

**TOWN OF CHEVY CHASE  
COUNCIL MEETING  
September 11, 2007**

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Lance Hoffman, Secretary; Kathy Strom Treasurer; Mier Wolf, Community Liaison; Todd Hoffman, Town Manager; David Podolsky and Ron Bolt, Town Attorneys; Ted Pochter, Assistant Town Manager; and David Walton, Management Assistant. Residents and guests: Bridget and Lees Hartman, 7214 Ridgewood Avenue; Dedun Ingram, 4411 Elm Street; Pat Burda, 4108 Woodbine Street; Naresh Kilaru, 7111 44<sup>th</sup> Street; Joe Rubin, 4409 Ridge Street; Julia Miller, 4212 Oakridge Lane; Judy McGuire, 4003 Rosemary Street; Stuart Sessions, 7700 Meadow Lane; and Dian Seidel, 4426 Stanford Street.

**I. GENERAL BUSINESS**

The meeting was called to order by Mayor Barnes at 7:05 p.m. A moment of silence was held to reflect on the anniversary of the September 11 attacks. The mayor led everyone in attendance in the pledge of allegiance to the flag.

**A. Public Comments**

Diane Wilkens and Rachel Halterman, 7108 45<sup>th</sup> Street, expressed concerns that the Town was not doing enough to ensure that water drainage issues were addressed in the Town's permitting process. Several years ago, they raised some concerns about water drainage prior to a construction project adjacent to their property, and they said the Town was not responsive. They have subsequently been threatened with litigation as a result of water drainage issues.

Dedun Ingram, 4411 Elm Street, commented that she would like to see more detail included in Council meeting agendas posted online. She also commented that she would like to see an area on the Town website for residents to advertise plants available for sharing. On the latter issue, Mayor Barnes referred her to the community listserv Townneighbors.

**B. Approval of Financial Reports for June (Unaudited), July and August**

Councilmember Wolf made a motion to approve the financial reports for June (unaudited), July and August. Councilmember Enelow seconded the motion. Councilmember Strom reported that there was nothing unusual in the reports, and the reports were approved unanimously.

**C. Acceptance of Minutes of June Council Meeting and Executive Session, July 10 Council Meeting and Executive Session, and July 17 Council Meeting**

Councilmember Wolf made a motion to approve the minutes of the June Council Meeting and Executive Session, July 10 Council Meeting and Executive Session, and July 17 Council Meeting. Councilmember Enelow seconded the motion. Councilmember

Hoffman reported that there was nothing out of the ordinary in the minutes, and they were approved unanimously.

#### **D. Ellen's Run Contribution**

The Town made a donation to the run in 2006, and organizers of the run requested another donation for 2007. Proceeds from the run are divided between the Mental Health Association and the community scholarship fund. Councilmember Strom made a motion to contribute \$1000. Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Wolf commented that he had spoken with the B-CC High School principal to ensure that requests for funding of school-related activities are approved by the principal prior to submittal to the Town.

## **II. VARIANCE REQUESTS**

### **A. Kilaru, 7111 44<sup>th</sup> Street, Front Yard Walls**

Naresh Kilaru applied for a variance from Town building regulations to construct two front yard retaining walls, each over one foot high. The property is located on a corner lot. The proposed retaining walls would border a new driveway leading to a below-grade garage on the Willow Lane side of the property. The Council previously denied a variance request from the Kilarus in July.

Mr. Kilaru commented that he tried to address the Town Council's concerns presented at the July council meeting by scaling down the size of the proposed walls. He also had the existing garage inspected by a home inspector, who found the structure to be in irreparably poor condition. The existing garage is non-conforming and could not be replaced on the property in the same place if it were removed.

Ross McNeil, 4312 Willow Lane, expressed concern about the impact the driveway might have on existing trees and drainage.

The Town received two letters and one phone call in support of the request from nearby residents.

Mayor Barnes closed the public hearing, and the Council began discussion of the case. Councilmember Strom commented that not having a garage does not constitute undue hardship. Councilmember Wolf commented that it may be preferable to relocate the driveway from 44<sup>th</sup> Street, but he did not necessarily see hardship. Councilmember Enelow inquired if the resident at 4316 Willow Lane supported the variance request. Councilmember Hoffman found the lot to be unusually shaped and thought that conforming to the ordinance would cause unusual and practical difficulty.

Councilmember Hoffman made a motion to approve the variance. Councilmember Enelow seconded the motion. Councilmembers Hoffman and Enelow voted in favor of

the motion with Councilmembers Barnes, Wolf, and Strom opposed. The variance request was denied.

### **III. PUBLIC HEARINGS & COUNCIL ACTIONS**

#### **A. Introduction of an Ordinance to Regulate Traffic and Parking by Resolution**

Councilmember Enelow made a motion to introduce an ordinance to regulate traffic and parking by resolution. Councilmember Hoffman seconded the motion, and it passed unanimously.

#### **B. Public Hearing and Council Action on Established Building Line Ordinance**

The Council received emails in support of the proposed Established Building Line Ordinance from Julia Miller and Stephen Muse. Bridget Hartman, 7214 Ridgewood Avenue, spoke in favor of the proposed ordinance, finding it consistent with the Town's strategic plan. Bruce Russell, 7109 Oakridge Avenue, spoke in favor of the ordinance. He feels that it will help protect property values.

A discussion of the ordinance by the Town Council followed. All Councilmembers spoke in favor of the ordinance. Councilmember Strom made a motion to adopt the ordinance, effective on October 11, 2007. Councilmember Hoffman seconded the motion, and it passed unanimously.

### **IV. DISCUSSIONS**

#### **A. Lot 31/31A**

Councilmember Strom and Pat Burda, Chair of the Long Range Planning Committee, provided some background information on the proposed development of Lots 31 and 31A in Bethesda. The project is proposed to include twelve stories of residential and retail development, and 1400 parking spaces in an underground garage. Of specific concern to the Town is the impact on traffic, both during and after construction. The Town's Long Range Planning Committee has been working with the Town's attorneys and a traffic engineer to study the proposed project in anticipation of a Planning Board hearing on September 20, 2007. The Town submitted comments to the Park and Planning staff. These comments were submitted to the Planning Board in its read-ahead packet.

The Council gave their concurrence that the Mayor should testify before the Planning Board to raise the Town's concerns about the project. In addition, the Council will present concerns to the County Council about the impact street closures may have on traffic during construction. Councilmember Wolf will set up a meeting with Art Holmes, Director of the Department of Public Works and Transportation, to discuss issues related to project coordination when several large projects are planned simultaneously.

#### **B. Woodmont East**

Pat Burda, Chair of the Long Range Planning Committee, reported to the Council on the proposed Woodmont East construction project. Members of the Long Range Planning Committee met with developers of the Woodmont East site and have some concerns. Based on those concerns, the Long Range Planning Committee recommended that the Town submit comments to the Planning Board in anticipation of a hearing scheduled for October 11, 2007. Specifically, the comments include the following:

- 1) Opposition to the closure of the Capital Crescent Trail Tunnel for a minimum two year period and the need for the developer and County to come up with viable, safe alternatives to closure of the Trail.
- 2) Maintenance of at least ten feet for the Capital Crescent Trail through the middle of the site at the end of the tunnel and in the vicinity of the original train tracks should be a binding element in the approved Project Plan.
- 3) Inclusion of knock-out panels in the building for potential future use (if the Purple Line is built) as a ramp to connect the in-tunnel, over-train Capital Crescent Trail to the at-grade plaza must be a binding element in the approved Project Plan.
- 4) Coordination of the construction of the Woodmont East and Lots 31 and 31A projects to minimize the adverse impact on traffic and quality of life in the area for residents and Bethesda businesses and patrons.
- 5) Reconsideration of the necessity of having a working tail track in the middle of a public amenity should the Purple Line be built. This seems very inconsistent with the intention/goal of providing a public amenity.
- 6) Encouragement of both the County and the Woodmont East developers to include and retain as much open space as possible in the area that is currently open space. The inclusion of a park at the end of the tunnel is one concept that the Town embraces. The developer should examine rerouting issues for the tunnel under Wisconsin Avenue so it can remain open during construction. The Town should support an open space park at the entrance to the tunnel. The County should coordinate construction with Lots 31 and 31A, and the County should reconsider the plan to have the tail track of the proposed purple line as a public amenity.

The Council gave the Long Range Planning Committee approval to submit written comments detailing the Town's concern to the Planning Board. In addition, Councilmember Strom will attend a community forum on the project sponsored by County Council Member Roger Berliner.

### **C. Charter Amendments**

In August, the Town Manager presented the Council with a list of 16 regulations included in the Town Charter that were inconsistent or antiquated. After review, the Council decided that three of the proposed changes needed to be discussed at the September Council meeting.

1. The current charter requires residents to approve the real property tax rate by a majority vote at the annual meeting. The Town Manager recommended eliminating that provision, allowing the Council to approve the tax rate along with the annual budget. After discussion, the Council voted to eliminate the provision with Councilmembers Barnes, Wolf, Hoffman, and Enelow in favor, and Councilmember Strom opposed.

2. The current Charter requires that each ordinance or a “fair summary” of each ordinance be distributed to every Town household. The definition of a “fair summary” is subjective, according to the Town Attorney. The Town Manager recommended eliminating this provision. After discussion, the Council decided to amend the provision to state that proposed ordinances would be distributed “or made available.”
3. The Charter requires contracts that extend beyond a current fiscal year to be cancelled if funds are not available in subsequent years. The Town’s contracts already include a no-fault provision allowing termination for convenience. The Town Manager recommended deleting this language from the Charter. After discussion, the Council decided that the provision should remain and instructed the Town Manager to continue to include this provision in future contracts.

The Council directed the Town Manager to draft a new charter, incorporating the proposed amendments, to present for review and introduction at a future Council meeting.

#### **D. RFP for Purple Line Analysis**

Responses to the Town’s Purple Line RFP were due on September 3, 2007. The Town received one response, from Carl Berkowitz, who provided an hourly rate, not a fixed fee as requested. The Long Range Planning Committee recommended that the Council allow it to make amendments to the RFP and reopen the search for an additional 30 days. The schedule of State, County, and Department of Transportation studies to be reviewed by the consultant allows the Town some flexibility in awarding the contract. If approved, the Committee would provide the amended RFP to the Council for review within two weeks. The Council directed the Long Range Planning Committee to amend the RFP and reopen the search for a consultant.

#### **E. Community Handbook**

The Town Manager provided draft copies of the Community Handbook for review by the Council. Staff has removed all portions dealing with building regulation in anticipation of possible changes to these regulations in the near future. Council was asked to provide general comments on the format and information included.

#### **F. Storm Drain Project Entry Agreement Status**

The Town Manager informed the Council that, to date, the County has been unable to obtain an entry agreement from property owners on East Avenue and Thornapple Street. The County had indicated that without an entry agreement, they would be unwilling to commence that portion of the project. The Council instructed the Town Manager and Councilmember Wolf to contact the County and the affected property owners one last time in an attempt to reach an agreement. Barring an agreement, the Council would approach the County about utilizing their prescriptive easement to proceed with the project.

#### **G. Climate Protection Committee Request (Energy Audit)**

Stuart Sessions, representing the Town's Climate Protection Committee, came before the Council to present a Greenhouse Gas Emission survey to the Council. The Committee requested that the Council allow the Town to distribute the survey in order to help estimate current and historic energy usage. The Council was generally supportive of the survey and instructed the Town Manager to coordinate its distribution, both online and with a special mailing, with the Committee.

#### **H. Climate Protection Committee Request (Pledge & Sticker)**

Dian Siedel, representing the Town's Climate Protection Committee, came before the Council to request permission to distribute a Greenhouse Gas reduction pledge to Town residents as part of the October 4 National Conversation on Climate Change. Additionally, the Committee requested approval to have window stickers printed and distributed to residents who completed the pledge. Councilmember Hoffman raised questions about the appropriateness of the Town government asking each household to take a pledge to reduce greenhouse gas emissions. Councilmembers Enelow, Strom, Wolf, and Mayor Barnes expressed support for the pledge. The Council instructed the Committee to work with the Town Manager to finalize and edit the pledge, and have it ready to distribute in the October Forecast. The Council also approved the request to print stickers. Councilmember Wolf agreed to help the Committee advertise the Town's efforts in combating global warming by contacting the Gazette and providing information to the County Council.

#### **V. NEW BUSINESS**

Mayor Barnes informed the Council that a resident may be coming before the Council to request help in replacing and updating playground equipment at the Leland Center.

The Town Attorney commented that recent legislation addresses the water drainage concerns raised by residents in the public comment portion of the meeting. He advised that the Town should not become involved in the legal matter between Town residents.

#### **VI. ADJOURNMENT**

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

Respectfully submitted,

Lance Hoffman  
Secretary

Transcribed by David Walton