Meeting minutes of Town Council on 5-2-2023

As reviewed, approved, and accepted by the Town Council on June 6, 2023

There being a quorum, Mayor Ruspi called the regular meeting of the Town Council to order at 7:30p.m. The meeting was held using video conferencing. Council Members Charles Bradsher, Tom Burke, Amy Koval and Christina Pellegrino were present. The Treasurer, Clerk, Assistant Clerk, Assistant Staff Member, Judy Hruz, Executive Editor, The Greater Olney News and approximately twenty-four residents and guests were also present.

Minutes: The minutes from the Town Council Meeting held April 4, 2023, were approved as submitted.

Committee/Board Reports

Charles Hendricks, Historic District Commission (HDC) Chair said the HDC met over Zoom on April 17, 2023, and voted to recommend the Town Council approve by resolution the evaluation provisions of the document, “Montgomery County Historic Preservation Commission Policy Guidance 2001 Solar Technology”, as an additional set of guidelines to be applied by Laytonsville's Historic District Commission in evaluating historic area work permit applications. Specifically for the installation of solar panels and other solar technology. It also voted to recommend that after Town Council approval, this county policy guidance be posted on the Town's website, along with an explanation that while this evaluation provisions are to guide HDC decisions in this sphere, all solar installations in the Town's historic district and historic sites will require a Historic Area Work Permit from Laytonsville’s Historic District Commission, rather than from the County’s Historic Preservation Commission referenced in the policy guidance document.

**Eric Wenger, Planning Commission Chair, said the Planning Commission** had a public hearing, a not uncontroversial one, on April 20, 2023. The hearing was well attended by Town members, and that process is still ongoing. The record will remain open until May 18, 2023, so people may submit comments about the subdivision plan considered at the hearing. Additionally, Chair Wenger said there was correspondence with the Maryland Department of Planning and the 2022 Planning Commission report and Board/Committee reports were filed by the Town Clerk.

**New Business**

Election Results: Mayor Ruspi shared the results of the Town election held May 1, 2023. Council Member Koval and Council Member Burke ran unopposed and were reelected. The two candidates for Mayor, Charles Hendricks, and Sharif Hidayat each received 91 votes. The Special Election for Mayor is scheduled for June 12, 2023.

Update on Town Employees: Mayor Ruspi said Lizeth Campos has been hired to provide cleaning services at the Town Hall, she will provide the service once a month and her gross pay will be $150.00 per service.

Treasurer’s Report: Treasurer Hoffman reviewed the Profit and Loss report for the month of March. The major sources of income were $2,264 from Building Permits, $30,325 from Income Tax, and $6,984 from Public Utilities. The total income for March was $43,861, which includes $357 in interest from the Capital Improvement fund. The major expenses for the month of March were $7,500 for the construction of the ramp and stairs behind the Town Hall, $7,110 for Grounds Maintenance, $6,301 for Waste Collection and $1,050 for the installation of flags in town.

Council Member Burke made a motion to accept the Treasurer’s report for March subject to audit. Council Member Bradsher seconded the motion. ***Unanimously approved.***

Introduce FY 2023-24 Budget: The Treasurer Hoffman reviewed the budget preliminaries for the FY 2023-24 Capital Improvements Budget. She said there was a slight increase in most of the expenses due to the economy. The Highway User Funds were increased over last year's estimate to $30,000 of income. Interest rates have gone up, so the interest for that account is also reflected as an increase to $3000, which makes the total income for the capital improvement budget $33,000. There is an extra allotment in the Parks and Trails for potentially paving one of the wood chip trails. Treasurer Hoffman reviewed the budget preliminaries for the FY 2023-24 General Funds Budget. She explained the biggest difference is the $20,000 which will be coming from the Capital Grant reimbursement for Miller Park. Treasurer Hoffman also explained the line item for ARPA funds of $109,000. Additional projected increases include $20,000 in interest income and $290,000 in Income Taxes. The total income is listed as $692,000, including the transfer from ARPA. Treasurer Hoffman highlighted some of the differences in expenses including Consultants, Legal, Jones Park and Pond and Repairs and Maintenance at the Town Hall. Treasurer Hoffman said the proposed FY2023-24 budget shows $67,500 which would go back into reserves. She said the Council Members may contact her if they have any questions or comments. Mayor Ruspi said the record will remain open for comments until the Public Hearing on June 6, 2023.

Introduce Resolution for Compensation to Employees: Treasurer Hoffman said the draft resolution shows a five percent raise for most staff members, the fee for Lizeth Campos and the change in job title and hourly rate for James Schneider. These changes, if approved, would be effective July 1, 2023. Mayor Ruspi explained that the current Assistant Clerk, Joy Jackson, will be leaving after the new fiscal year begins and has requested her salary remain the same.

Update on Laytonsville Town Parade and VIP Reception: The Laytonsville Town Parade will be held on May 20, 2023, and a VIP reception will be held, prior to the parade, at 10:00am. Mayor Ruspi requested the Council Members attend and to let him know as soon as possible if they will be participating in the parade.

Discussion on Antisemitism Resolution: Mayor Ruspi said there has been a request for municipalities to sign on to an Antisemitism Resolution and it seems more pertinent to Laytonsville based on the recent incident at Laytonsville Elementary School. He explained that some of the other municipalities are adapting the language in the resolution. All the Council Members voiced support for the importance of the resolution and adapting it so that it is more specific to Laytonsville. Mayor Ruspi said he will work on obtaining the revised resolution and will provide it to the Council for their review.

Discussion on Possible Zoning Text Amendment: Mayor Ruspi shared that he and others became concerned upon learning that a vape shop was planning to open in the Laytons Village Shopping Center. He asked Council Member Pellegrino to look into the issue. Council Member Pellegrino said that she has reviewed ordinances enacted by Montgomery County which prohibit vape shops from operating within a half mile of a middle school or high school as well as one that prohibits selling flavored vape products within a half mile of schools. Council Member Pellegrino recommends the Council consider a zoning text amendment for Laytonsville’s commercial zone that prohibits vape shops within a half mile of the elementary school. Mayor Ruspi said he asked the Town Counsel to prepare a draft zoning text amendment which has been provided to the Council Members. Mayor Ruspi said the proposed zoning text amendment will be presented at a Public Hearing on May 16, 2023, and the record will remain open for public review and comments until June 6, 2023.

 **Old Business**

Update on Jones Farm Pond: Mayor Ruspi introduced Steve Crum, Engineer, Macris, Hendricks, and Glascock to share his findings regarding Jones Farm Pond. Mr. Crum reviewed information from a report prepared by Stormwater Maintenance Inc dated April 8th, 2022. The report identified several deficiencies and recommended some maintenance issues to be addressed. They noted that the principal spillway was leaking both through holes in the riser and corrosion in the barrel. They also prepared a water balance which is an equation that looks at all the inflows to a water body and all the outflows. This showed that there is more water leaving the pond than flowing into the pond. Their recommendations included replacing portions of the principal spillway and a portion of the barrel. Mr. Crum said he believes there has been further deterioration since this report was completed. He also reviewed the as-built plans for the pond when it was reconstructed and said there appears to be some deviations from the design plans, both in the elevation of the top of the embankment or dam and deviations in the elevation of the emergency spillway. Mr. Crum said he does not know whether those deficiencies were corrected or not. He said the spillway is at the end of its useful life and should be replaced. He explained that if it fails it could lead to a collapse of the embankment and a large amount of water draining from the pond. Mr. Crum reviewed some items for the Council to consider before undertaking a spillway replacement project:

* A current survey and construction drawings will need to be prepared.
* Permits will be required from the Maryland Department of the Environment.
* Current MD 378 standards are more stringent than the ones in 2007 which might require the removal and replacement of the entire embankment.
* The existing pond, with current rainfall patterns, is not supported by a large enough watershed to maintain the water level.

Mayor Ruspi mentioned the possibility of pumping the water from the hydrants to the pond when WSSC flushes them, and Mr. Crum said that could be feasible. Mr. Crum explained that the Maryland Department of the Environment is concerned about dam safety and is imposing new requirements. He said the pond is a nice amenity, but it may not be sustainable.

Council Member Burke asked if lining the existing spillway is a possibility as it does not seem practical to rebuild it if there is not enough water going in to maintain it. He also commented on the number of trees and brush around the pond. Mr. Crum said lining the spillway is a possibility but is more of a band aid than a permanent fix and he confirmed that mature trees do take in a large amount of water.

Council Member Koval asked Mr. Crum for a rough estimate on a full fix. Mr. Crum said it could be well over $100,000 to $200,000 without the expense of drilling a well.

Council Member Pellegrino asked how long the repairs would last. Mr. Crum said using reinforced concrete has a typical life expectancy of 100 years and if the pipe still has some structural integrity, the liner would probably have a 25-year life expectancy.

American Rescue Plan Act (ARPA) Update: Council Member Koval said the ARPA report was submitted ten days before the deadline. Expenses of $46,770.31 were submitted. These expenses included costs for civil engineering and consulting, administrative fees, computer upgrades, public works, Town Hall upgrades and repairs, special projects, and donations. Including last year’s expenses of around $42,000 the total spent to date is approximately $91,210.47. Mayor Ruspi thanked Council Member Koval for all the time and work she spent on submitting the report.

Update on Miller Park: Jill Ruspi, Parks and Trails Task Force Chair, said the Task Force has been working, since 2016, on completing Miller Park and last week a professional landscape plan was planted. Two capital grants, totaling $35,000, were approved by the state. The first, for $15,000, has been received and the second, for $20,000, is expected to be received soon. The Task Force has developed a commemorative tree program, will be participating in the Town parade, and is working on a handout with a map of the Town’s parks and trails for distribution. Mayor Ruspi thanked Chair Ruspi and the members of the Parks and Trails Task Force, Christina Pellegrino, Charles Hendricks, and Joy Jackson.

Eagle Scout Award: Mayor Ruspi said he attended a Court of Honor recently and congratulated Bennett Bradsher, whose project was to refurbish the wood chip trail, for achieving the rank of Eagle Scout.

Laytonsville Town Picnic: Council Member Pellegrino said she believes the picnic should be held and that it is important to begin planning. She said she is willing to serve as Chair for the Town Picnic in September.

Council Member Burke made a motion for the Laytonsville Town Picnic to be held on September 16, 2023, under the leadership of Council Member Pellegrino. Council Member Koval seconded the motion. ***Unanimously approved.***

**Resident’s Forum**

Sharif Hidayat offered the following remarks: Thank you, Mayor and Town Council for the opportunity to speak tonight. My name is Sharif Hidayat and I do appreciate the protocol of self-announcing who you are and where you live to ensure that the public knows who's speaking and how is it relevant to the residents of Laytonsville. My name is Sharif Hidayat. I live at 272 Barberry Lane. I as well as several residents attended the April 20th Laytonsville Planning Commission. I disagree with Eric Wenger that it wasn't a controversial meeting. It was a was a very well attended meeting simply because it was controversial. Mayor Ruspi, I believe you were there present at the meeting as well. At that meeting, we heard the Chairman of the Planning board, Eric Wenger, present the preliminary proposal for Hope Builders to develop land across from Stadler’s Nursery. Chairman Eric Wenger allowed an opportunity for residents to speak only after they identified themselves, much like the protocol that you did this evening. But the only person that didn't have to identify themselves was Eric Wenger, and his address. And that's what creates this controversy and conflict of interest. At times during that meeting, Chairman Wenger was actively promoting the plan, as if the proposal was a mere protocol before it heads to a Mayor and Town Council meeting to rubber stamp this approval. I would ask that the Town Council Members that were not in attendance watch or listen to the recorded meeting from that night. I'm requesting that the Mayor and Town Council take all necessary measures to not allow Chairman Wenger, nor any future Chair of the Planning Board, oversee any land development deal that directly affects the valuation of their own personal property. That's what we have going on right now in the Town of Laytonsville. What many people don't know, especially people who were in that meeting, was that the Chairman Wenger, his property is directly next to the proposed site for development. That inherently creates a conflict of interest. And the reason why it creates a conflict of interest is, depending on how the Chair, and how they push for this proposal, it directly affects the valuation of the property in question. Which is his. So, in order to avoid any conflict of interest or even the appearance of a conflict of interest, I would ask that the Town Council consult with the Town attorney and consult amongst yourselves and review this matter, to review that if it does pose any conflict of interest, if you view it as a conflict of interest, and for any future Chairman of a Planning Board to oversee a planning site that might have a direct impact on the valuation of their property. Eric Wenger stands to profit from this and it's inappropriate for him to be chairing the proposal. That's my conflict-of-interest point that I wanted to make. I wanted the Town to know about it. I wanted the Town Council and the Mayor to review it with the attorney and have a finding of where the Town stands on this type of relationship and situation. And that is all. Thank you for the time.

Mayor Ruspi thanked Mr. Hidayat for his comments and said offered one correction. The entity referenced by Mr. Hidayat is the Planning Commission.

Eric Wenger offered the following remarks: Thank you, Mayor Ruspi, and I certainly appreciate what was said by Sharif. After all, he made a couple of mistakes about naming the Planning Board, but you know it's the Planning Commission and he just doesn't understand everything about the processes within the Town of Laytonsville. I do feel, you know, semi offended that that he's making some statements that say I stand to profit. He hasn't given any reference as to how I can profit. Again, at the end of the Planning Commission meeting where I identified myself and said, I'm saying this personally and everybody knows who I am, but fine I didn't, I suppose state my address. I am a member of the Planning Commission. I am not the Planning Commission. We have other Members. We have a process that takes up zoning issues by the ordinance in the Town and Comprehensive Plan. The Town has a Comprehensive Plan and within that it has ordinances. And it has a Planning Commission. We take up issues that are brought before us. Things such as subdivision. We are guided by the Town engineer. I made no impetus towards anything other than to run a fair and equitable meeting. I don't understand how I stand to profit. I did consult with the Town attorney, and she also wondered about that reference. And, you know, I would just ask that if you're going to make certain statements you need to have some facts to back them up. I just don't understand. So, I'll say it here right now, yes, I am definitely affected by this development. I didn't want to talk about this in public, and indeed I submitted written comment to the Planning Commission because I didn't want to testify and appear to be biased against the development. But I am the one of everybody who testified, people in the neighborhood that you live in who can't even see the building, including yourself. It will be literally in my front yard. A 40-foot building. I am the one who is the most negatively affected by this. But you know, as a Chair of the Planning Commission, I have to set that aside and I have to merely do my duty and let the process go through. There is not a determination as to whether this development will even take place. The process has to be completed and we haven't even done part of it. We've only done a public hearing. So, all I can say is that saying things about people and impugning their reputation is not a very nice way to do things. Although it may garner some votes for folks who aren't aware of the process and think that this is a done deal and all that. To the people of Laytonsville, our Planning Commission has done great work. Those of you who live in the Preserve are a product of that. Those of you that live in the Grove are a product of that work by the Laytonsville Planning Commission. So, all I can say to you is that we always do our best. I don't have anything to gain by this. Clearly, I have something to lose since my reputation is being impugned here and I can say that over the past 30 plus years I've donated countless hours of my personal time to the Town of Laytonsville. As well as my gas, my office supplies. I've never asked for a single thing in return, and indeed I don't bid on landscape projects. I have a landscape company. I will not bid on any RFP’s that the Town puts out because I don't want there to be any ethical controversy or anyone thinking that I'm trying to profit from that. So, I'm just going, you know, and I'm sorry if I sound upset. It's hard to be sort of attacked like this. And I probably should be, you know, more relaxed about it. But I'm not. It hurts my feelings so that I'm just going to end it on that. Many of you know me and all I'm going to say is as the Chair of the Planning Commission I will continue to do the work of the Planning Commission as dictated by the Town Council and Mayor. But we have a Commission. There are other people on there and I am subject to the Mayor and Council. Thank you.

Jennifer Sizemore, 21508 Montgomery Avenue, said that 7-11 currently sells vape products and commented that the Mayor and Council may need to consider this as it relates to the possible vape shop ordinance. Ms. Sizemore also asked if there was anything that residents who did not attend the last meeting of the Planning Commission could reference if they wanted to weigh in.

Assistant Clerk Jackson told Ms. Sizemore that she could review a copy of the plan, submitted by the applicant, at the Town Hall.

Kevin Gutowski, 21204 Cracklin Road, stated that the lights on the property across from the shopping center are very bright and shine into their development. He explained that for the owners that face the circle, on the back Higgins and Cracklin, the lights shine into their backyards and into their homes. He asked if these lights are necessary or if anything could be done so they are not so bright.

Mayor Ruspi said he has recently become aware of this issue and will be following up.

Charles Hendricks offered the following remarks: My name is Charles Hendricks. I live at 7011 Brink Road, and I have comments on a few subjects. Relative to one of the items of business today, I want to give hardy approval of the concept of a resolution condemning antisemitism. I think we have to be aware of the dangers of ethnic division in the nation, and I think a well-presented resolution along these lines is very appropriate for Laytonsville to join and I hope to see a refined text on that that would speak well on Laytonsville’s behalf in combating this problem. Relative to the development plan of Hope Builders and the manner in which Eric Wenger handled the meeting on April 20th, I must say that I was gratified by the conditions and stipulations that the Planning Commission adopted that I think will challenge the plan, which was not very well presented, as far as I could see, by Hope Builders.

Mayor Ruspi reminded Mr. Hendricks that he requested comments not address the Planning Commissions review at this meeting.

Mr. Hendricks offered the following additional remarks: I wanted to also to talk about Eric’s position here and one thing that Sharif Hidayat brought to the attention of the Town was a posting that Eric had made in response to a posting that Sharif had placed on his Facebook page and he characterized it in his messages completely inappropriate and I must say that I had seen that post a couple of hours after it had appeared and I too was mortified by the post inasmuch as it made reference to supporting my candidacy for me. And I had to tell Eric that I thought this was very inappropriate and I asked him to remove it and he did remove it. And I just want to say that the challenges in dealing with a growing community sometimes are surprising and I thought it was wonderful that we had the big turnout that we did at the Planning Commission meeting on April 20th and got to hear so many residents’ concerns and I certainly hope that they will be given very serious consideration. And that the opportunity for further comment leads to further analysis and review of these, so far, not very well-presented plans.

Council Member Koval made a motion to adjourn at 9:12pm. Council Member Burke seconded the motion. ***Unanimously approved.***

Respectfully submitted,

Joy Jackson

Assistant Clerk
May 2, 2023