

Chevy Chase Village Board of Managers' Meeting

March 14, 2016

Note: These minutes reflect the Board's actions only, and do not include remarks made by members of the Board of Managers, Legal Counsel, Village Staff or others in attendance.

BOARD OF MANAGERS

Michael L. Denger, Chair	Present
Elissa A. Leonard, Vice Chair	Present
Richard M. Ruda, Secretary	Present
David L. Winstead, Assistant Secretary	Present
Gary Crockett, Treasurer	Present
Robert C. Goodwin, Jr., Assistant Treasurer	Present
Minh Le, Board Member	Absent

STAFF

Shana R. Davis-Cook, Village Manager	Present
John Fitzgerald, Police Chief	Present
Michael Younes, Director of Municipal Operations	Present
Demetri Protos, Finance Director	Present
Ellen Sands, Permitting & Code Enforcement Coordinator	Present
Melissa Wiak, Community Liaison/Administrative Assistant	Present

COUNSEL

Suellen M. Ferguson, Village Counsel	Present
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Mr. Denger, Chair of the Board of Managers, called the meeting to order at 7:30 p.m. Ms. Le was absent.

Approval of Minutes from the Board's Regular Meeting held on February 8, 2016

Minutes of the Board's regular meeting held on February 8, 2016 were circulated to the Board prior to the meeting.

Ms. Leonard moved to approve the minutes of the Board of Managers' regular monthly meeting held on February 8, 2016, as drafted. Mr. Crockett seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

Approval of Minutes from the Board's Budget Work Session held on February 22, 2016

Minutes of the Board's budget work session held on February 22, 2016 were circulated to the Board prior to the meeting.

Ms. Leonard moved to approve the minutes of the Board of Managers' Budget Work Session held on February 22, 2016, as drafted. Mr. Crockett seconded the motion. Mr. Denger, Ms. Leonard,

Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

Consent Agenda—Tree Ordinance Board Consent Agreement

Tree Removal Appeal Case A-2216: Ms. Marianne & Mr. Salvatore Pappalardo, 117 Grafton Street

Removal of one thirty (30)-inch diameter Oak tree located in the rear yard of the property.

There were no requests from Board Members to remove Case A-2216 from the Consent Agenda. The Consent Agreement was deemed approved.

Variance Requests

- **Continuance: A-6887: Mr. William Robert Maloni & Ms. Heidi Wynn Maloni, Trustees under the William Robert Maloni Living Trust, 5 Chevy Chase Circle**

Maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Mr. William Maloni, Jr. presented the case on behalf of his parents. Mr. Maloni, Sr. was in attendance. Discussion followed.

Mr. Ruda moved that the matter be continued to the Board's April 11, 2016 regular meeting to allow the applicants to provide their assertions regarding the deeded lot lines for their property. The applicants must submit their materials in writing to the Village office by no later than March 25, 2016. Mr. Crockett seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

- **A-6893: Mr. W. Craig Van Note & Ms. Susan S. Van Note, 5500 Park Street**

Construct a portico over an existing front stoop. The proposed portico would encroach four feet, eight inches (4'-8") forward of the twenty-five (25) foot front (Park Street) building restriction line.

Mr. Crockett moved to approve the Variance request in Case A-6893 on the basis that the evidence presented, including the Staff Report and Case Synopsis, demonstrates that the applicable requirements for approval of the Variance have been met. Staff is directed to draft a decision based on this evidence, including findings of fact and conclusions, approving the Variance request. Ms. Leonard seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

- **A-6895: Mr. Christopher Ian Twinn & Ms. Victoria Twinn, 5503 Center Street; Mr. David Lee & Ms. Julia Lee, 5505 Center Street**

Mr. Christopher Ian and Ms. Victoria Twinn of 5503 Center Street and Mr. David and Ms. Julia Lee of 5505 Center Street's Appeal of the Village Manager's Decision to issue Building Permit #6879 (to Mr. David J. Rose and Ms. Megan L. Rose of 5502 Grove Street), to construct a fence

measuring six feet, six inches (6'-6") in height and a retaining wall measuring a maximum of three (3) feet in height abutting their rear property line.

Counsel noted that in her review of the constructed fence, it had been built in accordance with the Village's and County's Building Codes and that the only unresolved matter related to the unpermitted regrading work that had resulted in an adverse change in water runoff onto the appellants' properties. Staff noted that the owners of 5502 Grove Street, Mr. David and Ms. Megan Rose, had submitted a proposed water drainage plan to the Village office on March 9, 2016. The Board asked staff to review the submitted plans in consultation with the Village's civil engineer to establish a plan that will comply with Sec. 8-25 of the Village Code. In doing so, the Board encouraged the appellants to work with the owners of the Subject Property to reach an amicable solution. The case was continued to a future meeting of the Board, pending the outcome of the Village's review of the pending regrading/drainage plan.

Treasurer's Report

The Treasurer's Report was distributed to the Board and posted to the Village website prior to the meeting. Discussion followed.

Mr. Crockett updated the Board on recent reports from the State Comptroller's office regarding misallocated income tax returns that were filed for tax years 2010 through 2014. A total of \$851,741 of the income taxes due to the Village had been allocated to other municipalities and/or Montgomery County, however, \$694,258 (for tax year 2014) was correctly allocated to the Village in January (2016) and the remaining \$157,483 is due to be issued by the end of the month. The Board directed Mr. Crockett and Village Counsel to draft a letter to Senator Richard Madaleno asking that he request a written explanation from the State Comptroller's office outlining:

1. How these errors occurred in the first place;
2. The basis for the Comptroller's belief that the errors began in 2010 and date back no further than that tax year;
3. An explanation regarding the audit that was performed;
4. Details regarding the systems that are being put in place to ensure that these errors do not occur in the future.

Staff Presentation and Discussion: Draft Budget for the Fiscal Year Beginning July 1, 2016 (FY2017)

The draft budget for fiscal year 2017, as amended following the Board's February 22, 2016 Budget Work Session, was distributed to the Board and posted to the Village website prior to the meeting.

The Board directed staff to make the following modifications to the draft FY2017 budget:

- Increase Chevy Chase Village's projected income tax revenue from \$1,900,000 to \$2,200,000 as a result of additional information to support greater income tax receipts.
- The Board directed Village Counsel to write a letter to the Local Government Insurance Trust (LGIT) requesting a meeting to discuss the Village's concerns regarding the requirement for membership in the Maryland Municipal League (MML) as a prerequisite

for insurance coverage with LGIT as stipulated in LGIT's bylaws and to restore the \$12,400 to the General Government Dues & Subscriptions line item payable to MML pending resolution of this matter.

The Board discussed the financial implications of having the Village clear sidewalks on behalf of residents and determined not to pursue this at the present time.

Matters Presented for Board Discussion and Possible Action (where required)

- **Donation Request: Somerset Elementary School Turf Field**

This matter is a continuance of the donation request initially considered by the Board at its September 14, 2015 meeting. Somerset Elementary School Foundation Board Member Caroline Cooper (Grafton Street) and Somerset Elementary School PTA President Lyric Winik, (East Lenox Street) presented an update on the foundation's fundraising efforts donation request from Chevy Chase Village toward the replacement of Somerset's Turf Field. Discussion followed.

Mr. Crockett moved to donate \$10,000 toward the replacement of Somerset's Turf Field, deeming it not a donation to a school, but a donation to additional accessible green space. Mr. Ruda seconded the motion.

Mr. Denger moved to amend the motion to reduce the amount to \$5,000. Ms. Leonard seconded the motion. Mr. Denger, Ms. Leonard, Mr. Goodwin and Mr. Winstead voted in favor of the amendment. Mr. Crockett and Mr. Ruda voted in opposition to the amendment. The amendment passed.

Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Winstead and Mr. Ruda voted in favor of the motion, as amended.

- **Resolution No. 03-01-16:** An Ordinance to amend Chapter 8, "Buildings and Building Regulations", Sec. 8-1 "Definitions", Sec. 8-5, "Building Permits", Sec. 8-21, "Installation and maintenance of fences, walls, trees, hedges, shrubbery, lamp posts, hand rails and arbors" and Sec. 8-25, "Alteration of water flow or drainage" and Chapter 25, Public Rights-of-Way, Sec. 25-1, "Definitions" and Sec. 25-6, "Structures, fences, walls, lamp posts, hand rails, trees, hedges, and shrubbery in public right-of-way" to clarify that walls have less than twelve inches in height on private property do not require a Building Permit, that certain construction in the rights-of-way does not require a Special Permit, that setback requirements for arbors are the same as for structures, and to further regulate discharge of water onto abutting properties and the rights-of-way, and to adopt conforming changes.

Mr. Crockett moved to approve Resolution No. 03-01-16, as drafted. Ms. Leonard seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

- **Resolution No. 03-02-16:** An Ordinance to Amend Chapter 3. “Personnel Code”, Sec. 3-6, “Village Manager” and Sec. 3-7, “Duties of the Village Manager”, to Conform to the Village Charter and Make Clarifying Changes.

Mr. Crockett moved to approve Resolution No. 03-02-16, as drafted. Mr. Goodwin seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

- **Comcast Franchise Agreement and Memorandum of Understanding with the Montgomery County for the Administration of the Franchise Agreement.**

Mr. Crockett moved to authorize the Village Manager to execute on behalf of Chevy Chase Village the Agreement to Implement the Comcast Cable Franchise Between Montgomery County, Maryland and Chevy Chase Village, and the Amended Agreement to Implement the Verizon Cable Franchise Between Montgomery County, Maryland and Chevy Chase Village, subject to the terms set out herein and the approval of the Village Counsel. Mr. Goodwin seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

Contract Authorization Requests

- **Audit Contract Extension (first of two extension options): Lindsey & Associates, LLC**

Mr. Crockett moved to authorize the Village Manager to execute a letter exercising the first of two one-year contract extension options with Lindsey & Associates LLC to perform the FY2016 audit. Ms. Leonard seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

- **Tree Maintenance Contract Extension (first of two contract extension options): The Care of Trees, Inc.**

Mr. Crockett moved to authorize the Village Manager to execute a letter exercising the first of two one-year contract extension options with The Care of Trees, Inc. to perform tree maintenance services throughout the Village. Mr. Goodwin seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

- **Streets Maintenance Contract Award: A.B. Veirs & Sons, Inc.**

Mr. Crockett moved to authorize the Village Manager to enter into a contract, in substantially the form provided, with A.B. Veirs and Sons, Inc. for the performance of street maintenance and repair services throughout the Village. Mr. Goodwin seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

- **West Kirke Street/Laurel Parkway (Village Hall) Intersection Improvements Project Contract(s)**

- Roadway/Intersection Work

Mr. Crockett moved to authorize the Village Manager to enter into a contract, in substantially the form provided, with A.B. Veirs and Sons, Inc., for the performance of the West Kirke Street and Laurel Parkway Intersection Improvements contract in the amount of \$163,288.35. Mr. Goodwin seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed. This contract exceeds the approved budget amount by \$43,100. A budget amendment in this amount will be presented to the Board for its consideration and approval at a subsequent meeting.

- Sidewalk Reconfiguration

Mr. Crockett moved to authorize the Village Manager to enter into a contract, in substantially the form provided, with Scango Consulting, LLC d.b.a Capitol Hardscapes, for the performance of sidewalk installation services in the West Kirke Street and Laurel Parkway combined public right-of-way in the amount of \$11,700. Mr. Goodwin seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

- Public Works Yard Slide Gate Installation

Mr. Crockett moved to authorize the Village Manager to enter into a contract, in substantially the form provided, with Hercules Fence of Maryland, LLC, to replace the existing swing gate entering the Public Works Yard with a new slide gate in the amount of \$13,100. Mr. Ruda seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

Purchase/Funding Requests

• **Spring Tree Plantings from Stadler Nursery**

Mr. Crockett moved to authorize the Village Manager to purchase fifty-four (54) trees of varying species from Stadler Nursery in support of spring 2016 tree planting operations in an amount not to exceed \$10,600.00. Mr. Winstead seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

• **Funding Authorization for the Village's Contribution Toward the Development of Western Grove Park (payable to the Maryland-National Capital Park and Planning Commission)**

Mr. Crockett moved to authorize the Village Manager to remit payment, in the amount of \$250,000, to the Maryland-National Capital Park and Planning Commission pursuant to the Management Agreement dated November 10, 2015 for the construction of the Western Grove Park. Mr. Denger seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed.

Mr. Denger moved to authorize the Village Manager to remit \$50,000 in addition to the \$250,000 previously authorized to the Maryland-National Capital Park and Planning Commission pursuant to the Management Agreement dated November 10, 2015 for the construction of the Western Grove Park. Ms. Leonard seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion.

Police Report

The Police Report was distributed to the Board and posted to the Village website prior to the meeting. Discussion followed. *No formal action was taken by the Board.*

Manager's Report

The Manager's Report was circulated to the Board prior to the meeting. Discussion followed. *No formal action was taken by the Board.*

Adjournment

Mr. Crockett moved to adjourn the meeting. Ms. Leonard seconded the motion. Mr. Denger, Ms. Leonard, Mr. Crockett, Mr. Goodwin, Mr. Ruda and Mr. Winstead voted in favor of the motion. The motion passed. The meeting adjourned at 10:45 p.m.

Attested by: Shana Davis-Cook, Village Manager

Final.