

TOWN OF CHEVY CHASE
COUNCIL MEETING
December 12, 2007

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Lance Hoffman, Secretary; Kathy Strom, Treasurer; Mier Wolf, Council Liaison; Todd Hoffman, Town Manager; David Podolsky, Town Attorney; Alan Beal, consultant; and Andi Silverstone, Town Clerk. Residents and guests: Julie and Ollie Thomas, 4421 Ridge Street; Eric Murtagh, 4117 Leland Street; Peg and Don MacGlashan, 4114 Woodbine Street; Thomas Heidenberger, 3909 Underwood Street; Robert Lederman, 3916 Underwood Street; Judy McGuire, 4003 Rosemary Street; Lou Hobson, 4005 Underwood Street; William and Sue Blacklow, 6912 Oakridge Avenue; Marcie Meditch, 4002 Underwood Street; Veda Charrow, 4001 Underwood Street; Steven Keeble and D. Depuic, 4414 Walsh Street; Wes Siegner, 3916 Woodbine Street; Cathryn Wolf, 7622 Lynn Drive; Tamara Hass, 4001 Thornapple Street; Dedun Ingram, 4411 Elm Street; Joe Rubin, 4409 Ridge Street; Kirk Renaud, 3906 Woodbine Street; Marty Saggese, 4220 Oakridge Lane; William Pritchard, 7211 Ridgewood Avenue; Pat Burda, 4108 Woodbine Street; Vicky Taplin, 4120 Leland Street; Beth Barnett, 4315 Elm Street; and Sam Schwartz, Annie Weinstock, and Harris Schechtman, Schwartz Engineering, PLLC, consultants on Purple Line.

I. General Business

A. Call to order

Mayor Barnes called the meeting to order at 7:05 p.m.

B. Pledge of Allegiance to the Flag

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

C. Public Comments

Judy McGuire, 4003 Rosemary Street, asked the Council to impose an emergency moratorium on new construction. Her reasons included that the Land Use Committee is releasing recommendations for new standards, and developers are trying to get permits before the new standards are adopted. She expressed concerns about global warming and the need for the Town to adopt energy efficient standards.

Marcie Meditch, 4002 Underwood Street, identified herself as an architect. She expressed concerns that new construction has ignored environmental issues. She asked the Town to show leadership by “thinking globally and acting locally.”

William and Susan Blacklow, 6912 Oakridge Avenue, stated their support for Judy McGuire’s request for an emergency building moratorium and thanked the Council for the notice about Jane Lawton’s death.

Veda Charrow, 4001 Underwood Street, expressed concerns about flooding in the back of homes and related the problem to global warming.

Wes Siegner, 3916 Woodbine Street, supported the request for an emergency building moratorium until new building regulations become effective. He asked the Council what they would need from the residents in order to enact a moratorium.

Robert Lederman, 3916 Underwood Street, thanked Councilmembers for their voluntary service. He expressed concerns about the changes in the character of the neighborhood and asked the Council to help maintain the character through ordinances.

Councilmember Strom explained that, with the new zoning authority, the Town Council has more tools than were available at the time of the first moratorium. She indicated that the Council should focus on the new regulations rather than imposing an emergency moratorium. Councilmembers Wolf and Enelow agreed with Councilmember Strom. Councilmember Hoffman noted that there are no quick fixes to the problems. Mayor Barnes explained that it would take time to enact a building moratorium, which would require public hearings.

D. Acceptance of October and November Financial Reports

Councilmember Strom made a motion to accept the October and November financial reports. Councilmember Enelow seconded the motion, and it passed unanimously.

E. Approval of Minutes of October Regular Meeting and Executive Session and November Regular Meeting and Executive Sessions.

Councilmember Hoffman made a motion to approve the minutes of the October and November regular meetings and executive sessions. Councilmember Enelow seconded the motion, and it passed unanimously.

II. Public Hearings

A. Public Hearing and Council Action on Proposed Charter Amendments

Dedun Ingram, 4411 Elm Street, asked that proposed Town ordinances be delivered by mail to each household, in addition to any other form of distribution.

Ollie Thomas, 4421 Ridge Street, noted that the language in some of the Charter amendments was not changed. He presented the Council with a list of suggestions concerning amendments to the following sections of the Town Charter: 204 (public speaking at Council Meetings), 209 (Distribution of Ordinances to Town Residents), 503 (Setting the Property Tax Rate and Business Personal Property Tax), 509 (Taxable Property), and 516 (Voting on Bond Issuance).

Veda Charrow, 4001 Underwood Street, offered her services to help re-write the Charter.

The Mayor pointed out that the Town had received written comments about the amendments from residents. These comments were included in Council packets for the meeting. The public hearing was closed.

Councilmember Hoffman made a motion to adopt the amendment to Charter Section 204 (Public Speaking at Council Meetings). Councilmember Wolf seconded the

motion. Discussion followed about the language in the amendment concerning types of meetings. Councilmember Enelow made a motion to table the adoption of the amendment so that the language could be clarified. Councilmember Wolf seconded the motion, and it passed unanimously. Councilmember Strom made a motion to amend the language by keeping the sentence in at the end and adding language to state that the Council can hold work sessions for a specific purpose and can limit comments. Councilmember Wolf seconded the motion, and it passed unanimously. The Town Attorney will redraft the amendment. It will be republished and voted on at the next Council meeting.

Councilmember Enelow made a motion to approve the amendment to Charter Section 205 (Check Signing). Councilmember Wolf seconded the motion, and it passed unanimously. Councilmember Strom pointed out that the intent of this amendment is to conform the charter to current practice.

Councilmember Hoffman made a motion to approve the amendment to Charter Section 209 (Distribution of Ordinance to Town Residents). Councilmember Wolf seconded the motion. Discussion followed about the need to distribute ordinances by mail to all Town residents. It was the sense of the Council to continue to mail copies of ordinances to all residents and publish them in the FORECAST. Councilmember Strom made a motion to amend Councilmember Hoffman's motion to remove the language that indicates that ordinances will be "made available" and continue to mail them to all residents. Councilmember Wolf seconded the motion, and it passed unanimously. Councilmember Enelow made a motion to keep the effective date of an ordinance as being after 30 days of enactment, rather than 30 to 90 days after enactment. Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Wolf made a motion to adopt the amendment to Section 210 (Process to Petition an Ordinance to Referendum). Councilmember Enelow seconded the motion. Discussion followed about setting a time period for the public's right to petition a Town ordinance to be voted on by a referendum. Councilmember Strom favored 30 days from the date the ordinance is mailed. Councilmembers Hoffman and Wolf expressed their preference for 30 days from adoption because it was a date certain. The motion was called. Councilmember Barnes, Enelow, Hoffman and Wolf voted in favor of the motion. Councilmember Strom was opposed.

Councilmember Hoffman made a motion to adopt the amendment to Section 301 (Powers of the Town Council). Councilmember Enelow seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Section 303 (Enforcement of Ordinances). Councilmember Hoffman seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Section 304 (Municipal Infractions). Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Wolf made a motion to adopt the amendment to Section 305 (Exemption from Montgomery County Legislation). Councilmember Enelow seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Section 403 (Voter Registration System). Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Section 406 (Certification of Voting Count). Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Section 503 (Setting the Real Property Tax Rate), which provides for the property tax rate to be set by the Council, rather than by vote of residents in attendance at the Annual Meeting. Councilmember Wolf seconded the motion. Councilmember Strom favored having a vote of the residents regarding the property tax rate, rather than having the Town Council determine the property tax rate. She added that procedural improvements would have to be made in order to identify qualified voters. Councilmember Strom made a motion to amend the motion to keep the vote by qualified registered voters. Councilmember Wolf seconded the motion. Discussion followed about Councilmember Strom's motion. Councilmember Wolf recommended having more transparency in the preparation of the budget and having a public meeting in February. Mayor Barnes expressed support for Councilmember Strom's motion. Councilmember Enelow's motion was called. Councilmembers Enelow, Hoffman, and Wolf voted in favor of the motion with Councilmembers Barnes and Strom opposed.

Councilmember Enelow made a motion to adopt the amendment to Section 503 (Business Personal Property Tax). Discussion followed about clarifying the language in the amendment describing personal property taxes. Councilmember Strom made a motion to incorporate the Town Attorney's language describing the tax in the amendment. Councilmember Enelow seconded the motion. Discussion followed. Councilmember Enelow made a motion to table action on the amendment until the language had been changed and reviewed by all Councilmembers. Councilmember Wolf seconded the motion. Councilmember Hoffman indicated that he did not think it was necessary to table the amendment. Councilmember Enelow's motion to table was called. It was opposed unanimously. Councilmember Strom's motion was called, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Section 505 (Transfer of Funds). Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Section 509 (Taxable Property). Councilmember Hoffman seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Section 516 (Voting on Bond Issuances). Councilmember Wolf seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion to adopt the amendment to Sections 703 and 704 (Powers of the Town Regarding Public Ways & Sidewalks). Councilmember Wolf seconded the motion, and it passed unanimously.

III. Variance Request

A. Wolf, 7624 Lynn Drive, Front Yard Setback

Councilmember Wolf recused himself from this agenda item.

Town Manager Todd Hoffman presented the staff report to the Council. Cathryn Wolf, 7624 Lynn Drive, has applied for a variance from Town building regulations to construct a new house within the front yard setback of the subject property. Town building regulations prohibit construction within a front yard setback; therefore, a variance is required.

The applicant proposes to construct a new house at 7624 Lynn Drive, currently an unimproved lot bordering Zimmerman Park. The established building line setback for this property is 37 feet. The applicant proposes to locate the house 25 feet from the front property line and, as such, requires a 12 foot variance. The front line of the proposed house would be 82 feet from the curb on the west side of Maple Avenue. As of December 12, 2007 the Town has received seven e-mails in support of the variance request.

The applicant claimed the following hardships:

- The lot tapers down from 84.52 feet deep on the west side to 66.57 feet deep on the east side. With an established building line requirement of 37 feet and a rear setback requirement of 20 feet, the allowed construction would be 27.52 feet at the deepest and 9.57 feet at the shallowest. This restriction effectively renders the lot unbuildable. The established building measurement is due to a “paper road” platted in 1937.
- The lot is long and shallow and presents challenges because of extreme sloping. The lot is also heavily wooded, which necessitates being scrupulously mindful of established trees when locating a footprint suitable for construction. This situation has been taken into consideration with the proposed design of the house.
- Building in the allowable footprint would result in an extremely narrow 2 ½ story house that would be quite peculiar, unusual and unsightly.
- Until resubdivided in 2003, this property consisted of two separate lots. The applicant never intended to build two houses even though this was possible.
- The applicant’s plan is to build a house between 2500 and 3000 square feet. All efforts will be made to respect the environment, be energy efficient and build responsibly.

Mrs. Wolf explained that she will need two variances from Montgomery County.

Mayor Barnes pointed out that the lot was difficult and unusual.

Councilmember Strom made a motion to grant the variance. Councilmember Enelow seconded the motion. Discussion followed. Councilmember Strom mentioned that the variance request met several hardship criteria and was the minimum necessary. All Councilmembers acknowledged the extraordinary conditions of the lot. The motion was called. The Council voted unanimously to grant the variance. There was discussion about adding language that would provide for the variance to expire in three years. Councilmember Hoffman made a motion that the variance would expire in 3 years if the work wasn’t done. There was no second, and the motion failed.

At this point in the meeting, Mayor Barnes made several remarks on the passing of Jane Lawton, Town resident and former Councilmember. She asked for a moment of silence to remember Ms. Lawton.

IV. Council Actions

A. Introduction of an Ordinance to Amend Chapter 4 of the Town of Chevy Chase Municipal Code Regarding Front Yard Improvements

Councilmember Enelow made a motion to introduce the amendment to Chapter 4 of the Town Code regarding front yard improvements. Councilmember Wolf seconded the motion, and it passed unanimously.

B. Introduction of an Ordinance to Amend Chapter 4 of the Town of Chevy Chase Municipal Code Regarding Improvements in the Public Right-of-Way

Councilmember Hoffman made a motion to introduce the amendment to Chapter 4 of the Town Code regarding improvements in the public right-of-way. Councilmember Enelow seconded the motion, and it passed unanimously.

V. Discussions

A. Public Services Committee

1. Speed Limit Recommendations

Public Services Committee Chair Bill Pritchard, 7211 Ridgewood Avenue, presented recommendations from the committee. He reported that a traffic engineer had analyzed all street in the Town and made recommendations for appropriate speed limits and related signage in the Town. He described the way the engineer determines what features of a road require what speed limits.

2. Traffic Restrictions and Signage Policy

The Public Services Committee approved a “Traffic Restrictions and Signage Policy” that delineates the decision process to be followed by the Town in considering new traffic sign requests. A copy of the policy was forwarded to the Council. Mr. Pritchard proposed that the traffic engineer be asked to study signage in the Town.

3. Leland Center Playground Equipment

Councilmember Wolf asked that a meeting be scheduled at the Leland Center Playground with officials from Park and Planning to discuss the needed repairs to the playground equipment.

Mayor Barnes accepted the recommendations of the Public Services Committee and said that a public hearing on the recommendations will be scheduled for January or February. The Council will take the signage policy under advisement.

B. Land Use Committee Discussion of Upcoming Consultant Report

Mayor Barnes reported that the Town has received the final report from the consultants hired to evaluate how best to use the Town's new zoning authority. Mayor Barnes described the concept of Floor Area Ratio (FAR) and the conditions for reducing the height of a house. The Council will be reviewing the recommendations. There will be a public meeting in January with the consultants, Jakubiak and Studio 27 about any proposed ordinance. There will also be a public hearing and work session.

C. Community Relations Committee

Councilmember Wolf, liaison to the Community Relations Committee, asked Councilmembers to attend Town events.

D. Environment Committee

Vicky Taplin, Chair of the Environment Committee, spoke about the contributions made to the committee by their new members. They have prepared an educational paper on the Water Drainage Ordinance that is in terms that homeowners and real estate agents can understand.

The committee is gathering data for a noise ordinance. They believe that more regulation is needed.

The new Tree sub-committee is developing a policy for how many new trees should be planted in the Town right-of-way and is planning to perform a tree inventory. They are working on an incentive program to encourage residents to plant canopy trees on private property. They also are considering a plan that would allow Town residents to purchase new trees at the Town's cost.

E. Pre-PAC Process

Councilmember Strom reported on a Pre-PAC meeting that she attended where there was a great deal of interest, but the meeting became disorderly. Town resident Robert Lederman, 3916 Underwood Street, sent a letter with recommendations to the Land Use Committee for conducting the meetings. The Land Use Committee will consider the recommendations.

Councilmembers discussed ways to improve the process of the meetings. Ideas included mounting the building plans, making it clear who is in charge of the meetings, setting ground rules and publicizing them, and maintaining a list of issues that need to be followed up on after the meeting. Staff was directed to make recommendations for a process for the meetings.

F. Introduction of and Discussion with Purple Line Consultants

The consultants from the engineering firm of Sam Schwartz Engineering, PLLC, introduced themselves and described their backgrounds. They described the initial steps they had taken to analyze the impact of the Purple Line on the Town. They walked on the Crescent Trail. They questioned existing ridership studies and proposed a community meeting to get ideas from residents. They described how they planned to proceed.

G. Comments on Executive Regulations and SOPs – Deferred

IV. New Business

Pat Burda, Chair of the Long Range Planning Committee, described the progress of the BRAC DEIS. The BRAC DEIS is looking at the impact that the relocation of Walter Reed Medical Center to Bethesda Naval Hospital will have on the Town, especially regarding traffic. Her committee will be studying the report and will make recommendations to the Council.

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

Respectfully submitted,

Lance Hoffman, Secretary

Transcribed by Andi Silverstone