

**MAYOR AND COUNCIL
ROCKVILLE, MARYLAND**

August 15, 2011

Meeting No. 24-11

7:00 p.m.

PRESENT:

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala

STAFF PRESENT:

City Manager Scott Ullery, City Attorney Debra Yerg Daniel, and City Clerk Glenda P. Evans

- 1A. [6:00 pm - Executive Session pursuant to Section 10-508\(a\)\(4\) of the State Government Article, Annotated Code of Maryland, to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the City.](#)

Motion moved by Councilmember Bridget Donnell Newton, seconded by Councilmember John Britton to enter executive session pursuant to Section 10-508(a)(4) of the State Government Article, Annotated Code of Maryland, to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the City.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

The Mayor and Council convened in an Executive Session at 6:02 p.m. on Monday, August 15, 2011 in the Diamondback Terrapin Conference Room, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland.

Present at the Executive Session were Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton and Councilmember Mark Pierzchala. Also present were City Manager Scott Ullery, City Attorney Debra Yerg Daniel, City Clerk Glenda P. Evans, Assistant City Manager Jenny Kimball and Director of Finance Gavin Cohen. Also present was Rockville Economic Development Inc. Executive Director Ms. Sally Sternbach.

The topic of discussion was monetary and non-monetary incentives. The Mayor and Council voted to approve the recommended incentives.

The Executive Session was adjourned at 6:45 p.m.

1. [Convene](#)

The Mayor and Council convened in a regular meeting at 7:00 pm on Monday, August 15, 2011 in City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. [Pledge of Allegiance](#)

Mayor Marcuccio led all present in the Pledge of Allegiance.

3. [Agenda Review](#)

City Clerk Glenda Evans reported that there were no changes to the agenda.

4. [City Manager's Report](#)

City Manager Scott Ullery announced that the City's position of Chief Inspection Services/Chief Building Official has been filled. Community Planning and Development Services Director Susan Swift introduced Mr. Courtney Morgan, Chief of Inspection Services.

5. [Presentation - Rockville Economic Development Inc. Update](#)

Sally Sternbach, Executive Director of the Rockville Economic Development Inc. reported on the following REDI activities.

- (1) 8th Annual Start Right Women's Business Plan Competition. Also, the Washington Post Capital Business Site will be running a website feature on the semi-finalists.
- (2) Power Conference "Women Doing Business" on September 7, 2011 at the Montgomery County Convention Center.
- (3) Rockville Women's Business Center will hold a class on Government Contracting on Tuesday, August 23, 2011 and on the ABC's of Starting a Business on Tuesday, August 30, 2011.
- (4) On September 15, 2011, REDI will offer a class on Certifications for women-owned minority and local and small businesses.
- (5) On September 20, 2011, REDI will offer a class on learning to write a business plan. Registration is at rockvillewbc.org.
- (6) Rockville Rewards Cards being sold by the Rockville Women's Business Center.
- (7) Two Rockville companies are collaborating on the development of a new TB vaccine -- Aeras Global TB Vaccine Foundation and Emergent Biosolutions.
- (8) Micromet has signed an agreement with a Amgen, a California biotech company to develop a novel cancer therapy drug.
- (9) Congratulations to Cake Dreams whose CEO is the winner of the Food Network's "Going for the Gold" episode of "Cupcake Wars".

6. [Appointments - Announcement of Vacancies](#)

Motion moved by Councilmember Piotr Gajewski, seconded by Councilmember Bridget Donnell Newton to approve the reappointment of Teresa Harn as a member to the Cultural Arts Commission for a term to expire on August 1, 2014.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

Motion moved by Councilmember John Britton, seconded by Councilmember Mark Pierzchala to approve the following appointments/reappointments to the Environment Commission:

- (1) Steven Cardon, Reappointment as member for a term to expire on August 1, 2014;
- (2) Alicia Hosmer, Appointment as member to fill an unexpired term that expires on May 1, 2013;
- (3) Clark Reed, Appointment as member to fill an unexpired term that expires on January 1, 2013; and
- (4) Devinie Rukshani Lye, Appointment as student member to fill an unexpired term that expires on September 1, 2013

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

Motion moved by Councilmember Piotr Gajewski, seconded by Councilmember Mark Pierzchala to approve the appointment of Dr. Lynda Richard as a member of the Human Services Advisory Commission for a term to expire on July 1, 2014.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

Motion moved by Councilmember Bridget Donnell Newton, seconded by Councilmember Mark Pierzchala to approve the reappointment of Amelda Wilson as an at-large member of the Landlord Tenant Affairs Commission for a term to expire on July 1, 2014.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember Bridget Donnell Newton to approve the reappointment of George Sushinsky as a member of the Recreation and Parks Advisory Board for a term to expire on July 1, 2014.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

The following Boards and Commissions Vacancies as of August 15, 2011 were announced:

- 1 - Board of Supervisors of Elections
- 1 - Compensation Commission
- 2 - Cultural Arts Commission
- 1 - Historic District Commission
- 2 - Human Rights Commission
- 1 - Human Services Advisory Commission
- 2 - Landlord Tenant Affairs Commission
- 2 - Senior Citizens Commission
- 1 - Sign Review Board
- 1 - Traffic and Transportation Commission

7. [Proclamation - Proclamation declaring the Week of August 29, 2011-September 3, 2011, as Mattie Stepanek Week in Rockville](#)

The Proclamation declaring Mattie J.T. Stepanek Week in Rockville was read by Mayor Phyllis Marcuccio and accepted by his mother, Jeni Stepanek.

Motion moved by Councilmember Piotr Gajewski, seconded by Councilmember John Britton to approve Proclamation declaring the Week of August 29, 2011-September 3, 2011, as Mattie J. T. Stepanek Week in Rockville.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

8. [Citizen's Forum](#)

Messrs. Jody Kline and Chip Boylan presented a check to the Mayor and Council on behalf of the Rockville Recreation and Parks Foundation in the amount of \$2,500 to be used towards scholarships to underwrite youth recreation programs in the City.

Tom Curtis - Welcome to Rockville Signs and City services for the Peace Celebration

9. [Mayor and Council's Response to Citizen's Forum and Announcements](#)

The Mayor and Council requested that the City Manager follow-up on Mr. Curtis' concerns relating to trash pick-up, parking and other needs relating to the Peace Celebration on September, 3, 2011.

10. [Consent Agenda](#)

The Mayor and Council requested that Consent Agenda Items 10I and 10J be removed from the Consent Agenda and considered individually.

- A. Award of Rider on Maryland State Highway Administration Contract for Structural Repairs on Bridges Statewide in the Aggregate Amount Not to Exceed \$600,000 for FY 2012
- B. Award of Upper Watts Branch Park - Forest Preserve Environment Restoration Design Services in an amount not to exceed \$288,000
- C. Approval to Increase Award for Contract #45-09 for Supervisory Control and Data Acquisition System Services In An Amount Not To Exceed \$145,000
- D. Approval of Change Order # 1 to increase contract amount to Hazen and Sawyer P.C. by an amount not-to-exceed (NTE) \$131,175 for additional professional engineering services required to design the Gravity Thickener and Air Scour facilities which are funded by the Water Plant Upgrades CIP project
- E. Rejection of IFB#54-11 for Asphalt and Concrete Work
- F. Authorization for the City Manager to approve agreements between the City of Rockville and the Maryland State Highway Administration (SHA) for Property Acquisition Services for the Rockville Intermodal Access: Baltimore Road Project in an amount not-to-exceed (NTE) \$120,000
- G. Award of Contracted Inspection Services to Specialized Engineering in the Amount Not to Exceed \$225,800
- H. Modification to Contract for Tree Trimming and Removal Services In The Amount not-to-exceed (NTE) \$300,000
- K. Approval of Minutes

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember John Britton to approve Consent Agenda Items 10A-10H and 10K.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember Bridget Donnell Newton, Councilmember Piotr Gajewski, Councilmember Mark Pierzchala, and Councilmember John Britton approved.

None opposed.

I. [Introduction of Ordinance to Amend Chapter 16 entitled "Public Ethics" of the Rockville City Code so as to bring it into compliance with provisions of State law](#)

Mayor Marcuccio asked City Attorney Debra Yerg Daniel for a further explanation as to the Ordinance to Amend Chapter 16 entitled "Public Ethics". The Mayor and Council requested that additional language be added to the Ordinance which would provide for the 5-member Ethics Commission mandated by the State to select its Chair from its members.

There was also expressed concern relating to the following language "*Sec. 16-3(c). Administration. A commission member serves until the Council confirms a successor*". At the request of the Mayor and Council, Ms. Daniel indicated this language will be revised to read "*a commission member may continue to serve until the Council confirms its successor*".

Councilmember Pierzchala introduced the Ordinance with the requested changes included.

J. [Adoption of Resolution to revise the schedule of various user and regulatory fees for the City of Rockville](#)

At the request of Councilmember Newton, the Mayor and Council agreed to table Consent Agenda Item 10J for discussion and consideration at the September 12, 2011 Mayor and Council meeting.

11. [Approval - Proposed revisions to the signage plan for the Town Square project, including signs for the grocery store and wayfinding signs](#)

Deane Mellander, Principal Planner with Community Planning and Development Services, provided background and overview. Mr. Mellander stated that there were no objections from staff regarding the proposed changes to the submitted revisions and that staff recommended Mayor and Council consider approval of these revisions to the sign package for Town Square.

Ms. Robin McBride, Vice President and Mid Atlantic Region Chief Operating Officer of Federal Realty Investment Trust [FRIT], introduced Mr. Rick Hood, Owner of Ellwood Thompson's Local Market in Richmond, Virginia who is the planned owner of the new grocery store in Rockville Town Center.

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember John Britton to approve the revisions with the modifications proposed this evening.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

12. [Parking Garage Lease Agreement](#)

Finance Director Gavin Cohen provided an overview of the proposed parking garage lease agreement between The Mayor and Council of Rockville, Maryland, as "Landlord" and Street Retail, Inc., as "Tenant". Mr. Cohen summarized the garage lease agreement by stating that the City of Rockville is transferring the financial risks of operating the parking garages to Federal Realty Investment Trust [FRIT] in exchange for the City receiving an annual rental and revenue share.

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember John Britton to amend Definitions Paragraph "1.34 'Systems': defined in Section **7.2**" to read "1.34 'Systems': defined in Section **7.3**" of the Parking Garage Lease Agreement.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember John Britton to approve the attached Parking Garage Lease Agreement, as amended, between the Mayor and Council of Rockville and Street Retail Inc. (a subsidiary of Federal Realty Investment Trust) to lease the City's three Town Square Parking Garages.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

13. [Approval - Revocable License and Maintenance Agreement with Street Retail, Inc. \(subsidiary of Federal Realty Investment Trust\) for Installation, Construction, Erection, Inspection, Maintenance and Repair of Signs Located on City-owned Property in and around Town Square, including in the Rockville Town Center Garages and the Plaza](#)

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember John Britton to amend the Revocable License and

Maintenance Agreement Paragraph:

"7. If the installation, construction and/or erection of any of the Improvements requires the removal of the artwork entitled "Crossroads" which, at the time of the execution of this License Agreement, is installed on the 330 Hungerford Drive parking garage, Street Retail is prohibited from removing such existing artwork and installing, constructing and/or erecting any Improvements in its place until such time as it obtains approval from the City. If such approval is obtained, Street Retail shall, at its sole expense, remove such artwork from the City Garages, and shall relocate such artwork at the direction of the City, including providing electric service. In the event any damage is caused by Street Retail, its contractors or agents, in connection with any such removal and relocation, Street Retail shall pay for the actual cost to repair the damage. If, however, the artwork cannot be repaired, as reasonably determined by either the artist or the City, Street Retail shall pay to the City the reasonable value of the artwork, as reasonably determined by the City, not to exceed \$80,000.00, within ninety (90) days of the date of such damage, or in accordance with any alternative payment schedule that may be agreed upon in writing by the City and Street Retail."

To read:

"7. Street Retail shall, at its sole expense, remove the artwork entitled "Crossroads" which, at the time of the execution of this License Agreement, is installed on the 330 Hungerford Drive parking garage, from the City Garages, and shall relocate such artwork at the direction of the City, including providing electric service. In the event any damage is caused by Street Retail, its contractors or agents, in connection with any such removal and relocation, Street Retail shall pay for the actual cost to repair the damage. If, however, the artwork cannot be repaired, as reasonably determined by either the artist or the City, Street Retail shall pay to the City the reasonable value of the artwork, as reasonably determined by the City, not to exceed \$80,000.00, within ninety (90) days of the date of such damage, or in accordance with any alternative payment schedule that may be agreed upon in writing by the City and Street Retail."

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember Piotr Gajewski to approve the Revocable License and Maintenance Agreement, as amended [with Street Retail, Inc. (subsidiary of Federal Realty Investment Trust) for Installation, Construction, Erection, Inspection, Maintenance and Repair of Signs Located on City-owned Property in and around Town Square, including in the Rockville Town Center Garages and the Plaza]

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

14. [Discussion and Instructions - Staff for Annexation petition ANX2011-00140, to annex 3.12 acres of land which is currently split in City and County jurisdiction, known as Part of Lot 12, Block B, Burgundy Park; BP Associates Limited Partnership, petitioner](#)

The Mayor and Council instructed staff to proceed with processing Annexation Petition ANX2011-00140.

15. [Discussion and Instructions - Staff for Local Map Amendment MAP2011-00111, to rezone 2.80 acres of land in the Light Industrial \(1-L\) Zone at 1300-1338 East Gude Drive and 14801 Southlawn Lane, also known as Part of Lot 12, Block B, Burgundy Park subdivision, to be placed in the Mixed-Use Employment \(MXE\) Zone, BP Associates Limited Partnership, applicant](#)

The Mayor and Council instructed staff to proceed with processing Map Amendment MAP2011-00111.

16. [Discussion and Instructions - Closed Session Minutes](#)

Motion moved by Councilmember Piotr Gajewski, seconded by Councilmember Mark Pierzchala to release Closed Session Minutes of the Mayor and Council meetings held on: March 1, 2010, September 20, 2010, October 4, 2010, pre and post December 13, 2010 and March 14, 2011.

Motion Passed: 3 approved - 2 opposed - 0 abstained

Councilmember Piotr Gajewski, Councilmember Mark Pierzchala, and Councilmember John Britton approved.

Mayor Phyllis Marcuccio, and Councilmember Bridget Donnell Newton opposed.

17. [Approval - Use of City Facilities for Political Events](#)

City Manager Scott Ullery and City Attorney Debra Yerg Daniel provided the Mayor and Council with an overview of the City's policies as it relates to the use of City facilities for political activities. Ms. Daniel stated that if the Mayor and Council agrees with the policy change to allow for the use of City facilities for political activities, changes will need to be made to the Personnel and Procedures manual and Agenda Item #18, a resolution amending campaign election guidelines and policies, will also need to be adopted.

Motion moved by Councilmember Bridget Donnell Newton, seconded by Councilmember Mark Pierzchala to approve the recommended

changes to the current policies regarding use of City facilities for political events.

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

None opposed.

18. [Adoption - Resolution to revise and adopt Election Campaign Policies for the City of Rockville](#)

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember Piotr Gajewski to adopt Resolution to revise and adopt Election Campaign Policies for the City of Rockville.

Communications Manager Marylou Berg indicated the highest numbers of individuals who have accessed 111 Maryland Avenue through the internet is 61. Ms. Berg further stated that staff is unable to measure the numbers of individuals who watch the program on Channel 11.

Motion Passed: 4 approved - 1 opposed - 0 abstained

Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala approved.

Mayor Phyllis Marcuccio opposed.

19. [Mayor and Council Liaisons to Boards and Commissions Report](#)

Councilmember Pierzchala reported his attendance at the State of Maryland redistricting hearing for Montgomery County.

Councilmember Pierzchala requested (and Councilmember Newton supported) that Mayor and Council add an agenda item to discuss a resolution suggesting that the State Legislature "do a better job" providing for either compact districts or competitive districts at the general election level. There was a request to determine the close of the public record for redistricting. Councilmember Pierzchala would like this matter discussed at the Mayor and Council September 12, 2011 meeting.

Councilmember Newton reported that she and Mayor Marcuccio have switched days for 111 Maryland Avenue. Councilmember Newton will appear on the show scheduled for Friday, August 19, 2011. Mayor Marcuccio will appear the Friday, August 26, 2011 show.

20. [Review and Comment - Future Agendas and Tentative Agenda](#)

Councilmember Newton requested clarification on the Public Hearing for Glenview Mansion. It was determined that the Planning Commission would not consider the matter until September 14, 2011 and Mayor and Council would need to consider the matter after consideration by the Planning Commission.

The following was requested to be placed on Future Agendas:

Councilmember Pierzchala suggested inviting Montgomery County Public Schools Boardmember Laura Berthiaume and Congressman Chris Van Hollen to attend a meeting of the Mayor and Council. The purpose of these meetings would be to establish further communication, etc. Mayor Marcuccio also suggested that Montgomery County Public Schools Superintendent Joshua Starr and Dr. DeRionne P. Pollard, President of Montgomery College be invited to attend Mayor and Council meetings.

21. [Review and Comment - Mayor and Council Action Report](#)

None.

22. [Old/New Business](#)

Mayor Marcuccio requested that the Mayor and Council re-examine the process to select the firm for selecting the firm that may lease or manage the golf course. Councilmember Newton supported the request. City Attorney Debra Yerg Daniel advised the Mayor and Council that because the RFPs have been issued, responses have been received and bids were opened, to accommodate this request, the process would have to start over.

Councilmember Britton asked if the City wanted to become involved in the appeal of the grocery store's liquor license and participate as a respondent. The Mayor and Council unanimously (a super majority is required under Old/New Business) agreed to instruct the City Attorney to file a motion to intervene and participate as a respondent.

23. [Adjournment](#)

Motion moved by Councilmember Mark Pierzchala, seconded by Councilmember Bridget Donnell Newton to adjourn

Motion Passed: 5 approved - 0 opposed - 0 abstained

Mayor Phyllis Marcuccio, Councilmember Bridget Donnell Newton, Councilmember Piotr Gajewski, Councilmember Mark Pierzchala, and Councilmember John Britton approved.

None opposed.

There being no further business, the meeting was adjourned at 9:45 pm.