

TOWN OF CHEVY CHASE  
TOWN COUNCIL MEETING  
April 5, 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; and Andi Silverstone, Town Clerk. Residents and guests: Andy Bennett, 7213 Maple Avenue; William and Susan Blacklow, 6912 Oakridge Avenue; Karen Depew and Steve Keeble, 4414 Walsh Street; John Fitzgerald and Christine Real de Azua, 4502 Elm Street; Bridget Hartman, 7214 Ridgewood Avenue; Lance Hoffman, 7104 44<sup>th</sup> Street; Mark Kramer, Kramer Architects, for Keeble project; Jim Mich, 4400 Walsh Street; John Powers, 4416 Walsh Street; Bruce Russell, 7107 Oakridge Avenue; and Kathy Strom, 7212 Ridgewood Avenue.

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. Public Comments

There was no one in attendance who wanted to speak on any non-agenda item.

D. Approval of March Council Meeting and Executive Session (Deferred)

The approval of the minutes of the March Council meeting and executive session were deferred.

E. Acceptance of Financial Report for March

Councilmember Orbach made a motion to accept the financial report for March. Councilmember Barnes seconded the motion, and it passed unanimously.

II. Reports

A. Moratorium Implementation Steering Committee Report

Kathy Strom, member of the Steering Committee and Chair of the Setbacks Committee, gave a status report on the work of the Moratorium Implementation Committees. Ms. Strom reported that once the revised water ordinance is considered, all of the ordinances from all of the committees will have been acted on by the Town Council. The Steering Committee will meet on April 17 to review the water ordinance. The Visioning Committee will have a report for the Town Council that will be presented at the April 27, 2006 Council meeting. The Water Committee report will be presented to the Council at a future date.

### III. Consent Items

#### A. Introduction of an Ordinance to Amend Chapter 4 of the Town of Chevy Chase Code to Clarify Terminology, Codify and Enhance Procedures, Modify Structure Location Requirements, and Provide for Penalties, Remedial Action and Executive Regulations

Town Attorney Marty Hutt explained that some language changes are needed, but they are not substantive. The changes are needed to coordinate with the Pre-Permit Application Consultation (Pre-PAC) Ordinance. There will be a comprehensive compilation of changes to make both ordinances consistent.

Councilmember Barnes made a motion to introduce Item IIIA on the agenda for consideration at a future meeting, at which time there will be public hearing on the proposed ordinance. Councilmember Wolf seconded the motion. Before the motion was called to a vote, Bruce Russell, Chair of the Regulatory Review and Enforcement Committee, indicated that the ordinance included new enforcement requirements and new provisions for requirements for permits. The motion was called, and it passed unanimously.

### IV. Council Actions

#### A. Council Action on an Ordinance to Codify and Enhance the Existing Practices of: 1) Having Building Permit Applicants Meet with the Town Manager to Identify Issues That May Be More Efficiently Addressed if Identified Prior to the Formal Submission of a Permit Application; 2) Having Building Permit Applicants Meet with the Town Manager to Address Construction Site Management Issues After Formal Submission of a Permit Application and Before a Building Permit is Issued; and 3) Having the Town Manager Impose Conditions to Protect the Public Health, Safety and Welfare When Issuing a Building Permit

Item IVA had been introduced on February 22, 2006, and there was a public hearing held on March 8, 2006. There was discussion about the cumulative nature of additions to a property. It is the intent of the ordinance that additions would go with the property and not the owner. The committee that worked on this ordinance was concerned with mass and not just footprint. The cumulative effect begins in 2006 and refers to a 500 square foot addition on any one floor.

It was the sense of the Council that the threshold size of an addition that would trigger the requirement for a pre-permit application consultation (pre-pac) is 500 square feet on any floor.

There was discussion about signature requirements on permits and extensions, revocations, amendments, and Stop work orders. Currently, the ordinance provides that the Mayor would only sign the original permit and the Town Manager signs the permit and the other documents. It was the sense of the Council that the ordinance be amended so that the Mayor would be required to sign all documents relating to a permit along with the Town Manager.

Councilmember Barnes made a motion to adopt the amendment to Section 4-3. Councilmember Orbach seconded the motion, and it passed unanimously.

#### V. Public Hearings

A. ~~Variance Request, 4011 Underwood Street, Side Yard Setback, Covered Front Porch (Deferred)~~

B. Variance Request, 4414 Walsh Street, Covered Front Porch, Enclosed Rear Porch, Uncovered Rear Deck, Front Retaining Walls

The public hearing on Stephen Keeble and Karen Depew's request for a variance was recorded. Councilmember Wolf made a motion to deny the request for a variance. Councilmember Barnes seconded the motion, and it passed with Councilmembers Hudnut, Orbach, Barnes and Wolf in support and Councilmember Enelow opposed.

#### VI. Discussion

A. Proposed FY07 Budget

The Town Council reviews and adopts the budget and recommends a tax rate, subject to the approval by Town residents at the Annual Meeting. Councilmember Enelow made a motion to adopt the FY07 budget and recommend the Constant Yield Tax rate (.026), subject to approval of the tax rate by the residents at the Annual Meeting. Councilmember Wolf seconded the motion. Councilmember Orbach questioned the FY07 legal expenses budget (\$200,000), which was based on FY2006 actual expenses. He recommended that the budget be set at \$75,000, since FY05 expenses were \$50,000 and FY06 expenses were greater than usual due to the one-time moratorium and litigation. Councilmember Orbach made a motion to reduce the Legal Counsel budget from \$200,000 to \$75,000 so that the Council could manage unusual expenses by proactively appropriating additional funds as extraordinary requirements become apparent. Councilmember Enelow seconded the motion and discussion followed. There was discussion about the need to control legal expenses, and that if the entire \$200,000 is not spent, it will go back into the General Fund. A vote on the amendment was called. Councilmember Orbach voted in favor, and Councilmembers Barnes, Enelow, Hudnut,

and Wolf opposed. The vote was called on Councilmember Enelow's original motion. The motion passed with all Councilmembers voting in favor.

## VII. Reports

A. Mayor's Report: Mayor Hudnut announced that the next Council meeting would be on Thursday, April 27, 2006, following the "Meet the Candidates" forum. Discussion followed about the content and organization of the Annual Meeting. The Chief of the Montgomery County Police Department, Tom Manger, will be there to talk about crime and safety. Local officials will be invited; however, only Congressman Chris Van Hollen will be asked to speak.

The results of the election will be posted on the Town's website after the meeting is over. The Annual Meeting will begin at 8:00 p.m.

B. Town Manager's Report: Town Manager Todd Hoffman asked Councilmembers if they would like to send a letter to the County Council requesting an opportunity to discuss ZTA03-27 which deals with building height interpretation. Councilmember Barnes made a motion to send the letter. Councilmember Enelow seconded the motion, and it passed with a vote of 4-0 (Councilmember Wolf was not present when the vote was taken.).

The Town Manager asked the Council to consider filing an application for participation in the National Flood Insurance Program so that Town residents may purchase flood insurance on their properties. The Council would have to pass two resolutions: 1) resolution that would state intent to join and give the County responsibility for the Town; and 2) resolution that would adopt flood protection measures and appoints the County as the responsible agency. Councilmember Barnes made a motion to adopt the resolution of intent to enter the program. Councilmember Enelow seconded the motion, and it passed unanimously. Councilmember Barnes made a motion to adopt a resolution that adopts flood protection measures in order to join the program. Councilmember Enelow seconded the motion, and it passed unanimously.

The Town Manager asked how the Council would like for the staff to handle several complaints that have come to the office. Residents have reported that it has been difficult to drive through Curtis Road, because cars and construction vehicles are often parked on both sides of the street, preventing passage of cars and emergency vehicles. The problem has been on-going, and the police have been asked to monitor the situation. Councilmember discussed several options, including referring the issue to a re-constituted Traffic Committee and sending letters to the residents on Curtis Road to ask them to stagger parking. Councilmember Enelow made a motion to refer the issue to the Traffic Committee for further study. There was no second. Discussion followed. Councilmember Wolf made a motion to send a letter to residents on Curtis Road asking them to stagger parking and advising them that Town staff would be monitoring the situation. Councilmember Enelow seconded the motion, and it passed unanimously.

Town Manager Todd Hoffman asked Councilmembers how they would like to handle requests for sidewalks, speed humps, and stop signs. After discussion, it was the sense of the Council to reconvene the Traffic Committee in June or September, and let

residents know their requests will be forwarded to the committee for evaluation. It was also the sense of the Council that any policy should include asking for a petition from residents, as a first step.

The Town Manager advised the Council that there is a need to interpret the new setbacks ordinance in terms of the established building line (EBL) and non-conforming structures. Montgomery County is using a liberal administrative interpretation. Town Manager Hoffman asked if the Council would like to follow the County's interpretation or have another interpretation for the Town. An interpretation is needed in order to act on the variance request for 4011 Underwood Street. The Town Manager recommended using a conservative approach while the issue is under review by the Setbacks Committee. It was the sense of the Council to adopt the Town Manager's recommendation.

The Town Manager sent requests for proposals to review the new setbacks ordinance to four firms. Only one, Jakubiak & Associates, responded. Their cost for the review would be \$19,400. Discussion followed about whether to do the study now or to wait until more information is gathered as a result of implementing the ordinance. The results of a straw vote were Councilmembers Barnes and Enelow favored doing the review now, while Councilmembers Orbach and Wolf preferred to wait. Councilmember Barnes made a motion to have the study done now. Councilmember Enelow seconded the motion. It failed because of a tie vote, with Councilmembers Barnes and Enelow in favor and Councilmembers Wolf and Orbach opposed. Councilmember Wolf made a motion to defer the study and reconsider it in September. Mayor Hudnut seconded the motion. That motion failed due to a tie vote, with Councilmembers Orbach and Wolf in favor and Councilmembers Barnes and Enelow opposed. Councilmember Orbach made a motion to revisit this issue in January, 2007. Councilmember Enelow seconded the motion. Originally, Mayor Hudnut and Councilmembers Orbach and Wolf voted in favor of the motion. Councilmembers Enelow and Barnes were opposed. Councilmember Barnes changed her vote in favor of the motion. The motion passed with Mayor Hudnut and Councilmembers Barnes, Orbach and Wolf in favor, and Councilmember Enelow opposed.

There being no further business, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Scott Orbach  
Secretary

Transcribed by Andi Silverstone