

## **SPECIAL COUNCIL MEETING OF THE CITY COUNCIL HYATTSVILLE, MARYLAND**

December 13, 2010

Mayor Bill Gardiner called the meeting of the Council to order at 8:02 p.m. at the Municipal Building, 4310 Gallatin Street, Hyattsville, Maryland.

Present were Mayor Bill Gardiner, Council President Marc Tartaro, Council Vice President Bill Tierney, Council Members Ruth Ann Frazier, Paula Perry, Nicole Hinds (arrived at 8:21 p.m.), Douglas Dudrow, David Hiles, Matthew McKnight and Timothy Hunt.

Also present were City Administrator Murphy, Assistant City Administrator Jones, Director of Public Works Ryan, City Attorney Colaresi and City Clerk Barber.

### **APPROVAL OF THE AGENDA:**

**Council Member Dudrow moved that the Mayor and Council approve the agenda of December 13, 2010, as presented. Council President Tartaro requested to amend the agenda.** He added the following four motions to the agenda: (1) Wells Run Committee Appointments, (2) Substitute Community Garden Motion, (3) Legislative Department Reporting on Meetings or Negotiations Relevant to City Business and (4) Facility Assessment Process Management as action items. Council Vice President Tierney requested to move the Adoption of 2011 City Council Meeting Schedule (Motion #224-12-10) to Action Items. The Mayor and Council discussed the changes to the agenda at length. The motion to approve the agenda as amended passed unanimously.

### **PUBLIC COMMENT:**

Mr. Marc Tartaro, a resident of Ward 1, addressed the Mayor and Council with concerns of how the Council is executing the business of the City. He stated his concern that the Council has lost sight of what is important and their ability to get along and work together.

Mr. William Tierney, a resident of Ward 2, addressed the Mayor and Council regarding how the Council and staff need to come together as a whole and to get back to the principle of good governance for the City.

Mr. Aaron Dorfman, a resident of Ward 3, addressed the Mayor and Council on the proposed Bed and Breakfast motion. He stated that he would like to see support from the Council on this motion. He appreciates the Council's concerns but feels that Bed and Breakfast would be good for the City's economy and would like to see it move forward.

Mr. Hugh Turley, a Ward 3 resident, addressed the Mayor and Council regarding the discussion point of the traffic study on the agenda. He addressed three points: 1) reduce

congestion within the City; 2) he thanked them for the support given the concerns with the restrictions on Queensbury Road and 3) he would like to keep the restrictions status-quo.

Ms. Claudia Ferguson, a Ward 2 resident, addressed the Mayor and Council on the Bed and Breakfast issue and stated her support of the proposed Bed and Breakfast motion.

Ms. Nina Faye, a Ward 3 resident, addressed the Mayor and Council in support of the Community Garden. She stated her concern having the garden fenced or screened, she feels it could be dangerous. Ms. Faye also discussed her concerns with the traffic on Queensbury Road. She would like to see the Council establish a committee to gather input from residents on this issue.

Mr. David Marshall, a Ward 3 resident, addressed the Mayor and Council on the following issues: 1) Gallatin Street- something needs to be done to stop people from driving the wrong way on this one-way street. He suggested painting arrows and "one-way" on the street. 2) Bed and Breakfast-he suggested that the owner/operator of the Bed and Breakfast must live in the house. 3) Volunteer Reception-he said it was very well done and thanked all who were involved in putting it together. 4) Holiday Trash Collection- he feels there must be a better way to communicate with the residents of the City on the changes in the trash pick-up during the holidays. 5) HVFD- he is opposed to the proposed motion of funding the Fire Department's new vehicle. He would like to see the Fire Department provide a current financial statement.

Mr. Scott Wilson, a Ward 3 resident, addressed the Mayor and Council on the following issues: 1) HVFD – he would like to see a current financial statement of the fire department and would like to know if this funding meets IRS regulations. 2) Community Garden – he is in support of having the Community Garden. 3) Traffic- he is supportive of keeping the traffic out of the City and of "green transportation". 4) Volunteer Reception- he said it was very well done.

Mr. Doug McNamara, a Ward 2 resident, addressed the Mayor and Council in support of the Community Garden. He feels some of the language in the substitute motion is a bit over-kill.

#### **CONSENT ITEM:**

**Council President Tartaro moved that the Mayor and Council approve the following item as consent: (1) to accept the petition submitted by the homeowners and neighbors date received December 10, 2010, to support the passage of Hyattsville Motion# 200-11-10(Request of Amend Gateway Arts District Table of Used to Add Bed and Breakfast) (Motion #225-12-10). The motion passed unanimously.**

#### **ACTION ITEMS:**

**Council Vice President Tierney moved that the Mayor and Council adopt the 2011 City Council Meeting Schedule (subject to revision and change)(Motion #224-12-10). Council**

briefly discussed this motion. Council raised concerns that the budget calendar has not been provided and there are no dates on this schedule to reflect budget meetings. City Administrator Murphy addressed their concerns stating that budget meetings should blend into the current schedule. The motion passed unanimously.

**Council Member Hinds moved that the Mayor and City Council authorize the City Administrator, or the Director of Recreation and the Arts as her designee, to negotiate an agreement with the Hyattsville Community Garden for the shared operation of a community garden in a portion of Hyatt Park (approximately one-quarter acre in the two-acre park). The agreement will include language that addresses the responsibilities for year-round maintenance and upkeep of the garden area, and the process for the City to review the community garden use every two years.**

**In collaboration with the Hyattsville Community Garden group, Recreation and the Arts staff will initiate and/or supervise the work required for a successful garden. The Community Garden Association will provide its organizational documents to the City for review. The Director of Recreation and the Arts shall provide a regular status report to Council, and, in collaboration with the garden group, inform the immediate park neighbors of all meetings and activities.**

**This motion supersedes prior motions related to the community garden, but does not restrict the City's authority to regulate use of Hyatt Park, per the City's agreement with M-NCPPC, and/or determine a different arrangement for the success of the community garden (Motion# 227-12-10). Council President Tartaro offered a substitute motion to this motion as follows: I move that the Mayor and Council authorize the City Administrator, or the Director of Recreation and the Arts as her designee, to establish an MOU with an entity with the authority to manage the Hyattsville Community Garden and the City. The MOU shall include the following:**

- 1. Organizational mission and goals.**
- 2. Organizational description of officers, members and their responsibilities.**
- 3. Membership requirements.**
- 4. Process by which plots are allocated and duration of allocation.**
- 5. Requirements for maintaining plots and removal of plots.**
- 6. Operational plan for maintaining site and plots.**
- 7. Incorporation documents.**
- 8. Budget of operational costs and sources of financing.**

**Once an MOU has been established, City staff shall coordinate with the garden entity to establish the following: the development of a scale site plan locating all of the existing features including trees, hardscape, garden plots, water service and other associated elements; photographs with views of all the adjacent properties from the garden site as well as photographs from each of the properties adjacent to the garden site (a key indicating the location of each of the photographs shall be included with the site plan); a fencing and screening plan for the garden and possible accessory structures in order to accommodate surrounding properties; a soil sampling protocol and plan for the whole site indicating locations to insure that the soil is not contaminated with heavy metals or**

**other hazardous materials that could affect food stuffs grown in the garden; a schedule of project activities for the garden by City staff and the garden entity. The results of the above actions shall be presented in a report including the MOU to the Mayor and Council for approval before the development of garden plots. It is requested that the above actions be completed for Council action by the last meeting in January.**

**In the meantime, staff shall be authorized to expend City funds not to exceed \$10,000 in order to install water service to the property. At present, it is the understanding of City staff that M-NCPPC will provide and install an irrigation system on the site after installation of water service by the City. This shall be coordinated by City staff once all of the above actions have been undertaken and approved by the Mayor and Council.**

**This motion supersedes prior motions related to the community garden, but does not restrict the City's authority to regulate the use of Hyatt Park, per the City's arrangement with M-NCPPC, and/or determine a different arrangement for the success of the community garden based on Council approval (Motion 228-12-10). The Mayor and Council discussed this motion at length. There were concerns with some of the language in the motion. City Attorney Colaresi had concerns as well. After much discussion Council Member Hunt moved to amend the substitute motion as follows: I move that the Mayor and Council authorize the City Administrator, or the Director of Recreation and the Arts as her designee, to establish a MOU between an entity or person to manage the Hyattsville Community Garden and the City. The MOU shall include the following:**

- 1. Organizational mission and goals.**
- 2. Organizational description of officers, members and their responsibilities.**
- 3. Membership requirements.**
- 4. Process by which plots are allocated and duration of allocation.**
- 5. Requirements for maintaining plots and removal of plots.**
- 6. Operational plan for maintaining site and plots.**
- 7. Budget of operational costs and sources of financing.**
- 8. The agreement will include language that addresses the responsibilities for year-round maintenance and upkeep of the garden area, and the process for the City to review the community garden use every two years.**

**Once an MOU has been established, City staff shall coordinate with the garden entity to establish the following: the development of a scale site plan locating all of the existing features including trees, hardscape, garden plots, water service and other associated elements; photographs with views of all the adjacent properties from the garden site as well as photographs from each of the properties adjacent to the garden site (a key indicating the location of each of the photographs shall be included with the site plan); a fencing and screening plan for the garden and possible accessory structures in order to accommodate surrounding properties; a soil sampling protocol and plan for the whole site indicating locations to insure that the soil is not contaminated with heavy metals or other hazardous materials that could affect food stuffs grown in the garden; a schedule of project activities for the garden by City staff and the garden entity. The results of the above actions shall be presented in a report including the MOU to the Mayor and**

**Council for approval before the development of garden plots. It is requested that the above actions be completed for Council action by the last meeting in January.**

**In the meantime, staff shall be authorized to expend City funds not to exceed \$10,000 in order to install water service to the property. At present, it is the understanding of City staff that M-NCPPC will provide and install an irrigation system on the site after installation of water service by the City. This shall be coordinated by City staff once all of the above actions have been undertaken and approved by the Mayor and Council.**

**This motion supersedes prior motions related to the community garden, but does not restrict the City's authority to regulate the use of Hyatt Park, per the City's arrangement with M-NCPPC, and/or determine a different arrangement for the success of the community garden based on Council approval. The substitute motion as amended passed unanimously.**

**Council Member Hiles moved that the Mayor and City Council appoint the following residents as the official Hyattsville representatives on the Inter-Municipal Collaborative Committee on Wells: Run: Elizabeth Arnold, Environmental Committee Member, Timothy Hunt, Council Member Ward 3, Marc Tartaro, Council President Ward 1. Official correspondence shall be prepared by the City Administrator informing the other Municipal Members of the Wells Run MOU that our committee members have been appointed and we are requesting to schedule our first meeting hopefully in January subject to everyone's schedules but no later than February. Previously approved reporting requirements by the Council will apply (Motion# 231-12-10). Council Member Hiles provided background on the motion. The Mayor and Council briefly discussed this motion. The motion passed unanimously.**

**Council Member Perry moved that the Mayor and Council authorize the City Administrator, in consultation with the City Attorney and City Treasurer, to execute a 10-year loan agreement with the Hyattsville Volunteer Fire Department (HVFD) in an amount not to exceed \$120,000, at a rate of 3.5 percent (approximately equal to a 10-year Treasury note plus one percent) with annual payments. The loan will be used solely as the matching and additional funds for the purchase of a new engine. The Hyattsville Volunteer Fire Department shall guarantee the payment of the loan with its assets, in addition to the new fire engine as collateral. After the loan has been in place four years, the City retains the right to require early repayment in full by providing six months notice to the HVFD. The HVFD can pay the loan in full at any time without penalty. The HVFD will pay for the legal fees required to set up the loan agreement (Motion# 229-12-10). Chief David Hang and President Matt Davy were present to respond to questions posed by the Mayor, Council and City Attorney. City Attorney Colaresi requested some changes to the language in the motion. He requested that the third sentence read "The Hyattsville Volunteer Fire Department shall guarantee the payment of the loan and use the new fire engine as collateral." And the last sentence shall read "the HVFD will pay for the legal fees required to set up the loan agreement and to set up the lien." The Mayor and Council accepted the changes in language provided by City Attorney Colaresi. A roll call vote was taken on the motion with the changes. The motion passed unanimously.**

**Council Member Hiles moved that the Mayor and City Council amend the 2010 Policies and Procedures Document with the following conditions.**

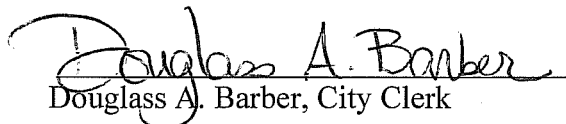
- 1) Council Members can only represent the City in their official capacity to third parties in negotiations (or before a public body) with the express authorization of the Council.**
- 2) The Mayor (or *designated* Council Member) can discuss and work on negotiations with third parties so long as the City is not legally bound by such discussions or negotiations.**
- 3) The Mayor (or *designated* Council Member) shall as early as possible introduce, *an information* item at a Council meeting, any item on which the Council will have to take action. In no event should this *information* item be presented later than the next regularly scheduled council meeting after initial discussions commence on any issue with third parties.**
- 4) Whenever possible the Mayor or designated Council Member will meet with Council prior to negotiations for instructions and understand the sense of the Council for support of the scope of negotiations and offers being made on behalf of the City.**
- 5) The Mayor (or *designated* Council Member) shall report at each regularly scheduled Council meeting regarding ongoing developments of existing discussions and negotiations.**
- 6) In the event the City's interest could be jeopardized by early public disclosure of a matter, closed meetings shall be utilized in informing the Council. The Mayor (or duly appointed Council Member) shall consult with the City Administrator to decide if the discussion should be in open or closed session.**
- 7) The goal of the *information* item shall be to give Council all information necessary to:
  - a. reach a consensus among the Council and**
  - b. make an informed decision on the direction the City should take in the matter.****
- 8) The Council should enforce these policies as to its members so that there is no interference by individual Council Members with good faith negotiations taking place between the Mayor (or *designated* Council Member) and third parties (Motion# 232-12-10). Council Member Hiles provided the background on the motion to establish rules for reporting to Council on a timely basis. Council Member Hiles made corrections to the motion (*italicized*). The Mayor and Council discussed the motion and its intent at length. City Attorney Colaresi recommended additional changes to the motion. After further discussion, Council Member Perry called the question. A roll call vote was taken on the motion with changes passed with Council President Tartaro, Council Vice President Tierney and Council Members Frazier, Perry, Dudrow, Hiles and Hunt voting for and with the Mayor and Council Member McKnight voting against.**

**Council Vice President Tierney moved that the Mayor and Council adopt Hyattsville Ordinance 2010-04, an Ordinance whereby the City Council increases the general fine for municipal infractions to \$100 for a first offense and \$200 for each repeat offense as to the following chapters of the City Code: Building Construction (Chapter 46), Electrical Standards (Chapter 55), Fire Prevention (Chapter 59), Plumbing (Chapter 93) (Second Reading) (Motion# 226-12-10). The motion passed unanimously.**

**Council President Tartaro moved the Mayor and Council close the Special Council Meeting of December 13, 2010, to discuss personnel matters and contracts (Motion# 230-12-10). A roll call vote was taken, the motion passed unanimously.**

Mayor and Council went into closed session at 10:36 p.m.

Respectfully submitted,

  
Douglass A. Barber, City Clerk

*Pursuant to the requirement of Annotated Code of Maryland State Government Article Section 10-509(c) (2), this statement is included in these minutes:*

*A closed session of the Council of the City of Hyattsville was held at 10:21 p.m., Monday, December 6, 2010, in the City of Hyattsville Municipal Building, Third Floor Council Chambers.*

Present were Mayor Bill Gardiner, Council President Marc Tartaro, Council Vice President Bill Tierney, Council Members Ruth Ann Frazier, Paula Perry, Carlos Lizanne, Nicole Hinds, Douglas Dudrow, David Hiles, Matthew McKnight and Timothy Hunt.

Also present were City Administrator Murphy, and Assistant City Administrator Jones

*On a motion made as follows by Council Vice President Tierney: **Council Vice President Tierney moved that the Mayor and Council close the Council Meeting of December 6, 2010, to discuss personnel matters and contracts** (Motion# 223-12-10). A roll call vote was taken on the motion to close the meeting. The motion passed unanimously. Note: Council President Tartaro was not in the room for the vote. *The authority under which the session was closed was Annotated Code of Maryland State Government Article Section 10-508(a)(1)(i) – The appointment, employment, assignment, promotion, discipline, demotion, compensation, remove, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction The purpose of the meeting was to discuss a personnel matter regarding the employment agreement of the Director of Public Works. The meeting ended at 11:00 p.m.**