



**REGULAR MEETING OF THE GREENBELT CITY COUNCIL
held September 26, 2005.**

Mayor Davis called the meeting to order at 8:01 p.m.

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

ALSO PRESENT were Kenneth Hall, Acting City Manager; and Kathleen Gallagher, City Clerk. City Solicitor Robert A. Manzi arrived at about 8:30 p.m.

Mayor Davis asked for a moment of silence in honor of former resident and Board of Elections Chairperson Jule Beaudry Churchill, as well as the victims of hurricanes Katrina and Rita. She then led the pledge of allegiance to the flag.

CONSENT AGENDA : Mayor Davis asked to remove the minutes of the work session of July 31, 2005, from the consent agenda and to defer discussion of them until the work session to be held on September 28. It was moved by Mr. Putens and seconded by Mr. Herling that the consent agenda be approved with that amendment. The motion passed 4-0. Council thereby took the following actions:

MINUTES OF COUNCIL MEETINGS

- Regular Meeting, August 8, 2005
 - Regular Meeting, September 12, 2005
- Approved as presented.

COMMITTEE REPORTS

Council accepted the following three advisory board reports and agreed to consider them on the agenda of the next regular meeting:

Advisory Planning Board, Report #05-04 (Capitol Cadillac Expansion)
Advisory Planning Board, Report #05-05 (Commerce Center II Sign Request—
Lockheed Martin)
Park & Recreation Advisory Board, Report #05-3 (Request for Recognition Status –
Greenbelt Pride)

2005 ELECTION QUESTIONNAIRE : Council received the draft questionnaire and agreed to consider it on the agenda of the October 10 meeting.

DESIGNATION OF NLC CONGRESS OF CITIES VOTING AND ALTERNATE VOTING DELEGATES : Council designated Mayor Davis the "voting delegate" and Mr. Putens

and Ms. Mach, respectively, the first and second "alternate voting delegates" for the business meeting portion of the National League of Cities Congress of Cities conference.

ADVISORY GROUP RESIGNATION : Council accepted with regret the resignation of Dean Jones from the Recycling & Environment Advisory Committee.

ADVISORY GROUP REAPPOINTMENTS : Council reappointed the following individuals to new terms on their current advisory groups:

Joyce Chestnut, Advisory Planning Board
Sheldon Goldberg, Advisory Planning Board
Silke Pope, Public Safety Advisory Committee
Mary C. Crawford, Public Safety Advisory Committee
Bill Holland, Public Safety Advisory Committee.

APPROVAL OF AGENDA : It was moved by Mr. Putens and seconded by Mr. Herling that the agenda be approved as presented. The motion passed 4-0.

PRESENTATION - International Walk-to-School Day : Mayor Davis read a proclamation declaring Wednesday, October 5, to be Walk to School Day in Greenbelt. Alan Turnbull, 45-H Ridge Road, George Branyan, 30-A Ridge Road, and School Resource Officer Marty Parker were present to receive the proclamation on behalf of Greenbelt Elementary School. Mayor Davis said the walk for Springhill Lake Elementary School students would begin at 7:30 a.m. in the rear lot of Beltway Plaza. Mr. Branyan said that for Greenbelt Elementary School students, two groups would walk and meet at the school: one leaving Roosevelt Center at 8:30 a.m. and the other departing from the Plateau Place playground at 8:40 a.m. Mr. Turnbull spoke in confirmation of the pioneering role that Springhill Lake Elementary had played in taking part in this walk. He also thanked the Mayor for pointing out the role to be played by residents in making sidewalks and other walkways safe for children to walk to school.

PETITIONS AND REQUESTS : None.

MINUTES OF COUNCIL MEETINGS

Executive Session, September 14, 2005 : Mr. Roberts moved that the minutes of the executive session of the City Council held Wednesday, August 15, 2005, be approved as presented. He further requested that the minutes of this meeting reflect that the Council met in executive session at 8:08 p.m. in the Council Room of the Municipal Building. Council held this closed meeting in accordance with Section 10-508 (a)(7) of the State Government Article of the *Annotated Code of Public General Laws of Maryland* to consult with counsel for legal advice on matters regarding a request from the FOP to establish a right of collective bargaining with advisory fact-finding. Mr. Putens seconded the motion.

ROLL CALL:

Mr. Herling - yes
Mr. Putens - yes
Mr. Roberts - yes
Mayor Davis - yes

ADMINISTRATIVE REPORTS

Mr. Hall announced that this Saturday, October 1, there would be a Lake Park Clean-Up from 9-11 a.m. and that volunteers were still needed. He also announced the 10 th anniversary celebration of the Community Center, to be marked by various activities on Sunday, October 2.

Mr. Herling commented on a tour of Greenbelt West given to Baltimore Mayor Martin O'Malley today. Mayor O'Malley had asked to see the sites of the upcoming development projects in Greenbelt. Mayor Davis, Mr. Putens, and Mr. Herling accompanied Mayor O'Malley, and Joe McNeal, Assistant Director, Recreation Facilities, drove the tour van.

Mayor Davis commented that under the leadership of Bill Holland and Silke Pope of the Public Safety Advisory Committee, approximately 26 people have signed up for training under the CERT program. She said she and Mr. Herling had attended a retirement dinner for Sarah Potter, former chair of the New Carrollton City Council, on September 22. She and Ms. Mach attended a workshop on disaster response presented in Berwyn Heights. Mayor Davis also noted that at a recent Prince George's County Municipal Association meeting, Washington Gas had announced anticipated price increases of 25-35% for this winter.

LEGISLATION

A Resolution to Establish the Authority and Responsibility of the Chief of Police (Chief Executive Officer) in Accordance with the Commission on Accreditation for Law Enforcement Agencies, Inc.

Mayor Davis read the agenda comments. Mr. Herling introduced the resolution for first reading.

A Resolution for the Negotiated Purchase of a Prefabricated Modular Building, from Wilmot Modular Structures, for Use as a Greenbelt Police Department Gun Range Office and Classroom

The Mayor read the agenda comments. Mr. Putens introduced the resolution for first reading. Mayor Davis asked if there had not been concern at one time that the Agricultural Research Center would expect to own the new structure if it were placed on their property. Capt. O'Neil said there had been but that this was no longer an issue.

A Resolution Providing for a Referendum to Be Held at the Regular Municipal Election on Tuesday, November 8, 2005, for the Purpose of Submitting to the Voters of the City of Greenbelt, Maryland, the Question of Amending the City Charter to Permit the Provision of a Labor Code to Recognize the Right of Certain Employees to Organize and Bargain Collectively

Mayor Davis read the agenda comments. Mr. Roberts introduced the resolution for first reading and moved suspension of Council's standing rules. Mr. Putens seconded the motion.

ROLL CALL: Mr. Herling - yes
Mr. Putens - yes
Mr. Roberts - yes
Mayor Davis - yes

Mr. Roberts then introduced the resolution for second reading and moved its adoption. Mr. Herling seconded. Mayor Davis commented that the Fraternal Order of Police (FOP) had requested some changes in the language for the ballot question to amend the charter, and she asked them to address the matter.

Craig Rich, FOP president, introduced John Rogers, chair of the Lodge's collective bargaining committee. Regarding the first requested change, Mr. Rogers said that from the very beginning, they had requested that the right to collective bargaining be given to sworn officers at the level of sergeant and below. He said this was part of the formal request submitted in May and that this was the first indication they had received that it was a problem. He said the change to "non-supervisory," would exclude not only sergeants but corporals.

Mayor Davis replied that it was generally not considered to be appropriate to include supervisors with certain types of authorities—for example, disciplinary—in bargaining units with those they supervise, and that Council believed this to be the case with the sergeants. She said this was something that could be negotiated or refined later. She added that one thing to keep in mind was that in developing the language it had been necessary to try to accommodate a range of opinions on the City Council.

Jeffrey Gibbs, of Bredhoff & Kaiser and labor attorney for the FOP, spoke to say whether a category of employees has supervisory responsibilities or not creates no inherent problem in allowing them the right to collective bargaining. He said the question of what bargaining unit sergeants would be allowed to participate in would be negotiated later, as part of the labor ordinance. He said no jurisdiction in Maryland excludes sergeants from the right to collective bargaining; the issue of not putting everyone in the same bargaining unit is an entirely different question, which would be dealt with separately in the labor code. Mayor Davis said the exclusion had been based on a review of current job descriptions and that sergeants in the City's force may not be directly comparable to those in other forces, given their current job descriptions and the structure of the department. Mr. Gibbs said that the people who typically are excluded from collective bargaining are managerial and are in policy-making roles. Mr. Putens added that it was not Council's intention necessarily to exclude them permanently but that further work was needed regarding job descriptions and the organization of the department in order to include them.

Mr. Gibbs said that all the original statement said was that sergeants are eligible to engage in collective bargaining if they choose. He said the problem with adopting the language as revised would be that a case could be made for almost anyone as being supervisory and thus excludable. The Mayor said that the language in the resolution was what Council had agreed to put on the ballot. Mr. Gibbs said if sergeants could not be included as eligible for collective bargaining in the charter language, then they would have to oppose the ballot question. After describing the evolution of the negotiations between the FOP's original position and the City's, Mr. Gibbs pointed out that they had also requested the addition of one phrase, which was intended to authorize grievance

arbitration, and the deletion of the last sentence, which refers to imposing the terms of a contract. He said the latter would be impossible because by definition a contract is a mutual agreement. He said Council might have the authority to impose the terms and conditions of employment, but not of a contract. He said in their review of the language, they had genuinely been attempting to suggest language that would bridge the remaining gap.

Mayor Davis asked for clarification on whether they wanted the question as it stood on the ballot or not. Mr. Gibbs and Mr. Rogers both said they did not. Mr. Gibbs said, the question of sergeants notwithstanding, they could not support a charter change to allow Council to impose the terms of a contract, as the present language stated. Mr. Rogers adding that he spoke for the FOP membership and that he thought Council's proposal was "smoke and mirrors" for two primary reasons. One was that the language proposed would put them in a worse position than they were in now, since it would allow Council to set the terms of a contract. He said sergeants would inevitably continue to be supervisory and that corporals and some MPOs could be said to be supervisors as well. He again questioned why this issue had not been identified by anyone as a problem previously. He said if this language was the only alternative, he would ask Council not to place it on the ballot.

Mr. Roberts said he did not see why this battle had to be fought now and that all the citizens needed to be asked was whether or not they wanted to have collective bargaining. He also asked whether Council could simply delete the text the FOP wanted eliminated for the ballot question. Mayor Davis said that would be a "substantive" change that could not be made without another meeting.

Mr. Gibbs suggested, as a compromise, dropping all reference to rank so that the question would purposefully be left open to be resolved later in the ordinance. He said this option was definitely not their first choice, but that way the City would not be bound on who would be covered, and the matter could be resolved later by negotiation. He said he thought the penultimate sentence, as stated in the draft resolution, gave Council adequate approval authority without the last sentence.

Mayor Davis asked if substituting "non-managerial" for "non-supervisory" would be possible. Mr. Putens pointed out to Mr. Rogers that some of the same issues could arise for the FOP in terms of determining who is "managerial." Mr. Gibbs said he thought they could work with that distinction since there is some common understanding of the term. Mr. Putens said he thought there was confusion between the nature of a "supervisor" and that of a "team leader." Mr. Roberts made a motion to change the word "non-supervisory" to "non-managerial." It was seconded by Mr. Herling and passed 4-0.

Mayor Davis said she did not want to discuss adding the new phrase the FOP had proposed since Council had not had the opportunity to review it. Mr. Gibbs and Mr. Rogers assented to that. Mr. Rogers returned to the last sentence. The problems previously noted were discussed again. Eventually Mr. Putens made a motion to change the last sentence to read "terms and conditions of employment" rather than "terms of a collective bargaining agreement." Mr. Roberts seconded. In light of the consensus on this change, Mr. Rogers asked that the question as now stated be placed on the ballot. Mr. Gibbs thanked the Council.

Mayor Davis asked whether anyone in the audience wished to speak. Karl Skaggs, Public Works Department, expressed apprehension about how this change would impact the future of the rest of the employees of the City, given that "the fiscal pie is only so big." The Mayor said Council was concerned about this, too, as were citizens who had spoken to her. She said historically Council had tried to extend changes or benefits to other employees, regardless of who brought the idea forward, and she thought it should continue to do so.

Kelly Ivy, 43 Lakeside Drive, said he was proud of what had happened tonight, and he was proud of the efforts of both the Council and the FOP.

Mayor Davis read a statement from Councilmember Mach, saying she regretted her absence tonight but supported Council's placing this question on the ballot. The Mayor read the statement as amended in the resolution, and the vote was called on its adoption.

ROLL CALL:

Mr. Herling - yes
Mr. Putens - yes
Mr. Roberts - yes
Mayor Davis - yes

The resolution was declared adopted (Resolution No. 988, Book 8).

SKATEBOARD PARK – UPDATE : Mayor Davis read the agenda comments. Joe McNeal, Assistant Director, Recreation Facilities, who is the project manager for the skateboard park, provided the update. He presented a revised site plan for the park. He said it had become apparent that it did not fit the terrain well when they tried to impose it on the site with the "vert" attached to the ground-level portion. Separating the two works much better. The Greenbelt Nursery School was asked to review the new plan, since this moved the upper part a little closer to their playground. The Nursery School had no problem with it but did suggest consideration of screening the area with some type of foliage. Mr. McNeal said that was a good idea but that they would wait to see what problems, if any, emerged. He added that a wrought-iron fence would surround the site. Mayor Davis expressed concern that some of the areas slated for landscaping would inevitably be sabotaged because of the likelihood for obvious paths of foot traffic. Mr. McNeal recognized Betsy Barber in the audience, noting that she had worked hard on this project with both City staff and the boarders. The Mayor thanked Mr. McNeal for the briefing and asked that he provide the updated plan on an informational basis to the Park & Recreation Advisory Board and the Advisory Planning Board.

BARC DISPOSAL STRATEGY : Mayor Davis read the agenda comments and added that e-mail had been received from County Councilmember Thomas Dernoga supporting the staff recommendation. It was moved by Mr. Roberts and seconded by Mr. Putens that the City pursue both the "Master Plan" and "Wildlife Refuge" strategies by sending letters to the appropriate federal and county officials. The motion passed 4-0.

MEETINGS : Council reviewed the meeting schedule. Mayor Davis noted that the work session with the Recreation Department, which had temporarily been scheduled for next month, would be held over for the new Council.

ADJOURNMENT : A motion to adjourn the meeting was made by Mr. Putens and seconded by Mr. Herling. The motion carried 4-0. The Mayor adjourned the regular meeting of September 26, 2005, at 10:00 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 September 26, 2005."

Judith F. Davis

Mayor