

**MINUTES**  
**Regular Meeting of the College Park City Council**  
**Tuesday, May 14, 2013**  
**7:30 p.m. – 9:09 p.m.**

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

**ABSENT:** None.

**ALSO PRESENT:** Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Chantal Cotton, Assistant to the City Manager; Steve Groh, Director of Finance; Terry Schum, Director of Planning; Miriam Bader, Senior Planner; Josh Ratner, Student Liaison.

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

**Minutes:** A motion was made by Councilmember Dennis and seconded by Councilmember Mitchell to adopt the minutes of the Special Session on April 16, 2013 and the Regular Meeting on April 23, 2013. The motion passed 8 – 0 – 0.

**Announcements:**

Councilmember Wojahn announced that Friday, May 17 is Bike To Work Day. The College Park Pit Stop opens at 6:30 a.m. It is a good day to bike to work because traffic will be a mess.

Councilmember Catlin said the Berwyn District Civic Association would hold their monthly meeting on Thursday night at 8:00 p.m.

Councilmember Afzali announced that this weekend is UMD Commencement and several other major events on campus, so traffic will be heavy. WMATA is closing the College Park station for track work, but will provide a bus from West Hyattsville. He said that representatives from the County and State had contacted WMATA about the bad timing of the station closure, to no avail.

Councilmember Wojahn said he spoke to Metro today about the timing of the station closings, and said we should encourage a greater level of communication between WMATA and the University.

Councilmember Mitchell said a lease has been signed for College Park Academy to use St. Marks School for the coming year.

**Amendments to the Agenda:** Possible addition to the agenda on the “Cafritz attorney conflict of interest” depending on how the vote goes tonight.

**City Manager’s Report:** Mr. Nagro announced the Memorial Day holiday on May 27 and discussed details of the City’s event at the Veterans Memorial.

**Student Liaison's Report:** This is Mr. Ratner's final meeting as student liaison. He advised people not to drive on campus this weekend.

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

**Jack Robson, 4710 Harvard Road:** As a taxpayer he is concerned that if the University of Maryland buys a property from the new Randolph Macon/Kidwell development, it would come off the tax rolls. He recommends that the City add a "payment-in-lieu-of-taxes" provision if that occurs.

**Charles Sarahan, Box E:** Mr. Sarahan discussed the changing economy, wished the best to the 2013 college graduates, and suggested going to Wisconsin. He expressed his concerns about the results of a poor economy – riots, bankruptcy, shortages of food – and the importance of voting.

**Presentations** – Mayor Fellows presented a gift to departing Student Liaison Josh Ratner. Mr. Ratner made remarks on his year of service to the City.

**CONSENT AGENDA:**

**A motion was made by Councilmember Afzali and seconded by Councilmember Day to adopt the Consent Agenda, which consisted of the following item:**

**13-G-61 Authorization for free Saturday parking in the Downtown Parking Garage from May 25 – August 17, 2013**

**The motion passed 8 – 0 – 0.**

**ACTION ITEMS**

**13-O-03 Adoption of 13-O-03, An Ordinance of the Mayor and Council of the City of College Park to Amend the Fiscal Year 2013 Operating and Capital Budget of the City of College Park, Maryland (Requires 6 affirmative votes)**

**A motion was made by Councilmember Afzali and seconded by Councilmember Mitchell to adopt Ordinance 13-O-03, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland To Amend The Fiscal Year 2013 Operating And Capital Budget Of The City Of College Park, Maryland.**

Councilmember Afazli stated that this budget amendment ordinance was introduced on April 23rd and a public hearing was held earlier tonight. The ordinance includes interfund transfers between the General Fund and the Capital Improvement Program, primarily to add additional funding for the City Hall expansion project from the unassigned reserve. The ordinance would reduce the current unassigned reserve balance from 40.6% to 30.4% of the FY 2014 expenditure budget.

There were no comments from the Council.

**The motion passed 8 – 0 – 0.**

**13-O-04 Adoption of 13-O-04, An Ordinance of the Mayor and Council of the City of College Park, Maryland, Amending Chapter 110 “Fees and Penalties” by Repealing and Reenacting §110-1 “Fees and Interests” to Increase the Application Fees for the Occupancy Permits Required by Chapter 144**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Afzali to Adopt Ordinance 13-O-04, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 110 “Fees And Penalties” By Repealing And Reenacting §110-1 “Fees And Interests” To Increase The Application Fees For The Occupancy Permits Required By Chapter 144.**

Councilmember Wojahn stated that this Ordinance increases occupancy permit application fees by 3.6% in all categories of properties. These fees were last increased July 1, 2010. Increases range from \$1 to \$20 per category with single family rentals increasing \$9. This amendment would be effective July 1, 2013, and the Public Hearing was held earlier this evening. The property tax rate increase that is being proposed will predominately impact the owner-occupied properties. The City is increasing efforts to address concerns surrounding rental properties by raising code enforcement, so it is appropriate that landlords take on some of that burden.

**The motion passed 8 – 0 – 0.**

**13-G-62 Adoption of FY 2014 Action Plan (of the 2010 – 2015 Strategic Plan)**

**A motion was made by Councilmember Mitchell and seconded by Councilmember Afzali to adopt the FY 2014 Action Plan in accordance with the goals of the 2010 – 2015 Strategic Plan.**

Councilmember Mitchell stated that this Action Plan was developed with input from the City Council, staff and residents. At a Public Forum on April 9, the draft was presented to the community for input. The public record stayed open until April 30 to allow time for Council to discuss the draft at neighborhood meetings. Council listened to the community in order to create this comprehensive document which identifies where we would like to be in the future and how we plan to get there. Our annual action plans encourage us to determine what we can accomplish in a year to reach our long term goals. This is the second-to-last year of the 2010-2015 Strategic Plan. We will only have one more action plan to adopt after this one as part of this specific strategic planning effort.

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

**The motion passed 8 – 0 – 0.**

**13-G-63 Approval of a City position on the Cafritz Preliminary Plan of Subdivision 4-13002**

**A motion was made by Councilmember Stulich and seconded by Councilmember Day that the City Council recommend disapproval of the Preliminary Plan of Subdivision 4-13002 for the Cafritz property. Councilmember Stulich read a list of reasons for disapproval into the record.**

**Comments from the Audience:**

**Leo Shapiro, 6907 Rhode Island Avenue:** This is not a process to be rushed; there is no justification for skipping over supposedly binding commitments that have not been met, or for recommending “approval with conditions” when other conditions were not met in the past. Put the interest of our town and your constituents ahead of the financial interests of the Cafritzes; join with University Park to disapprove this application and reassert the objection to any kind of connection between this development and the Calvert Hills neighborhood.

**Larry Taub, Attorney for Cafritz:** He requests support for this application. He disagrees with the basis for this motion and believes they have submitted everything required. They are ready to move forward.

**Stefanie McLaughlin, 4605 Fordham Road:** She said the Council listened to their constituents last year and said “No” to this plan, and she urged them to do the same again tonight.

**Jeanne Jennings, 4617 Clemson:** The developers have to meet the conditions that are set, but they haven’t met many of them. We need to hold together on this – she wants this to remain a wonderful place to live.

**Bonnie McClellan, 9003 Gettysburg Lane:** This whole development has been complicated and difficult. She hopes the Council will give serious thought to what is coming and recommends we vote with University Park to disapprove the project.

Mayor Fellows asked Ms. Schum to review the staff recommendations. Ms. Schum said that staff reviewed all the documents submitted by the applicant after last week’s Worksession and provided an updated staff report. She reviewed each condition. Staff feels that the majority of the conditions are now being addressed by the applicant, or are included in conditions by Park & Planning staff, therefore staff disagrees with the motion on the table and would recommend “approval with conditions”.

Councilmember Stulich said she respects the opinion of our Planning staff and does not like to make a motion that is not fully aligned with them; however in this case, it is the right thing to do. She reviewed each of her reasons for disapproval and responded to Ms. Schum’s comments. She is willing to drop condition ‘25a’ as a reason to deny the application, and wants to add to her motion that the staff’s recommended conditions be incorporated into the motion in the event that the Planning Board chooses to approve the application. These modifications to the motion were made without objection. The final motion reads:

**The City Council recommends disapproval of Preliminary Plan of Subdivision Application 4-13002, Cafritz Property, for the following reasons:**

- 1. Critical information and materials needed as part of the review of the application were missing, revised and/or submitted after the deadlines established by the Maryland-National Capital Park and Planning Commission for receipt of such information.**
- 2. Several conditions that were placed on the property at the time of the rezoning approval, and that are required to be met at the time of application for preliminary plan, have not been satisfied by the Applicant. These are:**
  - A. Condition 5 – this condition requires Historic Preservation Commission (HPC) review of impacts of the proposed development and bridge location on the ERCO Historic Site and adjacent historic districts. The HPC has not provided comments on the bridge location referred to as J.3.300 option, which is not the site shown in the preliminary plan.**
  - B. Condition 25b – this condition requires a funding mechanism to be established; government approval of any public funding prior to detailed site plan; a system of financial assurances or security to ensure completion of the bridge crossing; and a timetable for construction. None of these requirements have been met.**
  - C. Condition 25c – this condition requires letters from CSX and the University of Maryland recommending approval of the bridge crossing as shown on the preliminary plan and identification of any right-of-way acquisition cost. The letters provided by the Applicant do not adequately address this condition.**
  - D. Condition 25d – this condition requires cost estimates to be provided for the design, permitting, construction and land acquisition associated with the bridge crossing as well as government approval of public funding prior to detailed site plan. The specific land to be acquired has not been identified and there has been no appraisal of the land since 2008.**

**In addition, the City Council reaffirms our opposition to any future vehicular connection between the Cafritz property and the Calvert Hills neighborhood. We understand that there continues to be consideration of options for facilitating future vehicular access between the Cafritz property and the Calvert Hill neighborhood of College Park. The City of College Park continues to be opposed to allowing such vehicular access and any easements or other mechanism that would facilitate such access.**

**Finally, if the Planning Board chooses to approve the Preliminary Plan, Council requests their consideration of our Planning Staff's recommended conditions (on pages 7 – 9 of the staff report dated May 14, 2013).**

Councilmember Mitchell supports the disapproval because of her concerns with how this has played out, and the inconsistency with the applicant providing the necessary documentation. She has a problem with how the special taxing district was approved and with the transportation management plan.

Councilmember Wojahn said the owner sat on this property for years and is now rushing to get this approved as quickly as possible, which is harmful. He supports the motion and asks the

developer to take a deep breath and work through the remaining issues. He believes given time they can be resolved, and the Council might then be able to take a position of support.

Councilmember Day said he believes the applicant has not satisfied condition '25c', and has not obtained the needed approvals for the bridge. Therefore, there is a chance the bridge will never be built, and it is too important to this project.

Councilmember Catlin supports staff's recommendations, not the motion on the table. He said all the parties involved in the project are working to deal with the last minute change on the bridge and they have made a lot of progress. The Planning Board and District Council will approve this project because it is mostly in the Town of Riverdale Park and they supported it. We should get our recommended conditions included to protect the City's interests.

Councilmember Afzali said there is a possibility he could get to a position of support, but not at this time. The bridge condition is not final, and it is probably the most important aspect to the City. The University probably will get the Board of Regents support, but it hasn't happened yet. He doesn't understand why the applicant is rushing forward instead of waiting for the outstanding issues to be resolved.

Councilmember Dennis will support the application. Our staff has done yeoman's work in the discussions with the County and he is confident there will be a finished product he can support.

Councilmember Kabir agrees with many points in the motion and is disappointed by the delayed response by the developer at the last Worksession. Much critical information came very late. Our staff has developed a good list of recommendations although there are still many unanswered questions. Therefore, he will abstain.

**Roll Call Vote on the motion to disapprove the Preliminary Plan of Subdivision:**

**Aye: 5**

**Nay: 2 (Dennis, Catlin)**

**Abstain: 1 (Kabir)**

**Motion passes 5 – 2 - 1**

**13-G-64 Approval of a City position on the Cafritz Detailed Site Plan DSP-13009**

**A motion was made by Councilmember Stulich and seconded by Councilmember Day that the City Council recommend disapproval of Detailed Site Plan Application DSP-13009 (Cafritz) for the following reasons: 1) Critical information and materials needed as part of the review of the application were missing, revised and/or submitted after the deadlines established by the Maryland-National Capital Park and Planning Commission for receipt of such information; 2) Several conditions that were placed on the property at the time of rezoning approval, and that are required to be met at the time of application for the preliminary plan, have not been satisfied by the Applicant. If the preliminary plan is not approved, a detailed site plan, by law, cannot be approved. In addition, if the Planning Board does decide to approve the DSP, Council requests that they give full consideration to**

**the recommended conditions contained on pages 11 – 13 of the City Staff Report dated May 14, 2013.**

Councilmember Stulich said a Detailed Site Plan is supposed to show the actual plan, and this one does not. She thinks the developer wasn't ready, and chose instead to submit something as a placeholder, which is not acceptable. If a preliminary plan is not approved, then a detailed site plan cannot be approved, so in order to be consistent, the Council should vote to disapprove the DSP.

There were no comments from the audience.

Councilmember Catlin will oppose the motion; there is not enough specificity. This has happened in other projects in the past, and he believes the Planning Board and District Council will be satisfied with the information that has been provided.

**The motion for disapproval passed 6 – 2 – 0 (Catlin and Dennis opposed).**

#### **13-G-65      Appointments to Boards and Committees**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Afzali to appointment Stephen Brimer to the Education Advisory Committee, Judith Oarr to the Recreation Board, and to reappoint Christiane Williams to the Animal Welfare Committee. The motion passed 8 – 0 - 0.**

#### **13-G-66      Conflict of Interest for Cafritz Attorneys**

Ms. Ferguson explained that because of tonight's vote on the Cafritz Preliminary Plan of Subdivision and Detailed Site Plan, there now exists a conflict of interest between she and her partner, Fred Sussman. University Park and College Park (both represented by Ms. Ferguson) voted to disapprove the PP and DSP, but Fred Sussman represents Riverdale Park, who is supporting the applications. She requests a mutual waiver of the conflict of interest.

**A motion was made by Councilmember Stulich and seconded by Councilmember Day to waive the firm's conflict of interest and allow Fred Sussman to act on behalf of Riverdale Park and waive any conflict that creates, in return for the same waiver from Riverdale Park for Ms. Ferguson, and authorization for a letter to this effect to be signed.**

**The motion passed 8 – 0 – 0.**

**13-G-67 Letter to WMATA about Metro closing on UMD Graduation Weekend**

**A motion was made by Councilmember Afzali and seconded by Councilmember Wojahn to send a letter to WMATA requesting they avoid scheduling track work that would disrupt the College Park station during UMD commencement in future years.**

**The motion passed 8 – 0 – 0.**

**ADJOURN:** A motion was made by Councilmember Stullich and seconded by Councilmember Wojahn to adjourn the regular meeting. Mayor Fellows adjourned the meeting at 9:09 p.m. with a vote of 8 – 0 – 0.

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Janeen S. Miller, CMC  
City Clerk

Date  
Approved

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Pursuant to §C6-3 of the College Park City Charter, at 7:15 p.m. on May 7, 2013, in the Council Chambers of City Hall, a motion was made by Councilmember Stullich and seconded by Councilmember Dennis to enter into an Executive Session for the following reason:

I. Consider matters related to collective bargaining negotiations

The motion passed 6 – 0 – 0.

**Present:** Mayor Andrew Fellows; Councilmembers Kabir, Catlin, Dennis, Day, Afzali and Mitchell.

**Absent:** Councilmembers Wojahn and Stullich.

**Also Present:** Joe Nagro, City Manager.

**Topics Discussed:** Mr. Nagro updated the City Council on the status of the union negotiations.

**Actions Taken:** None.

**Adjourn:** A motion was made by Councilmember Afzali and seconded by Councilmember Day to adjourn the Executive Session, and with a vote of 6 – 0 – 0, Mayor Fellows adjourned the Executive Session at 7:20 p.m.