

MINUTES

CITY OF WESTMINSTER Mayor and Common Council Meeting Monday, January 28, 2019 at 7 pm

CALL TO ORDER

Elected Officials Present: Councilmember Becker, Councilmember Chiavacci, Mayor Dominick, Councilmember Pecoraro, President Wack, and Councilmember Yingling.

Staff Present: Deputy Director of Public Works Dick, Director of Recreation and Parks Gruber, City Attorney Levan, Director of Community Planning and Development Mackey, City Administrator Matthews, Director of Finance and Administrative Services Palmer, Police Chief Spaulding, Director of Housing Services Valenzisi, and City Clerk Visocsky.

Guest Present: Lindsey Rader, Esquire, Funk & Bolton; Amy Rupp, Executive Director, Mid-Atlantic Gigabit Innovation Collaboratory; and, Kim Stank and Tim Mirra of Zelenkofske Axelrod, LLC.

APPROVAL OF MINUTES

President Wack requested a motion to approve the Executive Session minutes of January 14, 2019.

Councilmember Chiavacci moved, seconded by Councilmember Becker, to approve the Executive Session minutes of January 14, 2019.

VOTE

AYES: President Wack, Councilmember Becker, Councilmember Chiavacci, Councilmember Pecoraro, and Councilmember Yingling.

NAYS: None.

PRESENTATIONS

FY 2018 Audited Financial Statements

Ms. Palmer introduced Ms. Stank and Mr. Mirra of Zelenkofske Axelrod LLC, who were in attendance to present the FY 2018 Audited Financial Statements. A copy of their presentation is attached to these minutes and incorporated herein by reference. Ms. Stank and Mr. Mirra distributed a letter to the Mayor and Common Council regarding the audit of the financial statements for the year ending June 30, 2018, which is also attached to these minutes and incorporated herein by reference.

Ms. Stank noted that there were two audit findings, which constituted material weaknesses. One involved an untimely journal entry made by City staff while the other concerned a reporting issue related to federal housing funds.

Councilmember Pecoraro inquired if these issues had been resolved. Ms. Palmer responded that the matters in question had been addressed and that procedures had been put in place to avoid a reoccurrence.

Mid-Atlantic Gigabit Innovation Collaboratory (MAGIC)

Ms. Rupp provided the Mayor and Common Council with a quarterly status report on the progress of the Mid-Atlantic Gigabit Innovation Collaboratory (MAGIC) in meeting the objectives set forth in the FY 2019 grant agreement between the City and MAGIC. A copy of her presentation is attached to these minutes and incorporated herein by reference.

Councilmember Yingling expressed his appreciation to Ms. Rupp for her report. He then asked Ms. Rupp to define a "unique participant." Ms. Rupp replied that it was one person regardless of the number of MAGIC events in which the individual participated.

Councilmember Yingling then requested an update on MAGIC's efforts to diversify its funding sources. Ms. Rupp replied that MAGIC had submitted a grant application for the Smart Home Project that was pending. MAGIC did not receive a small grant for the MainStAR project for which it had applied; it planned to submit a new grant application in the near future.

Councilmember Yingling inquired how sponsorships compared to the prior year. Ms. Rupp replied that sponsorships were down from the second quarter last year compared to the second quarter of this year; in the amount of \$1500. Ms. Rupp added that MAGIC was altering its approach. Rather than asking sponsors multiple times to support the Capture the Flag events, MAGIC is asking them to sponsor both events for 2019. She noted that the Maryland Department of Commerce and University of Maryland – Baltimore County were now sponsors of the Capture the Flag event.

Councilmember Pecoraro stated that MAGIC was making good progress on long-term projects. He asked Ms. Rupp to comment on its marketing of the City and its fiber network. Ms. Rupp responded that MAGIC planned to establish a Business Development Committee in keeping with its Strategic Plan. The Committee's focus would be to reach out to existing businesses to determine how MAGIC could support them; the Committee would also explore what it takes to attract new businesses. Councilmember Pecoraro asked Ms. Rupp to keep the City informed on the Committee's progress.

PUBLIC HEARING

Mayor Dominick conducted a public hearing on proposed Ordinance No. 906, an ordinance authorizing the City to issue two general obligation bonds, one in the amount of \$27,606,475 and the other in the amount of \$1,500,000, to be used for and applied to the public purpose of financing the Westminster WWTP ENR and Biosolids Upgrade.

Ms. Rader informed the Mayor and Common Council that the City has applied to the Maryland Water Quality Financing Administration ("MWQFA") for loan funds to finance a portion of the overall project costs for the Westminster WWTP ENR and Biosolids Upgrade project. Although overall project activities include upgrading the County's septage receiving facility and installing a geothermal system to achieve energy savings, the City does not intend to fund these project component costs from MWQFA loan proceeds.

Ms. Rader stated that MWQFA will make two separate loans to the City for project purposes, one in an original principal amount not to exceed \$27,606,475 and the other in an original principal amount not to exceed \$1,500,000. The larger loan will be evidenced by a general obligation bond issued by the City to MWQFA, the interest on which will be tax-exempt for federal income tax purposes (referred to in the ordinance as the "Series 2019A Bond"); the City will make scheduled debt service payments to MWQFA for this loan. The smaller loan will be evidenced by a general obligation bond issued by the City to MWQFA, the interest rate on which will initially be 0.00%, and which will be subject to principal forgiveness (referred to in the ordinance as the "Series 2019B Bond"); no scheduled principal installment payments will be due on the Series 2019B Bond. The City will enter into separate loan agreements with MWQFA with respect to each loan (referred to in the ordinance as the "Series 2019A Loan Agreement" and the "Series 2019B Loan Agreement.")

Ms. Rader then provided the Mayor and Common Council with additional information on the 2019B Loan Agreement. If the City defaults under the series 2019B Loan Agreement in the period that begins on the date of issuance and ends 10 years after the date of issuance, MWQFA has the option to call the principal amount of the Series 2019B Bond immediately; interest will be based on the default rate provided for in the Series 2019B Loan Agreement, accruing from the date of demand. Barring such default, Ms. Rader stated that the series 2019B Bond would automatically terminate and would never make principal or interest payments on the Series 2019B Bond. During the period in which the Series

2019B Bond is outstanding, the City must treat such bond as a debt of the City rather than a grant. Due to the principal forgiveness feature of the Series 2019B Bond and the fact that there is no scheduled interest due thereon, any interest payable by the City following a demand for payment is treated as taxable for federal income tax purposes.

With no further comments or discussion, Mayor Dominick closed the public hearing at 7:43 p.m.

CONSENT CALENDAR

President Wack requested a motion to approve the Consent Calendar, which consisted of the Departmental Operating Reports for December 2018.

Councilmember Pecoraro moved, seconded by Councilmember Chiavacci, to approve the Consent Calendar, as presented.

VOTE

AYES: President Wack, Councilmember Becker, Councilmember Chiavacci, Councilmember Pecoraro, and Councilmember Yingling.

NAYS: None.

REPORT FROM THE MAYOR

None.

REPORTS FROM STANDING COMMITTEES

There were no reports from the following Standing Committees: Arts Council, Economic and Community Development Committee, Finance Committee, Personnel Committee, and Public Works Committee.

Councilmember Chiavacci, on behalf of the Public Safety Committee, reported that the City received a number of applications for the position of Chief of Police and would be holding initial interviews in February. The interview panel will include Councilmember Chiavacci, Mayor Dominick, Ms. Matthews, and two law enforcement officials.

COUNCIL COMMENTS AND DISCUSSION

Councilmember Chiavacci expressed his appreciation to staff for moving quickly to offer utility bill relief to City customers impacted by the federal government shutdown.

Councilmember Yingling stated that pickleball is one of the fastest growing sports. There is interest in the community in playing pickleball on the City's tennis courts. One of the City's tennis courts had been lined for pickleball; he asked Ms. Gruber if there were other courts that could be similarly lined. Ms. Gruber replied that there were two tennis courts located at the City Park that were suitable for pickleball play.

The Mayor and Common Council endorsed Councilmember Yingling's suggestion to expand the number of tennis courts that could also support pickleball play.

President Wack shared that there were community members interested in having facilities to play bocce ball.

BIDS

Phase II of Inflow and Infiltration Rehabilitation Project

Mr. Dick informed the Mayor and Common Council that the FY 2019 Sewer Fund budget includes funds for the construction phase of an on-going project to reduce extraneous flow to the City's Wastewater Treatment Plant. Defects in piping allow for ground and surface waters to enter the sewer collection system. Non-polluted water is excluded from the sanitary system, as it does not need treatment and consumes capacity in the collection system and the Wastewater Treatment Plant.

Mr. Dick stated that the initial focus of the project is locating and identifying the area of piping defects. Once defects are identified, the repair (excavation, lining, or spot repair) is designed, followed by construction.

Mr. Dick informed the Mayor and Common Council that construction of Phase II of the Inflow and Infiltration Project area includes addresses paralleling Route 27, from Hahn Road to the intersection of Route 140, and Route 140 to the intersection of Gorsuch Road. In addition, there will be complete replacement of the sewer line at Bennett Cerf Park, near Penguin Random House. The overall repair design will utilize multiple means and methods, including excavation, total replacement and relocation in some areas, spot repairs in others, chemical grouting, and cured in place epoxy resin pipe lining.

Mr. Dick stated that three bids were received and reviewed by staff. The low bid from Standard Pipe Services, LLC in the amount of \$1,172,100 was found to be acceptable with regard to the City's needs.

Mr. Dick noted that the FY 2019 budget for this project is \$1,275,000. The available balance at this time is \$1,015,512, which is less than the bid amount. Additionally, the City will likely incur unanticipated costs during construction due to unforeseen conditions, as well as associated engineering services.

Mr. Dick informed the Mayor and Common Council that an amendment to the adopted FY 2019 budget may be required. Staff will monitor costs throughout the project and, at the appropriate time, submit a budget revision to the Mayor and Common Council.

Mr. Dick, on behalf of Public Works Director Glass, recommended that the Mayor and Common Council accept the bid of Standard Pipe Services, LLC in the amount of \$1,172,100 for Phase II of the Inflow and Infiltration Project and authorize the Mayor's execution of the associated contract.

Councilmember Yingling moved, seconded by Councilmember Chiavacci, to approve the bid of Standard Pipe Services, LLC in the amount of \$1,172,100 for Phase II of the Inflow and Infiltration Project and authorize the Mayor's execution of the associated contract.

Councilmember Pecoraro inquired about the significant variance between the low bid and the other two bids. Mr. Dick replied that part of the variance was likely attributable to the fact that the higher bidders used subcontractors while the low bidder performed all work with its own employees.

Ms. Matthews informed the Mayor and Common Council that future phases of the Inflow and Infiltration Project had not been engineered. She had authorized Mr. Glass to begin the process so that the City was in the position to undertake construction activities early in FY 2020.

VOTE

AYES: President Wack, Councilmember Becker, Councilmember Chiavacci, Councilmember Pecoraro, and Councilmember Yingling.

NAYS: None.

ORDINANCES & RESOLUTIONS

Ordinance No. 904

Ms. Matthews stated that Ordinance No. 904 would authorize the disposition of a portion of the real property known as 7 Schoolhouse Avenue, Westminster, commonly known as the "West End School Property." The City had reached an agreement with Family and Children's Services of Central Maryland, Inc. (FCS) to purchase the property. The Common Council introduced Ordinance No. 904 on January 14, 2019.

Ms. Matthews recommended that the Mayor and Common Council adopt Ordinance No. 904, authorizing the sale of the West End School property to FCS.

Councilmember Pecoraro inquired when FCS would begin its expansion project. Ms. Matthews replied that FCS could undertake its land use reviews prior to settlement but could not pull a building permit until settlement on the property had occurred.

Councilmember Pecoraro moved, seconded by Councilmember Becker, to adopt Ordinance No. 904 – An ordinance authorizing the disposition of a portion of the real property known as 7 Schoolhouse Avenue, Westminster, Maryland 21157, located on the south side of Schoolhouse Avenue to the east of 36th Street, and commonly known as the “West End School Property” and comprising .9622 ± acres.

VOTE

AYES: President Wack, Councilmember Becker, Councilmember Chiavacci, Councilmember Pecoraro, and Councilmember Yingling.

NAYS: None.

Ordinance No. 906

President Wack requested a motion to adopt Ordinance No. 906 - An Ordinance of the Common Council (the “Common Council”) of the Mayor and Common Council of Westminster (the “City”), pursuant to the authority of sections 9-1601 to 9-1622, inclusive, of the environment article of the annotated code of Maryland, sections 19-301 to 19-309, inclusive, of the local government article of the annotated code of Maryland, and section 13.1 of the charter of the city, to authorize and empower the City to issue and sell, upon its full faith and credit, two general obligation bonds, one in an original principal amount not to exceed \$27,606,475.00 and the other in an original principal amount not to exceed \$1,500,000.00, to be designated as provided herein, the bonds to be issued and sold and the proceeds thereof to be used and applied for the public purpose of financing, reimbursing or refinancing costs of a project generally referred to by the city as the WWTP ENR and Biosolids Upgrade, together with related costs and costs of issuance, as further described herein and all to the extent permitted by the Maryland water quality financing administration (the “administration”); prescribing, approving and adopting the forms and tenor of the bonds, the terms and conditions for the issuance and sale of the bonds by private sale, without public bidding, to the administration, and other details incident thereto, and authorizing the mayor, on behalf of the City, to determine certain details of the bonds, including fixing the final original principal amounts of the bonds and the amortization schedule for one of the bonds; providing that one of the bonds will be subject to forgiveness as provided herein; approving, and authorizing and directing the completion, execution and delivery of, two separate loan agreements with the administration pursuant to which advances will be made under the bonds; authorizing and directing the payment of any fees or costs provided for in the loan agreements that are not payable from bond proceeds; pledging any moneys that the city is entitled to receive from the state of Maryland, including the city’s share of income tax revenues, to secure its obligations under the loan agreements; acknowledging the right of the administration to accelerate payment on each bond upon an event of default under the corresponding loan agreement; authorizing certain officials to take certain actions with respect to the loan agreements and designating certain officials as “authorized officers” for purposes of the loan agreements; providing for the disbursement of advances of the bonds; authorizing the issuance and sale from time to time, upon the city’s full faith and credit, of one or more series of general obligation refunding bonds in order to currently refund or advance refund either of the bonds issued pursuant to the authority of this ordinance and to pay related costs, provided that, the original aggregate principal amount of any such series of refunding bonds shall not exceed one hundred thirty percent (130%) of the aggregate principal amount of the bond or bonds refunded therefrom; authorizing the making of any further determinations deemed necessary or desirable in connection with any such series of the refunding bonds and providing that any series of the refunding bonds shall be sold at a private sale, without soliciting bids, unless determined otherwise by ordinance or resolution, as applicable; providing that amendments or modifications to the bonds and any documents, certificates or instruments entered into in connection therewith may be provided for by ordinance or resolution, as applicable; pledging the full faith and credit and unlimited taxing power of the city to the prompt payment of the principal of and interest on the bonds and the refunding bonds; providing for imposition of ad valorem taxes sufficient for the payment of the principal of and interest on the bonds and any refunding bonds; providing that the principal of and interest on the bonds will be payable in the first instance from revenues of the

wastewater system serving the city, including fees for use of or connection to such system, to the extent such revenues are lawfully available for such purpose; providing that the principal of and interest on any refunding bonds may be made payable in the first instance from any source provided for by ordinance or resolution, as applicable; providing that the principal of and interest on the bonds and any refunding bonds also may be paid from any other sources of revenue lawfully available to the city for such purpose; making or providing for the making of certain representations, covenants or designations relating to the tax-exempt status of interest payable on one of the bonds; providing that the city shall use and apply proceeds of the bonds only as permitted by the loan agreements and certain statutes identified herein; authorizing appropriate officials to take certain actions in connection with the bonds and any refunding bonds; providing that the provisions of this ordinance shall be liberally construed; and otherwise generally relating to the issuance, sale, delivery and payment of and for the bonds and the refunding bonds authorized hereby.

President Wack noted that Ms. Rader had provided a detailed staff report on the ordinance's provisions during the public hearing earlier in the meeting.

Councilmember Chiavacci moved, seconded by Councilmember Pecoraro, to approve the adoption of Ordinance No. 906, as presented.

VOTE

AYES: President Wack, Councilmember Becker, Councilmember Chiavacci, Councilmember Pecoraro, and Councilmember Yingling.

NAYS: None.

Resolution 19-02

Mr. Mackey stated that, on January 14, 2019, Mayor Dominick conducted a public hearing regarding the adoption of Resolution No. 19-02 of the Mayor and Common Council of Westminster, amending the City's 2009 Comprehensive Plan to add a growth tier map adopted administratively on December 7, 2012, and including lands annexed since that time. There were no public comments during the public hearing. Following the public hearing, the Mayor and Common Council directed staff to prepare a resolution to amend the City's Comprehensive Plan to add a growth tier map.

Mr. Mackey recommended that the Mayor and Common Council adopt Resolution No. 19-02, which provided for the addition of a growth tier map to the 2009 Comprehensive Plan.

Councilmember Chiavacci moved, seconded by Councilmember Becker, to adopt Resolution No. 19-02 of the Mayor and Common Council of Westminster, amending the City's 2009 Comprehensive Plan to add a growth tier map adopted administratively on December 7, 2012, and including lands annexed since that time.

VOTE

AYES: President Wack, Councilmember Becker, Councilmember Chiavacci, Councilmember Pecoraro, and Councilmember Yingling.

NAYS: None.

Resolution No. 19-03

Mr. Mackey stated that, on July 10, 2006, the Mayor and Common Council adopted Ordinance No. 745 to add Article VIII C, Compatible Neighborhood Overlay Zone, to Chapter 164 of the City Code. The new Article established an overlay district to allow creative residential projects that offer housing options in specific residential zoning districts. On November 12, 2018, the Mayor and Common Council adopted Ordinance No. 897 to expand the number of eligible receiving zones for the CN Zone and allow for applications by property owners other than the City.

Mr. Mackey informed the Mayor and Common Council that Article VIII C outlines a process whereby a property can be rezoned to CN by the Mayor and Common Council after which a site plan would be

submitted for review by the Planning and Zoning Commission. The site plan is not tied directly to the zoning approval; however, since the purpose of the overlay zone is to allow for a variety of housing types in the City, some level of information on a proposal subsequent to the rezoning would be helpful in illustrating how the proposal is anticipated to expand housing choices.

Mr. Mackey noted that §164-45.20 E of Article VIIC, as adopted in 2006, refers to the potential adoption of a resolution to guide applicants in the process. A review of the City's adopted resolutions indicates this guidance is yet to be adopted. Staff prepared the draft resolution to clarify the process and provide guidelines for applicants.

In conclusion, Mr. Mackey recommended adoption of Resolution No. 19-03 to formalize the CN Zone application process.

Councilmember Becker moved, seconded by Councilmember Pecoraro, to approve the adoption of Resolution No. 19-03 of the Mayor and Common Council of Westminster, approving procedural guidelines for detailed site plans for properties designated as Compatible Neighborhood Overlay Zones.

VOTE

AYES: President Wack, Councilmember Becker, Councilmember Chiavacci, Councilmember Pecoraro, and Councilmember Yingling.

NAYS: None.

Resolution No. 19-04

Mr. Mackey stated that the City is proposing to annex the recently purchased, City-owned property located directly next to the City's Wastewater Treatment Plant at 1117 Old New Windsor Road (formerly known as the Westminster Livestock Auction property). The property is comprised of two parcels located in unincorporated Carroll County, totaling 3.225± acres. The property is located directly adjacent to the City's boundaries.

Mr. Mackey informed the Mayor and Common Council that the proposed action relates to publicly-owned property. The annexation resolution meets the requirements of the Annotated Code of Maryland, Local Government Article, § 4-403. The Code requires the consent of the owners of at least 25% of the assessed valuation of real property in the area to be annexed and the consent of at least 25% of the registered voters residing in the area to be annexed. In this case, the parcels are in public ownership, and there are no persons residing in the area to be annexed.

Mr. Mackey stated that the subject property is contiguous with and adjoining to the existing boundaries of the City. The proposed annexation would not create an isolated area (enclave) of unincorporated land within City boundaries.

Mr. Mackey recommended that the Mayor and Common Council introduce the proposed resolution for annexation, so the process for consideration by the City, County, and other agencies may begin.

Councilmember Chiavacci moved, seconded by Councilmember Becker, to introduce Resolution No. 19-04 enlarging the corporate boundaries of the City of Westminster by annexing into the City certain property contiguous and adjoining to the City's existing corporate boundaries consisting of the real property located at 1117 Old New Windsor Road, Westminster, Maryland 21158, and consisting of 3.22 ± Acres, being the property identified as Tax Map 45, Grid 15, Parcel 438, Tax Id No. 07-035403, and commonly known as "The Westminster Livestock Auction Property".

VOTE

AYES: President Wack, Councilmember Becker, Councilmember Chiavacci, Councilmember Pecoraro, and Councilmember Yingling.

NAYS: None.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

DEPARTMENTAL REPORTS

Recreation & Parks Department

Ms. Gruber reported that the Recreation and Parks Department had sold 426 pool memberships compared to 289 in the same period last year. She also provided an update on social media likes/posts/shares for the City's three stroll events and Flower and Jazz.

Finance and Administrative Services

Ms. Palmer reported that she and Ms. Matthews were scheduled to meet with each of the department directors to discuss their budget requests for FY 2020. She then informed the Mayor and Common Council that City staff is discussing how to address the replacement of water meters; staff would provide a recommendation to the Mayor and Common Council in the near future.

Westminster Police Department

Chief Spaulding reported that the department recently hired seven new recruits; the recruits will graduate from the police academy in late July 2019. A lateral candidate was going through the comparative compliance process. Chief Spaulding shared that an officer who has been on military deployment was scheduled to return to work in late February.

Community Planning and Development

Mr. Mackey reported that he had received a CN Zone application. He anticipates that Family and Children Services would submit a site plan application in the near future now that the purchase contract had been authorized.

Mr. Mackey informed the Mayor and Common Council that the Westminster Planning and Zoning Commission and the Board of Zoning Appeals would not meet in February

Mr. Mackey concluded his report by informing the Mayor and Common Council that the resolution to adopt the City Tree Plan would come before them in February 2019.

City Administrator

Ms. Matthews reported that Public Works staff held several meetings with representatives of HRI, the contractor for the ENR and Biosolids Upgrade Project. HRI was undertaking work at 1117 Old New Windsor Road, the City-owned property that HRI had leased. Ms. Matthews stated that plans for a groundbreaking ceremony were pending.

Ms. Matthews then provided an update on the 45 West Main renovation project. She stated that the architectural team was finalizing the drawings for permit purposes; Ms. Matthews thanked the Public Works staff for their assistance in reviewing an earlier version of the drawings. She informed the Mayor and Common Council that a cost estimator had been retained to inform the City's decision-making process. Staff was in the process of reviewing the cost estimator's report. Ms. Matthews noted that the City had increased the square footage to be renovated, which would impact the cost of the project; additionally, federal imposed tariffs would affect pricing.

CITIZEN COMMENTS

None.

ADJOURNMENT

President Wack adjourned the meeting at 8:35 p.m.

Respectfully Submitted,

Shannon Visocsky, City Clerk

Full audio version is available on www.westminstermd.gov