

MINUTES
Regular Meeting of the College Park City Council
Tuesday, September 24, 2019
Davis Hall, 9217 51st Avenue
7:30 p.m. – 11:21 p.m.

PRESENT: Mayor Wojahn; Councilmembers Kabir, Kennedy, Brennan, Dennis, Day, Rigg, Kujawa, and Mitchell.

ABSENT: None.

ALSO PRESENT: Scott Somers, City Manager; Bill Gardiner, Assistant City Manager; Janeen S. Miller, City Clerk; Suellen Ferguson, City Attorney; Bob Ryan, Director of Public Services; Ryan Chelton, Economic Development Coordinator; Dan Alpert, Student Liaison; Julia Nikhinson, Deputy Student Liaison.

Mayor Wojahn opened the Regular Meeting at 7:30 p.m.

ANNOUNCEMENTS:

Councilmember Kennedy announced National Voter Registration Day.

Councilmember Kabir announced a walk and talk with police on October 10.

Councilmember Mitchell announced a College Park Woods Neighborhood Watch meet and greet on October 6.

Councilmember Dennis said there is no Coffee Club tomorrow.

CITY MANAGER'S REPORT: Mr. Somers focused his remarks on College Park Day.

PROCLAMATIONS AND AWARDS:

1. **Presentation of the Jack Perry Award to Doris and Tom Davis:** Members of former Councilman Jack Perry's family joined Mayor Wojahn in presenting the 2019 Jack Perry Award to Doris and Tom Davis in recognition of their service to the community.
2. **Hispanic Heritage Month:** Mayor Wojahn read the proclamation for Hispanic Heritage Month.

AMENDMENTS TO AND APPROVAL OF THE AGENDA:

1. A motion was made by Councilmember Rigg and seconded by Councilmember Kennedy to add item 19-G-136 to the Consent Agenda, which is a motion for the City to sign-on to an *amicus* brief led by the University of California in support of the continuation of the DACA program. The motion passed 8-0.
2. A motion was made by Councilmember Day and seconded by Councilmember Kennedy to add item 19-G-131 to the Consent Agenda, which is to put the selection of the Business of the Year to a public vote. The motion passed 8-0.
3. The agenda was approved as amended (Mitchell/Kennedy) 8-0.

PUBLIC COMMENT ON CONSENT AGENDA AND NON-AGENDA ITEMS:

Dave Dorsch, resident: When will the guardrail be built on US 1; open up Rhode Island Avenue to Campus Drive.

Mary Cook, resident: Frequently the audience can't tell who has voted in favor or against a motion, which is why she requested a roll call vote at the last meeting.

PUBLIC HEARINGS:

A. 19-O-09, An Ordinance Of The Mayor And Council Of The City Of College Park Amending City Code Chapter 138 "Noise", §§138-2, "Definitions", 138-5, "Prohibited Acts", And 138-6, "Violations And Penalties" To Define Construction Activity And Noise Disturbance, Change The Hours Included In The Definitions Of Day And Night, Include Noise Disturbance As A Violation, Clarify The Noise Measurement Point For Multi-Family Dwellings, Include Reference To Various Noise Activities That Are Prohibited By Or Exempted From This Chapter Through The State Environmental Article, Specifically Authorize The Noise Board To Hear Certain Cases, And To Make Other Clarifying And Conforming Changes.

Mr. Ryan said there are two key changes in these amendments to Chapter 138, Noise: The definition of morning on Saturdays, Sundays and Holidays is changed to 8:00 a.m., and the ordinance provides a list of exemptions to the noise ordinance that apply during daytime hours.

Public Comment:

Mary Cook, resident: She commented on the disturbance caused by the Cops On Tops event at Dunkin Donuts where police sat on top of the building and called with a megaphone for hours on a Saturday seeking donations. It was disturbing but did not exceed the decibel level.

Karen Garvin, resident: Supports expansion of the quiet time. Their problem is with lawn equipment.

Gene Ferrick, resident: Asked if he can do construction project and whether construction tools are exempt.

Ms. Ferguson replied the ordinance is not intended to keep people from performing construction projects.

Dylan Burns, resident: Supports the ordinance.

Stephanie Stulich, resident: Supports the ordinance.

John Kelly, resident: Supports the ordinance; we need something that has teeth and can stick.

Oscar Gregory, resident: It would be better to address individual issues that occur with Code Enforcement and with police enforcing the County ordinance.

There being no further public comment, the Public Hearing was declared closed.

B. 19-O-13, An Ordinance Of The Mayor And Council Of The City Of College Park Amending City Code Chapter 141 “Nuisances”, By Repealing And Re-Enacting Article §141-1, “Nuisances Outlined”; Adopting §141-12, “Definitions”, §141-13, “Unruly Social Gathering Prohibited, And §141-14, “Violations And Penalties”; By Dividing Chapter 141 Into Two Articles, And By Reserving Various Sections In Article I; By Repealing And Re-Enacting Chapter 110 “Fees And Penalties”, §110-2, “Penalties”; And By Repealing And Re-Enacting Chapter 15 “Boards, Commissions And Committees”, §15-19, “Powers And Duties”, To Clarify That Creating Or Allowing A Nuisance Is A Violation Of The City Code, To Include Unruly Social Gatherings As A Prohibited Nuisance, To Institute A Fine For Violations And To Make Provision For Suspension Or Revocation Of A City Occupancy Permit For Repeated Violations.

Mr. Ryan said this ordinance clarifies the definition of nuisances, creates a new section called “unruly social gatherings,” does NOT prohibit parties, and long as the listed behaviors do not occur. Many are already prohibited in the criminal code; this ordinance allows the City to issue municipal infractions for these behaviors.

Andrew Greinetz, resident: Opposed. This is unnecessary and cruel.

Tom Gray, resident: Opposed. Imposes a draconian penalty on him as a landlord.

Daniel Yelsits, resident: Opposed. Agrees that some students can be better neighbors, but this ordinance isn’t the way.

Benjamin Birnbach, resident: Opposed. The aims are admirable but this is heavy handed.

Aaron Springer, resident: Supports. Things have gotten better but we are not there yet.

Dave Dorsch, resident: Opposed. May be unconstitutional. Subjective criteria.

Ireland Leslie, resident, SGA president: Requested time to work with the Council on these issues. The ordinance is vague, and they didn’t include students in the process.

Hannah Eldringmore, resident: Opposed.

Aashish Pareth, resident, Phi Kappa Psi president: Opposed. Subjective; work with the students.

Thomas Casey, resident: Opposed. Draconian penalties; could be disastrous to property values.

Matthew Patrick, resident: Opposed.

Marc Haller, resident: Opposed.

J.P. Stemwedel, resident: Supports. Status quo is not working in his neighborhood so something needs to be done.

Jon Romano, resident, President, Sigma Chi: Opposed. Petition in opposition has 2,200 signatures. More collaboration is needed. Ordinance is poorly articulated.

Ethan Groff, resident: Opposed. Doesn't want to be put at odds with his landlord.

Alexander Viscount, President, Zeta Psi: Opposed. Take a data driven approach.

Mitch Hopkins, resident: Opposed. Will cause a further divide.

Jason Azevedo + wife, residents: Supports. Behaviors that would warrant a MI are already illegal; this gives teeth to enforcement.

Carol Gray, resident: Opposed. This is punitive.

Robert S. Davis, resident: Opposed. He can't control the behavior of another adult.

Alex Dubinsky, resident: Opposed.

Jared Lesley, resident: Opposed. Understands the intentions but the way it is worded will cause problems. Delay and work together.

Charlie Davis, resident: Opposed. It is unconstitutional.

Ian Burkhardt, resident: Opposed.

Spencer Lockhart, resident: Opposed.

Anne Gosse, resident: Opposed.

Emily Hilliard, resident: Opposed.

Jen Mandato, resident: Opposed.

Brian Murray, resident: Opposed.

Cameron Robinson, resident: Opposed.

Nicholas Utschneider, resident: Opposed.

Jay Lyashick, non-resident: Opposed. If this passes, rent will go up. We shouldn't punish low income students and their families.

Kevin James, non-resident: Opposed.

Isaac Rose, non-resident: Opposed.

Maxim Kapelina, non-resident: Opposed.

Christian Olson, resident: Opposed.

Ritlik Jam, non-resident: Opposed.

Dylan Burns, resident: On the fence. In favor of improved quality of life, but people who are financially vulnerable would be hurt by this.

Patrick Moser, non-resident: Opposed. Would cause undue financial stress.

John Hawvermale, non-resident: On the fence. Supports the intent and his lease prohibits disorderly gatherings. His tenants post a \$3K deposit in addition to the security deposit and he has very few problems.

Vernon Cunningham, non-resident: Opposed. Thinks it is unconstitutional. It is unreasonable to revoke a rental license.

Stephen Robie, resident: Supports. A small subsection of rude drunk students is ruining it for everyone else. He has a right not to be disturbed. Peaceful assembly does not include vandalism, drunk behavior.

Anna Smillie, resident: Opposed. Unreasonable; targets students.

Tommy Benz, resident: Supports. This is about unruly behavior. His house was broken into at 2:30 a.m. by someone leaving an unruly party.

Bob Schnabel, resident: Supports. Things have gotten better but there is need for improvement.

Camilo Calvo, resident: Opposed. Shocked by the stories he has heard, but this ordinance creates a financial burden. Need to discuss further.

Amir Khalantary, non-resident: Opposed. This ordinance divides the community and is a deliberate effort to eliminate the staples of a college town in favor of young millennials.

Harry Huntley, resident: Opposed. Vague and arbitrary. Gives officers too much discretion.

Tommy Sheppard, resident: Opposed. Students deserve to have their voices heard. They are the economic backbone of the City. This creates a financial burden to students.

Leo Shapiro, resident: Supports in principle. The framing of the issue is critical. It is not “us” against “them.” The problem is sociopathic behavior of a few.

Julie Forker, resident: She and her husband are both in support of the ordinance. We shouldn't have to tolerate these behaviors. People move out, don't want to raise their kids here.

Alexa Bely, resident: Supports the ordinance. There have been improvements but sees value in enacting this ordinance.

Stephanie Stulich, resident: There have been improvements, but we still do have problems. This ordinance is about parties that are excessive and behaviors that are egregious, generally at the satellite houses where there is underage drinking and they post lookouts to game the system.

Mayor Wojahn read a comment into the record from Dr. David McBride with the consent of the Council (Rigg/Brennan 8-0). Comment attached.

There being no further public comment, the Public Hearing was declared closed.

CONSENT AGENDA: A motion was made by Councilmember Mitchell and seconded by Councilmember Kennedy to adopt the Consent Agenda, which consisted of the following:

- 19-G-126 Approval of minutes of the July 9, 2019 Regular Meeting and the August 13, 2019 Regular Meeting**
- 19-G-127 Approval for the City to join the Purple Line Corridor Coalition**
- 19-G-128 Letter of Support for the City-University Partnership grant applications to the Maryland Department of Housing and Community Development**
- 19-G-129 Approval of a Memorandum of Understanding for future maintenance of a mural to be installed by the College Park City-University Partnership on the south side of the second and third floors of the building at 7404 - 7406 Baltimore Avenue**
- 19-G-130 Approval for the City to sign on to an *amicus* brief led by the University of California in support of the continuation of the DACA program.**
- 19-G-131 Approval of putting the selection of the Business of the Year to a public vote.**

The motion passed 8-0.

ACTION ITEMS

- 19-O-09 Adoption of Ordinance 19-O-09, An Ordinance Of The Mayor And Council Of The City Of College Park Amending City Code Chapter 138 “Noise”, §§138-2, “Definitions”, 138-5, “Prohibited Acts”, And 138-6, “Violations And Penalties” To Define Construction Activity And Noise Disturbance, Change The Hours Included In The Definitions Of Day And Night, Include Noise Disturbance As A Violation, Clarify The Noise Measurement Point For Multi-Family Dwellings, Include Reference To Various Noise Activities That Are Prohibited By Or Exempted From This Chapter Through The State Environmental Article, Specifically Authorize The Noise Board To Hear Certain Cases, And To Make Other Clarifying And Conforming Changes.**

A motion was made by Councilmember Kabir and seconded by Councilmember Kennedy to adopt Ordinance 19-O-09.

Councilmember Kabir said this will allow residents to enjoy one additional peaceful hour on weekend mornings.

The motion passed 7-0 (Councilmember Kujawa not in the Chambers for the vote).

19-O-13 Adoption of Ordinance 19-O-13, An Ordinance Of The Mayor And Council Of The City Of College Park Amending City Code Chapter 141 “Nuisances”, By Repealing And Re-Enacting Article §141-1, “Nuisances Outlined”; Adopting §141-12, “Definitions”, §141-13, “Unruly Social Gathering Prohibited, And §141-14, “Violations And Penalties”; By Dividing Chapter 141 Into Two Articles, And By Reserving Various Sections In Article I; By Repealing And Re-Enacting Chapter 110 “Fees And Penalties”, §110-2, “Penalties”; And By Repealing And Re-Enacting Chapter 15 “Boards, Commissions And Committees”, §15-19, “Powers And Duties”, To Clarify That Creating Or Allowing A Nuisance Is A Violation Of The City Code, To Include Unruly Social Gatherings As A Prohibited Nuisance, To Institute A Fine For Violations And To Make Provision For Suspension Or Revocation Of A City Occupancy Permit For Repeated Violations.

A motion was made by Councilmember Rigg and seconded by Councilmember Brennan to adopt Ordinance 19-O-13.

Councilmember Rigg said the Council has received a lot of public comment on this ordinance. This is not a “town-gown” issue, it is a “neighborliness” issue, and about reinforcing the norms of healthy social behaviors. He hopes the ordinance will never have to be enforced.

Amendment #1: A motion to amend the Ordinance was made by Councilmember Rigg and seconded by Councilmember Brennan, as follows:

- 1. 141-14 B: No “double jeopardy” provision**
- 2. Throughout the ordinance, increase the number of persons from 4 to 8**
- 3. Change the landlord/owner penalties to Warning (1st), \$500 (2nd), \$500 (3rd), and**
- 4. In Penalties: Add that the license revocation would be effective at the end of the current leasing period**

Public Comment on Amendment #1:

(Landlord): Disagrees with financial penalties to the landlord; keep it on the students.

Tommy Sheppard, resident: Opposed to number of people. His house has 9 people; others have 17 or 11.

Ireland Leslie, resident: This is a step in the right direction; please delay for student input.

Daniel Yelsits, resident: This is a step in the right direction, but urges delay.

Alex Dubinsky, resident: The term “other conduct” is still vague.

Councilmember Mitchell asked for the CMAST reports, and asked if the Noise Board was brought into this discussion.

Student Liaison Dan Alpert said the Council has worked with the students, but we want those talks to continue and hopes this will be tabled.

Councilmember Day is not sure this ordinance is 100% the right answer, but we have to do something.

Vote on Amendment #1:

Yes: Kennedy, Kabir, Rigg, Dennis, Brennan

No: Day, Mitchell, Kujawa

Amendment passes 5-3.

Councilmember Rigg requested that Council hold a Worksession in one-year to “check-in” on the implementation and enforcement of the ordinance and to consider whether amendments are needed. He also suggested quarterly check-ins with stakeholders (which might include IFC/PHA, PGPOA, City Staff) to see how enforcement is progressing and to make any necessary critical course adjustments, if needed.

[A motion was made by Councilmember Brennan and seconded by Councilmember Dennis to extend the meeting. Motion passed 8-0.]

Amendment #2: A motion was made by Councilmember Day and seconded by Councilmember Kennedy to further amend the ordinance by making the amendments Ms. Ferguson noted in her comments:

- 1. On page 2 – 141-12 Definitions: add the word “illegal” before “controlled substances”**
- 2. On page 3 – 141-12 Definitions: add “or is otherwise authorized by law” to end of paragraph**
- 3. On page 3 – add 138-5 of the City Code.**

Amendment #2 passed 8-0.

Discussion of the main motion with the two amendments:

Councilmember Day agrees with the implementation strategy suggested by Councilmember Rigg.

Councilmember Brennan said this is not a “student v. non-student” issue and only a minority of residents would be impacted. He disagrees with a delay and wants to adopt tonight.

Student Liaison Dan Alpert discussed the number of people who have expressed opposition to the ordinance and wants to work together on solutions. He said there are other measures to hold students accountable.

Councilmember Mitchell requested a Worksession discussion next week on the implementation.

Councilmember Kennedy asked why it is necessary to have a specific number of people in the ordinance. Ms. Ferguson said the number 4 was used in the Towson ordinance. She added that a law is applied based on what a “reasonable person” would find to be a violation. It would not just be someone who is annoyed. Municipal infractions go to court and a judge would decide; the burden of proof is on the City.

Councilmember Dennis wants data to come back to Council.

Councilmember Kabir noted that the fine structure for a noise violation in Chapter 138 is handled differently than a violation of Chapter 142.

Amendment #3: A motion was made by Councilmember Kabir and seconded by Councilmember Day to change the fine structure for the responsible party in Chapter 141 to mirror the fine structure in Chapter 138, so that the first violation is a warning, not a fine.

[A motion was made by Councilmember Dennis and seconded by Councilmember Kennedy to suspend the rules and extend the meeting. Motion passed 8-0.]

Amendment #3 failed 1 – 7.

Vote on Main Motion with Amendments #1 and #2: 8 - 0.

ADJOURN: A motion was made by Councilmember Brennan and seconded by Councilmember Rigg to adjourn the Regular Meeting, and with a vote of 8-0, the regular meeting was adjourned at 11:21 p.m.

Janeen S. Miller, CMC
City Clerk

Date
Approved

Closed Session Statement

Pursuant to the Maryland Annotated Code, General Provisions Article, Section 3-305, on September 17, 2019 at 10:32 p.m. at Davis Hall, 9217 51st Avenue, a motion was made by Councilmember Brennan and seconded by Councilmember Day that the Mayor and Council of the City of College Park meet in a Closed Session for the following purposes: To consult with Counsel to obtain legal advice; To consult with staff, consultants, or other individuals about pending or potential litigation. The motion passed 8-0, and after a brief recess, the closed session began at 10:42 p.m.

The Mayor and all Councilmembers were present. Others invited to attend were Scott Somers, City Manager; Suellen Ferguson, City Attorney; Janeen S. Miller, City Clerk; and Bill Gardiner, Assistant City Manager. The Open Meetings Trainee was Mayor Wojahn.

Ms. Ferguson and Mr. Somers advised the Mayor and Council about a possible settlement in a matter of pending litigation. Certain terms were discussed, and the City Attorney provided legal advice to the Mayor and Council on those terms. No action was taken.

At 10:55 p.m. a motion was made by Councilmember Brennan and seconded by Councilmember Day to adjourn the closed session, and with a vote of 8-0, the closed session was adjourned.
