

Town of Somerset  
4510 Cumberland Avenue  
Chevy Chase, MD 20815

Minutes for Council Meeting on Monday, December 2, 2019

**Council Members Present:** Marnie Shaul; Barbara Zeughauser; Steve Surko; Franny Peale; **Mayor:** Jeffrey Slavin; **Town Manager:** Matthew Trollinger; **Town Administrative Assistant:** Linda Williams; **Town Attorney:** Ron Bolt; **Town Arborist:** Dr. Tolbert Feather; **Town Hall Renovation Project Manager:** Lou Balodemas; **Residents and other attendees:** Lucy Freeman (Dorset Ave.); Maura Mahoney (Dorset Ave.); Keith White (Dorset Ave.); Carrie Wofford (Essex Ave.)

7:00 p.m. Council Work Session

The Council asked the Town Manager and Town Arborist to develop a list of right-of-way trees and private trees that were removed in the past year.

The Council developed a list of considerations for Code amendments, including:

- Covered porches;
- Objective permit criteria;
- Stormwater/water drainage issues;
- Finality of permit decisions;
- Accessory dwellings;
- Non-vegetative surfaces;
- Water drainage on lots as it pertains to trees.

The Council asked Town Attorney Ron Bolt to investigate how other municipalities' Codes address these issues.

The Town Manager gave an update on the bridge at near the Town Pool. One option to consider is to raise the slats on the outside of the bridge to allow excess water to flow off the bridge and into the stream.

The Council instructed the Town Manager to purchase an electric leaf blower.

7:30 p.m. Council Meeting Convenes – Public Comment Period

Mayor Slavin called the meeting to order.

Carrie Wofford (Essex Ave.) offered to answer any questions the Council may have about the proposed Tennis Rule Change Resolution. Ms. Wofford also suggested that the Council inform residents that they

are listening to concerns about trees and are looking into taking action. She suggested there is a perception among residents that more trees are coming down than being planted, and that lot coverage is increasing. Mayor Slavin offered to write a message on the Town listserv, and suggested that Ms. Wofford also write on the listserv to inform residents that the Council is working on such issues.

7:39 p.m. Consent Agenda

1. To approve minutes from Council meeting held on November 4, 2019.
2. To approve Tennis Rules amendments as recommended by Tennis Committee.
3. To approve Resolution 19-12-01 to Approve Memorandum of Understanding Concerning Debris Management.
4. To approve Resolution 19-12-02 to Approve Investment Policy for the Town of Somerset.

Council member Peale noted a grammatical error in the minutes.

Council member Shaul motioned to approve items 2-4; Council member Surko seconded; all in favor.

Council member Shaul motioned to approve the minutes with suggested edits to correct grammatical errors; Council member Peale seconded; all in favor.

7:41 p.m. Public Hearing/Motion: To discuss Town Hall construction project, and consider approval of payment to Balodemas Architects for Town Hall Renovation Project Management in the amount of \$6,360, and approval of change order #23 in the amount of \$2,214.50 for shelving units

Project Manager Lou Balodemas gave an update on the construction project. The estimated completion date is in February.

Council member Zeughauser motioned to approve the funding; Council member Peal seconded; all in favor.

7:41 p.m. Public Hearing/Motion: To amend FY2020 Budget by reallocating \$40,000 from line item 77000 – Wynne Case to line items 67105 – Town Hall Renovation/Improvements and 67105-1 – Project Manager

Town Manager Trollinger explained that Wynne payments are not due until 2021. There are overages in costs due to unforeseen project delays.

Council member Shaul motioned to approve the budget amendment; Council member Zeughauser seconded; all in favor.

7:47 p.m. To consider amendment to building permit at 4709 Dorset Ave. to include fence on property.

Council member Shaul verified that the HPC had approved the proposed change. Manager Trollinger confirmed.

Keith White (Dorset Ave.) inquired about setbacks and how they apply to the fence.

Laura Mahoney (Dorset Ave.) commented that the property has been built up, so there is mud on her (neighboring) property. She suggested the fence will be higher than what should be allowed because of the new grading on the property. She asked that the fence not be approved.

Lucy Freeman (Dorset Ave.) commented that too many trucks park on the street that are associated with the project. She suggested the Council hold off on approving the permit amendment until the parking situation is settled.

Mayor Slavin suggested the Town set up a meeting between the builder and/or property owner and the neighbors, Mr. White and Ms. Mahoney to go over the concerns that were raised.

Council member Zeughauser motioned to deny the permit amendment for the new fence; Council member Surko seconded; all in favor.

8:03 p.m.        Public Hearing/Motion: To consider approval of fence permit 19-11-18-F at 5510 Greystone St., granted administratively on 11/18/2019

Mayor Slavin noted that he has the authority to grant fence permits. He removed the item from the agenda, and approved the permit.

8:05 p.m.        Public Hearing/Motion: To consider removal of two Town trees, located at 4608 Dorset Ave. and 5816 Surrey St., respectively, as recommended by the Town Arborist

Dr. Feather reported that the 28" Silver Maple at 4608 Dorset is 50% dead with large dead branches that will not revive. There is evidence of decay at the base as well. He recommended removal of the tree.

The 14" Ash at 5816 Surrey St. is also 50% dead with large dead branches that will not survive. The tree is in decline, and he recommended removal.

Council member Zeughauser motioned to approve the removal of the two trees; Council member Shaul seconded; all in favor.

8:08 p.m.        Motion: To Adopt fee schedule as presented at 11/4/2019 Council meeting, and in December Somerset Journal

No public comments. Council member Zeughauser noted that the fact that there were no comments or objections should be taken as a positive. Council member Peale noted that the batting cages get little use.

Council member Peale moved to introduce the proposed fees with an amendment to remove batting cages fees. Council member Shaul seconded; all in favor.

8:12 p.m. Discussion: Town Manager Administrative and Fiscal Reports

Town Manager Trollinger gave the Council his administrative and fiscal reports (included below at end of minutes).

8:16 p.m. Discussion: Mayor's Report

Mayor Slavin gave his report (included below at end of minutes).

8:18 p.m. Adjourn

Mayor Slavin asked for a motion to adjourn the meeting. Council member Zeughauser so moved; Council member Peale seconded; all in favor.

#### Fiscal Report

12/2/2019

#### *Wynne Case*

A background on the *Wynne* Decision:

Like most states, Maryland imposes a tax on the income residents earn both in Maryland and out-of-state as well as the income earned within Maryland by non-residents. The Maryland income tax consists of both a "state" income tax and a "county" income tax, both of which are collected by the State Comptroller's office. Residents who earn income outside of Maryland may receive a credit against the state, but not the county income tax for income taxes paid on that income to other states.

In a case argued on November 12, 2014, and decided May 18, 2015, the Supreme Court applied the dormant Commerce Clause doctrine to Maryland's personal income tax scheme and found that the failure to provide a full credit for income taxes paid to other states was unconstitutional.

Following the ruling, Maryland offered refunds to Maryland residents who had paid the local income tax without a credit for income taxes paid to other states. The state government paid the refunds, with the expectation of recovering the refunded money from local governments by reducing future tax revenue distributions. Due to the statute of limitations, the refund was available to all taxpayers affected by the *Wynne* decision for 2011, 2012, 2013, and 2014; refunds for tax years as early as 2006 were available for some taxpayers who had filed a timely amended return.

In other words, for residents that worked out-of-state, the state of Maryland had previously allowed those residents to receive a credit for out-of-state income taxes *only* towards state income taxes, and not county income tax. The Supreme Court found that to be in violation of the Dormant Commerce Clause and thus unconstitutional. Therefore, municipalities owed residents back taxes that they had previously not received the full credit for.

The Town of Somerset was calculated to owe a total of \$250,549 due to the *Wynne* decision. The first of 20 deductions will occur in May 2021 in the amount of \$12,527.45. The Town will make payments in the

months of May, June, November, and February from that point forward, with the final payment occurring in February 2025.

The amount owed back to the state does not accrue interest, and therefore there is no benefit to paying it back early. Thus, the \$40,000 that was budgeted for Wynne payback in FY2020 will not be taken out of the Town's account and can be reallocated to other budget items for FY2020. In fact, the Town may not need to make "payments" at all – budgeting for Wynne deductions can be done by subtracting the deduction from anticipated local income (although making separate payments is also an option).

#### Manager's Report

December 2, 2019

#### Administrative Matters

- **Accounting Bookkeeping/Auditing:** Auditors Zelekofske Axelrod, LLC are coming to Somerset the first week of December to meet with staff and continue to gather items to complete the FY19 audit. Staff has been in contact with auditors and accountants at Weyrich, Cronin & Sorra to clean up FY19 books.
- **Somerset Journal:** Staff took over editing duties for the Somerset Journal for the month of November (December issue).
- **Leaf Collection:** Curbside leaf pickups began the week of October 28, and will continue through the month of December.
- **Website:** Staff is updating website and gathering backlog of documents that had not been uploaded to the website. CivicPlus (current website host) has offered two proposals to reconfigure the website, and is planning to attend the Communications Committee meeting in January. Based on recommendations, the Town may consider allocating money towards a website redesign in FY21.
- **Directory:** Staff and Journal editors are working with Town's printer to create an errata page to be sent to residents for the latest Directory.
- **Legislative Meetings:** The Town of Somerset is participating in the Maryland Municipal League's Montgomery County Chapter Legislative Dinner on Thursday, December 5. The Town is sponsoring the attendance of Senator Susan Lee and Delegate Sara Love. In addition, the Town will be represented at the Committee for Montgomery Legislative Breakfast on Friday, December 13.
- **Tree City:** Staff is working on 2019 Tree City, USA certification.
- **Committees:** Staff has begun putting together list of committee members their terms. The Town may consider reappointing all positions at once instead of staggered terms.
- **Town Hall Lawn:** Maintenance staff has expressed that pets going to the bathroom on the Town Hall Lawn is affecting the regrowth of the grass. The Town may look into signage.

#### Personnel

- **Congratulations:** Congratulations to Town Attorney Ron Bolt, who was recognized by Bethesda Magazine as one of the County's top municipal attorneys!
- **Christmas Vacation:** Town Manager Trollinger will be in California for the holiday season December 18 through December 28. Assistant Linda Williams will be in the office through December 24. Office closings are listed below.

#### Infrastructure



- **Gardening Consultant:** The Town is 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 RDP. Still is working to finalize an RFP and advertise so the Council can select a contractor before the spring.
- **Bridge/Signage/Traffic Consultant:** The Council approved hiring a consultant to look at parking and other issues at the Town Pool.

#### Calendar/Events

- **Community Service Day:** The Town held its annual Community Service Day on Saturday, November 16 in partnership with Manna Food Center. Donation boxes are still at the Town Hall for canned goods and toy donations.
- **Holiday Party:** The staff holiday party will be held at the Town Hall on Thursday, December 12.
- **Holiday Schedule:** The Town Hall will be closed on the following days in the month ahead:
  - Tuesday, December 24
  - Wednesday, December 25
  - Wednesday, January 1
- **Municipal Law Orientation:** Prior to the January 6 Council meeting, Town Attorney Ron Bolt will provide a “crash course” on municipal law and the Town Code for Council members and staff, starting at 6:00 p.m.
- **Movie Night Event:** Residents have expressed interest in the Town putting money into the budget for a second Movie Night event on the Town Green.

#### MAYOR'S REPORT FOR DECEMBER 2019 TOWN MEETING

1. SOMERSET HOLIDAY FUND--PLEASE DONATE NOW. With the holidays fast approaching, it's now time for those of you so inclined to make a contribution to the fund our Town has set up so that we can collectively thank our loyal and hard working employees at this season for their service in 2019. Checks are preferred (but cash is accepted too) and should be made payable to "Town of Somerset" with "holiday fund" written on the subject line. We would like to get the contributions by next Monday, December 9 by 4:30 PM, if possible, and you can leave them at the Town Hall or drop them by my house at 5706 Warwick Place. We don't provide a suggested donation amount but I can report that in the past the gift range has generally been from \$75 to \$500. The Council and I sincerely appreciate the generosity of all. For those that miss this deadline, we will continue to accept gifts up until Christmas Eve, but it's better to give sooner than later!

2. TOYS FOR TOTS COLLECTION. We are currently collecting new, unwrapped toys at Town Hall so that underprivileged children in our County will have happy holidays like the rest of us. Please try to make these donations as soon as possible. Go to [www.toysfortots.org](http://www.toysfortots.org) for further info. Participation so far has been much much slower than we would like, so let's all step it up.

3. ADDRESSING HUNGER IN OUR COUNTY. It's sad that in a such a resource laden County, many of our residents---even those who live nearby--go to bed hungry at night. To help change that, this holiday season I am encouraging our Town to partner with the outstanding nonprofit Manna Food Center by donating food, volunteering or making a year end contribution. More information is available at [www.mannafood.org](http://www.mannafood.org). There is a collection box at Town Hall, too. Please help.

4. MAIL SERVICE IMPROVEMENTS CONTINUING? Each year at this time I like to ask residents

whether our US mail service has been satisfactory for the last twelve months --especially because in the recent past we have received a number of complaints and requested and received Congressional help. Accordingly, I would like to encourage everyone and anyone with a concern about the mail in general or with a specific problem to write to me or the Town Manager now so that we can bring such issues forward to our Congressman JAMIE RASKIN and his expert staff.

5. 2020 ELECTION. The next Presidential and Congressional election is coming on faster than we all realize. Don't forget to take the time over the next months to bone up on the issues and the candidates and, most especially, to urge everyone in your families and wider circles to VOTE! The same goes for the Census.

HAPPY CHANNUKAH, MERRY CHRISTMAS, HAPPY KWANZAA, HAPPY NEW YEAR, HAPPY THREE KINGS DAY, JOYOUS OSHOGATSU AND SAFE TRAVELS TO EVERYONE IN DECEMBER. BE GRATEFUL FOR ALL YOUR BLESSINGS AND THE WONDERFUL REUNIONS YOU WILL HAVE THIS MONTH. I WISH EVERYONE MUCH SUCCESS IN 2020.