

APPROVED: Meeting No. 11-11

ATTEST: /s/ Phyllis Marcuccio
/s/ Glenda P. Evans

**MAYOR AND COUNCIL
ROCKVILLE, MARYLAND**

November 15, 2010

Meeting No. 38-10

7:00 p.m.

PRESENT:

Mayor Phyllis Marcuccio, Councilmember John Britton, Councilmember Piotr Gajewski, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala

STAFF PRESENT:

City Manager Scott Ullery, City Attorney Debra Yerg Daniel, and City Clerk Glenda P. Evans

11. Discussion

B. Communication Task Force Recommendations - Development Review Process

Ms. Noreen Bryan and Ms. Elise Gussow provided the Mayor and Council with an overview and background relating to the Communications Task Force [CTF] Development Review Process. There was a broad discussion among the Mayor and Council, Ms. Bryan, Ms. Gussow and staff on the recommendations of the task forces.

Ms. Bryan began by outlining the areas in which the staff agreed with the Task Force's recommendations:

(1) Alternate Dispute Resolution. Staff and the CTF agreed that the City should institute a manner in which conflicts can be resolved as an alternative to and prior to any litigation. The staff added that a dispute resolution mechanism should be available to the applicant as well as to the citizen. The CTF recommends that a next step would for the Mayor and Council to direct staff to institute an implementation process with the assistance of the City Attorney and input by citizens.

There were significant discussions between the Mayor and Council relating to establishing a full-time ombudsman position. According to Councilmember Newton, the ombudsman's role would be that of an impartial, observer and intermediary between staff and the community. This individual would also be tasked with taking meeting minutes. Councilmember Gajewski stated that he thought the ombudsman's sole responsibility could be acting as a contact person, assisting citizens before the Planning Commission and making them aware of time guidelines, etc. Mayor Marcuccio felt that an ombudsman could be an advocate for the citizens.

The Mayor and Council also discussed roles and responsibilities of the Planning Commission, possible revamping of the Planning Commission and discussions related to compensation for the members of the Planning Commission.

(2) The CTF and staff recommend providing citizens with expanded information as part of the notification of a proposed new development. The expanded information will include: brochure, anticipated timeline, location map, site plan (if appropriate), brief project description and information on Planning Academy. Citizens will be brought on board early in the process. The date of the pre-application area meeting will occur prior to the first Development Review Committee (DRC) meeting.

(3) A review of the rules and procedures of the Commissions and Board by an outside advisor.

(4) Area meetings. There needs to be an impartial moderator, recorder of meeting minutes and staff in attendance.

(5) Citizens need to receive requested information in a reasonable timeframe.

(6) Revise City's Development Review Process to include citizens (revise flowchart to include citizens early in the process).

(7) Provide pertinent documents to citizens. Documents should be made available online. Ms. Bryan stated that "it would only be in the case of certain big documents such as site plans that conceivably, it would be reasonable to have the applicant provide a certain number of hard copies for citizens." There was a discussion between the Mayor and Council and Community Planning Development Services Director, Susan Swift relating to the materials (site plan, application, etc.) citizens can retrieve online currently. Ms. Swift indicated that citizens can access the Development Review website for documents.

(8) Permit Citizens to attend the Development Review Committee (DRC) meetings (in accordance with the Open Meetings Act). The CTF recommended that the Mayor and Council direct staff to open DRC meetings to citizens for observation only. Ms. Swift stated that staff supports DRC meetings being opened to citizens and that citizens are advised of meeting dates in advance. City Attorney Debra Daniel stated that DRC meetings have been open to citizens, however, citizens are unable to participate.

(9) Citizen input should be included in staff reports.

(10) Recommend that the Planning and Historic District Commissions (HDC) eliminate the three (3) minute rule at Planning and HDC meetings.

(11) Instituting community benefits agreements or creating a legal defense fund.

Councilmember Pierzchala expressed his concern relating to either a community benefits agreement or creation of a legal defense fund.

(12) Final Recommendation: Keep citizens involved in the implementation - create a Citizens Implementation Committee to work with staff, board/commissions or others through periodic engagements and reviews of the implementation approach being followed by Staff. This recognizes that the "devil is in the details." By working together with the staff CTF hopes to follow a cooperative path that identifies and resolves unintended consequences before they are instituted.

Councilmember Newton gave two examples of when a developer worked with the communities: Legacy and Chestnut Lodge.

There were continuing significant discussions relating to the findings and recommendations of the Communications Task Force between the Mayor and Council and members of the Task Force. Councilmember Newton identified the recommendations that were agreed upon by the Mayor and

Council:

- (1) Revise City's Development Review Process to Include Citizens (revise flowchart to include citizens early in the process);
- (2) Provide pertinent documents to Citizens;
- (3) Alert and permit citizens to attend the Development Review Committee (DRC) meetings;
- (4) Recommend to the Planning and Historic District Commissions (HDC) to explore elimination of the three (3) minute rule at Planning and HDC meetings; and
- (5) Final Recommendation: create a Citizen's Implementation Committee to work with staff, board/commissions or others through periodic engagements and reviews of the implementation approach being followed by Staff.

Councilmember Gajewski asked staff if the requested items are agreed upon were workable. Ms. Swift responded that she did not think any of the items were not workable. Councilmember Newton provided instructions to staff relating to the citizens inclusion in the flowchart. Councilmember Gajewski indicated that staff was being instructed to return to the Mayor and Council with the proposed chart for review and approval.

Ms. Swift then stated that "Councilwoman Newton had mentioned the five items that we had proposed, you wanted that in addition to that, which was ..." Councilmember Newton responded "I was including those that you had agreed to".

Susan Swift identified the items:

1. The Pre-application Area Meeting should occur prior to the Pre-application DRC Meeting.
2. The Post-application Area Meeting is attended by City staff to answer questions but is conducted by the applicant.
3. Minutes of all area meetings are taken by an objective outside source and paid for by the applicant.
4. The notice of filing should include the date of the DRC meeting.
5. Notices should include: the brochure (already implemented), information on the Planning Academy, anticipated timeline, location map, site plan if appropriate, and a brief project description (i.e. 3-4 pages).

Ms. Swift indicated that these five items may require a code amendment. Those items will need to be drafted and brought back before the Mayor and Council.

Motion moved by Councilmember Bridget Donnell Newton, seconded by Councilmember Mark Pierzchala to approve the following recommendations by the Communication Task Force: (1) Revise City's Development Review Process to include citizens (revise flowchart to include citizens early in the process); (2) Provide pertinent documents to citizens; (3) Alert and permit citizens to attend the Development Review Committee (DRC) meetings; (4) Recommend to the Planning and Historic District Commissions (HDC) to explore elimination of the three (3) minute rule at Planning and HDC meetings; (5) Final recommendation: create a Citizen's Implementation Committee to work with staff, board/commissions or others through periodic engagements and reviews of the implementation approach being followed by Staff; and the recommendations prepared by the Staff as the first step in the procedure (1) The Pre-application Area Meeting should occur prior to the Pre-application DRC Meeting. (2) The Post-application Area Meeting is attended by City staff to answer questions but is conducted by the applicant. (3) Minutes of all area meetings are taken by an objective outside source and paid for by the

ATTACHMENT C

applicant. (4) The notice of filing should include the date of the DRC meeting. (5) Notices should include: the brochure (already implemented), information on the Planning Academy, anticipated timeline, location map, site plan if appropriate, and a brief project description (i.e. 3-4 pages).

Motion Passed: 5 approved - 0 opposed - 0 abstained

Councilmember Piotr Gajewski, Councilmember Mark Pierzchala, Councilmember John Britton, Councilmember Bridget Donnell Newton, and Mayor Phyllis Marcuccio approved.

None opposed.

Mayor Marcuccio stated that there was no decision made regarding the Ombudsman. Councilmember Newton expressed her appreciation to staff and their work with the community.