



**SEPTEMBER 9, 2014  
CITY OF COLLEGE PARK  
COUNCIL CHAMBERS**

**7:15 P.M. – PUBLIC HEARINGS**

**14-O-07**

Ordinance Amending Chapter 184 "Vehicles And Traffic", By Repealing And Reenacting Article VII "Speed Monitoring Systems", Section 184-45 "Systems In School Zones And Within One-Half Mile Of An Institution Of Higher Education" To Amend The Section To Conform To State Mandated Changes

**14-O-08**

Ordinance Amending Chapter 184, "Vehicles And Traffic", By Repealing And Reenacting §184-9, "Permit Parking In Restricted Residential Zones" To Better Define Where Visitor Parking Permits May Be Used And To Provide An Enforcement Mechanism

**14-O-09**

Ordinance Amending Chapter 38, "Code Of Ethics", By Repealing And Reenacting Article I, "General Provisions", Section 38-4, "Definitions", Article II, "Ethics Commission", Section 38-8, "Procedures For Adjudicating Alleged Violations", And Article IV, "Required Disclosures", Section 38-15, "Financial Disclosure Of City Elected Officials And Candidates To Be City Elected Officials", Section 38-16, "Financial Disclosure Of Employees And Appointed Officials" And Section 38-17 "Additional Conflict Of Interest Statements And Correction Of Inaccurate Or Incomplete Filings Required", To Amend The Ethics Code To Clarify The Definition Of Interest That Must Be Reported, Including A Procedure For Dismissal Of A Complaint, Clarifying The Requirements For Elected Officials, Candidate, Appointed Official And Employee Disclosure And Providing A Remedy For Failure Of A Candidate To File The Required Disclosures

**7:30 P.M.  
MAYOR AND COUNCIL MEETING  
AGENDA**

MEDITATION

PLEDGE OF ALLEGIANCE: Councilmember Dennis

ROLL CALL

MINUTES: August 6, 2014 Special Session; August 12, 2014 Regular Meeting; August 12, 2014 Public Hearing on 14-CR-01; Approval of transcript in lieu of minutes for Oral Argument in Case CPV-2014-05.

ANNOUNCEMENTS

ACKNOWLEDGMENT OF DIGNITARIES

ACKNOWLEDGMENT OF NEWLY APPOINTED BOARD AND COMMITTEE MEMBERS:

AWARDS

PROCLAMATIONS

AMENDMENTS TO THE AGENDA

CITY MANAGER'S REPORT: Joe Nagro

STUDENT LIAISON'S REPORT: Cole Holocker

COMMENTS FROM THE AUDIENCE ON NON-AGENDA ITEMS

PRESENTATIONS

**CONSENT AGENDA**

14-G-90 Award of a contract to M. T. Laney Company, Inc., in an amount not to exceed \$270,000, for milling and paving the other half of certain streets where WSSC is providing half-width milling and paving on streets disturbed during the water main replacement project in the Hollywood and Berwyn neighborhoods. This award is subject to the approval of a contract by the City Attorney and rides, pursuant to §69-2(B) of the City Code, WSSC's competitively bid Contract No. 5986, which has been extended for a second option year. The City Manager is authorized to sign the contract.

Motion by:  
To: Adopt  
Second:  
Aye: \_\_\_\_\_  
Nay: \_\_\_\_\_  
Other: \_\_\_\_\_

14-R-30 Resolution Of The Mayor And Council Of The City Of College Park, Maryland Adopting The Recommendations Of The Advisory Planning Commission Regarding Reconsideration Of Variance CPV-2013-02 (Reconsideration Case Is Identified As CPV-2013-02/R), 3533 Marlborough Way, College Park, Maryland, Recommending Validating Existing Conditions Subject To The Applicant Providing An "As-Built" Site Plan *(Appeal period ends September 9, 2014)*

**ACTION ITEMS**

14-O-07 Adoption of 14-O-07, An Ordinance Of The Mayor and Council of the City of College Park Amending Chapter 184 "Vehicles And Traffic", By Repealing And Reenacting Article VII "Speed Monitoring Systems", Section 184-45 "Systems In School Zones And Within One-Half Mile Of An Institution Of Higher Education" To Amend The Section To Conform To State Mandated Changes

Motion by: Kabir  
To: Adopt  
Second:  
Aye: \_\_\_\_\_ Nay: \_\_\_\_\_  
Other: \_\_\_\_\_

14-O-08 Adoption of 14-O-08, An Ordinance of The Mayor and Council of the City of College Park Amending Chapter 184, "Vehicles And Traffic", By Repealing And Reenacting §184-9, "Permit Parking In Restricted Residential Zones" To Better Define Where Visitor Parking Permits May Be Used And To Provide An Enforcement Mechanism

Motion by: Wojahn  
To: Adopt  
Second:  
Aye: \_\_\_\_\_ Nay: \_\_\_\_\_  
Other: \_\_\_\_\_

14-O-09 Adoption of 14-O-09, An Ordinance of the Mayor and Council of the City of College Park Amending Chapter 38, "Code Of Ethics", By Repealing And Reenacting Article I, "General Provisions", Section 38-4, "Definitions", Article II, "Ethics Commission", Section 38-8, "Procedures For Adjudicating Alleged Violations", And Article IV, "Required Disclosures", Section 38-15, "Financial

Motion by: Mitchell  
To: Adopt  
Second:  
Aye: \_\_\_\_\_ Nay: \_\_\_\_\_  
Other: \_\_\_\_\_

Disclosure Of City Elected Officials And Candidates To Be City Elected Officials”, Section 38-16, “Financial Disclosure Of Employees And Appointed Officials” And Section 38-17 “Additional Conflict Of Interest Statements And Correction Of Inaccurate Or Incomplete Filings Required”, To Amend The Ethics Code To Clarify The Definition Of Interest That Must Be Reported, Including A Procedure For Dismissal Of A Complaint, Clarifying The Requirements For Elected Officials, Candidate, Appointed Official And Employee Disclosure And Providing A Remedy For Failure Of A Candidate To File The Required Disclosures

14-G-91 Approval of a Letter to the District Council with comments on the College Park – Riverdale Park TDDP

Motion by: Stulich  
To: Adopt  
Second:  
Aye: \_\_\_\_\_ Nay: \_\_\_\_\_  
Other: \_\_\_\_\_

14-O-10 Introduction of 14-O-10, An Ordinance Of The Mayor And Council Of The City Of College Park, Amending The College Park Code By Repealing Chapter 15, “Boards, Commissions And Committees”, Article IX, “Rent Stabilization Board”, §§15-39 Through 15-54, And Chapter 127 “Rent Stabilization”, §§127-1 Through 127-13, In Their Entirety; And By Repealing An Re-Enacting Chapter 110, “Fees And Penalties”, §110-1, “Fees And Interests” And §110-2, “Penalties”, To Delete Those Sections That Comprise The Rent Stabilization Law (**Public Hearing scheduled for October 14, 2014 at 7:25 p.m.**)

Motion by: Day  
To: Introduce  
Second:

## COUNCIL COMMENTS

## COMMENTS FROM THE AUDIENCE

## ADJOURN

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## INFORMATION/STATUS REPORT

1. Renewal of BOLC Entertainment Licenses for City Establishments – Bob Ryan, Director of Public Services

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In accordance with the Americans With Disabilities Act, if you need special assistance, you may contact the City Clerk's Office at 240-487-3501 and describe the assistance that is necessary. This agenda is subject to change. For current information, please contact the City Clerk.

# PUBLIC HEARING

14-0-07

14-0-08

14-0-09



**NOTICE OF PUBLIC HEARINGS  
TUESDAY, SEPTEMBER 9, 2014  
7:15 P.M.**

**2<sup>ND</sup> FLOOR COUNCIL CHAMBERS  
CITY HALL, 4500 KNOX ROAD**

**Ordinance 14-O-07:**

An Ordinance of the Mayor and Council of the City of College Park, Maryland, amending Chapter 184 "Vehicles and Traffic", by repealing and reenacting Article VII "Speed Monitoring Systems", §184-45 "Systems in school zones and within one-half mile of an institution of higher education" to amend the section to conform to State mandated changes.

**Ordinance 14-O-08:**

Ordinance of the Mayor and Council of the City of College Park, Maryland, Amending Chapter 184, "Vehicles and Traffic", by Repealing and Reenacting §184-9, "Permit Parking in Restricted Residential Zones" to Better Define Where Visitor Parking Permits May Be Used and to Provide an Enforcement Mechanism.

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Copies of these Ordinances may be obtained from the City Clerk's Office, 4500 Knox Road, College Park, MD 20740, call 240-487-3501, or visit [www.collegeparkmd.gov](http://www.collegeparkmd.gov).

# CITY OF COLLEGE PARK MUNICIPAL SCENE

10 KNOX ROAD, COLLEGE PARK, MARYLAND 20740 • 240-487-3500

[www.collegeparkmd.gov](http://www.collegeparkmd.gov)

July 31, 2014

## NOTICE OF PUBLIC HEARINGS

2ND FLOOR COUNCIL CHAMBERS  
CITY HALL, 4500 KNOX ROAD

**TUESDAY, AUGUST 12, 2014 – 7:00 P.M.**

**CHARTER RESOLUTION 14-CR-01:** A Charter Resolution of the Mayor and Council of the City of College Park, Amending Article V "Charter Amendments", §GS-1, "Procedure for Petition" to Require Certain Information to be Included on Referendum Petitions

**TUESDAY, SEPTEMBER 9, 2014 – 7:15 P.M.**

**ORDINANCE 14-O-07:** An Ordinance of the Mayor and Council of the City of College Park, Maryland, amending Chapter 184 "Vehicles and Traffic", by repealing and reenacting Article VII "Speed Monitoring Systems", §184-45 "Systems in school zones and within one-half mile of an institution of higher education" to amend the section to conform to State mandated changes.

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## IMPORTANT NEW INFORMATION ABOUT SPEED CAMERAS AND SPEED LIMIT

### ALL ABOUT BATS: WORKSHOP FOR ALL AGES

**SATURDAY, AUGUST 2, 10:00 A.M. – 12:00 P.M.**  
DAVIS HALL, 9217 51ST AVE., COLLEGE PARK

During this workshop, Danielle Adams, a University of Maryland graduate student studying the social behavior of the greater spear-nosed bat, will share her knowledge of this misunderstood mammal, including the benefits, concerns and myths surrounding them.

Danielle's current research takes her to the caves of Trinidad, where she works with some of the largest bats in the Americas. She has a master's degree in Conservation Biology from Columbia University and plans to pursue a career in conservation after graduate school.

Please register by Thursday, July 31 to Steve Beavers, Community Development Coordinator at [sbeavers@collegeparkmd.gov](mailto:sbeavers@collegeparkmd.gov) or 240-487-3541.

### FAMILY FRIENDLY NIGHT AT THE MOVIES FRIDAY, AUGUST 1, 2014 FROM 8:00 P.M. – 10:30 P.M. SHOW TIME: 9:00 P.M.

**DUVALL FIELD, 9100 RHODE ISLAND AVENUE**  
The City of College Park Recreation Board invites you to join us for a family friendly Night at the Movies.

We encourage you to bring your picnic baskets, lawn chairs and blankets. Come early for face painting, the balloon guy, and free run on the field.

Please note: Federal licensing and copyright laws prohibit advertising the movie title. The feature will be a G or PG-13-rated movie such as *Disney's Frozen* for enjoyment by all.

Sponsored by the City of College Park and M-NCPPC.

## COLLEGE PARK COMMUNITY FOUNDATION GRANT WORKSHOP

**WEDNESDAY, AUGUST 6 FROM 7:00 P.M. – 8:30 P.M.**  
OLD PARISH HOUSE, 4711 KNOX ROAD

The College Park Community Foundation is giving out up to \$4,000 in grants ranging from \$250 to \$1,000. At the grant workshop, we will give applicants the tools they need to develop a winning application. Register at: <http://collegeparkfoundation.org/>. For more information contact Jackie Pearce Garrett, 301-906-7425, or by email: [jaeq.garrett@gmail.com](mailto:jaeq.garrett@gmail.com).

## RESTAURANT WEEK

**AUGUST 18 – AUGUST 24, 2014**

Mark your calendars for the tastiest week of the year, as the annual College Park Restaurant Week is set to take place from Monday, August 18 through Sunday, August 24, 2014. Check out the list of restaurants and specials at [www.shopcollegepark.org/cprw](http://www.shopcollegepark.org/cprw) and make plans to return to an old standby or find yourself a new favorite.

While each restaurant will offer a special for the week, the regular menus will also be available. All listed prices are exclusive of sales tax and gratuity. Restaurant Week specials are not valid with any other discount.

You can specify the type of information you want to receive, change your selection, or unsubscribe at any time.

**From The Public Works Dept.**  
9217 51st Avenue 240-487-3590  
[publicworks@collegeparkmd.gov](mailto:publicworks@collegeparkmd.gov)

## RECYCLE YOUR OLD PHONE BOOK

Beginning in early August, residents will begin receiving a new Yellowbook phone directory for the Suburban Maryland Prince George's County, MD area. Public Works would like to remind you that the Yellowbook, and all phone books, are 100% recyclable. After receiving your new phone directory, make sure to place your old one in the blue cart! To opt-out of future phone book deliveries, visit <http://www.yellowpagesoptout.com>. Deliveries should be completed by mid-September.

## REQUESTS FOR STREET TREES

The City of College Park has a program that provides for street tree planting in the City of College Park right-of-way area, which includes the grass strip between the curb and sidewalk. College Park residents interested in requesting a tree can contact the City Horticulturist at 240-487-3590 or [publicworks@collegeparkmd.gov](mailto:publicworks@collegeparkmd.gov). The location will be inspected to determine if it is suitable. Planning for fall tree planting is now underway.

But \$30,000 in a town with an annual budget of about \$1.6 million is a big deal. It's definitely worth searching for ways to make the relocation work. Perhaps patrols could be altered to allow more police presence on Bladensburg Road once the station has been moved, or maybe some of the savings could be used to fund other security measures. Hopefully, the town and department leaders can find

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JOY

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they remain anecdotal and an inaccurate  
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were her trademarks. A sponge fo  
uage, she seldom needed to hee



# CITY PARK MUSEUM

4500 KNOX ROAD 20740 • 240-487-3500

WWW

August 14, 2014

City Clerk's Office at 240-487-3501

## NOTICE OF PUBLIC HEARING 2ND FLOOR COUNCIL CHAMBERS CITY HALL, 4500 KNOX ROAD TUESDAY, SEPTEMBER 9, 2014 - 7:15 P.M.

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## IMPORTANT NEW INFORMATION ABOUT SPEED CAMERAS AND SPEED LIMIT CHANGES IN COLLEGE PARK

### I. Speed Cameras - State Mandated Changes

In compliance with the Speed Monitoring Reform Act of 2014, the City of College Park has appointed designated officials to investigate and respond to written questions or concerns about the City's speed monitoring system program generally, to resend citations not delivered due to an administrative error, and to process administrative review of specific citations.

To report a speed camera citation you believe was issued in error, you may first call the help desk at (301) 858-6212 to expedite a review of your ticket and deletion of a ticket confirmed to be issued in error, and may use the process set out below if you are not satisfied with the result.

Should you wish to contact the City official regarding the program in general, request that a citation be resent, or if you wish to request an administrative review of the citation before the deadline for contesting the citation in court, you may send your request by email to [publicservices@collegeparkmd.gov](mailto:publicservices@collegeparkmd.gov), or by mail attention Speed Enforcement, 4601 A Calvert Road, College Park, MD, 20740; or call at (240) 487-3570 for further information.

### II. Pedestrian and Driver Safety Measures

In response to the several pedestrian accidents that have occurred in College Park in recent months, the following changes will be implemented:

- Effective immediately, the posted speed limit on US Route 1/Baltimore Avenue between Guilford Road/Drive and Berwyn Road is 25 MPH (reduced from 30 MPH). Speed cameras will issue tickets in this area to vehicles

... a four barrel will be assembled and permanently installed in front of Davis Hall. To register for the workshop, please send an email to [sbeavers@collegeparkmd.gov](mailto:sbeavers@collegeparkmd.gov).

**From The Public Works Dept...**  
9217 51st Avenue 240-487-3590  
[publicworks@collegeparkmd.gov](mailto:publicworks@collegeparkmd.gov)

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CLIP AND SAVE

## COLLEGE PARK DIRECTORY

City of College Park Main Number	240-487-3500
CITY HALL, 4500 Knox Road, College Park, MD 20740	
Hours: M-F 8am-7pm; Sat. 1-5pm; Sun - Closed	
<b>City Hall Departments</b>	
City Manager/City Clerk	240-487-3501
City FAX Number	301-699-8029
Finance	240-487-3509
Human Resources	240-487-3533
Parking Enforcement Div. (M-F 8am-10pm/Sat. 1-7pm)	240-487-3520
Planning/Economic Development	240-487-3538
Mayor's Authority (Assist. Towns)	301-245-3600



# CITGE PARK MUSCENE

4500 KNOX AND 20740 • 240-487-3500

WWW

August 28, 2014

## NOTICE OF PUBLIC HEARINGS

**TUESDAY, SEPTEMBER 9, 2014 - 7:15 P.M.**  
2ND FLOOR COUNCIL CHAMBERS  
CITY HALL, 4500 KNOX ROAD

**ORDINANCE 14-O-07:** An Ordinance of the Mayor and Council of the City of College Park, Maryland, amending Chapter 184 "Vehicles and Traffic", by repealing and reenacting Article VII "Speed Monitoring Systems", §184-45 "Systems in school zones and within one-half mile of an institution of higher education" to amend the section to conform to State mandated changes.

**ORDINANCE 14-O-08:** Ordinance of the Mayor and Council of the City of College Park, Maryland, Amending Chapter 184, "Vehicles and Traffic", by Repealing and Reenacting §184-9, "Permit Parking in Restricted Residential Zones" to Better Define Where Visitor Parking Permits May Be Used and to Provide an Enforcement Mechanism.

**ORDINANCE 14-O-09:** Ordinance of the Mayor and Council of the City of College Park, Maryland, Amending Chapter 38, "Code of Ethics", by Repealing and Reenacting Article I, "General Provisions", Section 38-4, "Definitions", Article II, "Ethics Commission", Section 38-8, "Procedures for Adjudicating Alleged Violations", and Article IV, "Required Disclosures", Section 38-15, "Financial Disclosure of City Elected Officials and Candidates to be City Elected Officials", Section 38-16, "Financial Disclosure of Employees and Appointed Officials" and Section 38-17 "Additional Conflict of Interest Statements and Correction of Inaccurate or Incomplete Filings Required", to Amend the Ethics Code to Clarify the Definition of Interest that Must Be Reported, Including a Procedure for Dismissal of a Complaint, Clarifying the Requirements for Elected Officials, Candidate, Appointed Official and Employee Disclosure and providing a Remedy for Failure of a Candidate to file the Required Disclosures.

Copies of these Ordinances may be obtained from the City Clerk's Office, 4500 Knox Road, College Park, MD 20740, call 240-487-3501, or visit [www.collegeparkmd.gov](http://www.collegeparkmd.gov).

## IMPORTANT NEW INFORMATION ABOUT SPEED CAMERAS AND SPEED LIMIT CHANGES IN COLLEGE PARK

### I. Speed Cameras - State Mandated Changes

In compliance with the Speed Monitoring Reform Act of 2014, the City of College Park has appointed designated officials to investigate and respond to written questions or concerns about the City's speed monitoring system program generally, to resend citations not delivered due to an administrative error, and to process administrative review of specific citations.

To report a speed camera citation you believe was issued in error, you may first call the help desk at (301) 858-6212 to expedite a review of your ticket and deletion of a ticket confirmed to be issued in error, and may use the process set out below if you are not satisfied with the result.

Should you wish to contact the City official regarding the program in general, request that a citation be resent, or if you wish to request an administrative review of the citation before the deadline for contesting the citation in court, you may send your request by email to [publicservices@collegeparkmd.gov](mailto:publicservices@collegeparkmd.gov); or by mail attention Speed Enforcement, 4601 A Calvert Road, College Park, MD, 20740; or call at (240) 487-3570 for further information.

### II. Pedestrian and Driver Safety Measures

In response to the several pedestrian accidents that have occurred in College Park in recent months, the following changes will be implemented:

- Effective immediately, the posted speed limit on US Route 1/Baltimore Avenue between Guilford Road/Drive and Berwyn Road is 25 MPH (reduced from 30 MPH). Speed cameras will issue tickets in this area to vehicles exceeding 37 MPH. However, Police may issue speeding tickets at any speed above the posted 25 MPH limit.
- The City of College Park will issue citations for speed enforcement camera violations in the institution of Higher Education (IHE) Zone (½ mile from the perimeter of the University of Maryland) 24 hours/day, 7 days/week. This may include cameras located as authorized by the City Council in areas as follows:
  - Baltimore Ave. (Route 1), from Beechwood Rd. to University Blvd.
  - Metzerott Rd. within City boundaries from University Blvd. to Adelphi Rd.
  - Greenbelt Rd. from Route 1, Baltimore Ave., to Rhode Island Ave.
  - University Blvd. within the City boundaries from Adelphi Rd. to 49th Ave.
  - Paint Branch Pkwy. from Baltimore Ave. to the City boundary, at or about Old Calvert Rd.

Additional cameras will be located as follows:

Pay City parking tickets  
online with no  
additional fees at  
[www.collegeparkmd.gov](http://www.collegeparkmd.gov)

CLIP AND SAVE

## COLLEGE PARK DIRECTORY

<b>City of College Park Main Number</b> .....	240-487-3500
CITY HALL, 4500 Knox Road, College Park, MD 20740	
Hours: M-F 8am-7pm; Sat. 1-5pm; Sun - Closed	
<b>City Hall Departments</b>	
City Manager/City Clerk.....	240-487-3501
City FAX Number.....	301-699-8029
Finance.....	240-487-3509
Human Resources.....	240-487-3533
Parking Enforcement Div. (M-F 8am-10pm/Sat. 1-7pm).....	240-487-3520
Planning/Economic Development.....	240-487-3538
<b>Housing Authority (Attick Towers)</b> 9014 R.I. Ave.....	301-345-3600
<b>Public Services Department, 4601A Calvert Rd.</b> .....	240-487-3570
<i>Animal Control, Code Enforcement, Public Safety and Recreation. Parking Enforcement is at City Hall.</i>	
24 Hour Hotline.....	240-487-3570
<i>For Urgent Code Enforcement, Noise Control, Animal Control Issues.</i>	
<b>Public Works Department, 9217 51st Ave.</b> .....	240-487-3590
<i>Trash Collection, Recycling and Special Pick-ups.</i>	
<b>Senior Program (Attick Towers)</b> 9014 R.I. Ave.....	301-345-8100
<b>Youth and Family Services, 4912 Nantucket Rd.</b> .....	240-487-3550
Drop-In Recreation Center.....	301-345-4425

## MAYOR AND COUNCIL

<b>Mayor Andrew M. Fellows</b>	
5807 Bryn Mawr Road.....	301-441-8141
<b>Councilmember Faziul Kabir (District 1)</b>	
9817 53rd Avenue.....	301-659-6295
<b>Councilmember Patrick L. Wojahn (District 1)</b>	
5015 Lackawanna Street.....	240-988-7763
<b>Councilmember P.J. Brennan (District 2)</b>	
4500 Knox Road.....	301-220-1640
<b>Councilmember Monroe S. Dennis (District 2)</b>	
8117 51st Avenue.....	301-474-6270
<b>Councilmember Robert W. Day (District 3)</b>	
7410 Baylor Avenue.....	301-741-1962
<b>Councilmember Stephanie Stullich (District 3)</b>	
7400 Dartmouth Avenue.....	301-742-4442
<b>Councilmember Alan Y. Hew (District 4)</b>	
9118 Autoville Drive.....	240-391-8678
<b>Councilmember Denise C. Mitchell (District 4)</b>	
3501 Marlborough Way.....	240-460-7620

## OTHER FREQUENTLY CALLED NUMBERS

<b>EMERGENCY: FIRE-AMBULANCE-POLICE</b> .....	911
<b>NON-EMERGENCY POLICE SERVICES</b>	
Prince George's Co. Police (Hyattsville Station).....	301-699-2630
Prince George's Co. Police Non-Emergency Svcs.....	301-357
Prince George's Co. Park Police.....	301-455
State Police (College Park Barrack).....	301-345-3101
University of Maryland Police.....	301-405-3555
College Park Community Center.....	301-441-2647
5051 Pierce Avenue, College Park	
Branchville Vol. Fire & Rescue Squad.....	301-474-1550
4905 Branchville Road, College Park	<a href="http://www.bvfc011.com">www.bvfc011.com</a>
College Park Vol. Fire Department.....	301-901-9112

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND,**  
**AMENDING CHAPTER 184 “VEHICLES AND TRAFFIC”, BY REPEALING AND**  
**REENACTING ARTICLE VII “SPEED MONITORING SYSTEMS”, SECTION 184-45**  
**“SYSTEMS IN SCHOOL ZONES AND WITHIN ONE-HALF MILE OF AN**  
**INSTITUTION OF HIGHER EDUCATION” TO AMEND THE SECTION TO**  
**CONFORM TO STATE MANDATED CHANGES**

**WHEREAS**, pursuant to Md. Code Ann., Art. 23A, §2, the City of College Park, Maryland (hereinafter, the “City”) has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

**WHEREAS**, §21-809 of the Transportation Article, Annotated Code of Maryland, as amended, authorizes the City to operate a speed monitoring system to enforce the speed limit in school zones and within ½ mile of an institution of higher education in the City; and

**WHEREAS**, pursuant to §21-809, as amended, the City has adopted this enforcement mechanism for increased public safety; and

**WHEREAS**, §21-809 was amended by the State Legislature effective in 2014; and

**WHEREAS**, it is appropriate to conform the City code language with that of amended §21-809.

**Section 1.** **NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park, Maryland that Chapter 184 “Vehicles and Traffic”, §184-45 "Systems in school zones and within one-half mile of an institution of higher education", be, and is hereby amended to read as follows:

§184-45 Systems in school zones and within one-half mile of an institution of higher education.

A. The City, through an Agency established or designated by the City, is authorized to operate a speed-monitoring system to enforce the speed limit in conformance with § 21-809,

Transportation Article, Annotated Code of Maryland, as amended. The speed monitoring system shall be operated by a City agency through DULY AUTHORIZED Prince George's County police officers employed BY or under contract with the City, to be administered in conjunction with the City's Public Services Department.

B. Before activating a[n-unmanned-stationary] speed-monitoring system, the City shall:

(1) Publish notice of the location of the speed-monitoring system on its website and in a newspaper of general circulation in the City.

(2) Ensure that each sign that designates a school zone [indicates] IS PROXIMATE TO A SIGN THAT, AND EACH SPEED LIMIT SIGN APPROACHING AND WITHIN THE INSTITUTE OF HIGHER EDUCATION ZONE:

(A) INDICATES that speed-monitoring systems are in use in THE school OR INSTITUTE OF HIGHER EDUCATION zone[s]; AND

(B) IS IN ACCORDANCE WITH THE MANUAL FOR AND THE SPECIFICATIONS FOR A UNIFORM SYSTEM OF TRAFFIC CONTROL DEVICES ADOPTED BY THE STATE HIGHWAY ADMINISTRATION UNDER §25-104 OF THE TRANSPORTATION ARTICLE, ANNOTATED CODE OF MARYLAND.

C. \* \* \* \*

D. [~~For a period of at least 30 days after the first speed monitoring system is placed in the City, a violation recorded by any speed monitoring system may be enforced only by issuance of a warning. At least 14 days of the thirty-day warning period shall occur during a University of Maryland fall or spring semester.~~] IF THE CITY MOVES OR PLACES A MOBILE OR STATIONARY SPEED MONITORING SYSTEM WHERE A SPEED MONITORING

SYSTEM HAS NOT PREVIOUSLY BEEN PLACED, THE CITY MAY NOT ISSUE A CITATION FOR A VIOLATION RECORDED BY THAT SPEED MONITORING SYSTEM:

(1) UNTIL SIGNAGE IS INSTALLED IN ACCORDANCE WITH SUBSECTION B OF THIS SECTION; AND

(2) FOR AT LEAST THE FIRST 15 CALENDAR DAYS AFTER THE SIGNAGE IS INSTALLED.

E. \* \* \* \*

**Section 2. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for 7:15 P.M. on the 9<sup>th</sup> day of September, 2014, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on \_\_\_\_\_, 2014 provided that

a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 15<sup>th</sup> day of July 2014.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**THE CITY OF COLLEGE PARK, MARYLAND**

By: \_\_\_\_\_  
Janeen S. Miller, City Clerk, CMC

By: \_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Suellen M. Ferguson, City Attorney

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND,**  
**AMENDING CHAPTER 184, "VEHICLES AND TRAFFIC", BY REPEALING AND**  
**REENACTING §184-9, "PERMIT PARKING IN RESTRICTED RESIDENTIAL ZONES"**  
**TO BETTER DEFINE WHERE VISITOR PARKING PERMITS MAY BE USED AND**  
**TO PROVIDE AN ENFORCEMENT MECHANISM**

**WHEREAS**, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the City of College Park, Maryland (hereinafter, the "City") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

**WHEREAS**, the City has adopted Chapter 184-8, "Permit parking in restricted residential areas" to allow for permit and visitor parking in residential neighborhoods when initiated by Mayor and Council or be resident petition; and

**WHEREAS**, it has come to the attention of the Mayor and Council that misuse of the parking and visitor permits is occurring; and

**WHEREAS**, the Mayor and Council have determined that it is in the public interest to adopt certain amendments to Chapter 184 to prevent misuse of the permits and provide an additional enforcement mechanism.

**Section 1.** **NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park, Maryland that Chapter 184, §184-9 "Permit parking in restricted residential areas", be, and is hereby repealed, reenacted and amended to read as follows:

A. – B. \* \* \* \*

C. Residents abutting on such streets in the designated area may apply for parking permits, on forms to be provided by the City Manager, for their own vehicle(s) and for persons doing business with residents there and for some visitors. [~~Abutting residents shall be given preference over visitors of such residents.~~] The City Manager, for good cause shown, may

CAPS  
 [Brackets]  
 Asterisks \* \* \*

: Indicate matter added to existing law.  
 : Indicate matter deleted from law.  
 : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

waive the parking restriction as to visitors or persons doing business with residents or a given day or night.

D. – H. \* \* \*

I. THE PURPOSE OF THE VISITOR PERMIT IS TO ALLOW THE PARKING OF VEHICLES IN THE IMMEDIATE VICINITY OF THE PROPERTY FOR WHICH THE PERMIT IS ISSUED FOR SOCIAL OR BUSINESS PURPOSES. VISITOR PERMITS ALLOW PARKING ONLY WITHIN 200 FEET OF THE PROPERTY BOUNDARY ON BOTH SIDES OF THE STREET ON WHICH THE PROPERTY FRONTS AND ON AN INTERSECTING STREET.

J. IN ADDITION TO ANY OTHER ENFORCEMENT, A RESIDENT PARKING PERMIT OR VISITOR PARKING PERMIT MAY BE REVOKED IF USED IN VIOLATION OF THIS CHAPTER. PRIOR TO REVOCATION OF ANY PERMIT, THE RESIDENTS AND OWNER OF THE PROPERTY TO WHICH THE PERMIT HAS BEEN ISSUED SHALL BE GIVEN WRITTEN NOTICE OF MISUSE BY THE CITY. ONCE SAID NOTICE HAS BEEN GIVEN, THE PERMIT MAY BE REVOKED FOR CONTINUED MISUSE.

**Section 2.** BE IT FURTHER ORDAINED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for 7:15 P.M. on the 9<sup>th</sup> day of Sept., 2014, shall follow the publication by at

least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on \_\_\_\_\_, 2014, provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 12<sup>th</sup> day of August, 2014.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**CITY OF COLLEGE PARK**

By: \_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk

By: \_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Suellen M. Ferguson, City Attorney

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK,**  
**MARYLAND, AMENDING CHAPTER 38, "CODE OF ETHICS", BY**  
**REPEALING AND REENACTING ARTICLE I, "GENERAL PROVISIONS",**  
**SECTION 38-4, "DEFINITIONS", ARTICLE II, "ETHICS COMMISSION",**  
**SECTION 38-8, "PROCEDURES FOR ADJUDICATING ALLEGED**  
**VIOLATIONS", AND ARTICLE IV, "REQUIRED DISCLOSURES", SECTION**  
**38-15, "FINANCIAL DISCLOSURE OF CITY ELECTED OFFICIALS AND**  
**CANDIDATES TO BE CITY ELECTED OFFICIALS", SECTION 38-16,**  
**"FINANCIAL DISCLOSURE OF EMPLOYEES AND APPOINTED**  
**OFFICIALS" AND SECTION 38-17 "ADDITIONAL CONFLICT OF INTEREST**  
**STATEMENTS AND CORRECTION OF INACCURATE OR INCOMPLETE**  
**FILINGS REQUIRED", TO AMEND THE ETHICS CODE TO CLARIFY THE**  
**DEFINITION OF INTEREST THAT MUST BE REPORTED, INCLUDING A**  
**PROCEDURE FOR DISMISSAL OF A COMPLAINT, CLARIFYING THE**  
**REQUIREMENTS FOR ELECTED OFFICIALS, CANDIDATE, APPOINTED**  
**OFFICIAL AND EMPLOYEE DISCLOSURE AND PROVIDING A REMEDY**  
**FOR FAILURE OF A CANDIDATE TO FILE THE REQUIRED DISCLOSURES**

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the City of College Park, Maryland (hereinafter, the "City") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

WHEREAS, the City has adopted a Code of Ethics as required by §15-801 *et seq.* of the State Government Article, Annotated Code of Maryland; and

WHEREAS, the City's Ethics Commission has recommended that certain changes to the Code of Ethics be adopted; and

WHEREAS, the General Assembly has amended the State Ethics Code to change the definition of an "interest" that must be reported with respect to mutual funds; and

WHEREAS, the Mayor and Council have determined that it is in the public interest to adopt certain amendments to the Code of Ethics.

CAPS  
 [Brackets]  
 Asterisks \*\*\*

: Indicate matter added to existing law.  
 : Indicate matter deleted from law.  
 : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

**Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park, Maryland that Chapter 38, "Code of Ethics", Article I, "General Provisions", Section 38-4, "Definitions", be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

\* \* \* \* \*

INTEREST – Any legal or equitable economic interest, whether or not subject to an encumbrance or condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly, by any person subject to this chapter. One who serves as an officer or director of a business entity, whether operated for profit or not, has an "interest" in that business entity. For purposes of this chapter, the term "interest" applies to any interest owned or held at any time during the calendar year for which a required statement is to be filed or made upon the record of the City Council or any City body. For purposes of §38-15 and §38-16, interest includes any interest held at any time during the reporting period.

A. \* \* \* \*

B. For all purposes in this chapter, "Interest" does not include:

- (1) An interest held in the capacity of a personal agent, representative, custodian, fiduciary or trustee, unless the holder has an equitable interest therein.
- (2) An interest in a time or demand deposit in a financial institution.
- (3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period.
- (4) An interest in a common trust fund or a trust that forms part of a pension or profit-sharing plan which has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust or college savings plan under Internal Revenue Code.
- (5) An interest in a business entity, if the official or employee owns three percent (3%) or less of the business, including ownership of securities held directly or indirectly, such as through mutual funds.

(6) A MUTUAL FUND THAT IS PUBLICLY TRADED ON A NATIONAL SCALE UNLESS THE MUTUAL FUND IS COMPOSED PRIMARILY OF HOLDINGS OF STOCKS AND INTERESTS IN A SPECIFIC SECTOR OR AREA THAT IS REGULATED BY THE CITY.

\* \* \* \* \*

**Section 2.** BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article II, “Ethics Commission”, § 38-8, “Procedures for adjudicating alleged violations”, be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-8. Procedures for adjudicating alleged violations.**

A. Complaint

(1) – (2) \* \* \* \*

(3) Ethics Counsel review. The Commission shall immediately transmit a copy of the complaint to its Ethics Counsel. The Ethics Counsel shall review the complaint and, at his or her discretion, may prepare an addendum to the complaint. The purposes of this addendum are to assure that the respondent has adequate notice of the specific Code provisions alleged to have been violated and to aid the Commission in limiting the scope of any preliminary hearing to relevant factual inquiries. Any addendum is to be submitted to the Commission within 10 working days of receipt of the complaint by the Ethics Counsel. IF THE ETHICS COUNSEL DETERMINES THAT THE COMPLAINT IS TIME BARRED UNDER PARAGRAPH (4) OF THIS SUBSECTION OR DOES NOT ASSERT FACTS THAT IF PROVEN TRUE WOULD CONSTITUTE A VIOLATION OF THIS CHAPTER OR CHAPTER 34, THE ETHICS COUNSEL MAY RECOMMEND THAT THE COMMISSION DISMISS THE COMPLAINT WITHOUT NOTICE TO THE

RESPONDENT OR A PRELIMINARY HEARING. UPON RECEIPT OF THE RECOMMENDATION, THE COMMISSION MAY DISMISS THE COMPLAINT.

(4) \* \* \* \*

B. \* \* \* \*

C. Preliminary hearing.

(1) – (3) \* \* \* \*

(4) [Respondents] RESPONDENT’S right to respond. The respondent shall have the opportunity to respond but is not required to attend or make any statement. Such person may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation. If the respondent agrees that a violation has occurred, he or she may at any time waive the right to a final hearing and consent to a decision based on the facts alleged in the complaint or otherwise agreed upon. The disposition of any complaint without final hearing shall be by written order of the Commission in the form specified by Subsection D(5).

(5) – (7) \* \* \* \*

\* \* \* \*

**Section 3. BE IT FURTHER ORDAINED AND ENACTED**, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-15, “Financial disclosure of City elected officials and candidates to be City elected officials”, be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-15. [Financial] REQUIRED disclosure [of] BY City elected officials and candidates to be City elected officials.**

A. \* \* \* \*

B. [Financial]-REQUIRED disclosure statements

(1) REQUIRED DISCLOSURE STATEMENTS INCLUDE:

- (A) ANNUAL FINANCIAL DISCLOSURE STATEMENTS;
- (B) CANDIDATE FINANCIAL DISCLOSURE STATEMENTS; AND
- (C) STATEMENTS OF ACTUAL OR POTENTIAL CONFLICT OF INTEREST.

(2)[(1) Except as provided in Subsection C-a] A City elected official or a candidate to be a City elected official shall file the financial disclosure statementS required under this section:

- (a) On a form provided by the Commission;
- (b) Under oath or affirmation; and
- (c) With the CITY CLERK, WHO SHALL FORWARD THE STATEMENTS TO THE Commission OR THE BOARD OF ELECTION SUPERVISORS, AS APPROPRIATE.

(3)[(2)]Deadlines for filing statements.

- (a) An incumbent City elected official shall file [~~a financial disclosure statement annually~~] AN ANNUAL FINANCIAL DISCLOSURE STATEMENT no later than April 30 of each year for the preceding calendar year.
- (b) An individual who applies to fill a vacancy in an office for which an ANNUAL financial disclosure statement is required and who has not already filed a financial disclosure statement for the reporting period, shall file a statement for the preceding calendar year and the portion of the current calendar year to date of filing together with the application for appointment.
- (C) AN ELECTED OFFICIAL SHALL FILE A STATEMENT OF ACTUAL OR POTENTIAL CONFLICT OF INTEREST DISCLOSING EMPLOYMENT AND INTERESTS THAT RAISE CONFLICTS OF INTEREST OR POTENTIAL CONFLICTS OF INTEREST IN CONNECTION WITH A SPECIFIC PROPOSED ACTION BY THE OFFICIAL SUFFICIENTLY IN ADVANCE OF THE ACTION TO PROVIDE ADEQUATE DISCLOSURE TO THE PUBLIC.

\* \* \*

C. Candidates to be City elected officials.

(1) A candidate to be an elected City official shall file a financial disclosure statement [~~each year beginning with the year in which the authorization of candidacy is filed through the year of the election~~] WITH THE CITY CLERK WITH THE CANDIDATE'S AUTHORIZATION OF CANDIDACY. THE CITY CLERK SHALL FORWARD THE STATEMENT TO THE BOARD OF ELECTION SUPERVISORS.

~~[(2) — A candidate to be an elected City official shall file a statement required under this section:~~

- ~~(a) — In the year the authorization of candidacy is filed, no later than the filing of the authorization of candidacy.] (A) EXCEPT AS PROVIDED IN PARAGRAPH (B), the reporting period shall be the calendar year immediately preceding the year in which the authorization is filed and the portion of the current calendar year to the date the authorization is filed;~~
- ~~(b) [In the year of the election, if other than the year in which the authorization of candidacy is filed, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and] FOR ELECTED~~

OFFICIALS THAT HAVE FILED A STATEMENT UNDER ANOTHER PROVISION OF THIS SECTION FOR THE PRECEDING CALENDAR YEAR, THE REPORTING PERIOD SHALL BE THE PORTION OF THE CALENDAR YEAR TO THE DATE THE AUTHORIZATION IS FILED;

~~{(c) In all other years for which a statement is required, on or before April 30.}(3)~~

~~[A candidate to be an elected City official:~~

~~(a) Shall file the statement required under § 38-15C(2)(a) of this chapter with the Board of Election Supervisors at the time of filing of the authorization of candidacy and with the Commission prior to or at the time of filing the authorization of candidacy; and~~

~~(b) Shall file the statements required under § 38-15C(2)(b) and (c) with the Commission.~~

~~(4) If a candidate fails to file a statement required by this section after written notice is provided by the Board of Election Supervisors at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.~~

~~(5) The Board of Election Supervisors may not accept [any certificate of candidacy unless a statement has been filed in proper form.] The Board of Election Supervisors may not accept AN AUTHORIZATION OF CANDIDACY UNLESS IT IS ACCOMPANIED BY THE CANDIDATE'S FINANCIAL DISCLOSURE STATEMENT THAT INCLUDES ALL REQUIRED IDENTIFYING AND CONTACT INFORMATION, IS SIGNED UNDER OATH, AND INCLUDES ANSWERS TO EVERY MANDATORY QUESTION.~~

((4) Upon receipt of a statement required under this section, the Board of Election Supervisors shall promptly forward the statement to the Commission or the office designated by the Commission, ~~[but in any event]~~ AND SHALL DO SO no later than ~~[within 30 days of receipt and no later than]~~ THE close of business on the day of the filing deadline ~~[, whichever is earlier]~~ FOR THE AUTHORIZATION OF CANDIDACY.

(D) – (H) \* \* \* \*

\* \* \* \*

**Section 4.** BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-15, “Financial disclosure of City elected officials and candidates to be City elected officials”, be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-16. [Financial] REQUIRED disclosure {of} BY employees and appointed officials.**

A. – E. \* \* \* \*

F. A newly appointed City official shall file a [~~financial~~] REQUIRED disclosure form within 30 days of appointment. The reporting period for the statement is the calendar year immediately preceding the year in which the disclosure form is filed, and the portion of the current calendar year to the date the form is filed.

**Section 5.** BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-17, “Additional conflict of interest statements and correction of inaccurate or incomplete filings”, be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-17. Additional conflict of interest statements and correction of inaccurate or incomplete filings.**

(A) – (B) \* \* \* \*

C. Any person required to file a conflict of interest, lobbying registration, or financial disclosure statement pursuant to this chapter shall correct any inaccurate or incomplete filings with the commission within [~~30~~] 15 days of learning or being notified that the statement is inaccurate or incomplete. Any candidate for office notified that a [~~form~~] STATEMENT is, or appears to the commission to be, inaccurate or incomplete must provide the additional information required to the commission or confirm the accuracy and completeness of the [~~form~~] STATEMENT WITHIN 15 DAYS OR prior to the withdrawal of candidacy deadline, WHICHEVER IS FIRST TO OCCUR. IF ADDITIONAL INFORMATION IS NOT PROVIDED OR THE ACCURACY AND COMPLETENESS OF THE INFORMATION IS NOT CONFIRMED, IN WRITING, WITHIN THE REQUIRED TIME TO THE SATISFACTION OF THE COMMISSION THAT IT IS IN COMPLIANCE WITH THE

ETHICS CODE, THEN THE CANDIDATE IS DEEMED TO HAVE WITHDRAWN THE CANDIDACY. THE COMMISSION MAY DELEGATE THE DETERMINATION OF SUFFICIENCY TO ITS CHAIR.

**Section 6. BE IT FURTHER ORDAINED** by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for 7:15 P.M. on the 9<sup>th</sup> day of September, 2014, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on \_\_\_\_\_, 2014, provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 12<sup>th</sup> day of August, 2014.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**CITY OF COLLEGE PARK**

By: \_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk

By: \_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Suellen M. Ferguson, City Attorney

# MINUTES

**MINUTES**  
**Special Session of the College Park City Council**  
**Council Chambers**  
**Wednesday, August 6, 2014**  
**9:31 p.m. – 10:01 p.m.**

**PRESENT:** Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Day, Hew and Mitchell.

**ABSENT:** Councilmembers Dennis and Stullich

**ALSO PRESENT:** Joseph Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Bob Ryan, Director of Public Services; Bob Stumpff, Director of Public Works; Steve Halpern, City Engineer; Terry Schum, Director of Planning; Cole Holocker, Student Liaison.

During a regularly scheduled Worksession of the College Park City Council, a motion was made by Councilmember Brennan and seconded by Councilmember Kabir to enter into a Special Session. The possibility of a Special Session was listed on the Worksession agenda. The motion passed 6 – 0 – 0 and the Council entered into a Special Session at 9:31 p.m.

**14-G-82      Approval of an MOU between the City and Prince George’s County  
Department of Public Works & Transportation regarding installation of a  
Rectangular Rapid Flashing Beacon (RRFB) on Rhode Island Avenue at  
Hollywood Road**

Mr. Nagro said this is the same MOU that was signed for the installation of the first two RRFBs on Rhode Island Avenue and this expense was approved in the FY ’15 budget.

**A motion was made by Councilmember Wojahn and seconded by Councilmember Brennan to approve the MOU with Prince George’s County DPW&T, and to authorize the City Manager to sign the MOU.**

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

**The motion passed 6 – 0 – 0.**

**14-R-27      Resolution Of The Mayor And Council Of The City Of College Park To  
Authorize The Permanent Closure And Vacation Of Rossburg Drive Subject To  
Certain Conditions**

Ms. Ferguson said this document is the same that Council previously approved (14-R-14) but the company that is going to be the owner of the property has changed. The only change is to the name of the new party.

**A motion was made by Councilmember Day and seconded by Councilmember Brennan to adopt 14-R-27.**

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

**The motion passed 6 – 0 – 0.**

**14-R-28 Resolution Of The Mayor And Council Of The City Of College Park To Amend The Declaration Of Covenants And Agreement Regarding Land Use Between The City And Toll Bros., Inc. To Require That The Rossburg Drive Right Of Way To Be Vacated By Vacation Petition V- 13008 Be Deeded To The City In The Event That The Project Authorized By Detailed Site Plan Dsp-13025 Is Not Constructed**

**A motion was made by Councilmember Day and seconded by Councilmember Brennan to adopt 14-R-28.**

Ms. Ferguson said this document is the same that Council previously approved (14-R-15) but the company that is going to be the owner of the property has changed. The only change is to the name of the new party.

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

**The motion passed 6 – 0 – 0.**

**14-G-83 Approval of two letters of support to the National Endowment for the Arts for grant applications from the Clarice Smith Center**

**A motion was made by Councilmember Brennan and seconded by Councilmember Wojahn to approve two letters to support funding for the Clarice Smith Performing Arts Center for two projects, “At War With Ourselves” and “Telling: College Park.”**

Councilmember Brennan is excited about the community outreach that will be associated with these projects.

There were no comments from the audience.

Councilmember Mitchell asked if the Veterans Memorial Committee was aware of this. Councilmember Brennan has put the Clarice Smith Center in touch with that committee.

**The motion passed 6 – 0 – 0.**

**14-G-84 Request by the Tennis Center College Park for \$10,000 for sponsorship of the International Junior Tennis Championship**

Mr. Nagro said Mr. Benton contacted him with this request just after the July meeting and because of our summer meeting schedule we couldn't discuss until tonight. The tournament is August 16 and this has to be decided tonight in Special Session.

Councilmember Mitchell asked about the budget. \$10,000 was budgeted for “marketing” and was not designated for the tennis center.

Councilmember Hew asked if this would commit the City for three years. Mayor Fellows said no, this would only authorize the expenditure for one year because we can’t obligate future Councils.

Councilmember Wojahn said this is a business in our community and does not provide direct services to our residents; this may not be the best way to market the City.

**A motion was made by Councilmember Day and seconded by Councilmember Hew to approve funding of \$10,000 for one year to sponsor the International Junior Tennis Championship at the presenting sponsor level.**

Mayor Fellows said the Tennis Center gets a lot of press coverage and is known as “College Park” so we might be interested in supporting it. \$10,000 makes sense for now and then we can reevaluate it after the first year.

Councilmember Day said they are working hard to be more a part of our community. They bring people to our City to stay overnight in hotels and eat at our restaurants. Why would we not use this as an opportunity to raise our visibility?

Councilmember Hew said when he was watching Wimbledon there was a mention of the College Park Tennis Center, and everyone in the room took note.

There were no comments from the audience.

**The motion failed 2 – 4 – 0 (Mitchell, Wojahn, Kabir and Brennan opposed).**

**ADJOURN SPECIAL SESSION:** A motion was made by Councilmember Kabir and seconded by Councilmember Day to adjourn the Special Session. With a vote of 6 – 0 – 0, Mayor Fellows adjourned the Special Session at 10:01 p.m.

---

Janeen S. Miller, CMC  
City Clerk

Date  
Approved

**MINUTES**  
**Public Hearing of the College Park City Council**  
**Tuesday, August 12, 2014**  
**7:00 P.M.**

**14-CR-01**

**Charter Resolution Of The Mayor And Council Of The City Of College Park, Amending Article V “Charter Amendments”, §C5-1, “Procedure For Petition” To Require Certain Information To Be Included On Referendum Petitions**

**PRESENT:** Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Stullich (arrived at 7:05 p.m.), Day, Hew, and Mitchell (arrived at 7:03 p.m.).

**ABSENT:** None.

**ALSO PRESENT:** Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Suellen Ferguson, City Attorney.

Mayor Fellows opened the public hearing on Charter Amendment 14-CR-01 at 7:00 p.m. City Attorney Ferguson provided an overview. This is an amendment to §C5-1 of the charter with respect to the procedure that is followed when a charter amendment is taken to referendum. This began with an effort to make a template charter referendum form available to the public. Council then requested to add two fields to the template form. The fields that were added, date signed and circulator’s affidavit, help the Board of Election Supervisors validate petition signatures. This Charter Amendment modifies the City Charter with respect to the information that must be contained on the template referendum petition form. With this adoption, the City would be able to provide a form to make it clear what kind of information the City is requiring.

Mayor Fellows invited public comment:

**Dave Dorsch, 4607 Calvert Road:** Most people don’t know what election district they are in so why require it on the form? They are already going through the arduous process of a petition process, so why put this roadblock in their way. You should make it as easy as possible for people. The County does not require an election district. Also see how you can do this electronically.

**Mary Cook, 4705 Kiernan Road:** She thinks the form is great, but what is more important is that there are dozens of people who no longer live in the City on the voter rolls, which makes it harder to get the 20% needed for a referendum. What can be done to purge the voter rolls?

After discussion, Council requested a future Worksession discussion about addressing the issue of purging the voter rolls with the County’s Board of Elections.

There being no further comment, Mayor Fellows closed the public hearing at 7:14 p.m.

\_\_\_\_\_  
Janeen S. Miller, CMC  
City Clerk

\_\_\_\_\_  
Date Approved

CITY COUNCIL OF COLLEGE PARK

+ + + + +

ORAL ARGUMENT CPV-2014-05, 5926 BRYN MAWR ROAD EXCEPTION FILED TO THE RECOMMENDATION OF THE COLLEGE PARK ADVISORY PLANNING COMMISSION IN CASE NUMBER CPV-2014-05

+ + + + +

TUESDAY  
AUGUST 12, 2014

+ + + + +

The City Council met in the Council Chambers, 4500 Knox Road, College Park, Maryland, 7:00 p.m., Mayor Andrew Fellows presiding.

MEMBERS PRESENT:

- ANDREW FELLOWS, Mayor
- DENISE MITCHELL, Mayor Pro Tem
- P.J. BRENNAN, Member
- ROBERT DAY, Member
- MONROE DENNIS, Member
- ALAN HEW, Member
- FAZLUL KABIR, Member
- STEPHANIE STULLICH, Member
- PATRICK WOJAHN, Member

STAFF PRESENT:

- MIRIAM BADER, Senior Planner
- SUELLEN FERGUSON, City Attorney
- BILL GARDINER, Assistant City Manager
- JANEEN MILLER, City Clerk
- JOSEPH NAGRO, City Manager
- TERRY SCHUM, Planning Director

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P-R-O-C-E-E-D-I-N-G-S

(7:14 p.m.)

MAYOR FELLOWS: We will go into the next thing, which is the record of case CPV-2014-05. This is Yaris U. Reyes Carbajal. I apologize if I'm mispronouncing that.

This is a, the rules of procedure for the Mayor and City Council for the conduct of oral argument and exceptions from decisions on the Advisory Planning Commission.

The order of presentation before the Mayor and Council will be orientation by planning staff, then oral argument against the recommendation of the Advisory Planning Commission, and then an oral argument in favor of the recommendation, rebuttal by the parties, rebuttal by the parties in support and opposition, and then support of.

Ms. Schum.

MS. SCHUM: Yes. Thank you, Mr. Mayor.

For the record, Terry Schum,

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1 Planning Director of the City of College Park.  
2 And, this is Case Number CPV-2014-05. And, it  
3 was filed by Yaris U. Reyes Carbajal on May 9,  
4 2014, and heard by the Advisory Planning  
5 Commission on June 5, 2014.

6 You can go to the next slide.

7 The property is located at 5926 Bryn  
8 Mawr Road, in the College Park Estate  
9 Subdivision. It's at the intersection of Bryn  
10 Mawr Road and Edmonston Road on the northwest  
11 corner at the entrance to the neighborhood.

12 On the next slide, you'll see that  
13 the property is zoned R-55, which is a  
14 single-family detached housing zone, and the  
15 neighborhood is exclusively houses zoning,  
16 single-family detached housing, so all the  
17 properties are similarly zoned.

18 And, on the next slide is the site  
19 plan. This is also Exhibit 2 in the record.  
20 And, it shows that the property is improved with  
21 a one-story brick home, an attached porch, a  
22 concrete driveway, and a shed in the backyard.

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1           The Applicant applied for a  
2 variance in order to construct a six foot tall  
3 fence in the area that's shown by the Xs and  
4 outlined on yellow, in yellow on the plan. As  
5 you can see, the property has an irregular  
6 shape. It has three sides instead of the  
7 typical four sides for a lot. And, the house  
8 itself is oriented diagonally on the lot.

9           It was initially determined by  
10 Prince George's County that a two-foot variance  
11 was required to install the six-foot fence in  
12 the front yard, which is defined by the county  
13 typically of this area here on the site plan,  
14 the area between the house and the short side  
15 of the street.

16           So, the definition specifically in  
17 the county ordinance says the legal front yard  
18 doesn't have to be where the front door is, but  
19 it is defined as the shortest lot line that  
20 abuts the street.

21           So, the Prince George's County  
22 Zoning Ordinance, Section 27-420a, states that

1 in the case of a corner lot consisting of one  
2 acre or less, fences in the front yard or side  
3 yard shall not be more than four feet high  
4 unless a variance is approved by the Board of  
5 Appeals.

6 Now, just a note here, this is a  
7 variance from the Prince George's County Zoning  
8 Ordinance, not the City of College Park Code.  
9 This particular fence, as shown on the site  
10 plan, as requested by the Applicant, meets all  
11 of the requirements of the city's fence  
12 ordinance.

13 So, this is not an action pertaining  
14 to the city's ordinance, but because the  
15 County's ordinance is more strict in this  
16 particular situation, the variance is from  
17 their ordinance, not the city's.

18 So, on the next slide, you'll see --  
19 well, maybe go back a second.

20 So, the initial determination by  
21 Prince George's County was that a two-foot  
22 variance was required to install the six-foot

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1 fence in the front yard that I just showed you  
2 here between Edmonston, which is the short  
3 street, and the house right here. However,  
4 that determination, we learned subsequently,  
5 was incorrect.

6 So, on the next slide, you will see  
7 how the county has now determined the yards to  
8 be on this particular site. And, the site is  
9 odd. I mean, the site, you know, it's no doubt  
10 a corner property, but given -- it's more a  
11 triangle than a square, and, you know, it has  
12 curved, curved angles as well, but it really  
13 only has three sides.

14 So, the front now the county is  
15 defining as being on Bryn Mawr, so the front is  
16 only defined now as -- this is the real front  
17 of the house, the front yard is being defined  
18 just in this area here, the rear yard being  
19 directly behind the house here, and then the  
20 side yards extending, you know, making up the  
21 largest portion of the, of the site going from  
22 the rear yard up to Bryn Mawr and around along

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1 Edmonston Avenue.

2 So, according to this new  
3 definition, the only part that doesn't require  
4 a variance to install a six-foot fence is the  
5 section of the fence proposed in the rear yard  
6 here.

7 MEMBER STULLICH: Can you repeat  
8 that? The only part --

9 MS. SCHUM: The only part of the  
10 proposed fence, which is shown by the Xs and  
11 outlined in yellow, like this, all that -- I'm  
12 sorry, all this in yellow, except for this  
13 section here in the rear yard, can exist with  
14 -- requires a variance. The only part of the  
15 fence that doesn't require a variance is this  
16 section right here in the rear -- in the newly  
17 defined rear yard.

18 Okay. I won't even confuse you  
19 more by showing you how the city defines yards  
20 because they are totally different.

21 MEMBER DAY: So, when they went for  
22 the variance before the APC, would this have

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1 made a difference in how they're reviewing it?

2 MS. SCHUM: In the -- it would have  
3 made a difference in how, how it was presented  
4 and how it was written up. And, I think the  
5 attorney will talk to you a little bit later in  
6 this hearing to explain how what happened  
7 during the hearing may need to be corrected as  
8 a matter of law, but the bottom-line in result  
9 wouldn't have changed.

10 And, I'll go on a little further and  
11 talk specifically about what the APC found, but  
12 bottom-line, they approved a six-foot fence  
13 along the parameter as shown here on the site  
14 plan.

15 MEMBER STULLICH: May I just ask a  
16 question? I apologize for the interruptions.  
17 Normally, we wait, but this is very confusing.

18 MS. SCHUM: It is.

19 MEMBER STULLICH: Could you just go  
20 back to the previous slide for a moment just so  
21 we can see the -- so, I'm sorry. Where was --  
22 did this show the -- what was considered the

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1 front, rear, etc., at the time of the --

2 MS. SCHUM: This is the site plan as  
3 it was presented during the hearing, so this is  
4 Exhibit 2 of the record.

5 MEMBER STULLICH: And, at that  
6 time, the Edmonston Avenue frontage was  
7 considered the front and now it's shifted.

8 MS. SCHUM: Yes. So, the  
9 Applicant initially went to Prince George's  
10 County to obtain a permit, was told that a  
11 permit couldn't be obtained until a variance  
12 was obtained for the portion of the fence in the  
13 front yard because front yard and side yard  
14 fences are only allowed to be four feet, not six  
15 feet, on a corner not.

16 MEMBER STULLICH: Thank you.

17 MS. SCHUM: Did I say something  
18 wrong? I hope not. Do you need to speak?

19 MS. FERGUSON: I just want to make  
20 sure we have a clarification because in the  
21 transcript that we have here, we have to make  
22 sure that we're clear with Council what they

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1 were actually looking at.

2 On page -- page 54, they're looking  
3 at a six foot -- to be clear, is a variance to  
4 have a six-foot fence from where the end of the  
5 square in the rear of the, in the yard where it  
6 says six foot fence with an arrow. And, from  
7 that line, the second X in the rear yard to  
8 Edmonston Avenue all the way along Edmonston  
9 Avenue line is the only place where a variance  
10 is required.

11 And, that was confirmed, okay. So,  
12 my understanding from reading this transcript  
13 is that it did not cover the, was is the left  
14 side yard because the APC did not understand  
15 that it would be needed.

16 Are we correct? I think that's  
17 correct.

18 MS. SCHUM: Well, the front yard as  
19 defined by the county initially includes this  
20 area here.

21 MS. FERGUSON: Yes, that was it,  
22 and that's what was known at the time.

1 MS. SCHUM: Right. So, the -- so  
2 this was the only portion of the fence that the  
3 APC was told that they were addressing for a  
4 variance. All right. Okay.

5 All right. And, maybe if we show  
6 you some photos it will help a little bit. So,  
7 if we can -- so this shows the front of the  
8 property which faces Bryn Mawr.

9 And, the next slide shows what we  
10 now know is the side yard along Edmonston Road.  
11 And, this is another, another view of that  
12 extending a little bit to the south. So, this  
13 is the entrance sign to the community right  
14 here.

15 And, then the last yard, this is the  
16 Applicant's property here. This is the  
17 adjoining property, which fronts on Bryn Mawr.  
18 And, this house, of course, even though this is  
19 the side of the house, it also fronts on Bryn  
20 Mawr given the -- a curvature of the street.

21 So, in order to approve a variance,  
22 the APC needs to find that all three criteria

1 in the county code are being met. And, so the  
2 APC found that all three criteria were being met  
3 and they voted unanimously, which was 4-0 to  
4 approve the variance request to allow the  
5 six-foot fence to be constructed as shown on the  
6 site plan, and they also added three  
7 conditions.

8 So, if you look at Section 2 of  
9 Resolution 14-RR-06, you see specifically the  
10 conclusions of law of the APC. And, I will read  
11 these into the record for you.

12 Addressing the first criteria.  
13 "The property has extraordinary conditions.  
14 The property has an exceptional shape and that  
15 the property is a triangular-shaped corner lot  
16 along a busy street. Due to the configuration  
17 of the lot, its shape, and the orientation of  
18 the house, the legal front functions as the  
19 apparent side street yard."

20 We now know this to be not true.

21 "And the adjacent property function  
22 as a rear yard and not a front yard. This

1 situation leaves the property without a rear  
2 yard. Also, the property has a three-foot  
3 grade change on the Edmonston Avenue side of the  
4 lot. The house is higher than Edmonston  
5 Avenue."

6 As far as the second criterion, "The  
7 strict application of the county zoning  
8 ordinance will result in undue hardship upon  
9 the property owner by preventing him from  
10 adequately protecting his child, his pet, and  
11 his property," as he testified during the, the  
12 hearing. "He lost a dog, who ran onto  
13 Edmonston Avenue, and he has been the victim of  
14 property crime at this address."

15 And, then as far as the third  
16 criterion. "The APC found that grading the  
17 variance will not impair the intent purpose or  
18 integrity of any applicable county general plan  
19 or master plan. In fact, the purpose of the  
20 six-foot high fence is to protect the private  
21 and public health, safety, welfare, and comfort  
22 by preventing accidents that can be caused by

1 children and pets running from the property  
2 into the street. Also, the six-foot high fence  
3 is requested as a deterrent from criminal  
4 activity to protect the property owner's  
5 personal property and prevent trespassing."

6 So, that was a decision of the APC,  
7 which is now before you. In addition, the  
8 three conditions that the Commission placed on  
9 the granting of the variance is, one, that the  
10 finished side of the fence shall face outward;  
11 two, that the fence adjoining 5924 Bryn Mawr  
12 Road shall be placed two feet within the  
13 Applicant's property line; and, three, the  
14 fence may be wood, board-on-board, but shall  
15 not be a stockade fence or chain-link.

16 So, that concludes the staff  
17 orientation to the case. I'd be happy to  
18 answer any further questions you may have.

19 MAYOR FELLOWS: Any questions of  
20 staff?

21 Mr. Day.

22 MEMBER DAY: So, normally, we see

1 different pictures of, you know, the  
2 surrounding properties and their fences. We  
3 didn't get that opportunity here.

4 Are there other fences along the  
5 same lines of the six foot fences within a block  
6 of these homes, of this home?

7 MS. SCHUM: I believe the Applicant  
8 testified that there were, but there's no  
9 evidence of that in the record.

10 MEMBER DAY: Okay.

11 MAYOR FELLOWS: Ms. Stullich.

12 MEMBER STULLICH: I agree that the  
13 property has an unusual shape and that's what  
14 makes this a difficult one to understand. I  
15 think, to my mind, the Edmonston Road side was  
16 -- it's not the larger issue, although, I  
17 understand that's the issue that was the focus  
18 for the APC given the information that they had  
19 at the time.

20 And, at the time, the -- it's the --  
21 I'm trying to get my orientation. Is it -- the  
22 side to the left of the house, is the north side

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1 or the -- what side is that?

2 MS. SCHUM: Where is it? This is  
3 the north, south, east, west.

4 MEMBER STULLICH: So, it's sort of  
5 the northwest side. And, so the APC was not  
6 looking at that side because they understood  
7 that the only variance that was needed was for  
8 the side along Edmonston Road. Is that right?

9 MS. SCHUM: That's right, but there  
10 is discussion in the record about the fence at  
11 this location. And, I believe the adjoining  
12 property owner indicated he would prefer a  
13 four-foot fence at this location, but it was  
14 determined at that time that it was legally  
15 allowed and it didn't require a variance, so --

16 MEMBER STULLICH: Right, but the  
17 county's understanding, the facts have changed  
18 with respect to that issue.

19 MS. SCHUM: Yes.

20 MEMBER STULLICH: Right. To me,  
21 that's, that's the biggest issue. I -- my  
22 issue is not with the Edmonston side, but it is

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1 with the side that is close to Bryn Mawr because  
2 that is a main street. And, my concern is, I'm  
3 generally concerned about six foot fences.

4 I think we have the variance -- the  
5 limit in our own code for a reason, and the  
6 county may be for similar reasons limiting to  
7 four feet, and so I guess from my perspective,  
8 it's -- there was a -- you know, the APC didn't  
9 have all of the correct facts in front of it at  
10 the time with respect to that portion of the  
11 side.

12 And, the -- either both the -- the  
13 county would allow a four-foot fence. It's  
14 just the additional two feet that are at issue.  
15 Is that correct?

16 MS. SCHUM: Yes. With this  
17 particular variance, yes. Although, the  
18 city's fence ordinance would allow this fence  
19 to be six feet as long as its setback 25 feet  
20 from the side yard -- side street, pardon me.

21 MEMBER STULLICH: Okay. Thank  
22 you. Oh, and one other just question. Is the

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1 Board of Appeals, is the APC the Board of  
2 Appeals in this case?

3 MS. SCHUM: No. The Board of  
4 Appeals is actually the County's APC, but they  
5 came first.

6 MEMBER STULLICH: I see. So, this  
7 is --

8 MS. SCHUM: So, our APC functions  
9 as the County Board of Appeals.

10 MEMBER STULLICH: Say that again.

11 MS. SCHUM: Our Advisory Planning  
12 Commission functions as the County's Board of  
13 Appeals.

14 MEMBER STULLICH: In this  
15 situation.

16 MS. SCHUM: In this situation.

17 MEMBER STULLICH: So there isn't  
18 another layer beyond --

19 MS. SCHUM: No.

20 MEMBER STULLICH: -- the APC and  
21 us?

22 MS. SCHUM: No.

1                   MEMBER STULLICH:    Okay.    Thank  
2                   you.

3                   MS. SCHUM:    Well, there could be.  
4                   Obviously, after you, the Applicant, or a party  
5                   of record, could appeal this to, to the Courts.

6                   MEMBER STULLICH:    Right.    Thank  
7                   you.

8                   MAYOR FELLOWS:    Ms. Ferguson.

9                   MS. FERGUSON:    I've asked to  
10                  address before the followup with the Applicant  
11                  because as you can see there's a process  
12                  question here.    And, you know now that, and I  
13                  think what Ms. Schum was trying to tell you,  
14                  this conclusion that only the one side yard,  
15                  which is now the side yard on Edmonston Road,  
16                  really required the variance, was something  
17                  that was reached fairly late in the hearing.

18                  And, so, the transcript does  
19                  contain sufficient information for you to  
20                  consider if you care to about the rest of the  
21                  fence.    The rest of the fence is discussed, and  
22                  the height and where it's going to be placed.

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1           So, the entire fence was discussed,  
2           although, only that Edmonston Road side was  
3           taken up as seeing the need for a variance, and  
4           so that was all that was voted on.

5           We have also looked at this from the  
6           point of view of notice because of the way the  
7           notice went out from the APC on this. Based on  
8           what was coming from the county to planning  
9           staff at that time, it was noticed as a front  
10          yard issue. However, the reference to the code  
11          section from which the variance, that the  
12          variance was being requested for, referenced  
13          front and side yards, and also a drawing was  
14          attached to that notice that showed the fence  
15          going around -- in its full circumference.

16          So, based on what was actually put  
17          out to the public, reading it, there is just the  
18          reference to the front yard as they thought it  
19          was at the time, but the law that they're asking  
20          for the variance from referenced front and side  
21          yards, and the attached diagram showed the full  
22          fence as being what was being requested.

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1                   So, not perfect, but probably  
2 sufficient for the notice on this one in terms  
3 of the surrounding neighbors because of the  
4 drawing that was attached. So, I just wanted  
5 the Council to know both of those things before  
6 you started to hear from the Applicant and in  
7 the opposition because that's the focus that  
8 you'll have going forward. Clearly, the  
9 variance that was granted here was insufficient  
10 to allow for that entire fence.

11                   MEMBER STULLICH: I'm sorry.  
12 Could you repeat that? The variance that was  
13 granted --

14                   MS. FERGUSON: That was granted was  
15 based on the transcript in the record was  
16 insufficient to grant a variance for the entire  
17 fence because the side, the Bryn Mawr Road side,  
18 was not seen at that time as needing a variance  
19 because it was thought to be in another yard  
20 entirely, not in the side yard.

21                   MEMBER STULLICH: So, is it --

22                   MS. FERGUSON: The variance that

1 was granted --

2 MEMBER STULLICH: Right.

3 MS. FERGUSON: The variance that  
4 was granted wasn't done by feet or anything.  
5 It was done in a somewhat cryptic reference  
6 unless you read the transcript a couple of times  
7 and look at the pictures pretty carefully.  
8 They're really talking about the Edmonston Road  
9 side of the fence from where that six-foot fence  
10 line stops around to the corner of the house.

11 MEMBER STULLICH: So --

12 MS. FERGUSON: So, it was just that  
13 one piece that the variance was actually  
14 granted for.

15 MEMBER STULLICH: Right. So, it  
16 seems like we would need to remand this in any  
17 event for the --

18 MS. FERGUSON: Well, you have two  
19 choices as you go forward on this. If you find  
20 that the record is sufficient for you to go into  
21 the entire variance, you can do that, or you can  
22 remand it to the APC for further proceedings

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1 based on the current understanding that this is  
2 a variance for the entire fence, except for that  
3 piece in the back that's marked out in red and  
4 says, "Six foot fence," that rear part in the  
5 back. And, it's for all of the rest of that  
6 yellow line with the Xs through it, both sides.

7 MEMBER STULLICH: Thank you.

8 MAYOR FELLOWS: Questions?

9 (No audible response.)

10 MAYOR FELLOWS: All right. So, at  
11 this point, we would normally go to an oral  
12 argument against the recommendation to the  
13 Advisory Planning Commission. And, who would  
14 make that argument?

15 MS. FERGUSON: I don't know who is  
16 here at this point. Who do we have that are --  
17 that were parties of record in this case?

18 (No audible response.)

19 MS. FERGUSON: Just the Applicant.  
20 Anyone else?

21 MAYOR FELLOWS: Has anyone  
22 identified themselves as someone who would

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1 oppose the Advisory Planning Commission?

2 MS. FERGUSON: There was testimony  
3 in the record, in the transcript, from the  
4 neighbor who was on the property that, to the  
5 rear on Bryn Mawr and to the side, so that --  
6 you already have that in your record in a  
7 transcript.

8 And, there was an opposition to --  
9 that was Mr. Patterson?

10 MAYOR FELLOWS: Yes.

11 MS. FERGUSON: So, it's not  
12 necessary for Mr. Patterson to be present for  
13 what he had to say to be part of the argument.  
14 And, his concern, of course, was -- and, of  
15 course, but for the record, was with the side  
16 yard that was next to his property, which was  
17 the one that actually was not considered that  
18 night because the APC thought it could be a  
19 six-foot fence without a variance, without  
20 having to grant a variance.

21 So, they -- you know, he made his  
22 objection, however, pretty clearly in this

1 record, and so he's of record with what he had  
2 to say about that, which is that the six-foot  
3 fence was not appropriate on, next to his  
4 property.

5 MAYOR FELLOWS: And that four feet  
6 high is a more --

7 MS. FERGUSON: At four feet, you  
8 would have a right.

9 MAYOR FELLOWS: Or characteristic.

10 MS. FERGUSON: Right, you have that  
11 of right.

12 MAYOR FELLOWS: All right. So, I  
13 suppose that concludes the oral argument  
14 against the recommendation other than comments  
15 we've made about the fact that the record -- I  
16 mean, for --

17 MS. FERGUSON: Well, the Applicant  
18 is --

19 MS. SCHUM: The Applicant is here  
20 to present their side.

21 MAYOR FELLOWS: In favor of the  
22 recommendation.

1 MS. SCHUM: In support, yes.

2 MAYOR FELLOWS: Yes. Okay. So,  
3 would the Applicant like to come to the podium?  
4 And, thank you for being here.

5 MS. GARCIA: You're welcome, sir.

6 MAYOR FELLOWS: And, please start  
7 with your name and address for the record.

8 MS. GARCIA: Sure. Thank you.

9 Good evening. My name is Heisy  
10 Garcia. And, I live at 5926 Bryn Mawr Road,  
11 College Park, Maryland 20740.

12 MAYOR FELLOWS: Ms. Garcia, if you  
13 pull the microphone down to you --

14 MS. GARCIA: Thank you.

15 MAYOR FELLOWS: Thank you.

16 MS. GARCIA: Okay. You know, this  
17 process has been very overwhelming to tell you  
18 the truth. It's been a long process. A lot of  
19 confusion with the city and -- or actually, the  
20 city and the county.

21 Well, the city at least they have  
22 able to help us going through the process. I

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1 have spoke to Miriam and the other person that  
2 helped us with the plan, but when I went to the  
3 county, it just so much confusion.

4 Nobody knows what the codes is.  
5 And, once we are there, the first time, they  
6 told us that we could do it, we could do the  
7 fence. The second time we went, for some  
8 reason I just missed some papers, so I had to  
9 go back. The second time, they told me, you  
10 know, "You need a variance on, you know,  
11 Edmonston."

12 They tried to explain to me the  
13 reasons why they wouldn't allow this fence.  
14 You know, like they stated before, they were  
15 considering Edmonston the front yard. So,  
16 they suggested to do a variance, so we go ahead  
17 and did the variance and, you know, we came to  
18 the, to the, the APC meeting, and they approved  
19 it.

20 You know, it's very frustrating I  
21 will say to have go through this when the only  
22 thing we want is the, you know, the, a

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1 protection for, right now, for my children.  
2 And, you know, I'm pregnant now, so it's more  
3 for my children than more for us.

4 You know, I will say for  
5 entertainment because it's no -- I mean, as you  
6 can see, we really can't do much in the yard  
7 because it's -- one because the position of the,  
8 of the land, and second, because the level is  
9 not level at all on the side. So, it's, you  
10 know, we just want to have a property where we  
11 can at least have a secure place for, you know,  
12 our children and pets.

13 I mean, we already had two pets  
14 killed. On the report, in the initial report,  
15 there are two, two police reports, they have got  
16 into the storage to try to steal, so it's not  
17 a secure area, you know, at least where we live  
18 because it's right in the corner. You know,  
19 the bus stop is right there. People just go  
20 through the land.

21 And, if you can see, one of the  
22 pictures, there are also like graffiti on the,

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1 in the corner, so it's like a lot of people, like  
2 if you go there, there are graffiti. So,  
3 people just walk, you know, like it's a free  
4 land.

5 So, unfortunately, that's the  
6 concern that we have.

7 MAYOR FELLOWS: All right.

8 Are there any questions for the  
9 Applicant?

10 Ms. Stullich.

11 MEMBER STULLICH: Thank you.

12 And, thank you for coming down, and  
13 I know this is a -- I'm hearing this is a  
14 frustrating, difficult process for you.

15 MS. GARCIA: Yes.

16 MEMBER STULLICH: Question about,  
17 about the height of the fence. And, I  
18 understand your desire to protect your  
19 children, and I certainly want to support that.

20 MS. GARCIA: Right.

21 MEMBER STULLICH: It's not clear to  
22 me why a four-foot fence wouldn't protect your

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1 children.

2 MS. GARCIA: Okay. I don't know if  
3 you're able to see because the property --  
4 because the picture that you have here, I don't  
5 know if we have better pictures, the side that  
6 you guys were saying that were four feet, it's  
7 unlevel. Like, you know, it's -- it's not  
8 level at all, so we have asked the city what we  
9 could do to at least level it so that we will  
10 have a proper fence.

11 Unfortunately, they -- yes, that  
12 one. You see that side? If you -- I don't know  
13 if you're able to see, but there is another  
14 fence there that will have to go, you know, in  
15 order for us to install a new one because that  
16 initial fence is I think two feet. It doesn't  
17 work, you know, in the way it is because it's  
18 not level at all.

19 So, they say that we could not level  
20 because we have to go all over again to do the  
21 process because they said I have to add a  
22 permission to do two feet more to level the

1 ground. That's what they told me.

2 So, it's just -- they told me not to  
3 even, you know, move anything else, just to go  
4 ahead and ask for the six feet because, you  
5 know, we don't want to make more of this, you  
6 know.

7 MEMBER STULLICH: So, you were told  
8 that you can't, you can't do any regrading?

9 MS. GARCIA: Because in order for  
10 us to have it, you know -- because do you see  
11 that fence in there? I don't know if you're  
12 able to see it.

13 MEMBER STULLICH: I actually  
14 can't. Can someone point to where the fence  
15 is? Miriam perhaps?

16 MS. GARCIA: It's supposed to be  
17 four feet, but it's not even four foot because  
18 the way of the --

19 MAYOR FELLOWS: It's kind of the  
20 green barrier in-between the buildings.

21 MS. GARCIA: That right there.

22 MEMBER STULLICH: That's a fence?

1 I thought it was just --

2 MS. GARCIA: It's -- yes. That's  
3 -- and that one is supposed to be four feet. If  
4 you see the height of that, it's like right on  
5 my knee. So, because of the way of the, the,  
6 I guess, the territory is --

7 PARTICIPANT: The topography is  
8 sloped.

9 MS. GARCIA: Yes, so it's just --  
10 it's not convenient, so, you know, if we're  
11 going to do a fence, it has to be a six foot in  
12 order to see, to be linear to the other ones so  
13 it won't look awkward.

14 MEMBER STULLICH: And, the -- so  
15 the Edmonston side, the slope drops off, right?

16 MS. GARCIA: It's even worse.

17 MEMBER STULLICH: So, if you have a  
18 six-foot fence there on the Edmonston side, and  
19 then a six-foot fence on the side adjacent to  
20 the adjoining property owner, that will be much  
21 higher just visually than where the fence is in  
22 the Edmonston side.

1 MS. GARCIA: We actually discussed  
2 that that day. What they told me is that they  
3 couldn't go higher because I wouldn't -- I would  
4 prefer something higher on that side.

5 MEMBER STULLICH: Right, well then  
6 ask for that.

7 MS. GARCIA: I know. That's what I  
8 told you. We did discuss that, but they told  
9 me that because the -- I can do less than two  
10 feet to try to level the ground with no  
11 permission, at least a feet to try to level it  
12 a little bit on that side, but that way I can  
13 have at least, you know, something similar to  
14 the other side.

15 MEMBER STULLICH: Right.

16 MEMBER DAY: Can we --

17 MAYOR FELLOWS: Mr. Day.

18 MEMBER DAY: -- go back to the other  
19 picture on the other side? So, that fence  
20 that's currently there, is that a joint fence?

21 MS. GARCIA: That fence was there  
22 since we bought the house. It was -- it's been

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1 there for years.

2 MEMBER DAY: So, is that -- you say  
3 you're going to have to remove that fence, but  
4 would the fence you put up go back in the same  
5 place there or would it have to be --

6 MS. GARCIA: Since we agree with  
7 the neighbor that we'll leave two feet from our  
8 property line to -- it will actually be at the  
9 same line. You know, coming -- you see the way  
10 it is, the property -- actually, let me see if  
11 I'm able to use this.

12 If you see here, the property will  
13 go all the way here, I guess, onto here because  
14 the city doesn't allow 25 feet or something.  
15 So, it will stop there basically around there  
16 and come back here and here. Yes, so basically  
17 where the fence end was here where I showed you  
18 previously.

19 MEMBER DAY: Okay. So, would that  
20 back fence, the fence that's in your backyard,  
21 would that have to be moved forward two feet?

22 MS. GARCIA: No, it will be in the

1 same place.

2 MEMBER DAY: Okay.

3 MS. GARCIA: That's why I wanted  
4 something a little bit higher because you see  
5 the way of the, you know, the ground is. It's  
6 not level at all. This is supposed to be four  
7 feet, but it's on my knee. You know, it's not  
8 even four feet.

9 MEMBER STULLICH: Well, it's four  
10 feet from the ground, right? I mean, your  
11 fence would be. I don't know about this fence,  
12 but your fence, if it were four feet, it would  
13 be four feet from the --

14 MS. GARCIA: But, basically, I have  
15 to put it in the same place, so I don't, you  
16 know, it's just so much with the city. I don't  
17 know if that -- if they would have told me I have  
18 to put it the same size of that, I really don't  
19 know. I just prefer something to be flat six  
20 feet all the way if it's possible.

21 MEMBER DAY: So, I got a question  
22 for Miriam, for the city rather. The

1 conversation that's in the record about the two  
2 feet, what fence was that referring to?

3 MS. BADER: So, actually, that  
4 referred to the whole fence, as you look at the  
5 whole fence. Just at the very end, they were  
6 saying what's the front, what's the side.

7 Through most of the hearing, 75  
8 percent of the hearing, they were looking at the  
9 whole fence, and this whole discussion of  
10 should we restrict it to four feet here, and  
11 then have it six feet on the Edmonston side or  
12 not. At the very, and through the hearing,  
13 they were saying, "Where is the front? And,  
14 let's just look at, you know, where it's  
15 required." So, that's when they did the final  
16 motion, it was just on the Edmonston side.

17 MEMBER DAY: Okay.

18 MS. BADER: But they looked at the  
19 whole fence and they looked at different  
20 options, especially since Mr. Patterson came  
21 and spoke and he said, "Well, how are you going  
22 to maintain it? I don't want you coming on my

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1 property. Can you move it over two feet?"

2 And, the Applicant --

3 MEMBER DAY: So, that would mean  
4 that fence that's there would be two feet --  
5 their fence would have to be two feet inside of  
6 the line then, right?

7 MS. BADER: Right. Inside the  
8 property line, right.

9 MEMBER DAY: Okay.

10 MS. BADER: And, they agreed to do  
11 that. And, then also they -- he had the  
12 discussion of can you reduce it to four feet,  
13 --

14 MEMBER DAY: Right.

15 MS. BADER: -- and that's when the  
16 Applicant said, "Do a topography because it's  
17 -- it would be lower than her house." Her house  
18 is higher up, so the four feet is not  
19 sufficient. She wanted the six. But they did  
20 talk about this side. It's not like they  
21 didn't talk about it.

22 MAYOR FELLOWS: Ms. Stullich.

1                   MEMBER STULLICH: Thank you. So,  
2 where -- where on the map is the chain-link  
3 fence currently?

4                   MS. GARCIA: It's here, this.

5                   MEMBER STULLICH: Oh, that dash  
6 line.

7                   MS. BADER: Right. Yes, that dash  
8 line.

9                   MS. GARCIA: But this is supposed  
10 to be our line, and we had agreed to leave it  
11 the same line where it's the chain-link right  
12 now.

13                   MEMBER STULLICH: So, the  
14 chain-link fence is already two feet from the  
15 property line?

16                   MS. GARCIA: It is, yes.

17                   MS. BADER: Right. And, the  
18 discussion about the two feet was about having  
19 a lawnmower and being able to, to be wide enough  
20 for the lawnmower.

21                   MEMBER STULLICH: Right. Okay.

22                   MEMBER DAY: So, the

1 representation of the fence in the final fence  
2 -- the representation of the final fence in this  
3 drawing is incorrect?

4 MS. BADER: Right. It would have  
5 to be two feet over to where that lighter line  
6 is. That was the final condition. I mean,  
7 that was the condition of the, that the APC  
8 reached.

9 MEMBER STULLICH: Thank you.

10 MAYOR FELLOWS: So, in this  
11 instance, there's really no probably need for  
12 rebuttal by the parties because Mr. Patterson's  
13 comment is pretty clear on the reason, his  
14 objection or his desire.

15 What seems to me to be a four foot  
16 -- a desire for a four-foot fence on the side,  
17 which marked as a side yard there, there is an  
18 ability to have a six-foot fence in what's the  
19 rear, and so really the area in question is the,  
20 the side, the fence that's closest to Bryn Mawr  
21 where Mr. Patterson would prefer four foot and  
22 the variance was advised by the Advisory

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1 Planning Commission on the information that  
2 went before them was six foot because they  
3 thought it was really --

4 MS. FERGUSON: They -- they  
5 believed at the time they were taking their vote  
6 that the Bryn Mawr side did not require a  
7 variance to be six foot high. Only the  
8 Edmonston Road side required that, so that's  
9 the decision that they made.

10 However, Ms. Bader is correct.  
11 There was an extensive discussion about the  
12 fence all round and that's why that two-foot  
13 setback is in there even for the side that  
14 really wasn't part of the variance in the end.

15 So -- but there is -- there is  
16 evidence in the record about all of it and what  
17 the comment -- and there were comments taken  
18 about all of the fence, both the Bryn Mawr side  
19 and the Edmonston Road side. I don't believe  
20 that there was an objection in the record to the  
21 Edmonston Road side.

22 MAYOR FELLOWS: That seems

1 correct. So, there's really not much more to  
2 the hearing because the involved parties in  
3 support of the recommendation, the Advisory  
4 Planning Commission, we've really heard all  
5 that information.

6 MS. FERGUSON: I believe that you  
7 have the gist of it now from everyone of what's  
8 in the record, yes. And, it will be up to you  
9 to decide whether there's enough in this record  
10 for you to make a decision or whether you want  
11 to send it back down to the APC now that they  
12 have a different understanding about what the  
13 actual -- where the actual yards are.

14 MAYOR FELLOWS: So, I look to me  
15 third district council members.

16 And, Ms. Stulich.

17 MEMBER STULLICH: Yes, I would --  
18 and would it be a motion that would be  
19 appropriate at this moment or --

20 MAYOR FELLOWS: Yes, it's a motion.

21 MEMBER STULLICH: Okay. So -- so I  
22 would like to move that we remand this back to

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1 the APC. I think it's a very confusing case,  
2 and the facts were, were not understood  
3 correctly at the time of the hearing. I  
4 understand they discussed a variety of issues,  
5 but, but still, I think that the understanding  
6 of the legal issues at the time the vote was  
7 taken is important and I think --

8 MEMBER DAY: I'll second it.

9 MAYOR FELLOWS: I have a motion and  
10 a second.

11 Any further comments, I guess?

12 MEMBER DAY: No, that was --

13 MEMBER STULLICH: No, thank you.

14 MAYOR FELLOWS: All right. So, on  
15 a motion such as this, does this go out to the  
16 audience? It really stays with the --

17 MS. FERGUSON: You're sitting as an  
18 administrative judge on the panel, but you  
19 decide --

20 MAYOR FELLOWS: So, I'll call for  
21 -- are there any comments from other members of  
22 the council?

1 MEMBER KABIR: Yes, I have --

2 MAYOR FELLOWS: Dr. Kabir.

3 MEMBER KABIR: Thank you.

4 I have a question for Ms. Ferguson.  
5 From the proceedings that went into APC  
6 meeting, do you see anything that did not  
7 discuss, or they did not clarify?

8 MS. FERGUSON: Well, the -- they  
9 made the decision that they thought they were  
10 allowed to make based on what they were informed  
11 about what the county's position on this is.  
12 There -- as I said earlier, I believe that you  
13 have enough information in the record because  
14 they did talk about the whole fence that if you  
15 cared to take on the entire matter, you could  
16 and to resolve it at your level.

17 However, that is not what the APC  
18 voted on. They did not vote on the entire, the  
19 variance that should have applied here. They  
20 voted on a part variance for what was needed for  
21 this decision, so that's what happened.

22 MAYOR FELLOWS: Other questions or

1       comments?

2                       (No audible response)

3                       MAYOR FELLOWS: All right. All  
4 those in favor of the motion say aye.

5                       (Choruses of ayes)

6                       MAYOR FELLOWS: Opposed.

7                       (No audible response)

8                       MAYOR FELLOWS: All right. The  
9 motion passes. It's remanded to the Advisory  
10 Planning Commission.

11                      Thank you, the Applicant, for  
12 coming here, and presenting very well actually,  
13 and it sounds like there's a lot of room for  
14 agreement too.

15                      All right, with that, that  
16 concludes that hearing.

17                      And, we now move to our normal  
18 council meeting.

19                      (Whereupon, the above-entitled  
20 matter went off the record at 7:56 p.m.)

**MINUTES**  
**Regular Meeting of the College Park City Council**  
**Tuesday, August 12, 2014**  
**7:56 p.m. – 9:53 p.m.**

**PRESENT:** Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Stullich, Day, Hew and Mitchell.

**ABSENT:** None.

**ALSO PRESENT:** Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Suellen Ferguson, City Attorney; Terry Schum, Director of Planning; Bob Ryan, Director of Public Services; Miriam Bader, Senior Planner; Cole Holocker, Student Liaison.

Mayor Fellows opened the regular meeting at 7:56 p.m. following the earlier Oral Argument. Councilmember Brennan led the pledge of allegiance.

**Minutes:** A motion was made by Councilmember Brennan and seconded by Councilmember Wojahn to approve the minutes of the July 8, 2014 Special Session, July 15, 2014 Public Hearing on 14-O-04, July 15, 2014 Public Hearing on 14-O-05, July 15, 2014 Regular Meeting, and the confidential minutes of the two closed sessions held on June 17, 2014. The motion passed 8 – 0 – 0.

**Announcements:**

Councilmember Wojahn announced that the College Park Community Foundation is taking applications for their second round of grants. More information is available at [www.collegeparkfoundation.org](http://www.collegeparkfoundation.org).

Councilmember Brennan discussed the College Park Academy “Plus” program that offers extra-curricular activities to all middle school students.

Councilmember Mitchell said the College Park Woods Swim Club would hold a crab feast on Saturday, September 6.

**Amendments to the Agenda:** None.

**City Manager’s Report:** Mr. Nagro said this is the last meeting in August. Council will next meet in Worksession on September 2.

**Student Liaison’s Report:** Mr. Holocker said that classes begin September 2 and an agreement has been reached between the DOTS and The Enclave for Shuttle UM service. Early move-in begins August 25; regular move-in is August 28 – 30.

**Comments from the Audience on Non-Agenda Items:**

**Catherine McGrath, former student liaison, 7505 Hopkins:** Ms. McGrath discussed the situation with the Knox Box apartments, which will soon be sold to a new owner for development. The SGA would appreciate having the City work with them to provide the option for renters to remain in their apartments until the end of the semester, or to be released from their leases without penalty.

**CONSENT AGENDA:**

**A motion was made by Councilmember Dennis and seconded by Councilmember Mitchell for the adoption of the Consent Agenda, which consists of the following:**

- 14-G-39** Approval of a license agreement between the City of College Park and University Gardens for revocable use of city controlled right of way along Rhode Island Avenue for parking.
- 14-R-25** Resolution of the Advisory Planning Commission of the City of College Park, Maryland, Regarding Variance Number CPV-2014-03, 9728 51<sup>st</sup> Place, College Park, Maryland, Recommending Approval of a Variance from Section 27-120.01 (c) of the Prince George's County Zoning Ordinance, "Front Yards of Dwellings," to construct a driveway that will encroach 3 feet in the front yard and Recommending Approval of Variances from Section 27-442 (c) to Validate the Minimum Total Side Yard Setback and Minimum North and South Side Yard Setbacks.
- 14-R-26** Resolution of the Advisory Planning Commission of the City of College Park, Maryland, Regarding Variance Number CPV-2014-04, 5025 Iroquois Street, College Park, Maryland, Recommending Denial of a Variance from Section 27-120.01 (c) of the Prince George's County Zoning Ordinance, "Front Yards of Dwellings," to expand a driveway in the front yard by adding an additional 9 feet in width and 18 feet in length and Recommending Approval of a Variance to Validate an Existing Side Yard Setback.
- 14-G-85** Approval of DCPMA request for free parking in the downtown parking garage after 5:00 pm Monday, August 18 through Friday, August 22 for College Park Restaurant Week.
- 14-G-86** Award of a one-year contract extension (Option Year 2) to NZI Construction Corporation of Beltsville, MD for FY '15 "Miscellaneous Concrete Maintenance and Asphalt Resurfacing" in an amount not to exceed \$896,000 (Contract CP-13-01 funded from Fund 301 Unrestricted C.I.P. Reserve).

**The motion passed 8 – 0 – 0.**

## ACTION ITEMS

**14-CR-01 Adoption of 14-CR-01, Charter Resolution Of The Mayor And Council Of The City Of College Park, Amending Article V “Charter Amendments”, §C5-1, “Procedure For Petition” To Require Certain Information To Be Included On Referendum Petitions**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Kabir to adopt Charter Resolution 14-CR-01 Amending Article V “Charter Amendments”, §C5-1, “Procedure For Petition” To Require Certain Information To Be Included On Referendum Petitions**

Councilmember Wojahn said this Charter Amendment will allow the City to establish a form for petitions that propose to bring an item to referendum in a City election. If the form is completely and correctly filled out, and has sufficient signatures, it will be a valid form.

Due to the earlier public hearing, no comments from the audience were taken.

There were no comments from Council.

**The motion passed 8 – 0 – 0.**

**14-R-29 Resolution of the Mayor and Council of the City of College Park, Maryland to adopt the forms that are acceptable to the City to petition a council-generated charter amendment to referendum or for a referendum petition initiated by qualified voters**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Kabir to adopt 14-R-29 to approve the two referendum petition forms.**

Councilmember Wojahn said this adopts the forms that were authorized by the previous Charter Amendment.

There were no comments from the Council.

**The motion passed 8 – 0 – 0.**

**14-G-87 Motion to release Starr Insurance Holdings, Inc. (the Mazza Development) from their \$500,000 escrow obligation to develop and finance an extension of Hollywood Road west of Route 1.**

**A motion was made by Councilmember Mitchell and seconded by Councilmember Kabir to release Starr Insurance Holdings, Inc. from their obligation under Paragraph 25 of the Agreement between PPC/CHP Maryland Limited Partnership and the City of College Park, as amended, to place the sum of \$500,000.00 with an escrow agent acceptable to the**

**City for a period of at least ten years, and that the City Manager be authorized to sign those documents and take those acts necessary to give effect to the release of this obligation and the intent of this motion.**

Councilmember Mitchell commented that PPC/CHP Maryland Limited Partnership (“Mazza”) reached an Agreement with the City in 2004, which was later amended, during development of the Mazza property, which Mazza held under a long term lease. Paragraph 25 of the Agreement, as amended, obligated Mazza to work with the City and adjacent property owners to develop and finance Hollywood Road extended on the west side of Route 1 to connect to a new Autoville Drive relocated and constructed on the Mazza property, and to place the sum of \$500,000 with an escrow agent for a period of at least 10 years to be used for the planning, design, land acquisition or construction associated with the extension. Starr Insurance Holdings, Inc. (“Starr”) is a subsequent owner of the leasehold on the Mazza Property. The City received a letter from Starr dated February 13, 2014 indicating their willingness to move forward with an alignment study and concept design of the Hollywood Road extension, after which the viability of the project would be assessed. If the project is determined not viable or unlikely to be completed, it is Starr’s desire to have the \$500,000 escrow requirement released. Under the terms of the amended Agreement, the 10-year escrow period would end August 1, 2020, unless extended by agreement of the parties, if substantial progress towards the design and/or construction of the road has been made. Significant opposition to proceeding with this project has been expressed in a petition received on August 6, 2014. The petition is signed by over 400 residents, businesses and visitors concerned that construction of the road would cause detrimental impacts to local businesses in the area and that it could be a gateway to a connection with Autoville Drive to the north. As a result, the Council has determined to not proceed with the planning for the extension of Hollywood Road at this time, and to release Starr Insurance Holdings, Inc., from the \$500,000.00 escrow requirement.

**Comments from the audience:**

**Chris Nagle, 9506 52<sup>nd</sup> Avenue:** She supports this motion. The agreement that was passed was flawed. The residential has been fully developed without any commercial. A feasibility study and construction of an extension of Hollywood Road would have a detrimental impact.

**Plato Chen, 9618 Autoville Drive, Pastor, Chinese Bible Church:** Church has 400+ congregants. He supports this motion. Two concerns: justice for our neighbors that would be adversely impacted by extension of the road, quality of life and future viability of the church.

**Lance Grieshamer, 9610 Autoville Drive:** 30+ year business owner. Even doing a feasibility study would hurt them. Can’t afford to lose any of the space they have.

**Keri Sargent, 9600 Baltimore Avenue:** Her family depends on the income from those businesses. Imagine it being your family, your building, that you worked hard to grow, and then someone comes along and takes it because it isn’t pretty or good enough.

**Jim Woodhouse, 9608 Autoville Drive:** He supports this motion. Questioned the Sector Plan because Autoville Drive is residential.

**Sue Johnson, 9610 Autoville Drive:** Supports motion. Concerned about feasibility study, heard it would take 60 feet of the parking lot and connect the road north to Autoville. She uses those businesses. They have a nice neighborhood and someone is always coming in to destroy it.

**Stasia Hutchison, 4710 Kiernan Road:** There are 7 thriving independently owned businesses there; why would we redevelop this area? We need blue collar workers to make a healthy community. Why do the feasibility study if there is no commercial development?

**Michael Steven, 9600 Baltimore Avenue:** The businesses are an asset to this community and are a landmark that bring people to the City. The tint shop wrote 7,000 receipts last year. They are high end businesses with good Yelp reviews.

**Sam Shin, 4 Drake Court, Rockville MD, Property owner at 9600 Baltimore Avenue:** To clarify, there was a negotiation in the past for his property but the broker walked away because he couldn't line up investors. The first location they had was behind the College Park Airport and was taken by eminent domain when Metro came in. This property represents his retirement, and it would be impacted by the extension of the road. He supports the motion.

**Mary C. Cook, 4705 Kiernan Road:** Think about all of the people you will impact when you vote tonight: business owners, residents, Chinese Bible Church, and all their families. You have received 400 signatures. What kind of message will you send with this vote? This is not about buildings, it is about people.

**Tim Miller, 5019 Niagara Place:** This sounds like #1 Liquors. It ain't right. The market won't support retail/commercial development at that location for another 7 – 10 years. The yellow building is a College Park landmark and putting a road through there would damage them. Give the money back.

**Christopher Pyle, 7515 Sweetbriar Drive:** He is a retired wounded warrior. He wanted to be a small business owner. They took him in and trained him. The yellow building in College Park is a landmark. Putting a road through would damage them.

**Diane Yep, owner representative of Mazza Grand Marc, 9530 Baltimore Avenue:** She wrote the letter that started this. Sorry it opened a Pandora's Box. Their concern is safety; doing the feasibility study would help residents turn north on Baltimore Avenue. She would like to either start the study or be released from the requirement.

Mayor Fellows said he was on the Council when they negotiated with Mazza Grand Marc to put the \$500,000 into escrow for the Hollywood Road extension. He appreciates all the remarks and concerns expressed tonight. At the time they felt this could potentially improve the Route 1 frontage which is our main street. The feasibility study would look at how this could be done while still preserving existing businesses and the quality of life for the residents there. This would come back to the Council before moving forward, and the Council may not approve it.

Councilmember Dennis said he has seen things happen in his Lakeland community that still resonate, some good and some bad. He hears the skepticism about what a decision on these issues will do to the community and what the by-product could be down the road.

Councilmember Hew lives there and knows what they are trying to protect. If he truly felt that this feasibility study would be a direct threat to their neighborhood he would fight against it. This is about Route 1. He has faith in the process. This is a major challenge and he has a lot of faith in his colleagues to follow through to work for the best interest of all parties. It would not be responsible to take a step backwards by releasing Mazza from their obligation at this time.

Councilmember Day said this is not just about Route 1; it's about the businesses that serve College Park. We need to support our local businesses and owners. Businesses look at this when they consider whether to move here – it reflects on College Park.

Councilmember Kabir said we represent our residents. We may have our personal opinions but we should be guided by what the residents think when we vote. We need to support our residents when they need us. If we ignore them tonight it would be a bad example in Council history.

Councilmember Brennan said people who are opposed to an issue are often more vocal, and noted that the residents of the Mazza property are not represented here – they may be silent majority. He views this as a safety issue for Mazza residents. He relies on professional information to make his decisions and believes a feasibility study will offer him the information he needs to make a sound decision. He doesn't believe there is an impact from a feasibility study. Without a feasibility study in place, this issue will continue to come up.

Councilmember Wojahn said there are a lot of important issues at stake: safety of Mazza residents, protecting our small businesses, preserving our neighborhoods, and redeveloping blighted and vacant areas. A lot of residents aren't happy with the state of the Route 1 corridor and want to see redevelopment. One of the problems identified up north is that the corridor is narrow. He needs the information that a feasibility study would provide to help him understand how best to move forward.

Councilmember Stullich said a feasibility study is a way to get more information; it is not a decision on whether to extend this road. This is a complicated issue and she doesn't understand it well enough now. She shares the concerns she has heard about protecting our neighborhoods and supporting small businesses. She also hears that we need to revitalize our Route 1 corridor, and is not sure what that means for this part of north College Park.

**Roll Call Vote on 14-G-87:**

**Yes: Kabir, Dennis, Day, Mitchell**

**No: Wojahn, Brennan, Stullich, Hew**

**Tie Breaker: Mayor votes no.**

**Motion fails.**

**Amendment to the Agenda to add 14-G-89:**

The City Attorney advised Council to move to amend their agenda at this time, since at the beginning of the meeting when “Amendments to the Agenda” are usually made, no one mentioned this motion.

**A motion was made by Councilmember Brennan and seconded by Councilmember Wojahn to amend the agenda to add item 14-G-89. The motion to amend the agenda passed 5 – 3 – 0 (Kabir, Day and Mitchell opposed).**

**14-G-89 Motion to develop a scope of work for an alignment study and conceptual design alternatives for extension of Hollywood Road west**

**A motion was made by Councilmember Brennan and seconded by Councilmember Wojahn that the City Council authorize staff to work with Starr Insurance Holding, Inc. (“Starr”) to develop a scope of work for an alignment study and conceptual design alternatives for extension of Hollywood Road from US Route 1 to Autoville Drive on the property now owned by Starr (otherwise known as Mazza). The consultant will be chosen by Starr with the approval of City staff. The consultant will be paid from the \$500,000 now held in escrow by Starr under an agreement with the City. The resulting scope of work shall be presented to the Council in a public session and must be adopted by the Council in order to proceed.**

Councilmember Brennan said having more information is beneficial to our processes and developing this scope of work will help us get there. He wants to keep the community involved in this process to help shape the direction of the study.

**Mary C. Cook, 4705 Kiernan Road:** This is a slippery slope. It’s not about a feasibility study; it’s about what happens after the feasibility study. She hopes that this doesn’t happen in your neighborhood.

**Sam Shin, 4 Drake Court, Rockville MD, Property owner at 9600 Baltimore Avenue:** He knows Council believes this study would be a tool, but his father views this as one event in a chain of events, and although you say he has a voice, he does not.

Councilmember Kabir is disappointed by what happened tonight. So many people came to express their feelings tonight and they were completely ignored. The residents understand there is no way to build that road without negatively impacting those businesses.

Councilmember Day said fear is a strong emotion and they fear their livelihood is going to be taken from them. It colors how they perceive what is going to be done. We didn’t do a good job of explaining that to them. Businesses that are considering moving to College Park will look at this. We have to listen to the people we represent. We should think of our community, not just about how a business looks.

Councilmember Stullich said this is a hard decision and people feel strongly on more than one side. She is troubled by the sense that we are disregarding people if we have a different opinion. We all want what's good for the community and that's not always easy to figure out. Having more information is beneficial and prudent and she hopes people don't see this as a vote against the community.

Councilmember Dennis said his struggle is how we take the community input and define the strategy and processes in a transparent mode that is more palatable. We haven't clearly identified what it means to "revitalize the Route 1 corridor" – it could mean different things to each person.

Councilmember Wojahn said we have been fortunate to see continued development throughout College Park in recent years, but the only part that has not seen development is the area around Hollywood Road, where we still have a lot of vacant and blighted properties. To turn back on a strategy that was developed 10 years ago to address this area would not provide any clarity. Moving forward with this study is necessary to look at this part of the corridor.

Councilmember Kabir is in favor of sensible and responsible redevelopment but this is not vacant or blighted property. There are seven viable businesses there. The only way to build a road would impact them negatively. We complain about low turnout in City elections and he thinks it is because when residents come here to address the Council they are not listened to.

Councilmember Hew said when the time comes to improve this section of Route 1 we need to keep Mr. Shin and others involved in the decisions that we make.

Councilmember Day said Starr Holdings said either move forward with the feasibility study or give them their money back. Are we moving ahead with a feasibility study and responding to their request, or are we making our own motion that is going to hold them up?

Mayor Fellows said this motion does not authorize the feasibility study to move forward, it authorizes a process to develop a scope of work that would come back before the Council for approval. With this motion Council is expressing that they are listening to the comments expressed tonight.

**Roll Call Vote on 14-G-89:**

**Yes: Wojahn, Brennan, Stullich, Hew**

**No: Kabir, Dennis, Day, Mitchell**

**Tie Breaker: Mayor votes yes.**

**Motion passes.**

**14-O-08 Introduction of Ordinance 14-O-08, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 184, "Vehicles And Traffic", By Repealing And Reenacting §184-9, "Permit Parking In Restricted Residential Zones" To Better Define Where Visitor Parking Permits May Be Used And To Provide An Enforcement Mechanism**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Brennan to introduce Ordinance 14-O-08, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 184, "Vehicles And Traffic", By Repealing And Reenacting §184-9, "Permit Parking In Restricted Residential Zones" To Better Define Where Visitor Parking Permits May Be Used And To Provide An Enforcement Mechanism.**

Mayor Fellows said the Public Hearing on this ordinance will be September 9 at 7:15 p.m. in the Council Chambers.

**14-O-09 Introduction of 14-O-09, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 38, "Code Of Ethics", By Repealing And Reenacting Article I, "General Provisions", Section 38-4, "Definitions", Article II, "Ethics Commission", Section 38-8, "Procedures For Adjudicating Alleged Violations", And Article IV, "Required Disclosures", Section 38-15, "Financial Disclosure Of City Elected Officials And Candidates To Be City Elected Officials", Section 38-16, "Financial Disclosure Of Employees And Appointed Officials" And Section 38-17 "Additional Conflict Of Interest Statements And Correction Of Inaccurate Or Incomplete Filings Required", To Amend The Ethics Code To Clarify The Definition Of Interest That Must Be Reported, Including A Procedure For Dismissal Of A Complaint, Clarifying The Requirements For Elected Officials, Candidate, Appointed Official And Employee Disclosure And Providing A Remedy For Failure Of A Candidate To File The Required Disclosures**

**A motion was made by Councilmember Mitchell and seconded by Councilmember Kabir to introduce Ordinance 14-O-09, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 38, "Code Of Ethics", By Repealing And Reenacting Article I, "General Provisions", Section 38-4, "Definitions", Article II, "Ethics Commission", Section 38-8, "Procedures For Adjudicating Alleged Violations", And Article IV, "Required Disclosures", Section 38-15, "Financial Disclosure Of City Elected Officials And Candidates To Be City Elected Officials", Section 38-16, "Financial Disclosure Of Employees And Appointed Officials" And Section 38-17 "Additional Conflict Of Interest Statements And Correction Of Inaccurate Or Incomplete Filings Required", To Amend The Ethics Code To Clarify The Definition Of Interest That Must Be Reported, Including A Procedure For Dismissal Of A Complaint, Clarifying The Requirements For Elected Officials, Candidate, Appointed Official And Employee**

**Disclosure And Providing A Remedy For Failure Of A Candidate To File The Required Disclosures.**

Councilmember Mitchell said the Public Hearing on this ordinance will be September 9 at 7:15 p.m. in the Council Chambers.

**14-G-88 Appointments to Boards and Committees**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Mitchell to appoint David Keer to the Aging in Place Task Force, Eric Grims to the Recreation Board, and Maria Mackie to the Board of Election Supervisors. The motion passed 7 – 0 – 0 (Councilmember Hew absent for the vote).**

**ADJOURN: A motion was made by Councilmember Wojahn and seconded by Councilmember Brennan to adjourn the Council meeting, and with a vote of 8 – 0 – 0, Mayor Fellows adjourned the meeting at 9:53 p.m.**

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Janeen S. Miller, CMC  
City Clerk

Date  
Approved

14-G-90

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# MEMORANDUM

**To:** Joe Nagro, City Manager  
**From:** Steven E. Halpern, P.E.   
**Date:** August 22, 2014  
**Subject:** Recommendation to Piggy-Back on WSSC's Milling & Paving Contract.

## Background

Since 2009 WSSC has been replacing water mains throughout the City. They have recently completed projects in the Hollywood and Berwyn subdivisions.

After a water main project is completed, WSSC executes a second contract for the restoration (milling and paving) of the disturbed area of the street per their "prescribed limits". Their "prescribed limits" means they will only resurface that portion of the street over which the trenching was performed. Water mains are typically located on either side of the centerline of the street; therefore, the prescribed limits of restoration work are to mill and pave just one side of the street. If the water main is located in the center of the street then the entire width of the street would be resurfaced from curb to curb.

We recommend that we take this opportunity to piggy-back on WSSC's resurfacing contract for the purpose of milling and paving the other half of those streets (identified on the attached map) where WSSC is only planning to pave the half they disturbed during the water main replacement project. The streets identified meet our requirements for inclusion in our Pavement Management Plan. This matter was discussed at the Budget Worksession in April. This would save City/tax payer funds, in that the contractor is already on-site doing one-half, thus saving us mobilization, administration, and material costs as well as inconvenience to the residents.

WSSC competitively bid "Solicitation No 5686 For Street Repair Services for Montgomery and Prince George's Counties, Maryland" on Wednesday, April 20, 2011 for the purpose of restoring streets that were affected by the current water and sewer main replacement projects. The contract was awarded to M.T. Laney Co, Inc, 5400 Enterprise Street, Eldersburg, MD 21784. The contract was renewed through June 30, 2015.

The unit price for asphalt is reasonable at \$91.02 per Ton based on 44,000 Tons estimated. Our current base contract unit price is \$90.00 per Ton without the escalator clause in effect.

The unit price for milling is reasonable at \$1.34 per Square Yard based on 100,000 Square Yards estimated. Our current contract unit price is \$4.00 per Square yard.

In the summer of 2013 the City piggy-backed on WSSC's contract with M. T Laney Co., Inc. The work took place in the fall of 2013 in the College Park Estates, Yarrow, and Lord Calvert Manor neighborhoods. The quality of work performed was very satisfactory. M.T. Laney's construction crew was sensitive to our residents and cooperated with our staff in the performance of their work. All problems that did arise were addressed immediately to our satisfaction.

**Recommendation**

Based on staff's review of the WSSC bid and our working experience with M. T. Laney Co., Inc. it is recommended that we piggy-back on WSSC's bid "Solicitation No 5686 For Street Repair Services For Montgomery and Prince George's Counties, Maryland" with M. T. Laney Co., Inc. for an amount not to exceed \$270,000.

Attachment - Map

14-R-30



Office of the Mayor and Council  
City of College Park  
4500 Knox Road  
College Park, Maryland 20740  
Telephone: (240) 487-3501  
Facsimile: (301) 699-8029

**NOTICE OF FINAL DECISION  
of the  
MAYOR AND COUNCIL  
of the  
CITY OF COLLEGE PARK**

RE: Case No. CPV-2013-02/R Name: Richard Kager  
Address: 3533 Marlborough Way, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:  
September 9, 2014

**CERTIFICATE OF SERVICE**

This is to certify that on September 11, 2014, the attached Resolution was mailed, postage prepaid, to all persons of record.

**NOTICE**

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

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Janeen S. Miller, CMC  
City Clerk

Copies to: Advisory Planning Commission  
City Attorney  
Applicant  
Parties of Record

PG Co. DER, Permits & Review Section  
M-NCPPC, Development Review Division  
City Public Services Department

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE  
PARK, MARYLAND ADOPTING THE RECOMMENDATIONS OF THE ADVISORY  
PLANNING COMMISSION REGARDING RECONSIDERATION OF VARIANCE  
CPV-2013-02 (RECONSIDERATION CASE IS IDENTIFIED AS CPV-2013-02/R), 3533  
MARLBROUGH WAY, COLLEGE PARK, MARYLAND, RECOMMENDING  
VALIDATING EXISTING CONDITIONS SUBJECT TO THE APPLICANT  
PROVIDING AN "AS-BUILT" SITE PLAN**

- WHEREAS,** the City of College Park, Maryland (hereinafter, the "City") has, pursuant to §190-1 *et seq.* of the City Code, and in accordance with Section 27-924 of the Prince George's County Zoning Ordinance (hereinafter, "Zoning Ordinance"), enacted procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot size, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and
- WHEREAS,** the City is authorized by §190-4 of the City Code to grant an application for a variance where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the County General Plan or Master Plan; and
- WHEREAS,** the Advisory Planning Commission (hereinafter, "APC") is authorized by §190-3 of the City Code to hear requests for variances from the terms of the Zoning Ordinance with respect to lot size, setback, and similar requirements, including variances from Section 27-120.01(c), and to make recommendations to the City Council in connection therewith. The City has, pursuant to §87-23 "Fences" of the City Code (hereinafter, also referenced as the "Fence Ordinance") established certain restrictions on the construction and reconstruction of fences on residential properties, including a prohibition on front yard fences; and
- WHEREAS,** the City is authorized by the Fence Ordinance to grant an appeal where, by reason of extraordinary situation or condition, the strict application of the Fence Ordinance would result in peculiar and unusual practical difficulty to or an exceptional or undue hardship upon the owner of the property; and a variance can be granted without substantial impairment of the intent, purpose and integrity of the Fence Ordinance; and where, if applicable, the variance is consistent with the Design Guidelines adopted for the Historic District; the variance will not adversely affect the public health, safety, welfare, or comfort, the fence for which a variance is requested incorporates openness and visibility as much as is practicable, provided that the fence shall not be constructed of chain link unless the material is consistent with the surrounding neighborhood; and the fence

construction, including setbacks, is characteristic of and consistent with the surrounding neighborhood; and in neighborhoods where chain link is a characteristic material, alternate materials incorporating openness and visibility, may be permitted and

**WHEREAS,** Section 27-120.01 (c) of the Zoning Ordinance stipulates that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling, except a townhouse or multifamily dwelling, in the area between the front street line and the sides of the dwelling; and

**WHEREAS,** Section 87-23 (B) of the City of College Park Code states that fences shall not be constructed or reconstructed in the front yard and 87-23(E) states that retaining walls built to retain or support the lateral pressure of earth or water or other superimposed load and otherwise designed and constructed of appropriate materials within allowable stresses and in conformance with acceptable engineering practices may be constructed where necessary in the front, side or rear yard, but shall not extend more than one foot above finished grade, and that dimensions, placement and materials for new retaining walls in locations otherwise requiring a variance shall be determined by the Advisory Planning Commission; and

**WHEREAS,** on March 18, 2013, Richard Kager (the "Applicant"), submitted an application for a variance from Section 27-120.01(c) to permit construction of a 10 feet x 17 foot driveway expansion in the front of the house; and for an appeal from the City of College Park Code, Section 87-23 Fences to extend a retaining wall in the front yard in conjunction with the expanded driveway, at the premises known as 3533 Marlborough Way, College Park, Maryland ("the Property"); and

**WHEREAS,** on May 2, 2013, the APC conducted a hearing on the merits of the variance and appeal, at which the APC heard testimony and accepted evidence including the staff report and exhibits 1-8 with respect to whether the subject application meets the standards for granting an appeal set forth in the Fence Ordinance and for a variance from Section 27-120.01 (c) to permit construction of a 10 foot x 17 foot driveway and expanded retaining wall in front of the house; and

**WHEREAS,** based upon the evidence and testimony presented, the APC voted 4-1-0 to recommend that the variance and appeal be granted to allow the Applicant to construct a 10 foot by 12 foot driveway expansion with the conditions that the existing apron of the driveway remain as-is and no additional driveway apron be added and recommend that the appeal be granted to allow a 10 foot expansion of an existing retaining wall in the front yard in conjunction with the widening of the existing driveway and subject to the retaining wall being constructed of similar gray stone materials and at the same height as the existing retaining wall.

- WHEREAS,** on June 11, 2013, the Mayor and City Council adopted the APC recommendation approving Resolution 13-R-08; and
- WHEREAS,** on June 19, 2013, the applicant's contractor was granted County and City building permits to allow construction that shifted the driveway and associated retaining wall 5 feet closer to the street. The handicapped accessible sidewalk was also shifted closer to the street.
- WHEREAS,** on June 12, 2014, the applicant requested reconsideration of the variance to remove the condition that "the existing apron of the driveway remain as-is and no additional driveway apron be added" and validation of the as-built conditions on the Property; and
- WHEREAS,** on August 7, 2014, the APC conducted a hearing on the merits of the reconsideration, at which the APC heard testimony and accepted evidence including the staff report and exhibits 1-7 with respect to whether sufficient new information was submitted to justify a reconsideration to remove the restriction on the driveway apron and validate the as-built site plan, and
- WHEREAS,** based upon the evidence and testimony presented, the APC voted 5-0-0 to recommend that the variance be reconsidered, the restriction on the driveway apron be removed, and the as-built site plan be validated subject to the applicant providing an "as-built" site plan.
- WHEREAS,** the Mayor and Council are authorized by §190-6 to accept or deny the recommendation of the APC with respect to variance requests and by §87-19 to accept, deny or modify the recommendation of the APC with respect to fence appeals; and
- WHEREAS,** the Mayor and Council have reviewed the recommendation of the APC as to the Application and in particular have reviewed the APC's findings of fact and conclusions of law; and
- WHEREAS,** no exceptions have been filed; and
- WHEREAS,** the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC as to the Application as follows:

Section 1 Findings of Fact

1.1 The applicant's contractor applied for a building permit on June 19, 2013. The property has steep slopes at the eastern end of the driveway and existing site conditions, including the steps, mature shrubs and a light pole. This caused the contractor to shift the location of the driveway and associated retaining wall five (5) feet closer to the street. The sidewalk was shifted 12 feet closer to the street in order to meet ADA slope requirements for handicapped accessibility.

1.2 The building permit site plan showed the driveway reduced from the originally requested 10 feet by 17 feet driveway to the approved 10 feet by 12 feet, however, the location of the driveway and associated retaining wall were shifted closer to the street by 5 feet in order to accommodate the construction based on the actual site conditions (topography, steps, shrubs, and light pole). The existing site conditions could not have remained if the construction had followed the requirements of Resolution 13-R-08.

1.3 The handicapped accessible sidewalk was also shifted closer to the street, in order to meet ADA grade requirements.

1.4 The applicant is proposing to request permission from the Mayor and City Council for a double-wide driveway apron and associated right-of-way driveway and to connect that apron and right-of-way driveway to the as-built driveway pad.

1.5 If the driveway was built at the approved location, there would have been a 5-foot wide gap that separated the driveway pad from the apron. Since the driveway pad was moved closer to the street, it is now adjoining the right-of-way.

1.6 The applicant uses two different cars to serve his needs, a wheelchair accessible van and a standard car. He has a wheelchair accessible van for when he uses his motorized wheelchair and he uses his standard car when he uses his walker, depending on the situation.

1.7 The van is parked on the east side of the driveway/pad, close to the handicap accessible sidewalk. The car is parked on the west side of the driveway.

1.8 The approved site plan only allows for the parking of one vehicle.

1.9 At the time the variance was granted, the applicant felt parking for one vehicle was sufficient. He stated that circumstances have changed and necessitate the need for 2 vehicles to serve his purposes.

1.10 Applicant indicated that, if the City Council permits the applicant to widen his driveway apron and associated driveway, then he will be able to park and more easily access both vehicles. Without widening the apron and associated right-of-way driveway, in order to accommodate both cars, the applicant drives his van over the grass. This creates unsightly and muddy trenches next to his existing driveway apron which further limits his accessibility to his van.

## Section 2      Conclusions of Law

The Mayor and Council make the following conclusions of law with regard to CPV-2013 02/R, for a reconsideration of variance CPV-2013-02.

2.1 The property has an exceptional topographic condition with steep slopes at the eastern end of the driveway and extraordinary conditions due to the location of existin site conditions, including the steps, mature shrubs and a light pole, that caused the contractor to shift the location of the driveway and associated retaining wall five (5) feet closer to the street. The sidewalk was shifted 12 feet closer to the street in order to meet ADA slope requirements for handicapped accessibility.

2.2 The strict application of the Zoning Ordinance will result in practical difficulties for the applicant by not allowing the improvements, which were constructed to accommodate existing site conditions and to make the sidewalk ADA accessible, to remain in place. The improvements as constructed allow applicant to access his vehicles via wheelchair or walker.

2.3 Granting the variance will not impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan. The Fair Housing Act mandates "reasonable accommodations" to allow persons with disabilities an equal opportunity to use their dwelling.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the City of College Park, Maryland that the findings of fact and conclusions of law of the APC are hereby adopted and a reconsideration of variance CPV-2013-02 is granted to remove the restriction with respect to the driveway apron and validate existing conditions subject to the applicant providing an "as-built" site plan.

**ADOPTED**, by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 9<sup>th</sup> day of September 2014.

CITY OF COLLEGE PARK,  
MARYLAND

\_\_\_\_\_  
Janeen S. Miller, CMC  
City Clerk

\_\_\_\_\_  
Andrew M. Fellows, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

\_\_\_\_\_  
Suellen M. Ferguson  
City Attorney

14-0-07

**MOTION:**

**I move to adopt Ordinance 14-O-07, amending Chapter 184, “Vehicles and Traffic”, Section 184-45, “Systems in School Zones and Within One-Half Mile of an Institution of Higher Education” to conform the section to State mandated changes.**

**DISCUSSION:**

The State legislature in the last session adopted numerous amendments to the speed camera law. Most of these changes do not require amendment of the City code. However, two matters are already addressed in the City Code and so require amendment to conform to the State requirements. The changes in the ordinance reflect a 15-day waiting period before citations may be issued when cameras are moved or placed in position where not previously placed, and additional signage requirements.

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND,**  
**AMENDING CHAPTER 184 "VEHICLES AND TRAFFIC", BY REPEALING AND**  
**REENACTING ARTICLE VII "SPEED MONITORING SYSTEMS", SECTION 184-45**  
**"SYSTEMS IN SCHOOL ZONES AND WITHIN ONE-HALF MILE OF AN**  
**INSTITUTION OF HIGHER EDUCATION" TO AMEND THE SECTION TO**  
**CONFORM TO STATE MANDATED CHANGES**

**WHEREAS**, pursuant to Md. Code Ann., Art. 23A, §2, the City of College Park, Maryland (hereinafter, the "City") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

**WHEREAS**, §21-809 of the Transportation Article, Annotated Code of Maryland, as amended, authorizes the City to operate a speed monitoring system to enforce the speed limit in school zones and within ½ mile of an institution of higher education in the City; and

**WHEREAS**, pursuant to §21-809, as amended, the City has adopted this enforcement mechanism for increased public safety; and

**WHEREAS**, §21-809 was amended by the State Legislature effective in 2014; and

**WHEREAS**, it is appropriate to conform the City code language with that of amended §21-809.

**Section 1.** **NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park, Maryland that Chapter 184 "Vehicles and Traffic", §184-45 "Systems in school zones and within one-half mile of an institution of higher education", be, and is hereby amended to read as follows:

§184-45 Systems in school zones and within one-half mile of an institution of higher education.

A. The City, through an Agency established or designated by the City, is authorized to operate a speed-monitoring system to enforce the speed limit in conformance with § 21-809,

Transportation Article, Annotated Code of Maryland, as amended. The speed monitoring system shall be operated by a City agency through DULY AUTHORIZED Prince George's County police officers employed BY or under contract with the City, to be administered in conjunction with the City's Public Services Department.

B. Before activating a[n ~~unmanned stationary~~] speed-monitoring system, the City shall:

(1) Publish notice of the location of the speed-monitoring system on its website and in a newspaper of general circulation in the City.

(2) Ensure that each sign that designates a school zone [~~indicates~~] IS PROXIMATE TO A SIGN THAT, AND EACH SPEED LIMIT SIGN APPROACHING AND WITHIN THE INSTITUTE OF HIGHER EDUCATION ZONE:

(A) INDICATES that speed-monitoring systems are in use in THE school OR INSTITUTE OF HIGHER EDUCATION zone[s]; AND

(B) IS IN ACCORDANCE WITH THE MANUAL FOR AND THE SPECIFICATIONS FOR A UNIFORM SYSTEM OF TRAFFIC CONTROL DEVICES ADOPTED BY THE STATE HIGHWAY ADMINISTRATION UNDER §25-104 OF THE TRANSPORTATION ARTICLE, ANNOTATED CODE OF MARYLAND.

C. \* \* \* \*

D. [~~For a period of at least 30 days after the first speed monitoring system is placed in the City, a violation recorded by any speed monitoring system may be enforced only by issuance of a warning. At least 14 days of the thirty-day warning period shall occur during a University of Maryland fall or spring semester.~~] IF THE CITY MOVES OR PLACES A MOBILE OR STATIONARY SPEED MONITORING SYSTEM WHERE A SPEED MONITORING

SYSTEM HAS NOT PREVIOUSLY BEEN PLACED, THE CITY MAY NOT ISSUE A CITATION FOR A VIOLATION RECORDED BY THAT SPEED MONITORING SYSTEM:

(1) UNTIL SIGNAGE IS INSTALLED IN ACCORDANCE WITH SUBSECTION B OF THIS SECTION; AND

(2) FOR AT LEAST THE FIRST 15 CALENDAR DAYS AFTER THE SIGNAGE IS INSTALLED.

E. \* \* \* \*

**Section 2. BE IT FURTHER ORDAINED AND ENACTED** by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for 7:15 P.M. on the 9th day of September, 2014, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on \_\_\_\_\_, 2014 provided that

a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 15th day of July 2014.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**THE CITY OF COLLEGE PARK, MARYLAND**

By: \_\_\_\_\_  
Janeen S. Miller, City Clerk, CMC

By: \_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Suellen M. Ferguson, City Attorney

14-0-08

**MOTION:**

**I move to adopt Ordinance 14-O-08, amending Chapter 184, “Vehicles and Traffic”, Section 184-9, “Permit Parking in Restricted Residential Zones” to better define where visitor parking permits may be used and to provide an enforcement mechanism.**

**DISCUSSION:**

During previous Council discussion it became apparent that different types of misuse of a parking permit may be occurring. One is consistent use of a visitor permit to park some distance from the house to which the permit is issued, with a parking pattern that suggests the permit is being used by a non-resident for commuter parking purposes. The second instance is when an actual resident at an address for which a parking permit is available routinely uses the visitor permit instead of a resident parking pass.

Revocation of a residential parking permit is not one of the enforcement mechanisms currently available under the City code. It is probable that a letter notifying the residents of a household that the resident and visitor permits may be revoked due to improper use would gain more compliance. In addition, there are a number of references in the law that, based on current practice under Chapter 151, should be deleted.

The ordinance addresses resident concerns by defining a limited area for use of a visitor permit in proximity to the address of the host resident, and providing for revocation of residential parking permits and visitor permits when misused. The City will continue to suspend enforcement in an area to allow social events, such as reunions, birthday parties, quinceanera, weddings, etc. without the need to purchase additional visitor permits, if Parking is notified beforehand.

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND,**  
**AMENDING CHAPTER 184, "VEHICLES AND TRAFFIC", BY REPEALING AND**  
**REENACTING §184-9, "PERMIT PARKING IN RESTRICTED RESIDENTIAL ZONES"**  
**TO BETTER DEFINE WHERE VISITOR PARKING PERMITS MAY BE USED AND**  
**TO PROVIDE AN ENFORCEMENT MECHANISM**

**WHEREAS**, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the City of College Park, Maryland (hereinafter, the "City") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

**WHEREAS**, the City has adopted Chapter 184-8, "Permit parking in restricted residential areas" to allow for permit and visitor parking in residential neighborhoods when initiated by Mayor and Council or be resident petition; and

**WHEREAS**, it has come to the attention of the Mayor and Council that misuse of the parking and visitor permits is occurring; and

**WHEREAS**, the Mayor and Council have determined that it is in the public interest to adopt certain amendments to Chapter 184 to prevent misuse of the permits and provide an additional enforcement mechanism.

**Section 1.** **NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park, Maryland that Chapter 184, §184-9 "Permit parking in restricted residential areas", be, and is hereby repealed, reenacted and amended to read as follows:

A. – B. \* \* \* \*

C. Residents abutting on such streets in the designated area may apply for parking permits, on forms to be provided by the City Manager, for their own vehicle(s) and for persons doing business with residents there and for some visitors. [~~Abutting residents shall be given preference over visitors of such residents.~~] The City Manager, for good cause shown, may

CAPS : Indicate matter added to existing law.  
 [Brackets] : Indicate matter deleted from law.  
 Asterisks \*\*\* : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

waive the parking restriction as to visitors or persons doing business with residents or a given day or night.

D. – H. \* \* \*

I. THE PURPOSE OF THE VISITOR PERMIT IS TO ALLOW THE PARKING OF VEHICLES IN THE IMMEDIATE VICINITY OF THE PROPERTY FOR WHICH THE PERMIT IS ISSUED FOR SOCIAL OR BUSINESS PURPOSES. VISITOR PERMITS ALLOW PARKING ONLY WITHIN 200 FEET OF THE PROPERTY BOUNDARY ON BOTH SIDES OF THE STREET ON WHICH THE PROPERTY FRONTS AND ON AN INTERSECTING STREET.

J. IN ADDITION TO ANY OTHER ENFORCEMENT, A RESIDENT PARKING PERMIT OR VISITOR PARKING PERMIT MAY BE REVOKED IF USED IN VIOLATION OF THIS CHAPTER. PRIOR TO REVOCATION OF ANY PERMIT, THE RESIDENTS AND OWNER OF THE PROPERTY TO WHICH THE PERMIT HAS BEEN ISSUED SHALL BE GIVEN WRITTEN NOTICE OF MISUSE BY THE CITY. ONCE SAID NOTICE HAS BEEN GIVEN, THE PERMIT MAY BE REVOKED FOR CONTINUED MISUSE.

**Section 2.** **BE IT FURTHER ORDAINED** by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for 7:15 P.M. on the 9<sup>th</sup> day of September, 2014, shall follow

the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on \_\_\_\_\_, 2014, provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 12th day of August, 2014.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**CITY OF COLLEGE PARK**

By: \_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk

By: \_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Suellen M. Ferguson, City Attorney

14-0-09

**MOTION:**

**I move to adopt Ordinance 14-O-09, amending Chapter 38, “Code of Ethics”, Sections 38-4, “Definitions”, 38-8, “Procedures for Adjudicating Alleged Violations”, 38-15, “Financial Disclosure of City Elected Officials and Candidates to Be City Elected Officials”, 38-16, “Financial Disclosure of Employees and Appointed Officials”, and 38-17, “Additional Conflict of Interest Statements and Correction of Inaccurate or Incomplete Filings Required”, to clarify the definition of interest that must be reported, including a procedure for dismissal of a complaint, clarify the requirements for elected official, candidate, appointed official and employee disclosure and provide a remedy for failure of a candidate to file the required disclosures.**

**DISCUSSION:**

The Ethics Commission recently provided Mayor and Council with recommended revisions to the City’s Ethics Code. These recommendations were made based for the most part on the experience of the Ethics Commission with respect to the election process and their required review of the financial disclosure form and also include the State mandated revision with respect to mutual funds. The amendments also help to align the Ethics Code with the City elections process.

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, MARYLAND,**  
**AMENDING CHAPTER 38, "CODE OF ETHICS", BY REPEALING AND**  
**REENACTING ARTICLE I, "GENERAL PROVISIONS", SECTION 38-4,**  
**"DEFINITIONS", ARTICLE II, "ETHICS COMMISSION", SECTION 38-8,**  
**"PROCEDURES FOR ADJUDICATING ALLEGED VIOLATIONS", AND ARTICLE**  
**IV, "REQUIRED DISCLOSURES", SECTION 38-15, "FINANCIAL DISCLOSURE OF**  
**CITY ELECTED OFFICIALS AND CANDIDATES TO BE CITY ELECTED**  
**OFFICIALS", SECTION 38-16, "FINANCIAL DISCLOSURE OF EMPLOYEES AND**  
**APPOINTED OFFICIALS" AND SECTION 38-17 "ADDITIONAL CONFLICT OF**  
**INTEREST STATEMENTS AND CORRECTION OF INACCURATE OR**  
**INCOMPLETE FILINGS REQUIRED", TO AMEND THE ETHICS CODE TO**  
**CLARIFY THE DEFINITION OF INTEREST THAT MUST BE REPORTED,**  
**INCLUDING A PROCEDURE FOR DISMISSAL OF A COMPLAINT, CLARIFYING**  
**THE REQUIREMENTS FOR ELECTED OFFICIALS, CANDIDATE, APPOINTED**  
**OFFICIAL AND EMPLOYEE DISCLOSURE AND PROVIDING A REMEDY FOR**  
**FAILURE OF A CANDIDATE TO FILE THE REQUIRED DISCLOSURES**

**WHEREAS**, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the City of College Park, Maryland (hereinafter, the "City") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

**WHEREAS**, the City has adopted a Code of Ethics as required by §15-801 *et seq.* of the State Government Article, Annotated Code of Maryland; and

**WHEREAS**, the City's Ethics Commission has recommended that certain changes to the Code of Ethics be adopted; and

**WHEREAS**, the General Assembly has amended the State Ethics Code to change the definition of an "interest" that must be reported with respect to mutual funds; and

**WHEREAS**, the Mayor and Council have determined that it is in the public interest to adopt certain amendments to the Code of Ethics.

CAPS  
 [Brackets]  
 Asterisks \*\*\*

: Indicate matter added to existing law.  
 : Indicate matter deleted from law.  
 : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

**Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park, Maryland that Chapter 38, "Code of Ethics", Article I, "General Provisions", Section 38-4, "Definitions", be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

\* \* \* \* \*

INTEREST – Any legal or equitable economic interest, whether or not subject to an encumbrance or condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly, by any person subject to this chapter. One who serves as an officer or director of a business entity, whether operated for profit or not, has an "interest" in that business entity. For purposes of this chapter, the term "interest" applies to any interest owned or held at any time during the calendar year for which a required statement is to be filed or made upon the record of the City Council or any City body. For purposes of §38-15 and §38-16, interest includes any interest held at any time during the reporting period.

A. \* \* \* \*

B. For all purposes in this chapter, "Interest" does not include:

- (1) An interest held in the capacity of a personal agent, representative, custodian, fiduciary or trustee, unless the holder has an equitable interest therein.
- (2) An interest in a time or demand deposit in a financial institution.
- (3) An interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period.
- (4) An interest in a common trust fund or a trust that forms part of a pension or profit-sharing plan which has more than 25 participants and which has been determined by the Internal Revenue Service to be a qualified trust or college savings plan under Internal Revenue Code.
- (5) An interest in a business entity, if the official or employee owns three percent (3%) or less of the business, including ownership of securities held directly or indirectly, such as through mutual funds.

(6) A MUTUAL FUND THAT IS PUBLICLY TRADED ON A NATIONAL SCALE UNLESS THE MUTUAL FUND IS COMPOSED PRIMARILY OF HOLDINGS OF STOCKS AND INTERESTS IN A SPECIFIC SECTOR OR AREA THAT IS REGULATED BY THE CITY.

\* \* \* \* \*

**Section 2.** BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article II, “Ethics Commission”, § 38-8, “Procedures for adjudicating alleged violations”, be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-8. Procedures for adjudicating alleged violations.**

A. Complaint

(1) – (2) \* \* \* \*

(3) Ethics Counsel review. The Commission shall immediately transmit a copy of the complaint to its Ethics Counsel. The Ethics Counsel shall review the complaint and, at his or her discretion, may prepare an addendum to the complaint. The purposes of this addendum are to assure that the respondent has adequate notice of the specific Code provisions alleged to have been violated and to aid the Commission in limiting the scope of any preliminary hearing to relevant factual inquiries. Any addendum is to be submitted to the Commission within 10 working days of receipt of the complaint by the Ethics Counsel. IF THE ETHICS COUNSEL DETERMINES THAT THE COMPLAINT IS TIME BARRED UNDER PARAGRAPH (4) OF THIS SUBSECTION OR DOES NOT ASSERT FACTS THAT IF PROVEN TRUE WOULD CONSTITUTE A VIOLATION OF THIS CHAPTER OR CHAPTER 34, THE ETHICS COUNSEL MAY RECOMMEND THAT THE COMMISSION DISMISS THE COMPLAINT WITHOUT NOTICE TO THE

RESPONDENT OR A PRELIMINARY HEARING. UPON RECEIPT OF THE RECOMMENDATION, THE COMMISSION MAY DISMISS THE COMPLAINT.

(4) \* \* \* \*

B. \* \* \* \*

C. Preliminary hearing.

(1) – (3) \* \* \* \*

(4) [Respondents] RESPONDENT’S right to respond. The respondent shall have the opportunity to respond but is not required to attend or make any statement. Such person may describe in narrative form the testimony and other evidence which would be presented to disprove the alleged violation. If the respondent agrees that a violation has occurred, he or she may at any time waive the right to a final hearing and consent to a decision based on the facts alleged in the complaint or otherwise agreed upon. The disposition of any complaint without final hearing shall be by written order of the Commission in the form specified by Subsection D(5).

(5) – (7) \* \* \* \*

\* \* \* \*

**Section 3. BE IT FURTHER ORDAINED AND ENACTED**, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-15, “Financial disclosure of City elected officials and candidates to be City elected officials”, be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-15. [Financial] REQUIRED disclosure [of] BY City elected officials and candidates to be City elected officials.**

A. \* \* \* \*

B. [Financial]-REQUIRED disclosure statements

(1) REQUIRED DISCLOSURE STATEMENTS INCLUDE:

- (A) ANNUAL FINANCIAL DISCLOSURE STATEMENTS;
- (B) CANDIDATE FINANCIAL DISCLOSURE STATEMENTS; AND
- (C) STATEMENTS OF ACTUAL OR POTENTIAL CONFLICT OF INTEREST.

(2)[(1) ~~Except as provided in Subsection C a]~~ A City elected official or a candidate to be a City elected official shall file the financial disclosure statementS required under this section:

- (a) On a form provided by the Commission;
- (b) Under oath or affirmation; and
- (c) With the CITY CLERK, WHO SHALL FORWARD THE STATEMENTS TO THE Commission OR THE BOARD OF ELECTION SUPERVISORS, AS APPROPRIATE.

(3)[(2)]Deadlines for filing statements.

- (a) An incumbent City elected official shall file [~~a financial disclosure statement annually~~] AN ANNUAL FINANCIAL DISCLOSURE STATEMENT no later than April 30 of each year for the preceding calendar year.
- (b) An individual who applies to fill a vacancy in an office for which aN ANNUAL financial disclosure statement is required and who has not already filed a financial disclosure statement for the reporting period, shall file a statement for the preceding calendar year and the portion of the current calendar year to date of filing together with the application for appointment.
- (C) AN ELECTED OFFICIAL SHALL FILE A STATEMENT OF ACTUAL OR POTENTIAL CONFLICT OF INTEREST DISCLOSING EMPLOYMENT AND INTERESTS THAT RAISE CONFLICTS OF INTEREST OR POTENTIAL CONFLICTS OF INTEREST IN CONNECTION WITH A SPECIFIC PROPOSED ACTION BY THE OFFICIAL SUFFICIENTLY IN ADVANCE OF THE ACTION TO PROVIDE ADEQUATE DISCLOSURE TO THE PUBLIC.

\* \* \*

C. Candidates to be City elected officials.

(1) A candidate to be an elected City official shall file a financial disclosure statement [~~each year beginning with the year in which the authorization of candidaey is filed through the year of the election~~] WITH THE CITY CLERK WITH THE CANDIDATE'S AUTHORIZATION OF CANDIDACY. THE CITY CLERK SHALL FORWARD THE STATEMENT TO THE BOARD OF ELECTION SUPERVISORS.

~~[(2) A candidate to be an elected City official shall file a statement required under this section:~~

- ~~(a) In the year the authorization of candidaey is filed, no later than the filing of the authorization of candidaey.]~~ (A) EXCEPT AS PROVIDED IN PARAGRAPH (B), the reporting period shall be the calendar year immediately preceding the year in which the authorization is filed and the portion of the current calendar year to the date the authorization is filed;
- ~~(b) [In the year of the election, if other than the year in which the authorization of candidaey is filed, on or before the earlier of April 30 or the last day for the withdrawal of candidaey; and]~~ FOR ELECTED

OFFICIALS THAT HAVE FILED A STATEMENT UNDER ANOTHER PROVISION OF THIS SECTION FOR THE PRECEDING CALENDAR YEAR, THE REPORTING PERIOD SHALL BE THE PORTION OF THE CALENDAR YEAR TO THE DATE THE AUTHORIZATION IS FILED;

~~[(c) — In all other years for which a statement is required, on or before April 30.](3)~~

~~[A candidate to be an elected City official:~~

~~(a) — Shall file the statement required under § 38-15C(2)(a) of this chapter with the Board of Election Supervisors at the time of filing of the authorization of candidacy and with the Commission prior to or at the time of filing the authorization of candidacy; and~~

~~(b) — Shall file the statements required under § 38-15C(2)(b) and (c) with the Commission.~~

~~(4) — If a candidate fails to file a statement required by this section after written notice is provided by the Board of Election Supervisors at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.~~

~~(5)] The Board of Election Supervisors may not accept [any certificate of candidacy unless a statement has been filed in proper form.] The Board of Election Supervisors may not accept AN AUTHORIZATION OF CANDIDACY UNLESS IT IS ACCOMPANIED BY THE CANDIDATE'S FINANCIAL DISCLOSURE STATEMENT THAT INCLUDES ALL REQUIRED IDENTIFYING AND CONTACT INFORMATION, IS SIGNED UNDER OATH, AND INCLUDES ANSWERS TO EVERY MANDATORY QUESTION.~~

((4) Upon receipt of a statement required under this section, the Board of Election Supervisors shall promptly forward the statement to the Commission or the office designated by the Commission, ~~[but in any event]~~ AND SHALL DO SO no later than ~~[within 30 days of receipt and no later than]~~ THE close of business on the day of the filing deadline ~~[, whichever is earlier]~~ FOR THE AUTHORIZATION OF CANDIDACY.

(D) – (H) \* \* \* \*

\* \* \* \*

**Section 4.** BE IT FURTHER ORDAINED AND ENACTED, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-15, “Financial disclosure of City elected officials and candidates to be City elected officials”, be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-16. [Financial] REQUIRED disclosure {of} BY employees and appointed officials.**

A. – E. \* \* \* \*

F. A newly appointed City official shall file a [~~financial~~] REQUIRED disclosure form within 30 days of appointment. The reporting period for the statement is the calendar year immediately preceding the year in which the disclosure form is filed, and the portion of the current calendar year to the date the form is filed.

**Section 5. BE IT FURTHER ORDAINED AND ENACTED**, that Chapter 38, “Code of Ethics”, Article IV, “Required Disclosures”, Section 38-17, “Additional conflict of interest statements and correction of inaccurate or incomplete filings”, be, and is hereby repealed, reenacted and amended to read as follows:

**§ 38-17. Additional conflict of interest statements and correction of inaccurate or incomplete filings.**

(A) – (B) \* \* \* \*

C. Any person required to file a conflict of interest, lobbying registration, or financial disclosure statement pursuant to this chapter shall correct any inaccurate or incomplete filings with the commission within [~~30~~] 15 days of learning or being notified that the statement is inaccurate or incomplete. Any candidate for office notified that a [~~form~~] STATEMENT is, or appears to the commission to be, inaccurate or incomplete must provide the additional information required to the commission or confirm the accuracy and completeness of the [~~form~~] STATEMENT WITHIN 15 DAYS OR prior to the withdrawal of candidacy deadline, WHICHEVER IS FIRST TO OCCUR. IF ADDITIONAL INFORMATION IS NOT PROVIDED OR THE ACCURACY AND COMPLETENESS OF THE INFORMATION IS NOT CONFIRMED, IN WRITING, WITHIN THE REQUIRED TIME TO THE SATISFACTION OF THE COMMISSION THAT IT IS IN COMPLIANCE WITH THE

ETHICS CODE, THEN THE CANDIDATE IS DEEMED TO HAVE WITHDRAWN THE CANDIDACY. THE COMMISSION MAY DELEGATE THE DETERMINATION OF SUFFICIENCY TO ITS CHAIR.

**Section 6. BE IT FURTHER ORDAINED** by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for 7:15 P.M. on the 9th day of September, 2014, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on \_\_\_\_\_, 2014, provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the 12th day of August, 2014.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**CITY OF COLLEGE PARK**

By: \_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk

By: \_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Suellen M. Ferguson, City Attorney

14-G-91

I move that the City Council approve a letter with comments and recommendations on The Adopted College Park-Riverdale Park Transit District Development Plan (TDDP). The letter shall serve as the City's written testimony for the public hearing before the Prince George's County District Council on September 16, 2014 at 7:00 p.m.

Comments:

- The process for updating the 1997 College Park-Riverdale Park TDDP began last May and involved several community workshops and a series of stakeholder group meetings. The Planning Board held a public hearing on May 29, 2014 where the city provided verbal and written testimony. The Planning Board adopted the TDDP on July 17, 2014 and was responsive to many of the city's comments. The next step in the process is for the District Council to approve the TDDP after holding one or more public hearings.
- The vision for the metro area is for a transformation from an auto and suburban-oriented office and industrial area into a vibrant, walkable, mixed-use center. It includes new residential neighborhoods and a revitalized M Square Research Park that capitalize on public transit, existing recreational amenities, historic features and affiliation with the University of Maryland.
- In general, the City supports this vision and the TDDP, but continues to have a few concerns and recommendations for improving the plan that are contained in the letter.

September 16, 2014

Clerk of the Council  
County Administration Building  
Room 2198  
14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772

RE: Adopted College Park-Riverdale Park Transit district Development Plan (TDDP)

Dear Madam Clerk,

The City of College Park had the opportunity to submit written comments and testify before the Prince George's County Planning Board on the Preliminary TDDP. While many of the city's comments and recommendations were taken into consideration and reflected in the Adopted TDDP, there are a few issues that are important to the city that we urge the District Council to address.

#### Neighborhood Boundaries

After taking a closer look at the neighborhood boundaries, we realized that the boundaries of the Riverdale Park Urban Village contain a significant amount of acreage that is within the City of College Park municipal boundaries and abutting the historic Calvert Hills neighborhood of College Park. This area encompasses a portion of the American Center of Physics building and land to the north between the railroad tracks and River Road. It would be more appropriate to have this area classified as part of the Metro Core or Research Core. Either of these classifications would be more consistent with the proposed land use for this area which is listed as mixed-use, predominantly office.

Request: Revise the boundaries of the Riverdale Park Urban Village (Map 20) to remove the American Center of Physics property that is within the City of College Park and place this property in either the Metro Core neighborhood or the Research Core neighborhood.

#### Building Heights and Density

The Adopted TDDP establishes minimum and maximum building heights that the city believes are unrealistic and inappropriate given the context of this station area that adjoins single-family neighborhoods and the College Park Airport. The minimum height needs to be lowered so as not to preclude townhouse development and the maximum height should be lowered so that spotty or excessive density is not promoted in lieu of compact, pedestrian-oriented development. Please consider that the Mixed-Use-Infill (M-U-I) zone is recommended for the majority of the transit district and this zone permits residential development of up to 48 dwelling units per acre. This density can be achieved through 2- to 4-story townhouse development or 2- to 4-story multifamily

development. Mid- or high-rise (over 5 stories) multifamily development generally results in densities over 50 dwelling units per acre and would not be allowed in the M-U-I zone unless the development included another use. It is not anticipated that mixed-use buildings would make up a large portion of the district. Existing and proposed office development approved for the transit area to date has been low-rise office with surface parking. A much higher floor area ratio (2.0 – 5.0 FAR) could be obtained with buildings ranging from 3 to 8 stories and utilizing structured or below grade parking. Allowing 12-story buildings is not in keeping with the envisioned character of the area and is not needed to achieve the densities required for transit-oriented development. They should only be considered if additional height is awarded as a density bonus for providing some form of exceptional public benefit.

Request: Revise Map 22, Building Heights, to reflect a maximum height in the transit district of 8 stories instead of 12 stories. The tallest buildings, 5 to 8 stories, should be allowed to front on Paint Branch Parkway and River Road with shorter buildings, 2 to 5 stories, permitted in other areas.

### Parking Ratios

The city supports having no minimum parking requirement in the transit district but objects to the maximum parking ratios that have been established in the Adopted TDDP. These ratios exceed those established in the 1997 TDDP and in the 2010 US 1 Corridor Sector Plan. They are also contrary to the plan vision of minimizing parking and vehicle travel. The city believes the parking ratios should be lowered with no option to exceed the maximum number of spaces unless they are provided underground or in a structure. The continued provision of surface parking in the transit district is not a best practice and a strategy needs to be identified to control and manage parking district-wide. The city previously suggested to the Planning Board that the parking schedule used for the walkable nodes in the Route 1 Sector Plan would be an appropriate substitute for Table 19 in the Adopted TDDP. Market conditions along the corridor have supported development with parking garages and lower parking ratios and development in the TDOZ should be able to support them as well. The city has considered testimony from the University of Maryland and is willing to revise this recommendation in favor of slightly higher ratios and simplification of the parking table.

Request: Revise Table 19, Maximum Parking Ratios for Off-Street Parking Spaces, to eliminate any reference to location (“the rings”) and to delete the “2025 and Later, No Purple Line” column. Instead, the parking ratios shown for “Within ¼ mile of M Square (River Road Purple Line Station)” should be utilized.

### Urban Conservation Park

The city supports the concept of an urban conservation park to address floodplain mitigation and stormwater management and believes that it will be necessary in order to develop the entire transit district. The city understands that the University of Maryland has performed a study showing a different analysis from the TDDP and including some

concern for the impact of adjoining residential neighborhoods. The city does not have enough information to determine whether the decrease in the size of the park from 6-10 acres to 4-5 acres in the Adopted TDDP is appropriate.

Request: The city would like to have a copy of the University of Maryland study and be included in future discussions on this topic.

Thank you for the opportunity to share our concerns and recommendations with you.

Sincerely,

Andrew M. Fellows  
Mayor

14-0-10

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, AMENDING**  
**THE COLLEGE PARK CODE BY REPEALING CHAPTER 15, "BOARDS,**  
**COMMISSIONS AND COMMITTEES", ARTICLE IX, "RENT STABILIZATION**  
**BOARD", §§15-39 THROUGH 15-54, AND CHAPTER 127 "RENT STABILIZATION",**  
**§§127-1 THROUGH 127-13, IN THEIR ENTIRETY; AND BY REPEALING AN RE-**  
**ENACTING CHAPTER 110, "FEES AND PENALTIES", §110-1, "FEES AND**  
**INTERESTS" AND §110-2, "PENALTIES", TO DELETE THOSE SECTIONS THAT**  
**COMPRISE THE RENT STABILIZATION LAW**

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the City of College Park (hereinafter, the "City") has the power to adopt such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

WHEREAS, the City adopted a Rent Stabilization law, a Rent Stabilization Board to administer the law, and has provided for a rent stabilization application fee and fines for violation of the law; and

WHEREAS, the Mayor and Council have determined that it is appropriate to allow the Rent Stabilization law to sunset on September 1, 2014; and

WHEREAS, as a result, Chapter 15, "Boards, Commissions and Committees", §§15-39 through 15-54, which established the Rent Stabilization Board to administer the Rent Stabilization law and Chapter 127, "Rent Stabilization", §§127-1 through 127-13, which established the Rent Stabilization law, should be deleted in their entirety as no longer necessary; and Chapter 110, "Fees and Penalties", §110-1, "Fees and Interests" and §110-2, "Penalties" should be repealed and re-enacted to remove reference to application fees and violations of Chapter 127.

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CAPS : Indicate matter added to existing law.  
 [Brackets] : Indicate matter deleted from law.  
 Asterisks \* \* \* : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

**Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park, Maryland that Chapter 15, “Boards, Commissions and Committees”, Article IX, “Rent Stabilization Board”, §§15-39 through 15-54, be and are hereby repealed in their entirety.

**Section 2. BE IT FURTHER ORDAINED AND ENACTED**, that Chapter 127, “Rent Stabilization”, and §§127-1 through 127-13, be, and are hereby repealed in their entirety.

**Section 3. BE IT FURTHER ORDAINED AND ENACTED**, that Chapter 110, “Fees and Penalties”, §110-1, “Fees and interests”, be, and is hereby, repealed, reenacted and amended to read as follows:

**§110-1 Fees and interests.**

The following enumerations are the current fees, rates, charges and interests applicable in the City of College Park:

<b>Chapter/Section</b>	<b>Description</b>	<b>Fee/Interest</b>
	* * *	
[Ch. <del>127</del> , Rent Stabilization		
	§ 127- <del>Registration fee</del>	\$30
	§ 127- <del>Fee for petitions for individual adjustments of rent ceilings</del>	\$30
	<del>Fee for appeal of Board decision to the Mayor and City Council</del>	\$30
	* * *	

**Section 4. BE IT FURTHER ORDAINED AND ENACTED**, that Chapter 110, “Fees and Penalties”, §110-2, “Penalties”, be, and is hereby repealed, reenacted and amended to read as follows:

**§110-2 Penalties.**

Unless otherwise noted herein, the violation of a City ordinance or resolution is a municipal infraction. The following fines and/or imprisonment for violations of various ordinances or resolutions are applicable in the City of College Park:

Chapter/Section	Violation	Penalty
	* * * * *	
[Ch. 127, Rent Stabilization		
§ 127-4	Charging rent in excess of maximum rents allowed	\$500
§ 127-5	Failure to register rental units subject to Chapter 127	\$500
	Failure to pay registration fee	\$30]
	* * *	

**Section 5. BE IT FURTHER ORDAINED** by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for \_\_\_\_\_ P.M. on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after

adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on \_\_\_\_\_, 2014, provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**CITY OF COLLEGE PARK**

By: \_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk

By: \_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Suellen M. Ferguson, City Attorney

**INFORMATION  
REPORT:  
ENTERTAINMENT  
LICENSES**

## MEMORANDUM

**TO:** Mayor and City Council  
**THROUGH:** Joseph Nagro, City Manager  
**FROM:** Robert W. Ryan, Public Services Director   
**DATE:** September 5, 2014  
**SUBJECT:** Annual Renewal of Entertainment Licenses Status Report

### ISSUE

The Board of License Commissioners for Prince George's County (BOLC) has adopted rules for compliance with Section 6-201 of Article 2B of the Annotated Code of Maryland regarding Entertainment Licenses. (attached) These licenses are required for establishments licensed to sell alcoholic beverages, which also provide entertainment as defined in the law and rules. The City has adopted a policy for considering and commenting on these licenses. (attached)

### SUMMARY

The BOLC adopted rules R.R.No.75. Applications for new entertainment licenses are submitted and reviewed at the time of application. Renewal applications are all due to be submitted to the BOLC by 15<sup>th</sup> September annually. These applications are required to include security plans for each applicant establishment. Security plans must be approved by the PGPD Office of Secondary Employment.

The City practice of requiring a property use agreement contract (PUA) from each applicant for a liquor license has included negotiation of certain security measures for several years. The most recent PUAs have included the requirement to obtain an entertainment license if required, and to submit a security plan approved by both Prince George's County Police (PGPD) as the law requires, and the University of Maryland Department of Public Safety (UMDPS) within their concurrent jurisdiction. As a result, some establishments have included measures such as sophisticated identification scanners, additional security staff, camera systems, dress codes, etc.

Entertainment Licenses have been issued to several establishments which operate with the City (attached). These licenses must be renewed annually. The City may oppose a renewal for reasonable cause. City staff has discussed all City based entertainment licenses with the senior police officer of the PGPD Office of Secondary Employment. That office must review and approve the security plans which are required for BOLC approval of an entertainment license. At this time, with the expiration of the liquor and entertainment licenses for Big Play Sports Bar & Grill, there are no entertainment licenses which staff would recommend opposing.

### RECOMMENDATION

It is recommended that no entertainment license renewal applications be opposed.

*Without objection, staff will advise the BOLC in writing that there are no objections to these renewals, as prescribed in City policy.*

**Attachments:** 1. City Policy 2. BOLC Announcement 3. BOLC Rules 4. BOLC List of City Establishments

POLICY CONCERNING APPLICATIONS BY CITY ESTABLISHMENTS TO THE BOARD  
OF LICENSE COMMISSIONERS FOR PRINCE GEORGE'S COUNTY FOR AN  
ENTERTAINMENT LICENSE

PURPOSE:

The Board of License Commissioners for Prince George's County ("BOLC") considers applications for an entertainment license required by Section 6-201 of Article 2B of the Annotated Code of Maryland and BOLC Rule RR No. 75. The Mayor and City Council have been active in seeking to protect the public safety with respect to City establishments that apply for licenses issued by the BOLC. An entertainment license is part of that concern. This policy has been developed to provide a template for the City's review of applications for entertainment licenses.

The requirements for the entertainment license, applicable when an establishment with a Class B liquor license seeks to provide live entertainment, include a security plan that has been provided to the Prince George's County Police Department (PGCPD") for review and comment. Further, although not required by the law, the University of Maryland Department of Public Safety ("UMPD") has indicated their intention to review security plans for establishments within their primary and concurrent jurisdiction. The Council has determined that said evaluations are central to a determination of whether an entertainment license should be granted.

PROCEDURE

1. Mayor and Council shall be provided with a copy of any notice from the BOLC that an establishment within the City has applied for an entertainment license, or for the renewal of such a license. Mayor and Council shall also be provided with any BOLC notice with respect to a request by an establishment within the City that requests an exemption from or waiver of the entertainment license requirement.
2. Generally, the review and response to any request for issuance or renewal of an entertainment license, or for an exemption or waiver of such a license, will be handled by City staff and will not appear on the Council's agenda.
3. If the security plan provided as part of the entertainment license has been reviewed and approved by PGCPD, and UMPD when appropriate, then City staff shall provide a letter to the BOLC voicing no objection to the license, on the condition that it is in compliance with other applicable laws.
4. If City staff, after review, finds no issue with the exemption or waiver request, then City staff shall provide a letter to the BOLC voicing no objection to the license, on the condition that it is in compliance with other applicable laws.

5. If PGCPD or UMPD object to the security plan, then the Mayor and Council shall be notified and the matter will be placed on the Council's agenda for review and determination of the City's position.
6. If for any other reason, City staff determines that a denial of the issuance or renewal of an entertainment license, or for an exemption or waiver of such a license, is appropriate, then the matter will be placed on the Council's agenda for review and determination of the City's position
7. Upon request of any Councilmember, any issuance, renewal, exemption or waiver may be placed on the Council's agenda for review. The Council may also take up an issuance, renewal, exemption or waiver at the recommendation of City staff.
8. City staff is authorized to present the City's position to the BOLC. This may be done by letter in substantially the form attached, or by personal appearance, as is deemed appropriate.

## OFFICIAL NOTICE

NOTICE IS HEREBY GIVEN: Pursuant to Section 6-201 of Article 2B of the Annotated Code of Maryland, the Board of License Commissioners is currently accepting Renewal Applications for the Special Entertainment Permits. The Renewal Applications are due in the Board's Office on or before September 15, 2014.

The Board is accepting comments or concerns regarding Special Entertainment Permit Renewals. Comments or concerns should be filed with the Board of License Commissioners, 5012 Rhode Island Avenue, Room 204, Hyattsville, Maryland 20781.

Should you have any questions, please contact the Board's Office at 301-699-2770.

BOARD OF LICENSE COMMISSIONERS  
(LIQUOR CONTROL BOARD)  
FRANKLIN D. JACKSON, CHAIRMAN  
SHAIHI MWALIMU, VICE CHAIRMAN  
CHARLES W. CALDWELL, III, COMMISSIONER  
EARL J. HOWARD, COMMISSIONER  
DAVID DAESOK SON, COMMISSIONER

Attest:  
Diane M. Bryant  
Administrative Assistant  
September 4, 2014

**R.R. NO. 75 – SPECIAL ENTERTAINMENT PERMIT**

As directed under Section 6-201 of Article 2B of the Annotated Code of Maryland, the Board of License Commissioners is authorized to issue Special Entertainment Permits to qualified businesses with Class B Licenses. The Special Entertainment Permit authorizes the holder to provide entertainment, allow patron dancing, and assess a cover charge under conditions as determined by the Board and in compliance with all County laws. The annual fee for this Special Entertainment Permit is \$1,500. The Board will hold a public hearing in conjunction with the request for the Special Entertainment Permit. Section 6-201 also provides the Board with the authority to issue an exemption to the Special Entertainment Permit that authorizes entertainment at a licensed establishment that the Board determines is in the principal business of providing family entertainment. Applicants for new and transfers of licenses are permitted to file for a Special Entertainment Permit at the time of filing the new or transfer application but no later than 30 days after approval of the application, otherwise applications will only be accepted during the renewal period as outlined below.

- A. In order to apply for the Special Entertainment Permit, the applicant shall develop a security plan to prevent the premises from causing a threat to the peace and safety of the surrounding area and provide evidence that the security plan will be implemented. The applicant may utilize sworn security personnel as part of the plan if the sworn security personnel have police powers in the jurisdiction where the premises is located.
- A. The initial request for a Special Entertainment Permit or modification to a previously issued Special Entertainment Permit shall include:
  - Fully completed Special Entertainment Permit Application
  - A security plan
  - Evidence that the security plan has been submitted to the Prince George's County Chief of Police.
  - If the establishment is located within a municipality, evidence that the security plan has been submitted to the Police Department for the municipality.
- B. Once issued, a Special Entertainment Permit shall be valid until November 30<sup>th</sup> of the following license year unless otherwise specified in the letter issuing the Special Entertainment Permit or it is suspended or revoked by action of the Board. Any change in entertainment must be approved by the Board pursuant to a hearing. When submitting an application to change entertainment, the licensee shall also include evidence that an amended security plan has been submitted to the Prince George's County Chief of Police (and also to the local police department if the licensed premises is located in a municipality). An annual renewal of the Special Entertainment Permit shall include a Renewal Application to be filed between August 15<sup>th</sup> and September 15<sup>th</sup> to ensure that the licensee may continue to offer entertainment while the Board considers the application. Late applications may cause a suspension in entertainment between the time that the Special Entertainment Permit expires and the time the Board renders a decision on renewal.
- C. The Board will review any comments on the security plan from the Prince George's County Chief of Police or the designee of the Chief.

1. The Prince George's County Chief of Police is responsible for providing the Board with any Police Department comments on the security plan within 30 days of the Police Department's receipt of the plan from the applicant. If the Board does not receive the Police Department comments within 30 days of the date in which the applicant submitted it to the Police Department, the Board may take notice that the Police Department did not have comments on the security plan in question.
  2. For each security plan in which the Police Department provides comments, a representative from the Office of the Chief of Police for Prince George's County will be requested to attend the public hearing and present the Prince George's Police Department's comments and position on the security plan and answer questions the applicant or the Board has regarding the comments of the Police Department. If a Police Department representative does not attend the hearing, the Board may assign meaning to Police Department comments based on evidence presented and notice taken at the hearing.
- D. Pursuant to a public hearing, the Board will determine whether a Special Entertainment Permit will be issued for the type of entertainment described at the hearing; the days and hours the privileges of the Special Entertainment Permit can be exercised; modifications to the security plan pursuant to notice taken and evidence considered; limits and conditions regarding entertainment, dancing and cover charges. The Board is authorized to prohibit, condition, or restrict the type of entertainment provided on the licensed premises.
- E. After issuance of the Special Entertainment Permit, the licensee is required to:
1. Follow the security plan at all times when exercising the privileges of the Special Entertainment Permit.
  2. Assure that the establishment and the entertainment does not pose a threat to the peace and safety of the community.
  3. Between the hours of 9:00 p.m. and 2:00 a.m. the next day, prohibit individuals under 21 years of age from being on the part of the premises where the entertainment is occurring (exception: employees and immediate family members of the permit holder and circumstances described in paragraph J) when the privileges of the Special Entertainment Permit are being exercised. Individuals under 21 who are already on the part of the licensed premises where the entertainment is occurring (or will occur) should be informed prior to 9:00 p.m. (or the time that the entertainment begins) that they have to leave that part of the licensed premises by 9:00 p.m. (or when the entertainment begins, whichever is later).
  4. If an establishment with a Special Entertainment Permit has separate areas on the licensed premises where no entertainment occurs, the requirements of the Special Entertainment Permit do not apply to those areas where there is no entertainment.
- F. The Board may immediately suspend a Special Entertainment Permit if the Board determines pursuant to majority vote that the licensee failed to follow its security plan or in other ways deviated from the representations made to the Board with

regard to the provision of entertainment on the licensed premises. If the Board suspends the Special Entertainment Permit, it shall hold a hearing with regard to the status of the Special Entertainment Permit within 30 days. The Board will determine at the hearing whether it shall fine the licensee, continue the suspension of the Special Entertainment Permit, revoke the Special Entertainment Permit, reinstate the Special Entertainment Permit, and/or take any other appropriate actions.

- G. Establishments that the Board determines are in the principal business of providing family entertainment may have entertainment without a Special Entertainment Permit, upon the Board's determination that the establishment should be issued an exemption. To obtain an exemption from the Board, a licensee must file an Exemption Application with the Board. If the Board denies a request for an exemption, the applicant may make a written request to the Board for reconsideration within 21 days of the Board's denial. Reconsiderations are subject to hearings and at the discretion of the Board. After the request for exemption is granted by the Board, licensees are required to file applications for annual exemption renewals between July 1<sup>st</sup> and August 1<sup>st</sup>. If a timely filed request for renewal is denied, the applicant may:

1. File a written request for reconsideration, or
2. If eligible, file an application for a Special Entertainment Permit, within 21 days of the Board's denial.

Reconsiderations are subject to hearings and are at the discretion of the Board. If the request for renewal is denied upon reconsideration, the applicant, if eligible, may file an application for Special Entertainment Permit within 21 days of the Board's denial. If all filings are timely, the licensee may continue to offer entertainment throughout this process subject to any conditions or limitations imposed by the Board. Unless specified otherwise in the letter granting the exemption, the exemption shall be valid until October 31<sup>st</sup>, of the following license year unless suspended or revoked by action of the Board. The Board will consider the specific circumstances of each application for exemption and determine whether an exemption should be granted on a case-by-case basis. Some examples of establishments that the Board may determine to be exempt are:

1. Establishments that provide entertainment that is directed towards children at all times.
2. Establishments that customarily serve families during all business hours and provide entertainment that is clearly ancillary to the dining experience.
3. Establishments that customarily provide family themed theatrical performances.
4. Establishments that are a part of a university or other academic facility.
5. Establishments that customarily host family oriented sporting events.
6. Establishments associated with the Maryland-National Capital Park and Planning Commission.
7. Establishments that obtain an Exemption to the Special Entertainment Permit are prohibited from:
  - a. Carding potential patrons at the entrance to the establishment

- (patrons should be carded at their seat), as appropriate
- b. Restricting patron entrance due to age
  - c. Searching potential patrons at the entrance
  - d. Imposing a cover charge or other fee not directly applied to food and beverage costs
  - e. Requiring food or drink minimums
  - f. Offering patrons VIP Seating at an additional cost

A licensee may not deviate from the entertainment, days, times, and other conditions that it describes to the Board when obtaining an exemption. A material deviation without prior Board approval constitutes grounds for the Board to immediately suspend the determination of exemption and schedule a hearing to determine whether a Special Entertainment Permit is necessary to replace the exemption.

- I. Entertainment is broadly defined and can include, but is not limited to, any type of performance provided by the licensee or the licensee's agents on the licensed premises. Some examples of entertainment are:
  1. Music played by a disc jockey, musician, or band,
  2. Choreography demonstrated by a dancer,
  3. Exotic dancing performed by a stripper,
  4. Jokes told by a comedian, and
  5. Songs performed by a vocalist or instrumentalist.

Licensees do not need a Special Entertainment Permit for activities that are not considered entertainment. The following examples would NOT usually be considered entertainment:

1. Music played on a restaurant's sound system without the assistance of a disc jockey, and
  2. Electronic, mechanical, or other devices (e.g. television, karaoke machine, video game, microphone, pool table, pinball machine, ping pong table, mechanical bull, carousel, jukebox, etc.) that are provided for customer use to enhance the restaurant experience.
- J. If the establishment has a Special Entertainment Permit but is authorized by the Board to host on the licensed premises wedding or corporate receptions, reunions, anniversary celebrations, retirement or birthday parties, confirmation ceremonies, or other types of events that are family oriented and have entertainment, individuals under 21 years of age may remain on the part of the premises where the entertainment for the family oriented event is occurring between 9:00 p.m. and 2:00 a.m., pursuant to the Board's prior authorization. The licensee is responsible for notifying the Board on a monthly basis of its scheduled events. Notice should be provided at least 10 days before the event. Failure to provide adequate notice or otherwise comply with conditions imposed by the Board may result in suspension or revocation of the Special Entertainment Permit.
  - K. The Special Entertainment Permit authorizes the holder to offer entertainment, allow patron dancing and assess a cover charge under conditions as determined by the Board and in compliance with all County laws. Licensed establishments that are not Class B may not obtain a Special Entertainment Permit. Licensed establishments that are specifically exempt by statute from having a Special

Entertainment Permit are authorized to have entertainment without a Special Entertainment Permit. In addition, if entertainment is specifically provided to a licensed establishment by statute, a Special Entertainment Permit is not required for the entertainment that the statute authorizes.

- L. This rule does not prohibit entertainment between 2:00 a.m. and 3:00 a.m. for licensed establishments that qualify to be open during that time on Saturday and Sunday mornings.
- M. All licensed establishments that provide entertainment must be authorized to provide entertainment by Special Entertainment Permit, Exemption to the Special Entertainment Permit, or specific provisions of the Annotated Code of Maryland. Pursuant to this rule and the processes herein, licensed establishments that do not have either a Special Entertainment Permit, an Exemption to a Special Entertainment Permit, or a specific provision of the Annotated code of Maryland authorizing entertainment may not provide entertainment and are subject to fines and/or suspension or revocation of their alcoholic beverage license.

License Number	License Type	T/A	CR #	Department ID	Council District	Corporate Name	Address	City	Zip
396 BH		Asian Fusion and Varsity Lounge	9626669	D05714258	3	RRP, Inc.	8601 Baltimore Avenue	College Park	20740-
423		Big Play Sports Grill	14763492	W14282966	3	E2A, LLC	7313A Baltimore Avenue	College Park	20740-
287 BL		Cornerstone Grill and Loft	8396101	D04556494	3	Y.B.H., Inc.	7325 Baltimore Avenue	College Park	20740-
749 BLX		Looney's Pub at College Park	14446872	D14041909	3	Looney's Pub at College Park, Inc.	8150 Baltimore Avenue	College Park	20740-
397 BH		Moose Creek Steak House	13267908	W12258422	1	OpRock College Park Beverage,	10000 Baltimore Avenue	College Park	20740-
249 BL(R)		R.J. Bentley's Filling Station	2071060	D00772186	3	MBK Enterprises, Inc.	7323 Baltimore Avenue	College Park	20740-
787 BLX		Terrapins Turf	15193844	W14434179	3	Daphe LLC	4410 Knox Road	College Park	20740-

