

REGULAR MEETING OF THE GREENBELT CITY COUNCIL held Monday, August 10, 2009.

Mayor Davis called the meeting to order at 8:05 p.m.

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

ALSO PRESENT were Michael McLaughlin, City Manager; David E. Moran, Assistant City Manager; Robert Manzi, City Solicitor; and Cindy Murray, City Clerk.

Mayor Davis asked for a moment of silence in memory of Greenbelt residents Alberta Tompkins, Ruth Eileen Huggins and Rolando Loret de Mola, and former residents Frank J. Kellaher and Dorma Ashley Dealing. 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 29. It was moved by Mr. Herling and seconded by Mr. Putens that the consent agenda be approved as amended. The motion passed 5-0.

Council thereby took the following actions:

MINUTES OF COUNCIL MEETINGS

Work Session, June 17, 2009

Interview, July 13, 2009

Regular Meeting, July 13, 2009

Interview, July 20, 2009

Work Session, July 29, 2009

Approved as presented.

ARTS ADVISORY BOARD, REPORT #10-001: Council accepted this report and approved the recommendation of the Arts Advisory Board to grant recognition group status to Transitions Theater, Inc.

ADOPTION OF BOARD OF APPEALS VARIANCE RESOLUTION FOR VARIANCE #09-001-V: Council adopted the Board of Appeals Resolution for variance application 09-001-V.

RESIGNATION FROM ADVISORY GROUP: Council accepted with regret the resignation of Mary Helen Spear from the Community Relations Advisory Board and Joel Mason-Gaines from the Youth Advisory Committee.

APPROVAL OF AGENDA: Ms. Mach asked to add "Appointments to Committees" as Item #24. Mr. Roberts asked to remove Item #17 "Report from Solicitor on Whether a Violation of the Open Meetings Act Occurred" from the agenda because this item had not been properly advertised in the News Review. Mr. McLaughlin apologized for the advertising error made by staff but noted the correct agenda had been posted on the City website, City cable channel, and on the Greenbelters listserve. Mayor Davis, Ms. Mach, and Mr. Herling said they would prefer to leave the item on the agenda to inform residents of Mr. Manzi's findings on the issue but recommended the item also be included on the agenda of a following meeting where it could be properly advertised. Mr. McLaughlin noted that Mr. Manzi would be present at the meeting on September 29. Ms. Mach moved to approve the agenda with the addition of "Appointments to Committees." Mr. Herling seconded. The motion passed 4-1. (Roberts)

PRESENTATIONS: None

PETITIONS AND REQUESTS: None

MINUTES OF COUNCIL MEETINGS:

Work Session of July 29, 2009: Mayor Davis requested that the words “ethics forms” be changed to “financial reports” in the minutes. With this change, Mayor Davis moved to approve the minutes. Mr. Herling seconded. The motion passed 5-0.

Executive Session of July 29, 2009: Mr. Roberts moved that the minutes of the executive session of the City Council held Wednesday, July 29, 2009, be approved as presented. He further requested that the minutes of this meeting reflect that the Council met in executive session at 10:02 p.m. in the Senior Classroom of the Community Center. Council held this closed meeting in accordance with Section 10-508 (a)(1)(i), (7) & (8) of the State Government Article of the *Annotated Code of Public General Laws of Maryland* to discuss a personnel matter that affects one individual, to consult with legal counsel on a legal matter and to consult with staff about potential litigation. 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. Manzi reported that he and Mr. Silvestri had recently met with the Department of Justice (DOJ) and updated them on the changes to the election process. He noted that the DOJ had requested minutes and videos from the nine public hearings on the election issues, and had been provided with minutes of all the meetings and videos from the seven meetings taped.

Mr. McLaughlin said a letter had been sent to the ACLU and NAACP listing the items being worked on to expand voter outreach and education, as well as changes to the election process. He also noted that a Special Election Edition of the Greenbelt Bulletin had been mailed to all residents and that Ms. Palau is currently working with local homeowners associations to have election information included in their upcoming newsletters.

Mayor Davis, Mr. Putens, Ms. Mach and Mr. Herling commented on the nine National Night Out events. Mayor Davis thanked all the organizations who sponsored the events and also the Greenbelt Volunteer Fire Department and Rescue Squad, the Berwyn Heights Volunteer Fire Department and the West Lanham Hills Volunteer Fire Department and Rescue Squad for participating.

Ms. Mach and Mayor Davis noted their attendance at the Council of Governments Leadership Retreat. Ms. Mach also reported that September is National Preparedness month.

Mr. Herling reported on the recent meetings of Transit Riders United (TRU). He also noted the Four Cities now had a four member committee working on the homelessness issue.

Mayor Davis commented on the Greenbelt Lake Water Quality Forum, the Empirian Village Summer Fun Program, the Creative Kids and Camp Encore Scholarship Show, the annual awards banquet for the Greenbelt Swim Team, the dedication ceremonies of the Riverdale Park Town Hall addition and City of College Park Municipal parking lot, the talk given by Valerie Jarrett at a Council of Governments event, and the official endorsement ceremony of the Purple Line Route by Governor O'Malley and Lt. Governor Brown.

LEGISLATION: Mayor Davis read the agenda comments.

An Ordinance to Amend Chapter 10, "Licenses, Permits and Miscellaneous Business Regulations," of the Greenbelt City Code for the Purpose of Revising Alarm User Permit Fees

Mayor Davis read the agenda comments. Mr. Putens 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	- no
	Mayor Davis	- yes

The ordinance was declared adopted (Ordinance No. 1301, Book 12).

Mr. Roberts said he was opposed to the fee increases at this time due to the financial hardships many residents and businesses are experiencing at this time.

An Ordinance to Amend Article I "In General" of Chapter 8 "Elections" of the Greenbelt City Code, in Accordance with Charter Amendment No. 2009-1 Passed by the City Council on June 22, 2009, to Allow for Early Voting

Mayor Davis 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 ordinance was declared adopted (Resolution No. 1302, Book 12).

A Resolution to Repeal Resolution Number 986 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 2009 Regular Election

Mayor Davis read the agenda comments. Mr. Herling introduced the resolution 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. 1052, Book 8).

An Ordinance to Amend Article II “Campaign Contributions and Expenditures” of Chapter 8
“Elections” of the Greenbelt City Code

Mayor Davis read the agenda comments. Ms. Mach introduced the ordinance for first reading and moved suspension of the rules in order to allow second reading and passage of the ordinance tonight. Mr. Putens seconded the motion.

ROLL CALL: Mr. Herling - yes
Ms. Mach - yes
Mr. Putens - yes
Mr. Roberts - no
Mayor Davis - yes

Ms. Mach introduced the ordinance for second reading and moved that it be adopted. Mr. Putens seconded the motion.

Mayor Davis and Mr. Herling commented that the new ordinance provides more transparency to the election process. Mr. Roberts said he was concerned the new ordinance will make it more difficult for new candidates.

ROLL CALL: Mr. Herling - yes
Ms. Mach - yes
Mr. Putens - yes
Mr. Roberts - no
Mayor Davis - yes

The ordinance was declared adopted (Ordinance No. 1303, Book 12).

Mayor Davis moved that Council direct staff to place candidate expenditure and contribution reports on the city website in a timely manner. Mr. Putens seconded. The motion passed 5-0.

GREENHILL/HILLSIDE STREAM RESTORATION PROJECT – FINAL DESIGN: Mayor Davis read the agenda comments.

Mr. Roberts said that he supported a stream restoration project but was concerned this plan was misleading and inaccurate and did not address the worst part of the erosion area. He noted that a small amount of water is actually coming from the stream and the boundaries of the project were limited to Hillside Road. He also noted a significant numbers of trees would be lost.

Ms. Hruby reviewed the project goals to reduce sediment and dissipate energy to gain a better relation between the base of stream and slopes to control erosion, including using soft armor techniques.

Ms. Riddle said the 45-47 tulip poplar and sweet gum trees being removed as part of the project were suffering from degraded root systems due to the erosion problems.

After further discussion, Ms. Mach moved that Council approve the final plans, dated October 13, 2008, for the Greenhill/Hillside Stream Restoration Project. Mr. Herling seconded. The motion passed 4-1. (Roberts)

PROPOSED FEDERAL CAPITAL IMPROVEMENTS PROGRAM FOR THE NATIONAL CAPITAL REGION, FISCAL YEARS 2010-2015: Mayor Davis read the agenda comments.

Mayor Davis stated the letter to National Capital Planning Commission (NCPC) should include Council's support of protecting park land areas and opposition to the Maglev demonstration project. Ms. Mach stated the letter should also include the Council's support of the Agricultural Library. Mr. Roberts moved that Council transmit a letter to NCPC that reiterates the Council's interest in being kept informed on the status of all development projects ongoing and/or planned for the Goddard Space Flight Center, the Beltsville Agricultural Research Center, and the Greenbelt Federal Court House, states Council's opposition to the Maglev demonstration project and support for the Agricultural Library, protecting park land areas, and projects that promote investment in transit, encourages the National Park Service to invest in Greenbelt Park and emphasizes the City's interest in seeing the use of green building techniques in all federal capital improvement projects. Mr. Putens seconded. The motion passed 5-0.

REPORT FROM CITY SOLICITOR ON WHETHER A VIOLATION OF THE OPEN MEETINGS ACT OCCURRED: Mayor Davis read the agenda comments.

Mr. Manzi provided an overview of his complete report regarding his investigation as to whether a violation of the open meetings act had occurred regarding removal of the proposed charter amendment to change the election year from the agenda and a statement read by Mayor Davis at the June 8 regular meeting. He reported that after interviewing each councilmember and reviewing all email messages relating to the issue, he found there had been no violation of either the State Open Meetings Act or the City Charter. He commented that no more than two councilmembers discussed the election date issue at any time and these discussions did not constitute a meeting.

Mr. Roberts said that he disagreed with the contents of the report. He questioned how the action of enlisting staff and attorneys to prepare the document read by Mayor Davis was taken if there was no meeting.

Mr. Herling and Ms. Mach read prepared statements on the issue. They explained how concerns raised by citizens had caused them to individually rethink the issue of change of election year and their hope that deferring the decision to the next Council would help unify the community to move forward with efforts to increase voter turnout. Mr. Herling and Ms. Mach both said there had been no meeting of Council in violation of the State Open Meetings Act.

Mayor Davis thanked Mr. Manzi for his report. She read a prepared statement explaining her concern that the change of election year controversy would overshadow the efforts Council was taking to increase voter turnout had caused her to reconsider the issue. Mayor Davis commented that she should have more concisely indicated the "we" in the statement read on June 8 referred only to the three councilmembers that had voted for the election year change on May 26.

Mr. Putens said that he wasn't present at the meeting on June 8 but was delighted to hear that the proposed election year change was being removed from the agenda. He noted that all councilmembers try to do what's best for the City and would never deliberately do anything against Council.

Mr. Orleans asked and was provided answers to questions regarding what actually defines a legislative action.

Mr. Carruthers, 2-M Gardenway, said that all councilmembers should be included when an action of Council is taken and having lawyers draft a statement is an action. He commented that actions of Council need to be more transparent and open.

Mr. McLaughlin said that if an error occurred it was that staff acted too proactively when they became aware of the consideration of having the change of election year removed from the June 8th agenda. He reported that notification had been made to both Mr. Manzi and Mr. Silvestri in light of the Department of Justice interest in the city election process. Mr. McLaughlin emphasized that there had been no request for the writing of a statement by any councilmember.

CAMPAIGN SIGNS ON CITY PROPERTY: Mayor Davis read the agenda comments.

Mr. Herling moved that Council continue the program for the 2009 election. Ms. Mach seconded. The motion passed 5-0.

Mr. Putens asked staff to determine if there were additional sites in each of the three sections of the city that could be used for campaign signs. Mr. Roberts said he was opposed to using staff time for this purpose.

POTENTIAL CHARTER CHANGES FOR A SEVEN MEMBER COUNCIL (SUPERMAJORITY VOTES): Mayor Davis read the agenda comments.

Mr. Roberts moved that Council direct staff to make the following charter amendments to address "supermajority" thresholds based on a seven member Council to be effective on November 9. Mr. Putens seconded. The motion passed 5-0.

Section 5 – Meetings.

Special meetings shall be called by the clerk upon the written request of the mayor, the city manager, or four (4) members of council; or upon the motion of the council duly adopted at a regular meeting.

Section 7 – Council-Rules; attendance; expulsion of members.

It shall have the power to compel the attendance of absent members, and may, by vote of not less than six (6) members, expel a member from the meeting for disorderly conduct or the violation of its rules.

Section 8 – Same-Quorum, procedure.

The affirmative vote of a majority of the members elected to the council shall be necessary to adopt any ordinance, resolution, order or vote; except, that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present; and except that any votes to delete properties from the Greenbelt Forest Preserve shall require at least six (6) votes.

Section 9 – Ordinances and resolutions – Procedure for adoption; enacting clause.

No ordinance shall be passed until it has been read on two (2) separate days, unless the requirements for reading it on two (2) separate days be dispensed with a by a vote of not less than six (6) members of council.

COUNTY LEGISLATION – CB-28-2009 & CB-29-2009 (ADULT BOOK STORES): Mayor Davis read the agenda comments.

Mr. Putens moved that Council support CB-28-2009 and CB-29-2009. Ms. Mach seconded. The motion passed 5-0.

MUNICIPAL GREENHOUSE GAS EMISSIONS CALCULATOR: Mayor Davis read the agenda comments.

Mr. Booher presented a powerpoint presentation explaining the system for calculating and tracking municipal greenhouse gas emissions. He explained that the system takes into account energy consumption for all municipal buildings, vehicles, and lights, and would be able to determine the largest emissions sources, evaluate the success of efficiency programs, and track progress towards meeting emissions reductions goals.

Council thanked Mr. Booher for the presentation. Mr. Herling requested the Theater be included in the system.

APPOINTMENTS TO ADVISORY BOARDS: Ms. Mach moved to appoint C. Jenise Williamson and Mark Gransfors-Hunt to the Arts Advisory Board. Mr. Putens seconded. The motion passed 5-0.

MEETINGS: Council reviewed the meeting schedule.

ADJOURNMENT: A motion to adjourn the regular meeting was made by Ms. Mach and seconded by Mr. Putens. The motion passed 5-0.

Mayor Davis adjourned the regular meeting of Monday, August 10, 2009, at 11:45 p.m.

Respectfully submitted,

Cindy Murray
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 10, 2009."

Judith F. Davis
Mayor