

**TOWN OF CHEVY CHASE
COUNCIL MEETING
TOWN HALL
February 8, 2017**

OPEN SESSION TO VOTE TO ENTER CLOSED SESSION (6:00 p.m.)

The Town Council will meet in open session for the purpose of voting to enter a closed session pursuant to the Open Meetings Act, Maryland Code, General Provisions Article, Section 3-305(b)(7) to consult with counsel to obtain legal advice on a legal matter regarding private improvements in the public right-of-way and regarding permissible uses of the public right-of-way; and pursuant to Section 3-305(b)(7) and (8) to consult with legal counsel about pending litigation (ACT lawsuit).

REGULAR MEETING (7 p.m.)

- I. GENERAL BUSINESS
 - A. Call to Order
 - B. Pledge of Allegiance
 - C. Approval of Minutes of January 11, 2017 Council Meeting & Executive Session
 - D. Approval of January 2017 Financial Report
 - E. [Town Manager's Report](#)
 - F. Public Comments

- II. COUNCIL DISCUSSIONS & PRESENTATIONS
 - A. Bethesda Downtown Plan
 - B. Purple Line Mitigation
 - C. [Election Board Report](#)

- III. FY17 BUDGET REDUCTIONS
 - A. Public Comments
 - B. Council Discussion

- IV. ADJOURNMENT

MEMORANDUM

I-E

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Town Manager's Report
DATE: February 8, 2017

This report highlights many of the initiatives undertaken by Town staff over the past month. In the interest of brevity, I have not included ongoing staff functions. Please let me know if you have any questions or need additional information.

Council/Committee/Board Assistance:

- Provided assistance with Town efforts related to the Bethesda Downtown Plan and Purple Line mitigation.
- Continued to work with Election Board to review 2016 election and develop recommendations to Council for future elections.
- Continued work related to proposed Stormwater Management and Sediment Control Ordinance.
- Worked with Community Relations Committee on special events.

Special Projects:

- Organized and attended meeting regarding Bethesda park space.
- Organized and attended meeting with the Bethesda Police Commander regarding recent criminal activity in Town.
- Worked with Maryland Municipal League officials and State Senator Rich Madaleno on MD Senate bill regarding repayment of state income tax overdistributions.
- Continued working with State Comptroller's office to update Wynne repayment schedule and verify proper address coding for income tax returns.
- Began planning for 2017 Town election.
- Continued oversight of Washington Gas and WSSC infrastructure repairs.
- Processed requests for traffic signs and new street lights.

REPORT OF THE ELECTION BOARD

Response to the 2015 Campaign

Because the Election Board spent considerable time after the 2015 election responding to the implications of the write-in campaign, we include these activities in this report. Both Gloria Tristani and Robert Charrow made important contributions to our work while members of the Board.

In the May 5, 2015 election, votes were cast as follows: John Bickerman 228; Pat Burda 119; and 168 write-in votes for Fred Cecere, M.D., an unannounced candidate.

For several months beginning the day after the 2015 election, the Election Board devoted significant efforts in response to our town's first ever write-in campaign. Initially, we refused to certify the election because of questions surrounding Dr. Cecere's submission of a Financial Disclosure Statement. The Board conducted several hearings and work sessions (some in concert with the Town's Ethics Commission). The two bodies certified the election of Dr. Cecere and issued a 33-page report (available through the Town Office) that, inter alia, recommended changes to town law that would require that, as a condition of being eligible to serve on the Council, any write-in candidate file a certificate of candidacy with the Town at least 14 days prior to an election. Members of the Election Board actively sought enactment of such a measure, at the Council and with the State Ethics Commission, which reviewed competing proposals submitted by the Town and stated a preference for the one that required advance notice by write-in candidates—because it “promoted more transparency for the Town's citizens.” Copies of our submissions to the Council and to the State Ethics Commission are attached. As you know, ultimately the Council adopted a measure requiring that, in order to be eligible to serve on the Council, any write-in candidate must submit a certificate of candidacy and a Financial Disclosure Statement at least seven days prior to an election.

The May 3, 2016 Election

Five candidates filed for three open seats. The Town Ethics Commission certified that all had filed complete Financial Disclosure Statements. On April 27, the Election Board sponsored a Candidates' Forum, chaired once again by Charles Duffy, which was very well-attended. Mary Flynn, Scott Fosler and Barney Rush were elected to two-year terms on the Council.

Although the election itself ran smoothly, the vote count did not.

The Montgomery County League of Women Voters has administered the voting for our Town for many years. Consistent with past practices, the League staffed the polls throughout the day and counted the votes cast on May 3 as well as absentee ballots. Because the number of ballots cast substantially exceeded expectations, the League was required to add additional volunteers at the last minute. As reported by the League and initially reported by the Election Board the votes were: Jennifer Burton 501; Mary Flynn 582; Scott Fosler 592; Barney Rush 593 and Henry Smith

501. However, during the two days following the election, the Board and Town staff discovered errors with the League's count. After meeting with League representatives, it was determined that the League had undercounted the votes—due to simple human error late in the evening. Ultimately the official vote count was as follows: Burton 517; Flynn 637; Fosler 628; Rush 628; and Smith 515.

Review of Election Administration

Fortunately, the discrepancies did not affect the outcome of the election. But we were reminded of the closeness of some elections in the past—including a 10 vote margin between a winning and losing candidate in 2014. The Board thus reviewed *election administration* and concluded that future elections should include electronic voting, to avoid the potential disaster of additional human error. We thus agreed with Todd Hoffman's recommendation not to retain the League for the 2017 election and seek alternative avenues.

At the Board's request, Todd Hoffman surveyed several other jurisdictions as to their use of outside assistance in elections, and reviewed the credentials of organizations that independently staff elections and use electronic means to count ballots. On December 13, 2016 we met with Patricia A. Fowler of Electec Election Services, Inc., based in Mount Holly, New Jersey. Ms. Fowler demonstrated the use of optical scanners to count both absentee and in-person ballots, and pointed out features designed to insure against inaccuracies. Under Electec's procedures, paper ballots would still be used, but scanned rather than hand-counted. Because the use of optical scanners would obviate the threat of human error, the Board unanimously recommends the use of Electec for the 2017 election. The costs incurred in retaining Electec would be consistent with those charged by the League.

Review of Election Procedures

The Board and Town staff reviewed the Town of Chevy Chase Election Procedures document, adopted by the Council in February, 2015, and based on experience with two elections, make the following recommendations for additions and changes:

1. Publish a voting guide (FAQs) one month before an election.
2. Continue to determine "residency" questions on a case-by-case basis. Generally, a resident is deemed to be a person who considers the Town to be his or her domicile. Physical location within the Town 30 days prior to an election thus is not a necessary determinant of residency (e.g., college students, travelers, persons posted overseas and hospitalized persons may all be considered to be residents if they consider the Town to be their legal domicile).
3. Do not require a candidate for office to use the Town's official nominating petition, but make such petitions available as a convenience.
4. No longer require a resident who requests a nominating petition to sign an official "log."
5. Make absentee ballots available to residents as soon as printed, but not later than the second Tuesday preceding the election. Notify residents of the availability of absentee ballots via the Town Crier.

6. The Town should count only original absentee ballots and not accept faxed or photocopied absentee ballots.
7. Continue to prohibit Town residents from requesting absentee ballots on behalf of another resident. Each resident requesting an absentee ballot must do so individually in writing (by mail, fax or in person) to the Town Office.
8. The absentee ballot request form should include options for requestors to indicate how they would like a ballot delivered to them (mail, hand, designated agent). If no option is indicated, deliver via mail or hand only to the requestor.
9. Post a list of all candidates (including write-in candidates who have filed appropriate notice with the Town) at the polling place on Election Day. Posting would be required only if there are qualified write in candidates
10. Do not allow any public observation of voting within the polling place on Election Day.
11. Authorize each qualified candidate to designate one representative to observe the vote count after the polls close.
12. Make available provisional ballots for use by potential voters whose names do not appear on the State voting rolls on Election Day.

Attached is the Election Procedures document, showing proposed modifications.

We plan to attend the February 8, 2017 Council Meeting and will be happy to respond to questions at that time.

Respectfully Submitted,

TOCC ELECTION BOARD
Stephan Lawton, Chair
Michael Lebowitz
Chris Wright

TOWN OF CHEVY CHASE **ELECTION PROCEDURES**

Nominating Procedures

- The Town will provide a nominating petition form as a convenience to Town residents seeking election to the Town Council. A candidate for office is not required to use this form, but must submit a petition containing the required information in order for the individual's name to be placed on the election ballot. ~~-shall use the Town's official nominating petition.~~
- Nominating petitions are considered public documents and are subject to public inspection.
- ~~Town residents requesting a nominating petition shall sign an official Town log, which includes the requestor's name, address and telephone number.~~
- ~~Nominating petitions shall include language that discloses that petitions are considered public documents and are subject to public inspection.~~
- The Election Board shall verify the qualifications of the nominees and verify signatures on nominating petitions ~~from~~ after 5 p.m. ~~to 6 p.m.~~ on the third Tuesday preceding the election.

Write-In Candidate Procedures

- A Town resident seeking election to the Town Council as a write-in candidate shall use the Town's official certificate of candidacy.
- Certificates of candidacy are considered public documents and are subject to public inspection.
- The Election Board shall verify the qualifications of write-in candidates within 24 hours of filing.
- Within 24 hours of receipt of a certificate of candidacy, the Election Board, in coordination with the town manager, shall inform town residents of the filing of the certificate of candidacy and the identity of such candidate.
- There will be appropriate blanks on the printed ballot for the purpose of adding write-in candidates at the time of the election.

Absentee Ballot Voting Procedures

- Absentee ballot requests are considered public documents and are subject to public inspection.
- Absentee ballots shall be made available no later than beginning on the second Tuesday preceding the election. The Town shall inform residents when absentee ballots are available.
- The Town shall deliver an absentee ballot only to the requestor by a method chosen by the requestor in the application. Any person may return to the Town Office a signed absentee ballot request or signed and sealed absentee ballot.
- The Town shall record the number of the Town-issued return envelope on the absentee ballot request.
- Absentee ballots shall be returned in the Town-issued return envelope.
- The Town will not accept copies of absentee ballots or absentee ballot envelopes.
- Voters shall write their full legal name, address and date of birth on the Town-issued return envelope and sign the affirmation. Ballots enclosed in an incomplete, illegible, or unsigned return envelope shall not be counted.

Election Procedures

- The Town will publish a voting guide (FAQ) at least one month before each annual election.
- At 5 p.m. on the day before the election, Town staff shall provide all election documents to the Election Board and/or entity designated by the Town to assist with the conduct of the election. Poll workers shall attach each absentee ballot request form to the corresponding absentee ballot return envelope. A poll worker shall verify voter registration status in the precinct register and make the appropriate denotation on the official register that the voter has cast a ballot. If an absentee voter is not registered to vote, the ballot shall be voided. Eligible absentee ballots shall be placed in the ballot box.
- The Town polling place shall be open from 8 a.m. to 8 p.m. on Election Day.
- The Town will provide a provisional ballot for use by potential voters whose names do not appear on the voter registration list on Election Day.
- If a write-in candidate has been certified, a list of all qualified candidates shall be posted at the Town polling place on Election Day.
- A member of the Election Board and poll workers shall arrive at the designated polling place no later than 7:30 a.m. on Election Day.
- At least one member of the Election Board shall be present at the polling place on Election Day.
- No individuals other than Election Board members will be allowed to observe the voting process in the polling place during Election Day.
- After the close of the polling place, poll workers shall tally votes cast and a designated poll worker shall complete and certify the Official Count of Ballot Report provided by the Election Board. The Election Board shall review and certify the results on the report.
- Each qualified candidate may appoint one individual to observe the vote tally by the poll workers.
- Upon certification of election results, a member of the Election Board shall provide a copy of the report to a member of the Town staff and notify all candidates of the election results.