

Chevy Chase Village Board of Managers

September 8, 2008

BOARD OF MANAGERS

Douglas B. Kamerow, Chair	Present
David L. Winstead, Vice Chair	Absent
Susie Eig, Secretary	Present
Gail S. Feldman, Treasurer	Present
Betsy Stephens, Assistant Treasurer	Present
Peter M. Yeo, Board Member	Present
Robert L. Jones, Board Member	Present

STAFF

David R. Podolsky, Legal Counsel	Present
Adam Cohen, Assistant Legal Counsel	Present
Geoffrey B. Biddle, Village Manager	Present
Roy Gordon, Police Chief	Absent
Adventino Dasilva, Police Sergeant	Present
Shana R. Davis-Cook, Director of Administration	Present
Michael W. Younes, Manager of Contracts and Capital Projects	Present
Doris M. Lyerly, Permitting and Code Enforcement Specialist	Present

Douglas Kamerow, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:30 p.m. Mr. Winstead was absent.

Approval of Minutes from the July 14, 2008 Board meeting. Ms. Eig submitted changes to the July 14, 2008 minutes prior to the meeting. Discussion followed.

Ms. Feldman made a motion to approve the minutes of the July 14, 2008 regular meeting Board meeting, as amended. Mr. Yeo seconded the motion. Dr. Kamerow, Ms. Eig, Ms. Feldman, Mr. Yeo and Mr. Jones voted in favor of the motion. Ms. Stephens was absent from the July 14, 2008 Board meeting and did not vote. The motion passed.

Treasurer's Report

The Treasurer's report was distributed to the Board prior to the meeting. Discussion followed.

Building Regulations Review—Phase Two

- **Pre-Permit Application Consultations (Pre-PAC)**

Mayor of the Town of Chevy Chase, Kathy Strom, and the Town's Consultant, Alan Beal, explained the Town's Pre-PAC program and how it has worked in their community:

- Neighbors have appreciated being able to participate in a dialogue with each other regarding proposed projects (triggered with a footprint increase of at least 500 square feet on any one floor) and are generally more likely to support the project because they have been involved in the process.

- Applicants are typically more likely to entertain alternative suggestions for elements of a project deemed unfavorable by their neighbors.
- The Town's consultant and/or a member of the Town's staff attend each meeting.
- At least one Town Council member is present at each Pre-PAC meeting.
- Costs for the Town: staff time to be present at each consultation.
- Costs for applicants: attendance fees for the applicant's consultants (architects, contractors, etc.).
- Approximately 25-30% of the Town's Pre-PACs are held with developers of speculative properties.
- The dialog begun during the Pre-PACs, and at site management meetings which are held prior to issuance of the Building Permit, typically continues through the construction project.
- There have been contentious debates at the Pre-PACs, but they are rare.
- Elevations are required to show the relationship of the proposed structure to the neighboring houses in addition to showing the placement of features such as windows and other aesthetic elements.
- Some residents have been resistant to the obligation of an additional level in the permitting process.
- Residents' general comments are that they appreciate the opportunity to review proposed projects and to discuss their concerns before permits are issued and construction has begun.

Bradford May of 5801 Kirkside Drive asked if the Town Council had considered making the results of Pre-PACs binding. Mayor Strom responded that it could be deemed arbitrary to impose binding changes on applicants if the only basis is a neighbor's request.

Mr. Biddle stated that if the Pre-PACs were facilitated in the Village, he would propose using existing Village staff to moderate the consultations. Discussion followed.

- **Phase Two Priorities**

Dr. Kamerow provided examples of areas that the Board had previously said that it would address during the second phase of building regulations review, including, but not limited to: defining rear yards on corner lots, below-grade structures/walls located in setbacks/descending (below-established grade) driveways, reforestation requirements for by-right tree clearing and non-vegetative/impervious surface coverage. Dr. Kamerow suggested the formation of either a sub-Committee of the Board of Managers, including a member of the Village staff, or the formation of a Committee of residents, including members of the Board, which could review these subjects and recommend to the Board those that should be implemented now and those that should be implemented after a longer review of the newly enacted regulations. Discussion followed.

Diane Kartalia of 5412 Grove Street urged the Board to postpone discussion of this next phase of regulations to allow more time to evaluate the effect of the newly enacted building regulations in light of the poor housing economy. Ms. Kartalia asked the Board/Village staff to further encourage residents to talk among themselves regarding proposed projects.

Mr. May urged the Board not to make the proposed Pre-PACs binding. He also encouraged the Board to assess the consistency of its review of variance requests.

Discussion followed. The following Board members volunteered to serve on the Building Regulations Board Sub-Committee: Ms. Eig, Mr. Yeo and Mr. Winstead (who had expressed his interest to Dr. Kamerow prior to the meeting).

The Board directed staff and Counsel to re-draft, the list of “housekeeping”/“fine-tuning” areas of the Building Code, formulated during the Board’s initial review of the Village’s Building Regulations. Discussion followed.

Later in the evening, Thad Kemp of 4000 Oliver Street stated that while communication among neighbors is ideal and worthwhile during the building permit process, he cautioned against a program that could generate significant financial burden for residents. Discussion followed.

Committee Reports

Personnel Commission

David Kushner of 111 Newlands Street expressed an interest in serving on this Commission in light of his related work experience. His resume was circulated to the Board prior to the meeting. Discussion followed.

With approval from the Board, Dr. Kamerow appointed Mr. Kushner to the Village’s Personnel Commission.

Decisions on Previous Appeals

None.

Appeals

A-5427: Mr. Thad S. Kemp, 4000 Oliver Street—Request to (a)(2) modify a special permit to install twelve (12) masonry piers in the Oliver Street and Montgomery Street public rights-of-way, the capstones on which protrude two-inches (2”) farther into the rights-of-way than previously approved by the Board of Managers; and (b)(2) modify a variance to install one (1) masonry pier in the Oliver Street front yard, the capstone on which protrudes two-inches (2”) farther into the front yard than previously approved by the Board of Managers. Mr. Kemp presented his requests. Discussion followed.

Mr. Jones made a motion to direct Counsel to draft a decision approving the requests to modify the previously Board-approved special permit and variance to permit the twelve (12) piers, including capstones, to extend 4 inches beyond the retaining wall into the Oliver Street and Montgomery Street public rights-of-way and into the Oliver Street front yard, respectively. Mr. Yeo seconded the motion. Dr. Kamerow, Ms. Feldman, Mr. Yeo and Mr. Jones voted in favor of the motion. Ms. Eig voted against the motion. Ms. Stephens was absent from the original hearing on July 14, 2008 and did not vote. The motion passed.

A-5394: Mr. and Mrs. Daniel P. Coughlan, 20 West Lenox Street—Request to (a) maintain a previously installed arbor measuring eight-feet, nine-inches (8’-9”) in height located

between the front lot line and the front (Magnolia Parkway) building restriction line; (b) maintain a previously installed fence with a maximum height of four-feet, eight-inches (4'-8") located between the front lot line and the front (Magnolia Parkway) building restriction line; and (c) maintain a previously installed fence with a maximum height of four-feet, eight-inches (4'-8") located in the Magnolia Parkway public right-of-way. Mr. Coughlan presented the requests. Discussion followed.

Ms. Eig made a motion to direct Counsel to draft a decision approving the requests to (a) maintain a previously installed arbor measuring eight-feet, nine-inches (8'-9") in height located between the front lot line and the front (Magnolia Parkway) building restriction line; (b) maintain a previously installed fence with a maximum height of four-feet, eight-inches (4'-8") located between the front lot line and the front (Magnolia Parkway) building restriction line; and (c) maintain a previously installed fence with a maximum height of four-feet, eight-inches (4'-8") located in the Magnolia Parkway public right-of-way. Ms. Stephens seconded the motion. Dr. Kamerow, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Old Business

None.

New Business

Contract Authorization—Independent Arborist

Dr. Kamerow explained that the Board had determined that it would be prudent to have "secondary input" in the Village tree maintenance program from an arborist unaffiliated with the tree maintenance firm that performs the scheduled maintenance. Dr. Kamerow suggested the use of the proposed secondary arborist for a one-year trial period. Discussion followed.

Ms. Feldman made a motion to authorize the Village Manager to enter into a contract with *Green Legacy Tree Consultants, Inc.* to provide independent arborist services and to approve an expenditure in the amount of \$15,000 under "Parks, Trees and Green Space" in the FY2009 budget. Ms. Eig seconded the motion. Dr. Kamerow, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Sign Ordinance—Political Signs

Mr. Cohen explained that the American Civil Liberties Union (ACLU) recently notified several local municipalities that their regulations limiting the time during which political signs could be displayed on private property violates the U.S. Constitution's First Amendment. Although the Village has not received said notification to date, the Village Sign Ordinance does currently contain such a provision although it is not being enforced by the Village staff. In reviewing the Village's Sign Ordinance in this specific context, Village Counsel identified several other problematic provisions. Village Counsel drafted and circulated a draft Resolution to Board members addressing the ACLU concern and other problematic provisions contained in the existing Sign Ordinance. Mr. Podolsky advised that the Montgomery County Council must be given an opportunity to review the draft Ordinance prior to enactment. Discussion followed.

Diane Kartalia of 5412 Grove Street urged the Board to exempt alarm company signs from the classification for commercial signs, which are prohibited in the existing Sign Ordinance. She also stated that the revised Sign Ordinance should be fully enforced.

Edits were provided to Village Counsel by members of the Board, which will be incorporated into an updated draft and re-circulated to Board members via email.

Resolution No. 09-01-08: A Resolution to Amend the Village Investment Policy

Mr. Biddle explained that the Resolution would raise the maximum amount that may be invested with the Local Government Insurance Trust from \$1,000,000 to \$1,500,000. The Resolution also includes a prohibition against borrowing funds solely for investment. This prohibition has been included to comply with State law. Discussion followed.

Ms. Feldman made a motion to approve Resolution No. 09-01-08. Dr. Kamerow seconded the motion. Dr. Kamerow, Ms. Feldman, Ms. Stephens and Mr. Yeo voted in favor of the motion. Mr. Jones recused himself from the discussion and vote due to an employment conflict of interest. Ms. Eig abstained. The motion passed.

Chairman's Report

None.

Manager's Report

FY2009 Budget—Re-Appropriation of Unspent FY2008 *Safe Speed* Program Funds for Brookville Road. Mr. Biddle explained that the Board had authorized \$25,000 in funding from *Safe Speed* Program funds in February 2008 to support revised 30% drawings for the Brookville Road walkway; however, only \$2,300 had been invoiced and paid in FY2008. Mr. Biddle asked the Board to appropriate the unused balance of \$22,700 from reserves and to authorize expenditure of said funds in the FY2009 speed camera budget to continue the 30% revisions.

The Board unanimously approved the appropriation of \$22,700 from reserves to the FY2009 speed camera budget to continue the 30% revisions of the Brookville Road walkway drawings.

Request for Authorization to Proceed with Police Station Modifications (*Safe Speed* Program-funded). Mr. Biddle explained that the existing police locker room would be shifted from the police station on the main level of the Village Hall to the existing police storage area in the basement. The Board encouraged Mr. Biddle to submit the draft plans to the Building Facilities Commission for its review, and instructed Mr. Biddle to have the draft plans reviewed by a consulting architect or builder. Discussion followed.

Police Report

The monthly Police Report was distributed to the Board prior to the meeting. Discussion followed regarding recent crime in the area.

Ms. Eig made a motion to adjourn the meeting. Ms. Stephens seconded the motion. Dr. Kamerow, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The meeting adjourned at 10:20 p.m.

Susie Eig, Secretary, Chevy Chase Village Board of Managers

Final.