

Chevy Chase Village Board of Managers

December 13, 2010

BOARD OF MANAGERS

David L. Winstead, Chair	Present
Peter T. Kilborn, Vice Chair	Present
Peter M. Yeo, Secretary	Present
Allison W. Shuren, Assistant Secretary	Present
Gail S. Feldman, Treasurer	Present
Lawrence C. Heilman, Assistant Treasurer	Present
Patricia S. Baptiste, Board Member	Present

STAFF

David R. Podolsky, Legal Counsel	Present
Shana R. Davis-Cook, Village Manager	Present
Adventino Dasilva, Police Sergeant	Present
Michael W. Younes, Director of Municipal Operations	Present
Demetri Protos, Finance Director	Present
Ellen Sands, Permitting and Code Enforcement Coordinator	Present

Mr. David L. Winstead, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:38 p.m. Ms. Shuren participated by phone.

Approval of the minutes from the Board's regular and executive sessions held on November 8, 2010 and the executive session held on June 8, 2010.

Mr. Winstead made a motion to approve the minutes of the Board's regular and executive sessions held on November 8, 2010. Mr. Kilborn seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren, Ms. Baptiste and Dr. Heilman voted in favor of the motion. The motion passed.

Ms. Davis-Cook explained that during a recent internal file audit, it was discovered that the minutes from this closed session had never been officially approved.

Ms. Feldman made a motion to approve the minutes of the Board's executive session held on June 8, 2010. Mr. Kilborn seconded the motion. Mr. Winstead, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. Mr. Yeo and Ms. Baptiste were absent from the June 8, 2010 Executive Session and did not vote. The motion passed.

The Board reported that on December 13, 2010 at 6:47 p.m. it met in executive session in accordance with the Form of Statement for Closing a Meeting attached hereto.

Treasurer's Report

The Treasurer's report was distributed to the Board prior to the meeting. Ms. Feldman presented an overview of the Village's current financial outlook and issues that the Board will need to review as it looks to balance a projected \$800,000 deficit in the current year budget and as it looks ahead to the FY2012 budget and beyond. Discussion followed.

Committee Reports

Budget Committee

Committee Chair Samuel Lawrence reported that the Committee had held one meeting to date. He stated that his Committee will look to determine long-term solutions for the Board's consideration when it meets over next couple of months. Ms. Feldman and Mr. Winstead thanked Mr. Lawrence for his stewardship of the Budget Committee.

Susie Eig of 34 West Kirke Street said she felt the respective committees (i.e., Public Safety, Public Works, Tree, Parks, etc.) should be provided with an opportunity to review possible cuts to their related budgets and not wait for the Budget Committee to address them.

ad hoc Speed Hump Committee

Committee Chair Peter Kilborn explained that last September the Board charged his committee with drafting procedures for requesting speed humps after an increase in requests. The Committee met twice and Mr. Kilborn presented its final report. Mr. Kilborn highlighted key areas of the report.

Mr. Yeo thanked Mr. Kilborn and the members of the ad hoc committee for its work in drafting the proposed procedures. Mr. Yeo outlined some concerns he had with the draft procedures. Discussion followed.

Betsy Stephens of 11 Magnolia Parkway encouraged the Board to approve residents' requests for speed humps as the residents are the most aware of the speeding problems on their street.

Ms. Baptiste, Dr. Heilman and Mr. Winstead expressed their objections to the administrative fee included in the draft procedures that would be used to cover the administrative review costs.

ad hoc committee member Herb Geller of 5617 Grove Street said he thought fees were important because they are a strong affirmative response for initiating a request that entails expense to the Village. Mr. Winstead directed Mr. Kilborn to revise the draft procedures pursuant to the concerns expressed by Board members for further consideration at the Board's regular meeting in January.

Democratic Process and Good Governance Committee

Committee Chair Margot Anderson explained that the Committee had held an introductory meeting on December 1, 2010. Members of the Committee now include Board Liaison Lawrence Heilman of Grafton Street, Kathleen Buffon of Oxford Street, Samuel Lawrence of East Lenox Street, Minh Le of Oliver Street, Richard Ruda of Newlands Street, and Charles Monk of Oliver Street. The next meeting will be held on January 3, 2011 at 7:30 p.m. in the Village Hall. Discussion followed.

Old Business

Review and Status Update on the Play-Space Initiative

Mr. Yeo summarized the Village's previous efforts to determine if and where a playspace initiative might be installed within the Village. Conversation followed among members of the Board in determining if this initiative should be pursued again, and if so, how this should be conducted.

Betsy Stephens of 11 Magnolia Parkway stated her opposition to an ad hoc playspace Committee. She also stated that the Board should request input from the Committee on Children, Youth and Families regarding playspaces in the Village.

Charles Monk of 4027 Oliver Street questioned whether the Village could currently afford to install a playspace in the Village.

Amy Christaldi of 4031 Oliver Street commented that all residents' viewpoints should be weighed by the Board when considering whether to install a playspace in a particular park.

Mr. Winstead asked staff to compile information from the previous attempts for consideration at the Board's January 10, 2011 regular meeting.

New Business

WSSC Water Main Replacement Project Presentation

Clayton Stewart of WSSC presented an overview of the WSSC water main replacement project scheduled to begin in the spring of 2011, which would replace over two miles of aging water mains within the Village. Discussion followed. A copy of the presentation will be uploaded to the Village website.

Public Hearing on Resolution No. 12-01-10: Consideration of a draft Ordinance to amend Chapter 20 of the Village Code, entitled "Noise Control", to limit the hours during which power landscaping equipment may be used within the Village. Mr. Kilborn explained that many residents were concerned with the noise disturbance caused by power landscape equipment. He stated that the proposed Ordinance limited the timeframe during which this equipment could be used.

David Tatel of 24 Grafton Street spoke in support of the proposed Ordinance.

Mr. Yeo stated his objection to the proposed Ordinance stating that it would be a hardship to homeowners who attempted to perform landscape work on their properties after work during the summer months.

Susie Eig of 34 West Kirke Street stressed that, if adopted, the Village should provide ample notification of the new regulations to residents.

Mr. Kilborn made a motion to approve Resolution No. 12-01-10. Dr. Heilman seconded the motion. Mr. Winstead, Mr. Kilborn, Ms. Feldman, Dr. Heilman and Ms. Baptiste voted in

favor of the motion. Mr. Yeo and Ms. Shuren voted against the motion. The motion passed.

Proposal to Form a Design and Use Plan Group for the West Kirke Street/Laurel Parkway Triangular Public Right-of-Way

Ms. Davis-Cook outlined her proposal to create a working group to develop a design and use plan for the combined West Kirke Street/Laurel Parkway public right-of-way located across from the main entrance to the Village Hall. Ms. Davis-Cook stated that the group would create a draft plan for the staff to conduct a cost analysis. The plan and cost analysis would then be submitted to the Board for its review and comment. Residents Tom Toch of West Kirke Street, Susie Eig of West Kirke Street and Bliss Ryan of Grove Street had volunteered to serve on the working group. Notice for additional volunteers would be advertised in the *Crier*, website and listserv. Bliss Ryan & Susie Eig agreed to co-Chair.

The Board unanimously approved the creation of a Design and Use Plan Working Group for the combined West Kirke Street and Laurel Parkway public right-of-way and appointed Bliss Ryan and Susie Eig as co-Chairs of the Working Group.

Resolution No. 12-02-10: A Resolution urging the State of Maryland to reinstate Highway User Revenues and State Aid for Police Protection diverted from municipal governments to the State general fund and to provide additional local discretionary revenue raising authority for municipalities.

Ms. Davis-Cook explained that the Maryland Municipal League urged all municipalities in the State to adopt the proposed Resolution in response to the State's recent cuts to the Highway User Revenues grant (HUR) and the State Aid for Police Protection grant (SAPP). Discussion followed.

Ms. Feldman made a motion to approve Resolution No. 12-02-10. Mr. Kilborn seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in favor of the motion. The motion passed.

Consideration of a Proposed: Temporary Policy to Have the Village Manager Submit all Administrative Permit Requests to the Board of Managers for Comment Before a Building Permit and License for Private Improvements in the Village's Public Rights-Of-Way are Issued

Ms. Davis-Cook explained that the proposed policy was drafted in response to concerns that the currently drafted regulations allowing private improvements in the Village's public rights-of-way could be applied in an unintended manner because the regulations do not account for the varying types of rights-of-way that exist within the Village. Ms. Baptiste explained that the policy anticipated that the Board would review applications during public meetings to allow for public comment. Unless a resident objected to the proposed work, the case would be placed on a consent calendar for action. The supporting materials for these cases will be posted on the Village website for residents to review.

Ms. Baptiste made a motion to approve a Temporary Policy to Have the Village Manager Submit all Administrative Permit Requests to the Board of Managers for Comment Before

a Building Permit and License for Private Improvements in the Village's Public Rights-Of-Way are Issued. Mr. Yeo seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in favor of the motion. The motion passed.

Contract Authorization Request: Collections processing of delinquent *SafeSpeed* Program citations with *Affiliated Computer Services* (ACS).

Ms. Davis-Cook explained that the photo speed enforcement contract with ACS provided an option for the vendor to provide collections processing of delinquent citations. She explained that processing delinquent citations further legitimized the enforcement efforts by providing an additional layer of repercussions for those drivers who refuse to pay their outstanding citations.

Frank Harrison from ACS explained how his company would process the delinquent citations. Mr. Harrison advised that delinquent collections processing practices by vendors on behalf of commercial entities varies greatly from ACS' practices on behalf of government entities for photo speed monitoring and traffic signal citations. When collecting public sector debt, the vendor represents the government agency and collection actions must be done in a way that doesn't damage the public's respect for and confidence in the respective agency. Mr. Harrison explained that after the vehicle owner has received the second of two notices subsequent to the original citation, which advises that further sanctions may be employed to collect the debt, the outstanding account is forwarded to ACS' delinquent collections department. ACS will perform a process called skip tracing in which they utilize available resources to confirm an accurate address for the person. Once this process is complete, ACS will send two notices advising that unless the debt is paid, the matter will be remitted to the credit bureaus. Under the proposed contract modification, collections mechanisms such as outbound calling, attorneys' letters and other sanctions will not be employed. Discussion followed. The Board made it clear in discussion that their approval was contingent on the assurances that efforts at collection would be limited as described above.

Dr. Heilman made a motion to authorize the Village Manager to enter into a contract with *Affiliated Computer Services* to perform collections processing of delinquent photo speed enforcement (*SafeSpeed* Program) citations. Ms. Feldman seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in favor of the motion. The motion passed.

Budget Reallocation: \$400,000 in expenses from Police, Personnel tax-based budget to Police, Personnel *SafeSpeed* Program budget

The Board discussed the implications of reallocating these funds and deferred a decision pending a further analysis of our financial outlook.

Supplemental Appropriation Request: \$150,000 from tax-based reserves to tax-based budget: Special Projects, Litigation Reserve

Ms. Davis-Cook explained that the FY2011 budget anticipated resolution of the pending litigation within the first quarter. Unfortunately, the Plaintiff filed an amended complaint, which the Village is preparing to defend in trial, scheduled to begin on January 24, 2011. The \$150,000 reflected what the attorneys anticipated would be the cost to prepare for trial and litigate the case.

Mr. Kilborn made a motion to approve the request for a supplemental appropriation for \$150,000 from tax-based reserves to special Projects, Litigation Reserve. Dr. Heilman seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in favor of the motion. The motion passed.

Administrative Reviews of Applications for Private Improvements in the Public Right-of-Way

Consent Agenda—Case No. 5847: Ms. Susan F. Dixon & Mr. Gregory Dixon, Co-Trustees of the Susan F. Dixon Revocable Trust, 5500 Montgomery Street—Installation of a walkway in the Montgomery Street public right-of-way. There were no comments.

The Board, by unanimous consent, authorized the Village Manager to issue the Building Permit and execute the License to Use the Public Right-of-Way pursuant to Case No. 5847.

Case No. 5840: Ms. Megan Rupp & Mr. Dane Butswinkas, 7 West Kirke Street—Installation of: an electronic pet containment fence, and an irrigation system portions of both would be located in the West Kirke Street and Laurel Parkway public rights-of-way inside the footprint of the existing wood fence.

Ms. Davis-Cook stated that one email from Adam Wenner of 2 Hesketh Street had been received in objection to the application.

Susie Eig of 34 West Kirke Street stated that she felt the southeast corner of the electronic pet containment system located in the West Kirke Street public right-of-way should be relocated farther away from the public sidewalk to further distance the homeowners' dog(s) from pedestrians traversing the sidewalk. Discussion followed.

Mr. Kilborn made a motion to direct the Manager to issue a Building Permit and execute a License to Use the Public Right-of-Way pursuant to Case No. 5840. Dr. Heilman seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in favor of the motion. The motion passed.

Appeals

A-5843 (Variance Request): Ms. Susan F. Dixon & Mr. Gregory Dixon, Co-Trustees of the Susan F. Dixon Revocable Trust, 5500 Montgomery Street—Expand the existing front stoop, which would extend no more than three (3) feet forward of the twenty five (25) foot front building restriction line. Greg Dixon presented the request. Ms. Feldman expressed concern that the proposed work would violate the covenants applicable to the property. Discussion followed. The Board concluded that although previous Boards have interpreted the term “structure,” as used in the covenants imposed by the Chevy Chase Land Company, to include stoops, the Board finds that the covenant authors did not intend certain uncovered stoops to be deemed structures for purposes of the 25-foot front setback and that uncovered steps and stoops that are installed as a matter of necessity to address the change in elevation from the ground to the entrance of a house, which steps and stoops are the minimum necessary to provide

reasonable access, are not “structures” for purposes of the covenant which imposes a 25-foot front setback.

Mr. Winstead made a motion to direct Counsel to draft a decision approving the request to expand the existing front stoop, which would extend no more than three (3) feet forward of the twenty five (25) foot front building restriction line. Dr. Heilman seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Dr. Heilman, Ms. Shuren and Ms. Baptiste voted in favor of the motion. The motion passed.

A-5845 (Variance Request): Ms. Susan F. Dixon & Mr. Gregory Dixon, Co-Trustees of the Susan F. Dixon Revocable Trust, 5500 Montgomery Street—Construct a fence measuring six and one-half (6 ½) feet in height between the front (Belmont Avenue extended) lot line and the twenty five (25) foot front building restriction line. Greg Dixon presented the request. Discussion followed.

Mr. Kilborn made a motion to direct Counsel to draft a decision approving the request to construct a fence measuring six and one-half (6 ½) feet in height between the front (Belmont Avenue extended) lot line and the twenty five (25) foot front building restriction line. Ms. Baptiste seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Dr. Heilman, Ms. Shuren and Ms. Baptiste voted in favor of the motion. The motion passed.

A-5844 (Variance Request): Mr. & Mrs. Robert Maruszewski, 127 Grafton Street—To: (a) expand the existing front stoop, which would extend no more than five and one half (5 ½) feet forward of the twenty five (25) foot front building restriction line, and (b) erect a new roof over a proposed expanded stoop, which would extend no more than five and one half (5 ½) feet forward of the front building restriction line. Bob Marusweski presented the request. As in the above-referenced case for A-5843, the Board concluded that although previous Boards have interpreted the term “structure,” as used in the covenants imposed by the Chevy Chase Land Company, to include stoops, the Board finds that the covenant authors did not intend certain uncovered stoops to be deemed structures for purposes of the 25-foot front setback and that uncovered steps and stoops that are installed as a matter of necessity to address the change in elevation from the ground to the entrance of a house, which steps and stoops are the minimum necessary to provide reasonable access, are not “structures” for purposes of the covenant which imposes a 25-foot front setback.

Case A-5844 (b) was continued at the request of the Applicants to allow the Applicants to present more detailed information about existing encroachments on nearby properties.

Dr. Heilman made a motion to direct Counsel to draft a decision approving the request in Case A-5844 (a) to expand the existing front stoop, which would extend no more than five and one half (5 ½) feet forward of the twenty five (25) foot front building restriction line. Ms. Baptiste seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Dr. Heilman, Ms. Shuren and Ms. Baptiste voted in favor of the motion. The motion passed.

A-5838 (a) & (b) (Variance Request): Mr. David Lawrenz, Trustee of the Family Trust U/W & Ms. Ann Hartman, 107 Hesketh Street—Construct: (a) a new deck and steps that would encroach no more than five feet one inch (5'-1") into the north (rear) yard setback, and (b) a new screened porch, the soffit and gutters of which would encroach no more than thirteen (13) inches into the north (rear) yard setback. Ann Hartman presented the request.

Ms. Baptiste made a motion to direct Counsel to draft a decision approving the request to construct a new deck and steps that would encroach no more than five feet one inch (5'-1") into the north (rear) yard setback. Dr. Heilman seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Dr. Heilman, Ms. Shuren, and Ms. Baptiste voted in favor of the motion. The motion passed.

Dr. Heilman made a motion to direct Counsel to draft a decision approving the request to construct a new screened porch, the soffit and gutters of which would encroach no more than thirteen (13) inches into the north (rear) yard setback. Ms. Feldman seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Dr. Heilman, Ms. Shuren, and Ms. Baptiste voted in favor of the motion. The motion passed.

A-1865 (Tree Removal Appeal): Mr. Christopher Sperl and Mr. Christopher Erckert, 28 Hesketh Street—Removal of: (a) one 10.5-inch diameter Juniper tree located in the south (rear) yard of the property, and (b) one 14.5-inch diameter Holly located in the north (front) yard. Christopher Erckert presented the request. Discussion followed.

Ms. Feldman made a motion to direct Counsel to draft a decision approving the request to remove: (a) one 10.5-inch diameter Juniper tree located in the south (rear) yard of the property, and (b) one 14.5-inch diameter Holly located in the north (front) yard, provided the applicants reforest with at least two (2) hardwood deciduous trees measuring at least 2 ½ inches in caliper at the time of installation and of a species that achieves a mature height of at least forty five (45) feet. Ms. Baptiste seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Dr. Heilman and Ms. Baptiste voted in favor of the motion. The motion passed.

Legal Counsel Report

The Legal Counsel Report was circulated to the Board prior to the meeting.

Manager's Report

The Manager's Report was circulated to the Board prior to the meeting.

Ms. Baptiste advised the Board that in an effort to re-write the County's Zoning Code, the first element pertaining to objectionable allowances for residential properties have been removed from the draft by the Planning Director following a detailed memorandum submitted by Village resident Meredith Wellington.

Ms. Baptiste also noted that the communities concerned with the proposed Chevy Chase Lake Sector Plan were scheduled to hold their initial meeting on December 15, 2010. Representatives from a total of 22 communities and associations are now involved. The County's Planning Staff

are scheduled to hold the first facilitated meeting with the community and representatives from the Chevy Chase Land Company, the Howard Hughes Institute, the Housing Opportunities Commission and other stakeholders on January 10, 2011.

Police Report

The Police Report was circulated to the Board prior to the meeting.

Chairman's Report

The Chairman's Report was circulated to the Board prior to the meeting.

Ms. Baptiste made a motion to adjourn the meeting. Ms. Feldman seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Dr. Heilman, Ms. Shuren and Ms. Baptiste voted in favor of the motion. The motion passed. The meeting adjourned at 12:16 a.m. on Tuesday, December 14, 2010.

Secretary, Chevy Chase Village Board of Managers

Final.