

Approved: Meeting No. 36-13

Attest:

Bridget Donnell Newton
Douglas A. Barber

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND

October 28, 2013
Meeting No. 31-13
7:00 p.m.

Present:

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

Staff Present:

City Manager Barbara Matthews, City Clerk/Treasurer Doug Barber, and City Attorney Debra Daniel.

1. Convene

The Mayor and Council convened in a regular meeting at 7:03 p.m. on Monday, October 28, 2013, in the Mayor and Council Chambers, City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

City Clerk Barber noted the revisions to the Agenda as follows: the addition to Agenda Item # 20 (Adjournment) to include the addition of an Executive Session and clerical corrections made to Agenda Item # 5 (Recognition of the Honorable John F. Hall, Jr. for his many years of service to the City of Rockville) and Agenda Item # 6 (Recognition of the Honorable Phyllis Marcuccio for her many years of service to the City of Rockville). City Clerk Barber noted the revised agenda had been provided to the Mayor and Council at the dais and posted to the City's website.

4. City Manager's Report

City Manager Matthews reported on the following:

- Keep Montgomery County Beautiful Award – The Montgomery County Department of Transportation's 27th Annual "Keep Montgomery County Beautiful" Awards were announced last week. The City's Recreation and Parks Department won six awards.

- Peerless Rockville Awards – Congratulations to Rockville’s Historic Preservation Planner, Robin Ziek, for winning Peerless’ 2013 Arthur M. Wagman Award for her commitment to the preservation field and the Rockville community. A 2013 Peerless Award was also given to the Rockville Police Department for their outstanding achievement in the restoration of Rockville’s former post office building for use as the Rockville City Police headquarters.
- Western Montgomery County Citizens Advisory Board Vacancy – There is an opportunity to serve on the Western Montgomery County Citizens Advisory Board. The Board offers advice on local issues and needs to the County Executive and County Council.

5. Recognition of the Honorable John F. Hall, Jr. For His Many Years of Service to the City of Rockville

Motion: to adopt a resolution in recognition of the Honorable John F. Hall, Jr., for his many years of service to the City of Rockville.

Moved by Councilmember Pierzchala, seconded by Councilmember Newton, and passed with Mayor Marcuccio, Councilmember Moore, Councilmember Newton, and Councilmember Pierzchala voting for and Councilmember Hall voting against. (4-1)

A video presentation acknowledging Councilmember Hall’s many years of service to the City of Rockville was shown. Councilmember Hall thanked everyone for their warm thoughts and support during his years of service to the City of Rockville.

6. Recognition of the Honorable Phyllis Marcuccio For Her Many Years of Service to the City of Rockville

Motion: to adopt a resolution in recognition of the Honorable Phyllis Marcuccio for her many years of service to the City of Rockville.

Moved by Councilmember Hall, seconded by Councilmember Newton, and passed with Councilmember Hall, Councilmember Moore, Councilmember Pierzchala and Councilmember Newton voting for and Mayor Marcuccio voting against. (4-1)

A video presentation acknowledging Mayor Marcuccio’s many years of service to the City of Rockville was shown. Mayor Marcuccio highlighted the many accomplishments completed during her tenure as the Mayor of the City of Rockville. Mayor Marcuccio closed by thanking everyone for being such wonderful citizens to the City of Rockville.

7. Proclamation – Holiday Drive Kickoff

Mayor Marcuccio read the proclamation. Dr. Joey Jones, Principal of Robert Frost Middle School, accepted the proclamation.

Motion: to approve the 2013 Holiday Drive Kickoff Proclamation.

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

Dr. Jones invited students forward from the following schools to receive their collection boxes for their schools:

- Robert Frost Middle School
- Julius West Middle School
- Saint Mary's School
- Rockville High School
- Richard Montgomery High School
- Maryvale Elementary School
- Beall Elementary School
- College Gardens Elementary School

8. Proclamation Declaring November 2013 as Municipal Government Works Month

Councilmember Hall read the proclamation. Assistant to the City Manager Moran, the City's Intergovernmental Affairs Representative accepted the proclamation.

Motion: to adopt a resolution declaring November 2013 as Municipal Government Works Month in the City of Rockville.

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

9. Appointments/Reappointments and Announcements of Vacancies

Motion: to re-appoint Kathleen Drake to the Animal Matters Board as a member until October 1, 2016.

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

Mayor Marcuccio announced that there are vacancies on the following Boards and/or Commissions: Cultural Arts Commission, Ethics Commission, Historic District Commission, Human Services Advisory Commission, Landlord Tenant Affairs Commission, Recreation and Parks Foundation, Inc., Retirement Board, Rockville Economic Development Inc., Senior Citizens Commission, and the Traffic and Transportation Commission.

10. Citizen's Forum

<i>Citizen</i>	<i>Issue</i>
Echo Lin	King Farm Issue - Election
Tom Curtis	King Farm Issue - Election
Linda Molton	Council's Expressions during Citizen's Forum
Max van Balgooy	Thanked Mayor Marcuccio and Councilmember Hall for their years of service to the City; Election Rules; Freedom of Speech
Drew Powell	Thanked Mayor Marcuccio and Councilmember Hall for their years of service to the City; Adequate Public Facilities Standards (APFS)/Adequate Public Facilities Ordinance
Margaret Chao	King Farm Issue – Election
Judy Miller	King Farm Issue – Election
Christina Ginsberg	Advised she was not speaking as the President of the Twinbrook Citizens Association; King Farm Issue – Election
Martin Green, President King Farm Assembly	King Farm Issue – Election

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

Councilmember Hall provided clarification to Mr. Powell's comments concerning the proposed waivers for the Adequate Public Facilities Standards (APFS).

Councilmember Moore thanked everyone for coming out, as Citizens Forum is a cherished part of the meeting by the Mayor and Council.

Councilmember Newton thanked everyone for attending the meeting and addressed Ms. Lin's fear and concern with coming before the Mayor and Council. Councilmember Newton noted her own concern with the election campaigns being fraught with concerns that people are doing things wrong; and going forward asked that we have more trust in our fellow citizens.

12. Mayor and Council Reports

Councilmember Moore reported that earlier in the day he addressed the 5th Graders at Lucy V. Barnsley Elementary School on the topic of structure of government at the federal, state and local (municipal) level.

Councilmember Newton reported that she attended the following events: Parkinson's Walk at Ingleside at King Farm on Tuesday, October 22, 2013, as a participant, Victory Court Dedication on Thursday, October 24, 2013, and the Sister City Corporation wine tasting event on Friday, October 25, 2013. Councilmember Newton closed by wishing long time resident Ruby Tyler a Happy 104th Birthday and reminding everyone of the upcoming season opening of the Ice Skating Rink in Rockville's Town Center.

Mayor Marcuccio reported that she attended the annual reception of the Chinese School located inside Wootton High School, on Sunday, October 27, 2013.

Councilmember Pierzchala reported that he attended the Rockville Senior Center's Coffee, on Tuesday, October 22, 2013, and the Rockville Senior Center's Hallowicious Event, on Friday, October 25, 2013. He also noted a meeting held on Friday, October 25, 2013, with students from Richard Montgomery High School on proposed changes to the City's election laws for the future.

13. Consent Agenda

- A. Authorize the City Manager to execute an agreement (Streetscape Maintenance Agreement) of certain streetscape improvements and City property for upgraded materials in the public right-of-way (Bouic Avenue, Chapman Avenue, and Thompson Avenue) associated with the development of Twinbrook Square at 1800 Rockville Pike.
- B. Authorize the City Manager to approve an Air Rights Easement for removable awnings and canopies in the public right-of-way of Bouic Avenue associated with the development of Twinbrook Square at 1800 Rockville Pike.
- C. Award of Invitation for Bid (IFB) # 03-14 to Environmental Quality Resources, Inc. (EQR) of Arbutus, Maryland in an amount not-to-exceed \$1,099,529.40 for the construction of the Glenora Tributary – Middle Stream Restoration Project.
- D. Approval of Minutes

The following regular minutes were presented for approval:

Meeting 02-12 (January 18, 2012)

The following regular minutes were presented for approval as amended as they had been corrected to include executive session summaries:

Meeting 12-12 (March 26, 2012)

Meeting 15-12 (April 16, 2012)

Meeting 24-13 (August 5, 2013)

The following Executive Session Minutes were presented for approval:

2011	2012	2013
September 12, 2011	January 23, 2012	January 7, 2013
September 19, 2011	February 6, 2012	February 4, 2013
September 26, 2011	March 12, 2012 (held prior to meeting)	March 18, 2013
October 24, 2011	March 12, 2012 (held following the meeting)	April 1, 2013
November 28, 2011	March 26, 2012	April 22, 2013
December 5, 2011	April 9, 2012	May 6, 2013
	April 16, 2012	May 13, 2013
	April 30, 2012	May 20, 2013 (held following the meeting)
	May 7, 2012	July 29, 2013
	May 21, 2012	September 16, 2013
	June 5, 2012	October 3, 2013
	June 11, 2012 (held prior to meeting)	October 12, 2013
	June 18, 2012	October 14, 2013
	June 21, 2012	
	June 27, 2012	
	July 1, 2012	
	July 9, 2012	
	July 16, 2012 (held prior to the meeting and held following the meeting)	
	August 6, 2012	
	September 10, 2012	
	September 24, 2012	
	October 1, 2012	
	November 5, 2012	
	November 27, 2012	

Motion: to approve the Consent Agenda.

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

14. Adoption of Resolution to Declare the City of Rockville's Intent to Take a Leadership Role in Reducing Electricity Consumption and Generating Renewable Energy, to Partner with the Maryland Energy Administration, and to Enroll as a Maryland Smart Energy Community

Department of Public Works Sustainability Coordinator Shingara provided the staff report that included the background, requirements and the benefits on the Maryland Smart Energy Communities (MSEC) Grant program. Ms. Shingara outlined the grant requirements outlined in the proposed resolution and also the proposed energy action plan to achieve our Electricity

Reduction Goal (15% by FY 2015) and Renewable Energy Goal (20% by FY 2022). Upon the adoption of the resolution by the Mayor and Council the next step would be as follows:

Department of Recreation and Parks and the Department of Public Works:

- Complete the Energy Action Plan for approval by the City Manager prior to December 31, 2013.
- Submit Project Proposals to Maryland Energy Administration (MEA) (e.g., North Pool HVAC, Social Hall HVAC, energy consulting services).
- Coordinate Grant Reports
- Budget Amendment to Appropriate Grant into FY 2014 Budget

Ms. Shingara responded to questions of clarification on the proposed program posed by the Mayor and Council. Councilmember Pierzchala requested City staff provide the Mayor and Council a periodical (yearly) update on the program.

Motion: to adopt a resolution to declare the City of Rockville's intent to take a leadership role in reducing electricity consumption and generating renewable energy, to partner with the Maryland Energy Administration, and to enroll as a Maryland Smart Energy Community.

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

15. Adoption of Ordinance to Approve Rezoning of the Property at 628 Great Falls Road from R-90 to R-90 (HD); Zoning Map Amendment MAP2013-00112, Mayor and Council of Rockville, Applicants

Motion: to adopt an ordinance to approve the rezoning of the property at 628 Great Falls Road from R-90 to R-90 (HD); Zoning Map Amendment MAP2013-00112.

Moved by Councilmember Newton, seconded by Councilmember Pierzchala, and passed with Councilmember Hall, Councilmember Newton, and Councilmember Pierzchala voting for and Mayor Marccucio and Councilmember Moore voting against. (3-2)

16. Adoption of Resolution to Amend the Adequate Public Facilities Standards

Community Planning and Development Services (CPDS) Zoning Administrator Mellander provided the staff report on the item.

Councilmember Pierzchala requested comments be given by Councilmember Hall and Councilmember Moore on the City of Rockville's Planning Commission recommendation on the removal of the following sentence from the (APFS) regarding Fire Emergency Service Provision as follows: Fire and Rescue Service Stations included and funded in the Montgomery County Capital Improvement Program (CIP) shall be countable.

Councilmember Hall noted that he had testified before the Rockville Planning Commission on the APFS item at their Wednesday, October 23, 2013, meeting. Councilmember Hall noted the concerns of the Commission regarding Section III. C. (Fire and Emergency Service Protection).

The Rockville Planning Commission conveyed to Councilmember Hall that they would like to see the Fire and Rescue Service stations on-line and operational prior to them being countable. Councilmember Hall noted his support of the request.

Councilmember Pierzchala requested clarification on where the correction would be made in the proposed APFS document. Councilmember Hall referenced and noted "Attachment A "III.C. (Fire and Emergency Services Protection).

Councilmember Hall noted the request was **to remove the following: Fire and Rescue Service Stations included and funded in the Montgomery County Capital Improvement Program (CIP) shall be countable.**

Councilmember Moore advised the reason the provision was added was to mirror what Montgomery County and the City of Gaithersburg have included in their Adequate Public Facilities Standards (APFS). Councilmember Moore noted his concerns with removing the provision.

The Mayor and Council discussed the issue at length. Zoning Administrator Mellander responded to questions of clarification regarding the coverage of service areas by at least two fire stations (map provided).

Councilmember Moore noted that the issues regarding II.C. Exemption and Waivers that were conveyed by the Rockville Planning Commission are for clarity purposes and not substantive. Councilmember Moore clarified to the Mayor and Council that what was believed to be the provision of the APFS on the Exemptions and Waiver provision are still the same and that they continue to do the same thing.

Councilmember Hall noted and addressed the suggested language request from the letter submitted as part of the record by the Rockville Planning Commission and that II.C. Exemptions and Waivers Provisions read as follows:

Amendment –

II.C. Exemptions and Waiver Provisions

Certain classes of uses are deemed to have little or no impact on public facilities. As such, some uses or classes of uses are exempt from certain APFO requirements and some may be granted waivers by the Approving Authority.

(i) **The following uses or classes of uses are exempt from the APFO school-capacity and Transportation requirements. They are not exempt from Fire and Emergency Services Protection and any necessary final adequacy check for water and sewer service, if needed for the project:**

- **Accessory Apartments**
- **Personal Living Quarters**
- **Wireless Communications Facilities**
- **MCPS schools and portable classrooms**
- **Minor subdivisions (up to 3 residential lots)**

(ii) If not otherwise exempt above, the following uses or classes of uses are eligible for a waiver from the APFO school-capacity and Transportation requirements by the Approving Authority, if the Approving Authority finds that there will be minimal adverse impact resulting from such a waiver (1-Foot Note). They are not eligible for a waiver from Fire and Emergency Services Protection standards, or any necessary final adequacy check for water and sewer service, if needed for the project:

- Houses of worship
- Nursing homes
- Housing for the elderly and physically handicapped and other age-restricted residential uses
- Publicly-owned or publicly operated uses

Foot Note (1)

Section 25.20.01.b of the City's Zonings Ordinance provides the following: "A waiver of the requirement to comply with one or more of the Adequate Public Facilities Standards may be granted only upon a super-majority vote of the Approving Authority. For purposes of this Article, a super-majority vote shall be 3 votes for the Board of Appeals, 5 votes for the Planning Commission, and 4 votes for the Mayor and Council. The Chief of Planning may not grant a waiver."

Amendment –

III. Levels of Service

III.A. Transportation

Added in the following sentence: In addition, much of Rockville's roadway system is built out.

Amendment –

III. C. Fire and Emergency Service Protection

Remove the following sentence: Fire and Rescue Service Stations included and funded in the Montgomery County Capital Improvement Program (CIP) shall be countable.

Zoning Administrator Mellander confirmed he had captured all the required corrections (amendments) to the Adequate Public Facilities Standards (APFS). Note: City Clerk Barber bolded in the official minutes the amendments to provide a clear clarification of the amendments.

Councilmember Pierzchala thanked Councilmember Hall and Councilmember Moore for their work on the revisions to the (APFS).

Councilmember Newton thanked Councilmember Hall and the Rockville Planning Commission for their work on the revisions presented and made to the (APFS).

Motion: to accept the recommended (amendments) changes to the Adequate Public Facilities Standards (APFS) as discussed by the Mayor and Council.

Moved by Councilmember Pierzchala, seconded by Councilmember Newton, and passed with Councilmember Hall, Councilmember Moore, Councilmember Newton, and Councilmember Pierzchala voting for and Mayor Marcuccio abstaining. (4-0-1)

Motion: to adopt a resolution to amend the Adequate Public Facilities Standards for the purpose of ensuring its consistency with the Adequate Public Facilities Ordinance, and to make certain technical amendments.

Moved by Councilmember Hall, seconded by Councilmember Pierzchala, and passed with Councilmember Hall, Councilmember Moore, Councilmember Newton, and Councilmember Pierzchala voting for and Mayor Marcuccio abstaining. (4-0-1)

17. Review and Comment Regarding Mayor and Council Action Report

Councilmember Pierzchala requested that the language in the Action Report be stronger on the follow-up on the King Farm Farmstead Task Force item.

18. Review and Comment Regarding Future Agendas

Councilmember Pierzchala requested materials regarding the 2014 Legislative Priorities proposed for discussion at the Mayor and Council meeting of Monday, November 18, 2013, to be provided as early as possible, as it will be the first meeting of the new Mayor and Council.

Councilmember Newton noted that there should be discussion among the new Mayor and staff regarding the proposed Mayor and Council meeting scheduled for Monday, December 16, 2013.

19. Old/New Business

Councilmember Hall addressed the Mayor and Council and thanked them as it has been an honor and a privilege to serve with this Mayor and Council.

20. Adjournment to Executive Session pursuant to Section 10-508(a)(9) to conduct collective bargaining negotiations or consider matters that relate to the negotiations with the FOP.

Motion: to adjourn to Executive Session pursuant to Section 10-508(a)(9) to conduct collective bargaining negotiations or consider matters that relate to the negotiations with the Fraternal Order of Police (FOP).

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

The meeting adjourned to Executive Session at 9:08 p.m.