

Approved:

Attest: _____

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
March 5, 2012
Meeting No. 09-12
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:

Acting City Manager Jenny Kimball, Acting City Clerk Brenda Bean and City Attorney Debra Daniel.

1. Convene

The Mayor and Council met on March 5, 2012, in Mayor and Council Chambers, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

Acting City Clerk Brenda Bean reported that there were no changes to the agenda.

4. City Manager's Report

Acting City Manager Jenny Kimball reported:

1. On Saturday, March 24, Rockville is hosting a Planning Academy for residents interested in learning more about zoning, planning and the development review process in the community at Rockville City Hall.
2. Rockville Reports will be delivered this week.
3. Rockville 11's monthly news show, that features the top 11 news stories in Rockville, is now available on both TV and the web.

5. Town Center Update

Ms. Kimball reported that the ice rink in Town Center is scheduled to close in two weeks. She mentioned her plan to discontinue the monthly Town Center updates and said if there are items to report, she will include them as part of the City Manager's Report.

6. Citizen's Forum

<i>Citizen</i>	<i>Issue</i>
Liz Schneider	Opposition to the Historical designation of 201 Upton Street
Glennon Harrison	Opposition to the Historical designation of 201 Upton Street
Claire Funkhouser	Opposition to the Historical designation of 201 Upton Street
Don Hadley	City ordinance has no reliability; there are no standards; Mayor and Council need to arrive at a rational basis for their decision
Temperance Blalock	Pedestrian safety and Most Dangerous Intersection list.
Chris Kern	Opposition to the Historical designation of 201 Upton Street (current owner)
Kermit Mohn Jr.	Current owner of 201 Upton Street. Opposition to historical designation of his property.
Jeremy Tucker-	Opposition to the Historical designation of 201 Upton Street
Arnold Kohn	Rockville Summit
Denise Fredericks	Rockville Summit
John Meekin	Opposition to the Historical designation of 201 Upton Street; no governing board that speaks to the issue.
Bethany Perverra	New civic engagement club at Richard Montgomery High School.
Paul Kehoe	Opposition to the Historical designation of 201 Upton Street
Dave Wallace	Announced candidacy for 8th Congressional District
John Britton	Rockville Summit
Rob Altmeyer	201 Upton Street process (Historic District Commission member)
Maggie Hadley	Supports the Historical designation of 201 Upton Street

Roald Schrack	Rockville Summit; Attorney General Opinion on APFO
Vicki McMullen	Supports the historic designation of 201 Upton Street
Jack Leiderman	Opposes an opinion from the Attorney General regarding the APFO
Susan Prince	201 Upton Street; leave the decision to the Historic District Commission; look at the larger picture on what is happening in the West End.
Mary van Balgooy	Supports the historic designation 201 Upton Street; Homes & Hospitality tour on May 12.

7. Mayor and Council’s Response to Citizen’s Forum and Announcements

Councilmember Pierzchala	Thank you to RMHS Student
Councilmember Newton	Salute to the RMHS Civic Club; suggested getting in touch with Randy Alton and the Rockville Youth Commission.

8. Appointments & Announcement of Vacancies

Mayor Marcuccio noted that the Traffic and Transportation Commission has chosen Jeremy Martin as Chair until March 1, 2013.

9. Proclamation declaring the week of March 12 - March 16, 2012 as Business Appreciation Week in Rockville.

Councilmember Pierzchala read the proclamation. Lynne Benzion, Acting Executive Director of Rockville Economic Development Inc. and Susan Prince, owner of Cadence Marketing, accepted the proclamation.

Motion: to proclaim the week of March 12-16, 2012 as Business Appreciation Week in Rockville.

Moved by Councilmember Mark Pierzchala, seconded by Councilmember John F. Hall, and unanimously approved.

10. Adoption of an Ordinance to amend the Zoning Map by adding 46,960 square feet of land, more or less, and placing said property in the R-400, Residential Estate Zone; Said property is identified as Lot 9, Block A, Section One of Glen Hills Club Estates located at 9608 Veirs Drive, pursuant to Annexation Petition ANX2011-00142.

Motion: to adopt ordinance to amend the Zoning Map by adding 46,960 square feet of land, more or less, and placing said property in the R-400, Residential Estate Zone; said property is identified as Lot 9, Block A, Section One of Glen Hills Club Estates located at 9608 Veirs Drive, pursuant to Annexation Petition ANX2011-00142.

Moved by Councilmember Bridget Donnell Newton, seconded by Councilmember John F. Hall, Jr. and unanimously approved.

11. Briefing on the City of Rockville Water System.

Director of Public Works Craig Simoneau presented the briefing on this item, noting that the last time this was done was four years ago. Mr. Simoneau provided information on the plan for a sustainable water system, a summary of the water capital projects, financial information and rates, as well as next steps.

Highlights of the ensuing discussion included:

- Has the recession led to lower usage?
- Good water is not cheap; precious resource
- Water fund cash balance
- Effects of climate change on the river flow
- River levels and backup system
- Conservation measures for seasonal issues; 2008 very bad year
- WSSC rate increase (over 10%)
- Affect of increasing density on Rockville Pike to water and sewer

12. Citizens Implementation Committee Presentation

Eileen Bernstein, Chair of the Citizen Implementation Committee (CIC) introduced those members of the CIC that were present and presented the contents of the CIC's report to the Mayor and Council. CIC member Elyse Gussow reported on the Alternative Dispute Resolution in the Development Review Process and CIC member Dion Trahan summarized the ADR aspect.

Highlights of the ensuing discussion included:

- When in process should ADR process be implemented? Decision of ADR should be non-binding
- Appreciative of status reports after the pre application meeting
- Citizens need the insight that city staff can provide
- Budget implications for some of the recommendations
- Importance of communicating early; in some ways, even at the earliest stage, can be too late where citizens' voices could be used more effectively
- Before any particular project is proposed (as with RORZOR) need for education and information

- Simplify and shorten process
- Length of time between review and final application; citizens become disengaged; the CIC wants to fill that gap; reach out to various segments of the City
- Possibility of email alerts; a lot of cities do this

3. **Public Hearing on a Proposed Ordinance to Revise Rockville City Code Chapter 22, "Taxation" to add a new Article IX, "High Performance Building Tax Credit for Existing Buildings."**

Erica Shingara, Environmental Management Division, provided the staff report on this item. The Mayor and Council heard from three speakers. There being no further speakers, the Mayor declared the public hearing closed and said the record would remain open until 5:00 pm on March 9, 2012. A copy of the complete transcript can be found in the file maintained by the Office of the City Clerk.

14. **Authorization to File Sectional Map Amendment to change zoning from R-60 to R-60 (HD) for historic designation of 201 Upton Street**

Robin Ziek, Historical Preservation Planner, gave the background on this item.

Highlights of ensuing discussion:

- Home built before WWII (1944).
- West End sees itself as an HOA in this case.
- Rights of homeowners; missing something that is not in place currently.
- Need to develop comprehensive standards; no mechanism in place.
- Assertions that historic designations result in lower property values.
- Adversary designations should be avoided if at all possible.
- Need to arrive at a solution to maintain the character of our neighborhoods while also allowing homeowners to modify their homes.
- Concerns about only three members voting on an issue of this significance.
- Clear that everyone speaking has a deep respect for the City, the neighborhood and Mr. Kermit Mohn.
- The proposed modifications for the site had been designed respectfully and with keeping the neighborhood in mind; breakdown in the historical designation process.
- Every step along the way the public has had a chance to weigh in.
- Best way to honor Kermit Mohn is to make every effort to have ADA accessibility in every city facility.

- considerable research is needed to arrive at process; Conservation Plan, though difficult, may be an approach.
- Do not want to deny the property owner, but sad to lose a structure with historical significance.

At the conclusion of the discussion, there was agreement by the Mayor and Council to place the process of historic designations on a future agenda.

15. Discussion and Instructions Development of a Financial Management Policy (Policy) for Economic Development Revenue Bonds.

This item was tabled.

16. Discussion and Instructions Rockville Summit II

Councilmember Newton said that the first Rockville Summit was a great first step and mentioned holding the second at a time when more citizens could attend. She referenced the Imagine Rockville process and said that it worked quite well. Councilmember Newton said that a good topic for the next summit would be the vision for Phase II of Town Center.

Councilmember Pierzchala noted that the Summit planning group has discussed how to get more residents to participate. He invited Councilmember Newton to attend the next Summit planning group meeting.

17. Discussion Request for an Opinion of the Attorney General

Councilmember Tom Moore cited his reasons for this request and said that he would like to take advantage of an opportunity for the City to get some answers relative to the APFO for free.

Councilmember Moore is proposing to ask the following questions of the Attorney General.

- 1) Does a local jurisdiction have the authority to enact and enforce an Adequate Public Facilities Ordinance (APFO) that restricts development based on a public facility the jurisdiction does not plan, stage, or provide?
- 2) If so, must the standards in that ordinance be substantially similar to the standards of the jurisdiction that does plan, stage, or provide the public facility?
- 3) When a jurisdiction's APFO restricts development based on a public facility that it does not plan, stage, or provide, must it provide a means of mitigation?
- 4) What does the phrase "substantially similar" mean in the APFO context? For example, are the school standards in Rockville's APFO substantially similar to those in Montgomery County's?

Councilmember Pierzchala said that he has concerns about the applicability of APFO and supports the questions proposed by Councilmember Moore.

Councilmember Hall does not believe these questions are necessary though they were skillfully done. He said that three of the questions refer to things that are not discussed in the APFO statute or common law.

Councilmember Newton said that she does not support seeking an opinion of the Attorney General.

Mayor Marcuccio said she would like to see a full review of this by the Planning Commission.

Motion: to table the discussion.

Moved by Councilmember Newton and seconded by Councilmember Hall. No vote was taken and Councilmember Moore said that he looks forward to having the discussion at the appropriate time.

18. Review and Comment Mayor and Council Action Report

Acting City Manager Kimball said that there are several items in the report where good progress is being made and those updates would be coming to the Mayor and Council on Wednesday.

19. Review and Comment Future Agendas

There was discussion on when the City Attorney's review would take place. Councilmember Newton requested having a discussion on a neighborhood conservation district and also historic district standards.

20. Mayor and Council Liaisons to Boards and Commissions Report

Councilmember Newton said that she had attended a fundraiser sponsored by the Montgomery County Coalition for the Homeless. Councilmembers Moore and Pierzchala had attended the farewell reception for departing Executive Director of REDI Sally Sternbach.

21. Old/New Business

Acting City Manager Kimball mentioned a Non Disturbance Agreement between FRIT and the new grocer for Town Center. City Attorney Daniel said that the agreement provides extra insurance for the grocer if the City's agreement with FRIT goes away. Ms. Daniel said that she is comfortable with the terms of the agreement.

Motion: to instruct staff to ratify the Agreement between the Grocer and Federal Realty Investment Trust.

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

22. Adjournment

There being no further business, the meeting adjourned at 12:15 pm

Motion: to adjourn.

Moved by Councilmember Newton, seconded by Councilmember Pierzchala and unanimously approved.