APPROVED: MEETING NO. 11-85

ATTEST: Helen McKeneghan

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 6-85

February 11, 1985

The Mayor and Council of Rockville, Maryland, convened in executive session in the City Manager's Conference Room, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland on Monday, February 11, 1985 at 7:15 p.m. for consultation with legal counsel.

PRESENT

Mayor Viola Hovsepian

Councilman Douglas Duncan

Councilman Peter Hartogensis

Councilman John Tyner, II

ABSENT

Councilman Steve Abrams
(Business Obligation)

The Mayor in the Chair.

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 7:55 p.m. to convene again in general session at 8:00 p.m.

The Mayor and Council convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, February 11, 1985, at 8:00 p.m.

PRESENT

Mayor Viola Hovsepian

Councilman Douglas Duncan Councilman Peter Hartogensis

Councilman John Tyner, II

ABSENT

Councilman Steve Abrams
(Business Obligation)

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Attorney Paul Glasgow; City Clerk Helen M. Heneghan

Re: City Manager's Report

Mr. Blick reported the following:

1. The Bill for the creation of a State debt for the F. Scott Fitzgerald Theatre has received a favorable report by the Montgomery County Delegates and Senators and has been referred to the House Appropriations Committee as HB 862. No date has been set for the hearing. MC 5185, Municipal Tax Authority for hotel and motels died after receiving an unfavorable report from the Montgomery County Senate Delegation on January 17. MC 54485 on the issuance of liquor licenses in the CBD zone should receive the City's support if it can be amended to support the Town Center Development.

2. The Dawson Farm Park, farmhouse and the Owens' home have been entered into the National Register of Historic Places.

Re: Appointments

Mayor Hovsepian made the following appointments. They were confirmed by the Council:

Advisory Commission on Public Education:

Charles Haughey - reappointed 2 year term and 1 year term as Chairman
Naomi Josephs - reappointed to a 2 year term

Joan Simi - reappointed to a 1 year term
Mary McEachern - reappointed to a 1 year term
Paul Tierney - reappointed to a 1 year term
Mary Jo Mountain - appointed to a 2 year term
5 Monument Court
Russell Petit -appointed to a 2 year term
629 Northcliffe Drive

Recreation & Park Advisory Board: Nancy Brun - 2 year term
913 Nelson Street

Robert Taylor - 2 year term
902 Wade Avenue

Rockville Scholarship Foundation, Inc.: Marcella Amspaugh - 2 year term
Rockville High School Cluster

Charlene Janes - 3 year term
Richard Montgomery High School Cluster

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Charles Glodt, re commendation of City employee

2. Ray Schnell, re reduced utility rates for senior citizens

3. Maryland Historical Trust, re Dawson Farm placement on National Register

Re: Information Items

The Mayor and Council noted the following items of information:

1. Memo from City Attorney re Casey Trust v. Mayor and Council

2. Letter from Gazette re combining publications

   Councilman Duncan suggested that the Mayor and Council not pursue this matter since it could cause a loss of identity to the City's newsletter. Councilman Hartogensis agreed with Councilman Duncan and added that the cost savings might not even be realized.

3. Police Activities quarterly report

4. Economic Update

5. Senior Center Newsletter

6. Memo re Dawson Farm House

   Mayor Hovsepian asked that the staff please pursue the City's participation in the dedication and order suitable placques.

Re: Approval of Minutes

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Minutes of Meeting No. 1-85, January 7, 1985, were approved as amended.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Minutes of Meeting No. 2-85, January 14, 1985, were approved as corrected.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Minutes of Meeting No. 3-85, January 24, 1985, were approved as corrected.

Re: Citizens Forum

Mayor Hovsepian opened the meeting to those citizens who wished to address the Mayor and Council.

1. Robert Jacques, 619 Aster Boulevard. Mr. Jacques suggested that at all times public bodies should react cooly to pressure groups. A time arrives when a public body reaches a breaking point and at that time criticism can become counter productive. He said people must understand there is a limit to public officials tolerance.

2. James Vitol, 11 Wall Street. Mr. Vitol addressed the Council concerning the Rockville Pike Corridor Study. He said he believed when JHK would do a thorough study when they were hired. However, no numbers were given or analytical data. Mr. Vitol produced for the Council his own analysis including the numbers. He added that JHK failed to produce [illegible]. It was either their one recommended plan or no [illegible]. The report is deficient in many areas. He said the target date established by the Council of March 11 does not give staff enough time to go back and study the entire Rockville Pike issue the right way with the hearing on the 4th. If an additional study were to begin right now there would be time.

3. Julian Whitaker, 2 Markwood Court. Mr. Whitaker spoke on behalf of the Montrose Civic Association. He said the Civic Association hopes to be kept informed during the Planning process on the Rockville Pike. The association is most concerned about the direction of development, the amount and the type that is fixed by zoning. Mrs. Joseph of the Association attended meetings between the developers and the City staff. These meetings were held early in the morning to accommodate developers. She was the only citizen asked to represent the Montrose area. No one was present from Bethany House or from the Pollinger Apartments, who were not even consulted. The Association finds the JHK report wanting in both scope and conclusions. The construction of Jefferson Street will encourage office development and there is no mention of an improvement to the intersection of Jefferson and Montrose which is heavily overburdened. The City Manager explained that meetings have been held every Tuesday morning for the purpose of deciding actions to take on the moratorium. The comprehensive planning for the area will be done over the next year and at that time whether or not to extend Jefferson Street will be considered as part of the Plan.

4. Lowell Baier, 11300 Rockville Pike. Mr. Baier said that the eagle sculpture will arrive in Rockville on Friday, February 15 at 11:30 at Jefferson Plaza and invited the Mayor and Council to attend. Mr. Baier then spoke on the Rockville Pike Moratorium. He said more retail sales are generated on the Rockville Pike than anywhere else in the Washington D.C. area. He urged the citizens to focus on the big picture of dealing with the moratorium. The JHK study presents direction and opportunity. At the same time the Mayor and Council are presented with an action program. The report has the full support of the Rockville Pike Advisory Committee and he would not like to see the process get side tracked.

5. William Allen, President of the North Farm Citizens Association. Mr. Allen said he would like to thank two City Departments who assisted the North Farm Association this weekend. Because of the death of a neighbor the police were asked to furnish the neighborhood with extra patrols during the funeral when the homes would be left unguarded. The Association was accommodated by the police force. The Association officers wanted to do a living tribute to the deceased. After speaking with Jeff Williams in the Recreation Department the Association was informed that the City will allow a tree planting in the Park. The Association will not forget the kindness given to them at this time and particularly the help of Jeff Williams.

6. Joseph Zetts, 121 Ritchie Parkway. Mr. Zetts said he concurs with Mr. Whitaker in his remarks concerning the Pike study. He referred to a reference in the report of Jefferson Street being extended to Richard Montgomery Drive. He noted that the figures must be incorrect since there is only an 80-foot wide dedication. Two 25 foot buffers will allow only a thirty foot distance for a four lane road. He said many times the citizens bring forward matters that are not noticed by the staff or commissions and the Mayor and Council should heed the citizens' remarks. Councilman Tyner said all citizens concerns will be addressed once the study begins on the Master Plan Amendment.

7. Allan Blandamer, Hungerford/Stoneridge Civic Association. Mr. Blandamer said he has been meeting with the Planning Area 9 Group on Tuesday mornings to discuss the moratorium, traffic and development and in many instances residents are invited to sit in on committees and simply listen to the conversation. He does not see this study as being in the best interest of the City as a whole since all traffic on the major roads affects traffic on other main roads and side roads.

Mayor Hovsepian said the Mayor and Council were elected to represent the best interests of Rockville citizens. The moratorium was placed to await .pa

the Plan. Now that the Plan has been presented the Mayor and Council have the next year to work together on the planning process with developers and citizens.

Councilman Tyner noted that residents of Rockville are private property owners and they must always remember developers are private property owners also. They have definite rights as private citizens do. The citizens must be made to understand that developers have agreed to give up one third of their development rights in order to assist the City in the process of imapproving Rockville Pike. Now is the time to move forward.

8. Joseph Lynott, 51 Monroe Street. Mr. Lynott addressed the Mayor and Council concerning Agenda Item No. 6. He said office development on the Pike causes the density of traffic in the peak morning and evening rush hours. A motel would generate less peak hour traffic. Section 3-311 of the Zoning Ordinance precludes any hotel or motel in an area of less than six acres. By approving this Text Amendment, the staff will be given the opportunity to study the benefit of hotel/motel development on the Pike.

9. Charlotte Joseph, Montrose Civic Association. Mrs. Joseph told the Mayor and Council that the Montrose Civic Association also includes the rental housing in the area, a fact alluded to earlier in the evening.

The City Manager said during the planning process over the next year the staff will work with the Association to find a way to allow the citizens better feedback and better representation.

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

Re: Status Report on Cable Television in Rockville

Mr. John Schmuhl, Executive Vice President of Tribune United, addressed the Council and highlighted the activities of the system since it began last fall. At the present time, Tribune United has completed 135 miles of the system.

All the aerial work is done and there are only a few underground neighborhoods to be completed. There are almost 4,000 subscribers at the present time. Problems have arisen in order to gain access to multiple dwelling units and also in areas where hook up is dependent on other easements. Mr. Schmuhl submitted a list of these problem areas to the Council. The company is working all of these out at the present time. All in all the system is working well.

Re: Decision and Instructions to staff re Planning Area III - Master Plan Amendment

Councilman Tyner asked the Planning Director for an explanation on page 2-9 where "standards' were changed to "guidelines." Mr. Davis explained this process. Councilman Tyner proposed that the "noise" be a separate item in each buffer area. The Council discussed this, the consensus being that noise guidelines between residential and non-residential areas should be incorporated into the Plan. The Council agreed that the report be brought back to the Council in final form with the corrections made. The Mayor asked that the report include the noise memoranda as discussed this evening.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the staff was instructed to correct the Plan and return it with an ordinance for adoption and include with the Plan the noise items mentioned and more stringent buffers.

Re: Preliminary Review and Referral of Text Amendment Application, T-67-85, J. A. Lynott, Attorney for Robert Construction Company, to delete Section 3-311.

Councilman Tyner said he is unwilling to see this move forward. The current policy reflected in the Zoning Ordinance was developed over a 34 month

study period. The decision was to allow motels in the Town Center near the Metro Station. It would seem most inappropriate to encourage hotel development at other sites. Councilman Hartogensis agreed and said he is concerned that there could be a saturation of hotels which might not show good development. He would prefer to see the present standards upheld. Councilman Duncan asked if this could be referred to the neighborhood planning group. The City Attorney explained the text denial process and said if it were sent to the Planning Commission they could be asked to consult with the neighborhood group. However, the process does not allow the group itself to study it independently.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Text Amendment T-67-85 was rejected by the Mayor and Council.

Re: Discussion of staff report on Rockville Pike development & traffic and instructions to staff to file application for Text Amendment and referral to Planning Commission

Mr. Davis, Director of Planning, briefed the Council on the response to the Mayor and Council moratorium on development in the Rockville Pike Corridor and explained that there are five elements to the study:

1. Specific Highway Improvements,
2. Resolution of the Moratorium,
3. Zoning Issues,
4. Capital Improvement Financing; and
5. Continuing Cooperation with the business community.

If the report is accepted by the Council tonight, on the one hand a text amendment can be made and referred to the Commission. At the same time a one-year work program can be developed. Councilman Duncan asked if the schedule

suggested by the staff is realistic and said that if at any time it seems to be slipping the Mayor and Council should be informed.

Councilman Tyner said over the past few months he has asked several times for a matrix of transportation development. He would also like a briefing by the Council of Government's Round III. He would like to see this briefing given to the Mayor and Council before decisions are made on Planning Area 12. The City Manager agreed that this would be done.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Rockville Pike Report was accepted and the staff was instructed to file an application for a text amendment that would reduce the FAR on Rockville Pike in the C-2 Zone from 3.0 to 2.0. By the same motion the text amendment was referred to the Planning Commission for further review and study.

The City Manager said a public hearing can be held on the Text Amendment on March 4 and the record closed on March 11 and instructions given to the staff for an ordinance to be adopted on March 25. The Mayor and Council agreed to this schedule provided that the transportation briefing is given. Councilman Duncan suggested February 25 for the briefing.

(At this time the Council took a five minute recess.)

Re: Discussion of
Expansion of Role of
Energy Commission

Mr. Steven Albersheim, Chairman of the Energy Commission, and member Bill Haberman were present and discussed the points submitted in a letter written to the Mayor and Council. It addressed the disbanding of the Energy Commission and forming instead a High Technology Committee that could give guidance on noise and air pollution and possibly do an inventory on hazardous waste and toxic chemicals in the City. There are experts, on the commission, who are willing to give their time to the City at no cost. After discussion the Mayor and Council agreed Mr. Albersheim's points are good ones and a commission of at least five

members would do a fine service to the City. Staff was instructed to return with the necessary legal documentation to disband the Energy Commission and a resolution to establish the High Tech Commission.

Re: Introduction of Ordinance to grant Map Amendment Application, M-40-84, J.A. Lynott, Jr. Attorney for Marriott Corporation, Applicant, requesting the rezoning of a five acre parcel of land at the southeast corner of Shady Grove Road and Research Blvd. from the present I-2, Light Industrial Zone, to the I-3, Industrial Park Zone.

On motion of Councilman Duncan, there was introduced upon the table an ordinance to grant Map Amendment Application M-40-84, requesting the rezoning of a five acre parcel of land at the southeast corner of Shady Grove Road and Research Blvd. from the present I-2, Light Industrial Zone, to the I-3, Industrial Park Zone, said ordinance to lay over at least one week before final action is taken.

Re: Introduction of Ordinance: To grant Text Amendment Application, T-65-84, J.A. Lynott, Jr., 51 Monroe Street, Applicant, to extend the special development standards for certain lots in the I-3 Zone to additional property.

On motion of Councilman Hartogensis, there was introduced upon the table an ordinance to grant Text Amendment Application, T-65-84, to extend the special development standards for certain lots in the I-3 Zone to additional property, said ordinance to lay over at least one week before final action is taken.

Re: Adoption of Ordinance: To Revise and Amend Appropriations Ordinance FY 85

Ordinance No 3-85

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, the Ordinance was amended to increase the general fund appropriation and the total funds by $15,000 and Section II to increase the Assessment Fund Appropriation and the total amounts appropriated by $3,504.00.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, Ordinance No. 3-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, revising and amending the Appropriations Ordinance for FY 1985, was adopted by the Mayor and Council.

Re: Approval of Annual Audit Contract

The present contract for auditing services with Peat, Marwick, Mitchell & Co. will expire prior to the City's producing the Comprehensive Annual Financial Report for the year ending June 30, 1985. The City must engage an independent auditor to review this report when completed and to express an opinion on it.

The key Finance Department staff continue to experience heavy workloads in implementing the new accounting and utility billing systems and in resolving some continuing problems with the payroll system. A new competitive solicitation process would be extremely difficult for the Finance Department staff.

Peat, Marwick, Mitchell & Co., has served as the City's independent auditor for the past three years. The firm has in-depth and intimate knowledge of the City's financial system and practices. The company would be far better prepared to work with the on-going process of implementing the new accounting system. In addition, until the new software systems have been implemented fully, other

Certified Public Accountant firms would be at a disadvantage in attempting to compete for a new contract.

Peat, Marwick, Mitchell & Co. has confirmed the firm's willingness to provide services in the July 1, 1985, through June 30, 1986, period at the same rate charged under the present contract for the July 1, 1984, through June 30, 1985, period.

Staff recommends that a new contract for audit services through June 30, 1986, be awarded to Peat, Marwick, Mitchell & Co., in the total amount of $29,000.

On motion of Councilman Hartogensis, duly seconded and passed by unanimous vote of all present, the contract for audit services through June 30, 1986, was awarded to Peat, Marwick, Mitchell in the amount of $29,000.

Re: Acquisition of Storm Water Management Area from Washington Gas Light Company

This is a "Grant of Storm Water Management Easement and Right of Way to the Mayor and Council of Rockville" negotiated with the Washington Gas Light Company (WGLC). The City will be constructing a storm water management facility on Dover Road on land owned by WGLC containing 2.43 acres.

This office began negotiations for the acquisition of the property in 1983. Discussions, however, were tabled by WGLC pending the outcome of a special assessment case. The WGLC was a party to a law suit filed in protest of an assessment levied for improvements to Dover Road. The assessment was upheld by the Courts during the summer of 1984, at which time, negotiations were resumed.

The value of the 2.43 acre easement, as determined by an independent real estate appraisal made by John J. Shank, MAI, is $79,600.00. The WGLC offered to settle the acquisition by exchanging the easement for cancellation of the special assessment against the same property, which amounts to $74,384.61.

It is recommended that the Mayor and Council approve the acquisition of the storm water management easement and right-of-way under the special condition of cancelling the $74,384.61 special assessment for Dover Road.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the acquisition of the right of way was approved by the Mayor and Council.

Re: Resolution: To deny Text Amendment Application, T-63-84, J.A. Lynott, Jr., Attorney for Jamil M. Azat, to alter non-conforming status for an existing restaurant in the Town Center Planning Area

Resolution No. 5-85

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, (Councilman Hartogensis abstained), Resolution No. 5-85, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, denying Text Amendment Application, T-63-84, was adopted by the Mayor and Council.

Re: New Business

1. Mayor Hovsepian noted a letter that had been received from the Woodmont Country Club requesting that the record on the Westmont Zoning, M-41-85, be held opened. The Council discussed this and agreed on the City Attorney's advice to respond to the letter asking that Woodmont submit their remarks and the City Attorney would make a recommendation to the Mayor and Council as to the statements inclusion in the record.

2. Mayor Hovsepian said there is a need for a public hearing on the Lenmore Apartment issue and the funds that must be appropriated for a loan to the owner for rehabilitation. Councilman Tyner agreed that members of the

Council would like to hear from the public on this. Mayor Hovsepian announced the public hearing would be held on March 4.

Re: Executive Session

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all present, the meeting was closed for executive session for consulation with legal counsel and property negotiation.

Re: Adjournment

There being no further business to come before the Mayor and Council in Executive Session, the meeting was adjourned at 11:55 p.m. to convene again in general session on Thursday, February 21, 1985, at 8:00 p.m. or at the call of the Mayor.