MINUTES

Monday, January 7, 2008 - 7:34 P.M.

Mayor Walter Behr, Council members Tom Eldridge, Richard Kessler, Marnie Shaul, Lesley Simmons, Jeffrey Slavin and Clerk-Treasurer Tom Carter began the meeting at 7:34 p.m. Present during all or portions of the meeting were Gayley Knight, Dan Crocker, Steven Guttentag, Sue Rosenthal, Robin Barr, Philip Leibovitz, Sarah Morse, Cathi Davis, Alan Proctor, Mike Hill and Lou Balodemas.

CLOSED MEETING WITH TOWN ATTORNEY

Walter reported that the Town Council had met after the architect’s meeting on December 10 pursuant to Section 10-508(a)(7) of State Government Article of the Maryland Code Annotated to consult with counsel to obtain legal advice regarding special exceptions. The Council voted unanimously to withdraw its request for a public hearing regarding the transfer of Hilda Seibel’s accessory apartment status.

MINUTES

The Council approved the minutes of the December 3, 2007, regular meeting and the December 10, 2007, closed meeting as submitted.

FINANCIAL REPORT

Walter noted that the combined fund balance was $2,545,000, down about $68,000 with no significant revenue receipts last month (attachment 1). He said that we receive our large revenue payments in spurts.

In operating expenses, he noted that we have spent a little over $20,000 in legal fees of the $35,000 budgeted. We still have legal bills out for the 5403 Trent Street court case and the accessory apartment.

CITIZENS COORDINATING COMMITTEE ON FRIENDSHIP HEIGHTS DUES

Marnie Shaul moved to authorize payment of $100 as the Town’s annual dues to the Citizens Coordinating Committee on Friendship Heights. Vote: unanimous. Motion passed 5-0. [Payment will be made upon receipt of their bill.]

HISTORY COMMITTEE APPOINTMENTS

Lesley Simmons moved to confirm the Mayor’s appointment of Ilene Heller and reappointment of Joan Weiss to three-year terms on the History Committee. Vote: unanimous. Motion passed 5-0.

BUILDING PERMIT – 5608 WARWICK PLACE

Steven Guttentag explained his application to add a screened porch to the back of his house, noting that he had withdrawn the application last month because his total lot coverage was slightly over the allowable 35 percent. He said they had adjusted the size of the porch to meet the allowable coverage.

Walter asked that the two Town trees in the front yard be protected with fencing to prevent building supplies and vehicles from encroaching upon them during the construction. Mr. Guttentag agreed to do this.
Tom Eldridge moved to approve the permit for the plans, dated December 14, 2007, subject to receipt of a County permit and the Town fees for the building permit and deposit, and protection of the two Town trees in the front yard. Vote: unanimous. Motion passed 5-0.

**MAYOR’S REPORT**

Walter said copies of his report (attachment 2) were provided at the sign-in table for meeting attendees. He updated several of his items, noting that the curb work on Devon Lane was done and the contractor paid, the creek work by the pool started today, one day early, and most of the problems the Town cited in our letter to the Montgomery Municipal Cable station manager had not been corrected and that the Council might wish to take additional action regarding our funding of the station. He said we are allowed a second or alternate representative and that he planned to advertise in the *Town Journal* for a volunteer.

Marnie Shaul suggested sending a second letter first. After some discussion, it was the consensus of the Council for the Mayor to write the Board of Directors, with a copy to the station manager, threatening to vote against contributing next fiscal year if improvements are not made. (Attachment 3.)

Jeffrey Slavin updated the Council on the status of the Washington Episcopal School’s proposed construction. He said that the number of stories of the senior housing building was reduced from nine to eight and that, after pressure from local jurisdictions, the Planning Board voted to recommend the State install a traffic light at Landy Lane and River Road. The school will contribute toward the light if approved.

Walter said that we would soon receive our first payment from the County of our share, 75 percent, of the parking ticket payments for violations in Somerset. It will be at least $2,500. It is obvious that the Montgomery County District 2 police have never been given, or have never used, the code number for Somerset as the payment will be for the 54 tickets our officer has issued. Walter plans to report this deficiency to the District 2 commander.

Marnie Shaul said there would be a meeting at the parking lot of St. Dunstan Episcopal Church this Sunday at 3:30 p.m. to remove invasive plants along the Capital Crescent Trail.

Marnie also asked about the status of the Chevy Chase Club’s storm drain issue. Walter said the State Highway Administration is still negotiating with the Chevy Chase Club, and that it has been a long process. Additional discussion centered on the storm water effect along Wisconsin Avenue from Cumberland Avenue to Dorset Avenue in Town. Rick Kessler suggested writing another letter to the State Highway Administration restating our concerns. Walter agreed to do so. (Attachment 4.)

**DEVELOPMENTS/PLANS IN THE VICINITY OF SOMERSET**

Rick Kessler had not been able to attend so Marnie Shaul reported on the December meeting of the Citizens Coordinating Committee on Friendship Heights. She said she had sent notes to the Mayor and Council members on the meeting earlier (attachment 5). She said there was considerable discussion on the Base Closure and Realignment Commission (BRAC) regarding Walter Reed moving to the National Naval Medical Center in Bethesda. There was some talk about ending the proposed Purple Line of Metro at NIH rather than in Bethesda because of the consolidation of the two medical facilities. The current Environmental Impact Statement (EIS) does not include an exit from the Beltway onto the medical center. Walter said that there would be meetings on the EIS this Wednesday and Thursday. Interested parties have until January 28 to provide comments on the EIS.

Walter noted that there would be a meeting on the development of the intersection of Woodmont and Bethesda Avenues tomorrow right.

Rick Kessler updated the Council on the proposed redevelopment at the Arlington post office site.
He said that the hearing examiner had recommended denial because it was not in compliance with the Sector Plan.

SUGGESTIONS AND QUESTIONS FROM RESIDENTS

Tom Eldridge voiced his concern about all the graffiti on the bathhouse. Walter said that it had been reported to the police, and that they had said it was not gang related. Tom hoped that we could paint over the graffiti soon. [This was done two days later.]

Tom also asked if something could be done about invasive plants in the parkland. Marnie Shaul said that we have attacked them in the past. Tom Carter said that the men get to them when they can, usually in the February-March time frame.

Tom said that the trees along the bottom of the hill behind his house should be protected from the staging area for the creek work. Lesley Simmons said that the contractor had been told to put fencing up along there.

Jeffrey Slavin said that Chevy Chase West had hired a traffic consultant. Walter asked for his name so that we could send him an RFP for our traffic study.

Jeffrey said that the chair of the Board of Supervisors of Elections wanted to set the candidates forum date early because some of them may be gone during that period just before the election. A discussion of dates settled on Tuesday, March 18, for the forum. Rick Kessler and Walter were not in favor of setting the date now as not all the candidates nominated would be involved in this decision and may not be able to make it. Tom Eldridge moved to set the candidates forum on Tuesday, March 18. Vote: Eldridge, Shaul, Simmons and Slavin for; Kessler opposed. Motion passed 4-1.

Dan Crocker said he was concerned that any increase in the size of the Town Hall would lead to increased rental to recoup the costs. He listed other concerns about the proposed facility as well. Walter told him that no matter what the Town Council does, not everyone would be happy. He said that the next meeting with the architect would be on Tuesday, January 23, at 7:30 p.m. at the Town Hall, and he urged Dan to attend.

POOL CONTRACT

Sarah Morse said that the Pool Committee received only two bids and had voted 8-0 to extend the contract of High Sierra for management of the pool for the 2008 season. There were two abstentions. She noted that they would be negotiating some additional items that would cost more, mostly regarding additional guards, but that the committee would come back to the Council for approval of these later. Rick Kessler said that the committee had sent out their bid requests too late this year, but would have the proposed contract ready for sending next September. He added that they would be meeting with the president of High Sierra to discuss issues from the past year.

Walter asked that the committee bring their proposed changes to the Town Council at the February meeting.

Walter asked for a motion, but Rick Kessler said that there was no need as this was already part of the existing contract, which only allowed an opt-out.

2007 SWIMMING POOL FINANCIAL REPORT

Walter discussed the 2007 Swimming Pool Financial Report (attachment 6), noting the only income now is from guest passes, which amounted to about $8,100. He discussed some of the larger operating expenses, listing most of the items under maintenance/miscellaneous and stating that the new contract with High Sierra should indicate that they are paying for the chemicals. The only chemicals the Town paid for this year was for winterization, even though the contract had a specific list. He asked that the pool be included in the winterization costs.
does not specify that the contractor will pay for them. In regard to the high water/sewer costs, Sarah Morse said that the on-site manager, Joe, felt there was a water leak in the pool.

Under capital expenses, Walter said there was about $31,000 for architect fees, $3,100 for the pool vacuum and $13,800 for bridge repairs.

It would cost each household about $306 just to cover the operating expense if we were to go back to membership fees and every household became members.

OFF-DUTY POLICE CONTRACT

Walter noted the proposal to extend the hiring of off-duty police from February 1 to June 30, 2008, the remainder of this fiscal year. Jeffrey Slavin **moved** to extend the police coverage until June 30. Robin Barr felt that there were better ways for the Town to spend its money, to which Marnie Shaul responded by listing several benefits the Town received by hiring this particular officer. Jeffrey added that he had received no negative comments about the officer. Walter said that, in his opinion, we are very fortunate to have Sherif Almiggabber as our officer. He is wise, dependable and pleasant.

Vote: unanimous. Motion passed 5-0.

TOWN ENVIRONMENTAL COMMITTEE

Marnie Shaul explained her proposal to establish a Town of Somerset Environmental Committee based on a growing interest by local governments as well as our residents. She envisioned this committee focusing on aspects not covered by the Parks and Natural Resources Committee and working with that committee on similar issues. Walter pointed out that the resolution does not have the status of putting the committee in the Town Code. Marnie Shaul **moved** to establish the committee. Vote: unanimous. Motion passed 5-0. (Attachment 7.)

TOWN CODE AMENDMENT – INVISIBLE FENCES

Walter reiterated his proposal to require invisible fences for pet containment to be installed at least three feet from Town sidewalks and curbs and increase penalties for violation of animal control requirements from $50 to $100 for a first offense and from $100 to $300 for each repeat offense. He noted that this came up because the Christians, at the corner of Essex Avenue and Surrey Street, put a fence up right next to the sidewalk and curb, which has drawn concern for the proximity to pedestrians.

Rick Kessler asked why the fines should be increased. Walter said that he felt the current amounts were too low and that his increases were based on judgment with no supporting data. Rick said that he agreed with the need to move the fences back off the edge of the sidewalk, but was not sure about the penalties. He then **moved** to approve the location portion, but not the increase in penalties.

More discussion followed with some interest in registering the fences and/or establishing a permitting process. Rick felt that those already in place could be required to move them based on the fact that they are in the Town’s right-of-way.

Rick suggested that this be held until next month’s meeting and withdrew his motion. The consensus of the Council was to postpone action until February’s meeting. Rick offered to draft new legislation.

BUILDING PERMIT – 4520 DORSET AVENUE

Walter noted that changes had been made to the original plans approved for this address and asked Phil Leibovitz of Sandy Spring Builders to explain them. Phil said that the new owners wanted more room above the garage and that they changed the dormers in order to make more space available in that room. Rick Kessler noted that there was no completed neighbors’ signature.
space available in that room. Rick Kesler noted that there was no completed neighbors' signature sheet, only one that indicated that copies of the plans had been dropped off at the neighbors' houses.

Walter said that the Council could approve the plans subject to receipt of the sheet with signatures. Tom Eldridge moved to approve the permit contingent upon receiving the sheet of signatures. Some discussion followed with Jeffrey Slavin opposed to acting before having the signatures. Tom withdrew his original motion and moved to act on the plans at the January 23 special session with the submission of a new, completed signature sheet from Sandy Spring Builders. Vote: unanimous. Motion passed 5-0.

BUILDING PERMIT EXTENSION – 4914 DORSET AVENUE

Walter said that Tom Dimond had requested a six-month extension of his building permit. Lesley Simmons moved to approve the extension, subject to receipt of the $424.88 fee. Vote: unanimous. Motion passed 4-0. (Tom Eldridge was out of the room during the vote.)

TOWN HALL PAINTING CONTRACT

Walter said that we had received four bids to paint the front and west sides of the Town Hall and to paint the entire building. He said that the bids of Hands On Painters, who had painted it last, and Sequeira Construction were close and recommended Sequeira at a cost of $14,675. He noted that we have used Sequeira in the past with excellent results. Lesley Simmons moved to approve the Sequeira contract for up to $15,500 to take into consideration the likelihood of finding more rotted wood. Vote: unanimous. Motion passed 5-0.

ARCHITECT FEES

Tom Eldridge explained that architect Lou Balodemas had been paid about 40 percent of the original contract amount of $20,500 for his work on improvements to the Town Hall and pool. To date his expenses come to $23,100, which included drawings for the last meeting. In addition, Tom listed costs for other work that the Council may deem necessary to complete the project, such as new drawings of the Town Hall and pool to reflect the results of the December 10 meeting and finalizing the details that would later serve as RFPs for architect bidding of the proposed work. The Council deliberated on these options for some time.

Walter asked the Council to eliminate any further expenses for year-round plans for the pool, but they were inclined to continue with this option. After more discussion, Tom Eldridge moved to authorize an additional $14,100 for Lou's services: $2,600 for work already completed, $1,000 for updated Town Hall drawings, $2,000 for updated pool drawings, $3,000 for an additional pool drawing that includes a second floor, and $5,500 to finalize the plans and prepare RFP documents. Vote: unanimous. Motion passed 5-0.

Alan Proctor thanked the Council for following through on all the options.

Lesley Simmons said that we should start thinking now about how to finance the work, suggesting the establishment of an ad hoc committee for this. Tom Eldridge recommended an ad hoc committee for use of the facilities as well. After some discussion about these, the consensus of the Council was not to establish new committees at this time.

Alan Proctor said that he had constructed an Excel spreadsheet to factor in all financial data and that the Council was welcome to use it. Walter said that he had just received a schedule for a $4 million loan over 10-, 20- and 30-year periods from the Maryland Department of Housing and Community Development and that he would send it to the Council members.

Walter pointed out that he would not recommend stating that there may not be a property tax increase to support the funding.

ATTORNEY’S FEES
Walter said that Town Attorney Norman Knopf’s fees would be increasing from $260 to $275 effective January 1, 2008. Jeffrey Slavin moved to accept the increase in fees. Alan Proctor asked if we had put our legal services out for bid. Walter said we had not. After some discussion, Tom Eldridge asked that this subject be placed on the February agenda. Walter called for a vote. Vote: Kessler, Shaul, Simmons, Slavin for; Eldridge opposed. Motion passed 4-1.

TREE REMOVAL PERMIT – 5415 SURREY STREET

Lou Balodemas, architect for Cathi Davis and Frank Loversky, explained the need to remove a 9-inch red maple in her front yard that is impeding new construction. Cathi said that she was willing to replace the tree. After a short discussion, Rick Kessler moved to approve the removal of the tree, subject to receipt of a $200 tree deposit and the planting of a two-inch diameter red maple replacement. Vote: unanimous. Motion passed 5-0.

Lesley Simmons said that she was disturbed about the loss of the tree. Some discussion followed, but there were no solutions to the problem.

NEW BUSINESS

None.

ADJOURNMENT

The meeting was adjourned at 10:54 p.m.

Thomas W. Carter
Clerk-Treasurer