

**TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
January 11, 2006**

Present: Bill Hudnut, Mayor; Linna Barnes, Vice Mayor; Rob Enelow, Treasurer; Scott Orbach, Secretary; Mier Wolf, Community Liaison; Todd Hoffman, Town Manager; Marty Hutt, Town Attorney; David Podolsky, Town Attorney; and David Walton, Management Assistant.
Residents and guests who signed in: See attached sign-in sheet.

I. General Business

A. Call to order – 7:00 p.m.

Mayor Hudnut called the meeting to order at 7:00 p.m.

B. Pledge Allegiance to the Flag

The Mayor led those in attendance in the pledge of allegiance to the flag.

C. Comments, Questions, Suggestions from Residents

Several residents came to the meeting to discuss non-agenda items. Jim Mich, of 4400 Walsh Street, requested that the Setbacks Ordinance be sent to a qualified land use and planning firm for review. Brenda Gonzalez, of 4332 Leland Street, expressed concerns that the setbacks ordinance would have an unfair impact on certain lots in town, and the legislation should be taken to referendum before approved. Michael Beriss, of 7315 Maple Avenue, requested that the Town include more information on the setbacks changes on the website. He also requested that the Town study the impact of the setbacks ordinance on lot coverage. Bruce Russell, of 7107 Oakridge Avenue, commented that the Council needs to focus on properties that are adjacent to large construction projects. Martin Gold, of 4420 Walsh Street, suggested that the Town show the impact of the ordinance on each lot in Town by color coding a town map and placing it on the website. Cathy Wolf, of 7622 Lynn Drive, commented that the proposed Regulatory Review and Enforcement Committee's Pre-Permit Application Consultation Ordinance sounds like a form of design review. She also commented that Lewie Bloom's opinions were not taken into consideration by the Setbacks Committee. Kathy Strom, of 7212 Ridgewood Avenue, stated that she was the Chair of the Setbacks Committee, and Lewie Bloom's comments were never vocalized during committee discussions. Willie Blacklow, of 6700 Oakridge Avenue, commented that all of the meetings of the Council and Committees were open and had been advertised.

D. Approval of Minutes of December 13 Council Meeting (Deferred)

Approval of the December 13 Meeting Minutes was deferred until February.

E. Acceptance of Financial Report for November and December

Councilmember Enelow presented the financial reports for November and December. Councilmember Orbach made a motion to accept both financial reports. Councilmember Barnes seconded the motion, and it passed unanimously.

F. Supplemental Appropriation for Legal Counsel - \$34,845

Councilmember Barnes made a motion to appropriate an additional \$34,845.00 for Legal Counsel. Councilmember Wolf seconded the motion, and it passed unanimously.

G. Acceptance of FY05 Audit

Acceptance of the FY05 Audit was deferred until February to allow the Town Clerk to be in attendance to answer questions.

II. Discussion

A. Steering Committee Report

Barry Hager presented a report from the Steering Committee. The Steering Committee was pleased with the Town's proposed tree ordinance and supportive of its adoption. The Steering Committee felt that the Setbacks Committee had presented a good compromise solution on the difficult issues related to changing the setbacks in the Town. The Steering Committee was concerned that some of the changes discussed in the Council Worksession may weaken the ordinance too much. The Stormwater Ordinance is in continued development and will be presented to the Council when it is ready for review and approval. The Regulatory Review and Enforcement Committee has continued to study issues with construction, including a pre-permit application consultation requirement.

B. Equipment Donation to Leland Community Center

The Director of the Leland Community Center asked the Town Council to consider donating a shoulder press to the fitness center. The shoulder press costs \$1,682.50. Councilmember Wolf made a motion that the Town contribute \$1,682.50 to purchase this equipment. Councilmember Barnes seconded the motion, and it passed unanimously.

C. Donation to BCC Rescue Squad

The Bethesda-Chevy Chase Rescue Squad is starting a program that will use bicycle based responders. Councilmember Orbach made a motion that the Town contribute \$2,500 for this project. Councilmember Barnes seconded the motion, and it passed unanimously.

III. Action Items

A. Introduction of Amended Chapter 4 of the Town Code, Entitled "Buildings" (Setbacks Ordinance)

Councilmember Barnes reported that the Town has been looking at changing the setbacks for about four years. The building moratorium has hastened this process, and the Setbacks Committee presented an ordinance for the Council to consider. At a worksession in early January, the Council met to evaluate the proposed ordinance to ensure that it allowed for the appropriate use of property and was equitable for all lots in Town. At the worksession, some changes were agreed to by the Council for introduction at this Council Meeting.

The Town currently has three different side setbacks for lots depending on when the lot was deeded. The Committee recommended that the side setbacks be changed to a total of 30% of the lot width or 16' whichever is greater, with a minimum on one side of 40% of the total side setback, or 8' whichever is greater. The Committee applied this 8' minimum to all lots. The Council rejected this recommendation for corner lots less than 70' wide.

For main buildings on interior lots, Councilmember Barnes made the following motion to change the proposed ordinance:

- For lots that are less than 100' deep, the rear setback will be 20'; and
- For lots that are greater than 100' deep and less than or equal to 120', the rear setback will be 20' plus 70% of any lot depth greater than 100'; and
- For lots greater than 100' deep, the rear setback will be 25' plus 70% of any lot depth greater than 100', and
- A provision that 1':1' rear setback credit will be given for any amount that the established building line is greater than 30', with the caveat that the rear setback will not be less than 20' for lots 120' or less in depth, or 25' for lots deeper than 120'.

Councilmember Enelow seconded the motion. There was some discussion of the rationale behind the changes. The motion passed 3-2 with Councilmembers Barnes, Enelow, and Wolf in support.

For main buildings on corner lots, Councilmember Barnes made a motion that any lot over 70' wide, measured at the front building line opposite the chosen rear yard, will be required to have a minimum 8' side setback. Lots less than 70' wide will not have a minimum side setback. Councilmember Enelow seconded the motion. After some discussion on the width of corner lots in the Town, the motion passed 4-1 with Councilmember Orbach opposed.

Councilmember Barnes made a motion that corner lots greater than 120' deep will have a rear setback of 20' plus 70% of any lot depth greater than 120'. Corner lots less than or equal to 120' will have a 20' rear setback. Councilmember Enelow seconded the motion, and it passed unanimously.

Councilmember Barnes made a motion for corner lots that a 1':1' rear setback credit will be given for any amount that the established building line is greater than 30', with the caveat that the rear setback will not be less than 20' for any corner lot. Councilmember Wolf seconded the motion, and it passed unanimously.

For accessory buildings, Councilmember Enelow made a motion that accessory buildings on interior lots measuring 12' or higher from the base to the highest point must be set back from the

rear and side property lines 7.5 feet, in addition to the other provisions in the proposed ordinance. Mayor Hudnut seconded the motion. After some discussion, a vote was held and the motion passed 3-2 with Councilmembers Enelow, Hudnut and Orbach in support.

Mayor Hudnut instructed the Town attorneys to make the recommended changes to the ordinance. Councilmember Barnes made a motion to send the ordinance as amended to Montgomery County as required by state law. Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Barnes made a motion to send the ordinance to an outside land use and planning expert to review the ordinance to ensure that it meets the Town's goal of decreasing house size and controlling development as well as evaluating the administrative implications of the ordinance. Councilmember Wolf seconded the motion. There was some discussion about the timetable of getting a review completed before the ordinance could be taken to public hearing and approved. Councilmember Orbach made a motion to add an 18 month sunset provision into the setbacks ordinance to force the Town to review its effectiveness. Councilmember Wolf seconded the amendment to the motion. Councilmember Enelow felt that the sunset provision was unnecessary as the Council can review the ordinance at any time. A vote was held on the 18 month sunset provision amendment, and the amendment failed 4-1 with Councilmember Orbach in support. The motion to refer the ordinance to a reputable planning firm passed 3-2 with Councilmembers Hudnut and Orbach opposed.

B. Council Action of Amended Chapter 29 of the Town Code, Entitled "Urban Forest." (Tree Ordinance)

Councilmember Enelow presented the Tree Ordinance for approval and thanked the Tree Committee, specifically Chris Wright and Ketch Ryan for their work in crafting the ordinance. The new ordinance will address protecting the tree canopy by lowering the threshold of trees that need permits for removal and by forming a tree ordinance board to review the removal of healthy canopy trees. In order to make the ordinance effective, two clarifications to the penalties section of the ordinance were considered. Councilmember Enelow made a motion that the ordinance be amended to say that a person guilty of a municipal infraction shall be subject to a fine in the maximum amount allowed by the Town Charter. He made a second motion that a misdemeanor violation shall be punishable by a fine in the maximum amount permitted by the Town Charter and imprisonment for the maximum period permitted by State Law. Councilmember Barnes seconded the motions, and the amendments passed unanimously. Councilmember Enelow made a motion to approve the ordinance as amended. Councilmember Orbach seconded the motion, and the ordinance was approved unanimously. The ordinance will become effective on February 11, 2006.

C. Introduction of Amendment to Article III, Section 303 of the Town Charter, Entitled "Enforcement of Ordinances"

Councilmember Barnes made a motion to approve an amendment to Article III, Section 303 of the Town Charter to provide that a violation of Town ordinances constitutes a misdemeanor and establishes penalties for such violations of a fine or imprisonment not to exceed the maximum

allowable under state law. Councilmember Enelow seconded the motion, and it passed unanimously.

D. Introduction of Amendment to Article III, Section 304 of the Town Charter, Entitled “Municipal Infractions”

Councilmember Wolf made a motion to approve an amendment to Article III, section 304 of the Town Charter to provide that violation of a Town Ordinance constitutes a municipal infraction and gives the council the authority to establish a fine not exceeding the maximum fine allowable under state law for such violation and to increase the fine for repeat offenders to the maximum allowable under state law. Councilmember Enelow seconded the motion, and it passed unanimously.

IV. Mayor’s Report

The Mayor thanked the Council for their hard work in reviewing and assisting with the development of the various ordinances. Water Committee Chair Lance Hoffman was asked for an update on the Stormwater Management Ordinance, which is being reviewed by the Maryland Department of the Environment. Mr. Hoffman asked the Council to give the Committee the authority to spend money to consult with a civil engineer, as needed. Councilmember Barnes made a motion to authorize the Town Manager to engage a civil engineer to support the committee. Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Orbach reported to the Council about the National League of Cities Conference that he attended and mentioned that he had talked to a vendor of permeable sidewalks and streets. Some discussion followed about the Town’s authority to regulate permeable surfaces.

Staff was instructed to make setbacks consultations available to residents and to advertise the availability of these consultations in the Forecast and on the Town’s web page. A timetable was developed for future meetings, and the regular meeting was adjourned at 10:30 pm. The Council reconvened in executive session to discuss personnel matters.

Respectfully submitted,

Scott Orbach, Secretary

Transcribed by David Walton