

Town of Somerset

4510 Cumberland Avenue, Chevy Chase, MD 20815

Minutes for Council Meeting on

Monday, October 7, 2019

Council Members Present: Marnie Shaul; Barbara Zeughauser; Steve Surko; Frannie Peale; Morris Panner; **Mayor:** Jeffrey Slavin; **Town Manager:** Matthew Trollinger; **Town Administrative Assistant:** Linda Williams; **Building Administrator:** Doug Lohmeyer; **Town Arborist:** Dr. Tolbert Feather; **Town Hall Renovation Project Manager:** Lou Balodemas; **Residents and other attendees:** Barbara Condos (Falstone Ave.); Miguel Tejblum (Essex Ave.); Mimi Brodsky Kress (Sandy Spring Builders); Meredith Wade (Essex Ave.); Lance Wade (Essex Ave.); Mark Kaufman (GTM Architects); Susan Bivone (GTM Architects); Rich Ingram (CPJ Engineers); David Kathan (Dorset Ave.); Sarah Morse (Dorset Ave.); Steve Friedman (Essex Ave.); Sharon Stoliaroff (Dorset Ave.); John Stewart (Dorset Ave.); Carol Barsha (Essex Ave.); Carol Manning (Essex Ave.); James Wachob (Essex Ave.); Lucy Freeman (Dorset Ave.); Julie Greenberg (Falstone Ave.); Susannah Goodman (Cumberland Ave.).

7:00 p.m. Council Work Session

The Council discussed the Parks and Natural Resources Committee's (PNRC) recommendation for a new tree replacement policy that requires a canopy tree to replace whenever a canopy tree is removed. The Council asked Town Manager Trollinger to forward the PNRC's notes to Town Attorney Ron Bolt for introduction at a future meeting pending further discussion.

The Council discussed creating a pet directory, and charged Councilmember Zeughauser with heading the project.

The Council discussed the Town's current fee structure, and compared current building permit fees to neighboring municipalities. Councilmember Shaul offered to work with Town Manager Trollinger to create a fee structure for introduction at a future meeting.

The Town Council asked Town Manager Trollinger to get an estimate on how much longer the current leaf blowers would last, so that the Town might invest in electric leaf blowers as recommended by the Environmental Committee.

7:33 p.m. Council Meeting Convenes

Mayor Slavin called the meeting to order and opened the floor for public comments.

Lucy Freeman (Dorset Ave.) commented that her home was missed during the bulk pickup that day. Town Manager Trollinger replied that he had received her earlier message and that Goode would be returning to pick up Ms. Freeman's bulk items.

7:35 p.m. Consent Agenda: To approve minutes from Council meeting held on September 3, 2019

Councilmember Shaul motioned to approve the consent agenda; Councilmember Zeughauser seconded; all in favor.

7:36 p.m. Discussion: Town Manager August Administrative and Fiscal Reports

Town Manager Trollinger gave his report (below), and reported on the Town's fiscal standing, including a summary of the Town Hall Renovation Project (following page). Councilmember Shaul asked why Coaches' fees were higher than budgeted. Zeughauser asked why Membership Dues were higher than budgeted.

Manager's Report

October 7, 2019

Administrative Matters

- **Accounting/Bookkeeping/Auditing:** Staff has met with auditors for the first time. Staff and accounting firm are currently working to clean up transactions, so audit can be successfully performed. Accountants and Auditors have recommended filing a 60-day extension with the state until December. Accountants will then assist in cleaning up the chart of accounts after 10/31/19.
- **Bill-Paying:** Staff set up trial of bill.com to streamline bill-paying, but additional cost is not accounted for in FY20 budget. At this time, staff recommends holding off on making a switch until next budget season.
- **Town Website:** The Town's website is six years old. The Council may consider an update to the website. Quotes were given by CivicPlus, who designed the current website. The Town could also elect to go out to bid on the service. The Communications Committee has begun looking at examples of websites to weigh in on any recommendations for next fiscal year.
 - The Town may also consider changing from .com to .org or .gov. Staff has begun to look at the requirements for such a change.
- **Census:** Staff is meeting with Census Bureau employees on Thursday, October 10 to discuss the 2020 Census.

- The Census will be entirely electronic in 2020.
- **Chevy Chase Elementary School Robotics:** Staff met with a CCES 5th and 4th grade robotics team about their CITY SHAPERS Innovation Research Project.

Infrastructure

- **Town Hall Renovations:** Staff has attended weekly Town Hall renovation update meetings. (See report from architect and project manager Lou Balodemas)
- **Pool Entrance Bridge:** Staff is looking into options to help the drainage situation at the new bridge at the Town Pool.
- **Utility Poles:** Staff is putting together a list of “double poles” in Somerset. Poles need to be rid of telecom cables before Pepco will remove them.
- **Electric Vehicle Charging Station:** Pepco has unveiled a program to install electric charging stations for free to municipalities. Staff has forwarded the information to the Environmental Committee to review to see if they have any recommendations or feedback.

Contracting

- **Snow Plow:** The Town’s contract with Mulheron’s ended in April. Staff has completed an RFP that is currently open. Bids are due in October so that a contractor can be selected at the November meeting.
- **Gardening Consultant:** The Town may be interested in contracting out services for a gardening consultant to assist maintenance staff with planting and care of Town green spaces. The Parks and Natural Resources Committee created a rough draft of an RFP. Staff will work to finalize an RFP and advertise so the Council can select a contractor.
- **Bridge/Signage/Traffic Consultant:** The Council approved the hiring of a consultant to look at parking and other issues at the Town Pool. Staff is currently working to locate a previous RFP to use as a template, and to go out to bid so that any changes could be incorporated before next year’s pool season.

Events

- **Last Month’s Town Events:**
 - Movie Night at Pool (9/7)
 - Newcomers’ Party (9/8)
 - Brown Bag Lunch (9/12)
 - Adult Pool Party (9/14)
 - A Wider Circle Donation Day (9/28)
 - Pool Closing/Dog Swim (9/29)
 - Bulk Trash Pickup (10/7)
- **Upcoming October Events:**
 - Flu Clinic (10/25) – residents should please call ahead at the office.
- **MML Fall Conference:**
 - Staff will not be attending, but Somerset will be represented. The Fall conference is focused more on MML’s legislative agenda.

Building Administration

See worksheet from Town Building Administrator Doug Lohmeyer – included in Council packet.

Tree Updates

See report from Town Arborist, Dr. Tolbert Feather – included in Council packet.

FISCAL WRITE-UP

October 7, 2019

This fiscal year we've spent \$104,725.52 to-date on the Town Hall Renovation project. We have \$226,437.96 left on D&D contract.

On the Council agenda this month, the Council will consider \$24,720 site utility work, \$2,434 for the WSSC connection fee, and up to \$2,750 for the on-site connection fee to WSSC.

We've budgeted \$400,000 this FY, so we currently have

\$400, 000.00

-\$104, 725.52

\$295, 274.48 remaining in budget

\$295, 274.48 remaining

-\$226, 437.96 D&D remaining

\$ 68, 836.52 remaining after D&D payments

\$68, 836.52

-\$24, 720.00 site utility work

-\$ 2, 434.00 WSSC connection fee

-\$ 2, 750.00 WSSC on-site fee

\$38, 932.52

That \$38, 932.52 would need to cover all additional costs. If it does/would not, we may need to do a budget amendment. For example, we still have estimated costs of ~\$15,000 in furniture, ~\$15,000 for lighting, and carpeting (cost TBD, but rough estimate of around \$4,000), all of which comes to ~\$34,000. We may want to have a discussion about how to handle the \$56,600 in bonds as well, which are not accounted for in this calculation because (ostensibly at least...) we will get that money returned to us – however, that cost runs us over our budgeted amount.

We also have been charging the Extra Space Storage facility monthly fee towards the Town Hall Renovation budget line – that is \$679 per month. That cost alone over the next 5 months (Oct. – Feb.) is \$3, 395.00.

As Lou mentioned, the costs do not count Balodemas invoices, which have their own line in our budget – we have only budgeted \$21,000 for FY2020, which I anticipate being lower than what we will owe by a couple thousand based on previous invoices (invoices have come in the \$5,000 - \$7,000 range monthly, which means we will probably owe in the neighborhood of \$50,000 for July through February); so we may need a budget amendment on that as well.

7:45 p.m. Discussion: Building Permit Administrator Report

Building Administrator Doug Lohmeyer reported on the active work sites. The Council asked about the speed of progress at 5800 Deal Place. Building Administrator Lohmeyer agreed to send a letter to the home owner to inquire about the progress, and to remind them to file for a building permit extension if work would not be completed by December.

Councilmember Shaul asked that the Town staff ensure that the 4709 Dorset Avenue worksite did not park more than the permitted three cars on the street.

7:55 p.m. Public Hearing/Motion: To Discuss Town Hall construction project, and consider approval of payment to Deneau for installation of water service line connection (site utility work) in the amount of \$24,720; and payments to WSSC for service connection fee in the amount of \$2,434; on-site connection fee not to exceed \$2,750; and bond payment in the amount of \$56,600.

Town Hall Project Manager Balodemas noted that the bond payment is expected to be returned to the Town approximately one month following the completion of the new water line for the sprinkler system. The project is estimated to be completed by mid-February. Councilmember Zeughauser moved to approve the above payments; councilmember Shaul seconded; all in favor.

8:03 p.m. Public Comments

Mayor Slavin recommended pausing the agenda items until 8:10 p.m. so as not to get ahead of the scheduled times. He opened the floor for public comments. Council member Shaul asked the Town to send out a reminder about the Flu Clinic date and times (10/25/19 at 2:45 p.m.).

8:10 p.m. Public Hearing/Motion: To consider approval of building permit at 4917 Essex Avenue for new home construction, new driveway construction, and rear porch

Building Administrator Lohmeyer gave a report on the proposed construction, including that the building conformed with the Town and County's setbacks and building height regulations, respectively. He explained the building review and stormwater review by Montgomery County. Mr. Lohmeyer asserted that the 14 downspouts on the site pipe to dry wells, and that the stormwater waiver that the applicant received from the County was only to account for the increased driveway.

The Council referenced a letter written by Miguel Tejblum (Essex Ave.), who raised concerns that the water runoff will affect his property, which is adjacent to the proposed worksite. The Council asked whether permeable pavement could be considered.

Councilmember Surko said that the County reforestation plan does not include canopy trees, and surmised that the bay window may push the proposed structure over the County's building coverage limit. Mr. Lohmeyer pointed out that the bay window does not project into the side setback.

Councilmember Peale asked for the square footage of the driveway and pool deck, and asked if the driveway material and pool deck could be installed with permeable materials. Councilmember Peale asked Town Attorney Bolt to clarify whether the Town has permitting authority for swimming pools. Town Attorney Bolt answered that the Town Code does not require a permit for a swimming pool, but the Town's practice is to treat such a request as an amendment if there is an open building permit at the site. He noted that the Town does require a permit for retaining walls and fences, which may be required by County law to be built in conjunction with swimming pools.

Councilmember Shaul discussed with Mr. Lohmeyer his recommendation that the applicant should minimize water runoff, noting that the neighbor had raised concerns about the quantity of water.

Town Arborist Dr. Tolbert Feather gave his report on the property and proposed construction. Councilmember Zeughauser asked how many canopy trees would be affected by the construction. Dr. Feather reported that seven (7) canopy trees were being removed, and two (2) preserved on the property. Councilmember Zeughauser suggested that two of the trees could be preserved by moving the water retention tanks in the rear yard.

Councilmember Zeughauser asked if two trees at the front of the neighbor's property at 4921 Essex would survive the removal of the existing driveway. Dr. Feather suggested that there are likely to be few roots on the east side of the tree because of the proximity to the driveway and house.

Councilmember Shaul asked why evergreen trees were not on the recommended reforestation plan. Dr. Feather responded that his recommendations were native trees only.

Councilmember Peale noted a discrepancy between the landscaping picture that was provided to Council and Dr. Feather's reforestation plan. Councilmember Shaul asked if the porch shown on the landscaping plan was screened or not. Mr. Lohmeyer responded that it was a covered porch, but not screened or enclosed.

Councilmember Surko asked Dr. Feather how long it takes newly-planted canopy trees to cover the same area as the old, removed canopy trees. Dr. Feather estimated it would take between five and ten years.

Councilmember Peale confirmed that the Council is not considering the pool, pool deck, or retaining wall as they are not on the building site plan. She offered that in that case, the trees in the footprint of the pool should not be removed until the Council has an updated site plan and landscaping plan.

Councilmember Surko suggested the Town ask the County for clarification on whether the proposed porch should be considered enclosed.

The homebuyers (Lance and Meredith Wade) introduced themselves. Mimi Brodsky Kress (Sandy Spring Builders) gave a short presentation on the proposed construction. Mimi Brodsky Kress relayed that the applicant intends to install a pool in the next two months. They did not receive Dr. Feather's reforestation plan in time to incorporate it into their landscaping plan.

Councilmember Shaul asked about the proximity of the air conditioning units to the neighbor's bedroom window. Mark Haufman (GTM Architects) replied that they could shift the air conditioning units back 15 feet, and have offered that option to the neighbor. Councilmember Surko recommended the Council require the air conditioning units to be moved back 15 feet.

Councilmember Panner asked for clarification on before-and-after permeable surface. Council member Peale asked if permeable materials could be used on portions of the construction. Rich Ingram (CPJ Engineers) explained that some portion of the driveway could potentially incorporate permeable materials, but there are limitations on how close such materials can be from a house's foundation. Mr. Lance and Ms. Meredith Wade (homeowners) said that they would consider and look into permeable materials where possible.

Councilmember Zeughauser asked for assurance that the fencing will be monitored by the builders and Town staff during construction. She asked who neighbors should call with an issue. Ms. Brodsky Kress suggested calling Joy Lanum (Sandy Spring Builders), the site supervisor or Ms. Kress herself because they will respond quicker than the County.

Miguel Tejblum (Essex Ave.) raised concerns about the air conditioners, the tree removal, and general noise. He suggested that water management at the County level is for pollution control, and that there would be overflow on the site. He asked that the applicant create a mechanism to control water flow to direct it away from his property, that the trees on his property be preserved, and that the porch be redesigned to be built on piers so tree roots be less effected. He also raised concerns about possible asbestos. He submitted a letter prior to the hearing, which was entered into the record.

Carol Barsha (Essex Ave.) also expressed concern for the stormwater runoff.

Sarah Morse (Dorset Ave.) asked the applicant to explain the County's stormwater management waiver. Rich Ingram (CPJ Engineers) explained that the application had to prove that the water is not be re-routed to new locations.

David Kathan (Dorset Ave.) expressed his concerns about the loss of trees, and the stormwater management.

Julie Greenberg (Falstone Ave.) expressed concerns about the standards that the Town and County have for tree protection and water management.

Steve Friedman (Essex Ave.) asked that the parking plan be amended to account for larger vehicles, and to ensure that driveways and the narrow street is not blocked. He also asked that they be mindful of noise and pollution and to not idle cars.

The Council discussed ways to grant the permit with conditions that address the concerns from neighbors. The Council developed the following conditions:

- The two air conditioning units be relocated at least 15 feet farther towards the rear of the house from the location depicted on the submitted site plan. The air conditioning units shall be tested for compliance with the Montgomery County Noise Ordinance. If the test fails, appropriate noise abatement measures shall be implemented to achieve compliance. If such measures fail, the units shall be removed or replaced with compliant units.
- The two storm water retention tanks, pipes, and related facilities in the rear yard shall be moved out of the tree protection areas depicted on the tree protection plan submitted by the Town Arborist.
- A traffic guard or flagger shall be used to direct traffic at all times during high congestion aspects of the construction and use of large vehicles.
- The new driveway curb cut is approved, provided the old curb cut is abandoned and the curb and gutter is restored, at the cost of the applicant.
- As suggested (but not required) by the Town Council, the applicant shall consider using pervious materials for the driveway.
- As suggested (but not required) by the Town Council, the applicant shall consider reconfiguring the downspouts such that storm water is not directed to surface flow towards the west.
- Approval is not provided for the swimming pool, pool deck, or wall depicted on the Sediment Control and Storm Water Management Plan. A permit modification must be sought for these items if they are to be built. When such modifications are sought, the applicant shall submit the revised site plan reflecting the proposed construction. The plans shall reflect the material(s) proposed for the pool deck.
- Provided a landscaping plan is submitted for approval by the Town Council containing the reforestation requirements contained in the report submitted by the Town Arborist, dated October 2, 2019, and provided the requisite deposits are paid, the following trees may be removed, as listed on the tree report: tree nos. 1, 4 through 13, and 16. Approval is not provided for tree nos. 2, 3, 14, and 15. Such plan shall be submitted before issuance of a tree removal and building permit.
- The applicant shall provide a height survey and wall check survey, to confirm the height and setbacks of the construction.

Councilmember added a friendly amendment with the following conditions:

- Approval is not provided for the “covered porch” at the rear of the house, unless and until Mark Beall, Manager, Department of Permitting Services, confirms that the porch is exempt from the County’s lot coverage requirement.
- Approval is not provided for the box bay window at the front of the house unless and until Mark Beall, Manager, Department of Permitting Services, confirms that the box bay window is exempt from the County’s lot coverage requirement and is allowed to project into the required front setback.

Councilmember Peale made a motion to approve the demolition, tree removal, curb cut, and building permit application with the above conditions. Councilmember Zeughauser seconded. The motion passed on a count of 4-1, with Councilmember Surko voting against.

Councilmember Zeughauser made a motion to add the following condition to the permit:

- Prior to commencing demolition, the applicant shall obtain an inspection and submit to the Town Manager a report on the presence of lead-based paint and asbestos-containing materials. Any such hazardous substances discovered shall be removed in accordance with the requirements and regulations of the MDE and EPA.

Councilmember Shaul seconded the motion. The motion passed on a count of 3-2, with Council members Peale and Panner voting against.

11:07 p.m. Public Hearing/Motion: To consider removal of 34” diameter Pin Oak located in Town Right-of-way at 4910 Essex Avenue, and removal the following trees at 4823 Dorset Avenue:

1. Ash 6” dbh – dead;
2. Ash 12” dbh – dead;
3. Ash 28” dbh – 90% dead;
4. White Pine 8” dbh – in decline and will not revive.

Reforestation Plan:

- a. One Evergreen (pine or holly);
- b. One Canopy tree (red oak, white oak, willow oak, sugar maple, red maple, or black gum);
- c. Two ornamental trees (redbud, dogwood, or serviceberry).

Councilmember Zeughauser moved to approve; Councilmember Panner seconded; all in favor.

11:10 p.m. Public Hearing/Motion: To consider approval of pool winterization plan presented by American Pool in the amount of \$7,052.75; and equipment upgrades to pool filtration systems, and chlorinators in the amount of \$28,770.63

Town Manager Trollinger relayed that American Pool Enterprises also had submitted recommendations on heater replacement. The Council deferred action until the next meeting when a representative from the company could explain the recommendations.

11:12 p.m. Public Hearing/Motion: To consider adoption of comprehensive Code of Ordinance amendments, as prepared by General Code and introduced at September 2019 Council meeting

Mayor Slavin opened the floor for public comment. There was none. Councilmember Peale motioned to approve; Councilmember Shaul seconded; all in favor.

11:14 p.m. Public Hearing/Motion: To consider Resolution re-adopting Town's current fee schedule, as listed on the Town website

Mayor Slavin opened the floor for public comment. There was none. Council member Shaul motioned to approve; Councilmember Zeughauser seconded; all in favor.

11:15 p.m. Public Hearing/Motion: To consider approval of engaging the Maryland Energy Administration for assistance on LED streetlight conversion.

Mayor Slavin opened the floor for public comment. There was none. Councilmember Shaul confirmed that engaging MEA would not cost the Town money. Councilmember Shaul motioned to approve; Councilmember Zeughauser seconded; all in favor.

11:16 p.m. Public Hearing/Motion: To discuss updates on small cells at federal and county levels, and consider submitting comments on behalf of Somerset.

Susannah Goodman (Cumberland Ave.) reported to the Council that there is no deadline for the Montgomery county Council bill introduced on October 1. She also said that the Maryland Municipal League does not recommend individual municipalities submit comments.

11:18 Adjourn

Councilmember Peale motioned to adjourn; Councilmember Panner seconded; all in favor. The meeting adjourned.