

SECTION 5 OF THE VILLAGE OF CHEVY CHASE  
MINUTES OF THE ANNUAL MEETING

Date: April 10, 2007  
Time: 7:30pm  
Place: 5906 Connecticut Avenue, Chevy Chase Village Hall  
Present: Margy Abbott; Peter Gray; Farooq Hussain; Frances L. Higgins;  
Ira Rosenbaum; Andrew Smith; David Podolsky, attorney; Alan Beal; 25  
Section 5 residents

1. Welcome

Andrew welcomed everyone and introduced the Council members.

2. Minutes

Andrew moved that the March 13, 2007, Council meeting minutes be approved as revised by email. Ira seconded the motion and it passed unanimously.

3. Chairman's Report

Safety

Andrew said that the three persons who invaded the home last year have all been arrested. He said that the Council decided not to employ police to patrol Section 5 after reading the Somerset safety study which concluded that employing additional police did not make the town safer. The Council sent a list of safety measures published by the County police which residents may perform that will make them and the town safer.

Andrew said the Council has some concerns about basketball goals placed on public strips because these goals may encourage children to play in the street. After consultation with David Podolsky, an attorney, about the town's liability concerning these basketball goals the Council decided to write a letter to the residents who have basketball goals on the public strips in front of their houses. In this letter the Council expressed its concerns about the safety of children playing in the street.

The Council contracted with Vehicle Volume Recording Co. to monitor traffic on the town's streets over a six day period. This was in response to residents on Glendale Rd. and Woodbine St. who were concerned about the excessive speed of motorists and the heavy volume of traffic. Andrew said that the results of this report showed that the majority of motorists do not exceed the speed limit and the volume of traffic has not increased over the last three years when the last study was conducted. As a result of this study the Council has decided not to install speed bumps on Section 5 streets.

Donations

Andrew said that Section 5 donated \$3,000 to the B-CC Rescue Squad to help with their deficit. He also said that the town donated \$5,000 to Ellen's Run, a fund raiser which supports a scholarship fund at B-CC High School and a mental health fund.

Town Maintenance

Andrew said that WSSC replaced the entire water main service for Woodbine St. last year. This project required many excavations on the street and thus disturbed more than 50% of the pavement. Section 5 was able to negotiate with WSSC to pay half the cost of milling and repaving the entire street. WSSC contributed \$27,000 toward the milling repaving. The town gave 11 shade trees to be planted on private property as part of the town's Urban Reforestation Program.

#### Web Site

The Council now posts a draft copy of the Council meeting minutes on the Town's listserv after each Council member has had an opportunity to revise them. After the minutes are approved at the next Council meeting, the approved minutes are posted on the web site and the draft minutes are removed.

#### 4. Treasurer's Report

Margy said that there were some unexpected expenditures in 2006-07. The 2006-07 budget was \$264,500 and the town spent approximately \$300,000. For the 2007-08 budget there was an increase of \$5,000 in the personnel line item; a \$3,000 increase in the community activity line item; and a \$15,000 increase in the office & printing line item. This office & printing increase will cover \$5,000 of the cost for a web master and \$10,000 for a disaster recovery in case something happens to the town's computer and/or web site. Farooq said that there will be an audit of the documents on the web site to determine their veracity. Farooq said that the town now has a technology person who is able to access the town's computer and help with problems. Margy said that the Council approved a budget of \$312,000 for 2007-08 fiscal year. A resident asked how large will the real estate tax rebate will be this year. Margy said that there are three months remaining in this fiscal year thus the Council will need to address expenses for these last months before determining the amount of the rebate by June 1<sup>st</sup>. She said that the Council decide on the amount of a rebate by June 1<sup>st</sup>.

#### 5. Tax Rate

Andrew said that the Council recommends a property tax rate of \$0.00 per \$100 of assessed value for the 2007-08 fiscal year. He asked the residents who were in favor of such a rate to raise their hands. The vote was unanimous to maintain the property tax rate at \$0.00 per \$100 of assessed value for the 2007-08 fiscal year.

#### 6. 7401 Brookville Road Property

Montgomery County has informed the 7401 Brookville Road property owner that he needs to install a sidewalk along the north side of the property along Windsor Place. A resident asked why this sidewalk is necessary. Margy said that the County is making this requirement. Ira said that the sidewalk is necessary for safety reasons. There was some discussion and the Council decided to postpone a decision about the nature of the sidewalk until the May meeting.

#### 7. Citizens' Concerns and Suggestions

Andrew said that some residents have attended this meeting because of their concerns about the construction at 3704 Thornapple St. He then introduced David Podolsky, an attorney, who gave some background information about the town's authority to enforce setbacks in Section 5. David said that Section 5's rules and regulations were enacted in 1923. These rules and regulations along the town's 1981 Charter were sent to a code corporation in 1999 to be combined and updated; however, this new 1999 version was not approved by the Council. The setback requirement included in the 1923 rules and regulations does not provide a variance process whereby residents may seek relief from these setback rules. Because Section 5 does not have a variance process, it is not able to enforce setback requirements.

David said that in 1991 a resident of Chevy Chase View sued the town because of its setback rules. Because of this case towns lost their authority to enforce setback rules. In 1992 the State legislature passed a bill which set up a process whereby municipalities could reenact their setback rules. A step in this process required municipalities in Montgomery to notify the County Council of their intentions to reenact their setback rules and to create a variance procedure. Section 5 did not follow this process and create a variance procedure. David also said that the State legislature passed a bill in 2006 which will allow municipalities in Montgomery County to have some additional zoning authority in addition to setback rules.

A resident asked if Section 5 could enact a moratorium on construction in Section 5. David said that Section 5 could do this but it should be very careful about enacting a moratorium on construction because moratoria are almost always challenged. A resident asked if the Duffy's have made changes to the plans for which Montgomery County granted a building permit. David said that he was not familiar with the Duffy's plans. A resident asked if the rules and regulations which are on Section 5's web site are enforceable. David said that he was not certain that they are enforceable.

A resident read a statement about her views concerning the construction at 3704 Thornapple St. She said that this issue has poisoned the atmosphere in the town. Four of the families on Thornapple St. who object to the Duffy's construction are in the process of appealing the County Circuit Court decision which has allowed the Duffy's to begin their construction.. A resident asked the Council to write a letter supporting these four families' efforts in their appeal. Andrew said that the Council does not want to write a letter to the County Council in support of the four families' efforts to appeal the Circuit Court's decision.

Andrew said the Council will revise Section 5's code regarding its authority to regulate building construction in the town. A resident said Section 5's Council turned its back on the situation regarding the Duffy construction. A resident asked David Podolsky if Section 5 has the authority to send a building inspector onto the Duffy property to determine if they are building what is described on their permit and plans. David said that he was not certain that Section 5 has this authority. David Podolsky said that he will research this issue and get back to the Council quickly. A resident said that the Circuit Court opinion posted on Section 5's web site clearly states the facts in the case.

A resident asked about the rules for posting material on the listserv. Farooq said that 90% of the material posted is done without issue. People are expected to post material in response to material which the town posts and is appropriate for a town's listserv. A resident suggested that Section 5's Council adopt Montgomery County's R60 rules regarding construction. A resident asked if the building inspector's comments will be made public. This question was not addressed.

Andrew said that the Council will look at zoning regulations for the town at the May meeting.

#### 8. Manager's Report

Verizon will begin placing wire in Section 5 within the next two weeks. Verizon plans to place a box on the Pepco pole at the corner of Thornapple Place and Underwood St. This box will be 3 ft. high, 2 ft. wide and 18 deep and will be placed at eye level. There was some concern about it impeding pedestrians and being hit by vehicular traffic. The manager will monitor the situation.

Margy Abbott, Ira Rosenbaum, and Andrew Smith were elected to the three Council positions open for election at this Annual Meeting without opposition. They took the oath of office.

Andrew moved that the meeting adjourn; there was a second and the motion passed unanimously. The next meeting will be Tuesday, May 8, 2007, at 7:30pm, at the Village Hall, 5906 Connecticut Avenue.