

MINUTES
Regular Meeting of the College Park City Council
Tuesday, December 9, 2008
8:00 P.M.

PRESENT: Mayor Brayman; Councilmembers Molinatto, Wojahn (arrived 8:06 p.m.), Catlin, Perry, Stullich, Mark Cook, Hampton and Mary Cook; Student Liaison Dan Hartinger.

ABSENT: None

ALSO PRESENT: Joe Nagro, City Manager; Suellen Ferguson, City Attorney; Yvette Allen, Assistant City Clerk; Robert Ryan, Director of Public Services; Steve Groh, Director of Finance; and Steve Halpern, City Engineer.

Mayor Brayman opened the meeting at 8:00 p.m. Councilmember Stullich led the Pledge of Allegiance.

Minutes: A motion was made by Councilmember Stullich and seconded by Councilmember Mark Cook to approve the minutes of the November 25, 2008 Regular Meeting. The minutes were approved by a vote of 8-0-0.

Announcements:

Councilmember Stullich announced that the last Route One Sector Plan Charette Open Design Workshop will be held on Wednesday, December 10, 2008 from 9:00 a.m. to 12 Noon at the Parks and Recreation Auditorium in Riverdale. Also, a presentation of the results of the Charette will be held on the 10th at 6:30 p.m. at the University of Maryland School of Architecture.

Councilmember Perry announced that the Berwyn District Civic association will have a holiday gathering on Saturday, December 13th at Fealy Hall from 1:00 p.m. to 3:00 p.m. No Civic Association meeting will be held in December.

Councilmember Catlin announced that the Berwyn December newsletter would be distributed a week early this month.

Acknowledgement of Dignitaries: Mayor Brayman recognized Larry Bleau, President of the North College Park Citizens Association.

Acknowledgement Of Newly Appointed Board And Committee Members: None.

Amendments To The Agenda: None.

City Manager's Report: Mr. Nagro reported that the College Park Recreation Board will host a "Breakfast with Santa" on Saturday at 11:00 a.m. at the College Park Community Center and all are welcome to attend. Also, the full-time Prince George's County Contract Police program will begin on January 4, 2009 with two full-time officers, and the third officer following in February.

Student Liaison Comments: Mr. Hartinger reported on the textbook buy-back program.

Comments From The Audience On Non-Agenda Items:

Larry Bleau, 4901 Niagara Road, President of the North College Park Citizens Association: Mr. Bleau announced the NCPCA meeting on Thursday, December 17, 2008 at Davis Hall.

Consent Agenda:

A motion was made by Councilmember Perry and seconded by Councilmember Catlin to adopt the Consent Agenda. The Consent Agenda consisted of the following item:

08-G-114 Approval of the 2009 Mayor and Council Meeting Schedule

The motion carried 8-0-0.

Action Items:

08-O-06 Adoption of Ordinance 08-O-06, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 132 “Litter And Graffiti”, By Repealing And Reenacting §132-8 “Violations And Penalties”, §132-9 “Notice Of Violation; Cost Of Removal To Become Lien”, And §132-12 “Abatement By City” To Authorize Abatement Of Certain Litter And Graffiti Violations By The City, To Include The Costs Thereof On The Tax Bill Of The Owner Of The Property And To Authorize The Advisory Planning Commission To Decide Appeals

A motion was made by Councilmember Wojahn and seconded by Councilmember Molinatto that the City Council adopt Ordinance 08-O-06.

Councilmember Wojahn commented that this ordinance would help improve Code Enforcement in the City. The ordinance would allow for the abatement of litter violations from fourteen days to ten days. The ordinance strengthens the ability to remove graffiti from commercial property by permitting the city to offer the property owner to remove the graffiti at the cost of labor and equipment. The ordinance also allows the City to remove the graffiti if the property owner fails to do so within the thirty-day notice and charge the property owner accordingly. The City would be able to abate the violation without getting a court order which will shorten the amount of time that it would take for the city to remove the graffiti.

The motion carried 6-2-0 (Catlin and Perry opposed).

08-G-115 Award of the FY '09 Fire Department Capital Equipment Grants

A motion was made by Councilmember Perry to award the FY '09 Fire Department Capital Equipment Grants to:

- **College Park Volunteer Fire Department, Inc. in the amount of \$8,000 to apply to debt service on their \$132,291 2006 GMC/Horton ambulance, purchased in FY 2006**
- **Branchville Volunteer Fire Company and Rescue Squad, Inc, in the amount of \$8,000 to apply to the cost of new furniture and computers for their station addition, scheduled for completion in spring 2009**
- **Berwyn Heights Volunteer Fire Department and Rescue Squad, Inc, in the amount of \$8,000 to apply to debt service on their \$715,000 2005 Seagrave rescue squad vehicle, purchased in FY2005**

Second by Councilmember Hampton.

Councilmember Perry stated that these fire departments are the first responders for College Park and this money would be very well spent. Would like to see these grants issued now and in the future at maybe a reduced amount.

Councilmember Catlin asked Mr. Groh for clarification of how much the City's tax differential would be by making these grants.

Mr. Groh stated that the city gets a ten percent credit, which in turn the residents receive about a penny off their county tax bill. This amount is less than what we give.

Comments from the Audience:

Frank Underwood, 4807 Ruatan Street, President of the State of Maryland Fireman's Association. Mr. Underwood thanked the city for offering these grants.

The motion passed 8-0-0.

08-G-116 Award of the FY '09 Community Services Grants

Councilmember Hampton moved that the City of College Park award the following grants under the FY2009 Community Services Grants:

Hollywood Elementary School, \$2,500 (of a \$3000 request) towards funding for family instructional nights

Paint Branch Elementary School, \$1,500 (of a \$2,125 request) towards funding for passport fees for 25 sixth grade students to travel to China

The National Museum of Language, Inc., \$2,500 (of a \$3,000 request) for exhibit improvement and development

Lakeland Community Heritage Project, \$3,000 (of a \$3,000 request) towards funding of their Heritage Day honors "The Greatest Generation"

Old Town College Park Civic Association, \$2,000 (of a \$3,000 request) towards design, fabrication and installation of 8 small interpretive signs in Old Town historic district (utilizing City MHAA grant)

Meals on Wheels of College Park, \$2,300 (of a \$3,000 request) to subsidize meal cost for program recipients

Pregnancy Aid Centers, Inc. \$3,000 (of a \$3,000 request) for their food pantry program

American Legion Auxiliary, College Park Post 217, \$1,400 (of a \$3,000 request) for scholarships for Miss College Park pageant participants (to cover education expenses)

Boy Scout Troop 298, \$1,400 (of a \$3,000 request) for operating cost assistance for a Boy Scout Troop in North College Park

Cub Scout Pack 298, \$1,400 (of a \$3,000 request) for operating cost assistance for a Cub Scout Pack in North College Park

Some of the grants have been reduced from the amount requested by each organization in order to have the total grant awards for FY2009 not exceed the \$21,000 budgeted funds. In accepting the grant award, each organization will be required to execute a “hold harmless” Agreement prepared by the City Attorney.

Seconded by Councilmember Mary Cook.

Councilmember Wojahn stated that he supports all of the grants listed, however he is conflicted regarding the Boy Scout Troop and the Cub Scout Pack due to their policy of discriminating based on sexual orientation. Doesn't feel that the City should be giving support to organizations within our community that discriminate against any of our residents. Requested that in next year's application process, we provide each applicant with a statement that they do not discriminate on any of the bases set forth in Maryland Law and the Prince George's County Code.

Mayor Brayman suggested that Councilmember Wojahn place this item on a future Worksession.

Councilmember Catlin stated that he will be abstaining from voting as he is on the Lakeland Community Heritage Committee and a committee with the Paint Branch Elementary School which are both requesting a Community Services Grant.

Councilmember Stullich stated that she will abstain from voting as she may have a conflict of interest regarding the Old Town College Park Civic Association grant request, as she is a homeowner in this historic area.

Councilmember Perry moved to amend the motion to reduce \$15,700 of the funding amount. This would only approve grants to the Lakeland Community Heritage Project in the amount of \$3,000 and to Meals on Wheels for an amount of \$2,300.

Motion failed for a lack of a second.

Councilmember Perry commented on an article he read in the National League of Cities newsletter stating that the recession is driving the American city government into an epic fiscal storm. When is the City going to start tightening our belt – do we wait or take preventive measures now. State employees are going to be furloughed for five days and the Diamondback reported that the University of Maryland employees may also be furloughed. We need to start taking a second look at our finances.

The Lakeland Community Heritage project is just beginning and monetary help is needed to get this project started. The city has continually funded the Meals on Wheels program and should continue, due to the rising cost of food and fuel.

Councilmember Mary Cook stated that Councilmember Perry has really good points and that we should take a serious look at our budget next year.

Councilmember Catlin stated that over the past years we have added to the community services grants and we have many wonderful groups in the city and doesn't feel we should pull the rug out from under these groups. All of these organizations involve City residents and many volunteer their time and effort to make the city a more desirable place to live.

Motion passes 5-1-2 (Perry opposed, Catlin and Stullich abstained)

08-G-117 Award of the FY '09 Public School Education Grants

Councilmember Wojahn moved that the City of College Park award the following grants under the FY2009 Public School Education Grant program. Councilmember Hampton seconded.

Councilmember Wojahn stated that these grants are based on applications submitted by the deadline and reviewed by the City's Education Advisory Committee, whose recommendation was presented to Mayor and Council at the December 2nd Worksession. The 12 schools eligible to apply for the competitive grants for \$1,000 each educate at least 14 College Park students. Funding for these grants is provided in the FY2009 adopted operating budget in the total amount of \$15,000. Grants would be awarded to:

Hollywood Elementary School, a non-competitive grant of \$5,000 for a mathematics initiative

Paint Branch Elementary School, a non-competitive grant of \$5,000 for project based learning

Berwyn Heights Elementary School, a competitive grant of \$1,000 for a music technology program

Hyattsville Middle School, a competitive grant of \$1,000 for their SNAPP – Students Needing a Push and a Pat Program

Northwestern High School, a competitive grant of \$797.42 for their Social Studies-Magazine Subscriptions program

In accepting the grant award, each school will be required to execute a “hold harmless” agreement prepared by the City Attorney.

Councilmember Catlin stated that he will abstain from voting as he is on a Paint Branch Elementary School committee.

Councilmember Mary Cook stated that she is very thankful for the City to contribute directly to the schools.

Councilmember Perry stated that the money the Prince George's County Executive spends on trips to Africa could be put to better use if it was put into the school system. The taxpayers spend a lot of money per student in this county and the City doesn't have its own school system. Therefore, he cannot support this motion.

Motion passes 6-1-1 (Perry opposed, Catlin abstained)

08-G-118 Approval of an Amendment to the Agreement Between the City of College Park and Mazza GrandMarc Apartments

Mayor Brayman stated that an agreement should have been worked out between the City and Mazza prior to tonight's meeting. However, additional information was given to Council tonight so he asked staff or the applicant to give complete details.

Suellen Ferguson, City Attorney, explained that at the last meeting with Mazza, there was discussion to change paragraph 10 and 25. Paragraph 25 called for a \$500,000.00 good faith payment to be held for ten years in escrow. A request was made by Mazza requesting a 20-year bond. Therefore, staff was given direction to determine which would be the best option and bring back to Council. Yesterday, Tom Haller of Gibbs & Haller (the attorney for Mazza), called with additional information.

Tom Haller, Gibbs & Haller, Applicant Representative, stated that the company who is handling their bonds reported that a 20-year bond will not be practicable since the institute who is implementing the bonding is only willing to do a bond that is renewable annually, at their option. Mr. Haller explained that the fees to maintain a bond annually for twenty years would be unfeasible, as the payment would go up about 50 percent. Mr. Haller also has concerns regarding the language in the agreement regarding potential expenses. The agreement that is on the table now, would allow us to put the cash in a bank account and the city would direct the payment.

Mayor Brayman stated that the City gave some flexibility in regards to paragraph 10 with what can be done now to move forward. The original agreement stated that the applicant would have to provide for the intersection improvement prior to the issuance of a building permit and the bonding issue allowed for some flexibility. Mayor Brayman's interpretation of this proposed agreement is that the city is not gaining anything from the original agreement and that they are receiving some flexibility.

Mr. Haller disagrees as he feels his client is not receiving anything under the agreement before them. Mr. Haller's client agrees to commit to completing the road improvements by September 2009, which is a year prior to the completion of the project. Mazza has been put in a situation where they are being forced to complete a project that another developer had defaulted on. Mr. Haller further stressed that they are doing everything that they promised to do and have committed to completing the road improvements a year ahead of completion of the project. If the City will not issue the permits until the road is complete, the project will not be completed before the 2010 school year.

Discussion between Mr. Haller and Mayor Brayman clarifying past discussions and how they can rectify the situation to get an agreement signed.

Council moved to the next item on the agenda to give Mr. Haller time to speak with his client.

Mr. Haller proposed to place the money in escrow on or before 2010 since they are trying to have the facilities open by August 1, 2010 and this would be the target U & O issuance date. This would give them a two year extension which would be four years from the second amendment. The escrow should run through August 2020. The Commercial DSP must be submitted to the County before an occupancy permit is obtained.

Discussions between Mr. Haller, Suellen Ferguson and Mayor Brayman regarding the agreement. At 9:38 p.m. Council went into recess in order for Mr. Haller and Suellen Ferguson to discuss the agreement and to resolve the time frame.

At 9:55 p.m. Council reconvened. Mayor Brayman announced Mazza and the City have reached an accord.

Suellen Ferguson stated that the proposal is to amend paragraph 25 in the second sentence – “As evidence of its good faith, and not with the intent or effect of limiting the total amount of monies that it will eventually pay toward the construction of Hollywood Road extended, MAZZA agrees to place the sum of \$500,000.00 with an escrow agent acceptable to the City for a period of at least ten years, prior to the approval of the commercial detailed site plan, but in no event later than August 1, 2010.” Ms. Ferguson further commented that this wording would provide agreement as to a date certain that the \$500,000.00 must be placed in an escrow account prior to the approval of the commercial detailed site plan, in no event later than August 1, 2010.

Councilmember Mary Cook moved to approve an Amendment to the Agreement Between the City of College Park and Mazza GrandMarc Apartments as discussed this evening by the City's

Attorney and the applicant's attorney, with the wording provided by the City Attorney, Suellen Ferguson regarding the changes in paragraph 25 and 10. Seconded by Councilmember Hampton.

Comments from the Audience:

Sam Doyle, 8004 Travis Lane, College Park. Mr. Doyle stated that he is very concerned about the traffic on Route 1 that involves this project. Feels that the right turn in and out of this property would cause more traffic on Route 1, whereas people would have to drive past the complex to make U turns.

Mayor Brayman informed Mr. Doyle that he should have come to Council at the time of the Detailed Site Plan when the topic was before council.

Mayor Brayman asked Mr. Haller if he could illustrate any time lines that we may be able to expect with the Commercial DSP.

Mr. Haller stated that there is a condition that requires them to submit the DSP prior to the issuance of the residential occupancy permit. He does not anticipate anything being done prior to this fall and most likely it would be this time next year before they could get anything done. The worst-case scenario is probably spring of 2010.

Councilmember Perry stated that the motion maker should add to the motion the words "the agreement between the city attorney and the applicant's attorney as discussed this evening". All Councilmembers were in agreement.

The motion carried 8-0-0.

08-G-119 Authorize the City Manager to Sign a Contract of Sale for Up To \$346,000 for 4703 Edgewood Road

Councilmember Wojahn moved that the Council authorize the acquisition of the property located at 4703 Edgewood Road for a sum not to exceed \$346,000.00 upon terms and conditions substantially in conformance with the attached Contract for Sale and to authorize the City Manager to sign the Contract for Sale on behalf of the City. Councilmember Molinatto seconded.

Councilmember Wojahn stated that the property at 4703 Edgewood Road is improved with a single family home but is zoned C-S-C. A Program Open Space ("POS") application is being prepared to allow reimbursement to the City of the sale price. Two appraisals were done on the Property, which is required by POS. The acquisition must be approved by the State Board of Public Works to obtain POS reimbursement. Approximate settlement date is February 25, 2009. In no event would the purchase price for the Property, reached by averaging the two appraisals, be increased beyond the \$346,000 now set without further Council approval. The purchase price would be paid at this time by POS monies already in City funds. The POS application allowing for reimbursement to the City could take up to one year for approval.

The proposed sales contract referenced in this motion contains several contingencies, including Board of Public Works approval, good title, and testing for environmental hazards.

Councilmember Catlin commented favorably on acquiring this property to improve the gateway to the north part of the City.

Councilmember Stulich stressed her concerns that the appraisals were completed months ago during a real estate bubble and feels that the market value has now changed.

Councilmember Mary Cook asked what would happen to that property if Route 1 is widened or if there are any changes to that intersection.

Terry Schum, Director of Planning, stated that according to the State Highway plan, if Route 1 is widened it will not impact this property. If something new happens to the intersection, she cannot make a comment at this time.

Councilmember Perry stated that nobody should acquire this property until after the Sector Plan and the Sectional Map Amendment is complete.

Councilmember Wojahn asked if it is possible to conduct another appraisal with the Program Open Space funds?

Terry Schum commented that the city could execute the contract, request a review appraisal and if the appraisal comes out lower then that could be the selling price, if the owner is willing.

Councilmember Wojahn further stated that he does not see this property as worthless, as it could be a nice entrance to our city and encourages council to pass the motion.

Motion passes 5-3-0 (Perry, Hampton and Mary Cook opposed)

08-G-120 Appointments to Boards and Committees

A motion was made by Councilmember Catlin and seconded by Councilmember Wojahn to reappoint Bobbie Solomon to the Noise Control Board, reappoint Larry Wenzel to the Noise Control Board and reappoint Wade Price to the Recreation Board.

The motion carried 8-0-0.

Council Comments:

Councilmember Wojahn announced the Open Community Forum with the Police on December 15, 2008 at 7:30 in the Council Chambers.

Councilmember Perry thanked staff for their quick response in repairing the plantings at the end of Berwyn Road.

Comments From The Audience: None.

Adjournment: A motion was made by Councilmember Perry and seconded by Councilmember Stulich to adjourn the meeting at 10:27 p.m. by a vote of 8-0-0. An executive session will follow the meeting.

Yvette T. Allen, Assistant City Clerk

Pursuant to §C6-3 of the College Park City Charter, at 11:10 p.m. on December 9, 2008, in the Council Chambers of City Hall, a motion was made by Councilmember Catlin and seconded by Councilmember Wojahn to enter into an Executive Session to consider a matter that concerns the proposal for a business to locate in Prince George's County and to consult with staff, consultants, or other individuals about pending or potential litigation. The motion passed 5-1-0 (Perry opposed. Mark Cook and Stullich were absent).

Present: Mayor Brayman, Councilmembers Molinatto, Wojahn, Catlin, Perry, Hampton and Mary Cook. Also in attendance were City Manager Joe Nagro, Assistant City Clerk Yvette Allen, City Attorney Suellen Ferguson, Planning Director Terry Schum, Assistant to the City Manager Sara Imhulse, Director of Finance Steve Groh and Student Liaison Dan Hartinger.

Topic Discussed: Tyler vs. City of College Park and East Campus Project.

A motion was made by Councilmember Perry and seconded by Councilmember Wojahn to adjourn the Executive Session. The Executive Session was adjourned at 11:32 p.m. by a vote of 6-0-0.
