APPROVED: Meeting No. 43-86

ATTEST: Carol A. Kachadoorian

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 34-86

August 11, 1986

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 Monday, August 11, 1986, at 8:05 p.m.

PRESENT

Mayor Steven Van Grack

Councilman Steve Abrams

Councilman James Coyle

Councilman Douglas Duncan

Councilman Peter Hartogensis

The Mayor in the Chair.

In attendance: City Manager Richard V. Robinson, Assistant City Clerk Patricia A. Rager, City Attorney Paul Glasgow.

Re: Invocation

Jennie Forehand, Delegate for the House of Representative, provided the invocation for the Meeting.

Re: City Manager's Report

Mr. Robinson reported the following:

1. This week, Susan Habermas of the Rockville-Montgomery Swim Club became the first woman to win a national swimming championship in her first trip to the nationals. Ms. Habermas competed in the 200 meter freestyle, clocking in at 2:02.52. With this victory she guaranteed herself the coveted USS "Rookie of the Meet" award.

2. The City has signed an agreement with CTIC, Associates to provide a technical and economic analysis of the City's option to purchase the cable television system in Rockville. The study was approved by the Mayor and Council to provide assistance in deciding whether to approve the franchise settlement recently negotiated between Tribune-United and Hauser Communications, Inc. The City will pay CTIC, Associates, $10,000 to perform the study which must be completed by mid-October. CTIC is to accomplish the following:

- Assess the technical requirements for converting the existing TRACS system to a dual cable, conventional distribution system;

- Assess the legal implications under the Cable Communications Act of 1984 and pertinent Federal Communications Commission regulations that would impact the City's ability to successfully acquire and operate its own cable television system;

- Assess present and foreseeable programming, to include entertainment, information, and interactive services, which may warrant the decision to rebuild and maintain a dual cable, 108 channel capability.

3. Management has concluded an amended labor agreement with AFSCME. The results of the amendment will be discuss with the Mayor and Council in executive session.

Mayor Van Grack said he would like to express his appreciation to the staff and Council for attending and participating in the Strategic Planning Session that was held on Saturday with and between the Mayor and Council, City Manager and City Clerk.

Re: Citizen's Forum

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

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

Re: Appointments

The Mayor, with the confirmation of the Council, made the following appointments:

Rockville Seniors, Inc.: Rosalie Campbell - reappointed to a 1 year term
Bernie Shannon - reappointed to a 1 year term
Charles Miller - reappointed to a 1 year term as the Accountant to the Board

Animal Control Board: Ann Holt, DVM - appointed to a 1 year term as Chairman

Re: Consent Agenda

On motion of Councilman Hartognesis, duly seconded and unanimously agreed, Item No. 4(d) on the agenda was removed from the consent agenda.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, the following three agenda items on the consent agenda were passed as recommended by staff.

Re: Bid No. 12-87: Recommendation on Award of Contract for Rehabilitation of Basketball Courts at Maryvale Park

Invitations for Bid were mailed to 89 prospective contractors, 4 publication services, and advertised in the local papers. Sealed bids were received and opened at 2 p.m. on August 4, 1986, in the Purchasing Office for the rehabilitation of the two existing basketball courts at Maryvale Park.

The bids were as follows:

Company	Total Bid Amount	Deduct Alternate Adjusted Bid Amount
Mid-Atlantic Tennis Courts, Inc. Fairfax Station, Virginia	$29,995	$22,495
Pickens & Sons, Inc. Clarksville, Maryland	$35,150	$26,000

Note: The deduct/atlernate includes only the elimination of the color coat smooth surface system for the court.

This project includes patching and asphaltic resurfacing of the two existing basketball courts. Also, the existing basketball standards, backboards, and rims will be replaced. Existing fencing around the basketball courts will be removed and replaced with new materials. Finally, the courts will be relined with 2" wide playing lines.

The project is funded in the approved FY 1986 Park Maintenance Operating Budget in the amount of $25,000. The City retained the right to delete certain items from the bid to bring the total price within the budget for the project. Therefore, a deduct alternate unit price was required for four clearly defined items within the specification.

Staff recommends an award to Mid-Atlantic Tennis Courts, Inc., in the amount of $22,495, as low-aggregate bidder for the rehabilitation of the two existing basketball courts at Maryvale Park as specified in Bid No. 12-87. Mid-Atlantic Tennis Courts, Inc., has performed satisfactorily on previous work for the City.

Councilman Abrams asked if this is a rebid and if so how does it differ. The City Manager explained. Councilman Abrams asked if the original low bidder rebid. Mr. Robinson said that he is not sure but will get back with that information to Councilman Abrams.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Bid No. 12-87 for rehabilitation of the two existing basketball courts at Maryvale Park be awarded to Mid-Atlantic Tennis Courts, Inc., in the amount of their low-aggregate bid of $22,495.

Re: Bid No. 8-87:
Recommendation on Award
of Contract for
Installing Play
Equipment at 6 Parks

Invitations for Bid were mailed to 100 prospective contractors, 4 publication services, and advertised in the Washington Post. Sealed bids were received and opened at 3:00 p.m. on Thursday, July 24, 1986, in the Mayor and Council Chambers for the installation of play equipment and amenities at the following parks: Broome Athletic Park, Civic Center Park, Glenora Park, Montrose Park, Monument Park, and David Scull Park.

The bids received were as follows:

Company	Total Bid Amount	Unit Prices Adjusted Bid Amount
Howard County Landscaping Co. Jessup, Maryland	$118,040.99	$ 89,483.56
Havenhurst Company Alexandria, Virginia	139,800.00	108,200.00
Pickens and Sons Clarksville, Maryland	161,650.00	118,105.00

The combined projects are funded in the approved FY 85 and FY 86 CIP budgets in the amount of $95,000. The State of Maryland's Program Open Space is funding 75% of this project. $5,000 is used for design and inspections.

The City retained the right to delete certain items from each park to bring the price to within the budget for each park. Therefore a unit price was required for each clearly defined improvement at each park. The unit

prices adjusted bid amount column reflects those deductions for each bid received. Award was to be made on the basis of low aggregate bid.

Staff recommends an award to Howard County Landscaping Company in the amount of $89,483.56 as low aggregate bidder for the construction and installation of the project items specified in Bid No. 8-87. Howard County Landscaping, Inc. has performed satisfactorily on previous contact work for the City.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Bid No. 8-87 was awarded to the low aggregate bidder, Howard County Landscaping Company, in the amount of $89,483.56 for the construction and installation of the play equipment in six Rockville parks.

Re: Cooperative Procurement, 3M Company Traffic Marking Material, Montgomery County Contract No. 60187AA

A determination was made by staff that high intensity grade pavement markers, reflective sheeting, sign faces and letters are available under Montgomery County Contract 60187AA, effective through December 31, 1986, and under State of Maryland Contract C4184 effective through November 30, 1986.

Both contracts were obtained through competitive procurement procedures, with the Montgomery County invitation being on a Brand Name or Equal basis. As a result, both the State and the County awarded contracts to 3M Company.

Staff has compared the prices available to the City under these two contacts and has found that the Montgomery County Contract offers the lowest price for each item. The only exception to this is that the State does not have a current contact for the High Intensity Reflective Sheeting, Sign Faces and Letters, nor for the Engineerng Grade Pre-Cut Letters.

The Bid prices are as follows (they reflect the total for this requirement):

HIGH INTENSITY GRADE PAVEMENT MARKERS

	Quantity	Mont. County	State of MD
4" X 120 yd. roll Yellow Line	10	$ 2,685.60	$2,892.00
4" x 120 yd. roll White Line	20	5,371.20	5,784.00
8" x 30 yd. roll White Line	30	4,028.40	4,338.00
16" x 30 yd. roll White Line	10	2,685.60	2,892.00
Straight Lane Arrow (2/pkg)	15	1,656.75	1,970.70
Left Lane Arrow (2/pkg)	15	1,872.00	2,226.45
Right Lane Arrow (2/pkg)	5	624.00	742.15
Only (legend) (1/pkg)	20	2,529.00	3,011.40

HIGH INTENSITY SHEETING, FACES, LETTERS (NO CURRENT STATE CONTRACT)

9" x 50 yd. blue sheeting	5	$1,551.85
No Left Turn SYMBOL	30	762.00
4" Silver Letter "L" (25/pkg)	20	193.00

ENGINEER GRADE PRE-CUT SIGN LETTERS
(25 identical letters per package In black. No current State contract)

		Quantity	Mont. County
2" letters A-3-L-N-O-T-U	(20 pkg. each letter)	140	$ 238.00
3" letters C-D-G-L-M-R-S	(20 pkg. each letter)	140	357.00
4" letters A-D-L-N-R-S	(20 pkg. each letter)	120	441.60
5" letters E-N-O-S	(20 pkg. each letter)	80	351.20
6" letters C-D-E-L-S	(20 pkg. each letter)	100	523.00
2" letters - White P-R	(20 pkg. each letter)	40	106.00

It is recommended that award be made to 3M Company under the same terms and conditions provided under Montgomery County Contract 60187AA in the amount of $25,976.20, the total of the above listed items.

Re: Introduction of Ordinance: To amend Chapter 11, Section 11.1-02 of the "Laws of Rockville", entitled "Traffic, Vehicles and Transportation" so as to restrict and clarify the prohibitions of on-street truck parking and to further provide for the issuance of special permits for truck parking

Councilman Hartogensis said it was his understanding that it was the consensus of the Council to issue truck permits to only one per household. If it was not the consensus, he would like it to be. Councilman Coyle said that it was his recollection. Councilman Duncan expressed his viewpoint in which there would be only 1 truck per household and the City Manager would make a ruling if no off street parking was available.

Councilman Hartogensis said he would like to see the proposed ordinance speak to the Manager granting a special permit after holding a public hearing. He suggested having an administrative hearing without a public hearing in order to keep it simple and the cost down, such as what is done for a use permit. Mayor Van Grack said he would like to see all of item (f) deleted. Councilman Hartogensis suggested having a notice sent to the neighborhood without a public hearing. Councilman Duncan said he wants to have some public comment.

The City Manager said that the hearing process proposed is not a public hearing in the traditional sense. If there is no public comment on a particular application, then there will be an administrative review by staff. Councilman Hartogensis asked what would happen if anyone is dissatisfied with the ruling. May they then go to the Board of Appeals. Councilman Coyle asked

what the time frame between the Manager's administrative review and the public hearing. Mr. Robinson noted that it is stated in the ordinance that there would be ten days. Mr. Glasgow, the City Attorney then explained his thoughts on the process of the public hearing.

Councilman Duncan asked if flat-bed tow trucks are banned in this ordinance. Chief Stout explained that flat bed tow trucks are too wide, have too many wheels, and weigh too much to allow even under the special permit.

Councilman Hartogensis asked that after the City Manager adopts his rules for the administrative hearing process, he would like the Mayor and Council to review and approve them. Mr. Robinson said that this is an administrative procedure and suggested that it is not something that the Mayor and Council want to be adopting and approving. Mayor Van Grack asked that a copy be given to the Mayor and Council for their review.

On motion of Councilman Duncan, there was introduced upon the table an ordinance, to amend Chapter 11, Section 11-1.02 of the "Laws of Rockville", entitled "Traffic Vehicles and Transportation" so as to restrict and clarify the prohibitions of on-street truck parking and to further provide for the issuance of special permits for truck parking, said ordinance to lay over at least one week before final action is taken.

Re: Final Report from the Election Task Force

Mr. Dennis King, Co-Chairman of the Election Task force presented the Task Force's final report to the Mayor and Council. Mr. King congratulated the Mayor and Council for their foresight and good judgment for recognizing the need to bring the City's existing election laws to date.

Mr. King said the Task Force was very grateful for the testimony provided by the Mayor and Council and to the public who participated throughout the course of their study. The Task Force also thanked Paul Glasgow, Helen Heneghan, Pat Ridgeway, Doug Jernigan from Montgomery County Supervisors of Election, Don Vandrey and Terri Auchter for keeping them on track.

Mr. King outlined the report of the Task Force. The Task Force's goal was to enhance voter participation in the election process and to bring Rockville in line with their election process. Mr. King then gave a run down on the majority of the recommendations.

Councilman Coyle thanked and congratulated the Task Force and Councilman Duncan who kept the Mayor and Council informed of the process. Councilman Coyle asked Mr. King if any past data was collected to support the recommended increase in compensation for the Mayor and Council or was it just a sense of the group. Mr. King said the Task Force studied the history of compensation for the Mayor and Council. It averaged out that the Mayor and Council got an increase about every 8 years. He referred to an appendix Item #3 which shows the history of Mayor and Council compensation. Mr. King noted that any increase given to the Mayor and Council not go into effect until 1987. The last increase to the Mayor and Council was in 1984. There was discussion on having an independent advisory board review the salary of the Mayor and Council. Councilman Coyle asked if this was a unanimous consensus of the Task Force. Mr. King said it was the majority's view point. Some members thought the compensation should be more and that it not take effect until after the next election.

Councilman Coyle asked what the discussion was, if any, on eliminating dual registration. Mr. King said many of the Task Force members favored

single registration with amendments. For example, people who are military but keep their voter registration somewhere else. Another feeling is that by combining City and State roles that would increase registered voters to 20,000. On a whole, these people should be able to vote in a Rockville election because they spend their money in the area and it was felt it would make it easier to have one book than two. The recommendation of the Task Force is to adopt Montgomery County's list.

Councilman Coyle asked Mr. King what was the most difficult issue of this process and what should the Mayor and Council be most aware of. Mr. King said there was a lot of splendid discussion. He noted that there are three minority reports. Some people were not satisfied but each person had a fair shot. He believes it was a fair compromise for all involved.

Councilman Abrams asked what the process, time wise, is from here. The Mayor suggested at this time to hold a public hearing and schedule it for September. Then, he would like to see a work session with the Task Force to work out the "rough edges" and have the Mayor and Council vote on this come October/November. Councilman Hartogensis suspects that there will be a need to work with the City Attorney's office because many of these changes are dealt with in the Charter. Mr. Glasgow said his office needs to get a sense of what changes the Mayor and Council are going to make.

Councilman Abrams felt more of a need for a public forum that a public hearing. Councilman Duncan felt it would be good to have a public hearing with a transcript. He noted that the Task Force was fortunate to have a transcript to refer to. Mayor Van Grack agreed with Councilman Duncan.

Councilman Coyle noted that the recommendation to have a Fair Campaign Commission with its own legal counsel is very different from past City practice. He noted that in the Ethics Ordinance, the City's legal department would be used. A whole new body would have to be formed. Mr. King said it was a very strong view point of the Task Force to have this process. The Task Force dealt with many complaints from last year's election. If there were any charges with a basis, nothing ocurred to correct them. This provides a much stronger structure. The Board of Election has their hands full in conducting the election and would not be comfortable in handling this. The Task Force feels very strongly that an individual counsel be attained and have the Board of Supervisors of Election be separated from this decision by having an outside body.

Before finishing, Mr. King noted to the Mayor and Council that the Task Force tried to note where a change would take place in the Charter if the any or all of the recommendations are approved.

Councilman Duncan thanked the Task Force for their hard work. It was a real pleasure working with the members of the task force for the past six months. He looks forward to the public hearing and the work session. This report brings Rockville to the 20th Century on election procedures.

Mayor Van Grack thanked Mr. King for serving as Co-Chairman and thanked the members of the Task Force for their devoted work, expressing his appreciation for the hundreds of hours given.

Re: Public Hearing: Text Amendment T-74-85, Westmont Associates, Applicant, to amend Section 5-703 of the Zoning and Planning Ordinance to eliminate the need to obtain a separate special exception for certain uses proposed in a Comprehensive Planned Development Applicant

The Mayor and Council of Rockville held a public hearing on Text Amendment Application, T-74-85, Westmont Associates, Applicant to eliminate the need to obtain a separate special exception for certain uses proposed in a Comprehensive Planned Development Application, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other person wishing to be heard, the Mayor closed the hearing with the record to be held open to September 8.

Re: Correspondence

The Mayor and Council noted the following items of Correspondence:

1. Letter from Antoinette Gendron regarding Volunteer Appreciation Party

2. Letter from "A. Tenant" at Congressional Towers concerning rent increases

3. Letter from the University of Maryland thanking the City for its $300 contribution for a Japanese Beetle Program

Re: Information Items

The Mayor and Council noted the following items of information:

1. Memo from Director of Planning regarding Montgomery County Zoning Map Amendment for Fortune Parc

2. Memo from Planning staff regarding T-78-86, Comprehensive Development Procedures

   Councilman Duncan suggested incorporating the comments of the Mayor and Council with the Planning Commission. By combining the two

comments in the beginning, the City could then strengthen its point by reiterating its recommendations again to the County. Mayor Van Grack felt that is good to express the City's opinion as often as necessary.

3. Letter to Director of Recreation & Parks, regarding City's Discovery Program

4. Letter from J. Mark Langlais, Executive Director of Community Clinic, Inc., regarding health care services to residents of Lincoln Park

5. Letter to Nancy Francis regarding the City's summer playground program

6. Senior Center Newsletter, August, 1986

Re: Approval of Minutes

On motion of Councilman Coyle, duly seconded and unanimously passed, the Minutes of Meeting No. 22-86, May 13, 1986, were approved as written.

Re: New Business

1. Councilman Duncan noted that a Text Amendment (T-79-86) has been filed by the Planning Commission for adding an I-5 Industrial Zone to the Zoning Ordinance. This is the Planning Commission's response to Text Amendment T-78-86.

Councilman Duncan moved to instruct staff to prepare the necessary legal documentation to deny acceptance of Text Amendment Application T-79-86. Councilman Coyle seconded the motion.

Councilman Abrams felt support should be given to this text amendment providing there are other options made available. Councilman Abrams noted that the Mayor and Council will be holding a work session on T-78-86, which as presently drafted, would not allow the Council to adopt a new zone. He asked the City Attorney if it is possible to call for a public hearing on T-79-86 on September 8, does the Council still have the ability to add an additional zone. Mr. Glasgow said it is possible for the Mayor and Council to hold the

public hearing on Text Amendment T-79-86 on the same night a work session will be held on T-78-86. The Mayor and Council could also close the record on T-79-86 and hold a combined work session on the two text amendments. Or, the Text Amendments do not have to be done on the same night. Councilman Abrams asked if the Mayor and Council wanted to look at a new zone can it be done under Text Amendment T-79-86 or could T-78-86 be amended. Mr. Glasgow said if it is done under T-78-86, a new public hearing would need to be held. Councilman Abrams asked if comments from T-79-86 could be included into the T-78-86 record. Mr. Glasgow said as long as the record on T-78-86 is opened.

Councilman Abrams said he would like to have the opportunity before the Mayor and Council to have the ability to create a new zoning category. He said he would like to readvertise Text Amendment T-78-86 to include a new zone and hold a public hearing on September 8. Councilman Hartogensis said he agrees with Councilman Abrams on this. He does not want to reduce the Mayor and Council's options at this time. He would like to have some lateral movement and the option of adopting a new zone.

Councilman Coyle said that a public hearing has already been held on T-78-86 and does not want to see the Council get into a parallel new zone. Putting in a new zone at this time will create uncertainty and is going to simply confuse the citizens. It is his feeling to stay with T-78-86 the way it is now.

Mayor Van Grack asked Councilman Coyle if he would be prepared to remove the restrictions placed on the Planning Commission by Text Amendment T-78-86. Councilman Coyle said he could not discuss this item at this time.

Councilman Duncan said he agrees with Councilman Coyle in that Text Amendment T-78-86 is front of the Council and should be dealt with now. He

does not agree with adding a new zone. He is opposed to adding an I-5 or I-7 zone everytime new development comes along. He noted that he will be submitting written comments to the Mayor and Council at a later time on Text Amendment T-78-86.

Councilman Abrams said he can understand why Councilman Coyle does not want to add a new zone at this time but is flabergasted that he does not want as many options as possible before the Mayor and Council when holding the work session. He does not like to see the Mayor and Council put in a position of having to go back to square one because of some minor defect in the Text Amendment. Councilman Coyle said there is the opportunity to deal with all the issues before them. He too would like to see the Mayor and Council move forward.

Councilman Abrams said he would like to table Councilman Duncan's motion until there is a motion of Text Amendment T-78-86. He would like to see a public hearing set for Text Amendment T-79-86 and then decide whether to reopen the hearing record for Text Amendment T-78-86.

Councilman Abrams moved to table consideration of Text Amendment T-79-86, pending an outcome of that vote.

Mayor Van Grack said it is very apparent that the Mayor and Council is not in agreement on the issue. Councilman Hartogensis and Abrams want to have the option of including a new zone in Text Amendment T-78-86. And, he sees Councilman Duncan and Coyle wanting to go ahead with Text Amendment T-78-86. Mayor Van Grack said he supports Councilman Abrams motion to table Councilman Duncan's motion at this time.

Councilman Coyle reiterated his agreement with Councilman Duncan in that this is not a work session and he does not want to entertain a motion. These

are two separate issues. He said he is not opposed to tabling the motion but feels it is not appropriate to include it in the work session for T-78-86.

Councilman Hartogensis seconded Councilman Abrams motion to table the denial of Text Amendment T-79-86 until disposition is made of procedural decision on Text Amendment T-78-86.

Councilman Abrams' motion to table decision on Text Amendment T-79-86 failed to pass with only Councilmen Abrams and Hartogensis voting aye and Mayor Van Grack and Councilmembers Duncan and Coyle voting nay.

Councilman Duncan's motion to deny Text Amendment Application T-79-86 passed with Mayor Van Grack and Councilmembers Duncan and Coyle voting aye and Councilmembers Abrams and Hartogensis voting nay.

Councilman Abrams moved to instruct the staff to amend Text Amendment Application T-78-86 to create an O-4 Zone and to set a public hearing on the O-4 Zone as a perameter to T-78-86 for September 8 and subject to a work session on September 8 with the record to be held opened until 16. Councilman Hartogensis seconded the motion.

The motion failed with only Councilmembers Abrams and Hartogensis voting aye and Mayor Van Grack and Councilmembers Duncan and Coyle voting nay.

Re: Executive Session

There being no further business to come before the Mayor and Council in general session, the meeting was closed in order to discuss personnel matters and to consult with legal counsel.

Re: Adjournment

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 10:30 p.m. in order to convene again in general session on Monday, September 8, 1986, at 8:00 p.m. or at the at the call of the Mayor.