

Chevy Chase Village Board of Managers

June 14, 2010

Final

BOARD OF MANAGERS

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

STAFF

David R. Podolsky, Legal Counsel	Present
Ronald M. Bolt, Assistant Legal Counsel	Present
Shana R. Davis-Cook, Village Manager	Present
Roy Gordon, Police Chief	Present
Michael W. Younes, Director of Municipal Operations	Present
Demetri Protos, Finance Director	Present
Grace Brock, Administrative Assistant/Community Liaison	Present

Dr. Douglas B. Kamerow, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:30 p.m.

Approval of the minutes from the Board's regular and executive sessions held on May 10, 2010.

Ms. Feldman made a motion to approve the minutes of the Board's regular session held on May 10, 2010. Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

Executive Session Summaries

At 7:08 p.m. on May 10, 2010 at the Village Hall, the Board met in executive session pursuant to the Annotated Code of Maryland, State Government Article, Section 10-508(a)(7) to consult with counsel to obtain legal advice on a legal matter and Section 10-508(a)(3) to consider the acquisition of real property for a public purpose and matters directly related thereto. Board members Dr. Kamerow, Mr. Winstead, Ms. Feldman, and Mr. Yeo were present, as well as members-elect, Peter T. Kilborn, Lawrence C. Heilman, and Allison W. Shuren. Board members Mr. Jones, Ms. Stephens, and Mr. Trifilo were absent. The Board of Managers sought legal advice on the status of litigation and settlement negotiations concerning pending litigation (Cary

M. Euwer, Jr. vs. Chevy Chase Land Company, et al). The Board discussed the acquisition of real property in connection with the Brookville Road sidewalk. The Board unanimously directed staff to continue efforts to obtain the required easements for the Brookville Road Sidewalk Project.

At 7:24 p.m. on June 8, 2010 at the Village Hall, the Board unanimously meet in executive session pursuant to the Annotated Code of Maryland, State Government Article, Section 10-508(a)(7) to consult with counsel to obtain legal advice on a legal matter. Board members Mr. Winstead, Ms. Feldman, Mr. Kilborn, and Ms. Shuren were present. Board members Dr. Kamerow, Mr. Heilman, and Mr. Yeo were absent. The Board of Managers sought legal advice on the status of litigation and settlement negotiations concerning pending litigation (Cary M. Euwer, Jr. vs. Chevy Chase Land Company, et al).

Mr. Winstead made a motion to approve the minutes of the Board's executive sessions held on May 10, 2010. Ms. Feldman seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

Treasurer's Report

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

Election of Officers Discussion

Dr. Kamerow provided his perspective of the process that took place prior to the election of officers that occurred during the May 10, 2010 regular Board meeting. Mr. Podolsky described the Village Charter's requirements pertaining to the election of officers for the Board of Managers. In response to a question, Mr. Podolsky stated that the election of officers at the May 2010 Board meeting was legal. The election was duly held and the officers were duly elected.

Dr. Heilman and Mr. Kilborn explained their concerns with how the officer election process was conducted. The remaining Board members explained their parts in the slate selection process. Discussion followed.

Mark Talisman of 8 Grafton Street stated that he was unsatisfied with the process of the election of the slate of officers and he requested that the Board conduct a new election of officers.

Jeffrey Frey of 5511 Center Street stated that he was unsatisfied with the process of the election of the slate of officers. He questioned the legitimacy of the Board's actions.

Brian Smith of 35 West Lenox Street suggested the Board hold a reelection of officers.

Charles Monk of 4027 Oliver Street referenced the impending resignation of current Board Chair Douglas Kamerow. He then stated that the charter reads that a seat "could" be appointed by the Board. He instead recommended a Village-wide election to fill the vacancy. Mr. Podolsky stated that Charter provides that only the Board may appoint someone to fill a vacancy until the next regular election. The Charter does not provide for a Village-wide election for this purpose.

Diane Kartalia of 5412 Grove Street stated that she does not support a new election of officers. Discussion followed.

Dr. Heilman made a motion to hold a new election for officers of the Board of Managers. Mr. Kilborn seconded the motion. Mr. Kilborn, Ms. Shuren and Dr. Heilman voted in favor of the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo and Ms. Feldman voted against the motion. The motion did not pass.

Committee Reports

Building Facilities Commission

Ms. Davis-Cook presented the appointment request for Margaret Babbington of 25 West Irving Street to serve as the Committee on Children, Youth and Families' liaison to the Building Facilities Commission. Discussion followed.

The Board unanimously concurred with the appointment of Margaret Babbington to the Building Facilities Commission by the Chairman of the Board.

Brookville Road Working Group Update

Mr. Younes stated that all required easements and agreements have been received from abutting property owners for the Brookville Road Sidewalk Project. Mr. Younes added that he is pursuing lender consents and is now in the process of drafting all of the contract bid documents. Discussion followed.

ad hoc Permit Parking Committee

Mr. Kilborn presented his Committee's final report. In part, the Committee recommended that the pending petition from the residents of the 5400 block of Center Street should be denied and that the existing permit parking only restrictions in the 5500 block of Montgomery Street should be revoked. Discussion followed.

The Board directed staff to re-schedule a Public Hearing for two permit parking modifications submitted by residents of Kirkside Drive and Center Street.¹

Parks Committee

Parks Committee Chair Alice Kinter advised that she and Parks Committee member Susan Kilborn attended the "Meet the Boxwood Expert (Lyn Batdorf)" event last month, notes from which would be featured in the July 2010 issue of the Crier.

Ms. Kinter requested that \$10,000 be included in the FY2011 operations budget for Parks Committee use. She said that these funds would be used as follows (approximately): \$5,000 for new benches, \$1,000 to \$2,000 for professional landscape consultation, and \$3,000 to \$4,000 for plantings and other amenities. Ms. Davis-Cook explained that the requested amount is not budgeted in the FY2011 budget; however, she advised that \$10,000 was available in the FY2010 budget under "Parks, Trees, and Greenspace" that could be carried forward into the FY2011

¹ Please see the minutes from the Board of Managers' regular meetings held on November 9, 2009 and January 11, 2010.

budget under the same section, creating a new line item specifically for the Parks Committee's use. Discussion followed.

Dr. Heilman made a motion to carry forward \$10,000 from "Parks, Trees, and Greenspace" in the FY 2010 budget to "Parks, Trees, and Greenspace" in the FY 2011 budget. Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

Decision on Previous Appeals

None.

Appeals

A-5720: Mr. and Mrs. Nicholas E. Calio, 11 West Melrose Street—Construct a two-story addition to the rear of an existing non-conforming house, which would encroach fourteen feet (14') into the twenty foot (20') rear setback. The Calios' architect, Douglas Rixey, presented the request. Discussion followed.

Ms. Shuren made a motion to direct Counsel to draft a decision approving the request to construct a two-story addition to the rear of an existing non-conforming house, which would encroach fourteen feet (14') into the twenty foot (20') rear setback. Mr. Yeo seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

A-5715: Mr. Gus Papaloizos, 6000 Western Avenue—Construct an accessory building in the Brookville Road and Western Avenue front yards of the property. The proposed accessory building would be seventeen feet five inches (17'-5") from the Brookville Road front property line at its closest point and a portion would abut the Western Avenue front property line. Mr. Papaloizos' architect, Charles Trace, presented the request.

Bliss Ryan of 5414 Grove Street noted that Mr. Papaloizos had previously donated part of his property for the installation of a sidewalk along his Brookville Road property line. Ms. Ryan provided her support of the applicant's request.

Mr. Bolt advised that that it appears that the proposed structure would violate the covenants applicable to the property. These covenants restrict structures within twenty five feet (25') of the Brookville Road property line. Discussion followed.

The Board unanimously decided, with the consent of Mr. Trace, to continue the case to allow the applicant to further study the applicability of the covenants.

A-5560 (Extension Request): Mr. Dane Butswinkas & Ms. Megan Rupp, 7 West Kirke Street—(a) Construct a porch, a portion of which would encroach eight and two tenths feet (8.2') forward of the twenty-five foot (25') front (West Kirke Street) building restriction line; (b) construct a porch, a portion of which would encroach one and eight tenths feet (1.8') forward of the front (Laurel Parkway) building restriction line; and (c) construct a

deck, a portion of which would encroach two and two tenths feet (2.2') forward of the twenty-five foot (25') front (Laurel Parkway) building restriction line. Ms. Rupp presented her request. Discussion followed.

Ms. Feldman made a motion to direct Counsel to draft a decision approving the request for an extension of the previously-granted variances. Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed. The applicant requested that the decision be expedited.

A-5716 (Retroactive): Mr. Phillip L. Spector & Ms. Carole Sue Lebbin, 3912 Oliver Street—widen the driveway apron to a maximum width of twenty-seven (27) feet at the curbside. Mr. Spector presented his request. Discussion followed.

Dr. Kamerow made a motion to direct Counsel to draft a decision approving the request to retroactively approve widening of the driveway apron. Dr. Heilman seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

Old Business

Public Hearing—Resolution No. 06-02-10: A Resolution pursuant to Section 13-2 of the Village Code to authorize the Chair of the Board of Managers to issue an order for the installation of warning signs and two speed humps on Hesketh Street between Cedar Parkway and Magnolia Parkway, warning signs and one speed hump on Center Street between Belmont Avenue extended and Kirkside Drive, and warning signs and two speed humps on Center Street between Kirkside Drive and Cedar Parkway.²

Installation of warning signs and two speed humps on Hesketh Street between Cedar Parkway and Magnolia Parkway—Ms. Davis-Cook explained that upon receipt of the petition from residents, a speed study was conducted by the police department. The study indicated a reduction in vehicles traveling in excess of the posted speed limit. Discussion followed.

Laurie Weinstein of 25 Hesketh Street, Kristen Donoghue of 30 Hesketh Street, and Grace Spring of 27 Hesketh Street all spoke in support of the request.

Gerri Carr of 3 Grafton Street supported the implementation of a better procedure for assessing the need for speed humps.

Dave Evans of 3 Magnolia Parkway suggested that a new speed limit of 15 miles per hour be implemented on all Village streets.

Suzanne Laporte of 17 Hesketh Street stated that for the safety of the children, speed humps need to be installed.

Gary Crockett of 142 Grafton Street stated that the current process for assessing the need for speed humps is not flawed, but that exceptions must be made based on the specific case.

² The Board heard all three requests outlined in this Resolution separately and conducted three separate motions.

Ralph Stephens of 11 Magnolia Parkway stated that speed humps are for the protection of the lives of children and should be installed.

At the request of Bruce Jacobs of 110 Hesketh Street, Police Chief Gordon explained that the speed study conducted by his department indicated an 8% reduction in speed following the installation of the temporary speed humps. Discussion followed.

Mr. Kilborn made a motion to approve the request to install warning signs and two speed humps on Hesketh Street between Cedar Parkway and Magnolia Parkway. Dr. Heilman seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

Warning signs and two speed humps on Center Street between Kirkside Drive and Cedar Parkway—Ms. Davis-Cook explained that a speed study was not conducted in this block because the equipment was damaged while being deployed on another block. Discussion followed.

Jeffrey Frey of 5511 Center Street stated that other traffic calming measures should be looked at before installing speed humps.

Stefan Meisner of 5514 Center Street requested that the Board approve the request.

Herbert Geller of 5617 Grove Street suggested that before the speed humps are installed, a traffic study should be completed in the subject area. He added that all blocks in the Village should have sidewalks.

Julia Lee of 5505 Center Street stated that she supports the request.

Simon Linder of 5506 Park Street suggested that the Village conduct a more comprehensive traffic study to determine if there is a need for speed humps.

Joseph Anderson of 127 Hesketh Street suggested that the Village conduct a more comprehensive traffic study to determine if there is a need for speed humps. He also stated that speed humps can increase exhaust emissions.

Ian Twinn of 5505 Center Street stated that he supports the request. Discussion followed.

Ms. Feldman made a motion to approve the installation of warning signs and two speed humps on Center Street between Kirkside Drive and Cedar Parkway. Ms. Shuren seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

Warning signs and one speed hump on Center Street between Belmont Avenue extended and Kirkside Drive—Ms. Davis-Cook explained that a speed study was not completed in this block because the equipment was damaged while being deployed on another block. The data

that was received by the initial traffic study found that during the assessment period only one vehicle was found to be in excess of the posted speed limit. Discussion followed.

Ms. Feldman made a motion to approve the installation of warning signs and one speed hump on Center Street between Belmont Avenue extended and Kirkside Drive. The motion was not seconded. The motion did not pass.

Public Hearing—Resolution No. 06-03-10: An Ordinance to require vehicles traveling northbound and southbound on Cedar Parkway to stop at the intersection of Cedar Parkway and Center Street and to authorize the Chair of the Board of Managers to issue an executive order for the erection of stop signs on Cedar Parkway at the intersection with Center Street—Ms. Davis-Cook explained that the petitions to install speed humps along Center Street also requested the installation of stop signs on Cedar Parkway where it intersects with Center Street. Discussion followed.

Ms. Lee and Mr. Twinn stated their support of the request.

Mr. Geller stated his opposition to the request. Discussion followed.

Dr. Heilman made a motion to approve Resolution No. 06-03-10. Ms. Feldman seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Feldman and Dr. Heilman voted in favor of the motion. Mr. Yeo, Ms. Shuren, and Mr. Kilborn voted against the motion. The motion passed.

Western Avenue Sidewalk Replacement

Ms. Davis-Cook explained that officials from the District's Department of Transportation had advised that the replacement of the sidewalk along the north side of Western Avenue between Oliver Street and Kirkside Drive had been delayed. She advised that she will continue to monitor the status of this project.

New Business

Community Oriented Policing Services Hiring Program Grant—Ms. Davis-Cook explained that this grant program was created to assist law enforcement agencies in hiring and retaining sworn officers to increase community policing and crime prevention efforts in light of nationwide police force cutbacks. The grant program will pay the starting salary and benefits for one sworn officer for three years. The Village will be responsible for all ancillary costs including uniforms, department-issued firearms, ammunition, training, etc., and step and cost-of-living adjustments in years 2 and 3. The Village is then obligated to maintain the position for one year (year 4 of the grant program) and all other uniformed positions for all four years. Discussion followed.

Mr. Winstead made a motion to approve submitting the request for the Community Oriented Policing Services Hiring Program Grant. Dr. Kamerow seconded the motion. Dr. Kamerow and Mr. Winstead voted in favor of the motion. Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted against the motion. The motion did not pass.

Contract Authorization Requests

Supplemental Consulting Arborist Contract—Ms. Davis-Cook stated that the supplemental arborist has been very useful as a second vetting source for the annual tree removal program and more recently has been used as a second opinion on controversial tree removal requests and tree inspections. Staff’s recommendation is to contract with *Feather and Associates*.

Nina Bing Jenson of 4029 Oliver Street expressed her concern that the Village arborist who assesses the trees is the same arborist who oversees the removal of Village trees. She suggested that the functions of the arborists should be separated in the future. Discussion followed.

Mr. Yeo made a motion to authorize the Village Manager to enter into contract with *Feather and Associates* to provide supplemental consulting arborist services. Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

Refuse and Recycling Collection Services Contract—Ms. Davis-Cook advised that the current contractor, *Unity Disposal & Recycling*, had proven to be very reliable. Dr. Heilman spoke on behalf of the Environmental Committee and he outlined his support of *Potomac Disposal, Inc.*, who would transfer collected recyclables to the Montgomery County Transfer Station for processing as opposed to *Unity Disposal & Recycling* who would transfer collected recyclables to Howard County. Discussion followed.

Mr. Yeo made a motion to authorize the Village Manager to enter into contract with Unity Disposal and Recycling, LLC to provide refuse and recycling services. Ms. Feldman seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, and Ms. Shuren voted in favor of the motion. Dr. Heilman voted against the motion. The motion passed.

Amendment to Contract Extension with *Lindsey & Associates, LLC* for independent auditing services—Ms. Davis-Cook stated that following the Board’s approval of the contract extension at its May 10, 2010 meeting, the Audit Committee authorized a change in audit personnel, thereby requiring an amendment to the contract. Discussion followed.

Mr. Winstead made a motion to authorize the Village Manager to enter into contract with *Lindsey and Associates, LLC* to provide independent auditing services with the amendment recommended by the Audit Committee. Ms. Feldman seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren, and Dr. Heilman voted in favor of the motion. The motion passed.

Purchase Notification—Air Conditioning Unit for the Communications Center—Ms. Davis-Cook informed the Board that she had signed a purchase order for the purchase and installation of a wall mounted air conditioning unit for the Communications Center, in the amount of \$4,000 (from Village Hall, Building Repair and Maintenance to Village Hall, Heating and Air Conditioning). Discussion followed.

Supplemental Appropriation Request and Purchase Requests

Copy/Fax/Scan Machine—Ms. Davis-Cook requested Board authorization for the purchase and supplemental appropriation for a photocopy/fax/print/scan all-in-one machine in the amount of \$14,349 from *Centric Business Systems for Document Management* on NJPA contract: \$7,174.50 from tax-based budget reserves to tax-base budget, Equipment Purchase/Replacement and \$7,174.50 from *SafeSpeed* budget reserves to *SafeSpeed* budget, Equipment Purchase/Replacement. Discussion followed.

Ms. Feldman made a motion to approve the request as outlined. Mr. Yeo seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren, and Dr. Heilman voted in favor of the motion. The motion passed.

Speed Hump Installation—Ms. Davis-Cook requested Board authorization for the following budget amendment and expenditures: supplemental appropriation from *SafeSpeed* reserves to *SafeSpeed* Facilities & Infrastructure, Streets in the amount of \$8,000, for the installation of two speed humps in the block of Hesketh Street between Cedar and Magnolia Parkways and two speed humps in the 5500 block of Center Street between Kirkside Drive and Cedar Parkway and a contract with *Chamberlain Contractors, Inc.* in the amount of \$ 8,000 to install the aforesaid speed hump ps.

Ms. Feldman made a motion to approve the request as. Ms. Shuren seconded the request. Dr. Kamerow, Mr. Winstead, Ms. Feldman, Mr. Yeo, Mr. Kilborn, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed.

Chairman’s Report

None.

Manager’s Report

None.

Police Report

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

Mr. Winstead made a motion to adjourn the open meeting and to convene in closed session pursuant to State Government Article, Sections: 10-508(a)(1)(i) to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction(i.e. the Village Manager). Ms. Feldman seconded the motion. Dr. Kamerow, Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Dr. Heilman voted in favor of the motion. The motion passed. The open meeting adjourned at 11:22 p.m.

Secretary, Chevy Chase Village Board of Manager

Final.