

SALISBURY CITY COUNCIL
WORK SESSION
OCTOBER 3, 2011

Present

Council President Terry E. Cohen
Councilwoman Laura Mitchell

Council Vice President Deborah S. Campbell
Councilwoman Eugenie P. Shields
Councilman Timothy K. Spies

In Attendance

Mayor James Ireton, Jr., City Clerk Brenda Colegrove, City Administrator John Pick, Assistant City Administrator Loré Chambers, City Attorney Paul Wilber, Building, Permitting and Inspections Director Bill Holland, Neighborhood Services and Code Compliance Director Tom Stevenson, Planning, Zoning and Community Development Director Jack Lenox

The City Council convened in a work session at 4:30 p.m. in Conference Room 306 of the Government Office Building.

Follow-up discussion on amending Chapter 17.12 to change the Board of Zoning Appeals (BZA) procedure for appeals related to nonconforming uses

A copy of the proposed ordinance is attached and made a part of these minutes. The report referenced by Council President Cohen (prepared by the intern), which addresses best practices for quasi-judicial boards, is attached and made a part of these minutes. Also attached and made a part of these minutes is a copy of Mr. Thomas J. Maloney's letter to Council relating to this issue.

Highlights of concerns/questions/suggestions:

- as written assumes guilt
- ensure that process is fair to the property owner and interested parties
 - Posting of property to ensure surrounding neighbors are made aware of the situation
 - Should it be the responsibility of property owner to keep it posted?
- longer period to obtain evidence at Building, Permitting and Inspections level (i.e., 60-90 days); if appealed, have documents and witness list to both parties 10-15 days prior to the hearing
- list types of acceptable evidence (i.e., including, but not limited to: septic or sewer hook-up permit, electric meter hook-up permit, gas meter hook-up permit, valid building permit, approved building plans, utility bill, dated photographs, appeal board decisions, court records, leases, property management records)
- standard should be consistent as to either "preponderance of the evidence" or "clear and convincing evidence" (from Mr. Wilber's research, most municipalities/counties have preponderance of the evidence as the standard)
- How much weight is given to affidavits vs. testimony in person?

- consider giving subpoena powers to BZA
- concern with phrase in second whereas paragraph – ...in many cases, unsafe and non-code compliant low and moderate income dwelling units in the City,... (questioned how many cases)
- believed that the City was trying to move out a certain class of people
- post BZA meeting packet on-line

The list of issues/concerns/suggestions expressed will be used to determine whether there needs to be changes made at the Building, Permitting and Inspections level, changes at the ordinance level, changes at the BZA rule level, or any combination thereof.

Follow-up discussion on access to legal counsel

A copy of Article IX Department of Law from the Salisbury Charter is attached and made a part of these minutes. Highlights of discussion included:

- questions addressed through the City Administrator to save legal cost
- calls to city attorney from Council President have been time sensitive to ensure proceeding correctly
- Council is policy-making body which requires interfacing with legal counsel
- Charter reads like the city attorney is an employee/in-house attorney
- increased calls by Council President to city attorney
- Mayor, by virtue of administrative authority in the Charter, has access to legal counsel, but need to fix the ability for Council to have access to legal counsel which is not articulated throughout the Charter and/or Code
- from process standpoint, if Council had better access to legal counsel as legislation is being drafted, the intent of what the Council wants to accomplish is well understood and the exchange is more productive
- moving toward not having a strong-mayor form of government
- Charter changes not warranted to get answers to Council's questions – communication and cooperation needed
- may need to codify language for Council's access to legal counsel down the road, but needed a little more time to think about it
- should be clear that city attorney is an outside contractor and not an employee (referenced Takoma Park situation with IRS)
- §SC9-3C – written advice not always needed; verbal would suffice in some circumstances
- §SC9-3D and E – should also include “review” ordinances or resolutions for introduction to Council

GASB#45 Trust By-laws

Postponed – to be rescheduled

Cable television franchise fee audit

Postponed – to be rescheduled

Mr. Pick was asked to obtain information as to whether other municipalities provide any funding to PAC14 and whether they would be willing to participate in the audit if they have an agreement with Comcast.

Rental inspection program

Neighborhood Services and Code Compliance (NSCC) Director Tom Stevenson provided a briefing on the rental inspection program. A copy of Mr. Stevenson's September 26, 2011 memo is attached and made a part of these minutes, as well as a copy of College Park's legislation and District Court of Maryland judgment.

Highlights of concerns/suggestions/questions:

- How does College Park treat the large multi-family units in regards to inspections?
- important to include definition of "full comprehensive inspection"
- multi-family should be twenty or more units
- inspection every three years or at turnover of occupancy
- has problem with mandatory inspection if someone living in the unit
- owner-occupied homes should be held to same standard
- suggested including a penalty if the property is not being inspected at turnover or at the prescribed interval
- questioned NSCC inspecting when HUD has already inspected the unit (invasion of privacy twice)
- disturbed that some people may have to vacate the property

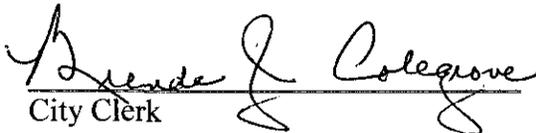
Council was asked to absorb the information discussed and to allow Mr. Stevenson time to also consider the discussion in order to give Council feedback for further discussion at an upcoming work session.

General discussion/upcoming agendas

No items were brought forth for discussion.

Adjournment

The work session adjourned at 8:05 p.m.


City Clerk


Council President