

Chevy Chase Village Board of Managers

January 12, 2009

BOARD OF MANAGERS

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

STAFF

David R. Podolsky, Legal Counsel	Present
Ronald M. Bolt, Assistant Legal Counsel	Present
Geoffrey B. Biddle, Village Manager	Present
Roy Gordon, Police Chief	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 7:31 p.m. Ms. Feldman arrived at 7:33 p.m. Ms. Eig and Mr. Winstead were absent.

Approval of the minutes from the Board's December 8, 2008 regular meeting. Prior to the meeting, Ms. Eig submitted changes to the minutes from the Board's regular meeting held on December 8, 2008. Dr. Kamerow provided the following additional edits:

- Page 9, line 13: Remove "exists".
- Page 9, line 13: Insert an "s" at the end of "dog".

Mr. Yeo made a motion to approve the minutes of the Board's December 8, 2008 regular meeting, as amended. Mr. Jones seconded the motion. Dr. Kamerow, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. Ms. Feldman had not arrived yet. The motion passed.

Treasurer's Report

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

Committee Reports

The Village Green (Environmental Committee)

An email from Committee Chair Larry Heilman was circulated to the Board prior to the meeting. The email outlined the Committee's recommendations that the Village begin a program to phase in eco-friendly vehicles to replace those currently in use. The Board directed Mr. Biddle and Police Chief Gordon to investigate the recommendations presented by *The Village Green* and present a report to the Board at a future meeting.

Decisions on Previous Appeals

None.

Appeals

A-1700: McCullough Residential, LLC (Contract-Purchaser), 117 Oxford Street— Removal of: (a) one 11.0-inch diameter Sweet Gum tree located in the northwest corner of the property, (b) one 8.5-inch diameter Crab Apple tree located on the north side of the property, (c) one 10.7-inch diameter Cryptomeria tree located in the property’s Primrose Street front yard, (d) one 9.3-inch diameter Cryptomeria tree located in the property’s Primrose Street front yard, and (e) one 8.0-inch diameter Cryptomeria tree located in the property’s Primrose Street front yard. Greg Davis, Vice-President of McCullough Residential, LLC, presented the request. Bob Elliott, Chair of the Tree Committee, stated that three Committee members had visited the site to assess the trees and that of those three, one member was in favor of preserving the Sweet Gum tree. He added that none of the trees requested for removal could be classified as a “specimen” tree. Mr. Elliott stated that, dependent upon the size of the proposed new house, he presumed that the property could adequately sustain 2 or 3 reforestation trees. Discussion followed.

Mr. Yeo made a motion to direct Counsel to draft a decision approving the request to remove: (a) one 11.0-inch diameter Sweet Gum tree located in the northwest corner of the property, (b) one 8.5-inch diameter Crab Apple tree located on the north side of the property, (c) one 10.7-inch diameter Cryptomeria tree located in the property’s Primrose Street front yard, (d) one 9.3-inch diameter Cryptomeria tree located in the property’s Primrose Street front yard, and (e) one 8.0-inch diameter Cryptomeria tree located in the property’s Primrose Street front yard, provided the applicants reforest with at least two (2) deciduous hardwood trees, which must be at least two and one-half inches (2 ½”) in caliper at the time of installation and must be of a species that achieves a mature height of at least forty-five feet (45’), and contingent upon issuance of all applicable permits for the demolition of the existing house. Mr. Jones seconded the motion. Dr. Kamerow, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

A-1701: Mr. and Mrs. Christopher A. Marvin, 9 Hesketh Street—Removal of one 11.5-inch diameter Kousa Dogwood tree located in the front yard of the property. Mr. Marvin presented his request. Bob Elliott, Chair of the Tree Committee, stated that the subject tree appears to be leaning into the house, which he said will probably worsen if allowed to remain. Mr. Elliott stated that the lot is small and that his Committee plans to plant a canopy tree in the public right-of-way in front of the subject property. Discussion followed.

Ms. Feldman made a motion to direct Counsel to draft a decision approving the request to remove one 11.5-inch diameter Kousa Dogwood tree located in the front yard of the property, provided the applicants reforest with a similar-sized tree. Mr. Yeo seconded the motion. Dr. Kamerow, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Old Business

Utility/Communications Undergrounding Conduit Network Presentation

Dr. Kamerow introduced Scott Riddle and Joe Siemek of KCI Technologies, Inc. Mr. Biddle explained that for several months, the Board has been discussing a conduit network to support utility and communications networks and a future Village-wide and Village-owned streetlight network, and that through these discussions, the Board had identified certain aspects of the proposed network to be unsatisfactory and had requested that representatives of KCI Technologies attend tonight's meeting to answer the community's questions and to hear its concerns.

Mr. Biddle explained that existing wires for streetlights that run along the front yards, and new lines for communications systems, provided by *Verizon* and RCN (formerly *Starpower*), would be housed in the proposed conduit. He said that some of the front-yard poles in the Village between Brookville Road and Cedar Parkway in the Historic District would become redundant and could be eliminated at the completion of this project, but that it could take potentially decades before redundancy and the option to remove the front-yard utility poles and wires in the rest of the Village. Dr. Kamerow added that similarly the existing poles and wires running along rear property lines in the Historic District would probably remain indefinitely.

Messrs. Riddle and Siemek provided the following information regarding the proposed conduit network:

- In order for the individual utility and communications companies to perform maintenance and repairs to the lines housed in the conduit, access points must be provided along the network. In its first phase, KCI will draft a concept plan to look at several alternatives for providing these access points, paying special attention to aesthetics, liability, manageability, costs of implementation and compliance with the requirements of the Village and the individual communications companies.
- The conduit could be placed in green strips or under existing sidewalks, but the least aesthetically intrusive option would be to place the conduit under existing roadways where manholes could be installed to provide access to runs that would service approximately 10-15 homes. Not all communications companies can or will co-mingle in the same conduit. *Verizon* has a tariff agreement with the Maryland Public Service Commission protects them from forced cohabitation with other utility and communications companies within the same conduit. This tariff agreement was entered into as a protection for *Verizon's* workforce who are not trained to work around high voltage power lines. That is why existing above-grade power lines are higher and apart from the other utility and communications lines.

Dr. Kamerow advised that *SafeSpeed* Program funds could be used to fund this project because the primary goal is to provide a Village-wide street light system to improve vehicle and pedestrian safety.

Libby Kurry of 4111 Oliver Street asked if the entire Village would receive the proposed conduit network. Mr. Biddle replied that the conduit network would be installed in phases, and would ultimately cover the entire Village.

Marilyn Bracken of 5 Magnolia Parkway asked if the locations of the water lines would be considered when determining the location of the proposed conduit. Mr. Biddle responded that locations of all existing underground utilities would be examined in the concept plan phase.

Joel Levy of 6131 Nevada Avenue asked who would own the conduit, if communications and utilities companies developed after the conduit network is complete would be able to enter into the conduit network and if the network would become obsolete if there are future advances in wireless technology. Mr. Podolsky advised that the Village would retain ownership of portions of the conduit network and that it would be installed to provide expansion capacity for future utility and/or communications companies' lines to be included. Mr. Biddle added that a previous firm had advised that for the foreseeable future, wireless technology could not properly function in an area where users are densely spaced as in the Village.

Dennis Tirpak of 138 Hesketh Street asked if data had been reviewed in respect to outages over the previous decades since the primary justification for this project is improved service reliability and also who would pay for the conduit network. Mr. Biddle responded that the Village has tracked power outages for several years, but has not tracked phone service outages. Dr. Kamerow replied that funds from the *SafeSpeed* Program would pay for the conduit installation and that the individual utility and communications companies would fund the installation of their wire into the conduit. He further explained that when individual residents contracted with one of these companies for service, the resident would be responsible for paying to have the service brought through the conduit to his/her home. Mr. Tirpak concluded by recommending a cost/benefit analysis.

Eddie Tatel of 24 Grafton Street asked Mr. Biddle to explain the proposed Village communications system. Mr. Biddle explained that the proposed communications network would provide two-way direct communication between the Village's Communications Center and residents in their homes. The system could ultimately provide a Village-monitored burglar and fire alarm network for Village homes. Ms. Tatel asked if the new street lights would be designed to direct the light downward. Dr. Kamerow responded that one of the motivational factors of this project was to install more efficient, better directed street lights. Ms. Tatel expressed her concern that the proposed endeavor might be short-sighted of future technologic advancements in utility and communications networks.

Philip Webre of 5800 Kirkside Drive asked when the conduit network might initially be available. Mr. Biddle stated that installation of the conduit could begin in two years and that as individual sections of the conduit were installed, the streetlight system would be phased in. Dr. Kamerow added that it would probably be 2-4 years before the first phase of the conduit network is completed.

Gary Crockett of 142 Grafton Street recommended that unless it is financially unfeasible, the Village should make all of the underground connections to each household when the conduit is initially installed. He asked what the cost differential would be between the various location options that were outlined earlier for the proposed conduit. Mr. Siemek and Mr. Riddle stated that the goal was to install a conduit network for the lowest initial cost possible and that the cost

differentials based on the possible locations for the conduit would be determined during their initial concept plan review.

Pattie Firestone of 3704 Bradley Lane asked if conduit installed under the roadway would resemble the trenching that was done along East West Highway. Mr. Biddle responded that the KCI engineers would determine the best technology at the cheapest price and with the least physical intrusion. Ms. Firestone also asked if the conduit would be large enough to accommodate power lines in the future. Mr. Biddle stated that PEPCO has its own requirements that would not allow its future inclusion in the proposed conduit network. Discussion followed.

Mr. Jones made a motion to authorize the Village Manager to enter into a contract with KCI Technologies, Inc. to provide underground conduit concept planning services and a supplemental appropriation of \$8,000 from SafeSpeed Program for said contract. Ms. Feldman seconded the motion. Dr. Kamerow, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Appeal Fee Reduction—In-Kind Replacement of Developmental Nonconformities

Mr. Biddle explained that the Board had previously discussed reducing the fees for variance and special permit hearings for the replacement of developmental nonconformities. Accordingly, Messrs. Biddle and Yeo met and discussed the following two options:

- reduction of the associated hearing fees for a special permit or variance request,
- reduction of the permit and hearing fees for a special permit or variance request, or
- reduction of the permit, hearing and right-of-way license agreement fees for a special permit or variance request, if the proposed work is in the public right-of-way.

A discussion of these three options followed.

Mr. Yeo made a motion to direct Counsel to draft a Resolution to reduce the permit, hearing and right-of-way (when applicable) fees for variance and special permit requests for the replacement of developmental nonconformities. Ms. Stephens seconded the motion. Dr. Kamerow, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. Mr. Yeo noted that with the adoption of the proposed Resolution, the fees assessed for special permit and variance requests related to the replacement of a developmental nonconformity would be less likely to cover the administrative and legal costs of the permit and hearing process. Discussion followed.

New Business

Code Enforcement/Citation Issuance

Mr. Bolt explained that the Village Code should be amended to clarify that failure to comply with the terms of a Building Permit is indeed a municipal infraction subject to a municipal citation and fine. He further explained that the Code needs to be amended to specify who is subject to the municipal citation and fine if an infraction occurs (i.e., resident, contractor, subcontractors, etc.). Discussion followed.

The Board directed Counsel to draft a Resolution to modify the Village Code to specify that failure to comply with the terms of a Building Permit is a municipal infraction and to clarify who is subject to the subsequent municipal citation issued for said infraction.

Appointment of an Assistant Secretary

Due to the absence of Board Secretary Susie Eig, and in order for signatures to be executed on the minutes and decisions from this meeting, the Board discussed the selection of an Assistant Secretary.

Mr. Yeo made a motion to appoint Mr. Jones as Assistant Secretary. Ms. Feldman seconded the motion. Dr. Kamerow, Ms. Feldman, Ms. Stephens and Mr. Yeo voted in favor of the motion. Mr. Jones did not vote. The motion passed.

Chairman's Report

None.

Manager's Report

- **Wohlfarth/Open Space—Update**

Mr. Biddle explained that Park & Planning currently intends to use in-house staff and resources to demolish the structures on the property. Due to the County's tightening budget, redevelopment of the property is likely to be stalled for two or more years. Discussion followed.

Police Report

The monthly Police Report was distributed to the Board prior to the meeting. Discussion followed.

Ms. Stephens made a motion to adjourn the meeting. Mr. Yeo seconded the motion. Dr. Kamerow, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The meeting adjourned at 9:10 p.m.

Secretary, Chevy Chase Village Board of Managers

Final.