

Chevy Chase Village Board of Managers

May 16, 2011

BOARD OF MANAGERS

Patricia S. Baptiste, Chair	Present
Peter T. Kilborn, Vice Chair	Present
Allison W. Shuren, Secretary	Present
Richard Ruda, Assistant Secretary	Present
Lawrence C. Heilman, Treasurer	Present
Gary Crockett, Assistant Treasurer	Present
David L. Winstead, 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.

Swearing in of Board Members

Ms. Davis-Cook, a Notary Public for the State of Maryland, administered the Oath of Office to David L. Winstead, Patricia S. Baptiste, Richard Ruda and Gary Crockett.

Election of Officers

Mr. Winstead stated that he would not seek election as Chair due to personal time constraints. Ms. Shuren, Dr. Heilman, Ms. Baptiste and Mr. Kilborn thanked Mr. Winstead for his service on the Board as Board Chair.

Dr. Heilman made a motion to elect Patricia S. Baptiste as Chair of the Board of Managers. Mr. Kilborn seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett, and Mr. Winstead voted in favor of the motion. The motion passed.

Ms. Baptiste made a motion to elect Peter T. Kilborn as Vice Chair of the Board of Managers. Mr. Ruda seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

Mr. Crockett made a motion to elect Lawrence C. Heilman as Treasurer of the Board of Managers. Mr. Kilborn seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

Ms. Baptiste made a motion to elect Allison W. Shuren as Secretary of the Board of Managers. Mr. Ruda seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

Mr. Kilborn made a motion to elect Richard Ruda as Assistant Secretary of the Board of Managers. Dr. Heilman seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

Dr. Heilman made a motion to elect Gary Crockett as Assistant Treasurer of the Board of Managers. Ms. Shuren seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

Approval of Minutes from the Board's Previous Meetings Held on April 11, 2011

Action to approve the minutes of the Board's regular and executive sessions held on Monday April 11, 2011 was deferred due to a delay in the staff's circulation of the draft minutes to Board members. The Board deferred action to allow more time for their review. Ms. Baptiste added that the Board is in the process of determining a preferred minutes format.

The Board reported that on May 16, 2011 at 6:38 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. Dr. Heilman highlighted the following in his report:

Tax-based budget—

Expenditures are expected to be approximately 20% below the level of projected income. To date the Village is approximately 11% below budget, mainly due to spending constraints by staff, and deferred salaries from an unfilled administrative position and Police Chief position.

Reserves—

There is an approximate \$3 million balance in general fund reserves and an approximate \$3.9 million balance in *SafeSpeed* reserves. However, at the end of this year, the Village will see an approximate 20% dip in reserves. The Village seeks to maintain an aggregate reserve balance of \$2.5 million dollars.

Building Facilities Commission

Prior to the meeting, the Commission submitted a letter requesting appointment of Elissa Leonard as Chair and Carole Lee of East Irving Street to the Commission to fill the vacant seat. Ms. Davis-Cook introduced the matter.

Dr. Heilman made a motion to approve the appointment of Elissa Leonard of 37 West Lenox Street as Chair to the Building Facilities Commission. Mr. Kilborn seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Crockett, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

Mr. Ruda made a motion to approve the appointment of Carole Lee of 1 East Irving Street to the Building Facilities Commission. Mr. Crockett seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed. Ms. Davis-Cook advised that due to the staggered terms, Ms. Lee's appointment would be effective through April 11, 2016.

Ms. Baptiste asked staff to provide a monthly staff report on the use of the Village Hall including rentals, fee waivers and meetings.

Chevy Chase Open Space Liaison Committee

Ms. Baptiste stated that while she received a list of seven excellent candidates to volunteer to the Committee, they do not represent a broad geography of the Village. Mr. Kilborn added that there was a disproportionate representation of residents from across the Village. Dr. Heilman suggested that this group be an interim group that can attend the meetings with Park & Planning while the Board looks for a broader representation. Mr. Crockett asked if it were likely more residents would volunteer. Ms. Baptiste responded that sometimes you have to go out to recruit them. Ms. Baptiste stated that three people from the original group can begin interfacing with Park & Planning staff while more residents who represent a broader scope of the community are being recruited. Ms. Shuren recommended that 2-3 of the original committee attend the meeting with Park & Planning staff to gather information, but not to make any decisions.

The Board decided to defer the appointment of the Chevy Chase Open Space Liaison Committee until a broader range of residents are found.

Board Discussion Regarding the Status of the Democratic Process and Good Governance Committee

Mr. Kilborn stated that the Democratic Process and Good Governance Committee were of great use to the Board and helped greatly until the formation of the Elections Committee. He added that the Committee can now be disbanded. Dr. Heilman agreed with Mr. Kilborn and thanked the Committee for their service.

The Board unanimously decided to retire the Democratic and Good Governance Committee.

Friendship Heights Transportation Management District Advisory Committee

Ms. Baptiste stated that James Calderwood has volunteered to serve on the

Friendship Heights Transportation Management District Advisory Committee.

Mr. Kilborn made a motion to appoint James Calderwood of 5518 Western Avenue as the Village's representative to the Friendship Heights Transportation Management District Advisory Committee. Mr. Crockett seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

Appointment of the ad hoc Legal Services Evaluation Committee

Ms. Shuren reported that Robert Brewer of 105 Grafton Street, Mary Sheehan of 30 West Kirke Street and Michael Denger of 5802 Kirkside Drive have volunteered to serve on the Legal Services Evaluation Committee. Ms. Shuren recommended their appointment.

Dr. Heilman made a motion to approve the appointment of Robert Brewer, Mary Sheehan, and Micheal Denger to the Legal Services Evaluation Committee. Ms. Shuren seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

Traffic Committee

Porter Wheeler stated that the Traffic Committee supports the request for the installation of a stop sign on westbound East Melrose Street at Nevada Avenue and northbound Nevada Avenue at East Melrose Street. The Committee supports the request because it is unclear who has the right of way when approaching the intersection, which is unsafe. The petitioners also asked for a "Caution Children at Play" sign, which the Traffic Committee does not endorse because these signs could be misconstrued to imply children may not be in the area where these signs have not been installed.

Mr. Ruda made a motion to adopt an Ordinance to require westbound traffic on East Melrose Street to stop at the intersection of East Melrose Street and Nevada Avenue and to require northbound traffic on Nevada Avenue to stop at the intersection of Nevada Avenue and East Melrose Street. Mr. Kilborn seconded the request. Ms. Shuren seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

Parks and Greenspaces Committee

Bliss Ryan of the Parks and Greenspaces Committee presented her request for a bench at the entrance to Montgomery Street in the buffer area. Alice Kinter, Chair of the Parks and Greenspaces Committee, stated that she does not want a bench with an arm rest in the middle installed in the buffer. Susan Kilborn of 4007 Oliver Street stated that the bench is not long enough to sleep on, therefore she sees no need to have an armrest. Rosita Silber of 5505 Montgomery Street stated her opposition to a bench in the buffer area. She stated that it could attract employees and patrons from the nearby businesses to sit on the bench. Betty O'Connor stated that she is in support of a bench in the buffer area.

Ms. Baptiste and Mr. Crockett stated that they are in favor of the installation of a bench with an armrest in the middle to deter vagrants.

Ms. Davis-Cook stated that there was currently a bench in the Village's possession that does not have a center armrest; however, the bench would be placed in a location that is under 24-hour video surveillance and can be monitored if future use warrants replacement with a bench consisting of a center armrest.

Mr. Crockett made a motion to approve the installation of a bench in the buffer area near the entrance to the Chevy Chase Center property. Ms. Shuren seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Crockett, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

Old Business

Sidewalk Replacement Project

Mr. Younes explained that he and the Director of Public Works surveyed the trip hazard repairs and asked the Board for direction on how to proceed with the Village-wide Sidewalk Replacement Project. Mr. Crockett stated that it was clear from Mr. Younes' report that replacing only the trip hazards would not be cost-effective. Mr. Crockett recommended that all sidewalks be replaced, but in order of necessity. Dr. Heilman supported fixing all existing trip hazards. He added that the sidewalk replacements are a priority from a public safety standpoint. Ms. Baptiste asked Mr. Younes to prepare a construction schedule and cost scenarios for the Board's review in June. She asked that the scenarios include frontloading the overall project.

Mr. Kilborn asked what materials will be used during the replacement. Mr. Younes replied that the Village will be using brick due to ease of maintenance and increased safety.

Mr. Younes added that the Village project includes the replacement of handicap ramps pursuant to ADA standards, which requires a specified slope angle from the roadway and a detectable warning surface.

Samuel Lawrence, Chair of the Budget Committee asked about the obligations that the Village has to a specific quantity of work through the proposed contracts over the outlined contract term. Mr. Younes answered that the Village is not signing a contract for a specific dollar amount, but for unit costs to install sidewalks on a square foot basis over a 4-year timeframe.

New Business

Public Hearing on Resolution No. 05-01-11: An Ordinance to amend Chapter 10 of the Chevy Chase Village Code to clarify and update the regulation of the disposition of refuse and hazardous waste; to transfer the regulations regarding Dutch Elm Disease to Chapter 17 of the Village Code, titled Urban Forest; to revise cross-references in Chapter 6; and to establish a municipal infraction fine for violation of the regulation regarding Dutch Elm Disease.

Mr. Younes stated that over the past 4 months the Public Works Committee has been working to modify Chapter 10 of the Village Code, to address issues that have arisen related to the special pickup program.

Marilyn Bracken, Co-Chair of the Environment and Energy Committee, expressed her concern if the hazardous waste pick up is eliminated. The Residents will inappropriately dispose of

hazardous waste. Ms. Baptiste stated that they are actively looking for a variety of solutions to the special pickup issues.

Mr. Crockett stated that he thinks that the 50 pound limit is too low, according to national averages. Mr. Kilborn stated that he agrees with Mr. Crockett that the 50 pound limit is too low. He added that the 50 pound limit is arbitrary. Mr. Ruda stated that he thinks that the 50 pound limit is appropriate and he recommended that they Board consult with the Director of Public Works. Dr. Heilman suggested a weight limit of 100 pounds as being appropriate.

The Board decided to defer a decision on the proposed resolution pending input from the Director of Public Works regarding the proposed weight limit for items collected under the special pickup program and whether to maintain or modify the hazardous waste collection program.

Update on Recruitment Efforts for a New Chief of Police

Ms. Davis-Cook stated that the staff is preparing information to assist the Board as it begins to determine a process for the recruitment of the next Police Chief.

Laura M. Billings & David A. O'Neil; 5803 Kirkside Drive—Request for removal of (a) one 16.8-inch diameter Spruce tree, (b) one 10.0-inch Holly tree, and (c) one 12.0-inch Holly tree, all located in the Kirkside Drive Public Right-of-Way. Mr. O'Neil presented the request.

Two Tree Committee members voiced an objection to removal of the Spruce tree, but two other members indicated their support for the removal of both the Holly trees and the Spruce tree.

Bob Elliott, Chair of the Tree Committee, stated that the trees preservation is not required given all of the facts and circumstances of this request, including that the subject trees are not specimen trees or otherwise particularly desirable and the trees block the view of the Applicants' house and more desirable trees.

Ralph Stephens of 11 Magnolia Parkway stated that he would like the Tree Committee and the Environment and Energy Committee to take more time to determine if they think the tree should stay or go. Ms. Bracken agreed with Mr. Stephens in that they would like more time to review the request.

Michael Denger of 5802 Kirkside Drive stated that he is in favor of the removal of the proposed trees.

Susie Eig stated of 34 West Kirke Street stated her support for the removal of the two (2) Holly Trees, but that she opposed the removal of the Spruce Tree.

Philip Webre of 5800 Kirkside Drive stated that the Spruce tree is not native to this area and that he supported the removal of the tree.

Mr. Kilborn made a motion to approve the removal of (a) one 16.8-inch diameter Spruce tree, (b) one 10.0-inch Holly tree, and (c) one 12.0-inch Holly tree, all located in the

Kirkside Drive Public Right-of-Way, provided the applicants reforest with at least three hardwood deciduous trees, which are at least 2 1/2 inches in caliper at the time of installation and are of a species that achieves a mature height of at least forty five (45) feet. Mr. Crockett seconded the motion. Mr. Kilborn, Ms. Shuren, Mr. Ruda, Mr. Crockett, and Mr. Winstead voted in favor of the motion. Ms. Baptiste and Dr. Heilman voted against the motion. The motion passed.

Consent Agenda

Administrative Review of Case 5917: Laura M. Billings & David A. O'Neil, 5803 Kirkside Drive—Building permit and license to use the public right-of-way to install a fence measuring forty-two (42) inches in height with three gates also measuring forty-two (42) inches in height in the Kirkside Drive public right-of-way.

The Board unanimously approved the Consent Agenda for Case No. 5917.

Appeals

A-5913 Variance Request: Ms. Alice W. Kinter and Mr. George L. Kinter, 121 Hesketh Street—Retroactive variance to maintain a picket fence measuring four (4) feet in height in the Kirkside Drive public right-of-way which was replaced without an applicable Building Permit and License to Use the Public Right-of-Way. Ms. Baptiste advised that this case had been deferred.

A-5914 : a) Special Permit & b) Variance Request: Laura M. Billings & David A. O'Neil, 5803 Kirkside Drive— Replace an existing stockade fence that: a) measures six (6) feet in height in the Grafton Street public right-of-way and b) measures six (6) feet in height forward of the front (Grafton Street) building restriction line with a wood fence in the same location and at the same height.

Mr. Crockett made a motion to direct Counsel to draft a decision approving the request for a special permit and variance to replace an existing stockade fence that: a) measures six (6) feet in height in the Grafton Street public right-of-way and b) measures six (6) feet in height forward of the front (Grafton Street) building restriction line with a wood fence in the same location and at the same height. Dr. Heilman seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

A-5642 Extension Request: Mr. Bailey C. Adams, 5625 Grove Street—Extension of a previously approved appeal to complete an addition currently under construction, the yet-to-be-installed gutter of which would encroach eighteen (18) inches into the southwest seven (7) foot side yard setback. The Applicant explained that all the addition work has been completed prior to the permit expiration with the exception of the gutter portion of the eave. He stated that additional time is needed to complete the construction because the roofer who fabricated the gutter material has passed away. The roofer had fabricated the gutter material using material and fabrication equipment no longer available. Thus, the Applicant encountered difficulty in locating a replacement contractor who could produce the necessary gutter material.

No changes to the building plans have been made. Mr. Adams stated that an additional 60 days would allow him to complete the remaining work. No correspondence or testimony was presented in opposition to the Applicant's request.

Mr. Kilborn made a motion to direct Counsel to draft a decision approving the request to extend a previously-approved variance to complete an addition currently under construction, the yet-to-be-installed gutter of which would encroach eighteen (18) inches into the southwest seven (7) foot side yard setback. Dr. Heilman seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

A-5916 Variance Request: Ms. Lucia Grenna & Mr. Norman Piccioni, 37 Quincy Street—Construct a second floor addition over the existing first floor, the eave and gutter of which would encroach eighteen and one-half (18 ½) inches into the west seven (7) foot side yard setback. Mr. Piccioni appeared at the hearing in support of the request. He noted that the construction was approved by the Historic Preservation Commission. He explained that the approval would not have been given had the Applicants proposed an addition without an eave. No correspondence or testimony was presented in opposition to the Applicants' request.

Mr. Crockett made a motion to direct Counsel to draft a decision approving the request for a variance to construct a second floor addition over the existing first floor, the eave and gutter of which would encroach eighteen and one-half (18 ½) inches into the west seven (7) foot side yard setback. Dr. Heilman seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed.

A-5918 Variance Request: Kara M. Bombach & Thomas G. Southard, 5600 Western Avenue—Replace an existing stockade fence measuring six (6) feet in height and approximately sixty-eight (68) feet in length located in the west (front) yard with a wrought iron fence and to install a gate and an additional new segment of iron fence measuring approximately twenty seven (27) feet in length from the southern end of the gate and then turning at a right angle to the east and measuring fifteen (15) feet in length to connect to the wall of the house. 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 the yard in question functions as a "back" yard. They state that the fence is needed to enclose their functional rear yard and provide privacy from the busy motor vehicle and pedestrian traffic along Western Avenue and Cedar Parkway. 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 is needed to provide privacy from the activity along Western Avenue and Cedar Parkway. The Applicants assert that their request would most nearly accomplish the intent and purpose of the requirements of the Village building regulations because the appearance of the property

would be improved if the deteriorating stockade fence is replaced with an open wrought-iron fence. Also, they assert that the proposed fence would not interfere with the public's use of the right-of-way. No correspondence or testimony was presented in opposition to the Applicants' requests.

Mr. Kilborn made a motion to direct Counsel to draft a decision approving the request to replace an existing stockade fence measuring six (6) feet in height and approximately sixty-eight (68) feet in length located in the west (front) yard with a wrought iron fence and to install a gate and an additional new segment of iron fence measuring approximately twenty seven (27) feet in length from the southern end of the gate and then turning at a right angle to the east and measuring fifteen (15) feet in length to connect to the wall of the house. Mr. Ruda seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead 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. Davis-Cook added that she will direct staff to begin routine clean-up operations in the Cedar Parkway right-of-way located north of West Lenox Street.

Police Report

The Police Report was circulated to the Board prior to the meeting. Acting Chief Dasilva reported on the recent crime activity in the Village. He stated that the surveillance vehicle has been stationed in the area of the break-ins. Acting Chief Dasilva added that there has been a recent shift in crime to the D.C. side of Western Avenue.

Chairman's Report

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

Dr. Heilman made a motion to adjourn the meeting. Mr. Kilborn seconded the motion. Ms. Baptiste, Mr. Kilborn, Ms. Shuren, Dr. Heilman, Mr. Ruda, Mr. Crockett and Mr. Winstead voted in favor of the motion. The motion passed. The meeting adjourned at 9:58 p.m.

Secretary, Chevy Chase Village Board of Managers

Reviewed by: MWY; SD-C; DRP, 6/10/2011