

MINUTES

Monday, February 7, 2011 - 7:30 P.M.

Mayor Jeffrey Slavin, Council Members Bill Farley, Cathy Pickar, Alan Proctor, Marnie Shaul, Barbara Zeughauser and Clerk-Treasurer Josh Russin began the meeting at 7:29 p.m. Present during all or portions of the meeting were Natalie Neumann (Patch.com), Larry Plummer (Town Building Inspector), Geert Visscher (Therrien Waddell), Lou Balodemas (Town Pool Project Manager / Consultant), Joe Barse, Howard Byron, Josh Bobeck, Zola Schneider, George Wyatt, Marc Geffroy, Pat Gage, Nicole Totah, Tracey Truman and Lucy Freeman.

APPROVAL OF MINUTES FOR REGULAR COUNCIL MEETING JANUARY 3, 2011

Council Member Marnie Shaul moved to approve the minutes of the January 3, 2011, regular council meeting. Vote: Unanimous. Motion passed 5-0.

APPROVAL OF MINUTES FOR SPECIAL COUNCIL MEETING JANUARY 13, 2011

Council Member Marnie Shaul moved to approve the minutes of the January 13, 2011, 3:00 pm special council meeting. Vote: Pickar, Shaul and Zeughauser in the affirmative, Farley and Proctor abstained. Motion passed 3-0 with 2 abstentions.

APPROVAL OF MINUTES FOR SPECIAL COUNCIL MEETING JANUARY 13, 2011

Council Member Barbara Zeughauser moved to approve the minutes of the January 13, 2011, 9:00 pm special council meeting. Vote: Pickar, Shaul and Zeughauser in the affirmative, Farley and Proctor abstained. Motion passed 3-0 with 2 abstentions.

APPROVAL OF MINUTES FOR SPECIAL COUNCIL MEETING JANUARY 24, 2011

Council Member Cathy Pickar moved to approve the minutes of the January 24, 2011, special council meeting. Vote: Unanimous. Motion passed 5-0.

FINANCIAL REPORT UPDATE

The Town Clerk-Treasurer gave a financial update. The reports include the Operating Income / Expense Report (document 1) and the Capital Income and Expense Report (document 2). The financial reports ran from July 1, 2010 through January 31, 2011. Both of these reports include total expenses by category, what was budgeted, how much is remaining and the percentage of the budgeted amount that has been expended.

The Clerk-Treasurer shared with the Council the current budget outlook based on the information given to the Town by the State Comptroller's Office. The Town has witnessed an eleven percent decline in income tax revenues, a \$45,000 decrease. This revenue decline is offset by the fact that the Town will not have to pay \$44,000 toward the pool renovation loan because the Town was required to make one loan payment before the end of the fiscal year in the amount of \$30,855 while the Town budgeted \$75,000 to service the loan this fiscal year. The Town has received 27% of the budgeted income tax revenues that has been distributed to the Town. This percentage is similar to the percentages the Town has received in previous fiscal years.

The Town has received confirmation from Montgomery County that Somerset has received 97% of its property tax revenues for the fiscal year. The Town has

received \$379,312 or 98% of property tax revenues budgeted for the fiscal year. The Town has received 62% of total revenues budgeted for the fiscal year. The Town has collected \$626,661 out of \$1,005,034 with \$378,373 outstanding. Areas that may require additional funds is snow removal expenses and tree trimming / removal expenses. As of February 4, 2011, the Town spent 88% of the snow removal budget. Depending on the winter season, additional funds may be required. The January 2011 winter storm caused approximately \$8,000 worth of tree trimming related expenses. The Town contractor gave a preliminary estimate.

To date, the Town is slightly below budget by spending approximately 54.5% of the funds, \$491,283 out of \$902,132 that is budgeted. The Town is 58% through the fiscal year.

The Council set the Fiscal Year 2012 budget workshop for Monday, March 14th at 7:30 pm. The Five Year Budget plan will be unveiled at the March Council meeting.

UPDATE ON POOLHOUSE RENOVATION PROJECT

Therrien Waddell (TW) pool project coordinator Geert Visscher began by discussing the impact the weather has on the project, which has caused TW to use 10 weather days schedule. Mr. Visscher said TW is working with some of their subcontractors to begin working on Saturdays, if their schedules permit, while avoiding adding additional cost to the project. The concrete contractor worked during the last weekend in January. The project is out of the ground and the carpenters start to arrive on site in mid-February and the trusses and roof should be installed later in the month. The original project time-line called for the framing and roof to be completed the beginning of February. As a result of the Town's approval of project change orders (PCOs) 17 and 19, the contract completion date is now May 20, 2011. Even though the completion date has been pushed to May 20th, the contractor is compressing the project work schedule to keep it on track.

The Council discussion moved toward the selection of the pool house floor tiles that will be used in the hallways, office, bathroom and showers.

Surface	As Specified in Plan	Mosaic
Main Floor in Men, Women & Unisex	4x4 Royal Mosa AS	2x2 or 3x3 unglazed mosaic
Main Base in Men, Women & Unisex	6" Royal Mosa	6" unglazed mosaic matching floor
Shower Floors	4x4 Royal Mosa w/ 6x6 tapered borders	4x4 Royal Mosa w/ 6x6 tapered borders
Shower Base	6" Royal Mosa	6" Royal Mosa
Shower Walls	6x6 Royal Mosa	6x6 Royal Mosa
Floor in Office, Entry, Kitchenette, Pantry & Cleaning Closet	12x12 Royal Mosa	2x2 or 3x3 unglazed mosaic
Base in Office, Entry & Cleaning Closet	6" Royal Mosa	6" unglazed mosaic matching floor
Base in Kitchenette & Pantry	Painted PVC Trim	Painted PVC Trim

*All tiles are measured in inches.

The Council Members preliminary agreed to the following: 4x4 tile on the shower floors; 3x3 mosaic tiles on the main floor for restrooms and the Council gave the architect the discretion to select the office and entry area floor tiles. The Council also gave the architects the discretion to select the color and grout for the tiles.

Mr. Balodemas informed the Council that the dining area furniture is being selected at this time. A decision on the furniture selection will have to be made shortly. The Council decided defer a vote on VIKA's and Mr. Balodemas' request for additional funds to the February special council meeting.

SUGGESTIONS & QUESTIONS FROM RESIDENTS

Marc Geffroy commented on Pepco's performance during the January winter storm and during previous outages. Mr. Geffroy stated that the State has not regulated the utility properly and thought the community can no longer rely on the utility, the state or the county because it is a failed political matter. Mr. Geffroy commended the Town for working with Pepco to try to restore power to the residents. He also thanked the Mayor for offering to create an Ad Hoc task force to review Pepco's practices.

Joe Barse discussed the need to continue to print the Town Journal in its current form. Mr. Barce implored the Council to keep the paper edition. Mr. Barce came to the meeting as a result of an editorial that was drafted by the editor of the Town Journal. The Council indicated that the Town will continue to offer the paper edition.

GENERATOR PERMIT FOR 4715 ESSEX AVENUE

Town resident David Kahn gave a presentation on his generator permit application. Mr. Kahn intends on installing a 20 kilowatt (kW) Kohler Natural Gas generator. The generator will be located on the left side of the house behind two, six foot wooden fences. Town staff supported the location of the generator and the Town Building Inspector Larry Plummer reviewed the plans.

Council Member Bill Farley moved to approve the 20 kW generator on the left side of the house, behind two, 6 foot fences. After installation, the Owner will notify the Town to test the sound level produced by the generator. If the generator exceeds the maximum allowable night time noise level of 55 decibels (dBAs) at the nearest property line, the Town will require the Owner install noise mitigation measures, including but not limited to fencing and landscaping. The Town will retain the Two Thousand Dollar building deposit until the generator passes the noise level test. Town noise standards under §11-301 of the Town Code are governed by the County Code, Chapter 31B-5 (1) and (2). Vote: Unanimous. Motion passed 5-0.

BUILDING PERMIT FOR 5409 SURREY STREET

Town residents Nicole Totah and Josh Rosenthal gave a presentation on their building permit application to fill in gap between the house and the addition. Proposal also includes the enclosure of the existing front porch.

The Town Building Inspector Larry Plummer reviewed the plans. Town Arborist Dr. Tolbert Feather reviewed and submitted a tree protection plan for the Council's review. The Staff recommended the Council approve the enclosure of the gap between the house and the addition because the infill would leave a minor footprint to the lot. The Town staff also supported the proposal because the infill and additions follow the Town building guidelines set out in §6-312C(1) that lists the total set-back requirements buildings must follow within Town limits.

Council Member Cathy Pickar moved to approve the building permit to enclose the gap between the house and the addition and the enclosure of the existing front porch because the addition follows the Town building guidelines set out in §6-312C(1) that lists the total set-back requirements buildings must follow within Town limits. The motion also includes approval of tree protection plan as outlined by the Town Arborist. Permit is good for one year after signature. Vote: Unanimous. Motion passed 5-0.

GENERATOR PERMIT FOR 5532 WARWICK PLACE

Town resident Josh Bobeck represented the applicant, Bertha Glickman at the Council meeting. Mrs. Glickman intends on installing a 17 kW Generac air-cooled gas engine generator at the rear of the house. The applicant did request a waiver of the late application fee. Section 6-306 of the Town Code does not permit the Mayor or Council the right to waive any fees for building permits. The Mayor and Council have the discretion to hold an application and consider it at the following council meeting. This is the only mechanism that will allow an applicant to avoid a late fee. Applications are charged a late fee if they are submitted after the 15th of the month so that it can be advertised in the Town Journal. The Town staff supported the location of the generator proposed by the applicant.

Council Member Bill Farley moved to approve the 17 kW Generac air-cooled gas engine generator at the rear of the house. After installation, the Owner will notify the Town to test the sound level produced by the generator. If the generator exceeds the maximum allowable night time noise level of 55 decibels (dBAs) at the nearest property line, the Town will require the Owner install noise mitigation measures, including but not limited to fencing and landscaping. The Town will retain the Two Thousand Dollar building deposit until the generator passes the noise level test. Town noise standards under §11-301 of the Town Code are governed by the County Code, Chapter 31B-5 (1) and (2). Vote: Unanimous. Motion passed 5-0.

RECONSIDERATION OF PREVIOUSLY APPROVED GENERATOR PERMIT FOR 4915 DORSET AVENUE

Council Member Cathy Pickar requested the Council's reconsideration for her generator permit application. Mrs. Pickar received approval at the December Council meeting to install a 10 kW Generac generator on the right side of the house within a courtyard to power the addition to her house. After approval, Mrs. Pickar, was informed by the generator manufacturer, Generac, that they would not issue a warranty for the 10 kW that would power the new addition to her house. As a result Mrs. Pickar has requested to install a 14 kW Generac generator to power the addition to her house. The generator will be located in the same location as the previously approved generator, on the right side of the house within the courtyard enclosure. The Town staff supported the location of the generator. The applicant has agreed to sound mitigation measures if the device does not pass the sound test.

Council Member Bill Farley moved to approve the 14 kW Generac generator on the right side of the house within a courtyard which is 45 feet from the property line. After installation, the Owner will notify the Town to test the sound level produced by the generator. If the generator exceeds the maximum allowable night time noise level of 55 decibels (dBAs) at the nearest property line, the Town will require the Owner install noise mitigation measures, including but not limited to fencing and landscaping. The Town will retain the Two Thousand Dollar building deposit until the generator passes the noise level test. Town noise standards under §11-301 of the Town Code are governed by the County Code, Chapter 31B-5 (1) and (2). Vote: Farley, Proctor, Shaul and Zeughouser in the affirmative and Pickar abstained. Motion passed 4-0 with 1 abstention.

REAPPOINTMENT OF JOHN SULLIVAN AND PHYLLIS WIESENFELDER TO THE TOWN BOARD OF SUPERVISORS OF ELECTIONS

Council Member Cathy Pickar moved to approve the reappointment of John Sullivan and Phyllis Wiesenfelder to the Town Board of Supervisors of Elections. Vote: Unanimous. Motion passed 5-0.

ACTION ON RESOLUTION ALLOWING HELPING HAND USE OF THE TOWN HALL

FOR A "SOCIAL HOUR" DURING POWER OUTAGES

There has been an ongoing discussion between the Mayor and Helping Hand, a community organization based in Somerset access to the Town Hall during power outages. Helping Hand volunteer Zola Schneider addressed the Council at the January meeting whereby Mrs. Schneider made a formal request to allow the group and the community members they serve access to the Town Hall during power outages from 5 pm to 8 pm. This "Social Hour" requires Council adoption of a simple resolution. This is an informal arrangement.

Council Member Alan Proctor moved to approve the resolution allowing Helping Hand use of the Town Hall for a "Social Hour" during power outages between 5 pm to 8 pm. Vote: Unanimous. Motion passed 5-0.

INTRODUCTION OF PROPOSED ORDINANCE TO TOWN OF SOMERSET CODE, CHAPTER 2, ADMINISTRATION AND PROCEDURES, SECTION 2-402(i)

Council Member Marnie Shaul agreed to introduce the proposed ordinance and the ordinance will be acted upon at the March regular council meeting. Currently, the Five Dollar (\$5) per classified ad fee for the Town Journal is established under Section 2-402 (i) of the Town Code. The proposed ordinance will allow the Council to set the fee by a resolution. Currently the fee requires an introduction of an ordinance at a council meeting, and a separate hearing to act on the ordinance and once passed, the ordinance goes into effect thirty-six days after the Mayor has signed the ordinance.

INTRODUCTION OF PROPOSED ORDINANCE TO TOWN OF SOMERSET CODE, CHAPTER 8, PROTECTION OF TREES, SECTION 8-204, ESTABLISHING A FEE TO PROCESS AND REVIEW TREE PERMITS

Council Member Barbara Zeughauser agreed to introduce the proposed ordinance and the ordinance will be acted upon at the March regular council meeting. Currently, the Town requires residents to submit tree removal and replacement permits to the Town to review. Staff resources are required to review the permits, which includes a site visit and report issued by the Town Arborist. On average, the arborist spends an hour to review and draft a report. As a result, the Town absorbs the hourly rate the arborist bills to the Town. A neighboring jurisdiction, Chevy Chase Village charges a filing fee for tree removal permits.

ACTION ON PROPOSED ORDINANCE TO AMEND THE TOWN OF SOMERSET CODE, CHAPTER 4, SECTION 4-103, RAISING THE AMOUNT OF SNOWFALL ACCUMULATION ON SIDEWALKS IN FRONT AND ON THE SIDE OF PROPERTIES WHEN A TOWN CONTRACTOR WILL REMOVE THE SNOW, FROM TWO TO FOUR INCHES

Based on significant and friendly input from the community, the Mayor and Town Council did not take any action. The Town will continue the existing sidewalk and path snow removal policy of having the Town and its contractor remove snow from Town sidewalks and paths if there is two or more inches of precipitation.

ACTION ON PROPOSED ORDINANCE TO AMEND THE TOWN OF SOMERSET CODE, CHAPTER 5, PARKS AND NATURAL RESOURCES COMMITTEE, SECTION 5-901 (a), (b), (c), (d)

The Clerk-Treasurer gave an update on the changes outlined in the PNR. The changes proposed allow nine residents to serve 3-year terms and allow the members to serve two consecutive terms. The Mayor, with Council approval, will have the authority to select the Committee chairperson. A council member will serve in a liaison capacity to the Committee and an additional council member will serve as an alternate. None of the council members will count as one of the nine appointed members. The Town Attorney requested the Council formally adopt the

PNRC ordinance because it was not drafted in proper form and adopted incorrectly. The previously approved ordinance did not contain the deleted and added text. The original PNRC ordinance was introduced at the December 2010 regular council meeting.

Council Member Farley opposed the ordinance because the ordinance would establish term limits.

Council Member Barbara Zeughauser moved to approve the Ordinance to amend the Town Code, Chapter 5, Parks and Natural Resources Committee, Section 5-901 (a), (b), (c), (d). Vote: Zeughauser, Proctor, Pickar, Shaul in the affirmative, Farley in the negative. Motion passed 4-1.

ACTION ON RESOLUTION CALLING FOR THE MONTGOMERY COUNTY EXECUTIVE AND COUNTY COUNCIL TO CONTINUE TO DISTRIBUTE INCOME TAX RECEIPTS FROM COUNTY RESIDENTS WHO LIVE IN MUNICIPALITIES

The Clerk-Treasurer gave an update regarding this issue. The Town was informed that the County Office of Legislative Oversight report Number 2011-2 proposed a recommendation to have the County consider revisiting, cutting or removing altogether the seventeen percent of the county income tax receipts from county residents who live in municipalities. The resolution implores the Executive and Council to refrain from pursuing this recommendation.

Council Member Cathy Pickar moved to approve the resolution. Vote: Unanimous. Motion passed 5-0.

MAYOR'S REPORT

The Mayor presented of which copies were available at the meeting. See attachment.

ADJOURNMENT

Council Member Zeughauser moved to adjourn the meeting at 10:00 p.m.

Prepared by Josh Russin, Clerk-Treasurer