

REGULAR MEETING
March 14, 2005

The Regular Meeting of the Annapolis City Council was held on March 14, 2005 in the Council Chamber. Mayor Moyer called the meeting to order at 7:30 p.m.

Present on Roll Call: Mayor Moyer, Aldermen Tolliver, Kelley, Cordle, Fox, Cohen, Alderwomen Hoyle, Carter

Alderman Hammond was absent.

Staff Present: City Attorney Spencer, Human Resources Director Milburn, Recreations and Parks Director Plummer, Bureau Chief of Environmental Programs Biba

AWARDS AND PRESENTATIONS

- Mayor Moyer, Human Resources Director Milburn and Recreation & Parks Director Plummer acknowledged the following employees:

George Belt, Recreation & Parks Department 25 Years of Service
Paul Gibbs, Police Department 26 years of Service
- Mayor Moyer proclaimed March 28, 2005 thru April 3, 2005 as Bishop Oscar Romero Week.
- Alderman Tolliver moved to approve the Journal of Proceedings for February 14, 2005 Regular, February 14, 2005 Special and February 28, 2005. Seconded. CARRIED on voice vote.

PETITIONS, REPORTS AND COMMUNICATIONS

Spoke in favor of R-3-05

1. Susan Gross
175 S. Southwood Avenue
Annapolis, Maryland 21401
2. Arnice O' Doherty
127 Lafayette Avenue
Annapolis, Maryland 21401

Mayor Moyer accepted into the record a letter dated March 14, 2005.

3. Denise Worthen
President Murray Hill Association
65 Southgate Avenue
Annapolis, Maryland 21401
4. Matthew Berry, representing Germantown Homewood Civic Association
100 South Cherry Grove Avenue
Annapolis, Maryland 21401
5. Cherryll Mulan, representing Federal Town Civic Association
527 Royal Street
Annapolis, Maryland 21401
6. Dorothy Calahan
223 South Cherry Grove Avenue
Annapolis, Maryland 21401

Spoke in opposition to O-35-04

1. Robert J. Eichelberg
196 Acton Road
Annapolis, Maryland 21403
2. Stuart Hecker
131 Spa Drive
Annapolis, Maryland 21403

3. Jonathan Hodgson, representing various property owners
1819 Bay Ridge Avenue, Suite 220
Annapolis, Maryland 21403

Spoke in opposition to R-9-05

1. Anastasia Hopkinson, representing Annapolis Neck Peninsula Association
1036 Harbor Drive
Annapolis, Maryland 21403

Spoke in favor of R-9-05

1. Jerome Feldman, representing residents of Annapolis Neck
12 Taney Avenue
Annapolis, Maryland 21401

Spoke in opposition to R-9-05

2. Janet Norman
787 Annapolis Neck Road
Annapolis, Maryland 21403
- Judy Housley, 125 East Lake Drive, Annapolis, Maryland 21403 spoke in favor of R-3-05, R-11-05 and bus route to the airport.

**LEGISLATIVE ACTION
ORDINANCES**

- The order of the agenda was amended to allow for R-9-05.

ANNAPOLIS NECK ROAD ANNEXATION

R-9-05 For the purpose of annexing into the boundaries of the City of Annapolis certain property which is contiguous to the existing boundary of the City and is generally located between Quiet Waters Park, Hunt Meadow, Annapolis Overlook and on Forest Drive next to Forest Village Apartments; and matters generally related to said annexation.

Preliminary Review - Annexation Petition of QW Properties, LLC - 66.6798 acres between Quiet Waters Park, Hunt Meadow, Annapolis Overlook and on Forest Drive next to Forest Village Apartments.

Alderman Fox moved that the applicants work with the Finance, Public Works, and Planning and Zoning Departments to provide the necessary studies for proper consideration of this Petition. Seconded. CARRIED on voice vote.

Referred to Rules and General Government Committee and Planning Commission

- The order of the agenda was resumed.
- Alderwoman Carter moved to amend the agenda to include R-11-05. Seconded. CARRIED on voice vote.

O-35-04 For the purpose of amending the configuration of the Annapolis harbor line outboard of 140 Spa Drive; and matters generally relating to said harbor line.

Alderman Fox moved to adopt O-35-04 on second reading. Seconded.

Environmental Matters Committee: No action taken

Bureau Chief of Environmental Programs Biba was present and answered questions from Council.

The main motion CARRIED on voice vote.

Alderman Fox moved to adopt O-35-04 on third reading. Seconded. CARRIED on voice

vote.

- O-40-04** For the purpose of the creating tax increment development districts, and coincident thereto, special taxing districts, relating to the Park Place Development District created by R-8-01 and O-14-01, and providing for and determining certain matters in connection with Park Place Development District and the special obligation bonds authorized by such Resolution and Ordinance; and matters generally relating to said uses.

Alderman Cohen moved to adopt O-40-04 on second reading. Seconded.

The Economic Matters Committee reported unfavorably on O-40-04.

Alderman Kelly moved to substitute O-40-04 Revised. Seconded. CARRIED on voice vote.

The main motion as Revised CARRIED on voice vote.

Alderman Cordle moved to adopt O-40-04 Revised on third reading. Seconded. CARRIED on voice vote.

RESOLUTIONS

- R-2-05** For the purpose of adjusting various fees for the use of City services; and matters generally relating to said fees.

Alderman Cohen moved to adopt R-2-05 on second reading. Seconded.

Finance Committee reported favorably with amendments on R-2-05

Alderman Cohen moved Finance Committee amendments to R-2-05 as follows:

Amendment #1 *[To correct the reference for stormwater utility fees.]*

In the attachment entitled "FY 2005 Fee Schedule Update #1" in line 542, strike "17.10.120" and substitute "17.10.180.B."

Amendment #2 *[To clarify that the full-time maintenance staff referenced in the proposed language refers to an "on-site" maintenance staff and to correct a typo.]*

On page 2, in line 5, in fourth line of second paragraph, after "full-time" insert "on-site"

On page 2, in line 5, in second line of third paragraph, strike the extra "for"

Amendment #3 *[Since R-5-05, FY 2005 Fee Schedule Update #2, was actually the first set of changes to the Fee Schedule and Update #1 was actually the second set of changes, adoption of the following language will put the two sets of changes back into the correct sequence.]*

On page 1, strike line 10, and substitute "FY 2005 Fee Schedule Update #3"

On page 1, strike lines 16 through 18 and substitute the following:

"WHEREAS. various changes need to be made to the R-7-04, the FY 2005 Fee Schedule, as adopted by the City Council on September 13, 2004, and amended by R-5-05, FY 2005 Fee Schedule Update #2. There was no Update #1."

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Cohen moved to adopt R-2-05 amended on third reading. Seconded. CARRIED on voice vote.

R-3-05 For the purpose of expressing the support of the Annapolis City Council to maintain, reconstruct or build a larger public County library at 1410 West Street; and all matters relating to said West Street Library.

Alderman Tolliver moved to adopt R-3-05 on second reading. Seconded. CARRIED on voice vote.

R-10-05 For the purpose of adjusting the various rates for parking in City garages and for parking in metered spaces; and matters generally relating to said parking rates.

Alderman Cohen moved to adopt R-10-05 on first reading. Seconded. CARRIED on voice vote.

Referred to Finance Committee

- The order of the agenda was amended to allow for R-11-05.

R-11-05 For the purpose of requesting that the Maryland General Assembly adopt the Clean Indoor Air Act of 2005 or other similar legislation which further restricts or bans the smoking of tobacco products in all indoor areas open to the public; and all matters relating to said support of such legislation.

Alderwoman Carter moved to adopt R-11-05 on first reading. Seconded. CARRIED on voice vote.

- The order of the agenda was resumed.

AIC FOREST - ANNEXATION

O-33-04 For the purpose of establishing a zoning classification of R3, General Residence District for certain property which is owned by AIC Forest, LLC, and is located to the southwest of Forest Drive near the intersection of Spa Road and Forest Drive; and all matters relating to said zoning map amendment.

Alderman Fox moved to adopt O-33-04 on second reading. Seconded.

The Rules Committee and Government Committee reported favorably with an amendment on O-33-04.

Alderman Fox moved to amend O-33-04 as follows:

Amendment 1 *[As a prerequisite for the City Council to approve the zoning associated with the annexation, this amendment documents the public hearings and input.]*

On page 1, strike lines 25 through 31 and substitute the following:

“WHEREAS, the Annapolis City Council conducted a public hearing on February 14, 2005 at which time the Council heard a staff report presented by the Director of Planning and Zoning and the report of the Planning Commission and received the Findings of Fact and Recommendations of the Planning Commission adopted January 6, 2005, together with a Memorandum from the Planning and Zoning Director to the Planning Commission dated December 10, 2004; and during which hearing testimony was taken from the applicant and counsel, members of the general public were afforded the opportunity to offer testimony and documentary evidence was submitted and received; and”

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Fox moved to adopt O-33-04 amended on third reading. Seconded. CARRIED on voice vote.

R-19-04 For the purpose of annexing into the boundaries of the City of Annapolis certain property which is contiguous to the existing boundary of the City and is located to the southwest of Forest Drive near the intersection of Spa Road and Forest Drive, and matters generally related to said annexation.

Alderman Cohen moved to adopt R-19-04 on second reading. Seconded.

Alderman Cordle moved to reconsider R-19-04. Seconded. CARRIED on voice vote.

The Rules Committee and City Government Committee reported favorably with amendments on R-19-04.

Alderwoman Hoyle moved to adopt R-19-04 on second reading. Seconded.

Alderman Cohen moved to amend R-19 -04 as follows:

Amendment 1 *[As a prerequisite for the City Council to approve the annexation, these amendments documents the dates of the public hearings and input, moves language concerning the findings from the Whereas section to where it should more appropriately be in the Resolved or body of the resolution, and provides the findings, .]*

On page 1, strike lines 35 through 44 and substitute the following:

“WHEREAS, the Annapolis City Council conducted a public hearing on February 14, 2005 at which time the Council heard a staff report presented by the Director of Planning and Zoning and the report of the Planning Commission and received the Findings of Fact and Recommendations of the Planning Commission adopted January 6, 2005, together with a Memorandum from the Planning and Zoning Director to the Planning Commission dated December 10, 2004 and a Memorandum to the City Council dated January 6, 2005; and during which hearing testimony was taken from the applicant and counsel, members of the general public were afforded the opportunity to offer testimony and documentary evidence was submitted and received; and”

Amendment # 2

On page 1, strike line 46 and all that follows through page 2, line 18.

Amendment # 3

On page 4, strike lines 12 through 16, and substitute the following:

“AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL that it determines that the property to be annexed is of the character that the annexation would be in the public interest and for the public welfare, and in the best interest of the City and based on consideration of the following factors: the immediate and prospective populations and any other relevant demographics of the area to be annexed; the assessed valuation of the area, the history of and prospects for development, the need and potential for geographic expansion of the city, the present and anticipated need for governmental services, and the relative capabilities of the City and of the County to provide municipal services when the need arises.

AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL that the Annapolis City Council has considered the standards for the approval of the Annexation request as set forth in Section 2.52.070 of the Code of the City of Annapolis and finds as follows:

1. The annexation will enhance and will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare of the citizens of the area proposed to be annexed or of the surrounding areas of the City and of the County;
2. The annexation will not be injurious to the use and enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values within the neighborhood;

3. The annexation is in conformance with the plans of general development of the City and of the County;
4. Acceptable and reasonable steps are being or will be taken to provide adequate municipal services;
5. The annexation will not precipitate environmental degradation;
6. The annexation will generate revenue at least equal to the anticipated cost of providing municipal services.

AND BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL that subject to the following conditions, the AIC Forest, LLC, annexation is hereby approved:

1. As it has been determined by the Department of Public Works that adequate water supply and wastewater treatment capacity is available for this property, the developer / property owner shall be responsible for all costs associated with the extension of utility mains, the water distribution system, the wastewater collection system, possibly an additional pump station, tap fees, connection charges, capital facility fees, capital assessment charges and construction inspection fees. All infrastructure shall be constructed in accordance with the City's Standard Specifications and Construction Details.
2. The developer / property owner will be required to pay all costs associated with the construction of all internal roadways, curb and gutters, storm drain systems and stormwater management facilities. All but the latter shall be owned and maintained by the City. Stormwater management facilities shall be owned and maintained by the developer / property owner. The developer / property owner shall be responsible to pay all costs associated with any capacity increase to existing roadways should said increase be required by the City. All infrastructure shall be constructed in accordance with the City's Standard Specifications and Construction Details.
3. The developer / property owner will be required to pay all costs associated with the cost of sidewalk construction throughout the development. Sidewalks shall be maintained by adjacent property owners. All sidewalks shall be constructed in accordance with the City's Standard Specifications and Construction Details.
4. The developer / property owner shall be responsible for all costs associated with traffic signals and signs associated with the property. Said signals and signs shall be designed and constructed in accordance with the Manual on Uniform Traffic Control Devices.
5. The developer / property owner shall be responsible for all costs associated with street lighting for the property. All street lighting shall be approved for style, type and luminosity and shall be selected from models offered for lease by BGE. Street lighting maintenance is handled by lease agreement between the City and BGE.
6. All roadway rights-of-way shall be in accordance with the City's Standard Specifications and Construction Details, shall be made public and shall be deeded to the City prior to release of the infrastructure maintenance bond.
7. All infrastructure improvements shall be bonded for the full cost of the improvements in the unlikely event that the developer / land owner can not complete the work, the City has the financial resources to do so. Once the infrastructure has been accepted by the Department of Public Works, the bond shall be reduced to a one-year maintenance bond. Typically, the maintenance bond is ten percent of the full bond.
8. The City will not be responsible for infrastructure maintenance and/or repair during construction, specifically, snow and solid waste (refuse, yard waste recycling and recycling) removal until final and complete infrastructure inspection, acceptance of deeds and at release of maintenance bond.
9. At the time of development, the City will require an assessment of its capacity to delivery adequate municipal services. The developer/property owner may be required to contribute to the cost of the study as determined appropriate by the

Department of Public Works. Staffing levels in the following areas need to be considered: engineering review services, property data management and mapping services, infrastructure inspection services, water meter reading and sewer preventive maintenance, Miss Utilities underground utility location service, roadway maintenance, storm drain maintenance, traffic control and maintenance, administrative services and fleet maintenance support services. The City is currently undertaking a comprehensive review of its solid waste management program, to include but is not limited to: residential and commercial refuse collection, bulk pickup, yard waste recycling, paper/plastic/glass recycling and leaf collection. Not only is the level of staffing a concern, but so is adequate work space and safe and functioning equipment, vehicles and tools to perform the work.”

Amendment 4

On page 4, in lines 22 through 23 strike “reflect the annexation of the AIC Forest, LLC, property and the zoning designation as designated by” and substitute “include the annexation of the AIC Forest, LLC, property and its designation as part of the Forest Drive Mixed Use Center, as shown on Figures 9 and 10 of the Plan and the zoning district designations under”

Seconded. CARRIED on voice vote.

The main motion amended CARRIED on voice vote.

Without objection, the legislative action on O-13-05 and R-8-05 were held jointly.

RODGERS - ANNEXATION

O-13-05 For the purpose of establishing a zoning classification R3, General Residence District, for certain property which is contiguous to the existing boundary of the City, is west of the Chesapeake Bay and east of the intersection of Edgewood Road and Bembe Beach Road, and is owned by Theo C. Rodgers, Trustee of William L. Adams, Parlett L. Moore, Jr., and Sarah Ceasar (collectively the "Petitioner"); and all matters relating to said zoning map amendment.

R-8-05 For the purpose of annexing into the boundaries of the City of Annapolis certain property which is contiguous to the existing boundary of the City and is located on the easterly side of Bembe Road where it is intersected by Edgewood Road, and matters generally related to said annexation.

- **Preliminary Review** - Annexation Petition of Theo C. Rodgers, Trustee under the Irrevocable Trust of William L. Adams - 6.0623 acres fronting Bembe Beach Road.

Alderman Fox moved to receive O-13-05 and R-8-05. Seconded. CARRIED on voice vote.

Referred to Rules and General Government Committee and Planning Commission

Alderman Fox moved that the applicants work with the Finance, Public Works, and Planning and Zoning Departments to provide the necessary studies for proper consideration of this Petition. Seconded. CARRIED on voice vote.

BUSINESS AND MISCELLANEOUS

1. Payment of Monthly Bills

Alderman Tolliver moved to pay the monthly bills. Seconded. CARRIED on voice vote.

2. Appointments

Alderman Tolliver moved to approve the Mayor’s (re)appointments of the following individuals:

- 3/14/05 Human Relations Commission Jacqueline J. Pulsifer
- 3/14/05 Human Relations Commission L. Craig Bergman
- 3/14/05 Human Relations Commission Ann Teng Cole
- 3/14/05 Human Relations Commission Gerry Mangurian

3/14/05 Environmental Commission Bob Mitchell
3/14/05 Transportation Advisory Board Charles W. Weikel

Seconded. CARRIED on voice vote.

3. Finance Committee minutes of February 14 and 17, 2005 meetings

Alderman Fox moved to receive the Finance Committee Recommendations dated February 14 and 17, 2005. Seconded. CARRIED on voice vote.

4. To complete testimony on the following two items which were left open from the February 14 public hearing:

O-37-04 For the purpose of amending the existing zoning classification for the split-zoned parcels located in the eastern quadrant of the intersection of Tyler Avenue and Forest Drive from its current zoning of R2, Single Family Residence District, R3, General Residence District, and B2, Community Shopping District; to all one zoning district of B2, Community Shopping District; and matters generally relating to said zoning map amendment.

No one else from the general public spoke in favor of or in opposition to the application.

Mayor Moyer declared the public hearings closed.

O-38-04 Rezoning of 1244 and 1248 Tyler Avenue - For the purpose of amending the existing zoning classification for the property located at 1244 and 1248 Tyler Avenue from R2, Single Family Residence District, to B2, Community Shopping District; and matters generally relating to said zoning map amendment.

No one else from the general public spoke in favor of or in opposition to the application.

Mayor Moyer declared the public hearings closed.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 9:05 p.m.

Regina C. Watkins-Eldridge, CMC
Deputy City Clerk