

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Minutes of

Virtual Legislative Session 2021, Legislative Day No. 4

February 16, 2021 – 6:00 P.M.

The meeting was called to order by Chairman Sarah Lacey at 6:00 P.M., Ms. Pickard gave the Invocation and led the Pledge of Allegiance. The meeting was held remotely via Zoom Webinar, beginning with roll call of all present. The Auditor's Office was represented by the County Auditor, Susan Smith.

The following members of the County Council were present:

Sarah F. Lacey	First District
Allison Pickard	Second District
Nathan Volke	Third District
Andrew C. Pruski	Fourth District
Amanda Fiedler	Fifth District
Lisa D.B. Rodvien	Sixth District
Jessica Haire	Seventh District

OPEN MEETINGS ACT

Laura Corby, Administrative Officer, read aloud a statement from the County Attorney regarding the Open Meetings Act:

The Md. Open Meetings Act, a state law, requires public meetings to be open to the public and to be "held in places reasonably accessible to individuals who would like to attend these meetings." In addition, provisions of the County Charter and the rules of the County Council require meetings to be open to the public and held at the County seat, meaning Annapolis.

The virtual format of this meeting of the County Council is due to the COVID-19 emergency and is necessary in light of the serious health risks associated with public gatherings, as well as the various Executive Orders from the Governor and the County Executive limiting public gatherings. While a virtual meeting of this type was not envisioned by the Open Meetings Act, steps have been taken to ensure that this virtual meeting includes alternate accessibility features that the Open Meetings Act Compliance Board and the Courts have reviewed and approved, such as having a call-in phone number that allows anyone with a telephone to call and listen to the meeting, broadcasting the meeting with video and audio on cable TV and on the Web, allowing written public comments to the legislation be filed with the Clerk and considered by the Council, and now allowing the public to call in or appear via zoom and testify live. The County Office of Law has opined that the public access provided by this technology makes this virtual meeting reasonably accessible to the public, as required by the OMA.

The Office of Law has also reviewed whether, with these technological features in place, it is still necessary to suspend Council Rules 3-105 and 3-106 that require public participation and reasonable seating for the public and the media. The conclusion is that it is not necessary to suspend these rules, for the same reason they have concluded that the measures implemented by the Council for virtual meetings satisfy the reasonable accessibility requirement under the OMA.

The virtual format of the meetings allows public participation and media access, as required by the Rules, and also allows unlimited participation that is not subject to seat capacity limits in the chambers or in the building. For these reasons, they have concluded that the requirements of Rules 3-105 and 3-106 are being satisfied and therefore it is not necessary to waive these rules.

Council has also asked whether it is necessary to suspend Rule 3-102 and 3-103, which require the meeting to be held at the County seat. In 2013, at the request of the Council, the OOL opined that a councilmember who was appearing at a meeting via a live video monitor would satisfy the venue requirement through virtual presence. It is noted that the Administrative Officer to the Council controls the hearing and is present in the Arundel Center during meetings, and the virtual meeting is hosted by the Assistant Admin Officer from a location in Annapolis. Those factors support the OOL's conclusion that the meetings are being held at the County seat and therefore it is not necessary to suspend Rules 3-102 and 3-103.

ETHICS STATEMENT

Laura Corby, Administrative Officer, read aloud the Ethics Statement:

The Ethics Commission has asked that I advise you that under certain circumstances, members of the public may qualify as lobbyists when they testify before the County Council. If so, the law requires that certain information be filed with the Ethics Commission. The Chairman of the Ethics Commission has asked that those who wish to testify in any form review the General Information on Lobbying sheet located on the Ethics Web Site under Forms and Publications. If there are any questions about lobbying requirements, please contact the Ethics Commission at 410-222-4413.

INVITATION TO AUDIENCE

The Administrative Officer stated there were no submissions of written public testimony received on Invitation to Audience.

The following person spoke:

Steven Waddy spoke about white supremacy and transportation.

There was no one else present who wished to speak, and the hearing was concluded.

ITEMS NOT ON THE AGENDA

There were no items added to or removed from the agenda.

PRELIMINARY MOTION

On motion of Ms. Pickard, seconded by Mr. Pruski, the Council voted that the partial reading of any bill, resolution, minutes, or amendment constitutes the reading of the whole.

APPROVAL OF MINUTES

On motion of Mr. Pruski, seconded by Ms. Pickard, the minutes of February 1, 2021, were approved as presented.

INTRODUCTION OF BILLS

BILL NO. 16-21 – AN ORDINANCE concerning: Personnel – Positions in the Exempt Service – Police Department – FOR the purpose of increasing certain exempt positions in the Police Department; and generally relating to personnel.

by Ms. Lacey, Chair

(by request of the County Executive)

BILL NO. 17-21 – AN ORDINANCE concerning: Personnel – Positions in the Classified Service – Job Classifications – Position Control – Fire Department – FOR the purpose of adding certain fire communications operator positions to the classified service; providing for the pay and minimum qualifications applicable to the job classifications being added to the classified service; decreasing certain positions in the classified service; increasing certain positions in the classified service; and generally relating to personnel.

by Ms. Lacey, Chair

(by request of the County Executive)

BILL NO. 18-21 – AN ORDINANCE concerning: Budget – Departmental Personnel Summaries – Reclassification of Positions – FOR the purpose of modifying contents of departmental personnel summaries in the proposed current expense budget to allow reclassification of job classifications in the current expense budget under certain circumstances; and generally relating to the budget.

by Ms. Lacey, Chair

(by request of the County Executive)

BILL NO. 19-21 – AN ORDINANCE concerning: Crimes, Civil Offenses, and Fines – Crimes – Littering – FOR the purpose of adding a definition of “litter”; prohibiting littering; establishing sanctions for violations; and generally relating to crimes, civil offenses, and fines.

by Mr. Volke and Ms. Fiedler

BILL NO. 20-21 – AN ORDINANCE concerning: Floodplain Management, Erosion and Sediment Control, and Stormwater Management – Subdivision and Development – Forest Conservation – FOR the purpose of amending the definition of “standard grading plan”; requiring approval to clear a specific number of trees or area of forest if the clearing includes certain sensitive areas, plants, shrubs, or trees, or habitats; requiring replanting or payment of a fee-in-lieu of replanting when an approved standard grading plan allows for the clearing of certain trees; establishing civil fines for certain clearing violations; adding penalties for violations of erosion and sediment control and stormwater management provisions; adding penalties for clearing violations that occur during development; and generally relating to floodplain management, erosion and sediment control, and stormwater management and subdivision and development.

by Ms. Rodvien

BILL NO. 21-21 – AN ORDINANCE concerning: Zoning – Landscaping and Tree Contracting with Accessory Recycling of Logs into Firewood – FOR the purpose of allowing “landscaping and tree contracting with accessory recycling of logs into firewood” as a special exception use in RA residential districts; adding the special exception use requirements for “landscaping and tree contracting with accessory recycling of logs into firewood”; and generally relating to zoning.

by Ms. Haire

INTRODUCTION OF RESOLUTIONS

RESOLUTION NO. 16-21 – RESOLUTION approving the use of CliftonLarsonAllen LLP, an independent firm of certified public accountants, to perform the financial audit for Fiscal Year 2020

by Ms. Lacey, Chair

SUSPENSION OF RULES

On motion of Ms. Pickard, seconded by Ms. Rodvien, the motion to vote on Resolution No. 16-21 was passed by the following roll call vote:

Aye – Mr. Volke, Ms. Pickard, Mr. Pruski, Ms. Fiedler, Ms. Rodvien, Ms. Haire,

Ms. Lacey

Nay – None

The Chairman stated Resolution No. 16-21 would be heard after the bills.

PUBLIC HEARINGS AND CALL OF BILLS FOR FINAL READING AND/OR VOTE

BILL NO. 5-21

The Chairman called for the public hearing on Bill No. 5-21, An Ordinance concerning: Current Expense Budget – Board of Education – Supplementary Appropriation and Transfer of Funds – For the purpose of transferring appropriations of funds between major categories in the Local Education Fund for the current fiscal year; making supplementary appropriations from unanticipated revenues to the Local Education Fund for the current fiscal year; and generally relating to transferring appropriations of funds and making supplementary appropriations to the current expense budget for the fiscal year ending June 30, 2021; and the Administrative Officer read the title.

Pete Baron, Director, Government Affairs, accompanied by Steven Theroux, Budget Office, Matt Stanski, Director of Financial Operations, AACPS, Alex Szachnowicz, Chief Operating Officer, AACPS, and Lori Blair Klasmeier, Senior Legislative Attorney, stated the bill had been discussed at the County Council Work Session, and there is no new County money required.

Mr. Szachnowicz stated this funding is regulated and not discretionary. This bill would move \$7.4 million and there is no county funding for the bill.

Mr. Pruski stated his wife works for AACPS and the Ethics Commission has approved his participation. Ms. Rodvien also noted she is a part time employee of AACPS and will not be impacted by this transfer.

The Administrative Officer stated there were no submissions of written testimony on Bill No. 5-21.

There was no one else present who wished to speak, and the hearing was concluded.

The Chairman called Bill No. 5-21, An Ordinance concerning: Current Expense Budget – Board of Education –Supplementary Appropriation and Transfer of Funds; and the Administrative Officer read a portion of the title.

Bill No. 5-21 was passed by the following roll call vote:

Aye- Mr. Volke, Mr. Pruski, Ms. Fiedler, Ms. Rodvien, Ms. Haire, Ms. Pickard,
Ms. Lacey
Nay – None

BILL NO. 6-21

The Chairman called for the public hearing on Bill No. 6-21, An Ordinance concerning: Mil-Bur Special Community Benefit District – Approval of Loan and Assignment Agreement – For the purpose of obligating the County to levy the special tax known as the special community benefit assessment on the Mil-Bur Special Community Benefit District in an amount sufficient to repay a loan from Sandy Spring Bank to the Mil-Bur Club, Inc., in each of five (5) fiscal years during the term of the loan ; and the Administrative Officer read the title.

Pete Baron, Director, Government Affairs, accompanied by Chris Trumbauer, Budget Officer, Karin McQuade, Controller, and Lori Blair Klasmeier, Senior Legislative Attorney, stated this bill is for the purpose of levying a Special Community Benefit District assessment to repay a loan in the amount of \$117,000 made by Sandy Spring Bank to Mil-Bur Club, Inc. They are seeking the loan for the reconstruction of a community bulkhead and pier which complies with their purpose statement. The term of the loan is five years. They have included the first payment on the loan in the community's 2022 budget pending County Council approval of this request. Any costs in administering the loan will be offset by the county's Administrative Fee.

Mr. Volke stated he discussed this bill with the Administration and with the members of the community. They are eager to move ahead with this. He stated it is a good thing for the community.

The Administrative Officer stated there were no submissions of written testimony on Bill No. 6-21.

The following persons spoke on Bill No. 6-21:

Edward Flynn, Pasadena

There was no one else present who wished to speak, and the hearing was concluded.

The Chairman called Bill No. 6-21, An Ordinance concerning: Mil-Bur Special Community Benefit District – Approval of Loan and Assignment Agreement; and the Administrative Officer read a portion of the title.

Bill No. 6-21 was passed by the following roll call vote:

Aye- Mr. Volke, Mr. Pruski, Ms. Fiedler, Ms. Rodvien, Ms. Haire, Ms. Pickard,
Ms. Lacey
Nay – None

BILL NO. 7-21

The Chairman called for the public hearing on Bill No. 7-21, An Ordinance concerning: Zoning – Housing for the Elderly of Moderate Means – Live-in Caretakers – For the purpose of allowing housing for the elderly of moderate means to include a live-in caretaker who is under the age of 62 for a resident with a disability; and generally relating to zoning; and the Administrative Officer read the title.

Ms. Pickard, Co-Sponsor, stated this bill harkens back to a bill passed last spring. She stated she wants to be sure they are within the limit of the Fair Housing Authority authorization for those living in age restricted housing. This bill seeks to allow a caregiver to live with that resident where the caregiver may or may not be 62 years of age.

Mr. Pruski, Co-Sponsor, stated they want to expand constituents' options. He hopes the Council will support the bill.

Pete Baron, Director, Government Affairs, accompanied by Joelle Ridgeway, Office on Aging, Lynn Miller, Office of Planning and Zoning and Steven Kaii-Ziegler, Planning and Zoning Officer, and Lori Blair Klasmeier, Senior Legislative Attorney, stated the Administration supports the bill. He thanked the Sponsors for crafting the bill. This will change the County Code to allow live-in caregivers who may not be 62 years of age. He stated this is one of the most cost effective ways for elderly to receive care.

Mr. Volke stated he wished to confirm if caregivers in age restricted housing is there any effect on school capacity. He didn't see anything that required the caregiver to be over the age of 18, and wanted to know if that restriction was in the County Code anywhere.

Ms. Miller stated there is nothing in the Code that puts a minimum on the age of a caregiver.

Linda Schuett, Legislative Counsel, stated it would be highly unlikely that a person serving as a caretaker for someone who is unable to perform daily tasks, would be in school.

Ms. Pickard stated that the bill does recognize that the person coming into the residence must be a caregiver. She stated it is unlikely that they would be a high school student.

Ms. Ridgeway stated that the groups that fund these types of caregivers do have criteria for caretakers. It has not been their experience that there are very young people in those rolls.

The Administrative Officer stated there was one submissions of written public testimony received on Bill No. 7-21, which was shared with the Council and posted on the County Council website.

There was no one else present who wished to speak, and the hearing was concluded.

The Chairman called Bill No. 7-21, An Ordinance concerning: Zoning – Housing for the Elderly of Moderate Means – Live-in Caretakers; and the Administrative Officer read a portion of the title.

Bill No. 7-21 was passed by the following roll call vote:

Aye- Mr. Volke, Mr. Pruski, Ms. Fiedler, Ms. Rodvien, Ms. Haire, Ms. Pickard,
Ms. Lacey
Nay – None

BILL NO. 8-21

The Chairman called for the public hearing on Bill No. 8-21, An Ordinance concerning: Construction and Property Maintenance Codes Supplement – Permits – Residential Piers and Riparian Rights – For the purpose of requiring an application for construction of a residential pier to include a certain certification of ownership of riparian rights; and generally relating to construction and property maintenance codes; and the Administrative Officer read the title.

Ms. Fiedler, Sponsor, stated this bill came about from something that happened in her district. There was funding from state and local sources to support a restoration project which was ready to get under way. A private pier began construction just prior. There was an attempt to halt the construction, but there was not a mechanism within Inspections and Permits to issue a stop work order. This bill gives that tool by calling into the discussion riparian rights and would allow the people involved to discuss the issues. There is an amendment which will be introduced at the appropriate time.

Pete Baron, Director, Government Affairs, accompanied by Matt Johnson, Environmental Policy Director, Greg Africa Director, Inspections and Permits, Nabeel Waseem Hasan, Inspections and Permits, Kelly Krinetz, Office of Planning and Zoning, Steven Kaii-Ziegler, Director, Office of Planning and Zoning, and Greg Swain, County Attorney, thanked the Sponsor for communicating with the Administration on this bill. The Administration supports the bill and the amendment.

The Administrative Officer stated there was one submissions of written public testimony received on Bill No. 8-21, which was shared with the Council and posted on the County Council website.

There was no one else present who wished to speak, and the hearing was concluded

The Chairman called Bill No. 8-21, An Ordinance concerning: Construction and Property Maintenance Codes Supplement – Permits – Residential Piers and Riparian Rights; and the Administrative Officer read a portion of the title.

Amendment No. 1

On page 1 of the proposed bill, in line 5, after the semi-colon, insert “requiring that notice of the application be sent to certain interested parties;”.

On page 2, after line 30, insert:

“105.3.1.7.1 SHALL CERTIFY THAT NOTICE WAS SENT, BY CERTIFIED OR ELECTRONIC MAIL, TO ANY HOMEOWNER’S ASSOCIATION THAT GOVERNS THE PROPERTY THAT IS THE SUBJECT OF THE APPLICATION, NOTIFYING THE ASSOCIATION THAT AN APPLICATION HAS BEEN FILED FOR A RESIDENTIAL PIER, OR, IF THE APPLICANT CERTIFIES THAT CONTACT INFORMATION FOR THE HOMEOWNER’S ASSOCIATION WAS NOT AVAILABLE, A CERTIFICATION THAT PROPERTY OWNERS OF ALL PROPERTY ABUTTING THE APPLICANT’S PROPERTY WERE SENT THE NOTICE; AND”.

Ms. Fiedler thanked the community and OPZ in drafting a pro-active agreement since not all communities have the financial capabilities to deal with situations like this. This amendment provides a notification process and allows riparian rights to be addressed in a more pro-active manner.

Mr. Baron stated the Administration supports the amendment.

On motion of Mr. Pruski, seconded by Ms. Fiedler, Amendment No. 1 was adopted by the following roll call vote:

Aye- Mr. Volke, Mr. Pruski, Ms. Fiedler, Ms. Rodvien, Ms. Haire, Ms. Pickard,
Ms. Lacey
Nay – None

The Chairman stated that Bill No. 8-21, as amended, would be heard on March1 2021.

BILL NO. 9-21

The Chairman called for the public hearing on Bill No. 9-21, An Ordinance concerning: Civil Emergencies – Duration – For the purpose of authorizing extensions the seven-day duration of a proclamation of a civil emergency or an executive order by up to 45 days; providing that any additional extensions may not exceed a duration of 45 days; and generally relating to civil emergencies; and the Administrative Officer read the title.

Ms. Fiedler, Sponsor, stated the bill is a reflection of the last 11 months not only for this Council, but future Councils. She stated that Civil Emergencies as defined in the County Code were supposed to be for short periods of time. This bill will align the Code with the State rules and not allow an emergency status to go beyond 45 days without a County Executive coming back to the County Council and starting the process over again.

Pete Baron, Director, Government Affairs, accompanied by Greg Swain, County Attorney, stated the Administration is opposed to this bill. He reminded the Council they have the authority to end the civil emergency at any time if they wish.

Ms. Pickard stated there has been a lot of conversation regarding this topic over the past year. She stated the Council has the ability to end the civil emergency at any time. She stated she is concerned because this is not aligning the County Code with the Governor's powers because he doesn't have to go to the legislature to renew his powers, he just does it.

Ms. Pickard stated that she would proposed that the Charter Review Commission should review the emergency ordinances and come back to them with proposed changes. She does not think an arbitrary number of 45 days is appropriate.

Ms. Fiedler stated there are hours of meetings which took place in a work group which were never made public, so the Charter Review Commission will not have access to that information which will make it difficult for them to address concerns in their review.

The Administrative Officer stated there were two submissions of written public testimony received on Bill No. 9-21, which was shared with the Council and posted on the County Council website.

The following person spoke on Bill No. 9-21:

Paul Argand, Pasadena

There was no one else present who wished to speak, and the hearing was concluded.

The Chairman called Bill No. 9-21, An Ordinance concerning: Civil Emergencies – Duration; and the Administrative Officer read a portion of the title.

Mr. Volke stated that there is confusion about the Council's authority to end the civil emergency. He wanted to be sure that people understood that it is within the Council's authority to do that.

Mr. Volke also stated that the idea of the Charter Review Commission looking into this is interesting, but this is not in the Charter, but is in the Code. The basis of this authority comes out of the County Code. He does not think they are the appropriate group to be making this change, but that this bill would change the Code.

Amendment No. 1

On page 1 of the proposed bill, in line 5 after the semi-colon, insert "providing for the application of this Ordinance;"

On page 2, before line 1, insert:

"SECTION 2. And be it further enacted, That the provisions of this Ordinance shall apply to a proclamation of a civil emergency made by a County Executive, and any executive order

entered pursuant to the aforementioned proclamation of a civil emergency, on or after the effective date of this Ordinance.”;

and in line 1, strike “2.” and substitute “3.”

Mr. Volke stated he is the Co-Sponsor of this amendment. He stated there was a concern at the Work Session that this would not exempt the current emergency. This amendment would only be a prospective rule going forward. This would in no way make the current state of emergency part of this bill.

Ms. Fiedler, Co-Sponsor, stated there were concerns about the language in the bill, and after discussions she determined that this amendment would allow for a prospective look to avoid this happening again,

Mr. Baron stated this amendment makes the bill better, but does not change the Administration’s overall opposition,

On motion of Mr. Volke, seconded by Ms. Fiedler, Amendment No. 1 was adopted by the following roll call vote:

Aye- Mr. Volke, Mr. Pruski, Ms. Fiedler, Ms. Rodvien, Ms. Haire, Ms. Pickard,
Ms. Lacey
Nay – None

The Chairman stated that Bill No. 9-21, as amended, would be heard on March 1, 2021.

CALL OF RESOLUTION FOR READING AND VOTE

RESOLUTION NO. 16-21

The Chairman called Resolution No. 16-21, Resolution approving the use of CliftonLarsonAllen LLP, an independent firm of certified public accountants, to perform the financial audit for Fiscal Year 2020; and the Administrative Officer read the title.

Susan Smith, County Auditor, stated that the evaluation committee got together and were initially going to go out to RFP for the fiscal year 2020 audit. After discussions with Purchasing and Finance, it didn’t seem feasible to get the procurement done in six months as originally planned. They decided to renew the contract with CliftonLarsonAllen LLP for 2020 and will go out to bid for 2021 which will come in a later resolution.

The Chairman called Resolution No. 16-21, Resolution approving the use of CliftonLarsonAllen LLP, an independent firm of certified public accountants, to perform the financial audit for Fiscal Year 2020; and the Administrative Officer read the title.

Resolution No. 16-21 was adopted by the following roll call vote:

Aye- Mr. Volke, Mr. Pruski, Ms. Fiedler, Ms. Rodvien, Ms. Haire, Ms. Pickard,
Ms. Lacey

Nay – None

ADJOURNMENT

There being no further business, on motion of Mr. Volke, seconded by Mr. Pruski, the meeting adjourned at 6:49 P.M.

The Chairman stated that the next Council meeting will be on Monday, March 1, 2021.

Respectfully submitted,

/s/ Susan F. Cline

by Susan F. Cline

/s/ Laura Corby

for Laura Corby
Administrative Officer