

## REGULAR CITY COUNCIL MEETING

MONDAY, MAY 21, 2012

### CALL MEETING TO ORDER

The Regular Meeting of the Bowie City Council was held on Monday, May 21, 2011 in the Council Chambers at City Hall. Mayor Robinson called the meeting to order at 8:00 p.m.

### PLEDGE OF ALLEGIANCE TO THE FLAG

Scout Wheeler of Boy Scout Troop 403, who is working on a citizenship merit badge, led the Pledge of Allegiance to the Flag.

### QUORUM

In attendance were Mayor Robinson, Mayor Pro Tem Polangin, Councilmembers Brady, Gardner, Marcos, Trough and Turner, City Manager Deutsch, Assistant City Manager Fitzwater, City Attorney Elissa Levan, Members of the Staff, the Press, and the Public.

### AGENDA ADDITIONS/DELETIONS/AMENDMENTS

Mayor Robinson asked to add to the Consent Agenda item J. Proclamation P-9-12 – Celebrating Memorial Day 2012, By Honoring Those Whose Lives Were Given in Service to Their Country. Councilmember Turner requested Consent Agenda item H. Approval of Resolutions R-45-12 and R-46-12 be moved to Old Business as item D. for consideration with item C. Emergency Ordinance O-6-12 since they are related. Council concurred.

### CITIZEN PARTICIPATION

Former Council Member Eugene Kiley, 3621 Melfa Lane, spoke about an editorial piece (attached) he distributed to Council concerning one potentially large energy resource, ocean thermal energy conversion (OTEC) and the possible location of OTEC facilities in Maryland with a potential 27,000 jobs. Mr. Kiley said he hopes Lockheed Martin (Bethesda) which is developing a visualization tool and the State of Maryland will get together on this.

### COUNCIL ANNOUNCEMENTS

Mayor Robinson offered a reminder that the Memorial Day Parade is Saturday, May 26, 2012 at 11 a.m. and the Memorial Day formal recognition ceremony will be held at Veterans Park in Old Town Bowie on Monday, May 28<sup>th</sup> at 11 a.m.

Councilmember Turner mentioned that the City is co-sponsoring a Homeowner Relief and Foreclosure Prevention Workshop at Kenhill Center on Wednesday, May 23<sup>rd</sup> from 7-9 p.m. The

Maryland Attorney General's Office organized the workshop; other co-hosts are the 23<sup>rd</sup> District Delegation and County Council Members Turner and Davis.

### CONSENT AGENDA

Councilmember Marcos moved approval of the following Consent Agenda items: A. Approval of Minutes of May 7, 2012 Council Meeting; B. Approval of Resolution R-38-12 – Accepting Bid for the Removal and Replacement of Built Up Flat Roof at Water Treatment Plant; C. Approval of Resolution R-40-12 – Accepting Bid Proposal for IT Backup Solution; D. Approval of Resolution R-41-12 – Approving Variance Application BV-5-12, A Request by Robert and Kathleen Fish for a Variance to Construct Approximately 105 Linear Feet of Six Foot (6') High Fencing in the Front Yard (Along Race Track Road) at 13033 Victoria Heights Drive When, According to the Prince George's County Zoning Ordinance, Such Fencing Shall Not be More Than Four Feet (4') High; E. Approval of Resolution R-42-12 – Approving Variance Application BV-6-12, A Request by Mr. Joshua Ryan Kane for a Variance to Construct Approximately 176 Linear Feet of Six Foot (6') High Privacy Fencing in the Front Yard (Along Race Track Road and Oval Lane) at 13100 Ovalstone Lane When, According to the Prince George's Zoning Ordinance, Such Fencing Shall Not be More Than Four Feet (4') High; F. Approval of Resolution R-43-12 – Appointing a New Resident Agent for the City of Bowie; G. Approval of Resolution R-44-12 – Accepting Bid for the Construction of a Paved Parking Lot at Church Road Park; I. Approval of Letter to Prince George's County Planning Board Recommending Approval of Preliminary Subdivision Plan #4-11011 (Mill Branch Crossing); J. Approval of Proclamation P-9-12 – Celebrating Memorial Day 2012, By Honoring Those Whose Lives Were Given in Service to Their Country. The motion was seconded by Mayor Pro Tem Polangin and carried unanimously.

### OLD BUSINESS

#### A. Ordinance O-3-12 – Approving and Adopting a Budget for the Fiscal Year Beginning July 1, 2012 and Ending June 30, 2013.

Councilmember Truth thanked his colleagues for their dedication. He noted his pleasure that Council was able to move the needs assessment and site analysis for an Indoor Sports Facility from FY17 to FY13; commented that Council didn't want to impose additional hardships on residents in the form of increases in any type of tax; and highlighted maintenance of core services.

Councilmember Marcos echoed his colleague's comments. He commented that Council passed a good, conservative budget and said it is Council's responsibility to move forward cautiously.

Mayor Pro Tem Polangin thanked Finance Director Patrick, Assistant Finance Director Matthews and other staff for putting together a conservative budget; thanked the City Manager for walking Council through the budget and answering their questions; and also thanked her colleagues for working together. She commented this Budget was a tough one but got the things we needed; didn't have to increase taxes while still providing core services. She noted a need to be cautious because of the nation's economy; Federal and State funds may not be forthcoming to the extent the City needs; and must continue discipline to maintain City reserves and diligently follow financial systems that have served the City so well in the past.

Councilmember Gardner thanked his colleagues and staff, and residents for the opportunity to represent their interests in the budget process. He said many groups and organizations approached him and asked for consideration, and it is the intent of the City to fulfill its obligations to all constituents.

Councilmember Turner said he appreciated colleagues' flexibility and openness to hearing the arguments, particularly of constituents represented. He said he was thankful too that Council saw fit to move forward with the indoor facility study. He thanked staff for efforts to assist Council as it went through the budget. Councilmember Turner said he was probably the leader of adding more objectives and criteria for staff and Council to review over the next year as future funding decisions are made; shares colleagues thoughts on holding the line on the impact of budget on residents, particularly holding the line on potential tax increase. He shares concern about Water and Sewer rate increase; understands it's necessary but should look at how things can be done differently in the future.

Councilmember Brady commended staff, especially Finance Director Patrick and Assistant Finance Director Matthews and said City staff is one of the best of any municipality in the State. Councilmember Brady noted this was another challenging budget; thanked colleagues for a prudent and appropriate document for the coming year; commented that Council did no harm to the budget document in its review.

Mayor Robinson congratulated colleagues on a balanced and focused budget that covers core services; said it is a solid and conservative budget that looks at conditions in the State, some of which are unknown – with time built in to anticipate how the State budget will affect the County budget and ultimately the City. Council focused on the community and doing the right thing. The Mayor congratulated staff and also thanked legal staff for their guidance.

Mayor Pro Tem Polangin moved approval and adoption of O-3-12; motion seconded by Councilmember Marcos and it carried unanimously.

B. Resolution R-25-12 Adopting a Capital Improvements Program for Fiscal Years 2013-2018 – Councilmember Turner moved approval of R-25-12; motion was seconded by Councilmember Marcos and carried unanimously.

C. Emergency Ordinance O-6-12 – Declaring Certain Real Property Owned by the City, Situated Along Health Center Drive in Bowie, Maryland, and consisting of 1.12+ Acres, to be Surplus, Declaring the Intent of the City to Convey the Property to Harmony Place Associates, LLC and Authorizing the City Manager to Take All Actions Necessary to Effect Such Conveyance – City Attorney Elissa Levan reviewed the City's involvement in certain litigation related to the property known as Harmony Place that extended over several years. Approximately a year ago, the City entered into settlement negotiations and it was the Council's judgment that the negotiated settlement that was reached returned benefits to the City that outweighed the potential likelihood of success in the litigation. As a part of the settlement, the City will be receiving substantial funds from the developer, in exchange for which one of the items of consideration was the transfer of a parcel of property owned, but not used, by the City to the developer who will use it for tree conservation. Ms. Levan emphasized that the parcel will continue to be used for the public good in the sense that trees will be planted on it. The City will be receiving consideration of \$25,000 for that parcel which is consistent with an appraisal done on the property so that is a fair market value. In addition, on or before settlement, the City will be receiving the additional settlement compensation. The developer will be transferring an easement to the City for the purpose of constructing some sort of monument; Ms. Levan said she expects that will be done at the same time as closing although that hasn't been established.

D. Approval of Resolutions R-45-12 and R-46-12 – Authorizing the City Manager to Execute An Easement and Right-of-Way Agreements Across Certain Real Property Along Health Center Drive to Permit the Location of Water Lines and Sanitary Sewer Lines to Serve the Project Known as "Harmony Place" – Ms. Levan referenced Resolution R-45-12 which approves an easement to Harmony Place for the water line; they are going to construct both a water line and the sidewalk that goes over top of that and

maintaining that in perpetuity. Resolution R-46-12 authorizes the City Manager to execute sewer line easements in favor of WSSC so that its lines can run under Health Center Drive. The plats that are attached to R-46-12 are going to change because, in conversations between the City Attorney and the attorneys for WSSC and the developer late this afternoon, it was determined that they don't need the full easements in those plats because it is a public road; they do need partial easements running from the paved portion of the road to the developer's property. Ms. Levan said Council's approval of this Resolution (R-46-12) is needed as well; the actual location of the easements is going to change slightly; there may be only two rather than three sewer line easements.

### **Public Hearing:**

Since no one had signed up to speak, the Mayor declared the Public Hearing on Ordinance O-6-12 to have been held.

Councilmember Turner thanked Ms. Levan and the City Manager for following up; his concerns simply were that when the City did settle the litigation with Harmony Place last year, there were certain conditions and agreements that were signed by the City and by some residents who were parties of record; his questions related to the timing of certain conditions underneath those agreements and the City Attorney answered those questions.

Councilmember Brady asked what is in place to assure that this is a permanent tree conservation area. Mr. Deutsch said approval by the County Planning Board assures tree conservation; City and County inspectors will assure that it is maintained.

In response to a question from Councilmember Brady, Ms. Levan indicated Council can go ahead and approve Resolution R-46-12 because it was drafted to say "in substantially the form attached hereto"; the exhibits are not entirely accurate but can be revised administratively. Authorizing the City Manager to execute will allow the project to proceed.

Councilmember Gardner moved to approve Ordinance O-6-12; motion was seconded by Councilmember Turner and carried unanimously.

Councilmember Gardner moved to approve Resolutions R-45-12 and R-46-12; motion was seconded by Councilmember Turner and carried unanimously.

### **NEW BUSINESS**

A. Resolution R-39-12 – Adopting the Housing and Community Development Annual Action Plan Fiscal Year 2013. Jesse Buggs, Director of Grant Development and Administration, reviewed elements of the final Annual Action Plan (FY13) in the Five-Year Consolidated Plan. There is about a \$10,000 reduction from what the City received last year -- about \$165,000 compared to about a \$175,000 allocation last year. Staff is about to go into development of the next Annual Action Plans starting in July; process takes about nine months and must be filed with HUD by May 15, 2013. Surveys will be distributed to determine what the community wants to see for the period 2014 to 2018 and will be brought back to Council for examination. Staff has to develop a more comprehensive document that specifically delineates all demographic data of the City; a firm was retained to do that the last time and Mr. Buggs said he suspects they will come back to Council during the next fiscal year to request funds for that process.

Under this particular Action Plan, the City has serviced 105 senior residences (single-family homes), spending about \$924,000. Attachment A in the report is a spreadsheet which shows the items

(HVAC systems, roof replacements, etc.) money has been spent on, in addition to conducting energy audits of all homes in the program and providing a construction manager to review the work done by all of their contractors before payment was made.

Mr. Buggs noted that a significant part of the City's program is being looked at by other entities in the State. The City helped develop a program over the past two and half years where other cities were getting money from the Maryland Energy Administration (MEA) to do energy efficiency operations in homes; the City was asked to assist the University of Maryland in counseling those cities as that program was developed. MEA is now asking them to do something larger with the City; staff will come back to Council with what that means and what our role would be. The City has worked in the past with both MEA and the Maryland Housing Department as they rolled out the weatherization program throughout the area; the City had seven or eight seniors in our program go through the weatherization program.

The final component of the Action Plan is an Analysis of Impediments to Fair Housing that HUD mandated the City conduct. Because the City doesn't have planning/zoning authority in the County, staff felt the City should not be put in a position where it had to be responsible for enforcing laws, rules and regulations that the City has no authority over. As a result of the City working with HUD on issues, HUD directed the County and City to do a collaborative analysis of impediments to fair housing study, with both hiring the same firm to conduct the analysis. That firm has determined that it will be months before the County portion is completed so staff asked the firm to finish the City's portion of the study; the Executive Summary is Exhibit B to the Annual Action Plan Draft. The only recommendation made was that the City use 1% of its annual CDBG entitlement grant allocation (\$1,400-1,500) to do education and outreach on issues related to fair housing. The City doesn't have to try to match the County in its role of enforcing housing development and providing moderate/low income housing units in every development that is built in the City.

#### **Public Hearing:**

Since no one signed up to speak, the Mayor declared the Public Hearing to have been held.

In response to Councilmember Turner's questions concerning the Benchmarks chart in the Annual Action Plan, Mr. Buggs clarified that the number of applications is greater and will be corrected; there are another 10 or 12 applications in the hopper; the goals are for FY 2011 through 2013. One hundred ninety people called about getting on a waiting list. Because of new income limits imposed by HUD (\$86,000), the Grants Office cannot proceed with some applications; letters will be sent to those applicants.

Councilmember Turner suggested keeping foreclosures in the forefront and that maybe a goal for the next Five Year Plan could be how the City deals with current and future foreclosures.

Mayor Robinson thanked Mr. Buggs. Mayor Pro Tem Polangin moved approval of Resolution R-39-12 Adopting the Housing and Community Development Annual Action Plan Fiscal Year 2013. The motion was seconded by Councilmember Gardner and carried unanimously.

#### **ADJOURNMENT**

Mayor Pro Tem Polangin moved that Council move into Executive Session to discuss a personnel matter. The motion was seconded by Councilmember Marcos and carried unanimously. The meeting adjourned at 8:44 p.m.

Anne S. Ford, Acting City Clerk