

MINUTES
Regular Meeting of the College Park City Council
Tuesday, May 12, 2009
8:00 p.m.

PRESENT: Mayor Brayman; Councilmembers Molinatto, Wojahn, Catlin, Perry (left at 9:15 p.m.), Hampton and Mary Cook; Student Liaison Dan Hartinger.

ABSENT: Councilmembers Stullich and Mark Cook.

ALSO PRESENT: Joe Nagro, City Manager; Suellen Ferguson, City Attorney; Janeen Miller, City Clerk; Sara Imhulse, Assistant to the City Manager; Steve Groh, Director of Finance; Leo Thomas, Deputy Director of Finance; Bob Ryan, Director of Public Services; Steve Halpern, City Engineer; Robert Stumpff, Director of Public Works; Peggy Higgins, Director of Community Resources.

A quorum being present, Mayor Brayman called the Meeting to order at 8:02 p.m. Councilman Perry led the Pledge of Allegiance.

Mayor Brayman noted the absences of Councilmembers Mark Cook and Stephanie Stullich, and welcomed back Councilman Perry.

Minutes: The minutes from the April 28 Regular Meeting were presented for approval. A motion was made by Councilmember Mary Cook and seconded by Councilmember Hampton to approve the minutes. The motion passed 6-0-0.

Announcements:

Councilmember Hampton announced the College Park Woods Neighborhood Watch would hold their spring picnic on Saturday from 12 – 4 at the park on St. Andrews Place. The unveiling of the Dervey Lomax Memorial Plaque will take place on Saturday at 10:00 a.m. at Lake Artemesia. Councilmember Catlin added that the plaque will be placed near the site of Mayor Lomax’s pre-urban-renewal house in Lakeland.

Councilmember Mary Cook announced the West College Park Citizens Association would meet on Sunday, May 17 at 7:00 p.m. at the College Park Woods Swim Club.

Councilman Perry thanked everyone for their support during his time of illness.

Councilmember Wojahn announced the Committee For A Better Environment would hold a rain barrel workshop on Saturday, June 13 at 9:00 a.m. at Davis Hall. Each registered participant will receive a free rain barrel.

Councilmember Molinatto announced that Friday May 15 is “Bike To Work Day,” and the City of College Park is hosting a pit stop between 6:30 – 8:30 a.m. at City Hall.

Acknowledgement of Dignitaries: Mayor Brayman recognized Larry Bleau, President, North College Park Citizens Association.

Acknowledgement Of Newly Appointed Board And Committee Members: Mayor Brayman recognized Araceli Jimenez, Harold Jimenez and Valerie Bleau who were recently appointed/reappointed to serve on the Education Advisory Committee. Ms. Denise Mitchell, the EAC Committee Chair, was also recognized.

Amendments To The Agenda: Add item number 09-G-50, a motion authorizing the City Manager to proceed to settlement on the Lee Property (8800 Baltimore Avenue) For Sale To Star View Plaza, LLC, Consistent With The Terms And Conditions Of The Development Agreement And Agreement Between The Parties.

City Manager’s Report: Mr. Nagro provided additional information on Bike to Work Day and gave the web address: www.waba.org.

He informed the Council that the City will be the recipient of two electric vehicles as part of a Council of Governments program where Nissan is providing electric vehicles at no cost to local governments as part of an experimental program. Nissan also will provide the infrastructure (charging stations). Each charge will last about 60 miles and then a 6 – 8 hour re-charge is needed.

He informed the Council that power is now installed at the parking garage.

Public Works has cut tall grass at 8 locations in the City per the recently approved Ordinance that allows the City to abate tall grass conditions at unoccupied residences.

He also told the Council that on tonight’s agenda under the item “Appointments To Boards And Committees” the Council will be asked to ratify the City’s recent reappointments to the College Park City-University Partnership.

Student Liaison Comments: Mr. Hartinger provided information on the Student Government Association’s protest last week about proposed development of the Wooded Hillock. He has provided a briefing to the new SGA officers about City matters.

Comments From The Audience On Non-Agenda Items:

Larry Bleau, 4901 Niagara Road, President, North College Park Citizens Association: Mr. Bleau reported on the upcoming meeting of the NCPCA on Thursday night at 7:30: Regular report from the Prince George’s County community police officer; an update on the Rhode Island Avenue/Edgewood Road intersection; a report from the nominating committee; a discussion of NCPCA election procedures; a presentation from the 21st District Delegation; Association dues are due in May. The new web site address is myncpca.org.

Denise Mitchell, 3501 Marlborough Way, Chair of the Education Advisory Committee: Ms. Mitchell thanked the Council for their recent appointments to the EAC and stated the Committee

is looking forward to working on the preschool fair and working with Council on the education grants again this year.

Farewell Presentation to Student Liaison Dan Hartinger: Mayor Brayman invited Student Liaison Dan Hartinger to the podium and made remarks about the Student Liaison Program in general, and about Mr. Hartinger's service in specific. Mayor Brayman presented Mr. Hartinger with the budgeted student liaison stipend, a plaque, and a small gift. Mr. Hartinger also made personal remarks. The new student liaison, Jonathan Sachs, outgoing president of the Student Government Association, arrived later.

Consent Agenda: A motion was made by Councilmember Hampton and seconded by Councilmember Molinatto to adopt the Consent Agenda, which consisted of the following items:

09-G-44 Approval Of A Field Use Request For Duvall Field On May 29 For Berwyn Christian School Fun Day

09-G-46 Approval Of A Proclamation In Support Of National Public Works Week, May 17-23, 2009

09-G-47 Approval Of A Letter To The State Highway Administration Regarding US 1 Pedestrian Safety

The motion passed 6-0-0.

Action Items:

09-O-03 Introduction of 09-O-03, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 38, "Code Of Ethics."

A motion was made by Councilmember Hampton and seconded by Councilmember Wojahn to introduce 09-O-03, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 38, "Code Of Ethics", Article I, "General Provisions", Section 38-4, "Definitions", Article III, "Prohibited Acts", Section 38-11, "Conflicts Of Interest", And Section 38-12 "Nepotism" And Article IV "Required Disclosures", Section 38-17 "Disclosure Of Conflicts Of Interest" To Amend The Definition Of Family Member And Interest, And Add A Definition Of Domestic Partner And Domestic Partnership, To Clarify What Constitutes A Conflict Of Interest, To Prohibit Solicitation Of Gifts, To Clarify What Is A Permissible Gift And To Make Certain Technical Changes.

Councilmember Hampton stated that the Public Hearing on this Ordinance would be held on Tuesday, June 9, 2009 at 7:30 p.m. in the Council Chambers at City Hall.

09-G-50 A motion authorizing the City Manager to proceed to settlement on the Lee Property (8800 Baltimore Avenue) For Sale To Star View Plaza, LLC, Consistent With The Terms And Conditions Of The Development Agreement And Agreement Between The Parties.

A motion was made by Councilmember Catlin and seconded by Councilmember Hampton as follows: In reliance on the Development Agreement dated January 17, 2008 between the City and Star Hotels, LLC, and the Agreement dated January 17, 2008 between the City, Star Hotels, LLC and the College Park City University Partnership, both of which are hereby confirmed, and it appearing that the Transfer Conditions contained in paragraph 2(c) of the Development Agreement have been satisfied, I move that the City Manager be authorized to proceed on behalf of the City to settlement on the property located at 8800 Baltimore Avenue and referenced as the Lee Property for sale of said property to Star View Plaza, LLC consistent with the terms and conditions of the said Development Agreement and Agreement.

Councilmember Catlin stated the Detailed Site Plan for this property has been approved and the developer has been working to secure financing for the project. The City has been contacted by the title company to satisfy various contingencies needed for the applicant's financing. This motion doesn't change the City's position; it just confirms prior agreements and authorizes the City to go to settlement.

Comments From The Audience:

Larry Bleau, 4901 Niagara Road: Asked about the City's role in the transfer of the Lee property. Mayor Brayman stated that we own a portion of the parcel that is now being developed as student housing by Star Hotels. The City purchased the property with a Community Legacy grant/loan. Prior agreements between the City and the developer stated that the City would transfer the property to Star Hotels at a certain point in time, which has now arrived. The funds from the settlement will go to repay the Community Legacy loan; City funds were not used.

The motion passed 6-0-0.

09-G-48 Approval, With Conditions, Of Detailed Site Plan 08080 For University View Village And Amendment To Declaration Of Covenants

Ms. Schum stated the applicant and staff met just prior to the meeting, that there are revisions to several conditions in the motion, and they are not currently in agreement on all points.

Ms. Schum discussed staff's proposed revisions and new language to condition numbers 2c, 2f, 2j, 2k, 5, 6b and 13 of the motion.

For the applicant, Mr. Norman Rivera commented on the revisions proposed by Ms. Schum. There was discussion about several points of disagreement.

Mayor Brayman called a recess at 9:31 p.m. for the parties to try to work out an agreement. The meeting reconvened at 9:42 p.m. Ms. Schum read the new revisions to condition numbers 2c, 2j, 2k, 2f, 3b, 5, 6b, 13 and 15 of the motion.

A motion was made by Councilmember Catlin and seconded by Councilmember Molinatto to recommend approval of Detailed Site Plan 08080 for University View Village subject to the following conditions:

- 1. APPROVAL of the alternative development district standards for:**
 - a. Public Areas, P6. Utilities, A. To allow the applicant to retain the three existing aboveground utility poles at the current location without relocating them underground; however, all new utilities serving the proposed development shall be placed underground.**
 - b. Site Design, S2. Parking Areas, S and T. To allow the applicant to provide 93 fewer parking spaces than required subject to paragraph 13 of this motion.**
 - c. Site Design, S3. Building Siting and Setbacks, B. To allow the applicant to exceed the build-to-line of 12 inches to 12 feet established for subarea 3.**
 - d. Site Design, S4. Buffers and Screening, E. To permit the applicant to not provide a six-foot high opaque masonry wall or other opaque screening treatment.**
 - e. Building Design, B1. Height, Scale, Massing and Size, C, M, and N. To allow the applicant to exceed the maximum height permitted, to not meet the minimum unit size, and to not meet the required bedroom percentages.**
 - f. Building Design, B3. Architectural Features (Architectural Materials and Details, Window and Door Openings, Awnings, Building Amenities), I. To allow the applicant to not provide balconies.**
- 2. Prior to certification, the applicant shall revise the Detailed Site Plan as follows:**
 - a. Provide on-street parking along the US 1 frontage subject to SHA approval and a review of potential impacts to the proposed future median.**
 - b. Provide crosswalks at all intersections and, subject to SHA approval, provide a crosswalk of interlocking pavers at the signalized intersection with US 1 and Berwyn House Road. Alternatively, colored, stamped asphalt is acceptable.**
 - c. Provide revised architectural elevations that include green metal spandrel treatments on the four corner elements facing US 1 similar to View II, and a cornice treatment similar to University View, and replace the EIFS with red brick at the second level on the south and east elevations. This condition does not require a net increase in the percentage of brick.**
 - d. Provide percentage brick calculations.**
 - e. Provide unit mix, bedroom size, and bedroom percentage information.**
 - f. In addition to the 500 square foot fitness facility valued at \$75,000, the applicant shall provide additional recreational facilities equal to \$100,000 in value.**
 - g. Provide bicycle parking calculations and locate bicycle parking for a minimum of 104 bicycles on the plan.**
 - h. Provide designated, onsite parking spaces for up to five zipcars.**

- i. **Eliminate the existing fence at the rear property line.**
 - j. **Provide stormwater management structures that result in the equivalent of a minimum 50 percent reduction in impervious area but shall strive to achieve 75 percent. In the event the applicant cannot achieve 75 percent, other low impact development techniques such as green roofs, rain barrels or cisterns shall be provided.**
 - k. **Provide a completed LEED 2.2 for new construction checklist for the subject property.**
- 3. Prior to certification, the applicant shall revise the Landscape and Lighting Plan as follows:**
- a. **Correct the location of the screening for the transformers.**
 - b. **Provide four additional pedestrian streetlights spaced at fifty feet on center along US 1.**
 - c. **Provide a detail for the tree planter boxes along the US 1 frontage.**
- 4. Prior to certification, the applicant shall revise the Sign Plan as follows:**
- a. **Eliminate the monument sign at US 1. Prior to the issuance of a building permit, the applicant, heirs, successors and assigns can request a modification of the DSP to allow a monument sign with mandatory referral to the City of College Park.**
 - b. **Provide a common sign plan that specifies standards including lighting, colors, lettering style, size, height, quantity and location.**
- 5. When a procedure is established whereby property owners and their heirs, successors and assigns on US 1 in College Park are required to pay their pro rata share toward the cost of placing underground all utilities crossing their properties, payment of its share, not to exceed \$200,000, shall be made by Applicants within thirty days to an escrow account to be created by the City of College Park. If such a requirement is not established by January 1, 2019, this condition expires.**
- 6. Prior to issuance of the use and occupancy permit for phase 1, the applicant shall enter into an agreement with the University of Maryland, and provide a copy to the City of College Park and Prince George's County, for:**
- a. **Provision of shuttle service to the subject property.**
 - b. **The applicant shall pursue the establishment of a bike sharing program with the University of Maryland or other entities adjacent to the site. If this program is not implemented by the time of building permit for phase 2, then the applicant shall provide 45 bike spaces in addition to the 104 spaces already on site.**
 - c. **Provision of overflow parking spaces on campus.**
- 7. Provide color and material boards.**
- 8. Total development shall be limited to no more than 59 AM Peak Hour Trips and 184 PM peak hour trips.**
- 9. Seek to attract a convenience retail tenant that serves student residents, as well as residents within one-half to one-mile of the subject property.**
- 10. A disclosure clause should be placed on final plats and deeds for all properties that notifies prospective purchasers that the property has been identified as within approximately one mile of a general aviation airport. The disclosure clause shall include the cautionary language from the General Aviation Airport Environment**

Disclosure notice.

- 11. Applicants shall provide a perpetual, non-exclusive ingress/egress easement, appurtenant to the University View and View II properties, for vehicular and pedestrian passage across the 8350 Property by University View and 8300 Baltimore Avenue, LLC and its invitees, licensees, suppliers, tenants, customers, employees and invitees of such tenants for purposes of accessing the signalized intersection of Route 1 and Berwyn House Road. This non-exclusive easement includes vehicular and pedestrian ingress and egress to and from the View and View II properties over, upon and across the 8350 Property, and any subdivision thereof, in perpetuity, for purposes of access to the said intersection.**
- 12. University View and 8300 shall provide a perpetual, non-exclusive ingress/egress easement, appurtenant to the 8350 Property, for vehicular and pedestrian passage across the University View and View II properties by 8350 and its invitees, licensees, suppliers, tenants, customers, employees and invitees of such tenants for purposes of accessing the right in/right out intersection of Route 1 and Navahoe Street. This non-exclusive easement includes vehicular and pedestrian ingress and egress to and from the 8350 Property over, upon and across the University View and View II, and any subdivision thereof, in perpetuity, for purposes of access to the said intersection.**
- 13. The Applicants shall, at a minimum, construct a total of 470 parking spaces (462 garage spaces, 8 surface spaces). The parking spaces required by Phase I of the project total 182 spaces (including the 20% reduction). Due to the fact that said garage will also provide 109 spaces for use by off-site residents, prior to issuance of a building permit for phase 2, an analysis of parking for the project both on- and off-site shall be presented to the City of College Park and Prince George's County. Measures to address any parking shortage shall be required including parking on the University of Maryland campus. In the event University of Maryland does not satisfy this parking shortage, other options shall be pursued including enlarging the garage, increasing shuttle bus service or other measures to reduce parking demand.**
- 14. The applicant shall provide the University of Maryland Department of Transportation Services with Identification Numbers of lessees so that permits to park on campus are not issued to residents who have secured parking at the subject property.**
- 15. The applicant shall agree to amend the Declaration of Covenants and add an Easement Agreement with the City, in substantially the form as attached.**

Councilmember Catlin acknowledged this is a complicated project with a short time line because it goes to the Planning Board on May 21. He believes the City has worked out a good compromise.

Mayor Brayman asked Norman Rivera, the attorney for the applicant, if he would represent on the record that his client is in agreement with all the conditions in the motion and asked if he would represent this before the Planning Board. Mr. Rivera replied, "Yes" and said they will echo the City's motion as outlined tonight and ask the Planning Board to adopt it verbatim.

Councilmember Mary Cook continues to have concerns about the architecture but wishes the applicant success.

The motion passed 5-0-0.

09-G-49 Appointments To Boards And Committees

A motion was made by Councilmember Wojahn and seconded by Councilmember Molinatto for ratification of the City’s reappointments to the City-University Partnership: Mayor Joseph Page (City appointment) and Ms. Janet Maxwell (Joint appointment/Treasurer).

Councilmember Mary Cook asked about the joint appointment of the treasurer: why was that position made a joint appointment and who does she represent when she votes. Mayor Brayman reviewed the history.

The motion carried 4-1-0 (Councilmember Mary Cook opposed)

New Student Liaison: Outgoing Student Liaison Dan Hartinger introduced incoming Student Liaison Jonathan Sachs. Mr. Sachs was the SGA president during the 2008-2009 academic year. He looks forward to sharing his perspective with the City.

Council Comments:

Councilmember Wojahn discussed a presentation at the last Four Cities Meeting in New Carrollton about projected enrollments that indicated Hollywood Elementary School could be at 161% of capacity by 2015. He intends to follow up with the Education Advisory Committee and asked for a future Worksession discussion of this item.

Councilmember Mary Cook stated she was pleased to receive the responses to the RFP for the Strategic Planner.

Comments From The Audience: None.

Adjournment:

A motion was made by Councilmember Mary Cook and seconded by Councilmember Wojahn to adjourn the Regular Meeting. The motion passed 5-0-0, and Mayor Brayman adjourned the meeting at 10:18 p.m.

Janeen S. Miller
City Clerk

Date Approved

Pursuant to §C6-3 of the College Park City Charter, at 11:07 p.m. on May 5, 2009, in the Council Chambers at City Hall, a motion was made by Councilmember Wojahn and seconded by Councilmember Catlin to enter into an Executive Session, citing the following authority:

G: Consult With Counsel

The motion passed 5-0-0.

Present: Mayor Brayman, Councilmembers Molinatto, Wojahn, Catlin, Hampton and Mary Cook.

Absent: Councilmembers Perry, Stulich and Mark Cook.

Also Present: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Sara Imhulse, Assistant to the City Manager; and Dan Hartinger, Student Liaison.

Topic Discussed: To discuss a proposed resolution of the Schware litigation.

A motion was made by Councilmember Wojahn and seconded by Councilmember Molinatto to adjourn the Executive Session. Mayor Brayman adjourned the Executive Session at 11:13 p.m. by a vote of 5-0-0.
