

MINUTES
Regular Meeting of the College Park City Council
Tuesday, October 27, 2009
8:00 P.M.

PRESENT: Mayor Brayman; Councilmembers Wojahn, Catlin, Perry, Stullich, Mark Cook, and Hampton; Student Liaison Jonathan Sachs and Deputy Student Liaison Becca Lurie.

ABSENT: Councilmembers Molinatto and Mary Cook.

ALSO PRESENT: Joe Nagro, City Manager; Suellen Ferguson, City Attorney; Janeen Miller, City Clerk; Bob Ryan, Director of Public Services; Jeannie Ripley, Code Enforcement Manager; Terry Schum, Director of Planning; and Elisa Vitale, Senior Planner.

Mayor Brayman opened the meeting at 8:04 p.m. Councilmember Perry led the Pledge of Allegiance.

Minutes: A motion was made by Councilmember Hampton and seconded by Councilmember Mark Cook to adopt the minutes of the Special Session on October 6, 2009 and the Regular meeting of October 13, 2009. A motion to amend the October 13 minutes was made by Councilmember Stullich and seconded by Councilmember Mark Cook. The amendment is to the last page in Council Comments under Ms. Stullich's comments, strike "must keep in touch" and replace with "should schedule a meeting." The motion to amend passed 6-0-0. The amended minutes passed 6-0-0.

Announcements:

Councilmember Perry announced the Veterans Memorial Commemoration will be held on November 11 at 11:00 a.m. and everyone should consider attending.

Acknowledgement of Dignitaries: Mayor Brayman recognized Larry Bleau, President of the North College Park Citizen's Association, and Chief Ty Dickerson, Chief of the College Park Volunteer Fire Department.

Acknowledgement Of Newly Appointed Board And Committee Members: None.

Amendments To The Agenda: Added Item 09-G-91, Letter to the County Council about proposed Subtitle 27A to the County Zoning Ordinance.

Proclamations:

Mayor Brayman presented a Proclamation of Appreciation to Chief Ty Dickerson who is leaving the College Park Volunteer Fire Department to become the first career Fire Chief of the City of Lexington Virginia. Chief Dickerson thanked the Mayor and Council for their support over the years.

City Manager's Report: Curbside leaf pick-up begins on Monday and will continue until early January. An estimated schedule is posted on the web site. Do not include any branches, sticks, bamboo or rocks because it will damage the equipment and delay the schedule.

Mr. Nagro noted that there is a "possible Worksession" scheduled for the conclusion of tonight's meeting to discuss proposed Subtitle 27A to the County Zoning Ordinance. He asked Ms. Schum to give the Council an update on this item now and stated the Worksession would be scheduled instead at a later date.

Ms. Schum provided an update on the three related County Council Bills 52, 54 and 55-2009 that were previously called Mixed Use Zoning Tool Legislation. A second draft of the legislation was scheduled for yesterday's PZED (Planning, Zoning and Economic Development) Committee meeting, but that committee meeting was never held; instead the meeting was rescheduled for next Monday November 2. The second draft of the legislation will be discussed then but no public testimony will be taken. If the legislation is passed out of committee next week, it would be scheduled before the full County Council on November 17. There would then be an opportunity on November 10 for the City Council to consider the legislation and any amendments and to take a position in time for the potential November 17 hearing. She discussed the fast timing and perceived lack of opportunity for public input on these three county bills.

09-G-91: A motion was made by Councilmember Wojahn and seconded by Councilmember Hampton to authorize the staff to prepare and the Mayor to sign a letter stating that the Council intends to submit further substantive comment on proposed Subtitle 27A of the County zoning ordinance and requesting that the County's consideration of the ordinance be delayed to allow more time for review, public consideration and comment.

Councilmember Wojahn stated this legislation proposes a different way of doing zoning and that it is not appropriate to rush it through quickly.

Larry Bleau, 4901 Niagara Road: Supports the request for a delay given the sheer size of the code being considered. He has a sense that this process is being rushed.

Councilmember Perry requested the staff's opinion of the motion. Ms. Schum agrees with this approach but is doubtful about the outcome, so believes the Council should be prepared to discuss the legislation and take a position at the November 10 meeting.

The motion passed 6-0-0.

Student Liaison Comments: Mr. Sachs stated that the University Senate Executive Committee will be considering discussing with the Administration the Wooded Hillock on Thursday, and he will report back.

Comments From The Audience On Non-Agenda Items: None.

Consent Agenda: None.

Action Items:

09-G-88 Approval Of A Letter To The Prince George's County Historic Preservation Commission Recommending Denial Of Special Exception No. 4611 And Companion Departure From Design Standards No. 590 To Permit Two Units In A Single Family Dwelling At 4618 College Avenue

A motion was made by Councilmember Stulich and seconded by Councilmember Wojahn that the City Council send the attached letter to the Prince George's County Historic Preservation Commission recommending denial of Special Exception SE-4611 and companion Departure from Design Standards DDS-590.

Ms. Stulich stated that this request was reviewed by the Old Town College Park Local Advisory Committee and they supported the requested Special Exception and the companion Departure from Design Standards. However, the LAC reviewed the narrow issue of exterior modifications to the property because that is their purview, but the exterior modifications were made in 2002. The issue now is that the use of the property is not currently legal and has not been for some years. The applicant is asking that the adaptive reuse provision allowed for historic properties in historic districts be used to support allowing two units in a single family dwelling at this house. Under the current zoning and Use and Occupancy permit only one unit in a single family unit would be permitted.

Adaptive reuse is typically used when an historic property can no longer be used for its originally intended purpose. That is not the case for this property because it was constructed as a single family house and it is practical that it could still be used as a single family house. The applicant is making this request because the property was sold to him based on the idea that it was legal as a three unit property but it was not. So the provision of adaptive reuse is not appropriate to justify continuation of an illegal condition that should not be continued.

Mr. Robb Longman, Joseph, Greenwald & Laake, 6404 Ivy Lane, Greenbelt, representing Stephen Behr, the applicant: He understands Council's concerns but believes Council should be willing to work with landlords who come forward to try to rectify a situation or people will continue the illegal use until they are caught. Council now has the opportunity to allow proper monitoring of the property. His client came forward on his own but does not feel he was listened to because the decision was already made. Taking this action makes it appear that the Council is against the landlords and is not willing to work with them. He discussed various amnesty programs that allow people to come forward without penalty.

Councilmember Perry discussed what has happened in the City since it was granted zoning enforcement by the County. If we have a law that does not favor you, that doesn't mean the law should be changed.

Stephen Behr, 14835 Melfordshire Way, Silver Spring, MD 20906, property owner: He bought the property because he thought it was beautiful and would love to continue to own and operate the house and provide a good quality place for students to live. One month after he

bought the house, he received a notice that he needed a Use and Occupancy Permit. He went to the County and found that the house had been illegally converted by the former owner and it was a single family home, not a multifamily property. The owner who added the addition lied to the City and to the County when he built the addition and said he was living there when he was renting it out. This property has been known to be a rooming house for many years. He took over the leases when he bought the property and has tried not to let this problem impact the lives of his tenants. He is trying to keep everything above board. His goal is to try to find a way to maintain the property legally. He asks the Council to give him the opportunity to make this legal.

Councilmember Stullich stated this is a difficult situation for him but also for the neighborhood. She wished him success in his lawsuit against the former owner and thinks that is the appropriate venue for him to seek redress for this situation.

Councilmember Perry discussed the benefit of having a real estate attorney at settlement.

Larry Bleau, 4901 Niagara Road: At first he was in support of the property owner, then listened closely as the story unfolded. Now he thinks the granting of special exceptions is a slippery slope and while he sympathizes with the property owner, he feels the City needs to stand tough.

Mr. Sachs said this is a different situation. The problem is not Mr. Behr's fault and he is not a landlord who is trying to hide anything. The home was designed for boarding; it has three kitchens. Granting his request would bring a home into compliance for a man who has good intentions for students.

The motion passed 6-0-0.

**09-G-89 Approval Of A Letter To The Prince George's County Planning Board
Recommending Denial Of Special Exception No. 4611 And Companion
Departure From Design Standards No. 590 To Permit Two Units In A Single
Family Dwelling At 4618 College Avenue**

A motion was made by Councilmember Stullich and seconded by Councilmember Wojahn that the City Council send the attached letter to the Prince George's County Planning Board recommending denial of Special Exception SE-4611 and companion Departure from Design Standards DDS-590.

Ms. Stullich said the City is concerned about the loss of owner occupied single family homes especially in the Old Town neighborhood. It was a single family home until 2001. In recent history it was used, illegally, for multi-family housing. This conversion would adversely affect the health, safety and welfare of residents in the area and be detrimental to the general neighborhood.

Ms. Ferguson suggested a revision to the letter regarding the request for a Planning Board hearing regardless of the County recommendation.

A motion to amend the second to last paragraph of the letter was made by Councilmember Stulich and seconded by Councilmember Wojahn. The amendment is to delete “Should the technical staff report prepared by the Maryland-National Capital Park and Planning Commission recommend approval of the subject application for SE-4611 and companion DDS-590” and “and more fully express their response in light of the staff report” from that paragraph. The amendment passed 6-0-0.

There were no comments from the audience.

There were no comments from the Council.

The motion to send the letter as amended passed 6-0-0.

09-G-90 Approval Of A Letter To MDOT Secretary Swaim-Staley Conveying The City’s Comments On The FY 2010-2015 Draft Consolidated Transportation Program (CTP)

A motion was made by Councilmember Catlin and seconded by Councilmember Perry to authorize the Mayor to send the attached letter providing comments on the draft Consolidated Transportation Program to Beverley K. Swaim-Staley, Maryland’s Secretary of Transportation.

Mr. Catlin stated that the City has an opportunity to comment each year on the Maryland Consolidated Transportation Program draft. The Maryland Department of Transportation is presenting its annual Consolidated Transportation Program for FY 2010-2015 on November 4, 2009 at the State Highway Administration District 3 offices, 9300 Kenilworth Avenue at 2:00 PM. Funding for US 1 improvements, the I-95/I-495 Capital Beltway proposed widening, and the I-95/I-495 Greenbelt Metro interchange is on hold because of the economic downturn and financial constraints. The City’s top priorities continue to include improvements to US 1 and construction of the Purple Line.

There were no comments from the audience.

There were no comments from the Council.

The motion passed 6-0-0.

Council Comments:

Councilmember Wojahn commented on an article he saw in Nations Cities Weekly about a new round of block grant awards for a “retrofit wrap up program” and thought it might be able to provide funding for home energy loan programs.

Mayor Brayman suggested copies of the letter asking for the delay on 27A be sent to the City of Greenbelt, Four Cities Coalition, and our County Councilmembers.

Comments From The Audience:

Larry Bleau, 4901 Niagara Road: Suggested the City Council consider giving some direction to the Local Advisory Committee. As an Advisory Planning Commission member, there were times he would have liked the Council to give some direction to the APC.

Adjournment: A motion was made by Councilmember Perry and seconded by Councilmember Stullich to adjourn the meeting. Mayor Brayman adjourned the meeting at 9:25 p.m. by a vote of 6-0-0.

Janeen S. Miller
City Clerk

Date Approved

Pursuant to §C6-3 of the College Park City Charter, at 7:49 p.m. on October 27, 2009, in the Council Chambers at City Hall, a motion was made by Councilmember Stullich and seconded by Councilmember Mark Cook to enter into an Executive Session, citing the following authority:

G: Consult With Counsel regarding Special Exception No. 4611 and companion Departure from Design Standards No. 590 To Permit Two Units In A Single Family Dwelling at 4618 College Avenue.

The motion passed 4-1-0 (Molinatto, Wojahn and Mary Cook absent; Perry opposed).

Present: Mayor Brayman; Councilmembers Wojahn (arrived at 7:55 p.m.) Catlin, Perry, Stullich, Mark Cook, Hampton. Student Liaison Jonathan Sachs and Deputy Student Liaison Becca Lurie.

Absent: Councilmembers Molinatto and Mary Cook

Also Present: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Terry Schum, Director of Planning; Elisa Vitale, Senior Planner; Bob Ryan, Director of Public Services; Jeannie Ripley, Code Enforcement Manager.

Topic Discussed: 1) The request for Special Exception No. 4611 and companion Departure from Design Standards No. 590 To Permit Two Units In A Single Family Dwelling at 4618 College Avenue.

A motion was made by Councilmember Stulich and seconded by Councilmember Mark Cook to adjourn the Executive Session. Mayor Brayman adjourned the Executive Session at 7:59 p.m. by a vote of 6-0-0.
