

**Official Minutes of the City of Mount Rainier**

MAYOR AND CITY COUNCIL MEETING

**DATE: March 1, 2016**

COUNCIL CHAMBERS, UPPER LEVEL CITY HALL

**Call to Order**

7:00 PM, Council Chambers, City Hall, One Municipal Place, Mount Rainier MD

**Presiding Officer**

Councilmember Bryan Knedler

**Officials Present**

Councilmember Jesse Christopherson

Councilmember Tracy Loh

Councilmember Shivali Shah

**Officials Absent**

Mayor Malinda Miles

**Staff Present**

Interim City Manager Larry Hughes

City Assistant Manager Veronica Owens

**Minutes provided by:**

Brishay Corbin

**ADENDA**

Public Comment

Anacostia Trails Presentation

Department of Housing and Community Development

Tree Commission

House Presentations

Resolution 1-2016, 2<sup>nd</sup> Reading

Resolution 2-2016, Public Information Act

Egg Hunt  
Mount Rainier Day  
Rolling Agenda

### **Public Comment – Elementary School Issue**

**Rocio T. Lopez, Mayor of Brentwood:** Personally it's been an issue for the last 16 years. Thomas Stone is an overpopulated school, with 750 kids in attendance, while Mount Rainier Elementary only has 300. Hyattsville, North Brentwood, Brentwood, and Mount Rainier have been working together in speaking with the school board members and school councilmembers and I've also spoken with the County executive, Mr. Baker. The "temporary" trailers have been there for years and that is a safety issue as well as the overpopulation.

**Stacy Smith, Brentwood Resident:** I'm a parent of 2 children in the area and I would like the County to re-examine the boundaries and for our towns to support two schools; where one is desperately underpopulated and the other is bursting from its seams. I have questions about the boundaries map, from 1968, and would like to know why it was drawn this way and if it can be re-drawn so that we can keep both of these schools open.

**Councilwoman Tracy Loh:** For the record we have 12 concerned parents and community members here tonight to talk about overcrowding and safety issues primarily at Thomas Stone Elementary School. We appreciate you all for coming out tonight.

### **Anacostia Trails Presentation – Aaron Marcavitch**

I am the Anacostia Trails Heritage Area Executive Director, and the regional program promotes history, art, culture, and natural resources in the Route 1 corridor. We are currently involved in bike and trail connectivity. The trail opening into D.C, where you can walk or ride a bike, will range from National Stadium and Waterfront Park to College Park and will hopefully be done by October of this year. Next year we hope to have "year of the bike" and we're pushing the Rhode Island Charlie Trail as well.

We're getting ourselves into fundraising with a target goal of \$250,000.00 and part of that reason is the Heritage Center. We need approximately \$30,000.00 so if you have space in the budget for next year to contribute we would love to have that support. Our due's notice is coming out and every town pays its dues, yours may be in the thousand dollar range, but that gives you access to all of our grants, technical assistance brochures, our advocacy, and promotion with events like Mount Rainier Day.

### **Department of Housing and Community Development – Yetta Stokes**

I am the program manager for the Be Smart and Net Zero programs with the Maryland Department of Housing, Housing and Building Energy program. I'm here on behalf on Governor Larry Hogan, Lieutenant Governor Boyd Rutherford, and the Secretary of Housing Kenneth Holt to talk about the Be Smart Loan Program. It is a low rate and energy efficient loan program of up to \$30,000.00 that we have for any citizen in the state of Maryland.

You can use this money towards anything that's energy efficient like repairing your roof, having solar panel installation, windows, doors, and appliances. You must be a homeowner, have a 640 score, and a debt ratio below 50% to qualify and apply. It's an unsecured loan; 4.99% and it is not tied to the equity of your home. It is federally funded through the Department of Energy and it is offered to any owner with no income limitations. Our office is in Lanham, Maryland so everything is local and you have to use a contractor that has been vetted by the state of Maryland. We also have quality assurance inspectors that ensure the contractor's work before they get paid.

We are working towards going green and most of our loans are solar panel. Solar panels are a natural resource which means zero dollars for your utility bill and you also get a federal tax credit. Our average energy savings for solar panels is approximately 40% on your monthly utility bill. Our goal is energy conservation and we are starting a Net Zero construction project and we have our eye on Mount Rainier for the future.

**Councilwoman Tracy Loh:** As a requirement, does the home energy audit have a set cost to be part of the Be Smart Home program?

**Yetta Stokes:** Yes, the total cost is \$400.00, but the utility companies are taking a hit for \$300.00 so the homeowners are only paying \$100.00.

**Councilman Bryan Knedler:** Is there a waiting list?

**Yetta Stokes:** No because no one knows about it and that's why I'm here.

**Councilwoman Tracy Loh:** Do these homes need to be owner occupied?

**Yetta Stokes:** No, they just need to be owned it just can't be a commercial zone. Your payment does not start until the work is done and inspections are completed.

### **Tree Commission – Mary Lee Howett, 4000 Block, 31<sup>st</sup> Street**

I'm here to present a letter from the tree commission particularly concerning the work that will commence this spring on the levy. As a requirement, per army core vegetation standards, trees within 15 feet of the levy must be removed and that's approximately 278 trees. In 2013 and 2014 we did have some conversations with the County about mitigation and compensation that the City would get and I'd like to reinvigorate that conversation. We'd like to get some direction from the City on how to engage the County with this issue and also get some of these issues in writing in terms of how we're going to move forward.

We propose to ask for the following commitments from the Prince George's County Department of Environment: to get an advanced notice, no less than 4 weeks, of when tree removal will commence, for the subcontractor to mark all trees to be removed, to walk the levy with City officials and a tree commission representative prior to the work starting, to get a tree protection plan put in place as per the City's Urban Tree Ordinance to ensure heavy machinery does not damage the roots of trees near the work zone, to get in writing and confirm the number of trees being removed, to get information on the timing, size, and type of replacement tree plantings, to get a maintenance plan, and to receive regular communication on project status.

**Councilman Jesse Christopherson:** I'll arrange a meeting with you and the project manager and I'll gather all the documentation for all the commitments they've

made via email.

**Mary Lee Howett:** Do you think a MOU (Memorandum of Understanding) is a good idea?

**Councilman Jesse Christopherson:** It depends on who we're talking to, but Ana Mortise has been really helpful so if we can get him to come to the meeting a draft would be relevant.

**Councilman Bryan Knedler:** Was there a discrepancy in the number?

**Mary Lee Howett:** All the documents that I have compiled and their past presentations referenced 80 trees. We did the count and told them the count but I haven't seen it reflected in any of their documents.

### **House Presentations**

#### **3602 Oak Lane**

We would like to build an art studio. Our project has 2 phases; a small art studio with a bathroom and an office and later a living workspace with a show room on both sides and a small residential space for visiting artists. The whole idea for our project is because we want this to be a community art center where we hold classes with visiting artists, also adults and kids. We had about 4 or 5 meetings with the County due to all the information but we're probably going to have something definitive in a few weeks.

**Councilwoman Tracy Loh:** I think you're going to have some serious storm water management issues with your property. I want to make sure you're aware that if you don't mitigate any of your storm water and you create additional impervious surface the City will be charging you an impervious surface fee for every square foot that you add to the dueling creek water sheds.

#### **4119 31<sup>st</sup> Street**

The house has been vacant for 5 years and we're going to keep the same design but we are going up 5 ½ feet and that's basically our plan. We're getting our County permit at the end of this week and then we'll get the City permit. We already have a dumpster permit and the neighbors are thrilled.

### **Resolution 1-2016, 2<sup>nd</sup> Reading – Councilwoman Tracy Loh**

Resolution 1-2016 proposes 2 groups of changes to the Mount Rainier Code related to licenses and permits. The first is that this ordinance creates a free Sidewalk Café permit, outlines its requirements to apply, and establishes a penalty if one does not have this permit. The second is making some revisions to the Residential Rental Occupancy Licenses including how they are issued, requiring an email address, how they can be suspended, revoked, and reinstated, and the fines related to violations to the ordinance. I am also proposing that we increase the fine for operating without a valid occupancy license. There is a clause stating that if you willfully rent without a rental license, in addition to the fine, it defines that violation as a misdemeanor which is punishable by 30 days of jail.

**Councilman Bryan Knedler:** You made a statement that Code Enforcement could immediately revoke a license.

**Councilwoman Tracy Loh:** This is creating a new power for our enforcement officers that did not exist.

**Councilman Bryan Knedler:** Could you explain why you felt that our code was inadequate.

**Councilwoman Tracy Loh:** I have received an avalanche of constituent complaints regarding rental properties in Mount Rainier since my election. Our Code Enforcement team is not in power to address things that shouldn't be happening.

### **Public Comment**

**Joe Brewer, 4000 Block, 35<sup>th</sup> Street:** I'd just like to express my support for the updated rental licensing code. The updated language creates a stronger rental licensing program that ensures not only the safety of the tenants but also the surrounding neighbors. The updated code may sound harsh but is in line with neighboring municipalities to help ensure compliance by landlords. A strong and educated Code Enforcement team is vital to a clean and safe community. It's very obvious that the Code Enforcement department is not trained to conduct fire and life safety inspections and there's no oversight from the City to check on the work being done by the code inspectors because there's no experienced or certified code official in the entire City. Code Enforcement needs a trained and certified manager to train the staff to handle inspections and property maintenance issues in the City. Adopting this updated code is a good first step in getting a handle on

the numerous unlicensed and nuisance rentals in our neighborhoods. I appreciate Councilmembers Loh's efforts and encourage the entire council to support the passage of this ordinance.

**Linda Couch, 4100 Block, 33<sup>rd</sup> Street:** I have no issues with landlords being required to have a permit, code enforcement, health and safety or the physical aspect of the building. The piece of the proposed ordinance that I have an issue with is how the ordinance would define "public nuisance" which is: including "x" number of criminal activities or events, crimes, noise violations, and occupancy violations. In some parts of the proposed ordinance the number of events has to happen in a certain amount of time to trigger suspension or revocation of the rental license, but in other parts of the proposed ordinance there is no time frame. I think the things that trigger being called a "public nuisance" is way too broad and it needs to be reined in, for example; "public nuisance shall include but not be limited to." I also think the proposed law could undermine public safety by silencing crime victims and others who need to seek emergency assistance because they're afraid to dial 911. The proposed ordinance limits tenants' and landlords' rights and Mount Rainier can potentially be exposed to legal liability. The City code has notice, hearing, and appeal processes for landlords but there's nothing in the code about the tenants' process.

**Councilwoman Tracy Loh:** I was able to share Linda's concerns with our district attorney to know if there was any possibility that this language could violate the Fair Housing Act and to get an opinion of the nuisance ordinances. For example, it's possible that a domestic violence call could be sited as a noise violation and if that occurred 4 times within 24 months that home is in danger. The City attorney was specifically concerned about 7a on page 5 and wanted me to change it to "convictions" but I prefer to remove 7a. If Mount Rainier Police Department (MRPD) could get drug convictions we would not be having this conversation so I'm happy to just remove that since "incidents" sounds vague.

**Councilwoman Shivali Shah:** The intent is to rein in these nuisance tenants who are causing a lot of friction on certain blocks. The City doesn't gain anything by revoking licenses but the reason that I support this legislation is because we don't have teeth in any other part of our code to get rid of tenants who routinely harass

their neighbors.

**Councilman Bryan Knedler:** If we have 3 votes to support it as it is we should just move on if we don't it might go back to work session.

**Councilman Jesse Christopherson:** I would like to look at the attachments that were sent yesterday; especially what the ACLU was saying, and also whether we can put something in about assistance for tenants who get put out of their homes due to this ordinance.

**Councilwoman Tracy Loh:** My preference would be to remove this and pass the rest of the ordinance or to pass it as is. I'm open to taking it out but indecisive of whether it has to happen.

**Councilwoman Shivali Shah:** I would like to keep 7a and 7b but to amend it so that it is more specific.

### **Public Comment**

**Heather Ware, 3700 Block, 35<sup>th</sup> Street:** I live next door to a nuisance rental house that has never been inspected since a 2001 fire. It is being occupied without a rental license and the majority of what is defined as a "nuisance" has occurred at this house and continues. I am in support of this ordinance and this is very important to me as a mother of a small child.

**Joe Brewer, 4000 Block, 35<sup>th</sup> Street:** The worst case scenarios are very rare but the point of this is to have that power. There're residents in the City who don't complain and think they just have to deal with it and they shouldn't have to and that's the point of this ordinance as it stands. It is very important that you pass this. This is the exact language that Hyattsville has.

**Councilwoman Shivali Shah:** For doing something as severe as taking away someone's license, I would like that power to be with the City Manager upon the recommendation of the Code Enforcement officers.

**Joe Brewer:** It's a collaborative effort between Code Enforcement officers and the police.

**Linda Couch, 4100 Block, 33<sup>rd</sup> Street:** Removing sections 7a and 7b doesn't matter because in the header it says "shall include but not be limited to" so it can be absolutely anything so it's irrelevant. Landlords pressure their tenants not to

make a call when they have every right to do so. Also, let's say you have a 200 unit property and there's one apartment where the person is evicted multiple times but if you revoke the license you revoke the license for the whole property.

**Councilwoman Shivali Shah:** What would you propose as an alternative for solving this public nuisance problem if you're not happy with how it's phrased?

**Linda Couch:** I don't like this broad "crime or incident." Focus on the codes we already have about noise, occupancy, health and safety, and making sure people have rental licenses. Ratchet up the fines but I'm just worried about the collateral damage of people losing their houses with no fault of their own.

**Councilman Bryan Knedler:** Public nuisance is defined by the law in a certain way. The Code Enforcement officers can't declare anything to be a public nuisance it has to be serious to hold up in court. I support the ordinance as is with the amendment of adding "manager." I'm not totally comfortable with who gets to define what "criminal activity" is but again that would have to hold up in court.

**Councilwoman Tracy Loh:** I accept the addition of "manager" to item 6 on page 5.

**Motion to Amend Language:** Councilman Bryan Knedler

**Move to amend Chapter 7, Section 105, Part C, Proposed Subsection 6 to read "the City Manager shall have":** Councilwoman Tracy Loh

**Second:** Councilwoman Tracy Loh

**Ayes:** Councilman Jesse Christopherson, Councilwoman Tracy Loh, Councilman Bryan Knedler, Councilwoman Shivali Shah

**Motion to Adopt the Ordinance as Amended:** Councilman Bryan Knedler

**Mover:** Councilwoman Tracy Loh

**Second:** Councilwoman Shivali Shah

**Ayes:** Councilman Jesse Christopherson, Councilwoman Tracy Loh, Councilman Bryan Knedler, Councilwoman Shivali Shah

### **Resolution 2-2016, Public Information Act – Councilman Bryan Knedler**

We're officially saying the City attorney is our representative for purposes. The Public Information Act is your Freedom of Information Act on a federal level and

this is our state version of that so if you wanted to request the correspondence of a specific topic that's publically documented you would contact the City attorney to get that arranged.

**Councilman Jesse Christopherson:** What happens if we get a different attorney? Her name and address are listed.

**Councilman Bryan Knedler:** We would have to amend this, but maybe legally, since the attorney wrote this, it has to be specific. We would have to keep track of this.

**Move to Approve Resolution 2-2016:** Councilman Jesse Christopherson

**Second:** Councilwoman Tracy Loh

**Ayes:** Councilman Jesse Christopherson, Councilwoman Tracy Loh, Councilman Bryan Knedler, Councilwoman Shivali Shah

### **Egg Hunt – Councilwoman Shivali Shah**

The Egg Hunt is Saturday, March 26<sup>th</sup> from 1 PM-4 PM at the field behind the Mount Rainier Nature Center. I want to ask the council to vote on \$1,500.00 for expenses.

**Councilwoman Tracy Loh:** I had asked the staff to have the balance from the Youth and Recreation line item particularly for this vote tonight.

**Interim City Manager Larry Hughes:** We'll email that balance to you.

**Motion to Approve \$1,500.00 for 2016 Egg Hunt:** Councilwoman Tracy Loh

**Second:** Councilman Jesse Christopherson

**Ayes:** Councilman Jesse Christopherson, Councilwoman Tracy Loh, Councilwoman Shivali Shah

### **Mount Rainier Day – Councilwoman Shivali Shah**

There's a variety of reason that it has become necessary to move Mount Rainier Day to October 1<sup>st</sup>. We've secured the stage for the performances so I wanted to ask if there are any concerns about moving the date.

**Councilman Bryan Knedler:** Can we get a motion with the specific date in it?

**Motion to Move Mount Rainier Day from the 3<sup>rd</sup> week in May to October 1<sup>st</sup> for**

**2016:** Councilwoman Shivali Shah

**Second:** Councilman Jesse Christopherson

**Ayes:** Councilman Jesse Christopherson, Councilwoman Tracy Loh, Councilwoman Shivali Shah

### **Discussion**

**Dialo Sombry, Owner of Adinka Cultural Arts Studio:** I would like to see businesses asked to be involved in planning. You might want to consider creating a type of Standard Operating Procedure (SOP) for Mount Rainier Day and how it works this year so that regardless of when you have it you'll always be able to plan it with a chairperson and composition.

### **Rolling Agenda**

**Councilwoman Tracy Loh:** We need to add Big Belly Trashcans and PG County Clean Energy Program to the March Work Session agenda. I also wanted to touch basis with the council on the Groundswell Energy presentation. I will call Edmonston and Hyattsville and find out what their experience with Washington Gas & Lights (WGL) has been. I would also like the City Manager to send the sample contract to our City attorney for review. I will report to you at the Work Session but we will not vote on anything until the April Council Meeting.

**Motion to Adjourn:** Councilman Bryan Knedler

**Mover:** Councilwoman Tracy Loh

**Second:** Councilwoman Shivali Shah