

REGULAR MEETING

May 12, 2003

The Regular Meeting of the Annapolis City Council was held on May 12, 2003 in the Council Chamber. Mayor Moyer called the meeting to order at 7:30 p.m.

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

Staff Present: City Attorney Spencer, Planning and Zoning Director Arason

C Alderman Tolliver moved to approve the Journal of Proceedings for April 14, 2003 and, April 28, 2003. Seconded. CARRIED on voice vote.

Closed Session: Pursuant to the requirement of Maryland Annotated Code, State Government Article Section 10-508(a)(1)(i) this statement is included in these minutes:

A closed session of the City Council was held at 6:45 p.m., Monday, May 12, 2003 in the City Council Chamber.

Present: Mayor Moyer, Aldermen Hammond, Tolliver, Kelley, Cordle, Fox, Cohen, Alderwomen Hoyle, Carter, Acting City Attorney Spencer, Recruitment/EEO Administrator Sloss

By unanimous consent of the members present, the session was closed. The authority under which the session was closed was Maryland Annotated Code, State Government Article, Section 10-508(a)(1)(i). The purpose of the meeting was to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. Action taken: Confirmation of the Mayor's appointment of Alderwoman Hoyle moved to confirm the Mayor's appointment of Shaem C. Spencer as City Attorney - A20/step 8, \$93,714 year. Seconded. CARRIED on voice vote.

PETITIONS, REPORTS AND COMMUNICATIONS

C **Spoke against R-38-02**

Richard Jedlicka, 5 Maryland Avenue, Annapolis, Maryland 21401
June Larkin, 154 Prince George Street, Annapolis, Maryland 21401
Ken Henry, 87 Conduit Street, Annapolis, Maryland 21401
Burnell W. Vincent, 20 Spa View Circle, Annapolis, Maryland 21401
Carl Larkin, 154 Prince George Street, Annapolis, Maryland 21401
Michael Farmer, 142 Prince George Street, Annapolis, Maryland 21401
Hans Froelicher, 110 Market Street, Annapolis, Maryland 21401
Lee Aube, 112 Archwood Avenue Annapolis, Maryland 21401
Doug Burkhardt, 125 Monticello Ave, Annapolis, Maryland 21401
Elaine Reed, 74 East Street, Annapolis, Maryland 21401
Tom Weissinger, 87 Shipwright Street, Annapolis, Maryland 21401
Kathleen Knowler, Constitution Avenue, Annapolis, Maryland 21401
Norman H. Finkle, 208 King George Street, Annapolis, Maryland 21401
Arthur Greenbaum, 7 Constitution Square, Annapolis, Maryland 21401
W. Minor Carter, 39 Southgate Avenue, Annapolis, Maryland 21401
Orlando Rideout, 110 Duke of Gloucester Street, Annapolis, Maryland 21401
Jon VanderKamp, 86 Duke of Gloucester Street, Annapolis, Maryland 21401

C Dennis Conte
49 Clay Street
Annapolis, Maryland 21401

Spoke requesting grant approval for Clay Street Computer Learning Center

LEGISLATIVE ACTION

CHARTER AMENDMENTS

CA-7-03 For the purpose of amending the Charter of the City of Annapolis to revise and transfer certain duties of the planning and zoning department and the department of public works; establishing a department of neighborhood and environmental programs; and all matters relating to said departments.

Alderman Hammond moved to adopt CA-7-03 on second reading. Seconded.

The Rules and City Government Committee reported favorably on CA-7-03.

C Alderman Tolliver moved to amend CA-7-03 as follows:

No. 1

On page 4, after line 17, add "(5) TO ENFORCE THE ZONING CODE AND A ZONING MAP FOR THE USE OF LAND IN THE CITY."

Seconded. CARRIED on voice vote.

C Alderman Tolliver moved to amend CA-7-03 as follows:

No. 2

On page 4 in line 2, after "in" add "ENGINEERING".

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Hammond moved to adopt CA-7-03 Amended on third reading. Seconded. CARRIED on voice vote.

ORDINANCES

O-32-01 For the purpose of amending the City Code, Section 21.70.060 to permit the reconstruction and relocation of buildings and structures with nonconforming uses; and all matters related to such buildings and structures.

Alderman Tolliver moved to adopt O-32-01 on second reading. Seconded.

The Planning Commission and Rules Committee reported favorably on O-32-01.

C Alderman Tolliver moved to amend O-32-01 as follows:

No. 1

On page 1, line 42, after the first "relocated", strike "or" and add "consolidated with another structure or structures and relocated, or".

Planning and Zoning Director Arason was present and answered questions from Council.

Seconded. CARRIED on voice vote.

C Alderman Tolliver moved to amend O-32-01 as follows:

No. 2

On page 1 at the end of line 21 add “, AND” and

On page 1 after line 21, add “BY AMENDING SECTION 21.70.070”, and

On page 2 after line 19, add “Sec. 21.70.070 Restoration of damaged nonconforming building or structure.

A. ~~A nonconforming building or structure which is destroyed by fire or other casualty or act of God, to the extent that the cost of restoration to the condition in which it was before the occurrence shall exceed fifty percent of the cost of the restoration of the entire building new, shall not~~ MAY be restored unless the building or structure, and its use, conforms to all of the regulations of the district in which it is located.

B. ~~In the event the damage is less than fifty percent of the cost of restoration of the entire building new, no repairs or reconstruction shall be made unless the restoration~~ PROVIDED THAT RESTORATION is started within one year from the date of DESTRUCTION OR partial destruction and is diligently prosecuted to completion.

~~B.~~ B. If the restoration is not started within one year of the calamity and diligently prosecuted to completion, the building or structure shall be removed and the area cleared.”

Seconded. CARRIED on voice.

The main motion as amended CARRIED on voice vote.

Alderman Hammond moved to adopt O-32-01 Amended on third reading. Seconded. CARRIED on voice vote.

O-19-02 For the purpose of repealing in its entirety and adding new Annapolis City Code Chapter 14.12, Trees, so as to define the duties of the environmental commission, the department of public works and the director of public works with regard to trees in the City of Annapolis; to provide regulations concerning the removal and maintenance of trees in public areas and in the conservation areas; to provide for the creation and enforcement of a master street tree plan and a tree planting program; to provide for the abatement of certain nuisances; and matters generally relating to said chapter.

Without objection, O-19-02 was postponed.

O-30-02 For the purpose of requiring a street-end view cone where a street right-of-way terminates at a waterway; specifying that no fence, wall or hedge with a height greater than 42 inches shall be allowed in the street-end view cone; including prohibited fences, walls or hedges as obstructions in required yards; and matters generally relating to said requirements and prohibitions.

Alderman Hammond moved to adopt O-30-02 on second reading. Seconded.

The Planning Commission and the Rules Committee reported favorably with amendments on O-30-02.

Alderman Hammond moved the Planning Commission Recommendations as follows:

No. 1

On Page 1, lines 11 and 16

strike "hedges";

add "plantings",

No. 2

On Page 1, line 14

strike "hedge";

add "planting",

No. 3

On Page 1, line 15

strike "42 inches";

add "48 inches",

No. 4

On Page 1, line 31

strike "Sec. 21.06.010 Fences, walls and hedges .

A. A fence, wall or hedge may be erected, placed, maintained or grown pursuant to a permit issued in accordance with Section 17.32.130 of this code, **except as provided in subsection B of this section.**

B. **Where a street right-of-way terminates at a waterway, a street-end view cone shall be provided as defined by the formula in Section 21.54.100. No fence, wall or hedge with a height greater than 42 inches shall be allowed in the street-end view cone.**

Sec. 21.06.120 Objects in required yards.

The following are not obstructions when located in the required yards:

A. All yards;

1. Open terraces not over four feet above the average level of the adjoining ground, but not including a permanent roof-over terrace or porch..

2. Awnings and canopies,

3. Steps four feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley,

4. Grade-level walks and driveways,
5. Chimneys projecting eighteen inches or less into the yard,
6. Recreational and laundry-drying equipment,
7. Arbors and trellises,
8. Flagpoles,
9. Fences, walls and hedges for which permits have been issued in accordance with Section 17.32.130 of this code, **except as prohibited under Section 21.06.010;**;

add "Sec. 21.06.010 Fences, walls and ~~hedges~~ **plantings**.

A. A fence, wall or ~~hedge~~ **planting** may be erected, placed, maintained or grown pursuant to a permit issued in accordance with Section ~~17.32.130~~ **17.34.010** of this code, **however, where a public right-of-way or easement dedicated for public access terminates at a waterway, a view cone shall be provided. Where a view cone is required, it shall be calculated in accordance with the formula established in Section 21.54.100.**

B. No fences, walls or plantings with a height greater than forty-eight inches (48") shall be allowed in the view cone, except:

a. Fences and walls (including their component parts, such as handrails and guards) that do not exceed six feet (6') in height and are transparent above forty-eight inches (48"). A fence, wall, hand-rail, or guard is considered transparent if its opacity is not more than twenty percent (20%). The percentage of opacity shall be measured by dividing the square footage of the opaque portion of the subject structure by the square footage of the entire structure, and multiplying the result by one hundred (100).

b. Trees maintained with a single clear trunk with all branches and pendulous branches removed to a height of seven feet (7') above the ground plane. Trees shall not be planted closer than fifteen feet (15') apart so as not to form a visual barrier.

C. All plantings, exclusive of trees referenced in subsection B above, located in a view cone must be pruned or maintained to a height of forty-eight inches (48") or less.

D. If there are any inconsistencies between this section and any other provision of this title or any other law, ordinance, resolution, rule or regulation, that which is more restrictive or which imposes higher standards or requirements shall govern.

Sec. 21.06.120 Objects in required yards.

The following are not obstructions when located in the required yards:

A. All yards;

1. Open terraces **and open porches** not over four feet (4') above the average level of the adjoining ground, but not including a permanent roof-over terrace or porch. **The handrails and guardrails around terraces and porches within a view cone shall be transparent, as required in subsection 21.06.010 (A)(1)(a),**

2. Awnings and canopies,
3. Steps four feet (4') or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley,
4. Grade-level walks and driveways,
5. Chimneys projecting eighteen inches or less into the yard,
6. Recreational and laundry-drying equipment,
7. Arbors and trellises,
8. Flagpoles,
9. Fences, walls and ~~hedges~~ **plantings** for which permits have been issued in accordance with Section ~~17.32.130~~ **17.34.010** of this code, **except as prohibited under Section 21.06.010**;"

Seconded. CARRIED on voice vote.

Alderman Hammond moved to amend Planning Commission amendment No. 4 as follows:

No. 4

add "Sec. 21.06.010 Fences, walls and ~~hedges~~ **plantings**.

- C. All plantings, exclusive of trees referenced in subsection B above, located in a view cone must be pruned or maintained to a height of forty-eight inches (48") or less.
- D. The height of a fence, wall or planting or any combination of these shall be measured from the grade of the public right-of-way or easement. In the case where there is a change in grade, at no point along the length of the fence, wall or planting or any combination thereof shall the height exceed the limits established in subsections B and C
- ~~D.~~ E. If there are any inconsistencies between this section and any other provision of this title or any other law, ordinance, resolution, rule or regulation, that which is more restrictive or which imposes higher standards or requirements shall govern.

Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Hammond moved to adopt O-30-02 Amended on third reading.
Seconded. CARRIED on voice vote.

O-33-02 For the purpose of revising the water and sewer rates for certain multifamily residential units within the City; and matters generally relating to said rates.

Without objection, O-33-02 was withdrawn.

- O-3-03** For the purpose of establishing City policy in regard to discrimination; defining “discrimination”; expanding the authority of the commission; establishing procedures for discrimination complaints; and matters generally relating to said discrimination.

Without objection, O-3-03 Revised was re-referred to the Rules and City Government Committee.

- O-8-03** For the purpose of authorizing a one-year extension of an existing lease of certain municipal property located at the City Dock to Chesapeake Marine Tours, Inc. for the purpose of docking and mooring certain boats at the City Dock; and all matters relating to said amendment to lease.

Alderman Fox moved to adopt O-8-03 on second reading. Seconded.

The Economic Matters and Finance Committees reported favorably on O-8-03.

The main motion CARRIED on voice vote.

Alderman Fox moved to adopt O-8-03 on third reading. Seconded. CARRIED on voice vote.

- O-9-03** For the purpose of conveying, by deed, whatever rights, title and interest the City has in a certain parcel of ground located on Claude Street in the City of Annapolis, to an adjacent property owner whose property is 120 Claude Street which is contiguous to said parcel of ground; providing for the property to be sold at private sale; providing for the entire parcel to be reserved as an easement to the City; and matters generally relating to said conveyance.

Alderman Tolliver moved to adopt O-9-03 on second reading. Seconded.

The Finance Committee reported favorably on O-9-03.

C Alderman Tolliver moved to amend O-9-03 as follows:

On Page 1, line 14

strike “Claude Street”;

add “Giddings Avenue”,

No. 2

On Page 1, line 22

strike “Claude Street”;

add “Giddings Avenue”.

The main motion as amended CARRIED on voice vote.

Alderman Tolliver moved to adopt O-9-03 Amended on third reading. Seconded. CARRIED on voice vote.

- O-14-03** For the purpose of approving the lease of certain city owned property to Southwestern Bell Mobile Systems, LLC, (d/b/a) Cingular Wireless;

and all matters relating to said lease Cingular Lease.

Alderman Hammond moved to adopt O-14-03 on first reading. Seconded.
CARRIED on voice vote.

Referred to Finance Committee

- O-15-03 For the purpose of amending the existing zoning classification for the property located on the southwest side of Bay Ridge Road at its intersection with Edgewood Road contiguous to the existing boundary of the City of Annapolis; and matters generally relating to said zoning map amendment.**

Alderman Hammond moved to adopt O-15-03 on first reading. Seconded.
CARRIED on voice vote.

Referred to the Planning Commission and Rules and City Government Committee

RESOLUTIONS

- R-38-02 For the purpose of amending the Ward One Sector Study to allow brew pubs, in conjunction with a new or existing restaurant, to remain open after midnight, until 2 a.m.**

Alderman Fox moved to table R-38-02 to September 8, 2003. Seconded.

A ROLL CALL vote was taken:

YEAS: Aldermen Kelley, Cordle, Fox, Cohen, Alderwomen Hoyle, Carter
NAYS: Mayor Moyer, Aldermen Hammond, Tolliver
CARRIED: 6-3

- R-7-03 For the purpose of declaring that State Highway Administration Alley No. 8 shall be renamed in honor of Sam Lewnes; and all matters relating to said declaration.**

Alderman Cohen moved to adopt R-7-03 on second reading. Seconded. CARRIED on voice vote.

- R-11-03 For the purpose of approving the job descriptions for the civil service positions in the Public Works Department for Underground Utility Locator/Equipment Operator II, Water Plant Operator Journeyman, and Traffic Technician I; establishing the pay grade for the Underground Utility Locator/Equipment Operator II, Water Plant Operator Journeyman, and Traffic Technician; reclassifying the current Life Safety Inspector to Mechanical/Safety Inspector and reclassifying the current Engineering Technician IV position to Civil Engineer II; and all matters relating to said job descriptions, pay grades and reclassification.**

Alderman Hammond moved to adopt R-11-03 on second reading. Seconded.
CARRIED on voice vote.

BUSINESS AND MISCELLANEOUS

1. Finance Committee Meeting Recommendations dated April 28, 2003

Alderman Cohen moved to accept the Finance Committee Meeting Recommendations

dated April 28, 2003. Seconded. CARRIED on voice vote.

2. Payment of Monthly Bills

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

3. Appointments

Alderman Hammond moved to approve the Mayor's (re)appointments of the following individuals:

4/28/03 Housing and Community Development Committee Theresa Von Adelung Bond
4/29/03 Human Relations Commission Rick Sisas

Seconded. CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 9:13 p.m.

Deborah Heinbuch, CMC/AE
City Clerk