

MINUTES
Regular Meeting of the College Park City Council
Tuesday, May 8
7:30 p.m. – 8:36 p.m.

PRESENT: Mayor Fellows; Councilmembers Kabir, Wojahn, Catlin, Dennis, Stulich, Day, Afzali and Mitchell.

ABSENT: None.

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Chantal Cotton, Assistant to the City Manager; Bob Ryan, Director of Public Services; Steve Groh, Director of Finance; Bob Stumpff, Director of Public Works; Steve Halpern, City Engineer; Student Liaison John Natalizio.

Mayor Fellows opened the meeting at 7:30 p.m. Councilmember Wojahn led the Pledge of Allegiance.

Minutes: A motion was made by Councilmember Wojahn and seconded by Councilmember Mitchell to adopt the minutes of the Regular meeting of April 24, 2012; Public Hearing of April 24 on the Needs Assessment for the Cable Franchise Renewal Negotiations; and Public Hearing of April 24 on 12-O-03, the Ethics ordinance. Councilmember Wojahn noted that the date of College Park Day should be corrected in the April 24 meeting minutes; the correct date is October 27. The motion passed 8 – 0 – 0.

Announcements:

Councilmember Kabir said the North College Park Citizens Association would have their monthly meeting on Thursday at 7:30 p.m. at Davis Hall.

Councilmember Wojahn announced that on Tuesday, May 15, at 10:00 a.m. there would be a grand opening of the locked bicycle facility at the College Park Metro Station. He was one of the testers of the facility before it opened.

Councilmember Catlin said the Berwyn District Civic Association would meet at 8:00 p.m. on Thursday, May 17 at Fealy Hall.

Councilmember Dennis said the Lakeland Civic Association would meet on Thursday, May 10 at 7:30 p.m. at the College Park Community Center.

Amendments to the Agenda: None.

City Manager's Report: Mr. Nagro reminded the Council about the Four Cities meeting on Thursday night, the volunteer reception on Friday night, and said that the City has begun advertising the summer program for free weekend parking in the downtown parking garage.

Student Liaison's Report: John Natalizio said the new SGA officials were sworn in today and they will attend next week's Worksession to meet the Council. The interview for the next Student Liaison will take place tonight, after the Council meeting.

Presentations: Mayor Fellows made a presentation to outgoing student liaison John Natalizio. Mr. Natalizio made farewell comments.

Comments from the Audience on Non-Agenda Items:

Mary Cook, 4705 Kiernan Road, College Park: For the Memorial Day ceremony this year, residents are encouraged to bring personal photos of their loved ones who served their country in the armed forces.

Dave Dorsch, 4607 Calvert Road, College Park: Traffic on US 1 has not improved. Police should try to move people into a driveway or onto a side street when they make traffic stops. This is usually the University of Maryland police. The situation on US 1 is intolerable and the Council should send a formal request asking officers to have their cars pull off of US 1.

Councilmember Stulich recounted a story where she was reprimanded by an officer for not stopping immediately on US 1 when she was stopped.

Consent Agenda:

A motion was made by Councilmember Afzali and seconded by Councilmember Day to adopt the consent agenda, which consisted of the following items:

12-G-60 Approval of a doublewide driveway apron variance for 5707 Vassar Drive

12-G-61 Motion to voice no objection to the application by Lisa Rose, President, The Jerk Pit, LLC, 9078 Baltimore Avenue, College Park for a Class B, Beer Wine and Liquor License, subject to applicant entering into a Property Use Agreement with the City of College Park in substantially the form as attached; authorization for the City Manager to sign the PUA; and authorization for staff to testify to the City's position at the BOLC hearing.

The motion passed 8 – 0 – 0.

Action Items:

12-O-04 Adoption of Ordinance 12-O-04, An Ordinance to Adopt Budget Amendment #2 To The FY 2012 Operating Budget To Fund Public Works Modular Building Replacement And City Hall Expansion (Requires 6 affirmative votes, pursuant to Article 23A §2(b)(2) of the Annotated Code of Maryland)

A motion was made by Councilmember Catlin and seconded by Councilmember Dennis to adopt 12-O-04 to amend the FY 2012 Operating Budget To Fund Public Works Modular Building Replacement And City Hall Expansion.

Councilmember Catlin stated the public hearing was held earlier this evening. This budget amendment takes money from the undesignated reserve to provide funds for the possible expansion of City Hall and to replace the old trailer at Davis Hall with a modern modular building.

Councilmember Afzali said former Mayor Anna Owens suggested naming the new Public Works modular building after former Councilmember Jack Perry.

The motion passed 8 – 0 – 0.

12-G-62 Approval Of A Letter Addendum To The Collective Bargaining Agreement With AFSCME Local 1209

A motion was made by Councilmember Mitchell and seconded by Councilmember Wojahn that the Mayor and Council approve the Letter Addendum (effective July 1, 2012) to the “Agreement between the Mayor and Council of the City of College Park, Maryland and the American Federation of State, County and Municipal Employees Local 1209, AFL-CIO” and authorize the City Manager to sign the Letter Addendum to the Agreement.

Councilmember Mitchell said the Letter Addendum to the Agreement makes two changes to the current Agreement: 1) There will be a Cost of Living Adjustment of 2.0% for the period July 1, 2012 through June 30, 2013. Bargaining unit employees may be eligible for a merit step increase during FY 2013 according to the guidelines of the City’s Pay Plan; 2) The City will increase its matching contribution to the 457 Deferred Compensation Plan by \$20 per pay period for those employees with five or more years of service who are contributing at least \$200 per pay. The City Manager met with representatives of the Union in March 2012 and they have agreed to the terms of the Letter Addendum described above. There will be no other changes to the contract.

There were no comments from the audience or from the Council.

The motion passed 8 – 0 – 0.

12-R-09 Resolution Of The Mayor And Council Of The City Of College Park, Maryland Determining That The Proposed Charter Amendment Entitled “Article XI, Sec. §C12-6 Non-Discrimination In Housing And Rental Laws” Is Legally Insufficient For Placement On The Ballot.

A motion was made by Councilmember Wojahn and seconded by Councilmember Mitchell to adopt 12-R-09, a resolution determining that the proposed Charter Amendment entitled “Article XI, Sec. §C12-6 Non-Discrimination In Housing And Rental Laws” is legally insufficient for placement on the ballot.

Councilmember Wojahn read the Resolution into the record.

Comments from the Audience:

Tim Miller, 5119 Niagara Place: He finds it disturbing that the Charter requires residents to know what district they live in in order to have their name counted as valid on the petition. According to the Gazette, the City attorney said this referendum placed an “unreasonable limit on the Council’s legislative powers.” He believes it is up to “We The People” to give authority to the Council to pass ordinances.

Councilmember Kabir asked the City Attorney how many signatures were contained on the 622 pages that were submitted for this petition. Ms. Ferguson said the Board of Election Supervisors did not count the signatures because once the determination was made that the district was not listed, the charter says they should go no further. Councilmember Kabir guessed there were 4,000 signatures. He continued that the Council received two letters to assist in this decision: one from Mr. Robson, Chief of the Board of Election Supervisors and one from the City Attorney. The BOES letter addresses the issue of non-compliance with the district number requirement. The City Attorney’s letter addresses several issues, and supports the BOES position as well. He believes the Charter says that the Council should receive a report from only the Board of Election Supervisors. Ms. Ferguson said that Council assigned the question to both the BOES and the City Attorney because it is the Council’s obligation under Article 23A to determine whether the charter proposals are appropriate for the ballot.

Councilmember Kabir said there are a lot of signatures on the petitions and asked if Council should ignore them. The petition form did not have a space for the district number, so you can’t blame the resident for not including it. It would be different if the petition had a field for the district number and the resident intentionally left it blank. The Charter is ambiguous because it does not distinguish between these two scenarios. It may be time to amend the charter. He found a news report about a case in New Mexico where the petitions were allowed to go forward without the district number [Duran v. Zamora, Number 33,543, in the Supreme Court of the State of New Mexico]. He agrees that the proposed charter changes would cause harm to the City, but he thinks they should go to referendum.

Councilmember Wojahn said there is one issue before the Council tonight – whether the petitions are legally compliant with City and State laws regarding Charter amendments. It is clear that these amendments do not meet the requirements of our charter and state law. If you don’t agree with our charter, the correct procedure is to amend it, not to ignore it.

Councilmember Catlin is reminded of a situation that occurred several years ago when the County at the City’s request pursued historic district status for the Old Town College Park neighborhood. Park and Planning was sloppy in how they handled the process and the landlords

found a technicality to void the historic district and made the process start over again from the beginning. As a result the historic district was delayed. He said you have to follow the law and read the law. He thinks that the people that were paid to collect the signatures to change the charter did not actually read the charter.

Ms. Ferguson said she is familiar with the case raised by Councilmember Kabir and has read the opinion. A case in the state of New Mexico is not relevant in the state of Maryland. However, there are two interesting points: 1) one year ago they adopted a law that instituted a district notation requirement, meaning that another state found that requirement to be appropriate; 2) the Supreme Court of the State of New Mexico did not invalidate the law.

Councilmember Afzali believes the New Mexico case supports what the City has in its charter regarding the district notation. The City did not provide the PGPOA with a faulty form. The requirements for getting something on the ballot are clear in our charter and anyone could read it. The fact that they made such a glaring mistake is regrettable on their part, but we cannot ignore our own rules.

Councilmember Stullich said the burden is on the people who design and circulate the petition to get it right. The people who want to amend the charter have a responsibility to read the charter they are trying to amend. Stating that a large number of people signed the petitions is not the same as assuming that those people supported the actions the petitions were trying to accomplish. She has heard from people who signed the petitions that they didn't understand the details and weren't given a copy. Some have told her they felt they were misled. We don't know how many who signed were registered voters. If the petitions met the legal requirements she would support putting them on the ballot. She is confident that the voters would overwhelmingly reject them. It is the Council's responsibility to uphold the charter.

Councilmember Wojahn raised the importance of the state requirement that the title of the charter amendment accurately reflect its content because we don't want our residents to be misled. If we were to allow this to go on the ballot we could be complicit in an act of misleading our residents.

Roll Call Vote:

Aye: Mitchell, Afzali, Day, Stullich, Dennis, Catlin, Wojahn

Nay: Kabir

Motion passed 7 – 1 – 0 (Kabir opposed).

12-R-10 Resolution Of The Mayor And Council Of The City Of College Park, Maryland Determining That The Proposed Charter Amendment Entitled “Article X, Sec. §C10-12 Property Tax Limitation” Is Legally Insufficient For Placement On The Ballot.

A motion was made by Councilmember Wojahn and seconded by Councilmember Catlin to adopt 12-R-10, a Resolution Of The Mayor And Council Of The City Of College Park,

Maryland Determining That The Proposed Charter Amendment Entitled “Article X, Sec. §C10-12 Property Tax Limitation” Is Legally Insufficient For Placement On The Ballot.

Councilmember Wojahn read the Resolution into the record.

There were no comments from the audience.

Councilmember Afzali said the City Attorney found that neither petition was legally sufficient to be placed on the ballot, so when the Council decides not to place the item on the ballot it is for the reasons stated by both the City Attorney and the Board of Elections Supervisors.

Councilmember Kabir said the Charter only directs Council to look at the opinion of the Board of Election Supervisors.

Councilmember Wojahn said it is not just the charter, it is also state law that directs how the City handles charter amendments.

Councilmember Mitchell reiterated that the City Attorney rendered an opinion.

Councilmember Afzali said the Council previously voted 8 – 0 – 0 to request the opinion of the City Attorney.

Councilmember Kabir said he is not ignoring the City Attorney’s opinion but he thought she would only opine on the issue of the Board of Election Supervisors report.

Roll Call Vote:

Aye: Wojahn, Catlin, Dennis, Stulich, Day, Afzali, Mitchell

Nay: Kabir

Motion passed 7 – 1 – 0 (Kabir opposed).

12-G-63 Appointments To Boards and Committees

A motion was made by Councilmember Stulich and seconded by Councilmember Wojahn to appoint Loree Talley, Ballard Troy and Chrissy Rey to the Sustainable Maryland Certified Green Team; Frank Rose to the Ethics Commission; Margaret Kane to the Farmer’s Market Committee; and Richard Williamson to the Committee for a Better Environment. The motion passed 8 – 0 – 0.

Council Comments:

Councilmember Mitchell said the College Park Academy Founding Board had a second meeting with the County on their Charter school application. She requested creation of a Council sub-committee to start working on the details of the Academy because she is optimistic that the application will be approved. Mayor Fellows appointed Councilmember Mitchell as Chair of the subcommittee. Interested Councilmembers should notify the Clerk.

Mayor Fellows asked for an item to be added to next week's Worksession: partnering with a group that is reaching out to municipalities in the Anacostia watershed for a letter of support for a grant proposal. This may involve a special session next week.

Comments from the Audience: None.

Adjourn: A motion was made by Councilmember Dennis and seconded by Councilmember Day to adjourn the meeting. Mayor Fellows adjourned the meeting at 8:36 with a vote of 8 – 0 – 0.

Janeen S. Miller, CMC City Clerk	Date Approved
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Pursuant to §C6-3 of the College Park City Charter, at 7:01 p.m. on May 1, 2012 in the Lower Level Conference Room of City Hall, a motion was made by Councilmember Day and seconded by Councilmember Kabir to enter into an Executive Session for the following reasons:

G: To Consult with Counsel on a legal matter

H: Consult with staff, consultants or other individuals about pending or potential litigation.

The motion passed 5 – 0 – 0.

Present: Mayor Fellows; Councilmembers Kabir, Catlin, Dennis, Afzali and Mitchell. Councilmember Wojahn arrived at 7:28, Councilmember Stulich arrived at 7:23 and Councilmember Day arrived at 7:03.

Absent: None.

Also Present: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Bob Ryan, Director of Public Services; Steve Groh, Director of Finance; Chantal Cotton, Assistant to the City Manager.

Topics Discussed: The City Attorney advised the Council about future rent stabilization legal issues and about the charter amendment petitions that were submitted to the City Clerk on March 22.

Actions Taken: None.

Adjourn: A motion was made by Councilmember Mitchell and seconded by Councilmember Stulich to adjourn the Executive Session, and with a vote of 8 – 0 – 0, Mayor Fellows adjourned the meeting at 7:32 p.m.