APPROVED: Meeting No. 53-85

ATTEST: Helen M Heneghan

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 49-85

November 5, 1985

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Tuesday, November 5, 1985, at 9:05 p.m.

PRESENT

Mayor Viola D. Hovsepian

Councilman Steve Abrams

Councilman Peter Hartogensis

Councilman Douglas Duncan

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: Acting City Manager Daniel Hobbs; Secretary to the City Clerk Patricia A. Rager; City Attorney Paul Glasgow.

Re: City Manager's Report

Mr. Hobbs reported the following:

1. The Washington Chapter of the AIA has presented to Arthur Cotton Moore Associates, City of Rockville and Magers Construction company an award for the excellent design and execution of the Rockville courthouse square project. It will be appropriately framed and displayed.

2. The Mayor of Rockville has been signed up to speak at the November 13 public hearing on the Superintendent's Recommendations for Schools in Area 2. The Hearing starts at 7:30 p.m. and will be held at the John F. Kennedy High School auditorium because of expected attendance.

3. On Thursday, October 31, one copy of the City's Comprehensive Annual Financial Report for Fiscal Year 1985, was delivered to the State's Legislative Auditor as required by State statute. Usually the City has not been able to complete its audited financial statements until late December. Copies of this report are usually available to the Mayor and Council and citizens in January or later. This year, the report should be available by mid-November. He thanked the Director of Finance and the accountants in the Finance Department for a good job done. Mayor Hovsepian asked that Mr. Hobbs pass on the Council's thanks also.

Re: Presentation to Granville Paules for his services to the City and its citizens while serving on the Planning Commission

Mayor Hovsepian, on behalf of the Mayor and Council, presented to Granville Paules Certificate of Appreciation for his 8 years as a member of the Rockville Planning Commission. Mr. Paules thanked the Mayor and Council and said it has been a pleasure working on the Commission and he will miss it very much.

Re: Decision and Instructions to staff re: Annexation Petition, X-97-85, Covenant/Schiavone, Applicant, requesting the annexation of 11.41 acres of land, on the west side of Maryland Route 28 opposite Research Boulevard and placement in the O-1 Office Zone

The Council asked that this particular item be postponed until the Director of Planning arrives at the meeting. It was noted that Mr. Davis was at the Election office helping with the counting of the ballots.

Re: Adoption of Ordinance: To grant Map Amendment Application, M-44-85, Congressional South Associates, Ltd., Bethesda, Maryland, Applicant, requesting the rezoning of 2.78 acres on the Rockville Pike, south of Halpine Road, from the present I-1, Service Industrial Zone to the C-2 General Commercial Zone

Ordinance No. 31-85

On motion of Councilman Abrams, duly seconded and unanimously passed, Ordinance No. 31-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, granting Map Amendment Application, M-44-85, Congressional South Associates, Ltd., Bethesda, Maryland, Applicant, requesting the rezoning of 2.78 acres on the Rockville Pike, south of Halpine Road, from the present I-1, Service Industrial Zone to the C-2 General Commercial Zone, was adopted by the Mayor and Council.

Re: Adoption of Ordinance: To Amend the Zoning Map by including 2.00 acres of land located at the southwest corner of Westmore Road and Westmore Avenue in the I-1, Industrial Zone

Ordinance No. 32-85

On motion of Councilman Abrams, duly seconded and unanimously passed, Ordinance No. 32-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, to amend the Zoning Map by including 2.00 acres of

land located at the southwest corner of Westmore Road and Westmore Avenue in the I-1, Industrial Zone, was adopted by the Mayor and Council.

Re: Adoption of Resolution: To consent to the termination of certain convenants recorded among the Land Records of Montgomery County upon the condition that certain covenants be reimposed upon certain lots in the Washington National Pike Industrial Park

Resolution No. 34-85

Joseph Lynott, Esquire, on behalf of certain property owners in the Washington National Pike Industrial Park, has requested the City's consent to the termination of certain covenants applicable to property in the industrial park. The industrial park is located on the southwest side of I-270 along the I-2, Light Industrial Zone. However, covenants were imposed on the land to require development comparable to that permitted in the I-3 Zone. Most of the industrial park has been rezoned to the I-3 classification. According to staff, the I-3 zone sufficiently regulates the use of the land and the covenants are not necessary for the I-3 properties.

Four lots remain in the I-2 zone. Of these four properties, one is owned and used by Montgomery County for the County Police Headquarters. Mr. Lynott proposes to reimpose the covenants of the privately owned I-2 lots.

It should be noted that the covenants to be reimposed have deleted certain provisions. The Planning Staff is not concerned with the elimination of certain covenants as they have either not been of concern to the City or cover matters adequately regulated by other means.

On motion of Councilman Duncan, duly seconded and unanimously passed, Resolution No. 34-85, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, consenting to the termination of certain convenants recorded among the Land Records of Montgomery County upon the condition that certain covenants be reimposed upon certain lots in the Washington National Pike Industrial Park, was adopted by the Mayor and Council.

Re: Award of Contract:
Bid No. 33-86, Repair
of Town Center Garage

The Invitation for Bid was issued to obtain a contractor to make all required repairs to the east section of the Town Center Garage. A notice and synopsis of the Invitation for Bid was mailed to over seventy companies. Fourteen companies responded by picking up a set of the specifications and drawings.

Bids were opened at 4:00 p.m. on Wednesday, October 16, 1985, and the following bids were received:

Company	Bid
Barianos Historic Restoration, Rockville, MD	$ 92,150.00
Structural Preservation Systems, Baltimore, MD	342,000.00
Millonig Corporation, Potomac, MD	494,830.00

The current budgeted amount is $290,000.00.

Upon being told the results of the Invitation for Bid, Mr. Kirby from Barianos Historic Restoration informally indicated that the company may have made a mistake in its bid. Upon additional discussion with the Director of Community Development and Housing Assistance and City legal counsel, the Contract Officer contacted Mr. Kirby and asked whether the company would be able to complete the work at the price bid and whether it wished to withdraw. Barianos Historic Preservation has requested, in writing, to withdraw their bid.

It is recommended that Barianos be allowed to withdraw its bid as being in the best interest of the City and the company.

The Contract Officer has confirmed that Structural Preservation Systems has previously satisfactorily completed similar projects and has complied with the terms of its contracts.

The concrete repairs to the Town Center Garage are necessitated by the terms of the City's Mall Agreement with Eisinger/Kilbane. That agreement requires that the City must submit a certificate of inspection from an independent firm with respect to the concrete structure of the garage certifying that it is in good condition and not in need of repair.

The repair work must be done to comply with the City's contractual requirements. Delay in executing the agreement will extend the repair work into mid-winter when work cannot be done. Cold weather will also add to the concrete damage necessitating additional work if repairs are not made in a timely manner.

The second low bid is $52,000 over the budgeted amount. This discrepancy is attributed to the fact that the original estimate was offered by a different engineering firm than that which undertook the final garage survey and the plans and specifications for the work. The amount of work actually bid was somewhat more extensive than originally anticipated. Nevertheless, under the terms of the Mall Agreement, the repairs have to be made.

The money budgeted for the garage repairs was obtained from the 1.5 million dollars paid to the City as a parking capital contribution charge by Montgomery County in 1977. The additional $52,000 required to pay for the garage repairs could also be obtained from that source and appropriated at mid-year budget review.

It is possible to rebid the job again. The engineering consultant has said, however, that an immediate rebidding would probably result in higher prices from the present bidders should they choose to rebid. The magnitude of work contained in this bid requires the resources of a large company. The City

is, therefore, dependent upon how busy these firms are. If the work was delayed until spring, the prime construction season would have arrived. The companies would then be busier and the prices higher. Staff had, in fact, encouraged Structural Preservation Systems to bid on the first phase of garage repairs. They were too busy at that time to undertake the Rockville job.

The second low bidder has an excellent reputation and has proposed a price which appears to be responsive. It is, therefore, recommended that an award be made to Structural Preservation Systems in the amount of $342,000. It is requested that the Mayor and Council authorize an additional $52,000 to complete the project.

Councilman Hartogensis asked why the low bidder had to be relieved of its bid. The City Attorney explained.

On motion of Councilman Abrams, duly seconded and unanimously passed, Bid No. 33-86, for Town Center Garage Repairs, was awarded to Structural Preservation Systems in the amount of $342,000; and the low bidder, Barianos Historic Restoration, was relieved of its bid as recommended by staff. In addition, the staff was authorized to budget an additional $52,000 in order to complete the project.

Re: Approval of Minutes

On motion of Councilman Abrams, duly seconded and unanimously passed, the Minutes of Meeting No. 47-85, October 14, 1985, were approved as corrected.

On motion of Councilman Duncan, duly seconded and unanimously passed, the Minutes of Meeting No. 48-85, October 28, 1985, were approved as corrected.

Re: Decision on
Annexation Petition
X-97-85

This application was the subject of a public hearing by the Mayor and Council on Monday, October 14, 1985. The petitioner testified that residential development of the site with access from Maryland Route 28, would be cost

prohibitive (the Planning Commission has recommended that the properties be placed in the R-90 Zone if annexed.) In analyzing the development cost, the petitioners assumed development of one-family detached homes using the "cluster provisions in the R-90 Zone.

Comprehensive zoning such as in the case of annexations is intended to achieve the land use recommendations of the Master Plan and compatibility with existing uses in zoning in the area. A guarantee of economic success for the developer of a parcel should not be the overriding consideration in zoning matters. As long as some use can be made of the property, the action to place it in an R-90 Zone would not be confiscatory, and access to Maryland Route 28 is not mandatory, but is a recommendation. Staff believes that this site's close proximity to I-270 may make it desireable for church or institutional uses which are permitted by right or by special exception in the R-90 Zone. It is the policy of the Mayor and Council that every effort should be made to retain and expand the potential for increased housing resources in the City and the Master Plan clearly contemplated the use of this property for residential purposes. Staff can see no justification to vary from the Master Plan recommendation in this case.

Mr. Davis addressed the Mayor and Council and reviewed for the Mayor and Council the feelings of the staff and the applicant on the zoning of this particular property.

The Mayor and Council discussed this at length with Mr. Davis.

Councilman Hartogensis said he has a problem making a decision at this late hour in this Council's term. He would like to defer this decision to the new Mayor and Council.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, the decision on Annexation Petition X-97-85, was deferred until the new Mayor and Council takes office.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. Councilman Steve Abrams. Councilman Abrams said this is the last meeting of this Mayor and Council, some may be back and some will not. He said there has been a lot of talk about this Mayor and Council and he feels all of the members of the Council deserve a little better rememberance then the rhetoric of the campaign. He felt all performed admirably during the campaign. He complimented Mayor Hovsepian for her composure while conducting the business of the City. He also complimented Councilman Hartogensis for his performance since his appointment.

There being no other citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. University of Maryland, re thank you
2. Senator Mathias, response to CDBG letter
3. Rev. Moser, re Thanksgiving service
4. Neal Toomey, re Larry King Radio Show
5. D. J. Bowie, re Antique Car Show

Re: Information Items

The Mayor and Council noted the following items of information:

1. Copy of Wootton PTSA letter to Dr. Shoenberg
2. Information on FLSA compromise
3. Response to Del. Gordon questions on Pike traffic

4. Approval of request to amend Chapter 52 (Montgomery County) re historict property restoration

Councilman Hartogensis asked if there is any advice from the Historic District Commission. Mr. Davis said the Commission has discussed this and it was approved by them.

Re: New Business

1. Councilman Abrams asked that the City Manager and the Information Officer work with the media in clarifying events that happen or do not happen in Rockville. He referred to the Halloween night fight that was reported to have taken place in Rockville when actually it took place a couple of miles away.

2. Councilman Duncan said he has a letter that was distributed by Democratic and Republican Precinct officials to many households this past weekend giving their endorsement of a Mayoral candidate in the Rockville Election. He passed the letter on to the Clerk and asked that the Election Board look into this. He reemphasized the City's position on holding non-partisan elections. He would like some type of action taken.

Re: Report of Election Returns - Board of Election Supervisors

Jean Fleming, Chairman of the Board of Supervisors of Elections, addressed the Mayor and Council and reported the results of the Elections as follows:

Mayor

Viola D. Hovsepian	2244
John G. Tyner II	1381
Steven Van Grack	2458
Write-In	60

Council

Stephen N. Abrams	3031
Charles S. Carroccio, Jr.	1839
Carole Tanyer Cohen	2117
James F. Coyle	2604
Douglas M. Duncan	4402
Stephen H. Fisher	1706
Peter R. Hartogensis	2985
Patricia K. Lee	1662
Albert J. Mohorn	2051
Patrick L. Woodward	2276
Write-In	18
Write-In	5
Write-In	2
Write-In	1

The successfuly candidates are:

Mayor:	Steven Van Grack	2458
Council:	Douglas Duncan	4408
	Stephen Abrams	3031
	Peter Hartogensis	2985
	James Coyle	2604

The Mayor and Council thanked the Board of Election for its efforts.

Re: Adjournment

There being no further business to come before the Mayor and Council in general session, the meeting was adjourned at 9:40 p.m. to convene again in general session on Tuesday, November 12, 1985, 8:00 p.m. or at the call of the Mayor.