Campaign Finance Reports (CFRs).
- Allowed CFRs to be submitted electronically.
- Created a new CFR instruction manual and offered a CFR training course, conducted three times, on how to use the new software.
- Proposed that the Mayor and Council approve a VBM election and recommended changes to the City Code to allow VBM.
- Revised and implemented its Standard Operating Procedures (SOPs).
- Expanded voter outreach and education activities.
- Implemented a very successful VBM election in 2019.

Problems Identified Prior to Vote by Mail (VBM)

Table 1 shows that voter turnout was low in the 2011 City Election, decreased in 2013, and decreased again in 2015. Turnout did not appear to be related to the number of candidates or whether questions were on the ballot.

Year	Population	Registered Voters	Number of Candidates	Ballot Questions	Voted	
					Number	%
2011	62,102	36,840	11	0	6,240	16.94
2013	63,736	40,494	8	3	6,685	16.51
2015	66,673	40,749	11	0	6,468	15.87

Table 1. Voter Participation in City of Rockville Elections 2011–2015

Another significant problem for both election officials and candidates was an inaccurate voter database. The accuracy of the database depends heavily on voters providing current addresses, making it a continuous challenge to obtain updated information. Despite the challenge, maintaining an accurate database is a high priority for election staff.

Potential Solutions

The BSE determined that to do nothing was not a solution. Unless something was done, voter turnout would continue to decline. The BSE identified the following viable options.

Enhance voter turnout activities and voter education activities. The BSE considered enhancing efforts to educate the City community on the importance of voting. We considered combining these voter education activities with increased efforts to register voters and to encourage all registered voters to participate in elections. The BSE decided that such efforts would not be cost-effective and probably would not increase voter turnout.

Increase number of early voting days. In 2015, the BSE recommended—and the Mayor and Council approved—adding early voting days. Although many people voted early, the total turnout decreased slightly. Basically, people who would have voted anyway were the ones who voted early. Increasing the number of early voting days did not appear to be the solution we sought.

Move elections to even years/put on County ballot: The City holds elections in odd-numbered years. The idea of holding City elections in even-numbered years surfaces almost every election cycle and has been rejected every time. Some feel that the City would lose its identity/uniqueness if its contests were listed at the bottom of a ballot after the national, state, and county contests. Data show that votes decrease the further down a ballot a contest is listed. Therefore, although the national, state, and county contests draw a larger number of voters, there is no guarantee that City residents will vote in City elections in larger numbers. Another concern was that City candidates would compete with all ballot candidates for voter attention. Perhaps an even more significant reason for the reluctance to move to the larger ballot is that City elections are required to be non-partisan. Placing City contests on a predominantly party-oriented ballot did not seem to the BSE to be appropriate.

Note that none of the options listed above address the issue of an inaccurate voter database. Rejecting these options left only one other viable option.

Vote by Mail: Data from jurisdictions that have moved to a VBM process show that voter turnout increases significantly the first time VBM is offered. Although turnout tends to go down after that, it remains higher than in pre-VBM elections. Because the legitimacy and effectiveness of VBM depends on an accurate voter database, one component of the process is repetitive mailings to registered voters; responses, especially mail returned as undeliverable, help update the database. Mailings also ask recipients to inform anyone they know who should have received a mailing but did not to contact the local election board. This also helps update the voter database. Although some costs, notably postage, increase when a jurisdiction moves to VBM, other costs go down. In the case of the City, for example, only one consolidated Vote Center, rather than 11 polling places (one in each of 10 districts and one at City Hall) would have to be open. (See map in Appendix A). Therefore, less equipment and many fewer people would be required to work on election day.

The Solution to the Problem of Low Voter Turnout

On November 7, 2017, after a nearly year-long study (January–October 2017), the BSE proposed that the Mayor and Council amend the City Code to require a VBM election in 2019. The proposal included a detailed rationale for the change. Specifically, the presentation to the Mayor and Council identified the problem of low voter turnout and showed that VBM elections significantly increased voter participation. A study of jurisdictions similar in population and number of registered voters to the City demonstrated that VBM was a viable alternative for the City.

The Mayor and Council requested additional information—a major area of concern being cost—which was provided at the Mayor and Council meeting on February 26, 2018. The slides presented to the Mayor and Council are in the addendum and at www.rockvillemd.gov/election.

The Mayor and Council approved VBM on February 26, 2018 and approved necessary City Code changes on April 9, 2018.

Details of the Implementation of VBM

Election Plan for the 2019 VBM Election

The BSE's first order of business was to determine the components of the VBM election and to organize those as tasks in an Election Plan, create a calendar that showed the relationships among activities and personnel assigned to each task, and develop a logo to identify the City election (see photographs, pp.8 —10). The Election Plan helped election officials track events, activities, and deadlines.

The BSE identified four major activities that needed to be included in the Election Plan:

- conduct community outreach
- update the voter database
- design, print, and deliver ballot packages
- conduct the election.

Conduct Community Outreach

For VBM to be successful, the community needed to be effectively informed that the 2019 election was going to be held using VBM. A secondary purpose of the outreach effort was to educate citizens on what VBM entailed. The BSE and City Clerk's Office worked closely with the City's Office of Communications and Public Relations and with the Office of Information Technology to conduct community outreach using the strategies discussed below.

Mailings

The first community outreach activity the BSE initiated was a series of mailings to all households within the City's corporate limits. The BSE's first mailing was an oversized (14" x 7") postcard mailed on March 1, 2019. The postcard informed recipients that the 2019 election would be conducted using VBM and encouraged recipients to visit www.rockvillemd.gov/election to check and update their voter information and to register to vote if necessary.

The City sent subsequent mailings on May 31, July 12, and September 16 to all registered voters. The subsequent mailings repeated the information on the March 1 postcard and added additional information such as how to mark a ballot, how to return ballots, and where in-person voting would be held on Election Day.
All information on all mailings was provided in English and Spanish as required by Montgomery County law.

Website

The BSE, Office of Communications and Public Relations, and Office of Information Technology designed an Elections website. Continually updated, the website provided information on the VBM process, how to register to vote, how to update voter information, how to complete a ballot, how to submit a ballot, where to vote in person on Election Day, and much more. The website included FAQs and links to related information and videos.

Community Outreach

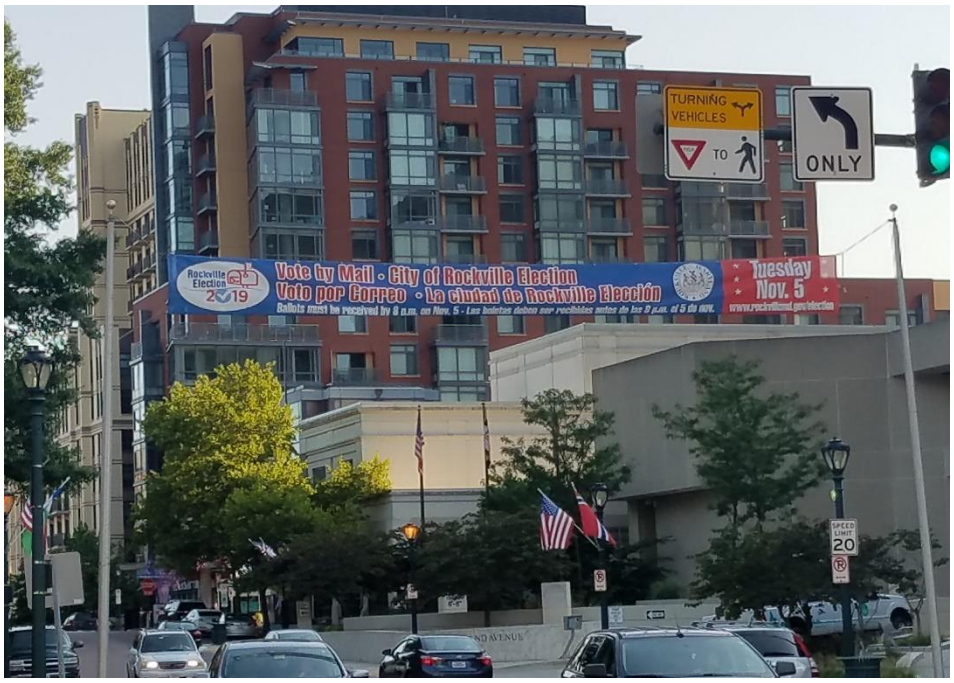
The Office of the City Clerk notified homeowner associations (HOAs) that members of the BSE were available to speak to the HOAs and community residents about VBM. Of the 15 HOAs that were contacted, 13 responded. BSE members visited all 10 of the HOAs to which they were invited.

The City hosts many scheduled community events each year. The BSE attended Hometown Holidays (May 25 and 26, 2019), Rockville Pride (June 15, 2019), and Rocktobierfest (October 5, 2019). At each event, BSE members and City Clerk's office staff worked at a table where they registered voters, answered questions about VBM, and gave out fans, refrigerator magnets, pens, handbills, and a "stress reliever" shaped like a mailbox (the VBM logo) to keep as reminders of the election.

The Office of the City Clerk's staff also contacted the eight nursing homes (including the nursing home associated with continuing care communities) in the City and encouraged residents to participate in the nursing home program in which BSE members and City Clerk's office staff would visit, distribute ballots to residents, and, if necessary, help residents complete the ballots. Of the eight nursing homes, seven requested to participate in the program. Ballot packages for residents were prepared in the same manner as all other ballot packages, but were delivered to the City and distributed by the City on scheduled nursing home visits. Ballot packages for voters at the nursing homes, election staff did not visit, were mailed at the same time and in the same manner as all other VBM ballots.

Other Methods

Other methods were used to promote VBM, including social media blasts, text alerts, a video that ran on the City's television channel, notices distributed at 15 schools for students to take home to their families, press releases, a dedicated phone line to respond to voter inquiries, moveable electronic message boards at strategic road intersections, a banner spread across an intersection leading to Town Center,



an exhibit at the Rockville branch library, and

a City van decorated to advertise the election.

Update the Voter Database

A voter list, as complete and accurate as possible, is necessary to conduct a fair election. Such a list is also important for candidates. The City depends on MDVoters, the voter database maintained by the State. The City does not have direct access to MDVoters, it provides updated voter information to the State through the Montgomery County Board of Elections (MCBOE). Mailings, discussed above as a community outreach activity, were also a method to obtain information with which to update MDVoters. After the first mailing, postcards returned as undeliverable were sent to the MCBOE. The MCBOE researched the voter to whom each returned postcard was sent. On the basis of that research, MDVoters was updated to reflect changes such as a voter moving to another jurisdiction or the unreported death of a voter. The BSE used the updated database to create the mailing list for its next mailing. This process was repeated for each subsequent mailing. After each of the four mailings, the number of postcards returned decreased. MDVoters, updated after four mailings, was used to create a final mailing list of residents to whom ballots were sent. An interim updated voter list was used by candidates for their mailings and other campaign activities.

Design, Print, and Deliver Ballot Packages

Although the Mayor and all four Councilmembers are elected at large, the City Code establishes 10 election districts. Therefore, 10 ballot "styles," one for each district, were printed, in both English and Spanish, to allow for post-election data analysis. All ballot styles included space for write-ins for both the Mayoral and Council contests.

Conduct the Election

The City designed VBM outbound and inbound envelopes with input from a U.S. Postal Service (USPS) Mailpiece Design Analyst. The outbound envelope contained a unique intelligent mail barcode to enable outbound tracking. Inbound envelopes also included an intelligent mail barcode so that voters were able to track the status of their ballots by checking the City of Rockville election website. The ballot and inbound envelope/ballot combination worked well in that returned envelopes could be fed through an envelope opening machine, which significantly reduced canvassing time.

The vendor prepared and sent ballots to all voters except:

- Confidential voters, i.e., judges and others who may legally withhold their home addresses for security reasons; these voters picked up their ballots in person at City Hall.
- Military and overseas voters; these ballot packages were mailed by the City Clerk's Office.
- Voters registered after the deadline for requesting a ballot by mail; these voters voted at the Vote Center on Election Day.
- Residents of participating nursing homes.

Any resident of the City was eligible to receive a ballot by mail provided they had registered by September 20 (a deadline established to ensure that MDVoters could be updated in time to create the final mailing list), were a citizen, and would be 18 years old on or before Election Day.

Ballots were mailed 28 days before Election Day to all voters registered by September 20, 2019, 45 days before the election. Voters who registered between September 21, 2019 and October 15, 2019, 21 and 46 days before Election Day, were able to request that a ballot be mailed to them. Those voters who registered after October 15, 2019 could not request a ballot be mailed to them, but could come into City Hall before Election Day or come to the Vote Center on Election Day to obtain and cast a ballot.

Voters who received ballots were instructed to mark their ballots and return them in time to be received at City Hall no later than 8:00 p.m. on Election Day. Voters were informed and

repeatedly reminded that postmarks did not count. A voter could return a ballot by 1 of 3 methods:

- Mailing via USPS using the provided prepaid envelopes.
- Placing it in a secure, locked drop box outside City Hall which was accessible 24 hours a day.
- Placing it in a secure, locked drop box inside City Hall during normal business hours or until 8:00 p.m. on Election Day.

Pre-Election Day Ballot Process

All ballots from the USPS delivered to City Hall before election day were counted, batched into groups of 50, logged in, and locked in a secure ballot transfer bin. All ballots from drop boxes at City Hall were removed according to schedule, counted, logged in on the internal or external drop box forms, locked in a secure ballot transfer bin, and placed in the secure storage cart until delivery to the secure Processing Center. From the time ballots were received in the Office of the City Clerk, every change of ballot location or custody was documented on a Chain of Custody form.

A delivery team made up of City staff, a BSE member, and a police officer delivered the ballot transfer bins to the secure Processing Center located at the MCBOE facility. MCBOE officials received the secure ballot transfer bins and executed the carbon Chain of Custody form. The MCBOE retained the original Chain of Custody form and the City kept the copy that allowed each batch to be tracked through the processing procedure.

Vote Center

Jurisdictions that conduct VBM elections open one or more Vote Centers on Election Day. Based on the number of registered voters and polling places in the City, the BSE determined that one consolidated Vote Center would be sufficient. That Vote Center was located in City Hall and provided services to voters, including but not limited to, ballot replacement, assistance with the ballot, Same Day Registration, provisional voting, assistance with casting the ballot in the ballot box, language translation, and answers to questions.

Three of these services are discussed below:

Replacing Ballots
Voters who lost, damaged, or changed their minds after marking - but before mailing - the ballot or otherwise needed to have a ballot replaced were able to request replacement ballots beginning 7 days after ballots were mailed.

Replacement ballots were available at City Hall or, if requested in sufficient time, could be mailed to the voter. Voters who did not receive a ballot in the mail because of an address change or because they were not on the voter database were required to update or complete a Maryland Voter Registration Application in order to have a ballot mailed to them.

Same Day Registration
Same Day Registration was offered at City Hall on Election Day. Same Day registrants voted provisionally on paper ballots or using the BMD. These provisional ballots were processed as described in the next section.

Provisional Voting
Voters who were not eligible to cast a regular ballot could cast a provisional ballot at the Vote Center on Election Day. Reasons for voting provisionally include:

- The database indicated voter had previously voted in this election.
- The database requested proof of ID.
- The database indicated that voter was not a resident of Rockville.
- The voter registered on Election Day.

Provisional voters cast their ballots by placing them in a ballot envelope and placing the envelope into a Provisional Ballot Bag.

The City contracted with the MCBOE to provide assistance at the Vote Center on Election Day, especially on-site support for equipment and assistance with voter check-in.

The MCBOE provided the following equipment at the Vote Center:

- 10 ADA-compliant Ballot Marking Devices (BMD)
- 1 portable ballot box
- 10 secure, ballot transfer bins
- 6 voting booths
- 1 portable, secure storage cart to hold unvoted ballots, ballot envelopes, and other supplies.

A limited number of Election Officials were trained by MCBOE staff contracted by the City to give basic information. Training included standard election procedures such as line management, assisting voters to and at the voting booth, and directing voters to the appropriate place such as the drop box and exit. One Election Official was trained on Provisional Voting procedures and staffed the Provisional Voting area.

Election Day Voted Ballot Process

The same procedure for processing ballots before Election Day was used on Election Day. A team of Election Officials emptied the drop box in the Vote Center and the drop box at City Hall. Under police protection, voted ballot envelopes were counted from each depository and delivered to the secure storage cart until ready for delivery to the secure Processing Center.

USPS conducted a “sweep” of all mail boxes late on Election Day to ensure any ballots mailed late in the day were recovered and delivered to the Vote Center by 8:00 pm, when the last transfer of voted ballots took place.

With police protection, the ballots locked in secure bins were transferred, in a police vehicle, from the Vote Center to the secure Processing Center.

At the secure Processing Center, the bins were unlocked, ballot envelopes were counted to ensure the number delivered matched the number removed from the depositories at the Vote Center, and the ballot envelopes were logged.

Canvass

The canvass is a process to determine which ballots can be counted. Reasons for not counting include no signature on envelope, more than one ballot in an envelope, or identifying marks on the ballot. The canvass also identifies ballots that may need to be duplicated so they can be machine read, e.g., those with ragged edges or stray markings. The number of ballots accepted and questioned must match the number of ballots given to a canvass team. On a predetermined schedule, beginning no sooner than 21 days prior to Election Day, returned ballot envelopes were canvassed by sworn in Election Workers following established Standard Operating Procedures. The BSE oversaw the canvass.

At the canvass, Election Officials researched each provisional ballot and made a recommendation on whether the BSE should accept it. All provisional ballots, including those identified by Election Officials as potentially ineligible, were presented to the BSE for review and adjudication. All accepted ballots were scanned at the end of each canvass but not tabulated and the counts added to the tabulation conducted after the Vote Center closed on Election Day. Election results could not be certified until the provisional ballot process was completed.

Tabulation

Trained MCBOE Officials tabulated all ballots, except provisional ballots and a small number of questioned ballots, as soon as the final canvass was completed after the polls closed on Election Day to produce the unofficial results. Tabulation must be—and was—overseen by a quorum of BSE members.

As noted above, election results could not be verified until after the final canvass, which could not be conducted until at least 2 days after Election Day, when the BSE voted on accepting provisional and questioned ballots.

Goals Achieved

As identified in the section "Problems Identified Prior to Vote by Mail," the problems of reduced voter turnout and an inaccurate database were successfully solved in 2019.

Addressing Voter Turnout – The City experienced an increase in voter turnout that almost doubled the turnout in the three preceding elections as appears in Appendix B.

Improving the Voter Database – The Voter Database was updated as described in the two sections: Conduct Community Outreach and Update Voter Database. The returned undeliverable ballot rate appears in Appendices C and D. The Voter Database is continually being updated by the MCBOE.

Table 2 shows the significant increase in voter turnout compared to the turnout in the three previous City Elections.

Table 2. Voter Participation in City of Rockville Election 2011-2019

Election Year	Estimated Population	Registered Voters	Voter Percent
2011	62,102	36,840	6,240 / 16.94
2013	63,736	40,494	6,685 / 16.51
2015	66,673	40,749	6,468 / 15.87
2019	68,268	39,499	12,287 / 31.10

Attachment 7.A.a: 2019 BSE Vote by Mail Final Report 4.6.2020 (2937 : Board of Supervisors of Elections - 2019 Vote by Mail Election Report)

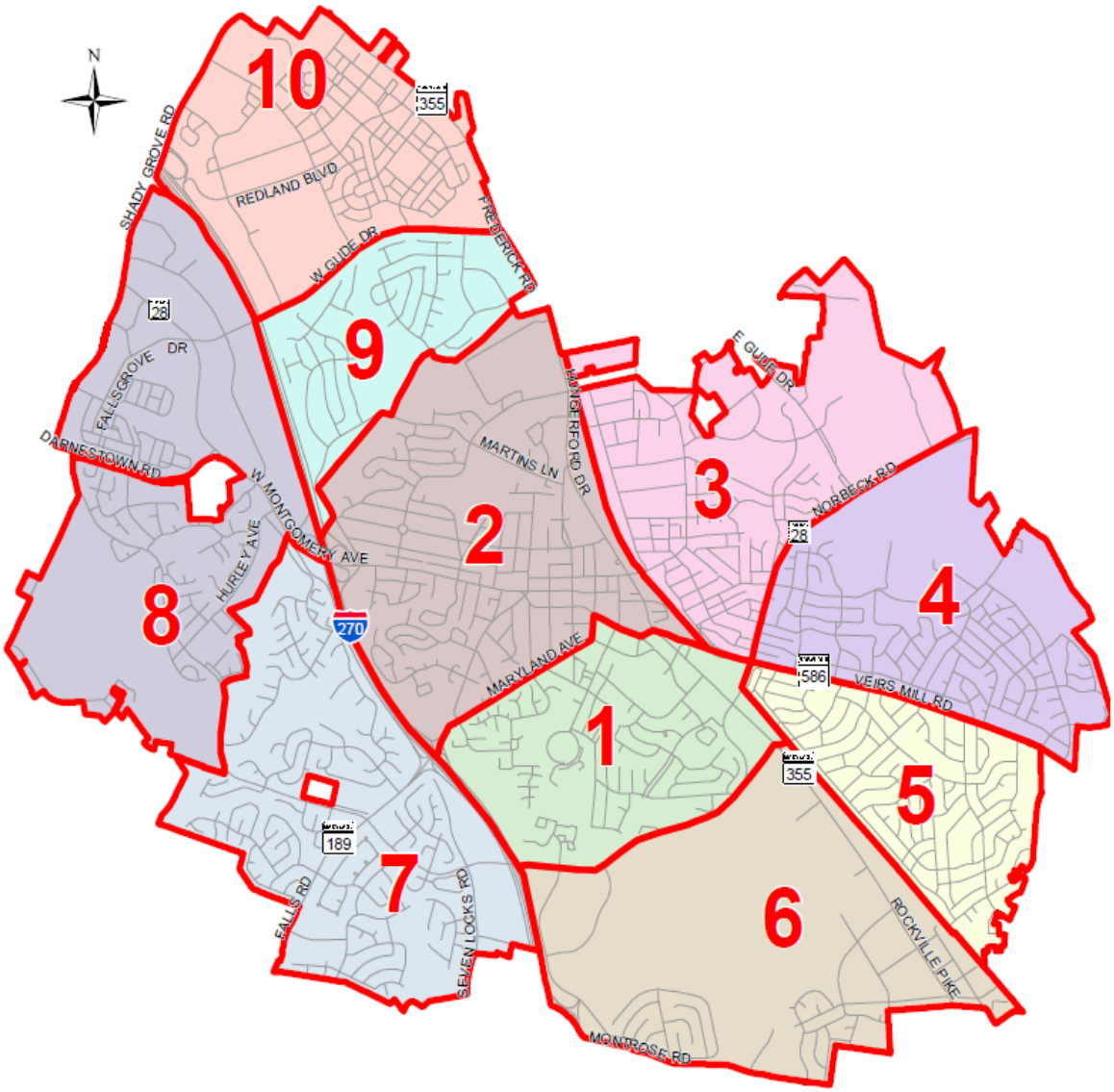
Appendices

The following appendices contain charts, summaries, and historical information that augment the text presented in the report.

Note: Appendix E provides cost information for the elections in 2011, 2013, 2015, and 2019. This is to facilitate cost comparison. The same template is used for 2011-2015 election years to reflect differences not only in costs but also in processes. The lack of an entry for a cost line item indicates that the item was not used in that election year.

Appendix A: 2019 District Map

DISTRICT	TOTAL BALLOT CAST	TOTAL REG. VOTERS
1	1,193	3,541
2	2,327	6,343
3	793	2,633
4	1,090	3.491
5	1,077	3,723
6	711	3,405
7	1,554	4,374
8	1,118	4,030
9	968	2,285
10	1,456	5,570



Appendix B: All District Turnout 2011 – 2019

Rockville Election Turnout by District 2011, 2013, 2015, 2019										
	All				D-1 Elwood Smith Rec. Center			D-2 Rockville Swin Center		
	Pop	Register	No.	%	Register	No.	%	Register	No.	%
2011	62,102	36,840	6,240	16.94	3,262	606	18.58	5,583	1,144	20.49
2013	63,736	40,494	6,685	16.51	3,691	641	17.37	6,356	1,277	20.09
2015	66,673	40,749	6,468	15.87	3,772	602	15.96	6,414	958	14.94
2019	68,268	39,395	12,287	31.18	3,589	1,193	33.24	6,405	2,327	36.33

Rockville Election Turnout by District 2011, 2013, 2015, 2019 (cont'd.)												
	D-3 Lincoln Park Cmty Center			D-4 F. Scott Fitzgerald Social Hall			D-5 Twinbrook Cmty Center			D-6 Montrose Cmty Center		
	Register	No.	%	Register	No.	%	Register	No.	%	Register	No.	%
2011	2,468	382	15.48	3,448	473	13.72	3,164	518	16.37	3,178	254	8
2013	2,770	428	15.45	3,695	511	13.83	3,640	521	14.31	3,417	264	7.7
2015	2,801	385	13.75	3,746	463	12.36	3,770	473	12.55	3,288	221	6.7
2019	2,651	793	29.91	3,531	1,090	30.86	3,775	1,077	28.52	3,473	711	20

Rockville Election Turnout by District 2011, 2013, 2015, 2019												
	D-7 *Ritchie Park /#Latvian Ch			D-8 Thomas Farm Cmty Center			D-9 Rockville Senior Center			D-10 King Farm Cmty Center		
	Register	No.	%	Register	No.	%	Register	No.	%	Register	No.	%
2011	*4,453	756	16.98	4,265	457	10.72	2,410	562	23.32	4,608	658	14
2013	*4,574	819	17.91	4,369	417	9.54	2,530	640	25.30	5,452	702	13
2015	#4,550	717	15.76	4,372	397	9.08	2,502	552	22.06	5,534	746	13
2019	4,394	1,554	35.36	4,062	1,118	27.52	2,307	968	41.95	5,660	1,456	26

Attachment 7.A.a: 2019 BSE Vote by Mail Final Report 4.6.2020 (2937 : Board of Supervisors of Elections - 2019 Vote by Mail Election Report)

Appendix C: Outcome 2019 Ballot Return Summary

SUMMARY OF BALLOTS SCANNED – 12,287		
	Number	**% of Vote Cast**
Election Day Voters	2,711	22.06
Provisional	74	.60
By-Mail or Dropbox - October 7- November 4	9,502	77.33
Total	12,287	*100.00

*Rounded

ENVELOPES MAILED – 39,499 ACTIVE REGISTERED VOTERS		
	Number	**% of Envelopes Mailed**
Envelopes Mailed	39,499	
Ballots Scanned	12,287	31.10
Envelopes Returned Undeliverable	2,319	5.86
Envelopes Received Past Deadline	144	0.36
Envelopes Accounted For	14,750	37.00
Envelopes Unaccounted For	24,749	63.00
Total		100.00

Attachment 7.A.a: 2019 BSE Vote by Mail Final Report 4.6.2020 (2937 : Board of Supervisors of Elections - 2019 Vote by Mail Election Report)

Appendix D: Election Comparison

Rockville Election Comparison 2011, 2013, 2015, and 2019					
	2011	2013	2015	2017	2019
VOTE					
Total Cost of election	$39,101	$47,648	$61,895		$193,540
Number of ballots cast	6,240	6,685	6,468		12,287
Cost per ballot (voter)	$6.27	$7.13	$9.57		$15.75
BALLOT					
Number of Candidates	11	8	11		15
Turnout - number of ballots cast	6,240	6,685	6,468		12,287
Number of candidates per contest:					
Mayor	2	2	2		2
Council	9	6	9		13
UNIQUENESS					
Polling places on Election Day	✔ 10	✔ 10	✔ 10		
Polling Place for Early Voting – 2days)			✔ 1		
Vote Center					✔ 1
Method Touch Screen Voting Unit	✔	✔			
Pilot for County & State equipment (no cost)			✔		
BMD and scanner (no cost)			✔		
Early Voting and BMD			✔		
(VBM)					✔
Ballot Referenda		✔ 3			
(VBM), with two open seats					✔
Election Cycle change from 2 to 4 years			✔		✔
No election				✔	
OUTREACH/MAILING					
Posters		✔			✔
Number of mailings:					
Sample ballots / postcards	1	1	1		4
DATABASE					
Returned mail - sample ballots/ballots	*3,000	*2,100	*1,900		2,319

*Estimates

Attachment 7.A.a: 2019 BSE Vote by Mail Final Report 4.6.2020 (2937 : Board of Supervisors of Elections - 2019 Vote by Mail Election Report)

Appendix E: Costs For 2011 - 2019 Elections

Rockville Election Cost Comparison 2011, 2013		
	2011	2013
Postcards (only District 7)		
Postcard printing #1 and #2		
Postcard mail #3 and #4		
Postcard printing #3 and #4		
Postage fees: maintenance on return		
Postage fees: return ballots mailed back		
Vendor postage and return ballots		
Equipment and transportation	2,176	$3,678
Equipment dropboxes purchase		
Equipment dropbox install		
BMD audio and software (vendor)		
Ballot storage		
Pollbooks	0	1,250
Personnel (training, food & manual)	22,098	19,311
Postage sample ballot	11,246	14,549
Sample ballot, label and mail	1,458	4,657
Ballot envelopes	710	85
Ballot preprint setup (vendor)		
Material(ballot bag, supplies, & giveaways)	695	0
Translation	543	195
Inauguration	2,135	2,960
Lease agreement		
Candidate information printing	35	40
Total (also archived total)	$39,101	$47,648

Attachment 7.A.a: 2019 BSE Vote by Mail Final Report 4.6.2020 (2937 : Board of Supervisors of Elections - 2019 Vote by Mail Election Report)

Appendix E: (cont'd)

Rockville Election Cost 2015	
Advertising newspaper notices	
Postcards (District 7)	1,558
Postcard print #1 and #2	
Postcard mail #3 and #4	
Postcard printing #3 and #4	
Postal fees: maintenance on return	
Postal fees: return ballots mailed back	
Vendor postage and return ballots	
Equipment (Pilot, Transportation)	
Equipment dropboxes Purchase	
Equipment dropbox install	
BMD audio and software (vendor)	
Ballot storage	
Pollbooks	1,250
Personnel(training, food, manual)	28,255
Postage sample ballot	16,020
Sample ballot, label and mail	5,807
Ballot envelopes	
Ballot preprint setup (vendor)	
Material(ballot bag, supplies, giveaway)	326
Translation	
Inauguration	2731
Lease agreement for polling places	500
Candidate information printing	2,217
Total here	$58,664
Unaccounted for costs	3,231
Archived total	$61,895

Appendix E: (cont'd)

Election Expenses (FY19)	
OBJECT NAME	**ACTUAL EXPENSES**
Consultants	14,304
Postage	7,395
Contract Services-Other	3,700
Printing Contracts	6,194
Program Supplies	3,503
Food and Beverage	143
Board & Commission Support	154
Special Projects	3,000
Total: FY19	**$38,393**

Election Expenses (FY20)	
Postage	23,753
Advertising-Non Recruitment	5,578
Dues Fees & Publications	88
Contract Services -Other	17,937
Printing Contracts	103,795
Program Supplies	2,392
Board And Commission Support	26
Total: FY20	**$153,569**

M&C Inauguration Expenses	
Consultants (StarSigns)	490
Food & Beverage-Internal	838
Program Supplies (RMHS)	250
Grand Total Expenses:	**$193,540**

Communications (FY20)	Details	Actual
Additional pages for RR $1,300		1,160
Advertising costs $8,000	Television Ads	2,578
	Social media ads	300
	Bike Share signs	1,407
	Window Clings for facilities	506
	Magnets for City vehicles	0
Additional costs	Neighborhood signs	1,469
	Pens	1,517
	Banner bug for apperances	200
	Vehicle wrap	2,475
Voter Guide		
Printing	40,000 copies	5,988
Postage		7,366
Total FY20		**$24,966**

Attachment 7.A.a: 2019 BSE Vote by Mail Final Report 4.6.2020 (2937 : Board of Supervisors of Elections - 2019 Vote by Mail Election Report)

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Consent
Department: PW - Fleet Services
Responsible Staff: John Davis

Subject

Authorize the City Manager to Award a Rider Contract for Diesel Fuel for City Vehicles and Equipment for a Contract Period Up to Five (5) Years in the Aggregate Amount Not to Exceed $1,200,000

Recommendation

Staff recommends the Mayor and Council authorize the City Manager to award a contract for a one (1) year period not to exceed $150,000, with the option to extend for up to four (4) additional one (1) year periods not to exceed $1.2 million total.

Discussion

Washington Metropolitan Area Transit Authority (WMATA), acting as lead jurisdiction on behalf of the members of the Metropolitan Washington Council of Governments (MWCOG) Purchasing Group, solicited proposals for diesel fuel, combining the estimated usage of the agencies that chose to participate in this procurement. Participants included the City of Rockville, Fairfax County Facilities, City of Alexandria, Montgomery County Public Schools, Prince George's County, and Howard County. Each agency is responsible for executing their own contract with the supplier in accordance with their purchasing policy and procedures. WMATA's IFB-C20129 closed on April 1, 2020. WMATA has not awarded a contract to date to provide No. 2 Ultra Low Sulfur Diesel Fuel. We are expecting the award within a few weeks. This will be a one (1) year contract with the option to extend for up to four (4) additional one-year periods.

The City's usage by fund, in gallons, has been as follows:

Usage	GENERAL 110	WATER 210	SEWER 220	REFUSE 230	SWM 330	TOTAL
FY18 Gallons (Actual)	19,127	5,836	4,316	47,973	3,007	80,259
FY19 Gallons (Actual)	18,983	5,276	3,471	47,394	3,664	78,788
FY20 Gallons (Projected)	13,241	3,928	3,021	48,490	2,923	71,603

The City's estimated usage by fund, in gallons, is as follows:

Estimated Usage	GENERAL 110	WATER 210	SEWER 220	REFUSE 230	SWM 330	TOTAL

FY21 Gallons	19,200	6,000	4,400	48,500	3,700	81,800

Mayor and Council History

This is the first time this item has been brought before the Mayor and Council. Contract CQ17100, which was awarded by the Mayor and Council on May 15, 2017 for diesel fuel, expired on April 27, 2020 with no further options to renew.

Procurement

As previously stated, WMATA conducted the solicitation on behalf of the participating agencies within the MWCOG purchasing group. During this process, all agencies were able to pool their buying power by aggregating their purchasing needs. As a result, each agency benefits from favorable volume pricing and future savings.

Per the Rockville City Code Section 17-71(a) Cooperative procurement authorized: The City may participate in, sponsor, conduct, or administer cooperative procurement agreements with one or more other public entities when the best interests of the City would be served thereby.

Fiscal Impact

The last price paid for diesel fuel was $0.99, however, due to the long term forecast information available from the US Energy Information Administration, staff recommends using an average price of $1.72 per gallon and a not-to-exceed value of $150,000 for this contract period. Continuation of the contract each additional year is subject to availability of funds.

Budget capacity is available in FY20 to accommodate the fuel costs for the remainder of the fiscal year. The FY21 budget includes approximately $136,000 across all funds in the Fleet Services Division for the purchase of diesel fuel. Diesel fuel is charged to each appropriate fund at the time of delivery and is based on the actual fuel usage within each fund during the time period between deliveries.

Next Steps

Upon City Manager approval, the Procurement Division will issue a contract to the awarded bidder.

Rob DiSpirito, City Manager 5/7/2020

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Consent
Department: PW - Engineering
Responsible Staff: David Waterman

Subject

Authorization to Release and Extinguish an Existing Stormwater Management Easement and Inspection & Maintenance Agreement on Lot 29, Block 2 of the Autrey Heights Subdivision

Recommendation

Staff recommends that the Mayor and Council authorize the City Manager to execute a document, in a form acceptable to the City Attorney, to release and extinguish the stormwater management easement and inspection and maintenance agreement recorded at Liber 30687, folio 451 in the Montgomery County Land Records in conjunction with the 1125 Rockville Pike (Rockville Audi) development project, subject to approval of a new stormwater management easement and inspection and maintenance agreement.

Discussion

The existing stormwater management easement on the property located at Lot 29, Block 2 of the Autrey Heights subdivision, recorded in the Land Records of Montgomery County, Maryland at Liber 30687, folio 451, will no longer be necessary because the existing underground stormwater management system on the property will be retrofitted to accommodate the proposed site redevelopment. The developer, SRE Virginia-1, LLC, will dedicate a new stormwater management easement for the retrofitted stormwater management system, which will be located on a slightly different area of the property than the existing system. The locations of the existing easement and the new easement to be dedicated are shown in Attachment A.

Mayor and Council History

This is the first time this item has been brought before the Mayor and Council.

Next Steps

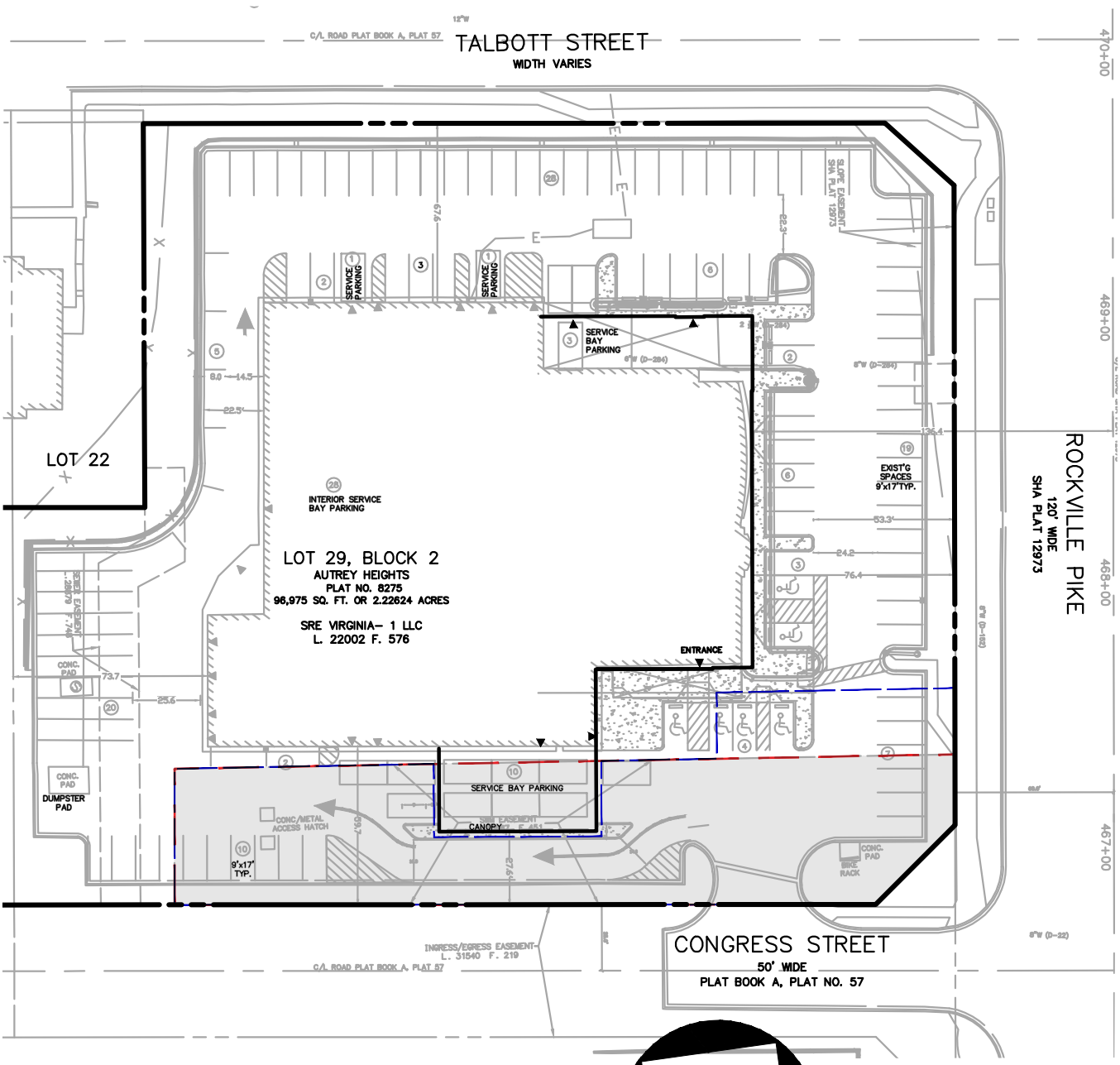
If the Mayor and Council approves the release of the stormwater management easement and inspection and maintenance agreement, the City Attorney's Office will review and approve a release to be executed by the City Manager. Upon recordation of a new stormwater

management easement and inspection and maintenance agreement, the release will be recorded in the Montgomery County Land Records.

Attachments

Attachment 10.B.a: ATTACHMENT A (PDF)

Rob DiSpirito, City Manager 5/7/2020



EASEMENT AREA TO BE VACATED

NEW EASEMENT AREA

GRAPHIC SCALE

60 0 30 60 120 240

(IN FEET)
1 inch = 60 ft.

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ROCKVILLE AUDI

ROCKVILLE ELECTION DISTRICT
1125 ROCKVILLE PIKE
ROCKVILLE, MARYLAND

VIKA MARYLAND, LLC
20251 Century Blvd., Suite 400
Germantown, MD 20874
301.916.4100 | vika.com

Our Site Set on the Future.

DRAWN BY:	JAE
DESIGNED BY:	JAE
DATE ISSUED:	3/20/20
PROJECT No.	VM50111
SHEET No.	1 OF 1

LAYOUT: SPA–1, Plotted By: evans

Attachment 10.B.a: ATTACHMENT A (3089 : Authorization to Release and Extinguish an Existing Stormwater Management Easement on Lot 29,

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Consent
Department: City Manager's Office
Responsible Staff: Jenny Kimball

Subject

Authorize the City Manager to Execute a Memorandum of Understanding with Rockville Economic Development Inc. (REDI), in a Form Acceptable to the City Attorney, to Provide City Staff Resources for REDI's Response to the COVID-19 Emergency

Recommendation

Staff recommends that the Mayor and Council authorize the City Manager to execute the memorandum of understanding.

Discussion

Businesses in Rockville are suffering from the negative impacts of the COVID-19 pandemic. The City's economic development partner, Rockville Economic Development Inc. (REDI), is a critical resource for the business community. Requests for services from REDI have increased significantly as business owners navigate the complex array of financial resources available, adjust to operating in a new normal environment, and seek training and advice on strategies to keep their businesses solvent.

To support this critical work, the City has explored opportunities to dedicate available City staff time to support REDI's increased workload. To facilitate the sharing of City resources with REDI, staff recommends that the Mayor and Council authorize the City Manager to execute a Memorandum Of Understanding (MOU) with REDI, in a form acceptable to the City Attorney, that outlines expectations and protects the organizations.

Upon execution of the MOU, and based on requests from Cindy Stewart, Executive Director of REDI, City staff will work on administrative support and information technology tasks, including:

- Gathering and entering client intake information into a REDI database and passing the client to the appropriate business counselor,
- Entering economic development workshop and seminar attendee information into the REDI database,
- Assisting with database cleanup for reporting to the Small Business Administration (SBA),

- Uploading data to the SBA's Entrepreneurial Development Management Information System (EDMIS),
- Assisting REDI with running virtual workshops/seminars using Zoom, specifically following chat questions, summarizing questions and transmitting them to the facilitator,
- Updating the workshop calendar on social media, the website and the database,
- Assisting REDI in determining specifications and pricing for computer equipment needed for the virtual environment, and
- Reviewing and assisting with database needs, as necessary.

The MOU would be in effect for six months or 30 days after the state of emergency ends, whichever comes first. The MOU will require that the assignments not interfere with City staff's regular duties. It will also indicate that in no event shall the total number of hours expended by all City staff exceed 30 hours per week. City staff will conduct the work from their individual homes in a telework capacity or from their routine place of work at the City of Rockville.

Mayor and Council History

This is the first time that this item has come before the Mayor and Council.

Next Steps

The City Manager and REDI will execute the memorandum of understanding and coordinate the staff assignments.

Rob DiSpirito, City Manager 5/7/2020

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Discussion and Instructions
Department: Recreation & Parks
Responsible Staff: Colleen McQuitty

Subject

Cancellation of the City's Independence Day Celebration

Recommendation

Staff recommends Mayor and Council discuss the cancellation of the City's 2020 Independence Day Celebration. In order to keep the community safe and to do our part to stop the spread of COVID-19, staff recommends canceling the event.

Discussion

The Rockville Independence Day Celebration is scheduled for Saturday, July 4, 2020 at Mattie J.T. Stepanek Park. The event includes a concert starting at 7 p.m., a welcome from the Mayor and Council and National Anthem at 9 p.m., and a fireworks display at 9:15 p.m. The event draws crowds of nearly 30,000 people and requires 175 staff members, contractors and partners to implement.

Due to concerns over the COVID-19 public health pandemic, staff explored options to modify the event content which included canceling the concert and only holding the fireworks display. However, there are still concerns with the public congregating at the park and alternative sites outside of the park.

Staff has been monitoring the status of other Independence Day celebrations. To date, the Bethany Beach and Rehoboth Beach celebrations and fireworks are cancelled. Other jurisdictions have not made a final decision. Staff is in contact with Gaithersburg city and Montgomery County counterparts to learn about their decisions.

In order to keep the community safe and to do our part to stop the spread of COVID-19, staff recommends canceling the event.

Fiscal Impact

If the event is cancelled, the savings would be a net $65,850 for FY 2021, which includes $67,850 in expenditures and $2,000 in revenue.

Next Steps

Staff will proceed with planning or cancelling the Independence Day Celebration based on input from Mayor and Council.

Rob DiSpirito, City Manager 5/7/2020

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Introduction and Possible Adoption
Department: PDS - Zoning Review & Other
Responsible Staff: Deane Mellander

Subject

Introduction and Possible Adoption of an Ordinance to Grant Text Amendment Application TXT2019-00251 -To Adopt Regulations for the Installations of Small Cell Antennas; Mayor and Council of Rockville, Applicant

Recommendation

Introduce the proposed Ordinance.

If the Mayor and Council wish to introduce the ordinance and proceed to adoption at the same meeting, the ordinance should first be introduced, then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four or more members of the Mayor and Council, a motion to adopt the ordinance can then proceed.

Change in Law or Policy

The proposed text amendment will revise current provisions for wireless facilities to include specific requirements for the installation of small cell wireless facilities outside of the public rights-of-way.

Discussion

Background

On September 26, 2018, the Federal Communications Commission ("FCC") adopted a declaratory ruling and order (the "FCC Order") broadly interpreting the Telecommunications Act of 1996 ("1996 Act") and severely limiting local government authority on many issues related to the deployment of small cell wireless facilities. Although it is being challenged in Federal court by numerous local governments, the FCC Order went into effect on January 14, 2019. The City is a participant in one of the pending lawsuits.

Under the FCC Order, "small wireless facilities" are defined as facilities that: (i) are mounted on structures 50 feet or less in height including their antennas, or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10

percent, whichever is greater. Antennas for small wireless facilities can be no more than three cubic feet in volume, and other equipment associated with the facility can be no more than 28 cubic feet in volume.

The FCC Order permits local governments to establish aesthetic requirements for the installation of small cell wireless facilities. However, the aesthetic requirements must be (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance. A summary of the FCC Order is included as Attachment D.

City Zoning Regulations on Wireless Communication Facilities

The Mayor and Council adopted text amendment TXT2001-00191 in August 2001 to provide a comprehensive set of regulations for wireless telecommunications facilities in the City. This language is now incorporated as Section 25.09.08, “Wireless Communication Facility”, in the current Zoning Ordinance. The purpose of this section is to regulate the location and installation of macro antenna sites. Typically, these are multi-antenna installations mounted on monopole towers, lattice towers, or on the sides or roofs of buildings. Wireless facilities mounted on a new free-standing structure, i.e., a monopole or lattice tower, are required to obtain a special exception from the Board of Appeals. A facility located on an existing building or structure is a conditional use, subject to compliance with the provisions of Sec. 25.09.08.b.

These macro sites, which usually consist of three large panel antennas facing in different directions for each carrier, generally provide wireless service coverage for a radius of about two (2) to four (4) miles. The spacing between the macro antenna locations is dependent on several factors, including elevation, density of wireless traffic, and intervening trees or structures than can attenuate the signal strength.

In dense urban areas, gaps in service can exist due to the height and density of the built environment. Small cell antennas, which are a new and evolving technology, serve several functions: fill in existing service gaps; provide additional service in high-traffic areas, such as city centers; and support 5G wireless service.

Under the current provisions for wireless communications facilities in Section 25.09.08, panel antennas, which can be up to two (2) feet in width and six (6) feet in height, may be mounted on existing buildings or structures that are at least thirty-five (35) feet in height for nonresidential buildings, and fifty (50) feet in height on a multi-family residential building. An antenna may also be located on a ground-mounted support structure, i.e., a monopole or other antenna support structure if the structure receives approval of a special exception by the Board of Appeals. In addition, if a ground-mounted support structure is proposed to be more than 50 feet tall in a residential zone, or more than 50 feet tall within 500 feet of a residential zone, or more than 199 feet tall in a nonresidential zone, the Mayor and Council must grant a waiver of the height restrictions under Section 25.09.08.e.3.

Proposed Revisions to Zoning Regulations

The intent of this text amendment application (Attachment B) is to revise the City's Zoning Ordinance to comply with the FCC Order, while also allowing the City to regulate the deployment of small cell antennas in a manner that meets the needs of the City. Small cell antennas can be much smaller than the typical tower-mounted cell antennas. Depending on the carrier, the antennas may be either an omni-directional canister antenna, or a cluster of two or three small panel antennas. The text amendment application as submitted proposes to define small cell antennas as being no larger than three (3) cubic feet in size. Cumulative volumetric standards of twenty-eight (28) cubic feet are also proposed for equipment enclosures. These revisions are consistent with the FCC Order.

The definitions for Antenna, Antenna support structure, Colocation, Wireless communication facility, and Wireless communication service have all been revised to reflect the current terminology and to reflect the language in the FCC Order. A new definition for "Wireless communication facility, small" is proposed to be added to specifically address the regulation of small cell facilities in a manner consistent with the FCC Order.

The proposed text amendment also revises the current language to distinguish small cell installation regulations from regulations for other types of antenna installations, such as macro sites and monopoles. The language is revised to be consistent with the terminology in the FCC order. In some cases, the existing language has been reordered for better clarity of intent. The amendment also proposes to increase the allowable height of macro panel antennas from six (6) feet to eight (8) feet, in line with current industry practice.

A new subsection "d" has been added specifically to regulate small cell antennas that are not installed in the City's public rights-of-way. Small cell installations within the City's public rights-of-way are regulated under Chapter 21 of the City Code, Streets and Public Improvements. These regulations have already been promulgated by the Department of Public Works.

The land use tables for the residential, mixed use and industrial zones are proposed to be amended to reflect the revisions in Article 9. Small cell antennas are added as a conditional use, subject to the new provisions. No changes are proposed to the current regulations for wireless facilities in the RMD zones, and small cell antenna facilities would not be permitted. In the Industrial zones, the wireless provisions are proposed to be relocated within the tables from the Assembly and Entertainment section to the Industrial and Service Uses section to better reflect the characteristics of the use.

Under the FCC Order, the City is prohibited from requiring a wireless provider to prove that there is a gap in coverage and that a small wireless facility is needed in a particular location. Further, the FCC Order limits the City's ability to enact unreasonable spacing and underground requirements that could be construed as an effective prohibition on small cell facilities.

Neighboring Jurisdictions

Montgomery County adopted a text amendment in 2014 that allowed the installation of small cell antennas in the commercial and industrial areas of the County. The antennas are limited in size to three (3) feet high and two (2) feet wide. Where an antenna is proposed next to a detached residential zone, it must be located at least sixty (60) feet from a dwelling. A text amendment to allow and regulate small cell antennas in the residential zones was pending in the last Council session but did not get adopted and died with the end of the session. The County has deferred further action pending the outcome of their court case.

In the City of Gaithersburg's zoning ordinance, antennas are limited in size to four (4) feet tall by two and a half (2.5) feet wide. Antennas may be mounted on buildings or other support structures. Antenna height must be at least fifteen (15) feet on structures in non-residential and mixed-use areas and twenty (20) feet on multi-family buildings. Small cell facilities must be located at least thirty (30) feet from any single-family detached or attached dwelling. Stealth technology must be used in historic areas.

Staff Response to Public Hearing Comments

On September 16, 2019, the Mayor and Council held a public hearing on this text amendment application. Four members of the public spoke at the public hearing in opposition, with concerns regarding the potential health effects of small cell installations.

Staff notes that the 1996 Act gives the FCC sole, exclusive authority over all RF (radiofrequency) radiation standards, including assessing the health effects. Therefore, the City is expressly prohibited from regulating RF in any way upon any basis.

As noted above, the FCC Order that went into effect on January 14, 2019 requires local jurisdictions to allow the installation of small cell wireless facilities. Prior to January 14, 2019, the Mayor and Council adopted an applicable fee schedule and the Department of Public Works staff instituted regulations for small cell installations within the City's public rights-of-way. So far, seventeen applications for installation in the City's public rights-of-way have been approved.

If adopted, the text amendment will allow small cell/5G antennas to be located no less than 15 feet from the ground level on commercial and industrial buildings. The current regulations do not allow installations on single-unit detached, single-unit attached or semi-detached dwellings, or related accessory structures, and that limitation will continue with the small cell text amendment. The revised amendment also prohibits installation of antennas within the single-family zones or on any building that includes dwelling units. This would include mixed-use buildings.

With the revisions proposed, installations outside the public right-of-way must be no closer than 60 feet from a single unit detached dwelling. It also does not allow installation of antennas

in the single-family zones. Staff also recommends that additional language be added to Section 25.08.09.d.2.(a) to include a reference to the Planned Development zones. This will clarify that the designated equivalent zones in Article 14 for the various PDs will apply for the relevant types of development within those areas.

Note, however, that the regulations for installations in the public rights-of-way take precedence and are not impacted by the zoning regulations for property outside of right-of-way. While Staff understands citizens' concerns regarding health effects expressed at the hearing and in the written submittals, the City has no authority to address this issue. If an installation complies with existing federal RF standards, the City cannot deny an application based on health concerns. The City can and does require providers to demonstrate compliance with federal RF standards.

Discussion and Instructions to Staff

The Mayor and Council held a Discussion and Instructions to Staff session on this proposal on March 18, 2020. The Mayor and Council expressed concerns about the potential impacts of small cell installations outside of the public rights-of-way, especially on the character of residential neighborhoods. While the text amendment as submitted recommended a 25-foot minimum setback from any single-family house, the Mayor and Council felt this was insufficient and noted that Montgomery County requires a 60-foot setback from single-family homes. In order to preserve neighborhood character and to minimize negative impacts, the recommendation was also made to not allow installations in the single-family zoned neighborhoods, noting that installations within the public rights-of-way are permitted and should provide sufficient coverage in those areas. They also expressed concern about installations located on buildings that included multi-family dwellings. Finally, the Mayor and Council wanted to ensure that wireless facilities that are no longer in service be removed in a reasonable time frame, concluding that a 90-day period was sufficient, along with notice to the City.

As a result of those discussions, the Mayor and Council recommended several revisions to the submitted text, which are included in the draft Ordinance (see Attachment A). The revisions are summarized as follows:

- No antennas can be located on a single-family detached, semi-detached, townhouse, or multi-unit dwelling or associated accessory structures. The revision adds multi-unit dwellings, including those within a mixed-use building, to this list.
- Antennas may not be located within a single-family residential zone, outside the public right-of-way.
- Antennas located outside the public right-of-way must be located at least 60 feet from a dwelling unit, and 250 feet from another antenna support structure.
- Antenna installations located in Planned Development zones must comply with the designated equivalent zone provisions as shown in Article 14.

- Installations that are no longer in service must provide notice to the City that the installation is no longer in service and be removed by the facility owner within 90 days.

The following items were included in the text amendment as submitted and remain:

- Installations must be designed and located to minimize visual impacts, including use of stealth technology.
- Support equipment must be enclosed and cannot exceed five (5) feet in height.
- As per the FCC Order, antennas cannot exceed three (3) cubic feet in volume, and support equipment cannot exceed an aggregate total of twenty-eight (28) cubic feet in volume.
- Antennas cannot extend more than three (3) feet above the existing height of the pole or support structure.
- Where underground utilities are required, any equipment enclosures must be located below grade, unless incorporated into the base of the support structure.
- No installations are permitted on a historic structure or within a historic district where any portion of the installation except the antenna is visible from the ground.
- If the installation is no longer in use, it must be removed by the owner at their expense.
- No hazardous materials can be stored on the site.

The revised text (Attachment A) includes the revisions from the Discussion and Instructions session and are shown in blue font in the draft final ordinance. Staff notes that the Mayor and Council discussion regarding the 60-foot setback for small cell facilities as it would apply to corner lots is not needed, as the text amendment does not permit small cell antennas in residential zones, and the 60-foot setback would apply in any direction from a dwelling unit.

Recommendation

As previously noted, staff believes that most small cell installations will occur within the City's public rights-of-way, which are already permitted subject to compliance with the promulgated standards. For small cell installations outside of the City's public rights-of-way, installation of small cell antennas is already possible within the limits of the current code requirements, which were developed for the earlier versions of cellular service and do not adequately accommodate or address new hardware or services, such as 5G, which is provided via a small cell network. Approval of the proposed revised text amendment (Attachment A) gives the City oversight of small cell installations in a consistent and FCC-compliant manner, allowing for the implementation of 5G service while also protecting the public interest through design standards and locational requirements.

Mayor and Council History

The Mayor and Council authorized the filing of this text amendment application on April 1, 2019. The public hearing was held on September 16, 2019. As noted above, four members of

the public spoke at the public hearing in opposition to the text amendment. The Mayor and Council held a Discussion and Instruction session on March 18, 2020, which is summarized above.

Public Notification and Engagement

Notice of the filing of the text amendment application and the date for Planning Commission recommendation were sent to the homeowner's associations and civic associations via the City's neighborhood listserv. The public hearing was advertised in a local newspaper of general circulation for two weeks prior to the hearing date.

Boards and Commissions Review

The Planning Commission reviewed this text amendment application at its meetings on June 26 and July 24, 2019, and recommended approval. Their recommendation is included in Attachment C.

Attachments

Attachment 12.a:	Final Draft Ordinance	(PDF)
Attachment 12.b:	Final Draft, Text Amendment TXT2019-00251	(PDF)
Attachment 12.c:	Planning Commission Recommendation on TXT2019-00251	(PDF)
Attachment 12.d:	Summary of FCC Declaratory Ruling and Order on Small Cells	(PDF)

Rob DiSpirito, City Manager 5/7/2020

Attachment A

Ordinance No. ____ ORDINANCE: To grant Text Amendment Application No. TXT2019-00251, Mayor and Council of Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2019-00251 for the purpose of amending Chapter 25 of the Rockville City Code, "Zoning," so as to revise Chapter 25 for the purpose of revising current code regulations for wireless facilities to include specific requirements for the installation of small cell wireless facilities outside of the public rights-of-way; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meetings of June 26 and July 24, 2019 and recommended approval to the Mayor and Council; and

WHEREAS, pursuant to the Land Use Article of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on September 16, 2019, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on September 16, 2019, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council, having considered the text amendment application and the entire file pertaining thereto, said Mayor and Council have decided that the granting of this application, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

Attachment 12.a: Final Draft Ordinance (3058 : Adoption of Text Amendment TXT2019-00251 - Small Cell Antennas)

Amend Article 3, "Definitions; Terms of Measurement and Calculations", as follows:

Sec. 25.03.02. - Words and terms defined.

***

Antenna means any structure or device used to collect, receive, transmit, or radiate electromagnetic waves, including both directional antennae (such as panels, microwave dishes, satellite earth station antennae over two (2) meters in diameter), or diagonal measurement, and omni-directional antennae (such as whips). This term does not include end-user antennas two (2) meters or less in diameter or diagonal measurement and designed for:

1. End-user over-the-air reception, not transmission, of multi-channel multi-point distribution service;
2. Direct broadcast satellite service;
3. End-user reception of signals from an Internet service provider and end-user transmission of signals to an Internet service provider;
4. Mobile radios; or
5. Antennas permitted by right by 47 C.F.R. Section 1.4000, as amended.

Antenna support structure means a structure designed for the primary purpose of supporting one (1) or more antennae (including telescoping mast, tower, monopole, tethered blimp, or other support structure). The term includes structures located on buildings or other structures, ground-mounted, or tethered, and towers, as defined in 47 C.F.R. Section 1.40001(b)(9). Without limitation, the term does not include utility poles or structures, including public structures in the public right-of-way.

***

Collocation ~~means the use of a wireless telecommunications facility by more than one (1) wireless service provider~~ has the same meaning as in 47. C.F.R. Section 1.4001(g).

***

Equipment enclosure means, for purposes of a wireless communication facility, a freestanding or mounted structure, shelter, cabinet, or vault used to house and to protect the electronic equipment and associated equipment necessary for processing wireless communication signals. Associated equipment may include air conditioners, back-up power supplies, and emergency generators.

***

Small wireless communication facility – See Wireless communication facility, small.

***

Wireless communication facility means a facility fixed at a location temporarily or permanently for the transmission and/or reception of wireless communication services, consisting of one (1) or more antennas and the equipment at that location necessary to the provision or reception of wireless communication services, including, but not limited to, transmission cables and related equipment enclosures.

Wireless communication facility, small means a wireless communication facility that meets each of the following conditions:

1. The structure on which antenna facilities are mounted:
   (a) is 50 feet or less in height; or
   (b) is no more than ten percent (10%) taller than other adjacent structures; or
   (c) is not extended to a height of more than ten percent (10%) above its preexisting height as a result of the collation of new antenna facilities; and
2. Each antenna, excluding associated antenna equipment, is no more than three (3) cubic feet in volume; and
3. All antenna equipment associated with the small wireless communication facility, excluding antennas, is cumulatively no more than twenty-eight (28) cubic feet in volume; and
4. The small wireless communication facility does not require antenna structure registration; and
5. The small wireless communication facility does not result in human exposure to radiofrequency in excess of the applicable safety standards specified by Federal law.

Wireless communication service means those personal wireless services as defined ~~in the same manner as~~ in Title 47, U.S. Code, Section 332(c)(7)(c), ~~as they may be amended from time to time~~ and such other services that consist of the transmission, ~~or transmission, and/~~or transmission and reception of information by electromagnetic wave, digital signals, broadcast television signals, analog signals, radio frequencies, or other communication signals.

Amend Article 8, "Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities", as follows:

Sec. 25.09.08. - Wireless Communication Facility.

a. *Purpose.* The purpose of this section is to provide a uniform and comprehensive set of standards for the development and installation of wireless communication facilities, related structures, and equipment.

1. The regulations and requirements contained herein are intended to:

   (a) Regulate the placement, construction, and modification of wireless communication facilities in order to protect the health, safety, and welfare of the public and the aesthetic quality of the City; and

   (b) Encourage managed development of wireless communication infrastructure, while at the same time not unreasonably interfering with the development of the competitive wireless communication marketplace in the City.

2. This section is intended to promote the following objectives:

   (a) To minimize the total number of wireless communication facilities and antenna support structures throughout the community through siting standards;

(b) To provide for the appropriate location and development of wireless communication facilities and related structures and equipment within the City, and, to the extent possible, minimize potential adverse impacts on the community;

(c) To minimize adverse visual and aesthetic impacts of wireless communication facilities and related structures and equipment through careful design, siting, landscape screening, and innovative camouflaging techniques, such as stealth technology, and utilizing current and future technologies;

(d) To promote and encourage shared use~~/collocation~~ of antenna support structures;

(e) To maintain and preserve the existing residential character of the City and its neighborhoods and promote the creation of a convenient, attractive, and harmonious community;

(f) To promote the safety of citizens and avoid the risk of damage to adjacent properties by ensuring that wireless communication facilities and related structures and equipment are properly designed, constructed, located, modified, maintained, and removed;

(g) To ensure that wireless communication facilities and related structures and equipment are compatible with surrounding land uses;

(h) To encourage: the location of ~~antennas~~ wireless communication facilities on existing buildings or other structures; collocation of new antennas on existing antenna support structures; camouflaged antenna support structures; ~~and~~ construction of antenna support structures with the ability to locate three (3) or more providers or users; the deployment of wireless communication facilities in a manner that does not require substantial alterations to existing structures that adversely affects the structure's appearance or the neighborhood; and

(i) To maintain and ensure that a non-discriminatory, competitive, and broad range of high quality wireless communication services and high quality wireless communication infrastructure consistent with laws are available to the community.

b. *Wireless Communication Facilities Entirely Within an Existing Building or Attached to Existing Structures.*~~:~~ ~~Wireless communication facilities attached to the roof or side of a building, or attached to an exsting structure must comply with the following:~~

1. *Scope*. This subsection applies to wireless communication facilities that (1) do not meet the definition of small wireless communication facility and (2) are entirely within an existing building or attached to an existing structure.

2. *Development Standards*.

~~1.~~ (a) The building or other structure on which a wireless communication facility other than a small wireless communications facility is to be installed must be at least thirty-five (35) feet in height if used for nonresidential purposes and fifty (50) feet in height if used for multiple unit dwelling purposes. In a mixed-use development, the multiple unit dwelling standard applies. Except as provided in subsection 25.09.08.~~e~~f, wireless communication facilities are not permitted on any single unit detached dwelling or appurtenant accessory building or structure.

~~2.~~ (b) ~~The antennas and antenna support structures must be located and designed to minimize visual impacts through various methods, including, but not limited to, the use of stealth technology.~~ Antennas and antenna support structures must be installed according to the order of preference in subsections 25.09.08b.2.(b)(i) through (ii) below, with (~~a~~i) being the preferred option. Use of a lower preference location is permitted only if an applicant provides detailed justification as to why higher preference locations are not suitable.

(~~a~~i) Antennas must be flush mounted on existing structures, or on either rooftop enclosures or the side of a building, and closely match the color and architectural treatment of the structure, enclosure, or building.

(~~b~~ii) Antennas must be flush-mounted on expanded rooftop mechanical equipment enclosures, with the enclosures and antennas designed to be consistent with the architectural treatment and color of the building.

(c) The antennas and antenna support structures, regardless of location, must be located and designed to minimize visual impacts through various methods, including, but not limited to, the use of stealth technology.

(i) Antennas must ~~be enclosed with screening that is~~ include shielding or otherwise be placed in an enclosure. The enclosures and shielding must be consistent with the architectural treatment and color of the building or structure.

(ii) Antennas and support structures must be painted or otherwise treated to minimize their visibility. Any paint used must be non-reflective paint of the same color as the structure.

(iii) No visible lighting is allowed on any wireless facility, except as required by law.

~~3.~~ (d) Antennas and supporting structures are permitted to exceed the height of the building or structure to which they are attached by a maximum of nineteen (19) feet. The height above a building must be measured from the finished roof elevation, and not from the roof of any equipment enclosure.

~~4.~~ (e) Antennas must comply with the following size standards:

(~~a~~i) Whip antennas must be no more than seven (7) inches in diameter; and

(~~b~~ii) Panel antennas must be no more than two (2) feet wide and ~~six (6)~~ eight (8) feet long.

~~5.~~ (f) Equipment enclosures must comply with the requirements of Section 25.09.08.e. An equipment ~~building or cabinet~~ enclosure may be located on the roof of a building provided it and all other roof structures do not occupy, in the aggregate, more than twenty-five (25) percent of the roof area.

~~6.~~ (g) When an antenna is located on a stadium light or utility pole, the total height of the antenna plus the pole or light must not exceed one hundred twenty-five (125) percent of the average height of the lighting system at the stadium or run of poles within five hundred (500) feet of the pole on which the antenna is located.

(h) A wireless communication facility must be designed, installed, and maintained in compliance with all applicable provisions of the City Code including, but not limited to, provisions regulating noise levels, and permit and inspection requirements.

(i) When a wireless communication facility is no longer in use, the facility owner must notify the City and the wireless communication facility must be removed within ninety (90) days of the cessation of use at the expense of the facility owner. Failure to remove abandoned equipment will result in removal by the City at the expense of the owner.

(j) No hazardous material may be located at the site.

c. *Wireless Communication Facilities* ~~*Located on*~~ *Attached to Ground-Mounted Antenna Support Structures.*

1. *Scope.* This subsection applies to wireless communication facilities that (1) do not meet the definition of small wireless communication facility, and (2) are mounted on ~~free-standing~~ ground-mounted antenna support structures.

(a) *Special exception.* Wireless communication facilities covered by this section require the approval of a special exception in accordance with the applicable provisions of article 15 of this chapter.

(b) *Additional findings required.* The following additional findings must be made for the granting of a special exception:

(i) The location is selected because ~~is necessary for the public convenience and service and cannot be supplied with equivalent public convenience on a~~ the wireless communication facility cannot be attached to an existing building or structure or collocated on an existing ground-mounted antenna support structure; and

(ii) For new ground-mounted antenna support structures to be located in a residential zone or within five hundred (500) feet of a residential zone, it must be demonstrated that a good faith effort has been made to locate the proposed ground-mounted antenna support structure in a nonresidential zone more than five hundred (500) feet from the residential zone, with adequate coverage and on an isolated site with minimal visual impact.

(c) *Independent consultant.* The City may hire an independent consultant to review evidence submitted by the applicant, and the applicant must reimburse the City for the reasonable cost of hiring and utilizing such a consultant.

2. *Development Standards.*

(a) The maximum height of the facility, including antenna and other attachments, is fifty (50) feet in a residential zone, or within five hundred (500) feet of a residential zone, and one hundred ninety-nine (199) feet in all other locations. Height must be measured vertically from the pre-disturbance ground level at the center of the support structure.

(b) Monopoles are the preferred type of ~~freestanding~~ ground-mounted antenna support structure.

(c) No commercial or promotional signs, banners, or similar devices or materials are permitted on antenna support structures.

(d) The ground-mounted antenna support structure must be located and designed in a manner that is harmonious with surrounding properties, to the extent practicable. Antenna support structures must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. When practicable, available stealth structure design techniques must be used.

(e) Wireless communication facilities must be located on City-owned property, if feasible.

(f) Antenna support structures must be set back one (1) foot for every foot of height of the structure, measured from the base of the structure to each adjoining property line or right-of-way.

(g) Lights are not permitted on antenna support structures unless they are required for aircraft warnings or other safety reasons, or to comply with applicable laws and regulations. If required, minimum lighting requirements must be applied, and strobe lights must be avoided unless specified by the Federal Aviation Administration or the Federal Communications Commission.

(h) Outdoor storage of equipment or items related to the wireless communication facility is prohibited on sites with antenna support structures.

(i) All antenna support structures erected as part of a wireless communication facility must be designed to accommodate collocation of additional wireless communication carriers. New antenna support structures of a height of one hundred fifty (150) feet or more must be designed to accommodate collocation of a minimum of four (4) additional providers either upon initial construction or through future modification to the antenna support structure. Antenna support structures of less than one hundred fifty (150) feet must be designed to accommodate collocation of a minimum of two (2) additional providers.

(j) Prior to construction, each applicant must provide certification from a registered structural engineer that the structure will meet pertinent design, construction, installation, and operation standards, including but not limited to the applicable standards of the Electronics Industries Association (EIA), the Telecommunications Industry Association (TIA), ANSI, and the BOCA Code in effect at the time of the building permit application.

(k) Upon completion of any sale or sublease of an antenna support structure, the owner of an antenna support structure must provide written notice to the City's Inspection Services Division.

(l) The owner of a ground-mounted antenna support structure, at the owner's expense, must remove antenna support structures when a wireless communication facility is not used for wireless purposes for a period one hundred eighty (180) days in a 12-month period. The owner of a ground-mounted antenna support structure must immediately notify the City, in writing, of nonuse or abandonment of the structure upon its cessation as a wireless communication facility. Failure to remove an abandoned or unused ground-mounted antenna support structure will result in removal of the structure by the City at the expense of the owner.

(m) When a ground-mounted antenna support structure is removed by an owner, said owner must apply for a demolition permit to remove the tower. A condition of the demolition permit is to restore the site to the standards required by the building code in effect at the time, at no expense to the City.

d. *Small Wireless Communication Facilities*.

1. *Scope*. This subsection applies to small wireless communication facilities.

(a) *Small wireless communication facilities in the public rights-of-way*. Small wireless communication facilities located within the public rights-of-way must comply with all requirements, standards, and guidelines set forth in or promulgated under Chapter 21 of the City Code.

(b) *Small wireless communication facilities outside of the public rights-of-way*. Small wireless communication facilities located outside of the public rights-of-way must comply with the development standards set forth in subsection d.2.

2. *Development Standards*.

(a) *Location*.

(i) A small wireless communication facility may not be attached to any single unit attached dwelling, single unit detached dwelling, semidetached dwelling, townhouse dwelling, multi-family dwelling (including mixed-use buildings), or on any accessory building or structure located on a lot with such a dwelling.

(ii) A small wireless communication facility may not be located within a single dwelling unit residential zone. In other zones, small wireless communication facility must be located at least 60 feet from any dwelling and two hundred (250) feet away from the nearest existing antenna support structure.

(iii) Except as otherwise provided in this section, a small wireless facility may be attached to any existing structure that does not contain dwellings that is at least fifteen (15) feet in height, measured from grade. The antenna must be a minimum of fifteen (15) feet above grade.

(iv) A small wireless communication facility may be installed on a new antenna support structure, provided that the antenna must be a minimum of fifteen (15) feet above grade.

(v) A small cell communication facility proposed to be located in a Planned Development Zone must comply with the provisions of the Designated Equivalent Zone provisions set forth in Section 25.14.07 and this subsection.

(b) *Concealment*.

(i) Small wireless communication facilities must be designed and installed to incorporate specific concealment elements to minimize visual impacts.

(ii) All antenna equipment must be placed in an enclosure.

(iii) Equipment enclosures, whether located on the structure or ground-mounted, and including any pre-existing equipment enclosures on the structure or ground, may not exceed five (5) feet in height.

(iv) Antennas must include shielding or otherwise be placed in an enclosure. If attached to a pole, the shielding or enclosure must be no more than the circumference of the pole at the point of attachment and, if attached to the top of the pole, designed to appear like a continuous vertical extension of the pole. Antennas must not extend more than thirty-six (36) inches in length, extending vertically from the base of the antenna, either at the top of the pole or structure, or on the related equipment housing, except that up to six (6) inches in additional height may be permitted for connectors.

(v) For antennas not located at the top of a pole, the antennas must be flush mounted on existing structures and closely match the color and architectural treatment of the structure.

(vi) All wiring and cables must be located inside the structure or, if that is not practical, in a conduit attached flush to the structure and painted with non-reflective paint of the same color as the structure.

(vii) No visible lighting is allowed on any small wireless facility, except as required by law.

(vi) In residential zones where public utilities are or are required to be placed underground, equipment enclosures must be located below the existing grade unless the enclosure is incorporated into the base of the pole.

(c) A small wireless communication facility may not be located on a historic structure, or in an historic district where any portion of the wireless communication facility, except the antenna, would be visible from the ground.

(d) A small wireless communication facility must be designed, installed, and maintained in compliance with all applicable provisions of the City Code, including, but not limited to, provisions regulating noise levels, and permit and inspection requirements.

(e) When a small wireless communication facility is no longer in use, the facility owner must notify the City and the small wireless communication facility must be removed within ninety (90) days of the cessation of service at the cost of the facility owner and the properties affected by the facility restored to its prior condition.

(f) No writing, symbol, logo, sign, or other graphic representation which is visible from the public right-of-way is allowed to appear on any exterior surface of the small wireless facility; however, the owner of the small wireless facility must tag all attachments to structures to allow for ready identification of the owner and type of attachment.

(g) No hazardous materials may be located at the site.

~~d~~e. *Equipment Enclosures ~~Located at Ground Level Standards~~ for Wireless Facilities Other than Small Wireless Facilities*. Equipment enclosures ~~located at ground level~~ must comply with the following standards:

1. Each equipment enclosure that contains the equipment of a single provider must not exceed five hundred sixty (560) square feet of gross floor area and twelve (12) feet in height; if more than one (1) provider is to be accommodated in an equipment enclosure, a single equipment enclosure must be constructed to accommodate the maximum number of providers that are required to collocate on the antenna support structure, up to a maximum of one thousand five hundred (1,500) square feet in area and twelve (12) feet in height.
2. The equipment enclosure must conform to the applicable setback standards for main structures in the zone in which the property is located; setback standards for accessory buildings and structures in section 25.09.03 are not applicable to equipment enclosures.
3. The equipment enclosure must be screened to provide year-round screening. This standard may be met by one (1) or a combination of the following: fencing, walls, landscaping, structures or topography which will block the view of the equipment ~~shelter~~ enclosure as much as practicable from any street and/or adjacent properties. In areas of high visibility, fencing may be wrought iron, masonry, or other decorative fencing material.
4. Lighting associated with equipment ~~structures~~ enclosures must be directed so as to minimize any negative impact of such lighting on adjacent properties.
5. When constructed as a freestanding building, the design of the equipment enclosure must be coordinated with the design of the existing main building on the same lot or, if there is no building on the lot, with the buildings on an adjoining lot, to the extent practicable. In addition, the equipment enclosure must be constructed of non-reflective materials.
6. When attached to an existing building, the equipment enclosure must be designed in a manner that is harmonious with the existing building and surrounding properties. Any paint must be non-reflective paint of the same color as the building.
7. The equipment enclosure must be removed at the cost of the owner when the wireless communication facility is no longer being used by a wireless communication provider. Failure to remove abandoned equipment will result in removal by the City at the expense of the owner.

~~e~~f. *Waivers permitted.*

1. *Regulated satellite earth station antennas.*

   (a) Any person or entity seeking to install or erect a satellite earth station antenna subject to this section, other than an antenna specified in subsection 25.09.08.e.1(a)(ii) below, may apply for a waiver from one (1) or more of the provisions of this section 25.09.08, and the Board of Appeals may grant such a waiver pursuant to applicable procedures and standards if it is shown that:

   (i) The provision(s) of section 25.09.08 at issue materially limit or inhibit the transmission or reception of satellite signals at the waiver applicant's property

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or the provision(s) at issue impose more than a minimal cost on the waiver applicant;

(ii) The waiver, if granted, would not result in any noncompliance with applicable laws, regulations, and codes (including, but not limited to, safety and building codes); and

(iii) The waiver sought is the minimum waiver necessary to permit the reception or transmission of satellite signals at the waiver applicant's property.

(b) The Board of Appeals is authorized to grant a complete or partial waiver to any provision of section 25.09.08. In addition, the Board of Appeals may impose a lesser requirement instead of granting a complete waiver of any provision in this section if a complete waiver is not necessary to permit reception or transmission of amateur service communications at the waiver applicant's property, and the lesser requirement will allow the reception or transmission of satellite signals. The Board of ~~Approval~~ Appeals shall not condition a waiver upon an applicant's expenditure of a sum of money, including costs required to screen, pole-mount, or otherwise specially install a satellite earth station antenna, over and above the aggregate purchase or total lease cost of the equipment as normally installed, if such sum would be greater that the aggregate purchase or total lease cost of the equipment as normally installed.

2. *Wireless Communication Facilities for Amateur Service Communications.*

(a) Any person or entity seeking to install or erect a wireless communication facility in the City for the purpose of engaging in amateur radio communications may apply for a waiver from one (1) or more of the provisions of this section 25.09.08. and the Board of Appeals may grant such a waiver pursuant to applicable procedures and standards if it is shown that:

(i) The provisions of section 25.09.08 at issue preclude amateur service communications, do not reasonably accommodate amateur service communications at the waiver applicant's property or do not constitute the minimum practicable regulation to accomplish the City's health, safety, and welfare objectives;

(ii) The waiver, if granted, would not result in any noncompliance with applicable laws, regulations and codes (including, but not limited to, FCC regulations concerning amateur radio transmission and reception); and

(iii) The waiver sought is the minimum waiver necessary to reasonably accommodate amateur service communications at the waiver applicant's property.

(b) The Board of Appeals is authorized to grant a complete or partial waiver to any provision of section 25.09.08. In addition, the Board of Appeals may impose a lesser requirement instead of granting a complete waiver of any provision in this section if a complete waiver is not necessary to permit reception or transmission of amateur service communications at the waiver applicant's property, and the lesser requirement:

(i) Will not preclude amateur service communications; and

(ii) Is the minimum practicable regulation to accomplish the City's health, safety, and aesthetic objectives.

(c) In determining whether to grant a complete or partial waiver of any provision in section 25.09.08 or to impose a lesser requirement, the Board must reasonably accommodate amateur radio communications.

3. *All Other Wireless Communication Facilities.*

(a) The Board of Appeals is authorized to grant a waiver from any and all of the standards of this section 25.09.08, except for the height restrictions for a freestanding antenna support structure in subsection c. of this section, upon showing that compliance with this section would impose an undue hardship or prohibit or have the effect of prohibiting the provision of wireless communication services or would result in unreasonable discrimination among providers of functionally equivalent wireless communication services.

(b) Waiver requests from the height restrictions (subsection 25.09.08.c.2) for a freestanding antenna support structure may be granted by the Mayor and Council upon showing that compliance with this section would impose an undue hardship or prohibit or have the effect of prohibiting the provision of wireless communication services or would result in unreasonable discrimination among providers of functionally equivalent wireless communication services. When requesting a height waiver under this provision, the applicant must submit evidence to the Mayor and Council that the height requested for the freestanding antenna support structure is the minimum height necessary to provide adequate coverage for the area that is being served by the structure. The Mayor and Council, in reviewing any waiver request from this section, must also consider the impact that the increased height of the antenna support structure would have on properties in the area surrounding the proposed structure, including, but not limited to, the visibility of the structure from residences and proposed methods of mitigating the visibility of the structure.

(c) This subsection 25.09.08.e.3. does not apply to antennas and wireless communication facilities specified in subsections 25.09.08.e.1. and 2.

4. *Procedures for all waivers.*

(a) Unless the Mayor and Council adopt by resolution different procedures for processing waivers from the height restrictions contained in subsection 25.09.08.e.3., all waivers of this section must be processed in accordance with the procedures applicable to variances contained in section 25.06.03 of this chapter.

(b) A waiver applicant must provide supporting evidence and all information requested by the City. The City may hire an independent consultant to review such evidence, and the applicant must reimburse the City for the reasonable cost of hiring and utilizing such a consultant.

Amend Article 10, "Single Dwelling Unit Residential Zones", as follows:

* * *

25.10.03 – Land Use Tables

The uses permitted in the Single Dwelling Unit Residential Zones are shown in the table below. All special exceptions are subject to the requirements of Article 15.

	Uses	Zones							Conditional requirements or relat regulations
		Residential Estate Zone (R-400)	Suburban Residential Zone (R-200)	Low Density Residential Zone (R-150)	Single Unit Detached Dwelling, Restricted Residential Zone (R-90)	Single Unit Detached Dwelling, Residential Zone (R-75)	Single Unit Detached Dwelling, Residential Zone (R-60)	Single Unit Semi-detached Dwelling, Residential Zone (R-40)	
* * *									
f. Miscellaneous uses	Small wireless communication facility	N	N	N	N	N	N	N	
	Wireless communication facility entirely within an existing building ~~or on the roof or side of a building,~~ or attached to an existing structure	C	C	C	C	C	C	C	Conditional use subj to the requirements Sec. 25.09.08
	Wireless communication facility ~~not entirely within an existing building or on the roof or side of a building, or~~ attached to ~~an existing structure, including, but not limite to, antennas on a freestanding~~ a ground-mounted antenna support structure	S	S	S	S	S	S	S	Subject to the requirements of Sec 25.09.08 and 25.15.0

Amend Article 11, "Residential Medium Density Zones", as follows:

* * *

25.11.03 – Land Use Tables

The uses permitted in the Residential Medium Density Zones are shown in the table below. Uses are subject to applicable conditions of site plan approval, and all special exceptions are subject to the requirements of Article 15.

	Uses	Zones			Conditional requirements or related regulations
		Residential Medium Density RMD-10	Residential Medium Density RMD-15	Residential Medium Density RMD-25	
* * *					
e. Miscellaneous uses	Public utility building and structure	S	S	S	See Sec. 25.15.02.n
	Publicly-owned or publicly-operated building and use, excluding sanitary landfill	C	C	C	Conditional use subject to a Level 3 Site Plan (Sec. 25.07.05)
	Small wireless communication facility	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility entirely within an existing building or ~~on the roof or side of a building, or~~ attached to an existing structure	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility ~~not located entirely within an existing building or on the roof or side of a building, or~~ attached to ~~an existing structure, including, but not limited to antennas on a freestanding~~ a ground mounted-antenna support structure	S	S	S	See Secs. 25.09.08 and 25.15.02.s

Amend Article 12, "Industrial Zones", as follows:

6-6-11

* * *

25.12.03 – Land Use Tables

	Uses	Zones		Conditional requirements or related regulations
		Light Industrial I-L	Heavy Industrial I-H	
* * *				
f. Assembly and entertainment	~~Wireless communication facility entirely within an existing building or on the roof or side of a building, or attached to an existing structure~~	~~C~~	~~C~~	~~Conditional use subject to the requirements of Sec. 25.09.08~~
	~~Wireless communication freestanding ground mounted antenna support structure~~	~~S~~	~~S~~	~~Subject to the requirements of Sec. 25.09.08 and 25.15.02.s~~
* * *				
g. Industrial and service uses	Warehouse, self-storage	C	C	Not permitted on a lot within 250 feet of any lot on which a public school is located
	Small wireless communication facility	C	C	Subject to the requirements of Sec. 25.09.08
	Wireless communication facility entirely within an existing building or ~~on the roof or side of a building, or~~ attached to an existing structure	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility attached to a ~~freestanding~~ ground-mounted antenna support structure	S	S	Subject to the requirements of Sec. 25.09.08 and 25.15.02.s

Amend Article 13, "Mixed-Use Zones", as follows:

* * *

25.13.03 – Land Use Tables

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	Uses	Zones								
		Mixed-Use Transit District (MXTD)	Mixed-Use Corridor Distric (MXCD)	Mixed-Use Employment (MXE)	Mixed-Use Business (MXB)	Mixed-Use Corridor Transition (MXCT)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed-Use Commercial (MXC)	Mixed-Use Transition (MXT)	Conditional requirements or related regulations
* * *										
f. Miscellaneous Uses	Publicly-owned or publicly-operated building and use, excluding sanitary landfill	P	P	P	P	P	P	P	P	
	Wireless communication facility entirely within an existing building or ~~on the roof or side of a building, or~~ attached to an existing structure	C	C	C	C	C	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility attached to a ~~freestanding~~ ground-mounted antenna support structure	S	S	S	S	S	S	S	S	See Sec. 25.09.08 and 25.15.02.s

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NOTE: ~~Strikethroughs~~ indicate material deleted
Underlining indicates material added
Asterisks * * * indicate material unchanged by this ordinance

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of May 11, 2020

_____
Sara Taylor-Ferrell, City Clerk/Director of Council Operations

ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strikethroughs~~ indicate text to be deleted; * * * indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 3, "Definitions; Terms of Measurement and Calculations", as follows:

Sec. 25.03.02. - Words and terms defined.

***

Antenna means any structure or device used to collect, receive, transmit, or radiate electromagnetic waves, including both directional antennae (such as panels, microwave dishes, satellite earth station antennae over two (2) meters in diameter), or diagonal measurement, and omni-directional antennae (such as whips). This term does not include end-user antennas two (2) meters or less in diameter or diagonal measurement and designed for:

1. End-user over-the-air reception, not transmission, of multi-channel multi-point distribution service;
2. Direct broadcast satellite service;
3. End-user reception of signals from an Internet service provider and end-user transmission of signals to an Internet service provider;
4. Mobile radios; or
5. Antennas permitted by right by 47 C.F.R. Section 1.4000, as amended.

Antenna support structure means a structure designed for the primary purpose of supporting one (1) or more antennae (including telescoping mast, tower, monopole, tethered blimp, or other support structure). The term includes structures located on buildings or other structures, ground-mounted, or tethered, and towers, as defined in 47 C.F.R. Section 1.40001(b)(9). Without limitation, the term does not include utility poles or structures, including public structures in the public right-of-way.

***

Collocation ~~means the use of a wireless telecommunications facility by more than one (1) wireless service provider~~ has the same meaning as in 47. C.F.R. Section 1.4001(g).

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***

Equipment enclosure means, for purposes of a wireless communication facility, a freestanding or mounted structure, shelter, cabinet, or vault used to house and to protect the electronic equipment and associated equipment necessary for processing wireless communication signals. Associated equipment may include air conditioners, back-up power supplies, and emergency generators.

***

Small wireless communication facility – See Wireless communication facility, small.

***

Wireless communication facility means a facility fixed at a location temporarily or permanently for the transmission and/or reception of wireless communication services, consisting of one (1) or more antennas and the equipment at that location necessary to the provision or reception of wireless communication services, including, but not limited to, transmission cables and related equipment enclosures.

Wireless communication facility, small means a wireless communication facility that meets each of the following conditions:

1. The structure on which antenna facilities are mounted:

    (a) is 50 feet or less in height; or

    (b) is no more than ten percent (10%) taller than other adjacent structures; or

    (c) is not extended to a height of more than ten percent (10%) above its preexisting height as a result of the collation of new antenna facilities; and

2. Each antenna, excluding associated antenna equipment, is no more than three (3) cubic feet in volume; and

3. All antenna equipment associated with the small wireless communication facility, excluding antennas, is cumulatively no more than twenty-eight (28) cubic feet in volume; and

4. The small wireless communication facility does not require antenna structure registration; and

5. The small wireless communication facility does not result in human exposure to radiofrequency in excess of the applicable safety standards specified by Federal law.

Wireless communication service means those personal wireless services as defined ~~in the same manner as~~ in Title 47, U.S. Code, Section 332(c)(7)(c), ~~as they may be amended from time to time~~ and such other services that consist of the transmission, or transmission, ~~and~~/or transmission and reception of information by electromagnetic wave, digital signals,

broadcast television signals, analog signals, radio frequencies, or other communication signals.

Amend Article 8, "Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities", as follows:

Sec. 25.09.08. - Wireless Communication ~~Facility~~ Facilities.

a. *Purpose.* The purpose of this section is to provide a uniform and comprehensive set of standards for the development and installation of wireless communication facilities, related structures, and equipment.

1. The regulations and requirements contained herein are intended to:

(a) Regulate the placement, construction, and modification of wireless communication facilities in order to protect the health, safety, and welfare of the public and the aesthetic quality of the City; and

(b) Encourage managed development of wireless communication infrastructure, while at the same time not unreasonably interfering with the development of the competitive wireless communication marketplace in the City.

2. This section is intended to promote the following objectives:

(a) To minimize the total number of wireless communication facilities and antenna support structures throughout the community through siting standards;

(b) To provide for the appropriate location and development of wireless communication facilities and related structures and equipment within the City, and, to the extent possible, minimize potential adverse impacts on the community;

(c) To minimize adverse visual and aesthetic impacts of wireless communication facilities and related structures and equipment through careful design, siting, landscape screening, and innovative camouflaging techniques, such as stealth technology, and utilizing current and future technologies;

(d) To promote and encourage shared use~~/collocation~~ of antenna support structures;

(e) To maintain and preserve the existing residential character of the City and its neighborhoods and promote the creation of a convenient, attractive, and harmonious community;

(f) To promote the safety of citizens and avoid the risk of damage to adjacent properties by ensuring that wireless communication facilities and related structures and equipment are properly designed, constructed, located, modified, maintained, and removed;

(g) To ensure that wireless communication facilities and related structures and equipment are compatible with surrounding land uses;

(h) To encourage: the location of ~~antennas~~ wireless communication facilities on existing buildings or other structures; collocation of new antennas on existing antenna support structures; camouflaged antenna support structures; ~~and~~

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construction of antenna support structures with the ability to locate three (3) or more providers or users; the deployment of wireless communication facilities in a manner that does not require substantial alterations to existing structures that adversely affects the structure's appearance or the neighborhood; and

(i) To maintain and ensure that a non-discriminatory, competitive, and broad range of high quality wireless communication services and high quality wireless communication infrastructure consistent with laws are available to the community.

b. *Wireless Communication Facilities Entirely Within an Existing Building or Attached to Existing Structures.*: Wireless communication facilities attached to the roof or side of a building, or attached to an exsting structure must comply with the following:

1. *Scope*. This subsection applies to wireless communication facilities that (1) do not meet the definition of small wireless communication facility and (2) are entirely within an existing building or attached to an existing structure.

2. *Development Standards*.

1. (a) The building or other structure on which a wireless communication facility to be installed must be at least thirty-five (35) feet in height if used for nonresidential purposes and fifty (50) feet in height if used for multiple unit dwelling purposes. In a mixed-use development, the multiple unit dwelling standard applies. Except as provided in subsection 25.09.08.e, wireless communication facilities are not permitted on any single unit detached dwelling or appurtenant accessory building or structure.

2. (b) The antennas and antenna support structures must be located and designed to minimize visual impacts through various methods, including, but not limited to, the use of stealth technology. Antennas and antenna support structures must be installed according to the order of preference in subsections 25.09.08b.2.(b)(i) through (ii) below, with (ai) being the preferred option. Use of a lower preference location is permitted only if an applicant provides detailed justification as to why higher preference locations are not suitable.

(ai) Antennas must be flush mounted on existing structures, or on either rooftop enclosures or the side of a building, and closely match the color and architectural treatment of the structure, enclosure, or building.

(bii) Antennas must be flush-mounted on expanded rooftop mechanical equipment enclosures, with the enclosures and antennas designed to be consistent with the architectural treatment and color of the building.

(c) The antennas and antenna support structures, regardless of location, must be located and designed to minimize visual impacts through various methods, including, but not limited to, the use of stealth technology.

(i) Antennas must be enclosed with screening that is include shielding or otherwise be placed in an enclosure. The enclosures and shielding must be consistent with the architectural treatment and color of the building or structure.

(ii) Antennas and support structures must be painted or otherwise treated to minimize their visibility. Any paint used must be non-reflective paint of the same color as the structure.

(iii) No visible lighting is allowed on any wireless facility, except as required by law.

~~3.~~ (c) Antennas and supporting structures are permitted to exceed the height of the building or structure to which they are attached by a maximum of nineteen (19) feet. The height above a building must be measured from the finished roof elevation, and not from the roof of any equipment enclosure.

~~4.~~ (d) Antennas must comply with the following size standards:

(~~a~~i) Whip antennas must be no more than seven (7) inches in diameter; and

(~~b~~ii) Panel antennas must be no more than two (2) feet wide and ~~six (6)~~ eight (8) feet long.

~~5.~~ (e) Equipment enclosures must comply with the requirements of Section 25.09.08.e. An equipment ~~building or cabinet~~ enclosure may be located on the roof of a building provided it and all other roof structures do not occupy, in the aggregate, more than twenty-five (25) percent of the roof area.

~~6.~~ (f) When an antenna is located on a stadium light or utility pole, the total height of the antenna plus the pole or light must not exceed one hundred twenty-five (125) percent of the average height of the lighting system at the stadium or run of poles within five hundred (500) feet of the pole on which the antenna is located.

(g) A wireless communication facility must be designed, installed, and maintained in compliance with all applicable provisions of the City Code including, but not limited to, provisions regulating noise levels, and permit and inspection requirements.

(h) When a wireless communication facility is no longer in use, the wireless communication facility must be removed at the expense of the facility owner. Failure to remove abandoned equipment will result in removal by the City at the expense of the owner.

(i) No hazardous material may be located at the site.

c. *Wireless Communication Facilities* ~~*Located on*~~ *Attached to Ground-Mounted Antenna Support Structures.*

1. *Scope.* This subsection applies to wireless communication facilities that (1) do not meet the definition of small wireless communication facility, and (2) are mounted on ~~free-standing~~ ground-mounted antenna support structures.

(a) *Special exception.* Wireless communication facilities covered by this section require the approval of a special exception in accordance with the applicable provisions of article 15 of this chapter.

(b) *Additional findings required.* The following additional findings must be made for the granting of a special exception:

(i) The location is selected because ~~is necessary for the public convenience and service and cannot be supplied with equivalent public convenience on a~~ the wireless communication facility cannot be attached to an existing building or structure or collocated on an existing ground-mounted antenna support structure; and

(ii) For new ground-mounted antenna support structures to be located in a residential zone or within five hundred (500) feet of a residential zone, it must be demonstrated that a good faith effort has been made to locate the proposed ground-mounted antenna support structure in a nonresidential zone more than five hundred (500) feet from the residential zone, with adequate coverage and on an isolated site with minimal visual impact.

(c) *Independent consultant.* The City may hire an independent consultant to review evidence submitted by the applicant, and the applicant must reimburse the City for the reasonable cost of hiring and utilizing such a consultant.

2. *Development Standards.*

(a) The maximum height of the facility, including antenna and other attachments, is fifty (50) feet in a residential zone, or within five hundred (500) feet of a residential zone, and one hundred ninety-nine (199) feet in all other locations. Height must be measured vertically from the pre-disturbance ground level at the center of the support structure.

(b) Monopoles are the preferred type of ~~freestanding~~ ground-mounted antenna support structure.

(c) No commercial or promotional signs, banners, or similar devices or materials are permitted on antenna support structures.

(d) The ground-mounted antenna support structure must be located and designed in a manner that is harmonious with surrounding properties, to the extent practicable. Antenna support structures must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. When practicable, available stealth structure design techniques must be used.

(e) Wireless communication facilities must be located on City-owned property, if feasible.

(f) Antenna support structures must be set back one (1) foot for every foot of height of the structure, measured from the base of the structure to each adjoining property line or right-of-way.

(g) Lights are not permitted on antenna support structures unless they are required for aircraft warnings or other safety reasons, or to comply with applicable laws and regulations. If required, minimum lighting requirements must be applied, and strobe lights must be avoided unless specified by the Federal Aviation Administration or the Federal Communications Commission.

(h) Outdoor storage of equipment or items related to the wireless communication facility is prohibited on sites with antenna support structures.

(i) All antenna support structures erected as part of a wireless communication facility must be designed to accommodate collocation of additional wireless communication carriers. New antenna support structures of a height of one hundred fifty (150) feet or more must be designed to accommodate collocation of a minimum of four (4) additional providers either upon initial construction or through future modification to the antenna support structure. Antenna support structures of less than one hundred fifty (150) feet must be designed to accommodate collocation of a minimum of two (2) additional providers.

(j) Prior to construction, each applicant must provide certification from a registered structural engineer that the structure will meet pertinent design, construction, installation, and operation standards, including but not limited to the applicable standards of the Electronics Industries Association (EIA), the Telecommunications Industry Association (TIA), ANSI, and the BOCA Code in effect at the time of the building permit application.

(k) Upon completion of any sale or sublease of an antenna support structure, the owner of an antenna support structure must provide written notice to the City's Inspection Services Division.

(l) The owner of a ground-mounted antenna support structure, at the owner's expense, must remove antenna support structures when a wireless communication facility is not used for wireless purposes for a period one hundred eighty (180) days in a 12-month period. The owner of a ground-mounted antenna support structure must immediately notify the City, in writing, of nonuse or abandonment of the structure upon its cessation as a wireless communication facility. Failure to remove an abandoned or unused ground-mounted antenna support structure will result in removal of the structure by the City at the expense of the owner.

(m) When a ground-mounted antenna support structure is removed by an owner, said owner must apply for a demolition permit to remove the tower. A condition of the demolition permit is to restore the site to the standards required by the building code in effect at the time, at no expense to the City.

d. *Small Wireless Communication Facilities.*

1. *Scope*. This subsection applies to small wireless communication facilities.

(a) *Small wireless communication facilities in the public rights-of-way*. Small wireless communication facilities located within the public rights-of-way must comply with all requirements, standards, and guidelines set forth in or promulgated under Chapter 21 of the City Code.

(b) *Small wireless communication facilities outside of the public rights-of-way*. Small wireless communication facilities located outside of the public rights-of-way must comply with the development standards set forth in subsection d.2.

2. *Development Standards.*

(a) *Location.*

(i) A small wireless communication facility is prohibited from being attached to any single unit attached dwelling, single unit detached dwelling, semidetached

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dwelling, townhouse dwelling, or on any accessory building or structure located on a lot with such a dwelling.

(ii) Within a single dwelling unit residential zone, a small wireless communication facility must be located at least twenty-five (25) feet from a single unit dwelling and two hundred fifty (250) feet away from the nearest existing antenna support structure.

(iii) Except as otherwise provided in this section, a small wireless facility may be attached to any existing structure that is at least fifteen (15) feet in height, measured from grade. The antenna must be a minimum of fifteen (15) feet above grade.

(iv) A small wireless communication facility may be installed on a new antenna support structure, provided that the antenna must be a minimum of fifteen (15) feet above grade.

(b) *Concealment*.

(i) Small wireless communication facilities must be designed and installed to incorporate specific concealment elements to minimize visual impacts.

(ii) All antenna equipment must be placed in an enclosure.

(iii) Equipment enclosures, whether located on the structure or ground-mounted, and including any pre-existing equipment enclosures on the structure or ground, may not exceed five (5) feet in height.

(iv) Antennas must be shielded or otherwise be placed in an enclosure. If attached to a pole, the shielding or enclosure must be no laarger than the circumference of the pole at the point of attachment and, if attached to the top of the pole, designed to appear like a continuous vertical extension of the pole. Antennas must not extend more than thirty-six (36) inches in length, extending vertically from the base of the antenna, either at the top of the pole or structure, or on the related equipment housing, except that up to six (6) inches in additional height may be permitted for connectors.

(v) For antennas not located at the top of a pole, the antennas must be flush mounted on existing structures and closely match the color and architectural treatment of the structure.

(vi) All wiring and cables must be located inside the structure or, if that is not practical, in a conduit attached flush to the structure and painted with non-reflective paint of the same color as the structure.

(vii) No visible lighting is allowed on any small wireless facility, except as required by law.

(vi) In residential zones where public utilities are located or are required to be located underground, equipment enclosures must be located below the existing grade unless the enclosure is incorporated into the base of the pole.

(c) A small wireless communication facility may not be located on a historic structure, or in an historic district where any portion of the wireless communication facility, except the antenna, would be visible from the ground.

(d) A small wireless communication facility must be designed, installed, and maintained in compliance with all applicable provisions of the City Code, including, but not limited to, provisions regulating noise levels, and permit and inspection requirements.

(e) When a small wireless communication facility is no longer in use, the small wireless communication facility must be removed at the cost of the facility owner and the properties affected by the facility restored to its prior condition.

(f) No writing, symbol, logo, sign, or other graphic representation which is visible from the public right-of-way is allowed to appear on any exterior surface of the small wireless communication facility; however, the owner of the small wireless communication facility must tag all attachments to structures to allow for ready identification of the owner and type of attachment.

(g) No hazardous materials may be located at the site.

~~d~~e. *Equipment Enclosures ~~Located at Ground Level Standards~~ for Wireless Facilities Other than Small Wireless Facilities*. Equipment enclosures ~~located at ground level~~ must comply with the following standards:

1. Each equipment enclosure that contains the equipment of a single provider must not exceed five hundred sixty (560) square feet of gross floor area and twelve (12) feet in height; if more than one (1) provider is to be accommodated in an equipment enclosure, a single equipment enclosure must be constructed to accommodate the maximum number of providers that are required to collocate on the antenna support structure, up to a maximum of ~~one thousand five hundred (~~1,500~~)~~ square feet in area and twelve (12) feet in height.

2. The equipment enclosure must conform to the applicable setback standards for main structures in the zone in which the property is located; setback standards for accessory buildings and structures in section 25.09.03 are not applicable to equipment enclosures.

3. The equipment enclosure must be screened to provide year-round screening. This standard may be met by one (1) or a combination of the following: fencing, walls, landscaping, structures or topography which will block the view of the equipment ~~shelter~~ enclosure as much as practicable from any street and/or adjacent properties. In areas of high visibility, fencing may be wrought iron, masonry, or other decorative fencing material.

4. Lighting associated with equipment ~~structures~~ enclosures must be directed so as to minimize any negative impact of such lighting on adjacent properties.

5. When constructed as a freestanding building, the design of the equipment enclosure must be coordinated with the design of the existing main building on the same lot or, if there is no building on the lot, with the buildings on an adjoining lot, to the extent practicable. In addition, the equipment enclosure must be constructed of non-reflective materials.

6. When attached to an existing building, the equipment enclosure must be designed in a manner that is harmonious with the existing building and surrounding properties. Any paint must be non-reflective paint of the same color as the building.

7. The equipment enclosure must be removed at the cost of the owner when the wireless communication facility is no longer being used by a wireless communication provider. Failure to remove abandoned equipment will result in removal by the City at the expense of the owner.

~~e~~f. *Waivers permitted.*

1. *Regulated satellite earth station antennas.*

(a) Any person or entity seeking to install or erect a satellite earth station antenna subject to this section, other than an antenna specified in subsection 25.09.08.e.1(a)(ii) below, may apply for a waiver from one (1) or more of the provisions of this section 25.09.08, and the Board of Appeals may grant such a waiver pursuant to applicable procedures and standards if it is shown that:

(i) The provision(s) of section 25.09.08 at issue materially limit or inhibit the transmission or reception of satellite signals at the waiver applicant's property or the provision(s) at issue impose more than a minimal cost on the waiver applicant;

(ii) The waiver, if granted, would not result in any noncompliance with applicable laws, regulations, and codes (including, but not limited to, safety and building codes); and

(iii) The waiver sought is the minimum waiver necessary to permit the reception or transmission of satellite signals at the waiver applicant's property.

(b) The Board of Appeals is authorized to grant a complete or partial waiver to any provision of section 25.09.08. In addition, the Board of Appeals may impose a lesser requirement instead of granting a complete waiver of any provision in this section if a complete waiver is not necessary to permit reception or transmission of amateur service communications at the waiver applicant's property, and the lesser requirement will allow the reception or transmission of satellite signals. The Board of Approval shall not condition a waiver upon an applicant's expenditure of a sum of money, including costs required to screen, pole-mount, or otherwise specially install a satellite earth station antenna, over and above the aggregate purchase or total lease cost of the equipment as normally installed, if such sum would be greater that the aggregate purchase or total lease cost of the equipment as normally installed.

2. *Wireless Communication Facilities for Amateur Service Communications.*

(a) Any person or entity seeking to install or erect a wireless communication facility in the City for the purpose of engaging in amateur radio communications may apply for a waiver from one (1) or more of the provisions of this section 25.09.08. and the Board of Appeals may grant such a waiver pursuant to applicable procedures and standards if it is shown that:

Attachment 12.b: Final Draft, Text Amendment TXT2019-00251 (3058 : Adoption of Text Amendment TXT2019-00251 - Small Cell Antennas)

(i) The provision(s) of section 25.09.08 at issue preclude amateur service communications, do not reasonably accommodate amateur service communications at the waiver applicant's property or do not constitute the minimum practicable regulation to accomplish the City's health, safety, and welfare objectives;

(ii) The waiver, if granted, would not result in any noncompliance with applicable laws, regulations and codes (including, but not limited to, FCC regulations concerning amateur radio transmission and reception); and

(iii) The waiver sought is the minimum waiver necessary to reasonably accommodate amateur service communications at the waiver applicant's property.

(b) The Board of Appeals is authorized to grant a complete or partial waiver to any provision of section 25.09.08. In addition, the Board of Appeals may impose a lesser requirement instead of granting a complete waiver of any provision in this section if a complete waiver is not necessary to permit reception or transmission of amateur service communications at the waiver applicant's property, and the lesser requirement:

(i) Will not preclude amateur service communications; and

(ii) Is the minimum practicable regulation to accomplish the City's health, safety, and aesthetic objectives.

(c) In determining whether to grant a complete or partial waiver of any provision in section 25.09.08 or to impose a lesser requirement, the Board must reasonably accommodate amateur radio communications.

3. *All Other Wireless Communication Facilities.*

(a) The Board of Appeals is authorized to grant a waiver from any and all of the standards of this section 25.09.08, except for the height restrictions for a freestanding antenna support structure in subsection c. of this section, upon showing that compliance with this section would impose an undue hardship or prohibit or have the effect of prohibiting the provision of wireless communication services or would result in unreasonable discrimination among providers of functionally equivalent wireless communication services.

(b) Waiver requests from the height restrictions (subsection 25.09.08.c.2) for a freestanding antenna support structure may be granted by the Mayor and Council upon showing that compliance with this section would impose an undue hardship or prohibit or have the effect of prohibiting the provision of wireless communication services or would result in unreasonable discrimination among providers of functionally equivalent wireless communication services. When requesting a height waiver under this provision, the applicant must submit evidence to the Mayor and Council that the height requested for the freestanding antenna support structure is the minimum height necessary to provide adequate coverage for the area that is being served by the structure. The Mayor and Council, in reviewing any waiver request from this section, must also consider the impact that the increased height of the antenna support structure would have on properties in the

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area surrounding the proposed structure, including, but not limited to, the visibility of the structure from residences and proposed methods of mitigating the visibility of the structure.

(c) This subsection 25.09.08.~~e~~f.3. does not apply to antennas and wireless communication facilities specified in subsections 25.09.08.~~e~~f.1. and 2.

4. *Procedures for all waivers.*

(a) Unless the Mayor and Council adopt by resolution different procedures for processing waivers from the height restrictions contained in subsection 25.09.08.~~e~~f.3., all waivers of this section must be processed in accordance with the procedures applicable to variances contained in section 25.06.03 of this chapter.

(b) A waiver applicant must provide supporting evidence and all information requested by the City. The City may hire an independent consultant to review such evidence, and the applicant must reimburse the City for the reasonable cost of hiring and utilizing such a consultant.

Amend Article 10, "Single Dwelling Unit Residential Zones", as follows:

* * *

25.10.03 – Land Use Tables

The uses permitted in the Single Dwelling Unit Residential Zones are shown in the table below. All special exceptions are subject to the requirements of Article 15.

	Uses	Zones							Conditional requirements or related regulations
		Residential Estate Zone (R-400)	Suburban Residential Zone (R-200)	Low Density Residential Zone (R-150)	Single Unit Detached Dwelling, Restricted Residential Zone (R-90)	Single Unit Detached Dwelling, Residential Zone (R-75)	Single Unit Detached Dwelling, Residential Zone (R-60)	Single Unit Semi-detached Dwelling, Residential Zone (R-40)	
* * *									
f. Miscellaneous uses	Small wireless communication facility	C	C	C	C	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility entirely within an existing building ~~or on the roof or side of a building,~~ or attached to an existing structure	C	C	C	C	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility ~~not entirely within an existing building or on the roof or side of a building, or~~ attached to ~~an existing structure, including, but not limite to, antennas on a freestanding~~ a ground-mounted antenna support structure	S	S	S	S	S	S	S	Subject to the requirements of Secs. 25.09.08 and 25.15.02.s

Amend Article 11, "Residential Medium Density Zones", as follows:

* * *

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25.11.03 – Land Use Tables

The uses permitted in the Residential Medium Density Zones are shown in the table below. Uses are subject to applicable conditions of site plan approval, and all special exceptions are subject to the requirements of Article 15.

	Uses	Zones			Conditional requirements or related regulations
		Residential Medium Density RMD-10	Residential Medium Density RMD-15	Residential Medium Density RMD-25	
* * *					
e. Miscellaneous uses	Public utility building and structure	S	S	S	See Sec. 25.15.02.n
	Publicly-owned or publicly-operated building and use, excluding sanitary landfill	C	C	C	Conditional use subject to a Level 3 Site Plan (Sec. 25.07.05)
	Wireless communication facility entirely within an existing building or ~~on the roof or side of a building, or~~ attached to an existing structure	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility ~~not located entirely within an existing building or on the roof or side of a building, or~~ attached to ~~an existing structure, including, but not limited to antennas on a freestanding~~ a ground mounted-antenna support structure	S	S	S	See Secs. 25.09.08 and 25.15.02.s

Amend Article 12, "Industrial Zones", as follows:

6-6-11

* * *

25.12.03 – Land Use Tables

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	Uses	Zones		Conditional requirements or related regulations
		Light Industrial I-L	Heavy Industrial I-H	
* * *				
f. Assembly and entertainment	~~Wireless communication facility entirely within an existing building or on the roof or side of a building, or attached to an existing structure~~	~~C~~	~~C~~	~~Conditional use subject to the requirements of Sec. 25.09.08~~
	~~Wireless communication freestanding ground mounted antenna support structure~~	~~S~~	~~S~~	~~Subject to the requirements of Sec. 25.09.08 and 25.15.02.s~~
* * *				
g. Industrial and service uses	Warehouse, self-storage	C	C	Not permitted on a lot within 250 feet of any lot on which a public school is located
	Wireless communication facility entirely within an existing building or ~~on the roof or side of a building, or~~ attached to an existing structure	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility attached to a ~~freestanding~~ ground-mounted antenna support structure	S	S	Subject to the requirements of Sec. 25.09.08 and 25.15.02.s

Amend Article 13, "Mixed-Use Zones", as follows:

* * *

25.13.03 – Land Use Tables

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	Uses	Zones								
		Mixed-Use Transit District (MXTD)	Mixed-Use Corridor Distric (MXCD)	Mixed-Use Employment (MXE)	Mixed-Use Business (MXB)	Mixed-Use Corridor Transition (MXCT)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed-Use Commercial (MXC)	Mixed-Use Transition (MXT)	Conditional requirements or related regulations
* * *										
f. Miscellaneous Uses	Publicly-owned or publicly-operated building and use, excluding sanitary landfill	P	P	P	P	P	P	P	P	
	Wireless communication facility entirely within an existing building or ~~on the roof or side of a building, or~~ attached to an existing structure	C	C	C	C	C	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility attached to a ~~freestanding~~ ground-mounted antenna support structure	S	S	S	S	S	S	S	S	See Sec. 25.09.08 and 25.15.02.s

Attachment 12.b: Final Draft, Text Amendment TXT2019-00251 (3058 : Adoption of Text Amendment

City of Rockville

M E M O R A N D U M

July 29, 2019

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment Application TXT2019-00251

At its meeting on June 26, 2019 the Planning Commission received a briefing and background report by the staff on Text Amendment Application TXT2018-00251, which proposes new regulations for the installation of small cell wireless antennas. At that meeting the Commission requested additional information regarding the text of the Federal Communications Commission's order regarding small cell antenna installations.

On July 24, 2019 the Commission took up consideration of the proposed text amendment for recommendation to the Mayor and Council. The Commission notes that there is still pending litigation in the Federal courts regarding the FCC's order, which severely limits the power to regulation small cell antennas by local jurisdictions. The Commission requests that the Mayor and Council monitor the progress of these court actions in case any outcomes may alter the scale of the proposed text amendment.

Commissioner Hadley believes that based on the nature of the FCC Order that the city needs some regulation in place in order to properly review any applications that may come before the city while legal appeals are pending.

Commissioner Littlefield believes that the city should reflect the regulations that are in effect in Montgomery County, which cover installations in commercial and employment districts. As a consequence he does not support the approval of the amendment as drafted.

After discussion and deliberation on the proposed revisions, the Planning Commission recommends approval of the proposed zoning text amendment as authorized.

Therefore, on a motion by Commissioner Tyner, seconded by Commissioner Hadley, with Commissioners Tyner, Goodman, Sherman, Woods and Hadley voting in favor of the motion,

and with Commissioner Littlefield abstaining from the vote, the Commission recommends approval of Text Amendment TXT2018-00251.

KEY POINTS OF FCC DECLARATORY RULING AND THIRD ORDER ON SMALL CELLS

Statutory Authority for Order[1]
47 USC § 332(c)(7)

- Addresses personal wireless services

47 USC § 253(a)

- Addresses any interstate or intrastate telecommunications service

FCC Order – Key Paragraphs
Standard

- **Standard:** A state or local requirement constitutes an effective prohibition if it 'materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.' (¶ 35.)
- A state or local legal requirement will have the effect of prohibiting wireless services if it materially inhibits the provision of such services. (¶ 37.)
    - Includes materially inhibiting additional services or improving existing services. (¶ 37.)
- Providers must be able to compete in a "fair and balanced regulatory environment." (¶ 39.)
    - Requirement can function as an effective prohibition either because of a "financial burden" or because of a resulting competitive disparity. (¶ 39.)

Fees

- Only permitted to the extent that they represent a reasonable approximation of the local government's objectively reasonable costs, and are non-discriminatory. (¶ 32.)
- ROW access fees, and fees for the use of government property in the ROW, such as light poles, traffic lights, utility poles, and other similarly situated property suitable for hosting Small Wireless Facilities, as well as application or review fees imposed by a state or local government as part of their regulation of the deployment of Small Wireless Facilities inside and outside the ROW, violate Sections 253 or 332(c)(7) unless these conditions are met: (1) the fees are a reasonable approximation of the state or local government's costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly-situated competitors in similar situations. (¶ 50.)
- States and localities may recover a reasonable approximation of their costs related to deployment of Small Wireless Facilities. (¶ 56.)
- The requirement that compensation be limited to a reasonable approximation of objectively reasonable costs and be non-discriminatory applies to all state and local government fees paid in connection with a provider's use of the ROW to deploy Small Wireless Facilities . . . . (¶ 69.)

[1] The text of the two subsection of the United States Code that are referenced below are contained at the end of this document.

- This interpretation applies with equal force to any fees reasonably related to the placement, construction, maintenance, repair, movement, modification, upgrade, replacement, or removal of Small Wireless Facilities within the ROW, including, but not limited to, application or permit fees such as siting applications, zoning variance applications, building permits, electrical permits, parking permits, or excavation permits. (¶ 69.)

- Fees not reasonably tethered to costs appear to violate [the Sections]. (¶ 70.)
  - Examples: gross revenue fees (not based on the costs associated with an entity's use of the ROW), unreasonably high costs (such as excessive charges by third party contractors or consultants) may not be passed on through fees even though they are an "actual cost"
- Fair and reasonable compensation: a reasonable approximation of a state or local government's objectively reasonable costs of, respectively, maintaining the ROW, maintaining a structure within the ROW, or processing an application or permit. (¶ 72.)
- Government's incur a variety of direct and actual costs, such as: costs for staff to review the provider's siting application, cost's associated with a provider's use of the ROW, and costs associated with maintaining the ROW itself or structures within the ROW to which Small Wireless Facilities are attached. (¶ 75.)
- When a locality charges both types of recurring fees (access to the ROW and for use or attachment to property in the ROW), the total of the two fees must reflect the total costs involved. (¶ 76.)
  - Fees that cannot ultimately be shown by a state or locality to be a reasonable approximation of its costs, such as high fees designed to subsidize local government costs in another geographic area or accomplish some public policy objective beyond the providers' use of the ROW, are not "fair and reasonable compensation . . . for use of the public rights-of-way."
  - Excessive and arbitrary consulting fees or other costs should not be recoverable as "fair and reasonable compensation" because they are not a function of the provider's "use" of the public ROW.
- Fees that presumptively do not constitute an effective prohibition and are presumed to fair and reasonable: (a) $500 for non-recurring fees, including a single up-front application that includes up to five Small Wireless Facilities, with an additional $100 for each Small Wireless Facility beyond five, or $1,000 for non-recurring fees for a new pole intended to support one or more Small Wireless Facilities; (b) $270 per Small Wireless Facility per year for all recurring fees, including any possible ROW access fee or fee for attachment to municipally-owned structures in the ROW. (¶ 79.)
  - A local government can charge fees above this level by showing that the fees are (1) a reasonable approximation of costs, (2) those costs themselves are reasonable, and (3) are non-discriminatory. (¶ 80.)

<u>Non-Fee Related Provisions that Could Operate as Prohibitions on Service</u>

- Aesthetic requirements are not preempted if they are: (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance. (¶ 86.)

  - Requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are permissible. (¶ 87.)
  - Requirements must be objective – *i.e.*, they must incorporate clearly-defined and ascertainable standards, applied in a principled manner – and must be published in advance. (¶ 88.)
- Undergrounding Requirements. (¶ 90.)
  - We believe that a requirement that *all* wireless facilities be deployed underground would amount to an effective prohibition given the propagation characteristics of wireless signals. (¶ 90.)
  - Further, a requirement the materially inhibits wireless service, even if it does not go so far as requiring that all wireless facilities be deployed underground, also would be considered an effective prohibition. (¶ 90.)
- Minimum spacing requirements may be reasonable aesthetic requirements. (¶ 91.)
  - Under the principle that nay such requirements be reasonable and publicly available in advance, it is difficult to envision any circumstances in which a municipality could reasonably promulgate a new minimum spacing requirement that, in effect, prevents a provider from replacing its preexisting facilities or collocating new equipment on a structure already in use. (¶ 91.)

<u>State and Local Governments Act in Their Regulatory Capacity When Authorizing and Setting Terms for Wireless Infrastructure Deployment in Public Rights-of-Way</u>

- The interpretations extend to state and local governments' terms for access to public ROW that they own or control, including areas on, below, or above public roadways, highways, streets, sidewalks, or similar property, as well as their terms of use of or attachment to government-owned property within such ROW, such as new, existing, and replacement light poles, traffic lights, utility poles, and similar property suitable for hosting Small Wireless Facilities. (¶ 92.)
- Section 253(a) is properly construed to suggest that Congress did not intend to permit states and localities to rely solely on their ownership of property within the ROW as a pretext to advance regulatory objectives that prohibit or have the effect of prohibiting the provision of covered services. (¶ 97.)

<u>Shot Clocks/Applications</u>

- New shot clock for small wireless facility deployments (¶ 105.)
  - 60 days for review of an application for collocation of Small Wireless Facilities using a preexisting structure.
  - 90 days for review of an application for attachment of Small Wireless Facilities using a new structure.
- Shot clocks reset in the event that a locality receives a materially incomplete application. (¶ 111.)
- It is likely that providers will submit "batched" applications, which are multiple separate applications filed at the same time, each for one or more sites *or* a single application covering multiple sites. (¶ 113.)
  - We see no reason why the shot clocks for batched applications to deploy Small Wireless Facilities should be longer than those that apply to individual

applications because, in many cases, the batching of such applications has advantages in terms of administrative efficiency that could actually make review easier. (¶ 114.)

- Section 332 does not allow states and localities to refuse to accept batches of applications to deploy Small Wireless Facilities. (¶ 115.)
- A failure to act amounts to a presumptive prohibition on the provision of personal wireless services within the meaning of [the Section]. (¶ 118.)
- Any request for authorization to place, construct, or modify personal wireless services facilities under [Section 332] means all authorizations necessary for the deployment of personal wireless services infrastructure. (¶ 132.)
    - The text encompasses not only requests to place personal wireless service facilities, e.g., zoning requests, but also requests for authorization to construct or modify personal wireless service facilities. (¶ 133.)
- Attachment of facilities to existing structures constitutes collocation, regardless whether the structure or the location has previously been zoned for wireless facilities. (¶ 140.)
- For Small Wireless Facilities applications, the siting authority has 10 days from the submission of the application to determine whether the application is incomplete. (¶ 143.)
    - The shot clock then resets once the applicant submits the supplemental information requested by the siting authority. (¶ 143.)

Statutory Authority for Order
<u>47 USC § 332(c)(7)</u>

(c)(7) Preservation of local zoning authority.

(A) General authority. Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B) Limitations.

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C) Definitions. For purposes of this paragraph--

(i) the term "personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term "personal wireless service facilities" means facilities for the provision of personal wireless services; and

(iii) the term "unlicensed wireless service" means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v) [47 USCS § 303(v)]).

47 USC § 253(a)-(c)

(a) In general. No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

(b) State regulatory authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254 [47 USCS § 254], requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) State and local government authority. Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Authorization
Department: City Manager's Office
Responsible Staff: Jenny Kimball

Subject

Authorize the City Manager to Execute the Seventh Amendment to the Interim Management Agreement Between the Mayor and Council of Rockville and Street Retail, Inc. (Herein Referred to as "FRIT") to Temporarily Manage the Town Square Commercial District and the Town Square Street and Area Lighting District (Collectively, the "Town Square Management District") and the Plaza at Rockville Town Square

Recommendation

Staff recommends that the Mayor and Council authorize the City Manager to execute the Seventh Amendment to the Interim Management Agreement, in a form acceptable to the City Attorney, to extend the Interim Management Agreement for one additional year.

Discussion

Overview

Effective July 1, 2011, the City entered into an Interim Management Agreement ("Agreement") with Federal Realty Investment Trust (FRIT) which, among other things, provided that FRIT would operate, manage, and maintain the sidewalk areas and the improvements located within the sidewalk areas within the Town Square Commercial District and the Town Square Street and Area Lighting District (collectively the “Town Square Management District”), as well as the Plaza.

At the time the City entered into this Agreement, the City maintained the City-owned Plaza at its own expense and maintained the Condominium-owned Town Square Management District with special taxes collected within Town Square for this purpose. After entering into the Agreement, FRIT has been managing the Plaza and sidewalk areas within the Town Square Management District at no expense to the City. Since FY 2012, the City, in accordance with the Agreement, has agreed to set the tax rates at zero for the two special taxing districts that cover the Town Square Management District.

The term of the initial Agreement was for two years, with an expiration date of June 30, 2013. The Mayor and Council approved one-year extensions of the Agreement annually until June 30, 2018. The last approved extension by the Mayor and Council, for a two-year period, extended the term of the Agreement until June 30, 2020.

The FY21 budget, scheduled to be approved on May 11, sets the tax rates at zero. The Mayor and Council's authorization to execute the Seventh Amendment must be completed before the tax rate is set at zero with the Mayor and Council's adoption of the FY21 budget.

Staff recommends that the Mayor and Council authorize the City Manager to execute a Seventh Amendment providing a one-year extension to June 30, 2021. The other terms of Agreement would remain the same as the previous amendments.

Executing the Amendment provides the City:

- The ability to set the tax rates at zero for the two special taxing districts that cover the Town Square Management District.;

- No City cost maintenance expenses for the public plaza because the Agreement provides for FRIT to absorb the cost to ensure consistency of maintenance for the entire Rockville Town Square;

- Continued consistent maintenance across five separately-owned blocks that make up Town Square, for example consistent trash collection, cleaning, landscaping, and holiday decorations; and

- Stability in the management and cost for the residents, retailers and property owners.

Not executing the Amendment and reverting to the pre-Agreement approach to maintaining the area would require that the City:

- Set a tax rate in the FY21 budget to collect taxes within Town Square for the purpose of maintaining the Condominium-owned Town Square Management District,

- Budget funds for the maintenance of the public plaza beginning in FY21,

- Contract with a maintenance company to take over the maintenance and management responsibilities for the Town Square.

Implementing these changes would take several months to complete. If the Mayor and Council wants to consider reverting to the City maintaining the Plaza at its own expense and maintaining the Condominium-owned Town Square Management District with special taxes, staff recommends that the Mayor and Council authorize the City Manager to execute this Seventh Amendment for one year to allow the City the time to prepare for that change. Preparing for the change would include coordinating with the property owners, establishing a maintenance budget and appropriate tax rate, securing a contractor, and reflecting the new responsibilities in the City’s FY22 proposed budget.

Background

The Interim Management Agreement is provided at Attachments A. The Management Agreement was established as part of the General Development Agreement (GDA) for Rockville Town Square and commenced on July 1, 2011. The purpose of the Agreement was to assign responsibility for ensuring high standards of maintenance and upkeep for the common areas of the new development.

Rockville Town Square is a conglomeration of five separate condominium entities, each with its unique set of owners, identified as blocks within the development. A table summarizing the properties/blocks and the owners within each condominium regime is provided at Attachment B. Having one entity responsible for managing the maintenance of the common areas ensured, and continues to ensure, consistent, cohesive and appropriate high-level upkeep throughout Town Square, ranging from frequency of trash pick-up, to type of landscaping, to installation of holiday decorations.

The Town Square Management District represents the sidewalk areas within the five condominium properties and the improvements located within the sidewalk areas. Under Town Square's condominium structure, the sidewalks outside each of the blocks defined in Attachment B are owned by the condominium ownership, as a "general common element," of the building that is adjacent to the sidewalk. Establishing a standard and responsibility for management and maintenance for all of the sidewalks in the development has, since the very beginning, been a high priority for all of the owners, including the City, residents, workers and visitors.

The Interim Management Agreement also addresses the maintenance of the Plaza at Rockville Town Square. The Plaza is the City-owned park at the center of the development, between Maryland Avenue and Gibbs Street. As a popular gathering place and location for various community events, high standards of maintenance for the plaza is also very important.

The Agreement designates Federal Reality/Street Retail as the manager. Federal Realty Investment Trust is the parent company of Street Retail Inc, which owns, manages and maintains retail centers and downtown retail areas.

<u>Services</u>
The management and maintenance services under the Interim Management Agreement and the Amendments are summarized in Schedule 1 and Schedule 2 of the Agreement (Attachment A). The services are to be provided in "a first class manner" and the Manager takes directions and instructions on the performance of the services only from the City of Rockville. If the Manager fails to perform any of the minimum services, the City may perform the service and charge the manager the cost incurred. Services provided in the public plaza include, but are not limited to, snow removal, painting, sidewalk repairs, porter service and power washing. Sidewalk area services include porter service, landscaping, security, snow removal, extermination, and holiday decorations.

Funding

With the 2011 Agreement, the tax rate was set at zero and funding for maintenance and management of the Town Square common areas shifted to the five condominium regimes, which include private residential owners, FRIT, Rockville City, and Montgomery County. Each condominium board is a separate entity, with all five boards meeting quarterly to conduct business for the entire Town Square area and annually setting rates of pay for the common area maintenance provided through the Interim Management Agreement.

Under the current condominium payments, FRIT funds approximately 90% of the total amount budgeted for maintenance and management in the area, due to their role as owner of the retail units, which generates the majority of the maintenance needs, and as manager of the parking garages. The other 10% is funded by the residential components of Town Square. City funds are not allocated to the maintenance and management of the area.

Looking Ahead

The current Interim Management Agreement has been extended by amendments for several years. It continues to serve the purpose of establishing consistent maintenance and services across the Town Square Management District and public Plaza of Rockville Town Square. Having a company in place that is experienced in property management and maintenance has served the City and the condominium regimes well. Challenges to establishing a longer-term approach and agreement have included regular changes in leadership at FRIT and the requirement for a unanimous vote to approve by all five condominium blocks.

With Mayor and Council authorization to execute the Seventh Amendment, FRIT will ask the City in FY21 to re-examine the current approach to Town Square management and maintenance with FRIT and the other owners in the five condominium blocks. Staff will seek the Mayor and Council's input on any alternative options, should that be the Mayor and Council's desire. Any changes that would potentially impact the City responsibilities, budget or tax rates could be reflected in the FY22 proposed budget for Mayor and Council's consideration and approval.

Mayor and Council History

The original Agreement was brought before the Mayor and Council for approval on June 20, 2011. The First, Second, Third, Fourth, Fifth and Sixth Amendments were brought before the Mayor and Council on April 29, 2013, April 28, 2014, May 18, 2015, May 9, 2016, May 1, 2017 and April 9, 2018. Each Amendment extended the Interim Management Agreement for one year, with the exception of the Sixth Amendment which extended the Agreement by two years.

Next Steps

Upon Mayor and Council approval, the City Manager will execute the Seventh Amendment to the Interim Management Agreement, in a form acceptable to the City Attorney. The City could

also work with the other property owners to examine whether to recommend to the Mayor and Council potential adjustments to the management and maintenance of Rockville Town Square beginning July 1, 2021.

Attachments

Attachment 13.a: Interim Mgmt Agmt - signed copy (PDF)
Attachment 13.b: Block Ownership Table (PPTX)

Rob DiSpirito, City Manager 5/7/2020

ATTACH A

Attachment 13.a: Interim Mgmt Agmt - signed copy (2990 : Seventh Amendment Town Square Interim Management Agreement)

INTERIM MANAGEMENT AGREEMENT

BETWEEN

THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

AND

STREET RETAIL, INC.

TO TEMPORARILY MANAGE THE TOWN SQUARE COMMERCIAL DISTRICT, THE TOWN SQUARE STREET AND AREA LIGHTING DISTRICT AND THE PLAZA AT ROCKVILLE TOWN SQUARE, ROCKVILLE, MARYLAND

ATTACH A

INTERIM MANAGEMENT AGREEMENT

THIS INTERIM MANAGEMENT AGREEMENT (the "**Agreement**") is made this _____ day of _____, 2011 (the "**Effective Date**") by and between the **Mayor and Council of Rockville, Maryland** (the "**City**") and **STREET RETAIL, INC.**, a Maryland corporation (the "**Manager**") having an office at 1626 East Jefferson Street, Rockville, Maryland 20852.

RECITALS:

A. The City is the owner of certain real property described and depicted as Parcel B on that certain plat of subdivision entitled "Plat of Subdivision Lots 19, 21, 22 & Outlot A, & Parcel B, Block B & Street Dedication: North Maryland Avenue City Center," recorded among the Land Records for Montgomery, Maryland (the "**Land Records**") at Plat No. 22892, which real property consists of a public plaza intended for use by the general public, including the stage, pavilion and sound system, interactive fountain(s) and storm water management facilities located therein (hereinafter referred to as the "Public Plaza").

B. The Public Plaza is part of a mixed-use development located within the City of Rockville, Maryland commonly known as "Rockville Town Square," situated between East Middle Lane, Beall Avenue, North Washington Street and MD 355 ("**Town Square**"). Town Square is intended to be for the use and enjoyment of the general public and consists of (i) the Public Plaza owned by the City, (ii) a public library owned by the County of Montgomery County, Maryland, and (iii) certain real property and improvements, having mixed public and private uses, including retail, office, residential and cultural arts uses, owned by multiple condominium regimes in which there are multiple owners, and described and depicted on those certain plats of subdivision, recorded among the Land Records at Plats Nos. 22891, 22892 (excluding the Public Plaza shown thereon) and 23155 (hereinafter, collectively, the "**Condominium Properties**").

C. The Condominium Properties have been subjected to five (5) separate master condominium regimes known as: (i) the Rockville Town Square Block 1/2 Condominium (the "**Block 1/2 Condominium**"); (ii) the Rockville Town Square Block 3A Condominium (the "**Block 3A Condominium**"); (iii) the Rockville Town Square Block 3B Condominium (the "**Block 3B Condominium**"); (iv) the Rockville Town Square Block 4 Condominium (the "**Block 4 Condominium**"); and (v) the Rockville Town Square Block 5 Condominium (the "**Block 5 Condominium**"). The foregoing condominium regimes are referred to collectively as the "**Condominiums**" and individually as a "**Condominium**" herein.

D. Pursuant to Chapter 22 of the Rockville City Code, Article IV, as amended ("**Chapter 22**"), the City has established two (2) special taxing districts entitled "Town Square Street and Area Lighting District" and "Town Square Commercial District" (collectively, the "TSMD") for the sidewalk areas within the Condominium Properties and the improvements located within the sidewalk areas of the Condominium Properties (collectively, "**Sidewalk Areas**"). The purpose of the TSMD is to ensure a consistent high level of maintenance services and management of the Sidewalk Areas by the City. The Sidewalk Areas and the Public Plaza are collectively referred to herein as the "**Property**."

Attachment 13.a: Interim Mgmt Agmt - signed copy (2990 : Seventh Amendment Town Square Interim Management Agreement)

E. The parties hereto intend to address the ongoing management and maintenance of the Sidewalk Areas through covenants, easements and/or agreements binding upon the council of unit owners for each Condominium (referred to as the **"Maintenance Covenants"** herein) pursuant to which the Manager, and its successors and assigns, is to assume responsibility for the ongoing management and maintenance of the Sidewalk Areas. Further, the parties hereto intend to address the ongoing management and maintenance of the Public Plaza through a long-term management agreement to be entered between the City and the Manager (the **"Long-Term Management Agreement"**) pursuant to which Manager, and its successors and assigns, is to assume responsibility for the ongoing management and maintenance of the Public Plaza.

F. For duration of the period during which either this Agreement or the Maintenance Covenants and Long-Term Management Agreement are in effect, the City will cause the TSMD tax rate to be set to zero percent (0.00%), the intent being that, for so long as the ongoing management and maintenance of the Property is addressed through either this Agreement and/or the Maintenance Covenants and Long-Term Management Agreement, the City will not levy or collect any TSMD taxes pursuant to Chapter 22 for the same services. The Manager shall receive no payment for its services under this Agreement, however, subject to Article 5 of this Agreement, the Manager shall pay to the City on or before August 31, 2011, the amount of the deficit in the Town Center fund as of June 30, 2011, which amount will not exceed Eighty Five Thousand Dollars ($85,000.00), and the Manager shall also have the right to operate an outdoor ice skating rink in the Public Plaza during the winter months in a location to be agreed upon by the parties hereto.

G. The City and the Manager intend by this Agreement to address the management and maintenance of the Sidewalk Areas and the Public Plaza for the period until the Maintenance Covenants and the Long-Term Management Agreement are in full force and effect. Subject to with Article 6 of this Agreement, this Agreement will terminate at such time as both the Maintenance Covenants and the Long-Term Management Agreement are in full force and effect, or June 30, 2013, whichever first occurs.

H. In order to ensure the same high level of maintenance standard of cleanliness across all of the Property, the City hereby appoints the Manager, and the Manager hereby accepts appointment, on the terms and conditions hereinafter provided, as Manager for the City to provide management and maintenance services for the Property.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby mutually agree with each other as follows:

Article 1. The recitals set forth above are hereby incorporated in and made a substantive part of this Agreement.

Article 2. The City hereby appoints Manager, and Manager hereby accepts appointment, without payment, on the terms and conditions hereinafter provided, as Manager of the Property.

Article 3. Except as may be otherwise provided in this Agreement, Manager shall manage and maintain the Property at its sole cost and expense for the period and upon the terms of this Agreement. Such management and maintenance services shall include the following:

A. Manager's management and maintenance services shall include the following for the Public Plaza: The services set forth on Schedule 1 attached to this Agreement and incorporated herein by reference (the "**Minimum Public Plaza Services**").

B. Manager's management and maintenance services shall include the following for the Sidewalk Areas: The services set forth on Schedule 2 attached to this Agreement and incorporated herein by reference (the "**Minimum Sidewalk Area Services**"). The Minimum Public Plaza Services and the Minimum Sidewalk Area Services are hereinafter jointly referred to as the "**Minimum Services.**" The Minimum Services exclude any maintenance or plumbing repairs for the interactive fountain and storm water management facilities serving the Public Plaza

C. Manager shall not be required to provide any services in connection with special events occurring within the Property whatsoever, including, but not limited to, performing any clean-up services or repairing any damage to the Property in connection with any special event occurring within the Property. The party sponsoring a special event shall be responsible for any damage to the Property and for providing all clean-up services in connection with such special event so that the Property is immediately returned for use by the general public in the condition as it existed prior to the holding of the special event ("**Special Clean-Up**"). Within twenty-four (24) hours following any special event, if the party sponsoring such special event (or any permitee) fails to perform the necessary Special Clean-Up, Manager shall have the right to perform the Special Clean-Up at no cost and/or expense to Manager, and shall bill the City for the cost.

D. To the extent pavers within the Property are being installed and/or replaced by the City, then Manager shall have no responsibly to maintain any pavers within the area where pavers are being installed and/or replaced until the installation or repair work is complete; provided, however, and only to the extent that, the maintenance of any such pavers is part of the Minimum Services listed on Schedule 1 and Schedule 2. If any portion of the Property is damaged or destroyed as a result of the installation and/or replacement of pavers, or any other action, undertaken within the Property by or on behalf of the City, then the City shall forthwith proceed to rebuild and repair such portion of the Property to as good condition as existed prior to such damage or destruction, without cost to the Manager.

E. Manager shall cause to be hired, paid and supervised, all persons necessary to be employed in order to properly provide the Minimum Services for the Property.

F. Manager shall cause to be performed ordinary maintenance and repairs for the Sidewalk Areas and the Public Plaza.

G. Manager shall perform or cause to be performed all acts and things to be done in or about the Property to comply with all orders or violations affecting the Property (including any such orders or violations issued by any federal, state, or municipal authority having

jurisdiction over the Property) to the extent that such orders or violations arise out of the performance of Minimum Services by Manager; subject, however to the recommendation and approval of the City.

H. The City shall be authorized to deal with Manager on any matter relating to the performance of the Minimum Services under this Agreement. Manager is directed not to accept directions or instructions with regard to the performance of the Minimum Services under this Agreement from anyone other than the City or its designee who has been designated in writing.

I. Manager shall perform its duties and Minimum Services in a professional and competent "first class manner." The term "first class manner" shall mean a quality, condition, nature or operation consistent with the quality, condition, nature or operation found in other commercial developments in the Washington, D.C. metropolitan area of comparable size and use.

J. Subject to the Default Notice provisions in Article 15 of this Agreement, in addition to any rights or remedies that are available under this Agreement and in law or equity, in the event that the Manager fails to perform any of the Minimum Services set forth herein, the City may perform such services and charge the Manager with the cost incurred by the City to perform any such Minimum Services.

K. The Manager may not change the location or type of existing improvements on the Public Plaza without the prior written approval of the City.

Article 4.

A. The City hereby authorizes Manager, for the City, and on its behalf, to perform any act or do anything necessary or desirable in order to carry out Manager's duties and Minimum Services contained in Article 3 of this Agreement.

B. Manager shall not be liable to the City for any loss or damage, except arising from or related to the breach of this Agreement by Manager, breach of duty on the part of Manager, action by Manager outside the scope of authority granted to Manager under this Agreement, or any tortious or illegal acts of Manager.

Article 5. The Manager agrees to pay to the City on or before August 31, 2011, the amount of the deficit in the Town Center fund as of June 30, 2011, which amount will not exceed Eighty Five Thousand Dollars ($85,000.00); provided, however, that the City shall have delivered to Manager, on or before August 15, 2011, reasonable written back-up documentation supporting such deficit amount, together with such supplementary documentation as may be reasonably requested by the Manager. The City shall not pay Manager compensation for its Minimum Services hereunder; however, Manager acknowledges that it is entering into this Agreement with the City in consideration for the City's willingness to enter into the Long-Term Management Agreement, and the City's agreement, which agreement the City hereby ratifies and confirms, to not levy special TSMD taxes for so long as the ongoing management and maintenance of the Property is being performed by Manager under either this Agreement and/or the Maintenance Covenants and Long-Term Management Agreement.

Article 6.

A. The initial term of this Agreement shall commence on July 1, 2011 and shall automatically terminate upon the occurrence of the first to occur of the following: (i) the date that both the Maintenance Covenants for each Condominium and the Long-Term Management Agreement are effective, or (ii) June 30, 2013.

Article 7. This Agreement may not be changed orally, shall bind and apply to any successor of either party hereto, and may not be assigned by either party hereto.

Article 8. Manager must at all times during the term of the Agreement maintain such licenses and permits as required for any of the various services to be performed by Manager hereunder.

Article 9. Manager shall carry and maintain, at its sole cost and expense, a commercial general liability insurance policy in respect of the Property, with terms reasonably satisfactory to the City, with single limit coverage for bodily injury, death, and property damage liability and medical payments at a minimum of Five Million Dollars ($5,000,000.00). Each policy evidencing the insurance to be carried by Manager under this Agreement shall contain a clause that such policy and coverage evidenced thereby shall be primary and that any coverage carried by the City shall be excess insurance. Each such policy shall contain an endorsement that names the City as an additional insured, and shall contain a clause that the insurer shall not cancel or change the insurance without first giving the City, and any such other additional insureds, at least thirty (30) days prior written notice. Manager may satisfy its insurance obligations hereunder by including the Property in a master policy. Such master policy shall contain an endorsement that names the City as an additional insured and references the Property.

Article 10. Manager is not an employee of the City for any purpose, and is acting as Manager for the City in the capacity of an independent contractor. Manager shall protect, defend, indemnify and save harmless the City and all of its officers, employees, agents, representatives, servants, and assigns from any and all liability, loss, damages, claims, causes of action, judgments, and expenses, including reasonable attorney's fees, in connection with or arising out of this Agreement and/or the performance hereof that are due to the acts of the Manager, its agents, representatives, or assigns in connection with or arising out of the Manager's performance, or lack of performance of its responsibilities under this Agreement.

Article 11. Manager may hire subcontractors, independent contractors, consultants, vendors and/or associate managers in connection with Manager's services to be provided hereunder without the consent of the City.

Article 12. In performing the functions under this Agreement, the City shall act diligently and in good faith and cooperate with Manager in all matters relating to the services to be provided by Manager under this Agreement. The City shall furnish all information in its possession or control that Manager reasonably requests and that is reasonably necessary in connection with performing Manager's services under this Agreement.

Article 13. None of the duties and obligations of Manager and the City under this

Agreement shall in any way be construed as to create any liability for Manager or the City with respect to third parties who are not parties to this Agreement.

Article 14. All notices required or permitted hereunder shall be in writing and shall be deemed given/received: (a) when delivered if delivered by hand; (b) the next business day after deposit with a reputable overnight courier service marked for delivery on the next business day; or (c) by facsimile, upon completion of transmission to the applicable party at their facsimile number listed herein; (d) by email, upon receipt of the email by the applicable party at their email address listed herein:

If to the City:	City of Rockville 111 Maryland Avenue Rockville, Maryland 20850 Attention: Scott Ullery, City Manager Facsimile: _____ Email: SUllery@rockvillemd.gov
With a copy to:	City of Rockville 111 Maryland Avenue Rockville, Maryland 20850 Attention: Debra Y. Daniel, Esq., City Attorney Facsimile: (240) 314-8210 Email: DDaniel@rockvillemd.gov
If to Manager:	Street Retail, Inc. c/o Federal Realty Investment Trust 1626 East Jefferson Street Rockville, Maryland 20852 Attention: Robin McBride Facsimile: _____ Email: _____
With a copy to:	Federal Realty Investment Trust 1626 East Jefferson Street Rockville, Maryland 20852 Attention: Legal Department Facsimile: (301) 998-3703 Email: _____

With a copy to: Linowes and Blocher LLP
7200 Wisconsin Avenue
Suite 800
Bethesda, Maryland 20815
Attention: Douglas M. Irvin, Esq.
Facsimile: (301) 654-2801
Email: _____

Article 15. If at any time the City shall determine (i) that a condition exists within the Property that results from the failure of the Manager to actually perform the ongoing management and maintenance of the Property in accordance with this Agreement, or (ii) that the Manager is otherwise in default under this Agreement, then the City shall provide prompt written notice (as provided below) of such default (each, a **"Default"**) to the Manager. Before exercising any rights or remedies that it may have or accrue as a result of a Default, the City shall give prior written notice (the **"Default Notice"**) to the Manager specifying in reasonable detail the nature of the Default and indicating that such Default must be cured within seven (7) days after the date upon which the Default Notice is given to Manager, unless the Default relates to a Minimum Service which must be performed daily or within a specified time, in which case the Default must be cured within twenty-four (24) hours of the Default Notice. If Manager fails to cure the Default within such seven (7) day period, then the City may, in its discretion, exercise any and all rights and remedies that it may have or accrue as a result of such Default. Notwithstanding the preceding sentence, if Manager acts promptly, using its best efforts, to cure any Default with respect to which a Default Notice is given pursuant to this Article, and if Manager is nevertheless unable to cure the Default within such seven (7) day period, then, so long as Manager continues to use its best efforts to cure the Default, it shall have such additional time as is reasonably necessary to complete the cure before the City may exercise any rights or remedies that it may have or accrue as a result of such Default.

Article 16. This Agreement may be executed in several counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

Article 17. If any term of this Agreement or its application to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Article 18. This Agreement may not be modified orally or in any other manner than by an agreement in writing signed by the City and the Manager.

Article 19. If any date upon which action is required under this Agreement shall be a Saturday, Sunday, or legal holiday, the date for such action shall be extended to the first regular business day after such date which is not a Saturday, Sunday or legal holiday. This Agreement represents the results of bargaining and negotiations between the parties and of a combined draftsmanship effort. Consequently, the City and the Manager expressly waive and disclaim, in

connection with the interpretation of this Agreement, any principle of construction requiring that ambiguous or conflicting terms be construed against the party whose attorney prepared this Agreement or any earlier draft of this Agreement. All exhibits and schedules attached to this Agreement are incorporated into and made a substantive part of this Agreement.

Article 20. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Maryland.

(Signature page follows).

Attachment 13.a: Interim Mgmt Agmt - signed copy (2990 : Seventh Amendment Town Square Interim Management Agreement)

ATTACH A

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESS:

CITY:

THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, a municipal corporation of the State of Maryland

By: _____ [SEAL]
Name: Scott Ullery
Title: City Manager

WITNESS:

MANAGER:

STREET RETAIL, INC., a Maryland corporation

By: _____ [SEAL]
Name: Robin McBride
Title: VP Mid-Atlantic Region COO.

_____

Attachment 13.a: Interim Mgmt Agmt - signed copy (2990 : Seventh Amendment Town Square Interim Management Agreement)

Schedule 1

Minimum Public Plaza Services

The following breakdown outlines the minimum services that will be provided for the Public Plaza:

Exterminating	Rock and mulch area and planters.
Janitorial Supplies	In addition to porter supplies.
Janitorial Service	Steam/Power washing and spot cleaning.
Rock Area Maintenance	Rock/mulch (fibar engineered safety surface) area and one tree. Fibar to be re-filled once per year and as needed.
Painting	Trash container touch-up.
Porter Service	Daily service, 365 days/year.
Sidewalk Repairs	Repairs to concrete pavers.
Snow Removal	Typically hand shoveled on pavers.
3 Chess Tables	Clean, paint as needed.
Litter Receptacles	Clean, paint as needed.
3 Stone Planters	Maintain, repair as needed.
Stonework – Other Locations	Maintain, repair as needed.
Painting	Stage, litter receptacles, bollards, etc.
Wood Benches	Maintain, repair as needed.
Bollards	Maintain, repair, replace bulbs, as needed.
Scrape/remove gum from surfaces	As needed.
Security	Provide via PSOs.

The frequency and level of service will be the same as for the Sidewalk Areas as outlined in Schedule 2.

The Minimum Public Plaza Services exclude any maintenance or plumbing repairs for the interactive fountain, public art embedded in the sidewalk at east end, sound system and storm water management facilities serving the Public Plaza.

Schedule 2

Minimum Sidewalk Area Services

The following breakdown outlines the minimum services that will be provided for the Sidewalk Areas:

Porter Service:

Scope of Work ("SOW") includes:

- Daily emptying of trash and recycling containers, wiping down of trashcans, chess tables, benches, windowsills, removal of trash in planting beds and other common areas.
- Provide dumpster service for trash and recycling removal.
- Removal of graffiti (initially within 24 hours, restore surface to original condition within 72 hours).
- Provide porter service.
- Wash/clean common areas.
- Maintain the Block 5 lobby (mop floor daily, planters, painting, tile repairs, lights).
- Power washing of pavers, as needed.
- Clean all fountain surfaces, remove stains, mold and discoloration, as needed.
- Replace light bulbs that are readily accessible, as needed.
- Scrape/remove gum from sidewalks and other surfaces, as needed.

Landscaping:

SOW includes:

- Grass cutting.
- Spring and fall clean up.
- Mulching.
- Treatment for weed control.
- Planting of annual flowers--beds and pots--three seasonal plantings.
- Replacement of dead or damaged plants.
- Insect and disease management for all plants and shrubs.
- Fertilization of plants and shrubs.
- Overseeding of lawn areas.
- Pruning of trees and bushes/shrubs.
- Provide watering service.
- Maintaining the irrigation system.
- Maintain tree lighting-uplights and string lights.

Security:

SOW includes:

- Public Safety Officer(s) (PSO).
- Additional PSO's will be provided, on a case-by-case basis, for "special events" that are held in the public plaza, at the sole cost and expense of the City for City events.

Snow Removal:

SOW to Include:

- All walkways, sidewalks and paver areas must be made safe whenever and wherever slippery conditions exist.
- Remove snow from roofs when conditions exist that may cause large quantities of snow falling on the sidewalks (or cordon off affected sidewalk areas).
- Hand-shovel brick pavers in common areas and the Public Plaza to create pathways for pedestrians. Snow removal to be completed within 12 hours of end of storm.
- Haul away snow to offsite location if there is not enough room to store on site.
- Snow must not be shoveled onto the public right-of-way (streets and parking stalls) without prior approval from the Department of Public Works.
- Two (2) inch minimum for shoveling/plowing.

Extermination:

SOW includes:

- Use integrated pest management procedures.
- One (1) time property set up for traps.
- One (1) time per month service.

Common Area / Other:

- Replace street lamp bulbs and other common area lighting; excluding the lighting fixtures on the Public Plaza.
- Maintain the common area fountains; excluding the "Interactive" fountain in the Public Plaza, including winterization and spring startup.
- Allow the City to collect coins from fountains.
- Maintain and repair all signage.
- Painting of trashcans, bike racks, and metal seating areas, as required.
- All common areas must be made safe whenever and wherever any hazardous or slippery condition exists and in no event should any such hazardous or slippery condition continue to exist more than 24 hours after receipt of notice from the City.

Holiday Decorations

- Provide and install annual holiday decorations.

Schedule 2

Attachment 13.a: Interim Mgmt Agmt - signed copy (2990 : Seventh Amendment Town Square Interim Management Agreement)

Communication

- Provide City with emergency contact person's phone number and email address 24/7/365 and a back-up emergency contact person's phone number and email address 24/7/365.

Schedule 2

Town Square
Block/Sidewalk Ownership

Owner(s) / Block / Property	City of Rockville	Federal Realty Investment Trust	Residential Unit Owners	Montgomery County	Maryland Econ. Dev. Corp. (MEDCO)
1 / 2	•	•	•		
3A - Arts & Innovation Center	•	•			•
Library				•	
4	•	•	•		
5	•	•	•		
Plaza	•				

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Introduction and Possible Adoption
Department: PDS - Housing
Responsible Staff: Asmara Habte

Subject

Introduction and Possible Adoption of an Ordinance to Amend City Code Chapter 18, Titled "Rental Facilities and Landlord-Tenant Relations," to Prohibit the Increase of Certain Rent Above Rent Guidelines During and After a Certain Declared Emergency; to Prohibit Certain Notices to Tenants; to Require Certain Notices to Tenants; and to Generally Amend City Law Concerning Rental Facilities and Landlord-Tenant Relations. OR Introduction and Possible Adoption of an Ordinance to Amend City Code Chapter 18, Titled "Rental Facilities and Landlord-Tenant Relations," to Prohibit the Increase of Certain Rent During and After a Certain Declared Emergency; to Prohibit Certain Notices to Tenants; to Require Certain Notices to Tenants; and to Generally Amend City Law Concerning Rental Facilities and Landlord-Tenant Relations.

Recommendation

Staff recommends that the Mayor and Council introduce one of the two attached ordinances.

If the Mayor and Council wish to introduce one of the attached ordinances and proceed to adoption at the same meeting, the ordinance should first be introduced, then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four or more members of the Mayor and Council, a motion to adopt the ordinance can then proceed.

Change in Law or Policy

On March 2, 2020, pursuant to City Code Section 18-194, the Mayor and Council adopted voluntary rent guidelines recommending that landlords limit rent increases on tenants of residential property to a maximum of 2.6% between March 3, 2020 and March 31, 2021. The City does not otherwise regulate the rent that may be charged for residential properties, other than for the City's MPDU program.

As directed by the Mayor and Council on May 4, 2020, Staff proposes that the Mayor and Council adopt one of the two attached ordinances, which would, for one of the ordinances (Attachment A), temporarily limit rent increases to 2.6% for all licensed residential rental properties in the City during Maryland's COVID-19 public health catastrophe or, for the other

ordinance (Attachment B), prohibit any rent increases for licensed residential rental properties during this same time period.

Discussion

On May 4, 2020, the Mayor and Council discussed policies on the temporary suspension of rent increases or the application of a mandatory not-to-exceed percentage rent increase on licensed residential rental properties, as a tenant protection measure in response to COVID-19.

The spread of COVID-19 and the emergency declarations related to the virus are having dramatic short-term negative impacts on commerce and employment. Despite federal, state, and local programs designed to assist employers, some of which are specifically designed to maintain employees in jobs, there is quickly rising unemployment in this region, as well as in the rest of the country. A result of the rising unemployment in affected economic sectors is the challenge for renters to make their payments.

On March 5, 2020, Governor Hogan issued an order preventing evictions during the COVID-19 state of emergency, providing necessary assurance to tenants that they will have homes, even if their incomes have been affected. However, there is not a state measure preventing or limiting residential rent increases during the state of emergency or after.

Maryland localities are contemplating various tenant protection measures and, as discussed at the Mayor and Council's May 4, 2020 meeting, at least two Maryland communities, Montgomery and Howard counties, have either adopted or introduced such legislation.

On May 4, the Mayor and Council directed staff to draft two ordinances modeled on the ordinance enacted by Montgomery County, known as the COVID-19 Renter Relief Act, which is attached to this staff report (Attachment C). The Mayor and Council requested that one ordinance mirror Montgomery County's legislation to limit increases in residential rent to the 2.6% rate established in both the County's and the City's voluntary rent guidelines. The second ordinance was to be modeled on Montgomery County's legislation but would prohibit any increases in rent on residential properties.

Staff has attached the two draft ordinances to this staff report. The first ordinance (Attachment A) would limit increases in rent for licensed residential properties to the City's voluntary rent guidelines rate of 2.6% during and for 180 days after the State's catastrophic health emergency. The second ordinance (Attachment B) would prohibit any increases in rent for licensed residential properties in the City during and for 180 days after the State's catastrophic health emergency.

The two proposed ordinances are intended to functionally mirror the County's COVID-19 Renter Relief Act, with the only key differences being whether the limit on rent increases is 2.6% or 0%.

It is important to note that, consistent with the County's Department of Housing and Community Affairs' interpretation of the County law (Attachment D), both proposed ordinances apply only to rent increases that would be effective on or after the date the ordinance is adopted. Staff recommends this approach because it is consistent with the County's application of its law and because it does not penalize landlords whose rent increases occurred before the enactment of the ordinance and were therefore done consistent with the then-prevailing law.

Timing and Applicability of Ordinance

If the Mayor and Council introduces one of the two proposed ordinances at its May 11th meeting, the ordinance will be brought back to the Mayor and Council for possible action at a later meeting. The Mayor and Council does have the option to vote to waive the layover period, which requires an affirmative vote of at least four members. If the layover period is waived, the Mayor and Council may proceed to a vote to adopt the ordinance on May 11th. A vote to adopt the ordinance needs a simple majority to pass.

Should the Mayor and Council adopt one of the two attached ordinances, the adopted ordinance would become effective immediately following the adoption. Accordingly, rent increases with an effective date before May 11, 2020 would remain valid, but rent increases with an effective date of May 11th or after would need to be brought into conformance with whichever ordinance the Mayor and Council adopts.

Mayor and Council History

The Mayor and Council discussed this item at its meeting on May 4, 2020. Also attached is also the staff report and supplemental information from the May 4, 2020, Mayor and Council meeting (Attachment E).

Public Notification and Engagement

Two Rockville residents provided testimony comments for the May 4th Mayor and Council meeting. During Community Forum, one resident urged the Mayor and Council to vote to freeze the rents for the time under consideration. Another resident submitted an email in support of the proposal to limit the increase to 2.6% during the emergency period. A copy of the written testimony is attached (Attachment F).

Next Steps

If the Mayor and Council introduces one of the two proposed ordinances at its May 11th meeting, the ordinance will be brought back to the Mayor and Council for possible action at a later meeting, unless the Mayor and Council votes to waive the layover period by an affirmative vote of at least four members. If the layover period is waived, the Mayor and Council may proceed to a vote to adopt the ordinance on May 11th. A vote to adopt the ordinance needs a simple majority to pass.

If the Mayor and Council adopts one of the two attached ordinances, staff will use the City's various communications means to alert landlords, tenants, and the general public of these provisions. In addition, staff will send a letter directly to all landlords in the City for whom the provision is applicable.

Attachments

Attachment 14.a: 2.6 Percent Rent Increase Limit Ordinance_FINAL (PDF)
Attachment 14.b: Rent Freeze Ordinance_FINAL (PDF)
Attachment 14.c: Montgomery County Bill_18-20E_Enacted (PDF)
Attachment 14.d: DHCA Explanatory Scenarios (PDF)
Attachment 14.e: 5-4-20 Report Attachments (PDF)
Attachment 14.f: Citizen input for 5-4 MC mtg (PDF)

Jenny Kimball

Jenny Kimball, Deputy City Manager 5/7/2020

ORDINANCE NO._____

ORDINANCE: To amend City Code Chapter 18, titled "Rental Facilities and Landlord-Tenant Relations," to prohibit the increase of certain rent above rent guidelines during and after a certain declared emergency; to prohibit certain notices to tenants; to require certain notices to tenants; and to generally amend City law concerning rental facilities and landlord-tenant relations.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND as follows:

SECTION I – That Chapter 18 of the Rockville City Code entitled "Rental Facilities and Landlord-Tenant Relations" be amended as follows:

Chapter 18

RENTAL FACILITIES AND LANDLORD-TENANT RELATIONS

***

ARTICLE IV. - LANDLORD-TENANT RIGHTS AND OBLIGATIONS

***

DIVISION 4. - LANDLORD RIGHTS AND OBLIGATIONS

***

Sec. 18-180. - Certain rent increases during state of emergency – prohibited.

(a) *Definitions*. In this Section, the following terms have the meanings indicated.

Emergency means the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor, under Section 14-3A-02 of the Public Safety Article of the Maryland Code.

Tenant has the meaning stated in Section 18-1.

Attachment 14.a: 2.6 Percent Rent Increase Limit Ordinance_FINAL (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent

(b) *Rent increases above guidelines – when prohibited*. A landlord must not increase a tenant's rent by an amount that exceeds the voluntary rent guidelines established under Section 18-194(a) if:

(1) the rent increase would take effect during the emergency; or

(2) notice of the rent increase does not comply with subsection (c) and Section 18-194(b).

(c) *Notices of rent adjustments.*

(1) During the emergency and within 90 days after the expiration of the emergency, a landlord must not notify a tenant of a rent increase if the increase would exceed the voluntary rent guidelines established under Section 18-194(a).

(2) If a landlord provided notice of a rent increase to a tenant and the increase was effective on or after May 11, 2020 and exceeded the voluntary rent guidelines established under Section 18-194(a), the landlord must inform the tenant in writing:

a. to disregard the notice; or

b. that the increase is amended to be less than or equal to the voluntary rent guidelines established under Section 18-194(a).

(d) *Notice of expiration of emergency*. The City must post on its website information about the requirements of this Section, including, when the information is available, the date that the emergency expires and the date that is 90 days after the expiration of the emergency.

SECTION II – This ordinance takes effect immediately upon adoption.

SECTION III – This ordinance expires and has no further force or effect upon the 181st day following the expiration of the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor.

****

NOTE: ~~Strikethrough~~ indicates material deleted.

Attachment 14.a: 2.6 Percent Rent Increase Limit Ordinance_FINAL (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent

Underlining indicates material added.

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council of Rockville at its meeting of _____.

_____

Sara Taylor-Ferrell

City Clerk/Director of Council Operation

Attachment 14.a: 2.6 Percent Rent Increase Limit Ordinance_FINAL (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent

ORDINANCE NO._____

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BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND as follows:

SECTION I – That Chapter 18 of the Rockville City Code entitled "Rental Facilities and Landlord-Tenant Relations" be amended as follows:

Chapter 18

RENTAL FACILITIES AND LANDLORD-TENANT RELATIONS

***

ARTICLE IV. - LANDLORD-TENANT RIGHTS AND OBLIGATIONS

***

DIVISION 4. - LANDLORD RIGHTS AND OBLIGATIONS

***

Sec. 18-180. - Rent increases during state of emergency – prohibited.

(a) *Definitions*. In this Section, the following terms have the meanings indicated.

Emergency means the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor, under Section 14-3A-02 of the Public Safety Article of the Maryland Code.

Tenant has the meaning stated in Section 18-1.

(b) *Rent increases – when prohibited*. A landlord must not increase a tenant's rent if:

(1) the rent increase would take effect during the emergency; or

Attachment 14.b: Rent Freeze Ordinance_FINAL (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent Increase at 2.6% for

(2) notice of the rent increase does not comply with subsection (c) and Section 18-194(b).

(c) *Notices of rent adjustments.*

(1) During the emergency and within 90 days after the expiration of the emergency, a landlord must not notify a tenant of a rent increase.

(2) If a landlord provided notice of a rent increase to a tenant and the increase was effective on or after May 11, 2020, the landlord must inform the tenant in writing to disregard the notice.

(d) *Notice of expiration of emergency*. The City must post on its website information about the requirements of this Section, including, when the information is available, the date that an emergency expires and the date that is 90 days after the expiration of the emergency.

SECTION II – This ordinance takes effect immediately upon adoption.

SECTION III – This ordinance expires and has no further force or effect upon the 181st day following the expiration of the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor.

****

NOTE: ~~Strikethrough~~ indicates material deleted.
Underlining indicates material added.

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council of Rockville at its meeting of _____.

_____

Sara Taylor-Ferrell

City Clerk/Director of Council Operation

Attachment 14.b: Rent Freeze Ordinance_FINAL (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent Increase at 2.6% for

Expedited Bill No. 18-20
Concerning: Landlord-**[[**Tennant**]]** Tenant Relations – Rent Stabilization During Emergencies
Revised: 04/14/2020 Draft No. 5
Introduced: April 14, 2020
Enacted: April 23, 2020
Executive: _____
Effective: _____
Sunset Date: See Sec. 3
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando
Co-Sponsors: Council President Katz, Councilmember Rice, and Councilmember Navarro

AN EXPEDITED ACT to:

(1) prohibit the increase of rent above rent guidelines during and after a certain declared **[[**emergencies**]]** emergency;
(2) prohibit certain notices to tenants;
(3) require certain notices to tenants; and
(4) generally amend County law concerning landlord-tenant relations.

By adding
Montgomery County Code
Chapter 29, Landlord-Tenant Relations
Section 29-55

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Attachment 14.c: Montgomery County Bill_18-20E_Enacted (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent Increase at

Sec. 1. Section 29-55 is added as follows:

29-55. Rent increases during [[states]] state of emergency – prohibited.

(a) *Definitions*. In this Section, **[[***emergency***]]** the following terms have the meanings indicated.

Emergency means the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor, under Section 14-3A-02 of the Public Safety Article of the Maryland Code.

Tenant has the meaning stated in Section 29-1. *Tenant* includes an existing tenant. *Tenant* does not include a prospective tenant.

(b) *Rent increases above guidelines – when prohibited*. A landlord must not increase a tenant's rent to an amount that exceeds the voluntary rent guidelines under Section 29-53 if:

(1) the rent increase would take effect during an emergency; or

(2) notice of the rent increase does not comply with subsection (c) and Section 29-54.

(c) *Notices of rent adjustments*.

(1) During an emergency and within **[[**30**]]** 90 days after the expiration of an emergency, a landlord must not notify a tenant of a rent increase if the increase would exceed the voluntary rent guidelines under Section 29-53.

(2) **[[**A landlord must inform a tenant in writing to disregard any notice of a rent increase if**]]** If a landlord provided notice of a rent increase to a tenant prior to the emergency and the increase would exceed the voluntary rent guidelines under Section 29-53, the landlord must inform the tenant in writing:

Attachment 14.c: Montgomery County Bill_18-20E_Enacted (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent Increase at

(A) **[[**the landlord provided the notice to the tenant prior to an emergency; and**]]** to disregard the notice; or

(B) **[[**the effective date of the increase would occur on or after the date the emergency began**]]** that the increase is amended to be less than or equal to the voluntary rent guidelines under Section 29-53.

(d) *Notice of expiration of emergency*. The Department must post on its website information about the requirements of this Section, including the date that an emergency expires, and the date that is **[[**30**]]** 90 days after the expiration of the emergency.

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Sec. 3. **Sunset date**. This Act must expire, and must have no further force or effect, upon the **[[**121st**]]** 181st day following the expiration of the catastrophic health emergency declared by the Governor of Maryland on March 5, 2020, as amended or extended by the Governor.

Sec. 4. Short title. This Act may be cited as the "COVID-19 Renter Relief Act".

Attachment 14.c: Montgomery County Bill_18-20E_Enacted (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent Increase at

Approved:

4/23/20

Sidney Katz, President, County Council — Date

Approved:

Marc Elrich, County Executive — Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council — Date

Attachment 14.c: Montgomery County Bill_18-20E_Enacted (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent Increase at

COVID-19 Updates
Information on Testing

Department of Housing and Community Affairs

Explanatory scenarios regarding the COVID-19 Renter Relief Act

COVID-19 Renter Relief Act Critical Dates

COVID-19 Renter Relief Act Enactment Date	April 24, 2020
Catastrophic Health Emergency declared by the Governor	March 5, 2020
Ending date of the Emergency	To be determined
90 Days after the End of Emergency	To be determined

Scenario 1. Notice of rent increase prior to the Emergency and implemented before April 24

If notice of rent increase of more than 2.6% was issued on December 15, 2019 for a rent increase that was implemented on April 1 before the Act took effect, the rent increase is not affected.

a. Because the rent increase occurred before the date of the Act, that rent increase stands.

Scenario 2. Notice of rent increase prior to the Emergency to be implemented after April 24

Attachment 14.d: DHCA Explanatory Scenarios (3123 : Ordinance to Temporarily Suspend Rent Increase or Limit Rent Increase at 2.6% for

If notice of rent increase greater than 2.6% was issued on January 15, 2020 for a rent increase to take effect May 1, 2020, that rent increase is invalid and must be withdrawn or amended to an increase of no more than 2.6%.

a. Because the rent increase slated for effect after the date of the Act, the rent increase must be reduced to no more than 2.6%

Scenario 3. Notice of rent increase during the Emergency

If notice of rent increase of more than 2.6% occurred on March 15 for July 1 rent change, that rent increase notice is invalid and must be withdrawn or amended to no more than 2.6%

a. Because the rent increase slated for effect after the date of the Act, the rent increase must be reduced to no more than 2.6%

Scenario 4. Notice of rent increase after the Emergency

Hypothetically - if the COVID-19 emergency ends July 30, notices of rent increases must remain at or below 2.6% for 90 days - through October 28, 2020. Under this scenario, a notice of rent increase given Oct. 29, 2020 or later could exceed 2.6% and take effect no earlier than January 27, 2021.

a. The 90 days after the end of the Emergency plus the requirement for 90-day notice of any rent increase provides 180 days minimum after the end of the Emergency before any rent increase can exceed 2.6%

Sample rent increase amounts at 2.6%

- For rent of $1,500/month, a 2.6% rent increase would amount to $39/month
- For rent of $1,750/month, a 2.6% rent increase would amount to $45.50/month
- For rent of $2,000/month, a 2.6% rent increase would amount to $52/month
- For rent of $2,500/month, a 2.6% rent increase would amount to $65/month

For more information, visit Renter Issues Related to COVID-19 Crisis or Landlord issues related to COVID-19 crisis. For a summary of the COVID-19 Rent Relief Act, please visit: Summary of COVID-19 Renter Relief Act.

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Mayor & Council Meeting Date: May 4, 2020
Agenda Item Type: Discussion
Department: PDS - Housing
Responsible Staff: Asmara Habte

Subject

Consideration of Limiting Market Residential Rent Increases in Rockville During COVID-19 Emergency

Recommendation

Staff recommends that the Mayor and Council discuss and provide direction on the following potential options to limit rent increases for market rental products during, and perhaps immediately after the ending of, the COVID-19 State of Emergency:

- Taking no action
- Limiting residential rent increases to 2.6%, which is the level of the recently approved Voluntary Rent Guidelines and the level adopted by Montgomery County
- Freezing residential rent increases for market rental products at the current level, as the District of Columbia has done.

Change in Law or Policy

At present, Rockville does not impose any control over the amount of rent that is charged on residential market rental products within the City. Rockville has recently adopted a resolution capping the Voluntary Rent Guidelines rents not to exceed 2.6 percent this year, but there is nothing mandatory about the Guidelines.

Discussion

The spread of COVID-19 and the emergency declarations related to the virus are having dramatic short-term negative impacts on commerce and employment. Despite federal, state and local programs designed to assist employers, some of which are specifically designed to maintain employees in jobs, there is quickly rising unemployment in this region, as well as in the rest of the country.

A result of the rising unemployment in affected economic sectors is the challenge for renters to make their payments. Governor Hogan's order preventing evictions during the COVID-19 state of emergency provided important assurance to tenants that they will have homes, even if their incomes have been affected; but no measure has been put into place that prevents rents from being raised by any amount that the market will bear.

At this moment, average rent levels do not appear to be rising. A staff review of data produced by CoStar[1] on residential asking rents in the greater Rockville areas indicates a decline by 0.3 percent over the past 12 months. CoStar is projecting further declines over the next few months, but a recovery later in the year. In general, economic recessionary periods are not characterized by rising rents, but more usually by falling rents; and the overall economy may be entering an economic recession. There may, however, be exceptions to the general trend; and a Montgomery County Councilman, during public discussion of this same topic, brought anecdotes of what he considered to be exorbitant rent increases.

Members of the Mayor and Council have expressed interest in discussing whether the City of Rockville should adopt a short-term measure that would alleviate undue rent increases during this difficult time.

Other Jurisdictions

Some jurisdictions, such as Montgomery County, Maryland and the District of Columbia, have considered and adopted measures to limit or freeze rent increases during the COVID-19 emergency. Montgomery County, like Rockville, is a local government operating under Maryland law, and is therefore the most pertinent example. Staff is unaware of any other Maryland jurisdictions that have regulated rents in response to the COVID-19 emergency, though the City of Gaithersburg has considered doing so (discussed below). Takoma Park is conforming to guidelines and directives issued by Montgomery County.

Montgomery County, MD

Montgomery County has released a few tenant protection measures to address COVID caused housing issues, including the suspension of MPDU recertifications through September 30, 2020, cleaning guidelines to landlords, advice to renters and landlords on establishing repayment agreements[2], which is the subject of this staff report. Montgomery County is also using local funds and COVID-CDBG funding to fund rental assistance programming open to all county residents, including Rockville and Takoma Park residents. Gaithersburg[3] residents are to be assisted through the City of Gaithersburg.

On April 23, the Montgomery County Council enacted (Attachment A) the COVID-19 Renter Relief Act (the "County Act"), which prohibits landlords from increasing residential rents beyond the County's Voluntary Rent Guidelines (VRG) of 2.6 percent for residential tenants

[1] a subscription-service company that provides data on the real estate market.

[2] Recently passed state and county tenant protection measures protect tenants against evictions and rent increases, however, tenants are still responsible for rental payment. As such, Montgomery County is encouraging landlords and tenants to enter into repayment agreement to address potential arrears. The County encourages tenants to utilize its Office of Landlord Tenant Affairs to review repayment agreements of impacted tenants.

[3] The City of Gaithersburg is an entitlement entity and therefore receives CDBG funds directly from HUD. The City of Rockville and Takoma Park are not entitlement entities and receive CDBG funding through the County effectuated by a Cooperative Agreement between the City and County.

during and for a period of 180 days after the COVID-19 catastrophic health emergency. The County Act applies to all licensed residential rental units[4], including MPDUs. Unlike the City, Montgomery County's MPDU rents are structured around the Area Median Income (AMI) initially with subsequent rent rates based on its Voluntary Rent Guidelines for the given year.

The County Act prohibits a landlord from increasing a tenant's rent beyond the County's VRG of 2.6 percent during the emergency or within 90 days after the emergency expires. Because County Code Section 29-54(a) prohibits a landlord from increasing rent until 90 days after providing the tenant written notice of the increase, the earliest that a larger rent increase can go into effect under the Act is 180 days following the expiration of the emergency. Previously-issued rent increase notices beyond the County's current guideline of 2.6 percent will need to be brought in line with this rate.

The County Act also requires the Department of Housing and Community Affairs to post pertinent information on its website regarding the prohibition against rent increases during the emergency. The website must include information about the emergency, including its expiration date and the date that occurs 90 days after the expiration.

City of Gaithersburg

Staff from the City of Gaithersburg reports that there have been internal discussions of whether to do legislation of this nature, but there has been no movement to do so. Gaithersburg staff has reached out to landlords surveying landlords whether they plan to raise rents or impose fees on their rental units. Staff noted that most landlords are not planning to increase rents. Accordingly, Gaithersburg will continue to monitor the situation before moving forward with legislation seeking to impose temporary rent control in response to COVID.

District of Columbia

On April 10, the District of Columbia Council enacted its second emergency COVID-19 relief bill, known as the COVID-19 Response Supplemental Emergency Amendment Act of 2020 (the "DC Act"). The DC Act contains provisions that are intended to address the effects of the health crisis in D.C., including freezing rents across the District during the COVID-19 public health emergency and 30 days beyond its end.

This rent freeze was enacted through a very lengthy omnibus bill, which is not attached to this staff report. Nonetheless, the DC Act amended the DC Code to deem any rent increase to be null and void if (1) the effective date on the notice of rent increase occurs during a period for

[4] Chapter 29 of the Montgomery County Code includes most residential rental arrangements but does not include rented rooms in single-family homes. The County Act applies to all licensed residential rentals in Montgomery County, including rental units in multifamily buildings, houses, townhouses, individual condominium units, and accessory dwelling units.

which the Mayor declares a public health emergency; (2) the notice of rent increase was provided to the tenant during a period for which a public health emergency has been declared; or (3) the notice was provided to the tenant prior to, but takes effect following, a public health emergency.

Other Communities
Outside of Maryland and DC, some Virginia communities have issued request to landlords that they not increase rents or impose late fees. Virginia communities are also encouraging landlords to enter into rental agreements and not to file eviction notices for nonpayment of rent. Due to Virginia's Dillon Rule, Virginian communities lack the authority to issue directives unless the state grants such authority. The City of Alexandria (VA) letter to residents is attached for reference.

Options for Consideration
Staff recommends that the Mayor and Council consider the following three options for Rockville during its discussion:

1. The City could choose to not act, relying on the strong tendency for rents to decline, rather than increase, during general economic difficulties.
2. The City could adopt a provision like that of Montgomery County, which would make the recently adopted Voluntary Rent Guideline of 2.6% mandatory and an upper limit of permitted residential rent increase during the emergency and for a period afterwards.
3. The City could adopt a provision like that of the District of Columbia, not permitting residential rents to be raised during the emergency and for a period afterwards.

It should be noted that the rents for the MPDU program would not be impacted by decisions on this agenda item. Per the MPDU regulations, the rent increases for the MPDU program are driven the HUD issued AMI schedule. Upon establishing the rents, the City Manager is to inform the Mayor and Council of the new rent schedule and the Mayor and Council have the option of providing an alternative rent schedule.
HUD released the AMI schedule in late March, which shows the 2020 AMI at $126,000 for a household size of four persons. There are discussions that communities may request that the AMI levels stay at 2019 levels at least as it relates to rental programs. Lower AMI levels translate into lower MPDU rents. Absent any HUD changes to the AMI level, the City can decide to keep the 2020 MPDU rents at current levels. The Mayor and Council have previously voted down rent increases based on the AMI.

Mayor and Council History

The Mayor and Council has never before discussed this specific topic but did adopt Voluntary Rent Guidelines on March 2, 2020.

Public Notification and Engagement

There has been no public discussion or notification of this item. If the Mayor and Council were to adopt one of the options, or a different option, to limit rent increases, staff would alert the public of this new provision.

Next Steps

If the Mayor and Council wishes to move forward with one of the options presented, or a different option, PDS and CAO staff will bring back an agenda item in the near future that would include an ordinance that could be adopted to implement the Mayor and Council's desired direction.

Attachments

Montgomery County Bill_18-20E_Enacted (PDF)
COVID-19 Landlord Letter - Alexandria, VA (PDF)

Rob DiSpirito, City Manager 4/29/2020

From: Asmara Habte <ahabte@rockvillemd.gov>
Sent: Monday, May 4, 2020 3:11 PM
To: Bridget Newton <bnewton@rockvillemd.gov>; David Myles <dmyles@rockvillemd.gov>; Beryl Feinberg <BFeinberg@rockvillemd.gov>; Mark Pierzchala <mpierzchala@rockvillemd.gov>; Monique Ashton <mashton@rockvillemd.gov>; Robert DiSpirito <rdispirito@rockvillemd.gov>; Jenny Kimball <jkimball@rockvillemd.gov>; Debra Daniel <ddaniel@rockvillemd.gov>; Ricky Barker <rbarker@rockvillemd.gov>; David Levy <dlevy@rockvillemd.gov>; Nicholas Dumais <ndumais@rockvillemd.gov>; Sara Taylor-Ferrell <sferrell@rockvillemd.gov>; Linda Moran <lmoran@rockvillemd.gov>
Cc: Anita McCombs <amccombs@rockvillemd.gov>
Subject: Supplemental Information Temporary Rent Control Agenda Item

All:

Below is supplemental information to tonight's agenda item on a Temporary Rent Control Measure that is before the Mayor and Council for discussion. This information is based on questions raised by members of the Mayor and Council subsequent to the submission of the staff report on the item.

1.Did Montgomery County do anything extra on evictions beyond what the Governor did?

Montgomery County has released a few tenant protection measures to address COVID caused housing issues, including the suspension of MPDU re-certifications through September 30, 2020, cleaning guidelines to landlords, advice to renters and landlords on establishing repayment agreements1. Montgomery County is also looking to use local funds and COVID-CDBG funding to fund rental assistance programming open to all county residents, including Rockville and Takoma Park residents. Gaithersburg2 residents are to be assisted through the City of Gaithersburg. We are unaware of any actions taken by Montgomery County regarding evictions, beyond the Governor's action.

2. What did Gaithersburg, Takoma Park, Frederick County, Frederick City, and Howard County do on Rent Control?

Gaithersburg

Staff from the City of Gaithersburg reports that there have been internal discussions of whether to undertake rent control legislation, but there has been no movement to do so. Gaithersburg staff has reached out to landlords surveying landlords whether they plan to raise rents or impose fees on their rental units. Staff noted that most landlords are not planning to increase rents or impose late fees, and staff has encouraged them not to do so. Accordingly, Gaithersburg will continue to monitor the situation before moving forward with legislation seeking to impose temporary rent

control in response to COVID. Gaithersburg staff noted that they are also monitoring actions being considered or taken by other jurisdictions.

Takoma Parks.
Takoma Park is conforming to guidelines and directives issued by Montgomery County.

Frederick County
We reached out to Frederick County and staff shared that Frederick County is looking at tenant protection measures from other communities such as Annapolis and Loudoun County (VA) as it explores tenant protection options. Frederick County staff expressed that they will be monitoring Rockville's actions.

City of Frederick
Staff at the City of Frederick shared that city has not contemplated any rent control regulations. However, the city is discussing using COVID-CDBG funds for rental and mortgage payment assistance.

Howard County
Howard County introduced rent control legislation the week of April 27, 2020. Howard's legislation seeks to freeze the rents of "...rented housing of all kinds include mobile homes and mobile home lots and rented commercial spaces of all kinds" for the duration of emergency period and a period of three months or less following the emergency period. The legislation also seeks to prohibit eviction or any material changes to the lease. A copy of the Bill is attached for reference.

Virginia
Outside of Maryland and DC, some Virginia communities have issued requests to landlords that they not increase rents or impose late fees. Virginia communities are also encouraging landlords to enter into rental agreements and not to file eviction notices for nonpayment of rent. The City of Alexandria's (VA) letter to landlords is attached for reference.

3. Does the County bill apply to all residences, including rooms rented in homes?
The County Act applies to all licensed residential rentals in Montgomery County, including rental dwelling units in multifamily buildings, houses, townhouses, individual condominium units, and accessory dwelling units (ADU). The County Act does not appear to apply to rented rooms in single-family homes, which are not considered dwelling units or ADU.

4. Can Rockville residents tap into Montgomery County funds for assistance to renters?

In general, yes. Please see response under item #1.

5. MPDU Rent Schedule

As the Mayor and Council considers options for limiting rent increases, it is important to take into account that the City's MPDUs are governed by the program regulations. Per the MPDU regulations, the rent increases for the MPDU program are driven by the HUD-issued schedule for adjusting Annual Median Incomes (AMI). HUD released the AMI schedule in late March, which shows the 2020 AMI at $126,000 for a household size of four persons, which represents an increase from $121,300 in 2019. There are discussions that communities may make a request to HUD seeking to maintain the 2019 AMI levels for 2020 at least as it relates to rental programs. Because of how the City's MPDU program is structured, lower AMI levels translate into lower MPDU rents. Absent any HUD changes to the AMI level, the City can either calculate the 2020 MPDU rents at the newly leased 2020 AMI levels or keep the 2020 MPDU rents at current levels. In either case, per the regulations, the City Manager will inform the Mayor and Council of the new rent schedule and the Mayor and Council has the option of providing an alternative rent schedule, which could include limiting the rent increase to the same level that the Mayor and Council approves for the temporary rent control, should the Mayor and Council move to do so.

If the 2020 AMI ($126,000) is applied, the MPDU rent increase would be about 8% from the current MPDU rent level or an increase ranging between $80 to $110 per month, adjusted for bedroom count and household size. Comparatively, applying the 2.6% VRG rate of increase, the amount of increase would range from $27 to $38 per month, adjusted for bedroom count and household size. In consideration of the current economic conditions and its impact on lower and moderate-income households, staff does not recommend an MPDU rent increase based on the 2020 AMI levels.

---

[1] Recently passed state and county tenant protection measures protect tenants against evictions and rent increases, however, tenants are still responsible for rental payment. As such, Montgomery County is encouraging landlords and tenants to enter into repayment agreement to address potential arrears. The County encourages tenants to utilize its Office of Landlord Tenant Affairs to review repayment agreements of impacted tenants.

[2] The City of Gaithersburg is an entitlement entity and therefore receives CDBG funds directly from HUD. The City of Rockville and Takoma Park are not entitlement entities and receive CDBG funding through the County effectuated by a Cooperative Agreement between the City and County.

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXECUTIVE ACTION _____
EFFECTIVE DATE _____

County Council of Howard County, Maryland

2020 Legislative Session Legislative Day No. 6

Bill No. 33-2020

Introduced by: Liz Walsh and Deb Jung

AN ACT prohibiting an increase of rent or mobile home park fees, changes in certain lease or rental agreement terms, and certain actions by landlords and mobile home park owners; prohibiting certain notices to tenants and mobile home park residents; requiring certain notices to tenants and mobile home park residents; specifying that the prohibitions and required notices of this Act are operative during and for a specified period after certain proclaimed or declared emergencies; generally relating to landlord-tenant and mobile home park owner – resident relations; and making this Act an Emergency Bill.

Introduced and read first time _____, 2020. Ordered posted and hearing scheduled.

By order_____
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2020.

By order _____
Diane Schwartz Jones, Administrator

This Bill was read the third time on _____, 2020 and Passed ___, Passed with amendments _____, Failed _____.

By order _____
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___day of _____, 2020 at ___ a.m./p.m.

By order _____
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2020

_____
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

Section 1. Be It Enacted *by the County Council of Howard County, Maryland, that the Howard County Code is amended as follows:*

By adding:

Title 17. Public Protection Services.

Subtitle 12. Miscellaneous.

Section 17.1200. Rent increases during states of emergency - prohibited.

Title 17. Public Protection Services.

SUBTITLE 12. MISCELLANEOUS.

SECTION 17.1200. RENTAL PROTECTION AND STABILITY ACT.

(A) *SCOPE.*

(1) THIS SECTION APPLIES DURING:

(I) 1. A HEALTH EMERGENCY THAT THE GOVERNOR OF MARYLAND PROCLAIMS UNDER TITLE 14, SUBTITLE 3A OF THE PUBLIC SAFETY ARTICLE OF THE MARYLAND CODE; OR

2. AN EMERGENCY THAT THE GOVERNOR OF MARYLAND PROCLAIMS UNDER TITLE 14, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE OF THE MARYLAND CODE; AND

(II) A STATE OF EMERGENCY THAT THE COUNTY EXECUTIVE DECLARES UNDER SECTION 6.103 OF THE COUNTY CODE.

(2) THIS SECTION APPLIES IN THE GEOGRAPHIC AREAS IDENTIFIED IN THE EXECUTIVE ORDER THAT PROCLAIMS OR DECLARES THE EMERGENCY.

(3) THIS SECTION APPLIES TO RENTED HOUSING OF ALL KINDS INCLUDING MOBILE HOMES AND MOBILE HOME LOTS AND RENTED COMMERCIAL SPACE OF ALL KINDS.

(B) IN GENERAL.

DURING THE EMERGENCY, AND FOR A PERIOD OF TIME AFTER THE EMERGENCY EQUAL TO THE DURATION OF THE EMERGENCY BUT NO LONGER THAN THREE MONTHS, A LANDLORD OR MOBILE HOME PARK OWNER SHALL NOT:

(1) INCREASE THE RENT OR MOBILE HOME PARK FEE;

(2) UNREASONABLY OR ARBITRARILY DECREASE THE UTILITIES OR OTHER SERVICES TO WHICH A TENANT OR MOBILE HOME PARK RESIDENT HAS BEEN ENTITLED;

(3) TERMINATE A TENANCY, LEASE, OR RENTAL AGREEMENT; OR

(4) OTHERWISE MATERIALLY ALTER THE TERMS OF SUCH LEASE OR RENTAL AGREEMENT TO THE FINANCIAL DETRIMENT OF THE TENANT OR MOBILE HOME PARK RESIDENT.

(C) *NOTICE.*

(1) DURING THE EMERGENCY, AND FOR A PERIOD OF TIME AFTER THE EMERGENCY EQUAL TO THE DURATION OF THE EMERGENCY BUT NO LONGER THAN THREE MONTHS, A LANDLORD OR MOBILE HOME PARK OWNER SHALL NOT NOTIFY A TENANT OR MOBILE HOME PARK RESIDENT OF ANY CHANGE IN A LEASE OR RENTAL AGREEMENT OR TAKE ANY OTHER ACTION THAT VIOLATES SUBSECTION (B) OF THIS SECTION.

(2) A LANDLORD OR MOBILE HOME PARK OWNER MUST INFORM A TENANT OR MOBILE HOME RESIDENT IN WRITING TO DISREGARD ANY SUCH NOTICE OF A MATERIAL CHANGE TO THE LEASE OR RENTAL AGREEMENT IF:

(I) THE LANDLORD OR MOBILE HOME PARK OWNER PROVIDED THE NOTICE TO THE TENANT OR MOBILE HOME PARK RESIDENT BEFORE OR DURING THE EMERGENCY; AND

(II) THE EFFECTIVE DATE OF THE MATERIAL CHANGE WOULD OCCUR IN VIOLATION OF SUBSECTION (B) OF THIS SECTION.

(D) *RETALIATION PROHIBITED.*

A LANDLORD OR MOBILE HOME PARK OWNER MAY NOT ATTEMPT TO HARASS, INTIMIDATE, THREATEN OR COERCE ANY TENANT OR MOBILE HOME RESIDENT SUBJECT TO THE PROTECTIONS SET FORTH IN SUBSECTIONS (B) OR (C) OF THIS SECTION.

(E) OFFICE WEBSITE POSTING.

THE OFFICE OF CONSUMER PROTECTION MUST POST ON ITS WEBSITE INFORMATION ABOUT THE REQUIREMENTS OF THIS SECTION, INCLUDING POSTING THE DATES WHEN THE EMERGENCY BEGINS AND TERMINATES, AND THE DATE THAT IS 3 MONTHS AFTER THE EMERGENCY TERMINATES.

Section 2. And Be It Further Enacted *by the County Council of Howard County, Maryland, that this Act is an emergency bill that is necessary to protect the public health, safety, and welfare and is effective upon enactment.*

City of Alexandria, Virginia
301 King Street, Suite 2300
Alexandria, Virginia 22314

Justin M. Wilson
Mayor

Office: 703.746.4500
Fax: 703.838.6433
justin.wilson@alexandriava.gov

Dear City of Alexandria Multifamily Property Owner and/or Manager:

Today I am reaching out to the owners and managers of multifamily rental properties in the City of Alexandria, Virginia to ask your help to address housing concerns in our community.

First, thank you for all you are doing to keep residents of your properties safe and healthy as we navigate the novel coronavirus (COVID-19) pandemic together. For the latest information about the virus and local resources that the City and others are providing locally, please consult our website at https://www.alexandriava.gov/Coronavirus.

Second, although it is still a couple of weeks before April rents will be due, I would ask that you consider now what you can do to ease burdens for tenants who will have difficulty paying their next rent because of illness or financial hardship related to ongoing business disruptions and closures.

To mitigate housing insecurity related to the pandemic and its anticipated impacts, the City requests that Alexandria multifamily rental properties voluntarily take the following actions regarding tenants who are current on their rent through March:

- Ask residents who will not be able to pay their April rent on time to submit a written request for relief by March 31 which includes a general description of their hardship or household situation.
- Offer an installment payment plan to those who seek relief that allows residents who will miss the April rent an opportunity to make up the amount over the next twelve months, with no fees or penalties.
- Waive late fees and/or penalties for those paying the April rent partially, or in increments, at any time(s) during the month, as they are able.
- Do not file eviction proceedings against any resident who is late paying April rent; instead ask those who are delinquent to contact the Office of Housing's Landlord and Tenant (LT) Division Chief Melodie Seau (melodie.seau@alexandriava.gov or 703-746-3078) to assist them with a workout, and/or to refer them to other resources. Ms. Seau may refer them to appropriate LT staff.
- If you or your property staff become concerned about the health or welfare of any resident during the pandemic, please contact Ms. Seau. Housing staff will assess the situation and provide referrals to specific points of contact in appropriate departments and/or resources.

At this time, the City's Office of Housing Landlord Tenant Division staff are continuing operations and are glad to assist property staff and residents in developing and implementing payment plans to avoid defaults and evictions related to the effects of the pandemic.

We understand that complying with the City's request may exacerbate your business concerns, and we recommend that local businesses reach out to their own lenders and suppliers to pursue relief during this challenging time. I and City staff welcome your feedback on other ideas you may have on how we can support Alexandria landlords and tenants during the COVID-19 pandemic.

Alexandria has always been known as a community where neighbors take care of neighbors, and I am proud to let you know that a City resident suggested the idea that the City reach out to its multifamily properties now about April rent relief out of concern for his neighbors in need.

Thank you for considering this request. I appreciate your action and your understanding that we are all in this together as we address this health crisis in our community and beyond.

Sincerely,

Justin Wilson
Mayor

cc: Mark B. Jinks, City Manager
Helen McIlvaine, Director, Office of Housing
Melodie Seau, Division Chief, Landlord Tenant Division

From: Judith Rudolph <judy.rudolph@verizon.net>
Sent: Monday, May 4, 2020 12:16 PM
To: mayorcouncil <mayorcouncil@rockvillemd.gov>
Cc: cityclerk <cityclerk@rockvillemd.gov>; David Levy <dlevy@rockvillemd.gov>; Asmara Habte <ahabte@rockvillemd.gov>
Subject: Written Community Forum comments re: Agenda item 12: Consideration of Limiting Residential Rent Increases in Rockville During COVID-19 Emergency

To the Rockville Mayor and Council:
As you consider the May 4, 2020 Agenda item 12: *Consideration of Limiting Residential Rent Increases in Rockville During COVID-19 Emergency*, please note that the Staff Report fails to acknowledge Rockville City Code Chapter 18 - RENTAL FACILITIES AND LANDLORD-TENANT RELATIONS, specifically *Sec. 18-194. - Voluntary rent guidelines and notice requirements of rent increases*. This Rockville City Code chapter parallels nearly 100% Chapter 29, Landlord-Tenant Relations of the *Montgomery County Code,* including those relating to Voluntary Rent Guidelines.

- The agenda Staff Report section entitled "Change in Law or Policy" fails to mention this in stating that "At present, Rockville does not impose any control over the amount of rent that is charged, and paid, in residential (or other) rental units within the city. Rockville has recently adopted Voluntary Rent Guidelines that recommend rents not to be raised more than 2.6 percent this year, but there is nothing mandatory about the Guidelines. Adopting a mandatory provision would be new."
- Moreover, the Staff Report cites a CoStar report that references "residential ***asking rents*** (rents that landlords are requesting when marketing their units)." It is my understanding that the intent of the County legislation--and what I hope will be parallel City of Rockville legislation--is to protect ***existing*** tenants from ***renewal*** or *ad hoc* increases. Thus, the Staff Report's characterization of the first *Option for Consideration*, "The City could choose to not act, relying on the strong tendency for rents to decline, rather than increase, during general economic difficulties" is misleading and does not take into account the temporary, emergency-specific nature of the Montgomery County COVID-19 Renter Relief Act (the "County Act")
- Finally, and most importantly, adoption of Option 2 " like that of Montgomery County, which would convert the recently-adopted Voluntary Rent Guideline of 2.6% into an upper limit of permitted residential rent increase during the emergency and for a period afterwards" will be a significant step toward providing tenants who reside in Rockville parity with the rights of tenants the Montgomery County outside of the incorporated jurisdictions.

I urge you to take action to limit residential rent increases to 2.6%, the level of the current City of Rockville Voluntary Rent Guidelines and the level adopted by Montgomery County.

Thank you for supporting the needs and best interests of tenants within the City of Rockville.
Judy Rudolph

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Presentation and Discussion
Department: City Manager's Office
Responsible Staff: Jenny Kimball

Subject

COVID-19 Staffing Strategy Update

Recommendation

Staff recommends extending the closure of City facilities through Friday, May 29, 2020.

Staff recommends the following adjustments to the current compensation strategy:

- Beginning with the implementation of Stage 1 of Governor Hogan's Road to Recovery, reduce premium pay for regular non-exempt essential employees from time and one-half to time and one-quarter. Reduce premium compensatory time for regular exempt essential employees from one-half hour for each hour worked to one-quarter hour for each hour worked.

- Beginning with the implementation of Stage 2 of Governor Hogan's Road to Recovery, conclude all premium pay for essential employees.

- Beginning on Monday, May 25, 2020, conclude paying temporary employees for the hours they would normally be scheduled to work and only pay temporary employees for the actual hours worked.

Discussion

On April 20, 2020, the Mayor and Council provided direction on a City facilities closure through Friday, May 15 and a staffing and compensation strategy through May 24, 2020. The purpose of this presentation and discussion is to recommend a facility closure extended through Friday, May 29th and a strategy for compensating City employees as the COVID-19 response continues.

Background

The City of Rockville continues to bring employees to the workplace to provide essential services. All other services that can be provided remotely are conducted from employees' homes. The April 13 staff report shared the numbers of employees in the essential, telework

and administrative leave categories by department. The current approach to compensation, approved through May 24, is summarized below.

- Essential employees reporting on a regular operational schedule or on an as-needed basis receive compensation at time-and-a-half for the actual hours worked on essential tasks at the workplace (regular non-exempt employees), or compensatory time at a rate of one-half hour for each hour worked on essential tasks at the workplace (regular exempt employees).

- Teleworking employees conduct as much of their job duties as possible from home and receive their regular pay.

- Administrative Leave employees whose positions do not lend themselves to teleworking have been assigned training and development tasks and/or specific teleworking assignments during the COVID-19 emergency and receive their regular pay.

- Temporary employees who are not Essential Employees have been provided work assignments whenever possible and are paid their regular hourly rate for the hours that they would have normally been scheduled to work during the pay period. Temporary employees who would not normally work during this time are not currently paid. For example, temporary staff who operate summer camps in July and August are not compensated because they would not normally be scheduled to work during the spring months.

Reopening Strategy

Planning is underway at the federal, state and local levels of government to prepare for a phased re-opening of facilities and resumption of operations. On April 24, Governor Hogan released a Roadmap to Recovery that defines four building blocks necessary for the state to move towards recovery (PPE, surge capacity, testing, contact tracing) and outlines a three-stage approach to gradually and responsibly re-opening the state. Each stage would have multiple phases. The Roadmap does not include dates for the three stages, noting that "the virus dictates the speed with which the State can move." It is also worth noting that the Roadmap gives local health officers some flexibility to consider regional difference in COVID-19 conditions in expanding or restricting local activities.

On May 6, 2020, Governor Hogan announced some adjustments to the COVID-19 restrictions defined in his previous Emergency Orders and indicated that the state's re-opening process could begin as soon as the week of May 11. Effective May 7, the state loosened restrictions that had closed state parks, playgrounds and beaches. Additionally, activities such as boating, fishing, golf and tennis will be allowed. The Governor emphasized the importance of maintaining social distancing measures during these activities at state parks, playgrounds and beaches.

The City is monitoring Montgomery County's decision making on reopening of local recreation facilities and amenities. Taking a consistent approach to our neighboring jurisdictions will help to ensure clarity for the public as re-opening proceeds. As of May 7, all Montgomery County Recreation facilities remained closed. While the outdoor areas surrounding County recreation centers remain open, all playgrounds remained closed. Similarly, Rockville's parks remain open with signage reminding users to practice social distancing.

Based on the information available to date, staff recommends extending the current City facility closures through Friday, May 29. The current approach to providing essential services in the community and providing other services by telework would continue through May 29. Staff will monitor announcements by the Governor and County health officer and follow the state and county lead on planning and implementing appropriate stages of re-opening. Individual City departments have started examining approaches to resuming operations, and the Emergency Manager has convened a Recovery Working Group with representation from all City departments to plan Rockville's city-wide road to recovery.

Recommended Updated Compensation Strategy

Beginning Monday, May 25, staff recommends changing the approach to compensation for temporary employees, continuing the current approach for telework and administrative leave employees, and adjusting essential employee compensation with Governor Hogan's three-stage Roadmap to Recovery. The recommendation for each category of personnel follows.

<u>Temporary Employees</u>
Beginning Monday, May 25, temporary employees who have not been assigned work would not receive compensation.

A detailed description of the work duties currently assigned to temporary personnel is provided later in this report. Those temporary employees who are assigned non-essential work duties would be paid only for the actual hours worked and at their regular rate of pay. Temporary workers who must report to a City facility to conduct their assigned work have been and will receive premium pay, recognizing the added health risk of working outside of the home.

<u>Essential Employees</u>
As recovery operations evolve, premium pay for essential employees (regular and temporary) would be scaled back with the implementation of Governor Hogan's recovery stages:

Roadmap to Recovery Stage 1 – Premium pay is reduced in half, from time and a half to time and a quarter, for essential non-exempt personnel. Compensatory time earned would be reduced in half for essential exempt personnel, from one-half hour for each hour worked to one-quarter hour.

Roadmap to Recovery Stage 2 and Stage 3 – Premium pay and compensatory time for essential employees (regular and temporary) is eliminated.

Teleworking Employees
Teleworking employees would continue to conduct as much of their job duties as possible from home, engage in online training and professional development work and receive their regular pay.

Administrative Leave
Administrative Leave employees whose positions do not lend themselves to teleworking have been assigned training and development tasks and/or specific teleworking assignments during the COVID-19 emergency and receive their regular pay.

Temporary Employee Work Assignments

The Mayor and Council requested more detail on the number of temporary employees who are completing work assignments outside of their normal duties during the COVID-19 response.

In assigning temporary personnel, the City continues to ensure tasks can be completed in a safe manner with appropriate social distancing. In addition, priority is placed on assigning work to regular employees who are on administrative leave, before giving regular employees' tasks to temporary workers.

Recreation and Parks employs the majority of the temporary employees. The Department's work to assign tasks to temporary employees during the COVID-19 response is summarized below.

- The Rockville Swim and Fitness Center, has two employees doing outreach to past class participants and 13 employees over a variety of shifts for on-site facility preparation. All other temporary staff on administrative leave have been assigned to take online trainings.

- The Senior Center has 22 out of 45 temp staff assigned to tasks. Five of them are involved in enhanced outreach to seniors, 14 are involved with providing virtual classes/activities, two are involved with food preparation and distribution, and one is focused on administrative tasks.

- Thomas Farm, Lincoln Park, and Twinbrook have each created a newsletter to reach out to their before/after school and general program participants and encourage future participation in Recreation and Park offerings. In addition, Twinbrook staff hosts periodic WebEx meet and greet group sessions to continue to engage with their program participants virtually and calls their seniors to check on them. The centers have the following number of temporary employees working on these efforts: 5 for Lincoln Park Community Center; 12 for Twinbrook Community Recreation Center; 4 for Thomas Farm Community Center; 4 for Croydon Creek Nature Center.

- Each Community Center will soon start revamping the first half of summer programming to be virtual. This effort will require three to four temporary staff, working a combination of virtually and at a City facility, to create each virtual summer program.

- Six temporary staff are supporting the afterschool program staff and two are supporting the preschool program staff with activities such as lesson plans, newsletters, virtual meetings with participants, or research.

The Department of Public Works currently has three temporary workers assigned to the Recycling and Refuse program to ensure the appropriate number of personnel are assigned to routes. One temporary engineer is teleworking on a regular work schedule.

The City Manager's Office has one temporary employee supporting the Rockville 11 coverage of virtual televised Mayor and Council, Planning Commission, and Historic District Commission meetings.

The City Clerk's Office has one temporary employee who is assisting with the follow up work on the election reconciliation and general administrative office support.

Mayor and Council History

On April 13, 2020, staff briefed the Mayor and Council on the City's staffing strategy through the first month of emergency response to COVID-19. On April 20, 2020, staff briefed the Mayor and Council on the proposed strategy for compensating staff through May 24, the next month of COVID-19 response operations. On April 27, staff provided information about the tasks assigned or planned to be assigned to temporary staff and to regular employees on administrative leave.

Fiscal Impact

The additional pay provided to non-exempt essential employees and pay to temporary employees has a budgetary impact on the City during the COVID-19 response. The fiscal impact varies from one pay period to the next based on the number of employee hours required to meet the essential needs in the community and the number of temporary employee hours that would normally be scheduled during the pay period. Based on payroll period data available to date, spending on these categories of personnel are summarized below.

Administrative and Police Personnel
March 16 – May 3
$437,000

Union and Temporary Personnel
March 16 – April 26
$142,000

Total $579,000

The April 20 staff report on COVID-19 indicated that the current approach to compensating temporary employees for the hours they would normally be scheduled to work costs approximately $88,000 per pay period. The staff recommendation to conclude that approach to temporary pay on May 24, 2020 would reduce spending on temporary employee compensation by approximately $88,000 per pay period.

The fiscal impact of premium pay will be reduced upon implementation of Governor Hogan's Stage 1 Roadmap to Recovery. A return to the budgeted regular compensation for essential non-exempt employees will begin with the implementation of Stage 2 of the Roadmap to Recovery.

Staff continues to monitor both savings and expenses during this emergency. As Finance has reported, the fiscal impact of the event through the end of FY20 can be managed using snow and ice savings, fuel savings, unspent personnel funds and City Manager contingency.

Next Steps

Staff will implement the compensation strategy that the Mayor and Council approves and continue to plan for recovery and re-opening of City facilities.

Jenny Kimball

Jenny Kimball, Deputy City Manager 5/7/2020

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Adoption
Department: Finance
Responsible Staff: Stacey Webster

Subject

Adoption of a Resolution to Close Completed Capital Improvements Program Projects

Recommendation

Staff recommends that the Mayor and Council adopt the resolution to close completed Capital Improvements Program (CIP) project accounts.

Discussion

In accordance with the City's adopted Financial Management Policies, each year the Mayor and Council must formally authorize staff to close completed CIP projects. This authorization is given through adoption of a resolution (Attachment A).

Four CIP projects are recommended for closure in Fiscal Year (FY) 2020. These projects are funded from the Water, Sewer, and Capital Projects funds. Of the four projects, three had unobligated appropriations greater than $1,000 as of April 20, 2020. At the end of FY 2020, any unspent appropriations from the closed projects will be returned to the fund from which the appropriations were made, unless the project was funded from an outside source.

Attachment B provides a brief summary of the projects to be closed, including the project name, number, program area, brief description, original and current project budget, and unspent funds as of April 20, 2020. The amount of the unspent funds may be reduced due to final payments in FY 2020.

Mayor and Council History

The Mayor and Council adopt a resolution to close completed CIP projects once per fiscal year.

Fiscal Impact

As of June 30, 2020, any unspent appropriations from the closed projects will be returned to the fund from which the appropriations were made, unless the project was funded from an outside source.

Next Steps

Finance staff will close the CIP project accounts as of June 30, 2020.

Attachments

Attachment 16.a: AttachA_FY20_CIP_ClosureResolution (PDF)
Attachment 16.b: AttachB_FY20_CIP_ClosureList (PDF)

Rob DiSpirito, City Manager 5/7/2020

Resolution No. ___ RESOLUTION: To Close Completed Capital Improvements Program Project Accounts

WHEREAS, in accordance with the City's financial management policies, balances in capital project accounts should be closed periodically and unexpended appropriations should be returned to the fund from which the allocations were made; and

WHEREAS, it is the desire of the Mayor and Council to close certain capital improvement project accounts that have been completed;

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND that the Chief Financial Officer be hereby authorized to close the following capital improvement projects as of June 30, 2020:

Project Title	Project Number	Fund(s)
Traffic Signal Communication System	TA18	420
West Montgomery Alley	TB19	420
Blue Plains Wastewater Treatment: FY16-FY20	UA16	220
Water Main Rehab & Improvement: FY16-FY20	UC16	210

* * * * * * * * * * * * * * * * * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution adopted by the Mayor and Council at its meeting of

_____

Sara Taylor-Ferrell, City Clerk/Director of Council Operations

Attachment 16.a: AttachA_FY20_CIP_ClosureResolution (3007 : Adoption of a Resolution to Close Completed Capital Improvements Program

Detail of Closed CIP Projects for FY 2020

Project Title	Project Number	Program Area	Description	First Appeared	Original Budget	Current Budget	Encumbered and Spent	Unobligated 4/20/20 *	Notes
Water Fund (210)									
Water Main Rehab & Improvement: FY16-FY20	UC16	Utilities	Improvements to water mains, tanks, and other elements of the City's aging water system	2016	11,154,058	5,626,607	5,624,344	2,263	
			Total Water Fund (210)		**$ 11,154,058**	**$ 5,626,607**	**$ 5,624,344**	**$ 2,263**	
Sewer Fund (220)									
Blue Plains Wastewater Treatment: FY16-FY20	UA16	Utilities	City's cost-share to upgrade, expand, and improve wastewater treatment and solids handling at Blue Plains, WSSC, and the DC Water sanitary sewer transmission system	2016	12,517,000	18,755,000	16,120,940	2,634,060	**A**
			Total Sewer Fund (220)		**$ 12,517,000**	**$ 18,755,000**	**$ 16,120,940**	**$ 2,634,060**	
Capital Projects Fund (420)									
Traffic Signal Communication System	TA18	Transp.	Replace existing obsolete traffic signal communication system	2018	250,000	250,000	236,650	13,350	
West Montgomery Alley	TB19	Transp.	Construct an alley running parallel to West Montgomery Ave from Manakee St. heading approximately 500 feet west.	2019	-	-	-	-	**B**
			Total Capital Projects Fund (420)		**$ 250,000**	**$ 250,000**	**$ 236,650**	**$ 13,350**	
			Total ALL FUNDS		**$ 23,921,058**	**$ 24,631,607**	**$ 21,981,934**	**$ 2,649,673**	

** May be reduced due to final payments in FY 2020.*

Notes

A. Based on estimates from WSSC, staff estimates that approximately $1 million will return to the Sewer Fund at the close of this project.

B. This project was never funded.

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Adoption
Department: Finance
Responsible Staff: Stacey Webster

Subject

Adoption of an Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year 2021

Recommendation

Staff recommends that the Mayor and Council review the final adjustments to the FY 2021 budget and adopt the attached Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year 2021 through the following motions:

1. Motion to amend the ordinance as modified in Attachment A.
2. Motion to adopt the amended Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year 2021.

Change in Law or Policy

Adoption of the operating and capital improvements program (CIP) budgets will require passage of the standard budget ordinance. This budget ordinance was introduced on February 24, 2020.

Discussion

In accordance with the City Charter, the Mayor and Council adopt the budget at the fund level. The attached ordinance (Attachment A) sets the FY 2021 property tax rates, FY 2021 operating budget, and FY 2021 Capital Improvements Program (CIP) budget for each fund. The tax rates and budget figures presented in the ordinance are consistent with the Mayor and Council's direction throughout the FY 2021 budget process.

Final Budget Adjustments

At the FY 2021 budget worksession held on May 4, 2020, the Mayor and Council directed staff to recommend an additional $750,000 in budget reductions to offset the cost of a fire suppression system at the King Farm Farmstead ($650,000) and to help maintain the total of $400,000 that was included in the FY 2021 proposed budget for temporary employee minimum wage and wage compression ($100,000 reduction was discussed on 4/27 worksession). In response to this request, staff recommends the budget adjustments in TABLE 1. These reductions, which are in addition to the adjustments presented and discussed at the May 4,

2020, worksession, include unfunding six (6.0) full-time equivalent (FTE) positions and updating or reducing several operating budget items.

The six positions recommended for unfunding include three positions from Planning and Development Services, two positions from Recreation and Parks, and one from Police. The work associated with these positions will be redistributed to other employees in the department and/or the department structures may be updated to reflect the changing needs.

Other changes include an update to the salary projections for two employees that resigned in April, the cancellation of the July 2020 Independence Day Celebration due to COVID-19 and social distancing requirements, a reduction in the Art in Public Architecture (AIPA) transfer related to the updated construction budget at 6 Taft Court, and a further reduction in employee training and associated travel expenses.

For the AIPA transfer, per adopted Financial Management Policies, "An amount equal to 1 percent of the City's costs for capital projects involving the construction of, or major improvements to, buildings, parks, and other public structures is to be transferred annually from the General Fund to the Art in Public Architecture program in support of Ordinance 3-04, pending appropriation by the Mayor and Council." This $30,000 is in addition to the original transfer of $25,750 that was processed in FY 2020. The $30,000 transfer was previously recommended because it represents the additional construction that was added to the 6 Taft Court budget via FY 2020 budget amendment. The current balance in the AIPA is approximately $260,000; there are no art projects planned for FY 2021. In the past, the Mayor and Council have not funded the transfer when limited resources were available.

TABLE 1

Budget Item	Adjustment
King Farm Farmstead Fire Suppression System CIP	$650,000
Temporary Employee Wage Compression	$100,000
Eliminate Funding for Senior Planner, Comprehensive Planning	($87,800)
Eliminate Funding for Senior Planner, Development Review	($87,800)
Eliminate Funding for Executive Assistant in PDS	($79,200)
Eliminate Funding for Senior Construction Projects Manager	($107,020)
Eliminate Funding for Tree Climber	($58,130)
Eliminate Funding for Police Major	($153,230)
Updated Salary Projections for 2.0 FTE April Departures	($38,000)
Independence Day Celebration Cancellation for FY 2021	($65,850)
Eliminate Additional Arts Transfer related to 6 Taft Amendment (AIPA)	($30,000)
Additional Reduction in Employee Training and Associated Travel	($50,000)
TOTAL (Addition to Reserves) *	**($7,030)**

** This addition brings the total unassigned fund balance to $960,742.*

FY 2021 Property Tax Rates

The attached ordinance sets the tax rates for the City of Rockville. These tax rates are levied against different groups, and in some cases, different areas throughout the City. Real property taxes are levied against all properties, both residential and commercial, in the City of Rockville.

Personal property taxes are levied against all commercial properties in the City of Rockville. Personal property generally includes furniture, fixtures, office and industrial equipment, machinery, tools, supplies, inventory, and other property not classified as real property.

The Parking District tax is a real property tax that is levied against all commercial properties located within the Town Square boundaries.

There is no change in any of the City's tax rates for FY 2021. The chart below shows the property tax rates by category for the City for FY 2020 and FY 2021.

Tax Category	FY 2020 Rate	FY 2021 Rate	Change
Real Property	$0.292 per $100	$0.292 per $100	No Change
Personal Property	$0.805 per $100	$0.805 per $100	No Change
Parking District	$0.330 per $100	$0.330 per $100	No Change

FY 2021 Operating Budget

The total FY 2021 all funds operating budget of $140.2 million increased by $1.3 million, or just under 1 percent, from the FY 2020 adopted budget. The General Fund budget remains flat as compared to the FY 2020 adopted General Fund budget. The FY 2021 revenue projections and spending recommendations were significantly altered after the proposed budget was presented due to the impact of the current health and economic crisis. Staff encourages the Mayor and Council to remain fiscally prudent and be willing to adjust the budget if or when needed via budget amendments in FY 2021.

The following chart shows the total operating appropriations by fund for FY 2020 and FY 2021:

Operating Fund	FY 2020 Adopted	FY 2021 Adopted	Dollar Change	Percent Change
General Fund	$84,240,000	$84,605,000	$365,000	0.4%
Water Fund	$14,276,490	$14,565,090	$288,600	2.0%
Sewer Fund	$15,525,920	$16,022,130	$496,210	3.2%
Refuse Fund	$7,143,920	$7,354,020	$210,100	2.9%
Parking Fund	$2,492,540	$2,690,690	$198,150	7.9%
Stormwater Mgt Fund	$6,085,300	$6,133,300	$48,000	0.8%
RedGate Golf Fund	$104,120	$103,240	($880)	(0.8%)
Special Activities Fund	$1,703,500	$1,583,120	($120,380)	(7.1%)
CDBG Fund	$263,000	$263,000	$0	0.0%
Speed Camera Fund	$1,448,000	$1,458,000	$10,000	0.7%
Debt Service Fund	$5,605,000	$5,408,700	($196,300)	(3.5%)
TOTAL	**$138,887,790**	**$140,186,290**	**$1,298,500**	**0.9%**

FY 2021 CIP Budget

The total FY 2021 CIP budget of $70.4 million decreased by $7.2 million, or 9.3%, from the adopted FY 2020 budget. The CIP budget generally fluctuates from year-to-year, depending on the number and type of projects that are funded. The FY 2021 budget includes a $6.4 million transfer from the General Fund. The chart below shows the total CIP appropriations by fund for FY 2020 and FY 2021:

Capital Fund	FY 2020 Adopted	FY 2021 Adopted	Dollar Change	Percent Change
Capital Projects Fund	$44,009,392	$37,698,213	($6,311,179)	(14.3%)
Water Fund	$9,720,007	$9,483,589	($236,418)	(2.4%)
Sewer Fund	$5,162,710	$4,799,949	($362,761)	(7.0%)
Stormwater Mgt Fund	$14,030,856	$13,435,945	($594,911)	(4.2%)
Speed Camera Fund	$564,856	$539,119	($25,737)	(4.6%)
Special Activities Fund	$3,604,090	$3,911,125	$307,035	8.5%
Refuse Fund	$533,345	$533,345	$0	0.0%
TOTAL	**$77,625,256**	**$70,401,285**	($7,223,971)	(9.3%)

The CIP budget is contingent on the sale of $21.4 million in water and sewer bonds, which will take place later this calendar year.

Boards and Commissions Review

The Financial Advisory Board met on March 11 and April 23, 2020 to discuss the FY 2021 proposed budget, including a review of the staff's proposed pandemic-related changes for Mayor and Council's consideration, dated April 13, 2020. Board questions and requests for

clarification were documented and were satisfactorily addressed by City staff. There were no material issues identified in the original budget, or in the changes proposed by City staff. The Board will continue to work with the City's staff with respect to any outstanding questions not yet addressed.

The COVID-19 pandemic has resulted in the temporary closure of City Hall and all public-facing facilities during the latter stages of the development of the FY 2021 budget, though essential services remain in place. In the event facility closures and social distancing measures continue beyond July 1, 2020, financial performance in the upcoming fiscal year could be impacted, as contemplated in the staff's proposed changes discussed above. The Board will be prepared to assist the Mayor and Council in reviewing any amendments to the budget and CIP that may be necessary.

Mayor and Council History

Date	Action Item
December 9, 2019	Mayor and Council Budget Worksession
December 16, 2019	Budget Public Hearing
January 13, 2020	Budget Public Hearing
February 3, 2020	Discussion of Budget Survey Results and Priorities
February 24, 2020	Presentation of the FY 2021 Budget; Introduction of FY 2021 Budget Ordinance; Introduction of FY 2021 Refuse Resolution
March 2, 2020	Budget Public Hearing; Budget Worksession
March 23, 2020	Budget Public Hearing; Budget Worksession
April 13, 2020	Budget Worksession
April 17, 2020	Close of Budget Public Comment Period
April 27, 2020	Budget Worksession
May 4, 2020	Budget Worksession

Public Notification and Engagement

There were four public hearings related to the FY 2021 budget. In addition to public hearings, the public could submit comments about the budget via an online survey located on the City's website.

The FY 2021 budget public record closed on April 17, 2020.

Fiscal Impact

The real and personal property tax rates and the appropriated amounts by fund for the FY 2021 operating budget and CIP are included in the attached ordinance (Attachment A).

Next Steps

Staff will communicate the City's tax rates to Montgomery County for inclusion on the Levy Year 2020 tax bills.

The FY 2021 adopted budget will begin July 1, 2020 and continue through June 30, 2021. The FY 2021 budget book will be posted to www.rockvillemd.gov/budget in July 2020.

Attachments

Attachment 17.a: AttachA_BudgetOrdinance_May2020 (PDF)

Rob DiSpirito, City Manager 5/7/2020

ORDINANCE NO._____

ORDINANCE: To Appropriate Funds and Levy Taxes for Fiscal Year 2021.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND as follows:

SECTION I - ANNUAL OPERATING APPROPRIATIONS

There are hereby appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021, out of the revenues accruing to the City for the purpose of operations, the several amounts hereinafter listed under the column designated "Amounts Appropriated":

FUNDS	**AMOUNTS APPROPRIATED**	
General Fund	[$86,860,000]	$84,605,000
Water Fund	[$15,020,390]	$14,565,090
Sewer Fund	[$17,015,230]	$16,022,130
Refuse Fund	[$7,555,420]	$7,354,020
Parking Fund	[$2,817,090]	$2,690,690
Stormwater Management Fund	$6,133,300	
RedGate Golf Course Fund	$103,240	
Special Activities Fund	[$1,568,120]	$1,583,120
Community Development Block Grant	$263,000	
Speed Camera Fund	$1,458,000	
Debt Service Fund	$5,408,700	

The "Amounts Appropriated" by this section totaling [$144,202,490] $140,186,290 shall be for the annual operating expenses of the departments and agencies of the City and shall be disbursed under the supervision of the City Manager.

Attachment 17.a: AttachA_BudgetOrdinance_May2020 (2963 : Adoption of an Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year

SECTION II - CAPITAL PROJECTS APPROPRIATIONS

There is hereby appropriated out of the revenues accruing to the City for the purpose of capital improvements, the several amounts hereinafter listed under the column designated "Amounts Appropriated":

FUNDS	AMOUNTS APPROPRIATED	
Capital Projects Fund	[$38,378,997]	$37,698,213
Water Fund	[$9,553,311]	$9,483,589
Sewer Fund	[$4,814,822]	$4,799,949
Refuse Fund	$533,345	
Stormwater Management Fund	[$13,616,436]	$13,435,945
Special Activities Fund	[$3,935,554]	$3,911,125
Speed Camera Fund	$539,119	

The "Amounts Appropriated" by this section totaling [$71,371,584] $70,401,285 shall be for improvement projects and shall be disbursed under the supervision of the City Manager.

SECTION III - GENERAL LEVY

There is hereby levied against all assessable real property within the corporate limits of the City a tax at the rate of twenty-nine and two-tenths cents ($0.292) on each $100 of assessable value of said property. There is also hereby levied, against all assessable personal property within the corporate limits of the City, a tax at the rate of eighty and one-half cents ($0.805) on each $100 of assessable value of said property. These taxes are hereby levied in order, together with other available revenues and funds of the City government, to provide funds for the

Attachment 17.a: AttachA_BudgetOrdinance_May2020 (2963 : Adoption of an Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year

"Amounts Appropriated" as set forth in the foregoing Section I. The tax levies herein provided in this section shall not apply to property in the City of Rockville to the extent that such property is not subject to taxes as provided in any valid and binding annexation agreement.

SECTION IV – TOWN CENTER PARKING DISTRICT LEVY

There is hereby levied against all assessable non-exempt real property within the Town Center Parking District a tax at the rate of thirty-three cents ($0.33) on each $100 of assessable value of said property. These taxes are hereby levied in order, together with other available revenues and funds of the City government, to provide funds for the "Parking Fund" as listed in the "Amounts Appropriated" in Section I.

SECTION V – TOWN SQUARE STREET AND AREA LIGHTING DISTRICT LEVY

There is hereby levied against all assessable real property within the Town Square Street and Area Lighting District a tax at the rate of zero cents ($0.00) on each $100 of assessable value of said property. These taxes are hereby levied in order, together with other available revenues and funds of the City government, to provide funds for the "Town Center Management District Fund" as listed in the "Amounts Appropriated" in Section I.

SECTION VI – TOWN SQUARE COMMERCIAL DISTRICT LEVY

There is hereby levied against all assessable commercial real property within the Town

Attachment 17.a: AttachA_BudgetOrdinance_May2020 (2963 : Adoption of an Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year

Square Commercial District a tax at the rate of zero cents ($0.00) on each $100 of assessable value of said property. These taxes are hereby levied in order, together with other available revenues and funds of the City government, to provide funds for the "Town Center Management District Fund" as listed in the "Amounts Appropriated" in Section I.

SECTION VII – RESERVES

There is hereby committed [$450,000] <u>$100,000</u> in General Fund unassigned fund balance to support [a one percent cost of living adjustment for retirees effective January 1, 2021, and $300,000 for master] planning of the RedGate property.

NOTE: [Brackets] indicate material deleted after introduction.
<u>Underlining</u> indicates material added after introduction.

****

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council of Rockville at its meeting of

_____
Sara Taylor-Ferrell, City Clerk/Director of Council Operations

Attachment 17.a: AttachA_BudgetOrdinance_May2020 (2963 : Adoption of an Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Adoption
Department: Finance
Responsible Staff: Stacey Webster

Subject

Adoption of a Resolution to Establish the Service Charge Rate for Municipal Refuse Collection

Recommendation

Staff recommends that the Mayor and Council adopt the attached Resolution to establish the service charge rate for Municipal Refuse Collection and to establish a charge for unreturned refuse and recycling carts pursuant to Section 20-6 of the Rockville City Code through the following motions:

1. Motion to amend the resolution as modified in Attachment A.
2. Motion to adopt the amended Resolution to establish the service charge rate for Municipal Refuse Collection and to establish a charge for unreturned refuse and recycling carts pursuant to Section 20-6 of the Rockville City Code.

Change in Law or Policy

Setting the refuse rate for FY 2021 requires the passage of the attached resolution. This resolution was introduced on February 24, 2020.

Discussion

The Refuse Fund accounts for the financial activity associated with the collection and disposal of residential recycling, refuse, and yard waste. The City currently operates a semi-automated once per week refuse pickup and a single stream recycling program. For the Refuse Fund, a $16 rate increase was included in the proposed budget, bringing the annual rate from $445 to $461. The new recommendation is to keep the rate flat at $445 per residential property per year. Keeping the rate flat for FY 2021 will lead to larger increases in the future. Residents will likely see increases in the range of 5 to 6 percent starting in FY 2022 in order to keep a positive balance in the Refuse Fund and to maintain compliance with the City's Financial Management Policies.

Due to some changes in the recyclables market, the City is evaluating options for the future of the City's recycling program, with the possibility of transitioning to a more affordable dual stream system. More information will be presented to the Mayor and Council at a future time.

Included in the CIP is a project to assist with the transfer of recyclable materials from City property to the contract transport vehicles. The intent of this project, Gude Yard Recycle Transfer Enclosure (GC19), is to move the transfer work under cover, provide fire suppression, and limit the amount of windblown debris originating from the City's maintenance complex. This project, estimated at approximately $533,000, would not be needed under a dual stream recycling system.

Mayor and Council History

Date	Action Item
December 9, 2019	Mayor and Council Budget Worksession
December 16, 2019	Budget Public Hearing
January 13, 2020	Budget Public Hearing
February 3, 2020	Discussion of Budget Survey Results and Priorities
February 24, 2020	Presentation of the FY 2021 Budget; Introduction of FY 2021 Budget Ordinance; Introduction of FY 2021 Refuse Resolution
March 2, 2020	Budget Public Hearing; Budget Worksession
March 23, 2020	Budget Public Hearing; Budget Worksession
April 13, 2020	Budget Worksession
April 17, 2020	Close of Budget Public Comment Period
April 27, 2020	Budget Worksession
May 4, 2020	Budget Worksession

Public Notification and Engagement

There were four public hearings related to the FY 2021 budget. In addition to public hearings, the public could submit comments about the budget via an online survey located on the City's website.

The FY 2021 budget public record closed on April 17, 2020.

Fiscal Impact

The FY 2021 operating budget for the Refuse Fund equals $7.4 million and the FY 2021 CIP budget equals $0.5 million. The budget is based on a refuse rate of $445 per year.

Attachments

Attachment 18.a: AttachA_Refuse_May2020 (PDF)

Rob DiSpirito, City Manager 5/7/2020

Resolution No._____

RESOLUTION: To Establish the Service Charge Rate - Municipal Refuse Collection and to establish a charge for unreturned refuse and recycling carts

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that in accordance with Section 20-6 of the "Rockville City Code", the following service charge rate for municipal refuse collection service is hereby established:

[$461.00] $445.00 per single-family residence per year

AND BE IT FURTHER RESOLVED, that said amount shall be levied and collected in all respects in the same manner as regular taxes are collected, and unpaid refuse bills shall be a lien on the property served;

AND BE IT FURTHER RESOLVED, that the aforementioned service charge rate, as established above, shall take effect on July 1, 2020;

AND BE IT FURTHER RESOLVED, that said service charge may not be reduced or suspended for reason of property vacancy or for any other reason;

AND BE IT FURTHER RESOLVED, that in accordance with regulations approved pursuant to Section 20-7 of the "Rockville City Code," the following charges are hereby established for refuse and recycling carts that are not available for the City to pick up after a residence has been vacated:

32 gallon cart	$39.87
48 gallon cart	$42.87
64 gallon cart	$44.87
96 gallon cart	$50.20

NOTE: [Brackets] indicate material deleted after introduction.
Underlining indicates material added after introduction.

* * * * * * * * * * * * * * * * * * *

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the Mayor and Council of Rockville at its meeting of

_____
Sara Taylor-Ferrell, City Clerk/Director of Council Operations

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Adoption
Department: Finance
Responsible Staff: Stacey Webster

Subject

Adoption of Resolution to Declare the Official Intent of the Mayor and Council to Bond Finance Certain Projects Under U.S. Treasury Income Tax Regulation Section 1.150-2

Recommendation

Staff recommends that the Mayor and Council adopt the attached resolution to declare the official intent of the Mayor and Council to bond finance certain projects under U.S. Treasury Income Tax Regulation Section 1.150-2.

Discussion

The Fiscal Year (FY) 2021 Capital Improvements Program anticipates the issuance of tax-exempt debt in the Water Fund and Sewer Fund. Federal tax law requires that the City declare its official intent to finance specific projects with bond proceeds prior to incurring expenditures that will later be reimbursed.

The proposed resolution accomplishes this declaration. The projects proposed for financing are listed in Exhibit A of the attached resolution.

Adopting this resolution does not mean the City must issue bonds for all of the projects or amounts that are listed. It simply means that if the Mayor and Council decide to issue bonds for any or all of the projects listed, the City will be able to reimburse prior expenditures with the proceeds from the sale of the bonds.

Mayor and Council History

The Mayor and Council adopted a similar resolution on May 14, 2018, for projects to be funded with bond proceeds in FY 2019 and FY 2020.

Fiscal Impact

Adoption of the resolution will allow the City to be reimbursed for expenditures on specified capital projects from tax-exempt bond proceeds. This resolution allows the City to borrow up to a maximum of $21.4 million.

Next Steps

Once the Mayor and Council adopt the FY 2021 budget on May 4, 2020, staff will establish a calendar for the issuance of the bonds, likely in the late fall/winter of calendar 2020.

Attachments

Attachment 19.a: Resolution_NoticeofIntent_FY2021 (PDF)

Rob DiSpirito, City Manager 5/7/2020

Resolution No. _____ Resolution: To declare the official intent of the Mayor and Council to bond finance certain projects under U.S. Treasury Income Tax Regulation Section 1.150-2

WHEREAS, the Mayor and Council of Rockville (the "Council") intends to finance the acquisition, construction and equipping of certain facilities and equipment described on Exhibit A attached hereto (collectively, the "Projects") for use in the governmental functions of the City of Rockville, Maryland (the "City"); and

WHEREAS, the Projects are expected to cost approximately $21,378,000 in the aggregate; and

WHEREAS, U.S. Treasury Income Tax Regulation Section 1.150-2 requires that in order to assure the eligibility of expenditures made by the City for reimbursement from the proceeds of tax-exempt obligations, the Mayor and Council generally must adopt an official intent in compliance with such regulation within 60 days after payment of the expenditure; and

WHEREAS, the Mayor and Council desires to declare its official intent to reimburse the costs of the Projects with the proceeds of the City's debt in order to comply with the requirements of U.S. Treasury Income Tax Regulation Section 1.150-2 and thereby to assure the eligibility of expenditures made with respect to the Projects for reimbursement from the proceeds of tax-exempt obligations; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, as follows:

1. The City intends to acquire, construct and equip the Projects.

2. The City reasonably expects that (i) it will issue bonds or other obligations to finance all or a portion of the costs of the Projects, and (ii) it may pay capital expenditures for the Projects prior to the issuance of such bonds or other obligations and reimburse such expenditures from the proceeds of such bonds or other obligations.

3. The maximum principal amount of tax-exempt bonds or other obligations that the City expects to issue for the Projects is $21,378,000.

4. This Resolution shall constitute the declaration by the Mayor and Council of its official intent to reimburse the costs of the Projects with the proceeds of the City's debt for purposes of complying with the requirements of U.S. Treasury Income Tax Regulation Section 1.150-2 and thereby assuring the eligibility of expenditures for reimbursement from the proceeds of tax-exempt obligations with respect to the Projects.

Resolution No. _____

I hereby certify that the foregoing is a true and correct copy

of a resolution adopted by the Mayor and Council at its

meeting of

_____

Sara Taylor-Ferrell, City Clerk/Director of Council Operations

EXHIBIT A

Listing of Potential Debt Amounts for City Projects
FY 2021 Bond Issue

Water Fund Project	Debt Amount	Issue Fiscal Year	Maturity
Commercial Water Meter Replacements	967,000	2021	20 Years
Water Main Rehabilitation and Improvements	3,802,000	2021	20 Years
Water Treatment Plant Electrical, Roof, and HVAC	7,806,000	2021	20 Years
Water Fund Subtotal	**$12,575,000**		

Sewer Fund Project	Debt Amount	Issue Fiscal Year	Maturity
Blue Plains Wastewater Treatment	8,803,000	2021	20 Years
Sewer Fund Subtotal	**$8,803,000**		

GRAND TOTAL	$21,378,000

ASSUMES ALL LEVEL PRINCIPAL SCHEDULES

Attachment 19.a: Resolution_NoticeofIntent_FY2021 (3010 : Intent of the Mayor and Council to Bond Finance Certain Projects)

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Introduction and Possible Adoption
Department: Finance
Responsible Staff: Roshan Sohoratally

Subject

Introduction, and Possible Adoption, of an Ordinance to Levy Special Assessments For Driveway Aprons Constructed in Fiscal Year 2019, Project TC16

Recommendation

Staff recommends that the Mayor and Council introduce the ordinance to levy special assessments for driveway aprons constructed in Fiscal Year 2019.

If the Mayor and Council wish to introduce the ordinance and proceed to adoption at the same meeting, the ordinance should first be introduced, then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four or more members of the Mayor and Council, a motion to adopt the ordinance can then proceed.

Discussion

In response to requests from 13 residents, the City contracted to have 13 driveway aprons constructed in Fiscal Year 2019 at a total cost of $12,392.29. Each property owner has executed a waiver form providing that the cost of construction shall be assessed against the properties which abut the improvements, without further public hearing.

Mayor and Council History

This is the first time the Ordinance for aprons constructed in FY19 has been brought before the Mayor and Council. A similar item is brought before the Mayor and Council annually.

Fiscal Impact

There is no direct cost to the City to provide this service, as residents who request it pay the cost through special assessments. Assessments in the total amount of $12,392.29 will be levied against 13 residential properties.

The assessments may be paid up-front or over a five year period with interest. If paid over five years, the residents would pay an additional $961.61 (2.544%) in interest costs, resulting in a total cost of $13,353.90. This interest rate is based on the City's latest bond issue rate.

A list of the specific 13 properties involved, as well as the associated assessment for each, is provided in the attached authorizing ordinance.

If at any point in time a homeowner does not make their payments, the full unpaid balance gets placed on the homeowners' property tax bill.

Attachments

Attachment 20.a: 03-19 Ordinance Driveway Aprons (PDF)

Rob DiSpirito, City Manager 5/7/2020

Ordinance No. ORDINANCE: To Levy Assessments - Driveway Aprons various locations Proj. No. TC16

WHEREAS, the City Manager has advised the Mayor and Council of the completion of the construction of driveway aprons in various locations in Rockville, Montgomery County, Maryland theretofore authorized by the owners of the affected properties; and

WHEREAS, said property owners executed Request and Waiver forms which provide that the cost of construction shall be assessed against the properties abutting the improvements without further public hearing;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND

1. That the work described herein, having been authorized by Request and Waivers on the dates noted, is hereby accepted and approved, said work having been completed according to the description and statement of cost listed below:

Description: Installation of concrete driveway aprons.

Statement of Cost:

Project No.	Location	Assessment	Assessment With Interest
TC16	Various	$12,392.29	$13,353.90

2. Pursuant to the provisions of Article XI of the Charter of the City of Rockville, Maryland, the expense of the work described in paragraph 1 above is hereby levied as special assessments against the benefited properties in the amounts shown on the list below. The work described above is hereby found and declared to be of special benefit to the properties shown on said list in the amounts assessed on said list. The amounts assessed on the list shown in paragraph 7

below labeled "Assessment" are due and payable, in full, by the property owners on or before, June 30, 2020.

3. Payment of the amounts assessed may be made in five (5) equal installments at the rate of interest of 2.544% per annum as follows:

a. 1/5th thereof on the first day of July 2020 and 1/5th thereof on the first day of July of each year thereafter until finally paid. Any such installment thereon that is not paid on or before the thirtieth day of September following its due date shall be subject to additional interest and penalty charges as provided in Chapter 22, Section 22-5 of the "Rockville City Code."

b. The total amount paid by any property owner electing to defer payment as set forth above is shown in the "Assessment With Interest" column in paragraph 7 hereof.

4. All assessments levied hereunder shall be collected in the same manner as are City taxes in Rockville, Montgomery County, Maryland.

5. If any payment is missed, past due or delinquent in any form, the City will collect the full amount of the remaining balance in its entirety, including any and all interest owed plus administrative fees, in the same manner as are City taxes in Rockville, Montgomery County, Maryland.

6. In the event that any one or more of the assessments levied by this ordinance are found by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of the assessments herein; and the Mayor and Council hereby declares that it would have levied the remainder of such assessments, regardless of the invalidity of such assessment.

7. SPECIAL ASSESSMENTS
Project No. TC16

Lot/Block	Location	Waiver Date	Assessment	Assessment + Interest
5/X	5701 VANDEGRIFT AVE	10/2/2019	$194.12	$209.18
19/16	412 RITCHIE PARKWAY	8/9/2019	$377.66	$406.97
NONE	301 W. MONTGOMERY AVE	7/12/2019	$1,167.22	$1,257.79
5/B	202 ADCLARE RD	9/18/2019	$1,644.69	$1,772.31
3/C	205 ADCLARE RD	4/18/2019	$691.87	$745.56
16-5	1236 CLAGETT DR	9/19/2019	$1,643.97	$1,771.54
7/X	2 VANDEGRIFT CT	10/22/2019	$562.88	$606.56
10/V	5708 WAINWRIGHT AVE	7/18/2019	$376.71	$405.94
240-	1005 SAMPLERS WAY	3/15/2019	$1,981.31	$2,135.06
13/B	5924 HOLLAND RD	7/18/2019	$1,823.31	$1,964.79
1/2	1914 HENRY RD	5/30/2019	$771.32	$831.17
3/2	5700 VANDEGRIFT AVE	8/23/2019	$865.89	$933.08
41/O	5951 LEMAY RD	10/17/2019	$291.34	$313.95

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council of Rockville at its meeting of May _____, 2020.

_____
Sara Taylor-Ferrell
City Clerk/Director of Council Operations

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Introduction and Possible Adoption
Department: Finance
Responsible Staff: Stacey Webster

Subject

Introduction, and Possible Adoption, of an Ordinance to Amend Chapter 24 Entitled "Water, Sewers and Sewage Disposal, " Article III, "Rates and Charges" So as to Establish the Water and Sewer Usage Charges and Water and Sewer Ready to Serve Charges for Fiscal Year 2021

Recommendation

Staff recommends that the Mayor and Council introduce the ordinance to amend Chapter 24 entitled "Water, Sewers and Sewage Disposal, " Article III, "Rates and Charges" so as to establish the water and sewer usage charges and water and sewer ready to serve charges for Fiscal Year 2021.

If the Mayor and Council wish to introduce the ordinance and proceed to adoption at the same meeting, the ordinance should first be introduced, then a motion should be made to waive the layover period. If the motion to waive the layover period is approved by an affirmative vote of four or more members of the Mayor and Council, a motion to adopt the ordinance can then proceed.

Change in Law or Policy

Maintaining the same water and sewer usage and ready to serve rates for FY 2021 requires the passage of the attached ordinance.

Discussion

The goals in setting the City's utility rates are low rates over time, while covering all operating and capital expenses and maintaining required reserves. The City sets rates on a multi-year basis to maintain consistency and reduce volatility for customers. To establish the rates, the City uses cash flow models that take into account factors such as future changes in operating and capital expenses, debt obligations, and changes in revenue sources.

In order to offer financial relief to the Rockville community during this unprecedented time, the City Manager recommends no increases to the City’s water and sewer rates for FY 2021.

The previous water and sewer rates were adopted by the Mayor and Council in May 2018 and FY 2021 was the final year of a six-year rate plan. By not continuing with this adopted plan and

keeping the rates flat per Attachment A, the Water and Sewer funds will be out of compliance with the following adopted Financial Management Policies in FY 2021, “Cash Reserves” policy, “Cash Improvement Plans” policy, and “Reserve Deficiencies” policy. These policies are located on page 43 of the proposed budget document.

When the City resumes normal operations, staff will work with the City’s utility consultant to determine the long-term impact of not increasing the rates for FY 2021. As a result of not following the previously-adopted plan for FY 2021, water and sewer customers will likely experience increases in FY 2022 and possibly in FY 2023 higher than the rates that would have been in place then, or to avoid those higher rates, the City may have to extend the date for when the funds come into compliance with the City’s Financial Management Policies. For context, the FY 2021 water usage fee was proposed to increase by 5 percent, the water ready-to-serve charge by 6.8 percent, the sewer usage fee by 6.5 percent, and the sewer ready-to-serve charge by 9.8 percent. The 6/30/19 cash balances were negative by $5.9 million.

Without the planned rate increases, the negative cash balances will grow, and the implicit General Fund subsidy will become a concern when evaluating the City’s overall financial condition. In order to minimize significant negative balances in the funds, and the subsequent impact on the City’s financial health, the City Manager will direct staff to find ways where we can identify non-essential operational spending or defer capital expenses when possible in the Water and Sewer funds during FY 2021. In addition, staff will develop a new three-year rate plan with the consultant to bring the funds into compliance with all Financial Management Policies. This new rate plan would need to be considered and approved by the Mayor and Council in the next twelve months.

Mayor and Council History

Date	Action Item
December 9, 2019	Mayor and Council Budget Worksession
December 16, 2019	Budget Public Hearing
January 13, 2020	Budget Public Hearing
February 3, 2020	Discussion of Budget Survey Results and Priorities
February 24, 2020	Presentation of the FY 2021 Budget; Introduction of FY 2021 Budget Ordinance; Introduction of FY 2021 Refuse Resolution
March 2, 2020	Budget Public Hearing; Budget Worksession
March 23, 2020	Budget Public Hearing; Budget Worksession
April 13, 2020	Budget Worksession
April 17, 2020	Close of Budget Public Comment Period
April 27, 2020	Budget Worksession
May 4, 2020	Budget Worksession

Public Notification and Engagement

There were four public hearings related to the FY 2021 budget. In addition to public hearings, the public could submit comments about the budget via an online survey located on the City's website.

The FY 2021 budget public record closed on April 17, 2020.

Fiscal Impact

The FY 2021 operating budget for the Water Fund equals $14.6 million and the FY 2021 CIP budget equals $9.5 million.

The FY 2021 operating budget for the Sewer Fund equals $16.0 million and the FY 2021 CIP budget equals $4.8 million.

Attachments

Attachment 21.a: AttachA_WaterSewerRates_Ordinance_May2020 (PDF)

Rob DiSpirito, City Manager 5/7/2020

Ordinance No. ____ ORDINANCE: To amend Chapter 24 of the Rockville City Code entitled "Water, Sewers and Sewage Disposal" by amending Article III, Rates and Charges, so as to establish the water and sewer usage charges and water and sewer ready to serve charges for fiscal years 2019 through 2021

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that Chapter 24 of the Rockville City Code entitled "Water, Sewers and Sewage Disposal" by amending Article III, "Rates and Charges" so as to establish water and sewer usage charges and water and sewer ready to serve charges for fiscal years 2019 through 2021, as follows:

CHAPTER 24. WATER, SEWERS AND SEWAGE DISPOSAL

* * * * *

ARTICLE III. - RATES AND CHARGES

Sec. 24-46. - Water consumption charge.

(a) In order to determine the consumption of water obtained from the mains of the City, the City Manager shall cause the meters installed as herein provided to be read monthly or quarterly and at such other times as the City Manager shall determine in order to bill timely in accordance with State Law. Within the corporate limits of the City, a charge as set forth in the following chart for fiscal years 2019 through 2021, per one thousand (1,000) gallons of water supplied, as determined from the readings of the meter, shall be made against the owner or owners of each premises supplied with water, and the charges shall be due and collectible monthly or quarterly.

Water usage rates for Fiscal Years 2019 through 2021

Water Usage Charges Rate per 1,000 gallons Level (usage amount based on monthly or quarterly Tier charts below)	FY 2019	FY 2020	FY 2021
Tier 1	$5.34	$5.61	[$5.89] <u>$5.61</u>
Tier 2	$8.22	$8.63	[$9.06] <u>$8.63</u>
Tier 3	$12.75	$13.39	[$14.06] <u>$13.39</u>
Tier 4	$17.21	$18.07	[$18.97] <u>$18.07</u>

Attachment 21.a: AttachA_WaterSewerRates_Ordinance_May2020 (2961 : Introduction and Adoption of an Ordinance to Establish Water and

Monthly Usage Tier Chart

Water Usage Monthly Use Meter size	Tier 1 (monthly use)	Tier 2 (monthly use)	Tier 3 (monthly use)	Tier 4 (monthly use)
5/8”	0-5,000	5,001-10,000	10,001-15,000	15,001+
3/4”	0-7,500	7,501-15,000	15,001-22,500	22,501+
1”	0-12,500	12,501-25,000	25,001-37,500	37,501+
1 ½”	0-25,000	25,001-50,000	50,001-75,000	75,001+
2”	0-40,000	40,001-80,000	80,001-120,000	120,001+
3”	0-80,000	80,001-160,000	160,001-240,000	240,001+
4”	0-125,000	125,001-250,000	250,001-375,000	375,001+
6”	0-250,000	250,001-500,000	500,001-750,000	750,001+
8”	0-400,000	400,001-800,000	800,001-1,200,000	1,200,001+
10”	0-575,000	575,001-1,150,000	1,150,001-1,725,000	1,725,001+

Quarterly Usage Tier Chart

Water Usage Quarterly Use Meter size	Tier 1 (quarterly use)	Tier 2 (quarterly use)	Tier 3 (quarterly use)	Tier 4 (quarterly use)
5/8”	0-15,000	15,001-30,000	30,001-45,000	45,001+
3/4”	0-22,500	22,501-45,000	45,001-67,500	67,501+
1”	0-37,500	37,501-75,000	75,001-112,500	112,501+
1 ½”	0-75,000	75,001-150,000	150,001-225,000	225,001+
2”	0-120,000	120,001-240,000	240,001-360,000	360,001+
3”	0-240,000	240,001-480,000	480,001-720,000	720,001+
4”	0-375,000	375,001-750,000	750,001-1,125,000	1,125,001+
6”	0-750,000	750,001-1,500,000	1,500,001-2,250,000	2,250,001+
8”	0-1,200,000	1,200,001-2,400,000	2,400,001-3,600,000	3,600,001+
10”	0-1,725,000	1,725,001-3,450,000	3,450,001-5,175,000	5,175,001+

(b)The established charges shall go into effect on July 1, of the fiscal year for which they have been established. The new charges will apply to the entire billing cycle and are not prorated.

(c)There shall be due from each user of the water system, a monthly Ready to Serve charge. The Ready to Serve charge may be collected monthly or quarterly. The amount of the charge shall be based on water meter size and is hereby established for fiscal years 2019 through 2021 as set forth in the following chart:

Attachment 21.a: AttachA_WaterSewerRates_Ordinance_May2020 (2961 : Introduction and Adoption of an Ordinance to Establish Water and

Monthly Ready to Serve Charges for Fiscal Years 2019 through 2021

Monthly Water Ready To Serve Charge Meter Size	FY 2019	FY 2020	FY 2021	
5/8”	$4.10	$4.38	[$4.67]	$4.38
3/4”	$6.15	$6.57	[$7.01]	$6.57
1”	$10.25	$10.94	[$11.68]	$10.94
1 ½”	$20.50	$21.89	[$23.37]	$21.89
2”	$32.80	$35.02	[$37.39]	$35.02
3”	$65.60	$70.04	[$74.77]	$70.04
4”	$102.50	$109.44	[$116.83]	$109.44
6”	$205.00	$218.89	[$233.67]	$218.89
8”	$328.00	$350.22	[$373.87]	$350.22
10”	$471.50	$503.44	[$537.43]	$503.44

Quarterly Water Ready To Serve Charge Meter Size	FY 2019	FY 2020	FY 2021	
5/8”	$12.30	$13.13	[$14.02]	$13.13
3/4”	$18.45	$19.70	[$21.03]	$19.70
1”	$30.75	$32.83	[$35.05]	$32.83
1 ½”	$61.50	$65.67	[$70.10]	$65.67
2”	$98.40	$105.07	[$112.16]	$105.07
3”	$196.80	$210.13	[$224.32]	$210.13
4”	$307.50	$328.33	[$350.50]	$328.33
6”	$615.00	$656.67	[$701.00]	$656.67
8”	$984.00	$1,050.67	[$1,121.60]	$1,050.67
10”	$1,414.50	$1,510.33	[$1,612.30]	$1,510.33

(d)Notwithstanding the foregoing, there shall be no charge for water provided to a line which serves only a fire suppression system and consumes water only for the fire suppression and/or for flushing or testing not more than one (1) time per year.

Sec. 24-47. - Sewer usage charge.

(a) There shall be due to the City from each user of its sewerage system and/or disposal plant for each property served by its system, the sum as set forth in the following charts for fiscal years 2019 through 2021, for each one thousand (1,000) gallons of water used by such property during the preceding three (3) months or at such other times as the City Manager shall determine in order to bill timely in accordance with State Law.

	FY 2019	FY 2020	FY 2021	
Sewer Usage Charge All Meter Sizes, All Use Rate per 1,000 Gallons	$9.86	$10.50	[$11.18]	$10.50

Attachment 21.a: AttachA_WaterSewerRates_Ordinance_May2020 (2961 : Introduction and Adoption of an Ordinance to Establish Water and

(b) No person using water obtained otherwise than from the water system of the City shall empty such water into the sewerage system of the City unless the water shall be measured through a meter owned or installed and owned by the City at the expense of such user, and quarterly thereafter shall be due to the City from each such user of its sewer system and/or disposal plant for each property so served by its system the sum as set forth in the following charts for fiscal years 2019 through 2021for each one thousand (1,000) gallons of water used on such property during the preceding three (3) months or at such other times as the City Manager shall determine in order to bill timely in accordance with State Law.

	FY 2019	FY 2020	FY 2021
Sewer Usage Charge All Meter Sizes, All Use Rate per 1,000 Gallons	$9.86	$10.50	[$11.18] $10.50

(c) Any person procuring water from the water system of the City, a substantial part of which water is not thereafter diverted into the sewerage system of the City, shall have the privilege of having a meter installed in compliance with permits issued by the City's Inspection Services Division and/or Department of Public Works at the expense of such water user, whereby that portion of the water purchased by him from the City and not thereafter diverted into its sewer system, may be measured, and in computing the amount due the City from such user, as a sewer usage charge, the amount of water so measured and not diverted into the sewerage system of the City shall be deducted from the total amount of water delivered to the user from the water system of the City. This additional meter shall only be read by the City if said meter is compatible with the technology used by the City for meter reading. This meter shall be privately installed, owned and maintained, and is not the responsibility of the City once installed.

(d)There shall be due from each user of the sewer system, a monthly Ready to Serve charge. The Ready to Serve charge may be collected monthly or quarterly. The amount of the charge shall be based on water meter size and is hereby established for fiscal years 2019 through 2021 as set forth in the following charts:

Monthly Ready to Serve Charges for Fiscal Years 2019 through 2021

Monthly Sewer Ready To Serve Charge Meter Size	FY 2019	FY 2020	FY 2021
5/8”	$4.63	$5.08	[$5.58] $5.08
3/4”	$6.95	$7.62	[$8.37] $7.62
1”	$11.58	$12.71	[$13.94] $12.71
1 ½”	$23.16	$25.41	[$27.89] $25.41
2”	$37.05	$40.66	[$44.62] $40.66
3”	$74.10	$81.32	[$89.24] $81.32
4”	$115.78	$127.06	[$139.44] $127.06
6”	$231.56	$254.11	[$278.89] $254.11
8”	$370.49	$406.58	[$446.22] $406.58
10”	$532.58	$584.46	[$641.44] $584.46

Quarterly Ready to Serve Charges for Fiscal Years 2019 through 2021

Quarterly Sewer Ready To Serve Charge Meter Size	FY 2019	FY 2020	FY 2021	
5/8”	$13.89	$15.25	[$16.73]	$15.25
3/4”	$20.84	$22.87	[$25.10]	$22.87
1”	$34.73	$38.12	[$41.83]	$38.12
1 ½”	$69.47	$76.23	[$83.67]	$76.23
2”	$111.15	$121.97	[$133.87]	$121.97
3”	$222.29	$243.95	[$267.73]	$243.95
4”	$347.33	$381.17	[$418.33]	$381.17
6”	$694.67	$762.33	[$836.67]	$762.33
8”	$1,111.47	$1,219.73	[$1,338.67]	$1,219.73
10”	$1,597.73	$1,753.37	[$1,924.33]	$1,753.37

Note: [Brackets] indicate material deleted.
Underlining indicates material added.
Asterisks * * * indicate material unchanged by this ordinance.

* * * * * * *

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of _____.

_____
Sara Taylor-Ferrell, City Clerk/Director of Council Operations

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Review and Comment
Department: City Manager's Office
Responsible Staff: Jackelyn Pastran

Subject
Action Report

Recommendation
Staff recommends that the Mayor and Council review and comment on the Action Report.

Attachments
Attachment 22.A.a: MC Action Report Master 2020 _REVISED 050620 (DOC)

Rob DiSpirito, City Manager 5/7/2020

Attachment A

Blue - new items to the list.
Red - latest changes.

Mayor and Council Action Report

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline
2014-23	9/8/11	R&P	Future agenda	**King Farm Farmstead** **Status: On April 20, 2020, the Mayor and Council discussed the responses to the request for information (RFI) on potential future uses of the Farmstead. As a next step, staff will work with stakeholders to develop the scope of a request for thorough and detailed proposals for future uses of the Farmstead.** **During the May 4th discussion of the FY21 budget, the Mayor and Council directed staff to fund a fire suppression system for the Dairy Barns and the house in FY21 and to fund a security system for those buildings in FY20.**	Ongoing
2015-14	7/13/15	CMO	Future agenda	**Purchasing Study Response** **Status: An update on the Procurement Action Plan was shared on January 27, 2020. Another update will be provided in July 2020.**	Ongoing
2016-12	9/26/16	HR	Future agenda	**Vacancy Report** Provide a Vacancy Report to the Mayor and Council at the end of each Quarter. **Status: The Fiscal Year 2020 third quarter report was shared with the Mayor and Council by email on May 4, 2020. The fourth report will be shared in July 2020.**	July 2020
2016-16	10/10/16	PDS	Future agenda	**Global Issues on BRT** Schedule another discussion on BRT with the City of Gaithersburg and Montgomery County, to include broader issues such as governance and finance. Consider holding the meeting in Gaithersburg. **Status: County transportation is studying alternatives to identify a recommended alternative for design of the MD 355 route. A recommended alternative for the Viers Mill route was selected. The project is funded for preliminary design in the County Budget for FY23.**	Ongoing
2016-18	10/24/16	PDS	Future agenda	**FAST – Faster, Smarter, More Transparent (Site Plan/Development Review Improvements)** Provide regular updates on the status of the work. **Status: A FaST update was provided to the Mayor and Council on November 18, 2019. The next update is scheduled for June 1, 2020.**	Ongoing

Attachment 22.A.a: MC Action Report Master 2020 _REVISED 050620 (3124 : Action Report)

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline
2017-6	2/27/17	CMO	Email	**Minority-, Female- & Disabled-Owned Businesses** Provide updates on the Procurement Division's activities to engage and support minority-, female- and disabled-owned businesses. **Status: The MFD Report for FY19 and the first half of FY20 was shared with the Mayor and Council by email on May 1, 2020. Staff will follow up with the Mayor and Council on any questions about the report. A local preference approach for City procurement will be discussed as a separate agenda item.**	Ongoing
2017-11	6/12/17	R&P	Agenda item	**Deer Population in Rockville** Continue to monitor the deer population. Consider action steps and gather community input. **Status: The Mayor and Council directed staff to implement the pilot deer culling program. Staff will bring required changes to the City Code for Mayor and Council for approval on June 1, 2020. Given the increased use of RedGate as a park, staff also will bring back on the Mayor and Council's June 1, 2020 agenda the topic of an alternate location for the pilot program.**	September-November 2020
2018-1	1/22/18	Finance	Action Report	**Utility Billing System** Provide updates on the replacement of the Velocity Payment System, powered by Govolution. **Status: Contracts are in place, a kick-off meeting was held and implementation underway. The vendor has recommended that the implementation date be delayed until September. Staff are continuing to work with the vendor to implement the new system.**	September 2020
2018-7	6/18/18	CMO	Agenda Item	**LGBTQ Initiatives** Identify and implement Mayor and Council suggestions. **Status: Comments about future gender-neutral bathroom installations were shared during the Mayor and Council's March 2 budget worksession. Discussion will continue through the remaining budget worksessions. Signs directing users to the gender-neutral bathrooms in City Hall were ordered and temporary signs are currently up.**	Ongoing

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline
2018-8	6/18/18	CMO/RCPD /R&P	Town Meeting	**Opioid Town Meeting** Schedule a Town Meeting on the opioid crisis, to include prevention, enforcement and treatment. **Status: A subset of the committee working on a strategic plan for the Rockville Goes Purple Initiative will convene after the immediate needs of the COVID-19 response are addressed. Staff reached out to our County addiction services partners to inquire about ways the City could support efforts to serve people struggling with drug addiction during the COVID emergency.**	Ongoing
2018-11	8/1/18	PDS	Agenda Item	**Neighborhood Shopping Centers** Discuss mechanisms to encourage neighborhood shopping center revitalization and explore additional zoning and uses.	Summer 2020
2018-15	10/8/18	PDS	Future Agenda	**Short-Term Residential Rentals** Discuss how to manage short-term residential rentals' (e.g., Airbnb) impact on city neighborhoods and explore options for taxing users. **Status: Short-term residential rentals was discussed on January 13. Staff emailed the results of additional research requested by the Mayor and Council on January 23, 2020. The Mayor and Council also requested that a public hearing be held at a future date.**	Fall 2020
2018-19	10/15/18	HR	Future Agenda	**Volunteer Program** Discuss whether the Mayor and Council want to direct the City Manager to create a centralized volunteer program. **Status: A report on the number of volunteers and volunteer hours for the first half of FY20 was provided on the January 13, 2020 agenda. The next update will be on the July 27, 2020 agenda.**	July 27, 2020
2019-1	10/29/18	PDS	Future Agenda	**Accessory Structures** **Status: On April 20, 2020, the Mayor and Council discussed potential revisions to the development standards for accessory structures. The Mayor and Council directed staff to conduct additional neighborhood outreach to educate and inform residents of the proposed changes and to schedule an additional public hearing in the fall 2020.**	Fall 2020

Attachment A

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline
2019-2	2/25/19	R&P/PDS/ CMO	Future Agenda	**RedGate Park Planning** **Status: On May 4, 2020, staff shared cost estimates with the Mayor and Council by email for potential shorter-term improvements at the property. Staff will present the strategy for engaging the public in a planning process for a new destination park at Redgate on a June 2020 agenda.**	Ongoing
2019-4	3/25/19	PDS	Future Agenda	**Business Improvement Districts (BIDs) and Tax Increment Financing (TIF)** Discussion of potential City uses of BIDs and TIFs	TBD
2019-7	4/1/19	R & P	Memo	**Child Care Services** Discuss city provision of child care services (history of the current program, community need for the service, private sector market, expansion to additional Rockville locations). **Status: Staff is preparing follow up on the Mayor and Council's November 25, 2019 worksession discussion of early childhood education services, for a Mayor and Council agenda in summer 2020. Staff emailed information about childcare needs and services during the COVID-19 emergency to the Mayor and Council on May 4, 2020.**	Summer 2020
2019-9	4/1/19	HR	Memo	**Reduction in Force (RIF) Policy** Prepare a Reduction in Force (RIF) policy, to be incorporated in the Personnel Policy and Procedures Manual update. **Status: Mayor and Council will consider this policy in the context of the ongoing review of the proposed Personnel Policies and Procedures Manual (PPM), which will be rescheduled to a date to be determined following the COVID-19 response.**	Summer 2020
2019-10	4/1/19	HR	Email	**Personnel Policy and Procedures Manual Update** Share an update on the status of this effort. **Status: Staff presented the draft PPM to Mayor and Council during the February 24, 2020 meeting. Staff is taking questions and comments from the Mayor and Council on the draft PPM through the month of May, and will answer the questions and prepare a staff report to continue the discussion of the draft during summer 2020.**	Summer 2020

Attachment 22.A.a: MC Action Report Master 2020 _REVISED 050620 (3124 : Action Report)

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline
2019-11	4/1/19	HR	Future Agenda	**Retirement Incentive/Employee Buyout Program** Provide information about employee buyout programs and discuss the potential for a Rockville program. **Status: Director of Finance provided an update to the Mayor and Council via email on May 3, 2019.**	Summer 2020
2019-12	4/1/19	Police	Future Agenda	**Parking Enforcement at Street Meters** Share an overview of Rockville's current program and how other local jurisdictions handle parking enforcement at street meters, including hours of enforcement. **Status: Parking meter operations was a component of the Mayor and Council's parking discussion on July 15, 2019. Staff will continue to discuss this topic with FRIT and will keep the Mayor and Council informed as developments occur. To support take-out only operations of Rockville food service businesses during COVID-19 response, parking meter spaces have been signed as 15- minute curbside pick-up.**	Ongoing
2019-19	12/16/2019	City Clerk/Director of Council Operations	Worksession	**Boards and Commissions Task Force Work Session** – Continue the Mayor and Council's discussion of the Boards and Commission Task Force (BCTF). **Status: The Mayor and Council will discuss the BCTF's top four recommendations during a regular meeting on June 8, 2020.**	June 8, 2020
2019-20	12/16/2019	City Clerk/Director of Council Operations	Meeting	**Post-Election Presentation** **Status: On April 6, 2020, the chair of the Board of Supervisors of Elections sent a 2019 Vote By Mail Election Report to the Mayor and Council. The report is posted on the Board of Supervisors of Elections web page. The Board will present the report during the Mayor and Council meeting on May 11.**	May 11, 2020

Attachment A

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline
2020-01	1/6/2020	Police	Future Agenda	**Emergency Management Program** – Receive an update from the Emergency Manager on the city's emergency management program and activities. **Status: Staff is briefing the Mayor and Council on the COVID-19 pandemic weekly on Monday evenings and Friday mornings. A comprehensive update on the emergency management program will be scheduled in July 2020 or as soon as possible after the Emergency Manager's response to COVID-19 concludes.**	July 2020
2020-02	1/13/2020	CMO	Memo and Future Agenda	**5G Wireless Technology** **Status: On March 18, 2020, the Mayor and Council discussed Zoning Text Amendment TXT2019-00251 on regulating the Installation of Small Cell Antennas. Introduction and Possible Adoption of an Ordinance to Grant Text Amendment Application TXT2019-00251 -To Adopt Regulations for the Installations of Small Cell Antennas is on the May 11, 2020 agenda.**	May 11, 2020
2020-03	1/13/2020	DPW	Memo and Future Agenda	**Climate Change Efforts -** Brief the Mayor and Council on City efforts related to climate change. **Status: A memo describing potential future options to strategically support energy efficiency, renewable energy, greener fleets, and long-term strategic planning was shared with the Mayor and Council by email the week of April 6, 2020. This is also a topic of ongoing FY21 budget deliberations.**	TBD
2020-04	1/13/2020	Police	Memo and Future Agenda	**Drones and Public Safety –** Explore potential public safety issues associated with drones and how the City could consider monitoring, regulating and penalizing criminal activity.	Fall 2020
2020-05	1/13/2020	R&P	Email	**Americans with Disabilities Act** – Provide information about the City's work to ensure compliance with ADA requirements at City facilities. **Status: Staff provided initial information via email to the Mayor and Council on January 17, 2020. Funding for ADA-related projects is being discussed by the Mayor and Council in the context of the FY21 proposed budget.**	May 2020

Attachment 22.A.a: MC Action Report Master 2020 _REVISED 050620 (3124 : Action Report)

Attachment A

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline
2020-07	1/13/2020	PDS	Future Agenda	**Affordable Housing Goals -** Discuss Rockville's strategy to meet the affordable housing goals established by the Metropolitan Washington Council of Governments (COG). **Status: Future agenda items will explore paths that the city could take to meet the COG housing allocation. In addition, staff will conduct a forum with stakeholders in the development community and building trade association to solicit feedback on the following items, then bring the feedback to the Mayor and Council on agenda:** **1. Affordable Housing Fee for Small Residential Developments** **2. In-Lieu Fee for Condominium Development** **3. Require Developments with 50 or More Units to Provide 15% MPDUs**	Ongoing
2020-08	1/27/2020	CMO/PDS/ Finance/ DPW	Worksession	**Town Center –** Follow up on Mayor and Council direction from the Town Hall meeting and Urban Land Institute (ULI) report. **Status: A status update and discussion of Town Center initiatives will be provided to the Mayor and Council in the fall 2020.** **Parking** – Explore improvements to parking in Town Center **Status: Staff is preparing a proposal on parking improvements to present to the Mayor and Council.** **Town Center Road Diet –** Study and report to Mayor and Council on suggestions in the TAP report and Mayor and Council's discussion. **Status: Public Works' examination of options is underway. A consultant was selected and a purchase order was issued. Kick off meeting was scheduled for May 6, 2020.** **Real Estate/Broker/Economist Assessment –** In the context of the next update on the ULI recommendations, invite industry experts to dialogue on competitive challenges to Town Center **Undergrounding of Route 355 –** Revisit the information provided to the Mayor and Council, including community impacts, to formulate an official Mayor and Council position post COVID-19.	Ongoing
2020-09	1/27/2020	DPW	Future Agenda	**Corridor Cities Transitway –** provide background information to facilitate the current Mayor and Council taking an official position on the CCT route. **Status: Discussion will be scheduled for late summer**	TBD

Attachment 22.A.a: MC Action Report Master 2020 _REVISED 050620 (3124 : Action Report)

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline
2020-10	1/27/2020	DPW	Future Agenda	**I-270 widening –** Establish a strategy for negotiating with the State. **Status: City staff met with SHA staff and their consultant on February 14, 2020, to begin coordination on a potential MOU. State staff provided preliminary findings related to the potential impacts of different alternatives on traffic, parks, bridges, utilities, and storm water facilities. More information will be needed to develop the parameters to be used for negotiating an MOU between the City and MDOT. MDOT is preparing to release an RFQ this spring to seek their private developer partner, and they expect to complete this process by 2021. City staff will use information collected to draft parameters for negotiating an MOU with the State for Mayor and Council discussion and instructions. During the next meeting on May 7, 2020, staff will discuss with SHA utility relocation cost and expectations.**	Ongoing
2020-11		PDS	Future Agenda	**Annexation Options** – Discuss annexation options.	TBD
2020-12	4/27/20	R&P	Future Agenda	**Resident Company Briefing** Include on a fall 2020 Mayor and Council agenda a briefing from the resident companies to share information about their plans to resume operations and their business plans to support ongoing operations.	Fall 2020
2020-13	4/27/20	CMO	Email	**Census Outreach Update** Provide an update on the efforts completed, underway and planned to continue encouraging Rockville residents to complete the 2020 Census. **Status: A memo on Census outreach efforts was emailed to the Mayor and Council the week of May 4, 2020.**	May 6, 2020

CLOSED/COMPLETED

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Timeline

Mayor & Council Meeting Date: May 11, 2020
Agenda Item Type: Review and Comment
Department: City Clerk/Director of Council Operations Office
Responsible Staff:

Subject

Future Agendas

Recommendation

Attachments

Attachment 23.A.a: 06.01.2020 Mock Agenda (DOC)
Attachment 23.A.b: Future Agendas 05.11.2020 (XLS)

Sara Taylor-Ferrell, City Clerk/Director of Council Operations 5/7/2020

MAYOR AND COUNCIL

MEETING NO.
Monday, June 1, 2020 – 7:00 PM

MOCK AGENDA

Agenda item times are estimates only. Items may be considered at times other than those indicated.

Any person who requires assistance in order to attend a city meeting should call the ADA Coordinator at 240-314-8108.

Rockville City Hall will be closed through May 15, due to recent issued state directives for slowing down the spread of the coronavirus COVID-19 and social distancing.

Viewing Mayor and Council Meetings

To support social distancing, the Mayor and Council are conducting meetings virtually. The virtual meetings can be viewed on Rockville 11, channel 11 on county cable, livestreamed at www.rockvillemd.gov/rockville11, and available a day after each meeting at www.rockvillemd.gov/videoondemand.

Participating in Community Forum & Public Hearings

If you wish to submit comments in writing for Community Forum or Public Hearings, please email the comments to mayorandcouncil@rockvillemd.gov by no later than 2:00 p.m. on the date of the meeting. All comments will be acknowledged by the Mayor and Council at the meeting and added to the agenda for public viewing on the website.

If you wish to participate virtually in Community Forum during the live Mayor and Council meeting, please send your name and phone number to mayorandcouncil@rockvillemd.gov no later than 9:00 am on the day of the meeting. You will be connected with the City's Information Technology Department to receive all the information you need to join the meeting by audio to share your Community Forum comments.

Participating in Mayor and Council Drop-In (Mayor Newton and Councilmember Ashton)

Drop-In Sessions will be held by phone on Monday, June 1 from 5:00-5:45 p.m. Please sign up by 2 p.m. on the meeting day using the form at: https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227

7:00 PM **1. Convene**

2. Pledge of Allegiance

Attachment 23.A.a: 06.01.2020 Mock Agenda (3125 : Future Agendas)

3. Agenda Review

7:05 PM **4. City Manager's Report**

7:15 PM **5. COVID-19 Update**

7:45 PM **6. Proclamation**

A. Proclamation Declaring June as LGBTQ+ Pride Month

B. Proclamation Recognizing Frontline Heroes Day

C. Proclamation Declaring June 20 as World Refugee Day

7:55 PM **7. Public Hearing**

A. Public Hearing on Scope of Charter Review Commission

8:25 PM **8. Community Forum**

Any member of the community may address the Mayor and Council for 3 minutes during Community Forum. Unless otherwise indicated, Community Forum is included on the agenda for every regular Mayor and Council meeting, generally between 7:00 and 7:30 pm. Call the City Clerk/Director of Council Operation's Office at 240-314-8280 to sign up to speak in advance or sign up in the Mayor and Council Chamber the night of the meeting.

9. Mayor and Council's Response to Community Forum

8:45 PM **10. Consent**

8:50 PM **11. Discussion and Instruction and Possible Adoption of Rockville Economic Development, Inc. (REDI) Agreement**

9:35 PM **12. FAST Project Report**

Attachment 23.A.a: 06.01.2020 Mock Agenda (3125 : Future Agendas)

10:05 PM **13. Introduction and Possible Adoption of an Ordinance to Amend Chapter 13 of the Rockville City Code Entitled "Miscellaneous Provisions and Offenses" by Adding a New Article to Amend Chapter 13 of the Rockville City Code, Entitled "Miscellaneous Provisions and Offenses" to Add a New Section 13-71 to Regulate the Discharge of Bows Within the City and to Require a Bow Hunter to Report the Failure to Recover a Wounded Deer to City Police.**

10:20 PM **14. Introduction and Possible Adoption of an Ordinance to Amend Chapter 14 of the Rockville City Code, Entitled "Parks and Recreation" So as to Amend the Animals; Malicious Mischief, Damage, Etc; Operating Hours; and Traffic Regulations Sections Contained in Article III to Allow for the Establishment of a City Managed Deer Culling Program on City Park Property.**

10:40 PM **15. Alternative Location for Deer Culling Operation**

10:55 PM **16. Review and Comment - Mayor and Council Action Report**

17. Review and Comment - Future Agendas

18. Old/New Business

11:15 PM **19. Adjournment**

The Mayor and Council Rules and Procedures and Operating Guidelines establish procedures and practices for Mayor and Council meetings, including public hearing procedures. They are available at: http://www.rockvillemd.gov/mcguidelines.

Attachment 23.A.a: 06.01.2020 Mock Agenda (3125 : Future Agendas)

Future Agendas
Tentative as of 05/11/2020

Category	Estimated Agenda Time Needed (in minutes)	Title
Meeting : 06/08/20 07:00 PM (5 items)		
Discussion and Instructions	40	Boards and Commissions Task Force Priority Recommendations
Discussion and Possible Authorization	30	East Rockville Design Guidelines and Standards: Proposed Zoning Text Amendment Discussion and Possible Authorization
Public Hearing	30	Map Amendment MAP2020-00119, for the Rezoning of 102 Aberdeen Road from R-60 to R-60 (Historic District) in Order to Place the Property in a Historic District; Historic District Commission, Applicants
Presentation	30	Briefing on Project Plan PJT2020-00012, Key West at Fallsgrove, for an Amendment to the Fallsgrove Planned Development (PD) to Permit Up to 350 Multifamily Dwellings in Place of the Approved Office Development at 1800 Research Boulevard; Key West Center Fallsgrove LLC, Applicant
Adoption	45	Resolution to Adopt Vision Zero Plan
Total Meeting Time (In Hours)	2 HR 40 MINS	

Category	Estimated Agenda Time Needed (in minutes)	Title
Meeting : 06/22/20 07:00 PM (1 items)		
Discussion, Instructions and Possible Adoption	30	Proposed Appointment Selections - 2020 Charter Review Commission and Scope of Work
Total Meeting Time (In Hours)	HR 30 MINS	

Category	Estimated Agenda Time Needed (in minutes)	Title
Meeting : 07/08/20 07:00 PM (0 items)		

Future Agendas
Tentative as of 05/11/2020

Category	Estimated Agenda Time Needed (in minutes)	Title
Meeting : 07/13/20 07:00 PM (0 items)		
Category	Estimated Agenda Time Needed (in minutes)	Title
Meeting : 07/20/20 07:00 PM (0 items)		

Community Forum Speakers
Monday, May 11, 2020

	Name/Address	Topic
1.	Speaker - Sandra Crowe sc@pivpoint.com	Small Cell
2.	Speaker - Nancy Wallace Co-chair, Montgomery County Green Party (MD) (240) 644-2952	Small Cell
3.	Speaker - Janice Smith (300) 654-5737 Jbsmith333@comcast.net	Small Cell
4.	Speaker - Anna Pritchard (301) 758-8169 annarpritchard@aol.com	Insurance - Protecting the city from serious and costly lawsuits from residents.
5.	Speaker - Marian DeAngelo (240) 778-8562	Small Cell
6.	Speaker - Theodora Scarato Executive Director Environmental Health Trust (301) 765 7016	Small Cell
7.	Speaker - Ronald M. Powell, Ph.D. 20316 Highland Hall Drive Montgomery Village, MD 20886 ronpowell@verizon.net (301) 926-7568	5G on Health Grounds
8.	Speaker – Marian Edey m.edey@comcast.net	5G on Health Grounds
9.	Speaker - Mary Rooker 804 Larch Avenue Takoma Park, MD 20912 (301) 891-1288	Small Cell Deployment
10.	Speaker - Arianna Miazza (301) 421-4304 (703) 375-9666	5G
11.	Speaker - Molly Hauck 3900 Decatur Ave. Kensington 20895 (240) 418-0263 301-881-4884	5G
12.	Speaker - Katherine Katzin (301) 891-2954	Children's Health
13.	Speaker - Peter Kahn kahnpl@gmail.com (301) 652-3122	Small Cell Antenna

14.	Speaker - Robert Janku (301) 762.3151 Robert_janku@verizon.net	
15.	Speaker - Susan Kahn, Ph.D (301) 803-9804 swkahn@gmail.com	Small Cell Antenna Zoning Text Amendment 2019-00251.

Speakers List
Community Forum
(May 11, 2020)

	Name Address/Phone	Topic
1.	Helene Dubov 4 Stevenage Circle, Rockville, Maryland 301-340-1598	I live in Rockville (or Montgomery County) and I am against the deployment of small cells in Rockville until we have monre safety data.
2.	Joanne Lynch-Bachbauer, LCSW-C Individual & Group Psychotherapy Encounter Centered Couples Therapy Family Constellations Trainer/Facilitator CoreConstellations Center www.coreconstellations.com 301-217-0427	I live (and work) in Rockville and I am against the deployment of small cells in Rockville until we have more safety data
3.	Krista Kurth, Ph.D. Climate Advocate, Author Senior Fellow, Green America Center for Sustainability Solutions President, EcoEd Foundation kkurth@comcast.net 301-335-9100	I live in Montgomery County and I am against the deployment of small cells in Rockville until we have more safety data.
4.	Marla Zipin marlazipinphd@gmail.com	I live in Montgomery County and am against the deployment of small cells in Rockville until we have more safety data. Please take the time to do assess the safety of this deployment before authorizing it.
5.	Frank Cole 88sunset@gmail.com	We have small properties in Hungerford and I would hate to see more commercial installation brought to this quiet neighborhood. It would be of little use to the residents. 5G seems to be more in the realm of mobile use.
6.	Rhonda Gordon 400 Newark Esplanade Rockville, MD 20850 202-744-5560	I live in Rockville and I am against the deployment of small cells in Rockville until we have more safety data.
7.	Ellen Kirsh North Potomac Ellen.kirsh@mac.com	I live in Montgomery County and I am against the deployment of small cells in Rockville until we have more safety data.
8.	Kanu Kogod, PhD, MCC Founder and President Bridgesin Organizations, Inc. Kanu@bridges-in-orgs.com 301-254-6065/301-299-0744	I live in Montgomery County and I am against the deployment of small cells in Rockville until we have more safety data.
9.	Judy Rudolph	I recommend that the Mayor and Council approve this arrangement, but use this decision as a catalyst to launch immediately a proactive,

	Name Address/Phone	Topic
	44 Maryland Ave., #1301 Rockville 20850 judy.rudolph@verizon.net 301-928-9865	innovative, inclusive effort to re-vision Rockville Town Center. Now is the time to begin to brainstorm and plan for a fresh start--to be ready for Rockville Town Center's COVID-19 recovery and re-emergence
10.	Brian Shipley, President WECA Shipley.brian@gmail.com	I am writing to request that yo allow individual neighborhoods to develop Design Guidelines to define accessory buildings within the unique characteristics of our neighborhoods instead of enacting a one size fits all zoning text amendment for the whole city.
11.	Irene Christy ictcdc@gmail.com	We want to let you know that we vote no to small cell antennas in front of our home until we know more about safety implications for small cell antennas. Vote no for amendment 2019-00251".
12.	Cindy Brown 520 New Mark Esplanade Rockville, MD 20850	Please vote no for amendment 2019-00251 until we know more about safety implications for small cell antennas.
13.	Olga Wilson oacmarch@yahoo.com	Let's say no until we know more about safety implications for small cell antennas. Vote no for amendment 2019-00251.
14.	Patricia A. Dufour New Mark Commons Rockville, MD	I just heard about this. Not sure why I saw nothing about this but this should have public discussion before passing a bill on it (such as safety and privacy concerns).
15.	Bill Dillinger 2 Carter Ct. Rockville, MD 20852	I do not think 5G towers should be placed in our residential neighborhoods. We have small properties in Hungerford and do not want more commercial installation brought to this quiet neighborhood It would be of little use to the residents.
16.	Reeve Brenner nareletsplayfair@aol.com	Bankshot and social distancing in parks and recreation facilities.
17.	Karen Lovejoy thelovejoygroup@yahoo.com	I am writing as a resident and concerned citizen. And while I will reference some facts in my statement. I suspect that most of the council has been made privy to a lot of this information. Please call a moratorium on any installations until after this pandemic has been resolved.
18.	Izola Shaw izolat.shaw@gmail.com	Rent Increase/MPDU

	Name Address/Phone	Topic
19.	Brian Van Fossen President Rockville FOP Lodge 117	FY2021 Budget and Pay
20.	Tess Lachman tlachman@aol.com	Oppose 5G

Jacqueline Mobley

From: Helene Dubov <hdb.9471@gmail.com>
Sent: Friday, May 8, 2020 3:06 PM
To: mayorcouncil
Subject: Voting on 5G

Dear Mayor and Council-

I live in Rockville (or Montgomery County) and I am against the deployment of small cells in Rockville until we have more safety data.

Thank you,

Helene Dubov

4 Stevenage Circle,

Rockville, Maryland

--

Helene Dubov, LCSW-C, BCD
Certified EMDR Therapist
6203 Executive Boulevard
North Bethesda, Maryland 20852
301-340-1598

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Jacqueline Mobley

From: Joanne Lynch-Bachbauer <Jolb5@aol.com>
Sent: Friday, May 8, 2020 3:44 PM
To: mayorcouncil
Subject: Against deployment of small cells

Dear Mayor and Council-

I live (and work) in Rockville and I am against the deployment of small cells in Rockville until we have more safety data.

Thank you,
Joanne

Joanne Lynch-Bachbauer, LCSW-C
Individual & Group Psychotherapy
Encounter Centered Couples Therapy
Family Constellations Trainer/Facilitator

CoreConstellations Center
www.coreconstellations.com
301-217-0427

CONFIDENTIALITY DISCLAIMER: Please note that any email transmission is not a secure form of communication. Your confidentiality cannot not be ensured. If you are not the intended recipient of this email, please delete it and kindly notify the sender.**

Sent from my iPad

Jacqueline Mobley

From: Krista Kurth <kkurth@comcast.net>
Sent: Friday, May 8, 2020 4:24 PM
To: mayorcouncil
Subject: Comment on 5G/Small Cell Antenna deployment

Dear Mayor and Council

I live in Montgomery County and I am against the deployment of small cells in Rockville until we have more safety data.

Thank you,
Krista Kurth

Krista Kurth, Ph.D.
Climate Advocate, Author
Senior Fellow, Green America Center for Sustainability Solutions
President, EcoEd Foundation
kkurth@comcast.net
301-335-9100
www.climateactionforeverydaypeople.com
www.kristakurth.com

Working Towards a Sustainable and Thriving Planet

Jacqueline Mobley

From: Marla Zipin <marlazipinphd@gmail.com>
Sent: Friday, May 8, 2020 5:10 PM
To: mayorcouncil
Subject: Deployment of 5 G small cells in Rockville

Dear Mayor and Council-

I live in Montgomery County and am against the deployment of small cells in Rockville until we have more safety data. Please take the time to do assess the safety of this deployment before authorizing it.

Thank you,

Marla Zipin,

Jacqueline Mobley

From: Frank Cole <88sunset@gmail.com>
Sent: Friday, May 8, 2020 10:39 PM
To: mayorcouncil
Subject: 5G Cell Towers and Redgate too

I would like to express my opinion regarding the 5G tower placement being reviewed by the Council.
We have small properties in Hungerford and I would hate to see more commercial installation brought to this quiet neighborhood. It would be of little use to the residents. 5G seems to be more in the realm of mobile use.
I would also like to see the Redgate golf course become a park to be enjoyed by all. No houses built there. As a 23 year resident of Rockville I've seen much growth which, for the most part, has decreased quality of life and increased the traffic. The Redgate park is a present respite during the pandemic.
I don't like to be negative but Rockville has inflicted a sediment pond on my street and dubious "forest preservation" areas. It has fenced off the ball fields in Dogwood Park. It has built no pickleball courts or really added much to our parks. We really want parks with park settings and athletic facilities where they can be used quietly.
I appreciate your time to listen. Thanks.

Frank Cole
www.FrankColeStudio.com

Jacqueline Mobley

From: RHONDA GORDON <rhondaliveshere@aol.com>
Sent: Friday, May 8, 2020 11:33 PM
To: mayorcouncil
Subject: Deployment of small cells in Rockville

Dear Mayor and Council-

I live in Rockville and I am against the deployment of small cells in Rockville until we have more safety data.

Thank you,
Rhonda gordon
400 Newark Esplanade, Rockville, MD 20850

Rhonda Gordon
202-744-5560

Jacqueline Mobley

From: ELLEN KIRSH <ellen.kirsh@mac.com>
Sent: Saturday, May 9, 2020 12:11 AM
To: mayorcouncil
Subject: More important safety data needed before deployment of small cells

Dear Mayor and Council-

I live in Montgomery County and I am against the deployment of small cells in Rockville until we have more safety data.

Thank you,
Ellen Kirsh
North Potomac

Jacqueline Mobley

From: Kanu Kogod <kanu@bridges-in-orgs.com>
Sent: Saturday, May 9, 2020 1:19 PM
To: mayorcouncil
Subject: Protesting 5G in Montgomery County

Dear Mayor and Council-

I live in Montgomery County and I am against the deployment of small cells in Rockville until we have more safety data.

Thank you,

Kanu Kogod, PhD, MCC
Founder and President
Bridgesin Organizations, Inc.
Kanu@bridges-in-orgs.com
Cell 301-254-6065
PH 301-299-0744

BRIDGES IN ORGANIZATIONS

Jacqueline Mobley

From: Judith Rudolph <judy.rudolph@verizon.net>
Sent: Sunday, May 10, 2020 9:13 AM
To: mayorcouncil
Subject: Community Forum testimony: May 11, 2020 Mayor and Council Agenda Item 13, Amendment to Interim Management Agreement between the Mayor and Council of Rockville and Street Retail, Inc./FRIT

To the Mayor and Council:

Please consider these points as you deliberate and act on May 11, 2020 meeting Agenda Item 13, Amendment to Interim Management Agreement between the Mayor and Council of Rockville and Street Retail, Inc./FRIT:

- For the seventh time since 2012, a Rockville Mayor and Council, to maintain continuity of services, have been asked to authorize the execution of an 11th hour amendment to extend the Town Square Light District *Interim Management Agreement*.
- The *Staff Report* attached to this year's request does provide a more succinct and transparent discussion of the evolution of the arrangement than past reports or responses to stakeholder requests.
- The material in the packet does *not* reference the full scope and context of the additional agreements and MOUs between the city and Street Retail, Inc./Federal Realty (for the parking garages, "Naming Rights"/programming/special events on the Plaza, ice rink operation, sign maintenance, and possibly more.
- The 5/11 *Staff Report* section labelled **Looking Ahead** indicates that "FRIT will ask the City in FY21 to re-examine the current approach to Town Square management and maintenance with FRIT and the other owners in the five condominium blocks. Staff will seek the Mayor and Council's input on any alternative options." This might provide an opportunity for the Mayor and Council to take definitive action to ensure that the many "elephants in the room" are exposed and aired.

Note that:

- *Mayor and Council Action Report* item *2020-08 Town Center* (Packet page 194) that, until 4/27/2020, was to be on the 5/11 agenda, has now been deferred *again*—until "Fall 2020." In addition to continuing to delay followup on Mayor and Council direction from the 11/20*18* Town Hall meeting and 7/20*19* Urban Land Institute (ULI) report, action on and/or visibility into the following additional items continue to be deferred:
    - Town Center Parking
    - Town Center Road Diet
    - Real Estate/Broker/Economist Assessment
    - Undergrounding of Route 355
- 18 months after the November 2018 "Dawson's crisis," there is still no functional, responsive City point of contact nor resource to coordinate all Town Center stakeholders
    - No task force, committee, nor outreach efforts that include Town Center residential and commercial owners, property managers, retail and residential tenants, have been established by the City nor REDI—the organizations best positioned to foster dialogue, communication, input, and community building

I recommend that the Mayor and Council approve this arrangement, but use this decision as a catalyst to launch immediately a proactive, innovative, inclusive effort to re-vision Rockville Town Center. Now is the time to begin to brainstorm and plan for a fresh start--to be ready for Rockville Town Center's COVID-19 recovery and re-emergence.

Thank you for your efforts on behalf of Rockville during these challenging times.

Jacqueline Mobley

From:	Brian Shipley <shipley.brian@gmail.com>
Sent:	Monday, May 11, 2020 9:04 AM
To:	mayorcouncil
Cc:	Ricky Barker; Robert DiSpirito; Noreen Steed Bryan; Donna Sprague; jane.m.pontius@gmail.com; dennis.cain; Jen Timmick; M. Magner
Subject:	Discussion and Instructions for ZTA for Accessory Buildings on 20 April 2020
Attachments:	Attachment A.doc

Dear Madame Mayor and Members of the Council:

I am writing to request that you allow individual neighborhoods to develop Design Guidelines to define accessory buildings within the unique characteristics of our neighborhoods instead of enacting a one-size fits all zoning text amendment for the whole City.

Thank you for your careful consideration of the zoning text amendment for accessory buildings (TXT2019-00254) at your meeting on April 20, 2020. Our West End community greatly appreciates the opportunity to have more time to engage on this issue, which has the potential to significantly affect the character of our single-family residential community. Since the last public hearings were held in the fall of 2019, having the opportunity to participate in another public hearing before you take up this issue again is very important. Thank you for approving this.

In order to keep our neighborhood up to speed on accessory buildings, the West End Citizens Association (WECA) will send a message to its listserv. To be sure that the information is accurate, I have included our understanding of the revisions to provisions in the ZTA (draft) that will be circulated prior to the public hearing and ask that these be verified by City staff before WECA passes them on to the community. Our understanding of the revisions is included in Attachment A.

Lastly, reviewing the ZTA for accessory buildings has led to a greater understanding of the lots and residences that compose the West End. Because our neighborhood was developed by individual blocks or small groupings of blocks, the lot sizes vary a great deal. It is not unusual for the neighboring lots to be significantly larger or smaller than each other. However, zoning, usually done by block or larger area, does not reflect actual lot sizes. This means that individual lot sizes rarely correspond to the lot zoning. For example, consider the 200 block of South Washington Street where I live. There are 7 residential lots on this street. All of the lots are zoned R-90 (9000 sq. ft. lot size). However, the actual lot sizes vary from 6,502 sq. ft. to 20,250 sq. ft. (72% to 225% of 9000 sq. ft.). Four of the seven lots have, on average, less than 7500 sq. ft. Using zoning rather than actual lot sizes could lead to undesirably large accessory buildings on smaller lots and unfairly small accessory buildings on larger lots. I have included Table 1 at the bottom of Attachment A to demonstrate how the footprint of an accessory building will vary when calculated at 10% of an R-90 lot, using South Washington Street as the example. Also included in Attachment A is Table 2 to demonstrate how the footprint of will vary across various lot sizes (R-40 to 400). For this and many other reasons, including architectural style and heights of houses varying widely from 1 to 3 stories, a one-size-fits-all approach does not work well for the West End. To preserve the character, history and the charm of the West End, Design Guidelines are preferable to a city-wide zoning ordinance. Design Guidelines have the potential to provide the flexibility to allow accessory buildings to be sized to lot acreage and to complement the style of the main building, thereby enhancing rather than detracting from the neighborhood.

From a visual survey it appears that the proposed ZTA would only apply to a handful of neighborhoods because many are governed by Home Owner Association (HOA) covenants or are restricted by lot size and/or configuration. Rockville prides itself as a city of neighborhoods, one of its greatest strengths. Given that there are only a handful of neighborhoods where this ZTA will effectively apply and given that different neighborhoods may have different visions

for how they want to evolve, allowing individual neighborhoods to define their own guidelines would be to everyone's greatest advantage. As you know from the messages sent to you recently, there are many residents of the West End who are concerned about the growth of accessory buildings, particularly height. In fact, more than 90% of those who sent messages oppose the ZTA as it is currently written. Having some time to discuss the concept of Design Guidelines with neighbors and how they could work for accessory buildings in the neighborhood will be very helpful. I hope that you will support Design Guidelines for individual neighborhoods, including the West End, rather than enacting this ZTA as law across the City.

Respectfully,

Brian Shipley

President, West End Citizens Association

Attachment A: WECA's Understanding of the Proposed ZTA Edits

- **Maximum Footprint**: In the existing ZTA (draft) the footprint for accessory buildings is numerically specified by lot zoning (e.g. 720 sq. ft. for an R-90 lot). In the new ZTA (draft) that will be circulated prior to the public hearing, the footprint for accessory buildings will be specified as 10% of lot size per zone (e.g. 900 sq. ft. = 10% of 9000 sq. ft. for lots in the R-90 zone.) This will significantly increase the allowed size of accessory buildings for R-90 and larger lots. Please see the table below.
- **Restriction on Maximum Footprint based on Footprint of Main Building**: A new provision will be added that restricts the maximum footprint of accessory buildings to 75% of the footprint of the main building.
- **Rear Yard Coverage**: The new ZTA (draft) will include a provision that restricts the maximum footprint of accessory buildings to be no more than 25% rear yard coverage.
- **Maximum Footprint of Accessory Buildings for lots in Historic Districts**: no changes to the existing ZTA (draft) language
- **Standards for Historic Property in MXT Zone**: no changes to the existing ZTA (draft) language
- **Breezeways**: no changes to the existing (draft) language
- **Setbacks**: The new ZTA (draft) will maintain the rear and side setbacks as they currently exist in the Zoning Ordinance.
- **Height**: no changes to the existing (draft) language

Table 1: Footprint of Accessory Building as a Percentage of Lot Size (200 Block South Washington Street)

Address	Zone/Footprint of Accessory Building at 10%	Lot Size	Footprint of Accessory Building as % of actual lot size
201	R-90/900 sq. ft.	11,130 sq. ft.	8.0%
203	R-90/ 900 sq. ft.	6,502 sq. ft.	13.9%
205	R-90/900 sq. ft.	8,421 sq. ft.	10.7%
207	R-90/ 900 sq. ft.	10,500 sq. ft.	8.6%
211	R-90/900 sq. ft.	7,500 sq. ft.	12.0%
215	R-90/900 sq. ft.	7,500 sq. ft.	12.0%
221	R-90/900 sq. ft.	20,250 sq. ft.	4.4%
	Average	**10,258** sq. ft.	

Table 2: Effects of Revising Maximum Footprint to 10% of Lot Zoning

Lot Zoning	Current Zoning Ordinance (sq. ft.)	Existing ZTA (draft) (sq. ft.)	Revised ZTA (draft) (sq. ft.) (10% of lot size)	Percent Increase revised ZTA vs existing
R-40	500	600	400	(-33%)
R-60	500	600	600	No change
R-75	500	675	750	(+ 11%)
R-90	500	720	900	(+25%)
R-150	500	900	1500	(+67%)
R-200	500	1000	2000	(+100%)
R-400	500	1000	4000	(+300%)

Jacqueline Mobley

From: I Christy <ictcdc@gmail.com>
Sent: Sunday, May 10, 2020 10:35 PM
To: mayorcouncil
Subject: No to putting up small cell antennas in front of our home

Dear Mayor,

We want to let you know that we vote no to small cell antennas in front of our home until we know more about safety implications for small cell antennas. Vote no for amendment 2019-00251".

Thank you,
Irene

Jacqueline Mobley

From: Cindy <lilamau@verizon.net>
Sent: Sunday, May 10, 2020 11:10 PM
To: mayorcouncil
Subject: Please vote no for amendment 2019-00251

Please vote no for amendment 2019-00251 until we know more about safety implications for small cell antennas.

Thanks,

Cindy Brown
520 New Mark Esplanade
Rockville, MD 20850

Jacqueline Mobley

From: Olga Wilson <oacmarch@yahoo.com>
Sent: Sunday, May 10, 2020 11:38 PM
To: mayorcouncil
Subject: Amendment 2019-00251

Let's say no until we know more about safety implications for small cell antennas. Vote no for amendment 2019-00251.
Thanks
Olga Wilson

Sent from Yahoo Mail for iPad

Jacqueline Mobley

From: Patricia Dufour <pdufour@aol.com>
Sent: Monday, May 11, 2020 3:43 AM
To: mayorcouncil
Subject: Vote No on small cell antenna bill 2019-00251

I just heard about this. Not sure why I saw nothing about this but this should have public discussion before passing a bill on it (such as safety and privacy concerns).

Patricia A. Dufour
New Mark Commons
Rockville

Sent from my iPhone

Jacqueline Mobley

From: Bill Dillinger <cjbill@his.com>
Sent: Monday, May 11, 2020 10:10 AM
To: mayorcouncil
Subject: 5G Cell Towers and Redgate

Dear Mayor and Council

I do not think 5G towers should be placed in our residential neighborhoods. We have small properties in Hungerford and do not want more commercial installation brought to this quiet neighborhood It would be of little use to the residents.

I would also like to see the Redgate golf course become a park to be enjoyed by all. No houses built there. I first moved to Rockville in the middle 60's snd it was a lovely small town it has been turned into a metropolis. Please take more care of the people who live here. The Redgate park is a great place and one of the few large spaces left to the people of Rockville, please keep it for the residents.

The "forest preservation" areas, while something, are not really large enough. The sediment pond at the corner of Leverton and Cabin John Pky. has no real circulation and becomes smelly at times inspite of being a popular walking place for people it needs some circulation. Please take care of our town. We really want parks with park settings and athletic facilities where they can be used quietly.

Thank you
Regards

Bill Dillinger
2 Carter Ct.
Rockville, MD 20852

Jacqueline Mobley

From: nareletsplayfair@aol.com
Sent: Monday, May 11, 2020 1:46 PM
To: mayorcouncil
Subject: community forum - public hearings

Dear Mayor & Council:

I have had experience with hundreds of recreation departments across the country and have seen to it that hundreds of Bankshot courts have become important features in parks everywhere. I know some recreation departments to be nimble, creative and able to, in the words of the NY Times "pivot" to new circumstances. Recreation departments understand that reopening means, in stages, planning ahead, phasing in distance participation which starts with six feet+ distancing. Not sharing recreational equipment and balls except with your family or yourself as an individual. Bankshot, Tennis and other net sports should open first because they provide distance participation.

No team sports, no indoor sports, no basketball courts should be open for now in the first phase. But our community has Bankshot in two facilities and the community should be better informed that these exist. And most important that they are without cost and the community should take advantage of that fact.
The presence of a recreation specialist at the Bankshot court to monitor distance participation is likely to be unnecessary but might be considered at the start to teach distancing.

All media recognizes the absolute necessity of getting out to the parks. They are our shared commons and should be accessible to all as in Bankshot. Fast moving sports exclude as do contact based sports. Universally designed sports include, integrate and mainstream all residents of a community.

Reeve Brenner

Jacqueline Mobley

From: thelovejoygroup <thelovejoygroup@yahoo.com>
Sent: Monday, May 11, 2020 2:08 PM
To: mayorcouncil
Subject: Comment U For Tonights Hearing
Attachments: 30 Feet Instillation Cell Towers.docx

Please find my community comment attached:

Karen Lovejoy

30 Feet Instillation of 4 &5 G Small Cell Antennas

I am writing as a resident and concerned citizen. And while I will reference some facts in my statement. I suspect that most of the council has been made privy to a lot of this information.

With great respect I must remind council of a simple truth. When we continue to do the same thing and expect different results it is called insanity. While there are many concerns with the installation of small cell antenas, I am challenging all council members and Mayor who believe we have a climate crisis to find the courage to give more than lip service to your beliefs. The practice of putting profit before people, making backroom deals, not doing research, or listening to the science is how we got into this climate fix. Unless we take an honest look at ourselves and do something different we will not survive.

Most of us have come to the realization that climate change threatens to destroy all that we hold dear. Though the situation is dire it is not uncorrectable. However, like most things, to fix this we must stop the behaviors that created the problems in the first place. If you believe that we have a climate change problem and if you want to fix it. You must give more than lip service to this cause. There are many problems with the expansion of 4 and 5G cell towers. However for those committed to fixing climate change you must acknowledge that the proliferation of small cell antennas threatens to put climate change over the top .

Because of our technological advances science is telling us that for the first time we have Created a society where 30, 40 and 50 year olds will be sicker and die years younger than their parents. The issue of 5G and small cell antennas is not about progress or advanced technology.Wiping out whole species of plants and animals so we can send a message 20 seconds faster is not progress.

Doctors at NIH have said that young people dying of brain tumors is now an epidemic. This is not progress.

More that 230 scientist from more than 40 countries who are not bought by corporations are sounding the alarm telling us about the negative effects of what we have put in place already with 3 and 4 G. Science has shown that EMF exposure is causing everything from, depression, sleep disorders, headaches, cancers, auto immune dysfunction in adults and children and so much more. And yes , these installations are having an impact on climate change.

What ever your concerns are we cannot afford to ignore the science.

I am encouraging you to do two things:

1.First inforce the NEPA act.

A DC Circuit Court of Appeals decision on August 9, 2019, ruled that any small wireless telecommunications facility (sWTF) to be constructed must go through a National Environmental Policy Act (NEPA) review. Therefore, any ordinance regarding applications for the construction and operation of (sWTF) should state that the applicant must conduct such an assessment according NEPA. The ordinance should further require applicant to prove that such an assessment was completed. This case was initiated because studies had shown birds, bees, insects, pollinators and plants to be impacted by the radio frequencies emitted from these SWTFs and must be considered in the location and amount of effective radiated power emissions. Plants are weakened and become more frail, i.e., flammable, which can lead to increased fire hazards.

2.. Second: Please call a moratorium on any installations until after this pandemic has been resolved.

Jacqueline Mobley

From: izola shaw <izolat.shaw@gmail.com>
Sent: Monday, May 11, 2020 1:03 PM
To: mayorcouncil
Subject: Record of May 4 Public Comment
Attachments: Zola Shaw May 11 Public Comment.docx

Good Afternoon Mayor and Council,

Thank you again for considering my May 4 public comment to temporarily prohibit any rent increases (rent freeze) through this growing economic and health crisis.

I've attached my comment to be included in the public record for today's meeting, as you will be continuing to discuss this matter.

Thanks again and stay safe,
Zola Shaw

Zola Shaw
Rockville Mayor and Council Meeting Public Comment
May 4

Good evening and thank you Mayor and Council for this opportunity to make a public comment. My name is Zola Shaw and I am a Rockville renter.

As we all face challenges through this pandemic, I am testifying in favor of a temporary rent freeze.

Close to 35% of Rockville residents are renters. Because we as renters disproportionately experience housing instability, I want to ensure that voices of current renters are included in this decision making process.

Mayor and Council, you are likely considering 3 policy options, (1) do nothing, (2) place a temporary limit on rent increases to 2.6 percent, like the County, or (3) meet the needs of Rockville renters and provide more stability to those hurting the most, by temporarily freezing our rent.

The reason why the second choice to limit a rent increase to 2.6 percent does not go far enough, is because unlike the County, where landlords are required to at least offer a two year lease to tenants – thus providing far more stability to county renters – Rockville, does not! In fact Rockville landlords are free to provide basically any month period lease they see fit. When a lease ends, Rockville landlords have the opportunity to increase rent for any reason – including intentionally making rent unaffordable to tenants that have been infected or economically impacted by COVID.

Often times, families who have less income and less wealth are given shorter term leases. In my building alone, there are families living with extreme housing insecurity with a four, three even two month lease agreement. Raising rent, even just a little during COVID will put Rockville families on the brink.

Mayor and Council, to a renter our lease is our primary protection against rent increases and evictions. In short, the renters under County authority have more protections against housing instability than renters residing in its Seat.

So for this decision, I urge you to not simply follow suit with the County, but independently vote for temporarily freezing rent to better address both the economic and health needs of **the** Rockville renters you serve. We, are the most impacted by your housing decisions.

Thank you again for this opportunity to testify and for considering my public comment.

Jacqueline Mobley

From: Brian Vanfossen <bvanfossen@rockvillemd.gov>
Sent: Monday, May 11, 2020 2:52 PM
To: mayorcouncil
Subject: Letter From the FOP
Attachments: FY2021 Budget and Pay.doc

Madam Mayor, City Council Members,

Please see the attached letter from the FOP.

Below is the letter in plain text:

Tonight, May 11, 2020 the Mayor and Council is slated to adopt an ordinance to appropriate funds and levy taxes for FY2021. The COVID-19 Pandemic has created vast uncertainty and significant budgeting challenges. The FOP would like to recognize the Mayor, Council and all City Staff for their hard work, review, discussion and difficult decisions made during this year's budget process.

As we embark on the COVID-19 Pandemic "Roadmap to Recovery", the FOP requests your continued consideration of the below employee benefits and compensation

- **Ensure Employee Health Insurance costs do not increase**
- **Maintain current health benefits**
- **Provide merit based step increases**
- **Implement a plan to reinstate steps lost to alleviate compression and reduce compounded yearly salary loss among rank and file police officers**

We ask that these requests are granted prior to additional CIP spending, operating expenses or increased staffing levels.

Thank you for your time and consideration.

Thank you,

Brian Van Fossen
President
Rockville FOP Lodge 117.

Fraternal Order of Police Lodge 117
Rockville, Maryland

MEMORANDUM

DATE: May 11, 2020

TO: Bridget Donnell Newton, Mayor
Monique Ashton, Council Member
Beryl L. Feinberg, Council Member
David Myles, Council Member
Mark Pierzchala, Council Member

FROM: Brian Van Fossen, FOP Lodge 117 President

SUBJECT: FY2021 Proposed Budget, Employee Benefits, and Employee Compensation

Madam Mayor and City Council Members,

Tonight, May 11, 2020 the Mayor and Council is slated to adopt an ordinance to appropriate funds and levy taxes for FY2021. The COVID-19 Pandemic has created vast uncertainty and significant budgeting challenges. The FOP would like to recognize the Mayor, Council and all City Staff for their hard work, review, discussion and difficult decisions made during this year's budget process.

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Thank you for your time and consideration.