

MINUTES
Special Session of the College Park City Council
Tuesday, April 18, 2006
8:13 P.M.

PRESENT: Mayor Brayman; Councilmembers Milligan, Krouse, Catlin, Perry, Fellows, Hampton and Peña-Melnyk; Student Liaison Emily Guskin.

ABSENT: Councilmember Olson was testifying on the M-NCPPC budget and arrived at 8:18 p.m.

ALSO PRESENT: Joe Nagro, City Manager; Sara Imhulse, Assistant to the City Manager; Bob Levan, City Attorney; Janeen Miller, City Clerk; Bob Ryan; Director of Public Services, Terry Schum, Director of Planning; Claire Sale and Elisa Vitale, Planning Department Staff.

During the regularly scheduled Worksession of the College Park City Council on April 18, 2006, a motion was made by Councilmember Perry and seconded by Councilmember Fellows to enter Special Session. The motion passed 7-0-0.

Action Items:

06-G-65 Authorize the City Manager to Sign the Right of Entry Agreement For The Jiffy Lube/Lee Property.

A motion was made by Councilmember Perry and seconded by Councilmember Peña-Melnyk to authorize the City Manager to sign a right-of-entry agreement for the Jiffy Lube/Lee Property.

Mr. Nagro clarified this was a right-of-entry request by the Geofreeze Construction Company that is doing the restoration work on the stream bank behind Jiffy Lube. They have requested the right of entry onto City property for storage, and bringing equipment into the work site. Mr. Levan and Mr. Halpern worked with the company on this agreement; we have a copy of their Certificate of Insurance naming the City as an additional insured, and a \$50,000 bond. Geofreeze will make certain improvements to the property when they are done.

There were no comments from the audience on this item.

Councilmember Catlin asked why the Agreement specified a September 2006 end date – will the work take that long? Mr. Levan clarified the work will be completed before that

date, but this will allow the City time to insure they have acceptably restored the property (grading and hydro-seeding) when they are done.

The Motion passed 8-0-0 (Councilmember Olson arrived prior to the vote).

06-G-64 Transfer of Liquor License to Eastern Beverages (T/A Shoppers Food Warehouse), 4720 Cherry Hill Road, College Park.

Mayor Brayman opened the discussion by inviting the representatives to the table. Mr. Ryan stated he did not receive a copy of the Needs Analysis from the applicant. He stated the hearing before the Board of License Commissioners (“BOLC”) is 10:00 a.m. next Tuesday April 25, which is why this Special Session is needed.

Evan Myers was representing Shoppers Food Warehouse (“SFW”) in the absence of Linda Carter. He stated the Marketing Report (Needs Analysis) was not yet available. Mayor Brayman asked that it be provided to the City when completed. Mr. Myers introduced Kevin Small, Rick Rodgers, and Tom Mowery from SFW.

Mr. Myers reviewed the history of the improvements put in to place at SFW in response to customer’s desires (pharmacy, bank, etc).

Mr. Small stated that adding the sale of beer and wine is just to bring another convenience to the customer, to allow “one-stop” shopping. He showed pictures of other beer and wine departments in other SFW locations. This is anticipated to be 1,000 SF (in a store of 69,000 SF). He reviewed the history of the SFW chain in the region. The College Park store opened in 1998. He reviewed improvements to the store since that time.

Rick Rodgers clarified the request is for beer and wine only, they will not sell singles, they will have no exterior signage, will not use this to bring people in to the store, only as a convenience factor for existing customers, in a safe and responsible environment. There are many customers who shop at the store that want to be able to buy beer and wine there rather than go to another place to purchase it. They are a respectable business, and this will not change. They want to address the City’s concerns.

Tom Mowery stated this addition is to enhance the store in College Park, but the store will not become a beer and wine store. They think this convenience may eliminate traffic from Route 1 because the customer will not have to go down the street and buy their beer and wine from another liquor store on Route 1. He stated SFW will not sell singles, high-octane wines, the selling area will be caged and closed during the hours they are not allowed to sell, and the register system also controls purchases. Reviewed training plans for College Park staff should the transfer be approved. There is a security guard on-duty from 9 p.m. to 5 a.m. every day. There is also video surveillance.

Mayor Brayman asked questions about the timing of the Needs Analysis and of the legislative change that allowed this transfer application. There was discussion about the requirements of the BOLC, about the warehousing capacity in the store for beer and wine, and about the expected impact this transfer would have on other businesses in the City that also sell beer and wine. Mr. Rodgers anticipated there would be no more than 200 SF in the back of the store for storage of beer and wine. They can't afford to store too much in the back because they pay cash up front for that. Most of their stock will be on the selling floor.

Councilmember Milligan asked how the meeting with the North College Park Civic Association went, and if they offered any concessions in writing. Mr. Rodgers answered he thought the meeting went well, but acknowledged there is a group that has an issue with the way the legislation occurred, and a group that just doesn't want the beer and wine for sale, and a group that supports it. They were not asked to make any concessions. There was discussion about overall sales at the store; beer and wine sales at the 24 SFW stores that have a license to sell totals about 3.5% of total sales.

Councilmember Catlin asked about the geographic area the College Park SFW store draws from and about other nearby SFW stores.

Councilmember Perry asked what conditions they were comfortable having as a part of their license, such as: a limitation in the amount of square footage used for the sale of beer and wine, a secure area in the store, a requirement that no singles or high alcohol content beverages be sold, no exterior signage, a security guard be on site during the hours of sale. Mr. Small said they would have no problem putting those items into a covenant.

Mayor Brayman then opened the meeting up to public comment on this item.

Mark Shroder, representing the NCPCA, 4909 Muskogee Street: None of the issues that NCPCA has are with what happens inside the store, which is what SFW is addressing. NCPCA has a history of not agreeing to new off-premises sale licenses within north College Park, because they believe there are enough licenses in College Park. They voted two times, unanimously, to oppose this transfer request prior to last week's meeting. No new action was taken after that meeting, so their prior record – in opposition - stands.

Fred Schaffer, 10102 51st Avenue: He is opposed to this application. There are already a lot of liquor stores in College Park. There is a Chinese Bible School in the Autoville area, within the 1,000 feet of the SFW.

Chris Behnke, 5212 Paducah Road: Supports this application for beer and wine. It would be very convenient for him to be able to buy this at SFW, now he goes north to Beltsville for these purchases.

Maria Mackey, 9242 St. Andrews Place: Is opposed to transferring this license. She does not want liquor sold in the store where she buys her groceries. Is also concerned about putting temptation in the way of recovering alcoholics.

Barbara Duffy, 10103 Baltimore Avenue: Supports this transfer request. She would rather purchase beer and wine in a grocery store rather than at a separate liquor store because she doesn't like the liquor store atmosphere. Often goes to the Giant on New Hampshire Avenue to purchase these items now.

Mary Cook, 9806 47th Avenue: She is opposed to the license transfer for many reasons: the way it was brought about, no proof-positive about the possible corporate connection issues, and she questioned why they really picked the College Park location for this license.

Gary Mentro, 9527 51st Avenue: He and his wife shop at SFW, he supports this transfer request as a convenience. They only buy wine a few times a year when they entertain, and it is an inconvenience to have to stop somewhere else to buy it. His informal survey in his neighborhood yielded 80% in favor, 20% didn't care.

Stasia Hutchison, 4710 Kiernan Road: Speaking on behalf of the neighborhood across the street from SFW, and for herself and her husband: They oppose this transfer request for reasons of crime, why do they need a security guard there now, why does it need to move out of the Takoma Park store, why pick the College Park location, concern about additional traffic and safety at the intersection of Route 1 and Cherry Hill Road, vagrants in the area, the Mom and Pop stores are specially trained, this will put Mom and Pop stores out of business, believes a liquor license in a college town is different from in other towns, have to acknowledge the college students who shop there, concern about the violation of truck covenant issues, who is going to enforce it, how many more trucks will there be. They are opposed, it's their neighborhood, keep it out.

Samuel Tao, 9618 Autoville Drive, pastor of Chinese Bible Church: He shops at SFW, appreciates the store there. But they prefer not to have the liquor license there.

Mayor Brayman read into the record an e-mail from Donald Comis, a Greenbelt resident, about the problems they experience with the Greenbelt Co-op, which does have a beer and wine license.

Mayor Brayman asked if there was anything new with respect to the corporate connection between SFW, TLC, SuperValu? Mr. Myers responded that TLC is a third party logistic provider, equivalent to a common carrier. There was further discussion about the licensing requirements of the drivers, requirements for carrying a regulated product such as beer and wine. Mr. Small stated he was not qualified to respond to technical questions such as these. Mr. Myers explained he does not have the degree of specialty needed to respond to these questions. But their attorney, Linda Carter, has provided a letter that they are not in violation of this requirement. Mayor Brayman believes there is a connection simply by providing the logistical operations.

Mr. Small requested an opportunity to address the issues raised by the public comment: the reason they are not putting beer and wine in the Contee store is there are already two other stores that sell beer and wine at that intersection; self-checkout is never put into a new store – they wait until the store is opened 12 months before installing self-checkout; regarding the vagrants – they don't have beer and wine now, and don't know how they are responsible for attracting the vagrants that are there now; crime statistics they have show crime in North College Park is average based on county, state and national comparisons; once they found out about the truck traffic covenants, they did address it, and now aggressively deal with their suppliers who violate it; more than half of Prince George's County stores have security guards.

A motion was made by Councilmember Hampton and seconded by Councilmember Perry to oppose the transfer of a Class D, Beer and Wine license, for the use of Eastern Beverages, Inc., to the Shoppers Food Warehouse location at 4720 Cherry Hill Road, College Park. A letter stating the City's opposition should be submitted to the BOLC, and City staff shall be authorized to appear at the hearing on this transfer to present the City's opposition. Finally, in the event the BOLC does grant the transfer request, Staff shall be authorized to request that certain conditions be made part of the license, including a limitation as to the amount of square footage used for sale of alcoholic beverages, a secure area in the store for displaying the beverages, a requirement that no singles or high alcohol bag wines be sold, that no exterior signage concerning alcoholic beverages be allowed, and that there be a security guard on the premises from 6 p.m. to 12:00 p.m. on each day the beverages are sold.

Councilmember Hampton gave the following comments: The sale of beer and wine is not allowed in chain supermarkets in the County unless an establishment has been "grandfathered." To transfer this license, which is grandfathered, from its current location in Takoma Park to the Shoppers Food Warehouse in College Park, state legislation is required, as the transfer would not have been allowed otherwise. Neither the Mayor and Council, nor College Park residents, were notified about the legislation, which was adopted at the end of the 2005 session, until after the fact.

It is clear from the public testimony we heard tonight, and at a prior hearing, and from the numerous letters and e-mails we have received, that the residential community surrounding the Shoppers Food Warehouse does not support this transfer. There is great concern about the lack of public necessity for yet another liquor store, the unfavorable impact on the neighborhood, and the connections between Shoppers and alcohol distributors/wholesalers, which is prohibited by law.

Mayor Brayman stated the earlier public comment will be entered into the record.

Councilmember Milligan has lived in places where beer and wine, and even liquor, were sold in liquor stores, and does not oppose the concept in theory. But he can't get past the issue of the political finagling that took place to get the license moved to College Park

without prior notice to the City. He will support the position of the NCPCA, which is to oppose the transfer request.

Councilmember Fellows will support the motion to oppose this transfer request, but he wants to make sure Shoppers hears that the majority of the customer base is saying they like Shoppers and wishes them well.

Councilmember Peña-Melnyk agrees that Shoppers is a good neighbor, and does shop there. However, the City was not contacted by the Senator about this transfer request, the community was not contacted, and their opinion of not wanting it should be respected. She was initially impressed that Shoppers withdrew their application, thinking it was in response to the community objection, and was disappointed to see it come back. This is a college town, and she didn't see Shoppers address that fact at all.

Councilmember Perry concurs with many of the previous Council comments. Agrees that what bugs many of the City Council and residents is the way the legislation was handled, in the dark of night at the eleventh hour, and nobody knew about it. He will not have any trouble supporting the motion to oppose.

Councilmember Krouse thinks Shoppers should stick to the wholesome model of a grocery store that does not sell alcoholic beverages.

Mayor Brayman wished SFW had engaged the community prior to seeking the legislative change, since clearly they were talking about it with other people. The corporate connection concerns him as well. A lot of people are saying they like Shoppers as it is.

The Motion passed 8-0-0 to oppose the application to transfer the liquor license.

Mayor Brayman encouraged public comment at the hearing before the Board of License Commissioners.

Janeen S. Miller, City Clerk