

Chevy Chase Village Board of Managers

April 11, 2011

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

VILLAGE COUNSEL

David R. Podolsky, Legal Counsel	Present
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STAFF

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
Grace Brock, Administrative Assistant/Community Liaison	Present

Mr. David L. Winstead, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:36 p.m.

Approval of Minutes from the Board's Previous Meetings Held on March 14, 2011

Draft minutes of the Board's regular and executive sessions held on Monday, March 14, 2011 were circulated to the Board prior to the meeting. Ms. Baptiste submitted the following amendments to the draft minutes of the regular session:

- Page 7, line 15: change the wording to "his ability to expand his use of the unimproved portion right of way".
- Page 13, line 19: insert "Ms. Baptiste indicated she was skeptical of continued participation in CALEA but that the Board had not received the full unbiased review necessary to support the decision one way or the other."

Mr. Yeo made a motion to approve the minutes of the Board's regular and executive sessions held on March 14, 2011, as amended. 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.

The Board reported that on April 11, 2011 at 6:44 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 highlighted the following items in the report:

Tax-based budget—

- the Village received a delinquent income tax payment from the State of Maryland for \$15,000;
- expenditures are running approximately 10% under budget due to staff constraints, and deferred salaries from an unfilled administrative position and Police Chief's vacancy.
- extra expenses were incurred in the month of March due to storm damaged tree cleanup;
- current revenue and expense projections anticipate a fiscal year-end deficit of approximately \$600,000, primarily due to income tax revenues totaling \$350,000 below budget and \$250,000 in legal expenses for the now concluded litigation with Cary Euwer of West Lenox Street;

SafeSpeed budget—

- *SafeSpeed* Program citation revenues received through March are above budgeted levels, although declines are expected in the coming months due to ongoing work along Connecticut Avenue;
- the Brookville Road Sidewalk Project came in \$500,000 under budget;
- the *SafeSpeed* budget deficit is projected to be approximately \$800,000, which includes a draw on reserves for the installation of the Brookville Road sidewalk;

Reserves—

if expenses continue at their current pace, the status of reserves at the end of the fiscal year will be: \$2.7 million in tax-based reserves, which after including the contingency, leaves the Village with a reserve of \$1 million and; \$3.1 million in *SafeSpeed* reserves, which after including a contingency, leaves the Village with a reserve of 2.8 million dollars. .

Elections Committee

Acting Committee Chair Charlotte Jones-Carroll reported that the Committee includes: Norm Asher, Irwin Pernick, Minh Le, and Robert Broeksmit, and Board liaison Larry Heilman. Ms. Jones-Carroll reported that the Committee met earlier in the month to focus on the immediate actions needed in preparation for the upcoming election for the Board of Managers. Given Committee members' experience in running complex state and national elections, Ms. Jones-Carroll stated that the Committee would run and serve as judges in the upcoming election, including counting the ballots, hosting the Candidate's Reception, and assisting the Board with the procedures for its election of officers.

Dr. Heilman asked if it is appropriate to have visitors observe the counting of the ballots. Ms. Jones-Carroll stated that she did not read anything in the election procedures or Village Charter that permits or prohibits the public from viewing the ballot counting.

Dr. Heilman made a motion to approve formation of the Elections Committee as a standing Committee, and to approve the Elections Committee to serve as the election judges in the Board of Managers election, and to appoint Charlotte Jones-Carroll as Chair of the Elections Committee. Ms. Feldman seconded the motion. Mr. Winstead, Mr. Kilborn, Mr.

Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in support of the motion. The motion passed.

Environment and Energy Committee

Co-Chair Marea Hatzios requested the Board's approval of the Committee Vision Statement regarding trees as a valuable asset, which was circulated to the Board prior to the meeting. Dr. Hatzios stated that the Committee proposed a "Tree Benefit Calculator"—a quantitative objective way of assessing the value of trees. She further explained that this calculator could be used when tree removal requests are under consideration by the Board, so the Board and applicants can better understand the "value" of the tree proposed for removal. Dr. Hatzios stated that her Committee intends to work with the Tree Committee in using this calculator. Co-Chair Marilyn Bracken explained how the "Tree Benefit Calculator" works by evaluating a tree which is the subject of a hearing to be held later in the meeting.

Mr. Yeo stated that the information from the "Tree Benefit Calculator" could be very useful when reviewing Tree Removal Permit Applications. He suggested that the Environment and Energy Committee work together with the Tree Committee in the use of this calculator. Dr. Heilman reinforced Mr. Yeo's suggestion to the Environment and Energy Committee to work alongside the Tree Committee with this new method for assessment of trees.

Dr. Heilman made a motion to approve the Vision Statement of the Environment and Energy Committee (EEC) with the understanding that the EEC will work together with the Tree Committee. Mr. Kilborn seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in support of the motion. The motion passed.

Tree Committee Chair Bob Elliott asked if the Vision Statement will be a new "law". He further stated that he hoped this Vision Statement does not become a new law since the Village is running out of space to install new trees. Mr. Elliott added that he is bothered by the fees imposed upon applicants when they appeal the removal of a tree.

Tree Committee: Discussion of Recommended Modifications to the Tree Care Program

Village Arborist Dr. Tolbert Feather stated that a few months ago he, Ms. Davis-Cook, and Mr. Younes had begun to discuss the Village's tree care program. He suggested changing the current quadrant pruning program to a directed pruning program, so instead of pruning all trees in a quadrant of the Village every four years, Dr. Feather recommends pruning trees throughout the Village on an "as needed basis". This will yield significant costs savings for the Village. He also recommended drastically decreasing fertilization, spraying and other treatments currently being performed.

Ms. Feldman asked why the two biggest reductions in cost are in fertilization and pest and disease control. Dr. Tolbert replied that only the smaller trees need fertilization. The larger trees normally do not need fertilization unless they are lacking in nutrients.

Ms. Baptiste stated that she is delighted that the Village will begin integrated pest management program. She asked how many trees in the Village are being treated for Dutch Elm Disease. Dr. Feather stated that approximately 60-70 Village trees are being treated for Dutch Elm Disease.

Bob Elliott, Chair of the Tree Committee, stated that he is in agreement with Dr. Feather's proposals for modifying the Village's tree care program.

Dr. Heilman asked Dr. Feather to provide educational information to residents for the care of trees on private property. Mr. Winstead agreed.

Betsy Stephens of 11 Magnolia Parkway asked if the Village can perform tree clearing from the PEPCO lines. Dr. Feather advised that only PEPCO's sub-contractor can perform tree clearing from power lines. Mr. Winstead added that Dr. Feather will be working directly with PEPCO's contractor in overseeing these operations.

Ms. Baptiste asked how Dr. Feather will interface with the Treemasters crews. Ms. Davis-Cook stated that Dr. Feather will assess the work to be performed and provide direction to the Treemasters crews, who will perform the work.

Mr. Elliott asked the Board to increase the budget for tree plantings in the proposed budget for FY2012.

The Board unanimously approved the tree care program as proposed by consulting arborist Dr. Tolbert Feather which will reduce expenses for the program.

Public Works Committee

Ms. Baptiste presented proposed amendments to Chapter 10 of the Village Code, entitled "Health and Sanitation". She noted that as the Board's Liaison to the Public Works Committee, she began working with the Committee on these amendments in response to abuses to the special pick-up program. Some of the proposed amendments included:

- move sub-section 10-24, "Control of Dutch Elm Disease" to Chapter 17 of the Village Code, entitled "Urban Forest"
- add definitions for terms used within the Chapter
- remove the provision allowing garbage and trash containers recessed into the ground
- add a new provision for the Director of Public Works to use his or her discretion in determining acceptable items for special pick-up collection.

Mr. Yeo asked if the 50 pound limit had been suggested by the Director of Public Works. Ms. Baptiste stated that the Director and the Committee had agreed that 50 pounds was a reasonable limit. Mr. Yeo added that he is in favor of the changes, recognizing that this is a notable change in policy which may upset some residents.

Mr. Kilborn asked if the Director of Public Works could be given more discretion and maybe the homeowner can help by breaking down their bigger, heavier items into smaller pieces. He added that the amount of changes proposed are considerable.

Mr. Winstead suggested that an article be placed in the *Crier* outlining the proposed Special Pick-Up regulations and the rationale for the proposed changes.

Dr. Heilman stated that the proposed amendments would provide the Director of Public Works with reasonable discretion.

Ms. Feldman stated that this is a major change. Mr. Kilborn agreed, noting large items that he had previously put out for a special pick-up. Ms. Baptiste noted that some of the large items set out for collection are burdensome for the two men and a pick-up truck that are used to provide the collection.

Gary Crockett of 142 Grafton Street stated that when he moved into the Village he was told that the special pick-up program was for the collection of items that were too big or too heavy for collection with the normal trash. He noted that the proposed regulations appeared to make the program obsolete. Ms. Baptiste replied that she does not agree, noting that she has previously taken heavy items apart prior to setting them out for special pick-up.

John Gorman of 45 West Lenox Street stated that he agrees with the proposed prohibition on the collection of construction rubble.

Richard Ruda of 108 Newlands Street stated that the rationale for the new regulations appear to protect the Public Works employees from injury, which is important.

Mr. Kilborn suggested eliminating the weight limit and allow the Director of Public Works to use his discretion in determining if the items set out for collection will burden the staff. Ms. Baptiste noted that the reason for the weight limit is to provide residents with a sense of what will be declined for collection. Ms. Baptiste suggested including an article in the *Crier* requesting residents' views regarding the proposed weight limit. Dr. Heilman suggested the use of Mr. Kilborn's language with a detailed list of what items are acceptable. Ms. Baptiste responded that the Code is much easier to apply when it is not overly detailed. Discussion followed.

The Board asked Ms. Baptiste to work with staff to draft an article for the May 2011 issue of the *Crier* regarding the proposed amendments to Chapter 10 of the Village Code requesting residents' feedback prior to a follow-up discussion at the Board's meeting on May 16, 2011.

Ms. Baptiste gave an update on the improvements to the Public Works area. She advised that the Director of Public Works is working to get bids for the proposed improvements.

Traffic Committee

Porter Wheeler distributed his Committee's draft policy for the installation of stop signs and other traffic-control devices. Mr. Wheeler advised that the Committee is still in the process of working on the Policy, putting more stress on safety issues and how safety concerns should be evaluated. The Committee also added a provision for the removal of existing traffic signs. Mr. Wheeler stated that the Committee requests guidance from the Board regarding what the Board expects the Committee to do in terms of petitions for stop signs or speed humps.

Mr. Kilborn stated that speed humps are more expensive than stop signs and should possibly be taken into account in the policy. Mr. Yeo suggested the Committee include information regarding the proposed policy in the next issue of the *Crier* soliciting feedback from the community.

Rob Nichols of 102 East Melrose Street asked the Board for a reasonable time frame for the policy to be approved since there is a pending petition from him and his neighbors, which has been held pending the adoption of the proposed policy. Mr. Winstead replied that the policy should be approved within a two month timeframe.

Lisa Barry of 5608 Western Avenue whose dog was recently struck and killed by a car within the Village, questioned why the police department issued more warnings than speeding tickets during the last year. Sgt. Dasilva stated that not all those warning were a result of moving violations. Discussion followed.

Legal Services Review Committee

Ms. Shuren stated that a temporary Committee is being formed to review the legal services provided to the Village. She added that the Board seeks three volunteers with legal experience to join the Committee. An article regarding the Committee will be included in the next issue of the *Crier* and uploaded to the website.

Review of Draft Scope of Work/Mission Statements

- **Parks and Greenspaces Committee**

Chair Alice Kinter stated that the Committee's mission is to monitor the Village's Parks and Greenspaces and to advise the Village Board and administration regarding the preservation, maintenance and improvement of the Village's Parks and Greenspaces for the enjoyment of Village residents. The Board thanked Ms. Kinter for submitting her Committee's Mission Statement.

Update on Chevy Chase Open Space

Ms. Davis-Cook stated that there were three items for Board consideration:

1. creation of a Liaison Committee comprised of 5 residents to serve as a communications liaison between the Village and Park & Planning staff,
2. scheduling for the development of the Chevy Chase Open Space, and
3. approval of a supplement to the Village/Park & Planning Memorandum of Understanding in which the Village agreed to pay 50% of the expenses to demolish the structures that previously existed on the property.

Brenda Sandberg, Legacy Open Space Program Manager for Montgomery County's Department of Parks elaborated on each of the above items.

Mr. Yeo asked how soon the Department of Parks would begin cleaning up the shrubs on the property and if lighting can be installed in the interim to address safety concerns. Ms. Sandberg responded that she continues to inventory the trees and plantings on the property to determine a clean-up plan for the park and lighting will be addressed in the upcoming design charrettes.

Ms. Baptiste asked Ms. Davis-Cook why the Village's share for the demolition of the structures on the property had not been included in the FY2011 budget pursuant to the Board-approved MOU. Ms. Davis-Cook stated that the MOU had been approved by the Board prior to her being hired as Manager and she was not aware that this commitment had not already been paid. She apologized for the omission.

Ms. Feldman made a motion to approve the formation of a Chevy Chase Open Space Liaison Committee, for which members will be solicited in the upcoming issue of the *Crier* and to approve a supplemental appropriation in the amount of \$39,120 from tax-based reserves to the tax-based FY2011 operating budget for Special Projects, Wohlfarth as the Village's share (50%) of the expenses related to the demolition of the structures that previously existed on the property. Dr. Heilman seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in support of the motion. The motion passed.

New Business

Public Hearing—Formal Introduction of the FY 2012 Budget

Budget Committee Chair, Samuel Lawrence, reported that his Committee, the Board and staff had thoroughly reviewed the draft budget for FY2012 and had met twice for works sessions to walk through the budget more thoroughly.

Ms. Baptiste stated that she had asked staff to compile information regarding personnel compensation in neighboring municipalities and in the County. This information reflected that the majority of these municipalities, including the County, proposed to freeze salaries in the upcoming fiscal year.

Ms. Baptiste made a motion to amend the draft budget for FY2012 to eliminate COLA and step increases. Ms. Feldman disagreed with freezing employee salaries just because neighboring municipalities are doing so. Mr. Kilborn stated that he is in favor of a salary freeze since the draft budget for FY2012 projects a deficit. He added that this sends a clear message to the staff and residents that the Board is concerned about the deficit. Dr. Heilman stated that he is in favor of a salary freeze in light of the budget issues. Ms. Baptiste added that the staff is extraordinarily well compensated for the work that they do in the Village. Mr. Winstead stated his support for a salary freeze. **Dr. Heilman seconded the motion. Mr. Winstead, Mr. Kilborn, Dr. Heilman, and Ms. Baptiste voted in favor of the motion. Mr. Yeo, Ms. Feldman, and Ms. Shuren voted against the motion. The motion passed.**

Ms. Baptiste stated that she is disappointed that the Village budget is still not a sustainable budget. She looks forward to achieving a sustainable budget in the upcoming year. Dr. Heilman agreed with Ms. Baptiste.

John Gorman of 45 West Lenox Street asked what percentage of the budget is comprised by personnel compensation. Finance Director Demetri Protos stated that personnel compensation comprises approximately 48% of the overall operating budget.

Ms. Feldman made a motion to approve the FY2012 budget, as amended to reflect the salary freeze and the amendments to the tree care program approved earlier during the meeting. Ms. Shuren seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in support of the motion. The motion passed.

Review and Possible Approval of a Draft Plan for the Cedar Parkway Public Right of Way, located north of West Lenox Street. Ms. Davis-Cook presented a proposal for installation of two benches in the unimproved portion of the Cedar Parkway public right-of-way located north of West Lenox Street. Mr. Yeo stated his support for the installation of the proposed benches.

Jay Powell of 37 West Lenox Street stated that he supports use of the public right-of-way, but does not support the installation of benches. He stated that benches should be installed along a street, not out of sight in a wooded area. Mr. Powell stated that the benches could create public safety issues.

Ms. Wellington of 18 West Lenox Street stated that there were benches in the area of that location before and does not see a problem with the proposed plan to install benches. Ms. Shuren asked Mr. Powell if he has had any issues with the use of the existing concrete bench located near the Powells property in the right-of-way. He stated that the existing bench is in the open portion of the right-of-way, and the proposed benches are located within the wooded portion of the right-of-way, and that was his concern.

Bliss Ryan of 5414 Grove Street stated that the proposed location for the benches will be too confined. She added that permanent markers should have been put in when the survey of that area was completed.

Ms. Feldman proposed that one of the benches be moved closer to the street so that older residents can easily access one of the benches. Ms. Baptiste stated that at the Board's request, the staff had proposed two locations for benches within the right-of-way, and she trusts the recommendation of staff on the locations. She added that the proposed plan for the area had been circulated to the surrounding neighbors and the Board should act on that proposal.

Mr. Yeo made a motion to approve the proposed plan for the installation of two benches in the Cedar Parkway Public Right-of-Way located north of West Lenox Street. Dr. Heilman seconded the motion. Mr. Winstead, Mr. Kilborn, Mr. Yeo, Ms. Feldman, Ms. Shuren, Dr. Heilman and Ms. Baptiste voted in support of the motion. The motion passed.

Consent Agenda

- **Case No. 5888: Mr. and Mrs. Ralph Stephens, 11 Magnolia Parkway**
Building Permit and License to Use the Public Right-of-Way to plant three (3) blueberry bushes in the Magnolia Parkway public right-of-way.
- **Case No. 5887: Mr. and Mrs. Martin V. Dagata, 5514 Kirkside Drive**
Building Permit and License to Use the Public Right-of-Way to plant three (3) evergreen trees or shrubs in the Center Street public right-of-way.

Ms. Baptiste asked if the species of the proposed tree is considered when an application to install in a public right-of-way is being reviewed. Ms. Davis-Cook replied that it is not. Mr. Elliott stated that he does not think that the resident needs approval from the Board for the type of tree, shrub or bush they propose to plant in the public right-of-way. Susie Eig of 34 West Kirke Street and the Village Tree Committee suggested that the Board include a provision in the License that the Village reserves the right to plant a street tree in the public right-of-way so the resident does not oppose the planting of a street tree by the Village.

Ms. Stephens commented that she feels penalized by the high permitting fees for attempting to be environmentally friendly by planting in the public right-of-way. Ms. Baptiste and Dr. Heilman agreed that the permitting fees are too high and should be reviewed.

The Board unanimously approved the consent agenda for Case No. 5888 and Case No. 5887.

Appeals

A-1885 (Tree Removal Appeal): Mr. and Mrs. Daniel Coughlan, 20 West Lenox Street—Removal of one 20.0-inch diameter Red Maple tree located in the east (side) yard of the property, to accommodate a proposed addition. Mr. Coughlan appeared and testified in support of the request. He explained that the Applicants wish to build an addition and the proposed location is the only reasonable location on the Subject Property. He stated that the construction would require the removal of the subject tree because it would be damaged during construction. Also, he stated that the Applicants are concerned that, due to its close proximity to the existing driveway, the tree's roots will soon protrude through the driveway surface. Mr. Coughlan explained that he understands there is concern among his neighbors about the 49.5-inch diameter White Oak tree straddling the property line with 18 West Lenox Street. He said the proposed addition was moved from its initial location in order to preserve the White Oak tree, and if necessary, the addition would be moved again if deemed necessary by the Village Arborist to protect the White Oak tree. Mr. Coughlan stated that the Applicants want to protect the White Oak tree and will work with the Village to insure its preservation when a building permit is sought for the project. He stated that the Applicants agree to reforest with at least one reforestation tree.

Tree Committee Chair, Mr. Elliott, testified that he, and two other Committee members, have no objection to the request because the subject Red Maple tree is not a great specimen and it is located too close to the existing driveway and house. Also, he noted that taking the tree down would eliminate competition with the White Oak tree and other more desirable trees in the rear yard. In his letter, Mr. Elliott described the tree as “in early maturity” and “a little weird in appearance with a split trunk which perhaps 20 feet up has a U-shape leading into two equal upper-trunks.” He stated that there is not much free space between the tree and the house.

Ralph Stephens of 11 Magnolia Parkway notes in a letter that submitted prior to the meeting that he does not object to the request, so long as a replacement tree is planted.

Susie Eig of 34 West Kirke Street states in a letter that submitted prior to the meeting that although the tree is of little distinction other than its size, she is very concerned about the request

because it appears the proposed addition would harm the White Oak tree which she describes as a magnificent specimen.

Meredith Wellington of 18 West Lenox Street appeared at the hearing and testified that although she does not object to the removal of the Red Maple tree, she is concerned that the proposed addition has not been located far enough from the White Oak tree. She stated that, as noted in the Tree Inspection Report, the Village Arborist recommends a tree-save area of 13 feet from the trunk of the White Oak. According to a survey obtained by Ms. Wellington, which she presented at the hearing, the addition would be located about only 11 feet from the White Oak. In response, Mr. Coughlan reiterated that the Applicants will work with the Village to insure the White Oak tree's preservation when a building permit is sought for the project and, if necessary, would move the addition farther from the White Oak. No other testimony in support of or in opposition to the application was received.

Ms. Shuren made a motion to direct Counsel to draft a decision approving the request to remove one 20.0-inch diameter Red Maple tree located in the east (side) yard of the property, to accommodate a proposed addition provided that the Applicants obtain a valid building permit for the proposed addition in accordance with the plans submitted for the record, as revised to include a limit of disturbance line located not less than 13 feet from the trunk of the 49.5-inch diameter White Oak tree located on the east side property line or such distance as may be deemed appropriate by the Village Arborist to protect the 49.5-inch diameter White Oak tree; (ii) a boundary survey showing the distance between the closest point of the trunk of the 49.5-inch diameter White Oak tree and the nearest line of the area to be excavated or otherwise disturbed during construction of the proposed addition; and (iii) a tree-save plan locating a protective fence along the edge of the non-disturbance area on the Applicants' property and also containing such additional measures as are deemed appropriate by the Village Arborist to protect the 49.5-inch diameter White Oak tree; and the Applicants must reforest with at least one (1) hardwood deciduous tree, which must be at least two and one-half inches (2 ½") in caliper at the time of installation and of a species that achieves a mature height of at least forty-five feet (45'). Dr. Heilman seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Dr. Heilman, Ms. Shuren and Ms. Baptiste voted in support of the motion. The motion passed.

A-5885 (Special Permit): Mr. William Curtin, III, 3 Primrose Street—Demolish the detached garage located in the north (rear) yard. Mr. Curtin appeared at the hearing and testified in support of the request. He explained that he wishes to remove the existing garage because it is deteriorating and inconsistent with the architecture of the existing house. He stated that the new garage to be constructed would comply with all applicable setbacks. No testimony, correspondence, or other evidence in opposition to the proposed demolition was submitted.

Ms. Baptiste made a motion to direct Counsel to draft a decision approving the request to demolish the detached garage located in the north (rear) yard provided that the applicant obtains a Montgomery County demolition permit. Mr. Kilborn seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Dr. Heilman, Ms. Shuren and Ms. Baptiste voted in support of the motion. The motion passed.

A-5890 (Special Permit): Dr. and Mrs. Lawrence C. Heilman, 46 Grafton Street—Replace an existing stockade fence that is six (6) feet in height located in the Cedar Parkway public right-of-way in the same location and at the same height. Dr. Heilman recused himself from participating in this matter as a Board member. In the written application, the applicants assert that the approval of their request would not adversely affect the public health, safety or welfare or reasonable use of adjoining properties because they propose to replace an existing fence at the same height and location. Also, they state that the appearance of the Subject Property would be improved by the replacement of the deteriorating fence. The Applicants assert that the fence does not interfere with the use of adjoining properties or traffic. No correspondence or testimony was presented in opposition to the Applicants' requests.

Mr. Yeo made a motion to direct Counsel to draft a decision approving the request to replace an existing stockade fence that is six (6) feet in height located in the Cedar Parkway public right-of-way in the same location and at the same height provided that the replacement fence is installed and maintained in accordance with the Applicants' representations and the plans and specifications submitted for the record in this matter and the Applicants shall execute a Village License to Use Public Right-of-Way contemporaneously with or prior to the issuance of a building permit, which License shall be recorded among the Land Records for Montgomery County, Maryland, at the Applicants' expense. Ms. Shuren seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, Ms. Shuren and Ms. Baptiste voted in support of the motion. The motion passed.

A-5891 (Variance): Dr. and Mrs. Lawrence C. Heilman, 46 Grafton Street—Replace an existing stockade fence that is six (6) feet in height located forward of the front building restriction line with a wood flatboard fence in the same location and at the same height. Dr. Heilman recused himself from participating in this matter as a Board member. In the written application, the applicants assert that their property is subject to special conditions because it is a corner lot with an existing non-conforming fence that has deteriorated and is in need of replacement. Also, they assert that based on the narrowness of their corner lot, the yard in question functions as a "back" yard. They state that the fence is needed to provide the level of privacy that other Village residents enjoy in their rear yards. They assert that the proposed fence would not block any sightlines needed for safe vehicular travel. The Applicants assert that enforcement of the building regulations would result in an unwarranted hardship and injustice because they would be unable to replace a deteriorating fence that has existed at the property for over 33 years. They state that if the fence cannot be replaced, the Applicants would lose the privacy they have enjoyed in the subject yard. No correspondence or testimony was presented in opposition to the Applicants' requests.

Mr. Yeo made a motion to direct Counsel to draft a decision approving the request to replace an existing stockade fence that is six (6) feet in height located forward of the front building restriction line with a wood flatboard fence in the same location and at the same height provided that the fence described above shall be constructed and maintained in accordance with the plans and specifications submitted for the record in this matter. Ms. Shuren seconded the motion. Mr. Winstead, Mr. Yeo, Mr. Kilborn, Ms. Feldman, , Ms. Shuren and Ms. Baptiste voted in support 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.

Police Report

The Police Report was circulated to the Board prior to the meeting. Acting-Chief Dasilva reported on the recent crimes in the Village. He stated that the surveillance vehicle has been stationed in the area where one of the break-ins occurred for one week with no results. He also reported that there had been another home burglary earlier in the day.

Dr. Heilman asked if there have been any responses to the department's attempts to re-activate the neighborhood watch program. Acting-Chief Dasilva responded that two residents had expressed an interest about that program.

Ms. Davis-Cook reported that some residents' along the 5400 block of Grove Street have requested the removal of the brushes along Grove Street adjacent to the Chevy Chase Open Space property to increase sightlines for public safety.

Chairman's Report

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

Mr. Kilborn made a motion to adjourn the meeting. Mr. Yeo 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 11:51 p.m.

Secretary, Chevy Chase Village Board of Managers

Reviewed by: MWY; SD-C;DRP 05/16/11