

TOWN OF CHEVY CHASE  
COUNCIL MEETING  
January 13, 2010

Present: Kathy Strom, Mayor; Linna Barnes, Vice Mayor; Patricia Burda, Secretary; David Lublin, Treasurer; Al Lang, Community Liaison; Todd Hoffman, Town Manager; Andi Silverstone, Town Clerk; Warren Rizzi, Management Assistant; David Podolsky and Ron Bolt, Town Attorneys; and Alan Beal, Town zoning consultant.

Residents and guests: Lone Simonsen, 4411 Leland Street; Marianne Rhoda, 4015 Bradley Lane; Julie Thomas, 4421 Ridge Street; Joe Rubin, 4409 Ridge Street; Jim O'Brien, 4011 Bradley Lane; Ann Miller, 4304 Rosemary Street; Michael and Tina Coplan, 7003 Meadow Lane; Deborah Ingram, 4411 Elm Street; Sally Kelly, 7300 Oak Lane; Don MacGlashan, 4114 Woodbine Street; Coralee Hoffman, 3917 Virgilia Street; Vicky Taplin, 4120 Leland Street; Ruth Fort, 7411 Oak Lane; and Scott Egloff, 4428 Stanford Street.

I. General Business

A. Call to order

Mayor Strom called the meeting to order at 7:10 p.m.

B. Pledge of Allegiance to the Flag

Mayor Strom led those in attendance in the Pledge of Allegiance to the flag.

C. Approval of Minutes of December 9, 2009 Council Meeting and Executive Sessions

Councilmember Lang made a motion to approve the minutes of the December 9, 2009 Council meeting and Executive Sessions. Councilmember Burda seconded the motion, and it was approved unanimously.

D. Approval of December 2009 Financial Report

Councilmember Lublin made a motion to approve the December 2009 Financial Report. Councilmember Lang seconded the motion, and it passed unanimously. Councilmember Lublin noted that although the Town is halfway through the budget year, only 44% of the budget has been spent.

E. Town Manager's Report

Town Manager Todd Hoffman reported to the Council on the initiatives undertaken by Town staff over the past month. Among the highlights included in the report were meetings with and support

of Town committees; snow plowing efforts; special projects, including preparing a draft of the Community Handbook, and continued implementation of the Energy Audit and Improvements Assistance Program and the Consulting Water Management Program; and providing data to FEMA in case funding is available for reimbursement of snow removal costs. Staff coordinated such special events as the Holiday Buffet for Seniors and Retirees, the Holiday Gift Drive for Victims and Families of Domestic Violence, and the first session for the winter series of Sunday Afternoon for Families.

Staff was directed to send a final draft of the Community Handbook to all Councilmembers for review.

#### F. Public Comments

There were no public comments.

### II. Variance Hearings

#### A. O'Brien, 4011 Bradley Lane, Front Yard Wall

Town Zoning Consultant Alan Beal presented the staff report for the variance application. James O'Brien, 4011 Bradley Lane, applied for a variance from Town building regulations to construct a wall 1 foot or more in height in the front yard of the property. Town building regulations prohibit walls 1 foot or more in height in the front yard; therefore a variance is required.

The wall is proposed to replace a brick wall in that had been damaged during the construction of the house. Much of the wall has already been constructed. Mr. O'Brien was put on notice that if the variance is not approved, the wall will have to be lowered to less than 1 foot in height.

A Notice of Administrative Variance Request for the proposed wall was distributed on September 25, 2009. An objection to the approval of the variance was received; therefore a public hearing is required. The Town received no further correspondence regarding this variance request.

Marianne Rhoda, 4015 Bradley Lane, objected to the variance. Her attorney, Anthony Newman, accompanied her to the meeting to testify against the wall. Mr. O'Brien stated that he had tried to accommodate the wishes of Ms. Rhoda but was unable to obtain an agreement.

Mr. O'Brien, Ms. Rhoda, and Mr. Newman asked the Council for some time to meet privately to try to come to an agreement.

While the applicant and neighbor met to discuss the variance, the Council, on the motion of Mayor Strom and the second of Councilmember Barnes, adjourned at 7:50 p.m. [in Executive Session to get advice from Counsel]. They reconvened in open session at 8:05 p.m.

B. Miller/Simonsen, 4411 Leland Street, Front Porch and Front Porch Covering

The variance for Miller/Simonsen was rescheduled until next month.

III. Public Hearing & Council Actions

A. Public Hearing on a Proposed Noise Control Ordinance

Julia Thomas, 4421 Ridge Street, testified in favor of the proposed Noise Ordinance as long as it is enforced. She favors quiet hours of 9:00 a.m. to 7:00 p.m. on the weekends and 7:00 a.m. to 7:00 p.m. during the week.

Ann Miller, 4304 Rosemary Street, testified in favor of the proposed Noise Ordinance. She suggested that a statement describing the requirements of the ordinance be included with all building permits issued and that building permit applicants be required to sign it.

Don MacGlashan, 4114 Woodbine Street, testified in favor of the proposed Noise Ordinance, but against quiet hours. He recommended that the ordinance require all landscape companies to comply with Montgomery County's standards for their equipment. He mentioned the need for enforcement.

Vicky Taplin, 4120 Leland Street, testified that the proposed ordinance represents a good beginning, but may need to be changed to address multiple crews and equipment working on multiple houses on a street during regular weekday business hours. She recommended the need for education and enforcement.

Sally Kelly, 7300 Oak Lane, testified in favor of the proposed ordinance as a small first step. She questioned why Town staff couldn't carry noise meters. She also asked if a bond could be attached to a permit for compliance with the ordinance.

The hearing was closed, and Councilmembers discussed the proposed ordinance and agreed on several changes. Councilmember Burda made a motion to allow the use of one piece of outdoor power equipment between 7pm and 8pm on weekdays. Councilmember Lublin seconded the motion. The motion passed with a vote of four in favor and Councilmember Lang opposed. Councilmember Burda made a motion to delete the provision of the proposed ordinance that would prohibit sounding a horn or

other signaling device on any motor vehicle except as an emergency or danger warning signal. Councilmember Lang seconded the motion, and it passed unanimously. Councilmember Burda made a motion to increase the fines for the second and third violations of the noise ordinance. Councilmember Lublin seconded the motion, and it passed with four in favor and Councilmember Lang opposed. Mayor Strom made a motion to add a two-party noise complaint procedure, which would allow citations to be issued based on written complaints from at least 2 witnesses of a noise disturbance. Councilmember Lang seconded the motion, and it passed unanimously.

The Council scheduled a public hearing on the amended Noise Control Ordinance for the February Council meeting.

#### IV. Discussions and Presentations

##### A. Street Lighting Evaluation and Improvements

Councilmembers heard a presentation from David Stoneburner, consultant from Precision Systems, Inc., about the results of the Street Lighting and Improvements Study. Mr. Stoneburner's presentation included an explanation of the various lighting options available to the Town.

Councilmembers will send comments regarding the presentation to each other before submitting them to the consultant for incorporation into the final report. The Council will schedule a presentation to Town residents when the report is finalized.

##### B. FY10 Budget Review – Deferred

#### II. A. O'Brien, 4011 Bradley Lane, Front Yard Wall – Continued

The hearing on the front yard wall variance at 4011 Bradley Lane was continued after the parties had an opportunity to discuss their issues. Ms. Rhoda, 4015 Bradley Lane, with her attorney Anthony Newman, agreed to withdraw her objection as long as Mr. O'Brien agreed to the following changes: The capstone on the wall will be flagstone; the portion of the wall facing 4015 will be parged and have a smoother finish, and the height of the wall will be no higher than it is now, with the exception of the linch capstone.

Councilmembers discussed the variance request. Mayor Strom noted that the conditions specific to Mr. O'Brien's property include the existing topography and type of driveway, which has a drop-off; therefore the variance is warranted.

Councilmember Lang made a motion to grant the variance with the conditions as described by the applicant. Councilmember Barnes seconded the motion, and it passed unanimously.

Mayor Strom noted that the conditions agreed upon would be included in the variance decision and would be enforceable.

#### C. Noise Control Ordinance Enforcement

Town Manager Todd Hoffman presented a report to the Council about ways to enforce the proposed Noise Control Ordinance. The Town Manager had met with Sgt. John D'Albora, coordinator of the Town's off-duty Montgomery County police officers. He advised that the easiest and most reliable way would to ensure a consistent response to noise complaints is for residents to call the County's police dispatch. If an officer is on-duty in the Town, he/she would respond. If not, the on-duty officer in the Town's "beat" could respond. Council directed staff to find out whether or not on-duty Montgomery County police officers will issue citations for violations of Town ordinances.

Other enforcement options include directing the off-duty officers who work in the Town to patrol active construction sites. The Town also could offer residents the ability to file a two-party noise complaint.

Town Manager Todd Hoffman added that the Town needs to look for voluntary compliance and provide public education.

#### D. Neighborhood Watch Program

Scott Egloff, 4428 Stanford Street, Chair of the Neighborhood Watch Program, reported to the Council on the status of the program and the acquisition of neighborhood watch signs. He reported that the training of the volunteers had been completed. They have 25 volunteers to be Block Captains, but need 40.

They are now ready to post “Neighborhood Watch Program” signs throughout the Town and would like to know where to place the signs. Staff was directed to make recommendations to the Council for placement of the signs.

E. Land Use Handbook

Councilmember Barnes reported that the Land Use Committee wants to produce a handbook for residents to make the land use ordinances easier to understand. The committee has received a proposal from Vic Tervalo, of Funk & Bolton, to write the handbook for a cost not to exceed \$20,000.

Councilmembers discussed the proposal. Councilmember Lang questioned the cost and suggested the committee consider a writer rather than an attorney. Councilmember Burda felt that the complexity of the ordinances required someone well versed in the legal aspects but who could translate for general readers. She noted that Mr. Tervalo had worked with the Town’s Visioning committee on the strategic plan and felt he could accomplish those goals. Council discussion ensued as to the proposed cost of the project, and it was agreed that considering the complexity of the project, the overall price was very reasonable.

Councilmember Barnes made a motion to accept the proposal as discussed. Councilmember Lang seconded the motion, and it passed unanimously. It was the sense of the Council to ask Mr. Tervalo to prepare a draft of one chapter of the handbook and provide it to Councilmembers for review.

V. New Business

Mayor Strom notified Councilmembers about the development of a Chevy Chase Elementary School facilities plan. Staff was directed to obtain more information and update the Council and Long Range Planning Committee.

Mayor Strom made a motion to adjourn the meeting. Councilmember Lang seconded the motion, and it passed unanimously. On the motion of Councilmember Burda and second of Councilmember Lang, the Council agreed unanimously to reconvene in Executive Session to consult with Counsel to obtain legal advice regarding proposed legislation (Building Code).

Respectfully submitted,

Patricia Burda  
Secretary

Transcribed by Andi Silverstone