



REGULAR MEETING OF THE GREENBELT CITY COUNCIL held August 8, 2005.

Mayor Davis called the meeting to order at 8:08 p.m.

ROLL CALL was answered by Councilmembers Konrad E. Herling, Leta M. Mach, Rodney M. Roberts, and Mayor Judith F. Davis. Councilmember Edward V.J. Putens arrived shortly thereafter.

ALSO PRESENT were Michael P. McLaughlin, City Manager; Robert A. Manzi, City Solicitor; and Kathleen Gallagher, City Clerk.

Mayor Davis asked for a moment of silence in honor of resident Hugh D. Jascourt and former residents Pamela Erickson, Zachary Lee Dobbin, and Charlie Nash. She then led the pledge of allegiance to the flag.

CONSENT AGENDA : Ms. Mach asked to remove item #21 (Federal Capital Improvements Program) from the consent agenda. It was then moved by Mr. Putens and seconded by Mr. Herling that the consent agenda be approved as amended. The motion passed 5-0.

Council thereby took the following actions:

MINUTES OF COUNCIL MEETINGS

- Four Cities Meeting, June 21, 2005
- Regular Meeting, July 11, 2005
- Work Session, July 13, 2005
- Work Session, July 20, 2005
- Work Session, July 27, 2005

Approved as presented.

REIMBURSEMENT FOR EXPENSES IN ATTENDING MML BOARD RETREAT : Council approved reimbursement of the Mayor's expenses in attending the Maryland Municipal League Board Retreat in Chesapeake Beach from September 9-11, up to \$300.

APPROVAL OF AGENDA : Mr. Roberts asked to add "Funding for BARC" as item #23. Mr. McLaughlin asked to add "Contribution to GATE" as item #24. It was moved by Mr. Herling and seconded by Mr. Putens that the agenda be approved with those additions. The motion passed 5-0.

PRESENTATIONS

CERT Program Kick-Off : Bill Holland of the Public Safety Advisory Committee was present to give an update on the PSAC's plans to initiate a Greenbelt Community Emergency Response Team (CERT) Program. He said they have scheduled an organizational meeting for September 13 from 7:30-9:30 p.m. for anyone who might be interested in participating in the first training group. He said they had information available at the National Night Out events and planned to be active at the Labor Day Festival. Mayor Davis asked if there was a lower age limit for participation. Mr. Holland said he thought it to be the case that although there might be liability issues for some activities, everyone could be involved in some way. He said there was also a great deal of flexibility in terms of what people can choose to do. Council thanked Mr. Holland for his work and that of the committee.

PETITIONS AND REQUESTS : None.

MINUTES OF COUNCIL MEETINGS

Executive Session, July 18, 2005 : Mr. Roberts moved that the minutes of the executive session of the City Council held Monday, July 18, 2005, be approved as presented. He further requested that the minutes of this meeting reflect that the Council met in executive session at 8:07 p.m. in the Council Room of the Municipal Building. Council held this closed meeting in accordance with Sections 10-508 (a)(1) and (7) of the State Government Article of the Annotated Code of Public General Laws of Maryland to discuss personnel matters and consult with counsel for advice on a legal matter

regarding a request from the FOP to establish a right of collective bargaining with binding arbitration. Mr. Putens seconded the motion.

ROLL CALL: Mr. Herling - yes

Ms. Mach - yes

Mr. Putens - yes

Mr. Roberts - yes

Mayor Davis - yes

ADMINISTRATIVE REPORTS

Mr. McLaughlin commented on the July 13 visit to Greenbelt from Lt. Governor Michael Steele, several state and county grants awarded to the City, an upcoming softball game to benefit the family of fallen police officer Steven Gaughan, and the possibility of holding an opening soon for the traffic signal being installed at Lakecrest Drive and Greenbelt Road.

Mr. Herling inquired about the dumpsters at University Square. Mr. McLaughlin said almost all of them were to be replaced this week, and he offered thanks to Jim Sterling and Willie Davis, Code Enforcement, for their work on this. He added that the City would now do some additional research for the ordinance before bringing it to Council for introduction.

Mayor Davis told the City Manager that County Councilmember Dernoga had mentioned the school system has a list available of the "choice schools" and that we should get a copy in order to know which schools could receive a large number of students on the first day.

Mr. Putens and Mayor Davis commented on the successful National Night Out activities in Greenbelt East and Belle Point.

Mr. Herling commented on a successful Writers Group poetry workshop and reading, featuring Maryland Poet Laureate Michael Glaser, and he said registration had begun for the GATE Film Festival to be held in November.

Mayor Davis commented on attending the Eighth Anniversary of the Riverdale Park Farmers Market; hosting, with Ethan Bindernagel of the Planning Department, a delegation of municipal officials from China; throwing the first ball at a Bowie Baysox game on behalf of the Council of Governments; attending the Greenbelt Swim Team banquet, where the team's second place divisional award was celebrated and a plaque was presented to head coach Kateri Hull; and this month's Artful Afternoon.

LEGISLATION

An Ordinance to Amend Chapter 14, A Planning and Development," of the Greenbelt City Code by Adding a New Article IV for the Purpose of Establishing Fees for the Review of Planning and Zoning Applications

Mayor Davis read the agenda comments. Mr. Herling introduced the ordinance for second reading and moved that it be adopted. Mr. Putens seconded the motion.

ROLL CALL: Mr. Herling - yes

Ms. Mach - yes

Mr. Putens - yes

Mr. Roberts - yes

Mayor Davis - yes

The ordinance was declared adopted (Ordinance No. 1258, Book 12).

An Ordinance to Amend Chapter 18, A Streets and Sidewalks, @ of the Greenbelt City Code for the Purpose of Revising Section 18-48, "Fees," to Provide for Reimbursement to the City for the Cost of the Review and Approval of Plans Associated with Construction Work Within the City Right-of-Way

Mayor Davis read the agenda comments. Ms. Mach introduced the ordinance for second reading and moved that it be adopted. Mr. Putens seconded the motion.

ROLL CALL: Mr. Herling - yes

Ms. Mach - yes

Mr. Putens - yes

Mr. Roberts - yes

Mayor Davis - yes

The ordinance was declared adopted (Ordinance No. 1259, Book 12).

An Ordinance to Amend Chapter 8, "Elections," of the Greenbelt City Code, in Order to Revise Section 8-4, "Absentee Voting" and Section 8-10, "Literature," and to Update and Clarify Other Language in the Chapter

The Mayor read the agenda comments. Mr. Roberts introduced the ordinance for second reading and moved that it be adopted. Mr. Putens seconded the motion.

ROLL CALL: Mr. Herling - yes

Ms. Mach - yes

Mr. Putens - yes

Mr. Roberts - yes

Mayor Davis - yes

The ordinance was declared adopted (Ordinance No. 1260, Book 12).

An Ordinance to Amend Chapter 8, "Elections," of the Greenbelt City Code, for the Purpose of Changing the Distance from a Polling Place Within Which It Is Unlawful to Conduct Electioneering Activities on an Election Day

The Mayor read the agenda comments. Mr. Herling introduced the ordinance for second reading and moved that it be adopted. Mr. Roberts seconded the motion. Ms. Mach said that although she was cognizant of the Board of Election's point of view, as a voter she believed that voters know how they intend to vote by the time they are approaching the polls, with the result that the opportunity for increased electioneering serves no positive purpose that would balance the annoyance to the voter. For this reason, she would choose to keep the distance at 300 feet. Mr. Putens agreed, saying he was not convinced that any change was needed.

Mayor Davis said one of the main reasons she would support the change in distance was that it would permit the signs posted on City property to remain posted on election day. She said a change to 150 feet would allow for some additional electioneering by poll workers but would also permit some planting of signs. She said she thought 150 feet was a reasonable compromise.

Mr. Roberts said he would support 150 feet, though he would prefer the 100-foot distance requirement of state law. He said whether voters had already made up their minds or not was not the issue; rather, it was a matter of a First Amendment right to freedom of speech. In addition, he said, activity at the polls is "a tradition in our country" that serves to generate excitement about elections.

Mr. Herling said he agreed with Mr. Roberts. He said he still thought 125 feet would be the best distance and would be most beneficial at Springhill Lake, but he agreed that 150 feet was a reasonable compromise.

ROLL CALL: Mr. Herling - yes

Ms. Mach - no

Mr. Putens - no

Mr. Roberts - yes

Mayor Davis - yes

The ordinance was declared adopted (Ordinance No. 1261, Book 12).

A Resolution to Repeal Resolution Number 965 and to Provide for the Number of Judges and Clerks of Election, Their Rate of Compensation, and the Rate of Compensation to Be Paid to the Chairperson and Members of the Board of Elections for the 2005 Regular Election

The Mayor read the agenda comments. Ms. Mach introduced the ordinance for second reading and moved that it be adopted. Mr. Putens seconded the motion.

ROLL CALL: Mr. Herling - yes

Ms. Mach - yes

Mr. Putens - yes

Mr. Roberts - yes

Mayor Davis - yes

The resolution was declared adopted (Resolution No. 986, Book 8).

A Resolution to Authorize the Negotiated Purchase of Certain Goods and Services from Various Vendors as Enumerated Herein When Total Fiscal Year Purchases from Each Vendor Exceed Ten Thousand Dollars (\$10,000)

The Mayor read the agenda comments. Ms. Mach introduced the ordinance for second reading and moved that it be adopted. Mr. Herling seconded the motion.

ROLL CALL: Mr. Herling - yes

Ms. Mach - yes

Mr. Putens - yes

Mr. Roberts - yes

Mayor Davis - yes

The resolution was declared adopted (Resolution No. 987, Book 8).

An Ordinance to Amend the Capital Projects Budget for Fiscal Year 2006

Mayor Davis read the agenda comments. Mr. Putens introduced the ordinance for first reading. Council directed that a public hearing should be held at the September 12 Council meeting, prior to introduction of this ordinance for second reading and adoption.

ACCEPTANCE OF ANNEXATION PETITION – SOUTH CORE, GREENBELT STATION : The Mayor read the agenda comments. It was moved by Mr. Putens and seconded by Ms. Mach that the petition be accepted and that staff be instructed to verify the petition and prepare the annexation resolution. The motion carried 5-0. Regarding the possibility of including other properties, Mr. McLaughlin said the petition represented at least 25% of the assessed value of the total area, so that the City could annex the property at its discretion. He said the state property would have to be annexed if the rest was since it would otherwise create an illegal enclave. He said discussions with the state about this had been very preliminary and that so far it appeared that the state did not understand the concept. Mr. Manzi added that as long as the City has the 25% covered in the petition, the state has no choice, but that once they look at it closely, they will understand that annexation will not subject them to the laws of the City. Mr. Roberts commented that if the City seriously wants to see the state property protected, Council should request that it be put into the state wildlands preservation program.

The Mayor asked if the City just takes action or whether it asks the owners of the property. Mr. Manzi said the City does just take action on it but that it is a good idea to talk with them in advance. First, he said, an annexation plat will have to be prepared

and the feasibility must be evaluated. He said the question was whether Council wanted to give direction to staff to look into this more thoroughly. He said it would likely be the second meeting in September before a resolution could be introduced. It was moved by Mr. Putens and seconded by Ms. Mach that Council so direct staff. The motion passed 5-0.

PROPOSED AMENDMENT TO COUNTY'S METRO PLANNED COMMUNITY APPROVAL REQUIREMENTS RELATED TO GREENBELT STATION (CB 36-2005) : The Mayor read the agenda comments. Celia W. Craze, Director, Planning and Community Development, said the county bill is essentially a mechanism to allow the Planning Board to make a finding of adequacy at the time of conceptual site plan in the absence of committed funding. It permits acceptance of a statement of intent-to-fund if the money does not materialize from other sources. She said in her opinion the posting of the required 10% bond is relatively meaningless, since \$6 million will not go far in building a \$60-65 million interchange. She said the more meaningful motivation for the developers is the fact that in the absence of the interchange, the project would have to be much scaled down. Mr. Manzi added that this bill addresses the issue on which the City prevailed in court. In this zone, satisfying the adequate public facilities test is required at the conceptual site plan stage; this bill would put it back to the time of the preliminary plan of subdivision, where it normally is. Mr. Roberts commented that since the original language had served the City well, it did not seem logical for the City to want to change it. The Mayor reminded everyone that there was no need for the City to take a position. Mr. Roberts made a motion that the City oppose the bill. Mr. Herling seconded. The motion failed on a 2-3 vote (Davis, Mach, Putens).

Norman Rivera, speaking on behalf of the developers, assured Council that if the bill passed, the City would have safeguards in both its agreement with Metropark and in the process of the requirements for preliminary plan of subdivision. He said although it was true that \$6 million would not fund the interchange, it is both "a good faith number" and an amount that they "would not wish to walk away from." He said the bill was intended to address a perceived flaw in the zoning ordinance, and he hoped that Council would either support it or take no position on it.

Kap Kapastin, representing the owners of Beltway Plaza, said he had appeared at the County Council zoning committee hearing on the bill and had presented the documents that he had distributed to Council tonight. In response to a question from the Mayor, he said the committee had referred the bill out to the Council without adopting any of his proposed amendments. Some of the items he stressed were: to reconfirm "upscale retail only" at Greenbelt Station, to avoid unnecessary repetition of uses, and to preserve the vitality of the existing retail businesses in the area. He described changes currently underway at Beltway Plaza and investments to be made. One change he suggested was to eliminate the word "initially" regarding the establishment of upscale retail, since the goal was for that to be ongoing.

Mayor Davis said she did not disagree with Mr. Kapastin and thought he had made many good points. Referring to a speaker she had recently heard on the life cycle of shopping centers, she complimented Beltway Plaza on having survived beyond the average and having begun a new phase via their current plans for redevelopment in conjunction with the Springhill Lake redevelopment. Mr. Kapastin added that he was continuing conversations with both Greenbelt Station and AIMCO.

Mr. Roberts asked if Mr. Kapastin wanted the City to oppose CB-36. Mr. Kapastin said he was not seeking City opposition to the bill but that he would appreciate Council's support on any of the amendments he had suggested to it. There was some discussion of supporting the deletion of the word "initially" with regard to the upscale quality of the retail, but Mr. Manzi said there would really be no way to enforce that on an indefinite basis or to define now what stores might be perceived as upscale in 20 years. He said probably the optimum is for the retail to be established initially as upscale, since if it is successful initially, it would tend to be self-perpetuating.

Mr. Putens asked Mr. Kapastin why Beltway Plaza is so insistent upon embracing the discount or "value" niche. He asked why they did not set their sights higher. Mr. Kapastin said he by no means wanted to limit Beltway Plaza's potential for improving itself but that at this point their long-term leases and credit with retailers reside with the larger discount and value stores.

Ms. Mach made a motion that the City take no position on the bill. Mr. Putens seconded, saying he would also vote to support it but that he preferred that Council be able to agree. Mr. Herling questioned why Council should not oppose it, if the solution it offers to the problem in the lawsuit is as meaningless as Ms. Craze indicated. Ms. Mach responded that in this situation, she viewed "no position" as simply a statement of neutrality. Mr. Roberts said he would prefer that there be no motion and vote on the matter at all, since he would have to oppose it. The motion to take no position on the bill carried 4-1 (Roberts).

CAMPAIGN SIGNS ON CITY PROPERTY : Mayor Davis read the agenda comments and identified a multiplicity of issues covered under this topic: whether to add sites, whether to increase the fee to candidates, clarification of the intent of the voluntary agreement regarding signs on private property, and whether to leave the election sign posted with the candidate signs on the posts for the entire six-week period. Another issue, whether an exception could be made to the electioneering law for the shared spaces for candidates' signs when all candidates were represented, had been rendered moot by the earlier adoption of the ordinance to reduce the prohibited zone to 150 feet.

New Sites on City Property: Mr. Roberts said he was not in favor of adding new sites and had never approved of using City employees to do this. The other four Councilmembers were in agreement that additional sites would contribute to the effort of making the election more visible. Mr. Putens moved to increase the number of sites by six, two for each of the three parts of town, if possible, with the understanding that the numbers in each part of town would remain equal. Mr. Herling seconded. The motion carried 4-1 (Roberts).

Increase in Fee : It was moved by Mr. Putens and seconded by Ms. Mach that in order to defray the added costs, the fee would be increased from \$50 to \$75. The motion passed 5-0.

City Election Sign : It had been proposed that the "City Election – November 8" sign, which in past elections has been posted only when the candidate signs were removed the day before election day, now be placed on the polls with the candidate signs, as indicated in the City Clerk's diagram, for the whole six-week period. Mr. Putens so moved, Ms. Mach seconded, and the motion was adopted 5-0.

Voluntary Agreement : It was agreed the candidates would clarify what is covered by this agreement when they discuss it among themselves this year. Mr. Roberts stated that he wanted to clarify that there was no formal linking of the sign program and the voluntary agreement: that is, that participation in the sign program did not require that a candidate participate in the agreement. He said although he does not rely upon signs himself, he thinks challengers have greater need for options to get their names in the public view. Bill Orleans, 2-A Eastway, questioned whether individuals could post signs giving opinions on candidates or issues. It was clarified that the voluntary agreement referred to candidates and their signs.

AWARD OF PURCHASE – PUBLIC WORKS REPLACEMENT VEHICLES : The Mayor read the agenda comments. It was moved by Mr. Putens and seconded by Mr. Herling that Council approve the purchase of a Dodge Stratus sedan from Hertrich Fleet Services at a cost of \$12,529 and the purchase of a Chevy Colorado from Hertrich Fleet Services at a cost of \$10,648. The motion passed 5-0.

PROPOSED FEDERAL CAPITAL IMPROVEMENTS PROGRAM FOR FYS 2006-2011 : Mayor Davis read the agenda comments. She said she pulled this item from the consent agenda because of the statement regarding the City being on record as opposed to the

realignment of Soil Conservation Road. Ms. Mach agreed. She said when this program came up for review last year, Council had wanted to be less adamant about its opposition, since the position had been taken by the prior Council and since Goddard had gone a long way in working with people since then. Mayor Davis agreed and said she would prefer to say that the City still has concerns and is still waiting for a response from Goddard on the specifics of the wetlands and forest impacts and mitigations. Mr. Roberts said originally Council was opposed because it appeared additional effort could be made to find a way to reengineer the existing road.

Ms. Mach made a motion that a letter be sent to Goddard requesting again the information that has never been received and a letter be sent to the National Capital Planning Commission saying the City still has unanswered concerns regarding the reconfiguration of Soil Conservation Road. Mr. Roberts said he was not in favor of eliminating mention of the fact that the City is on record as opposing the realignment. Mayor Davis replied that since it is on record, there is no need to say so.

Sheldon Goldberg, 7848 Jacobs Drive, chair of the Greenbelt East Advisory Committee, said GEAC has expressed its concerns regarding the traffic a western route will bring to Greenbelt Road.

Mr. Herling seconded Ms. Mach's motion, which passed 5-0.

FUNDING FOR THE BELTSVILLE AGRICULTURAL RESEARCH CENTER (BARC) : Mr. Roberts said he added this item to the agenda because at Council's recent stakeholder meeting with BARC, it was mentioned that for some time they have been receiving \$3-4 million in supplemental funding, which they would like the Appropriations Committee to make a permanent part of their budget. He made a motion, which was seconded by Mr. Putens, that the City send letters to its federal delegation, as well as to the Appropriations Committee, in support of BARC's request. The motion passed 5-0.

CONTRIBUTION TO GATE : Mr. McLaughlin said it was his understanding from Council's discussions of the FY 2006 budget that if the cable franchise payment from Comcast exceeded the projection for FY 2005, the balance should be earmarked for GATE, since the contribution funded had been less than the formula of one-fifth of the franchise fee. He said \$1,835 was available to add to the GATE contribution if Council wished. Mr. Herling so moved, with a second from Mr. Roberts. The motion carried 5-0.

MEETINGS : Council reviewed the meeting schedule. Council agreed there was no need to meet with the New Deal Café unless there was a specific plan that required discussion. It was suggested that an update might be provided at the stakeholder with

the Roosevelt Center merchants, when that is scheduled, but that, otherwise, the Café should be treated no differently than other businesses.

ADJOURNMENT : A motion to adjourn the meeting was made by Mr. Putens and seconded by Ms. Mach. The motion carried 5-0. The Mayor adjourned the regular meeting of August 8, 2005, at 11:10 p.m.

Respectfully submitted,
Kathleen Gallagher

City Clerk

"I hereby certify that the above and foregoing is a true and correct report of the regular meeting of the City Council of Greenbelt, Maryland, held August 8, 2005."
Judith F. Davis

Mayor