

# Communications Task Force City of Rockville, Maryland

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## Findings and Recommendations June 22, 2010

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## Foreward

The members of the Communications Task Force gave freely of their time and expertise, and I personally owe them my sincerest thanks and appreciation for the work they have accomplished. Rockville is fortunate to have an experienced and dedicated citizenry, and we benefit from their willingness to share their talents to improve our city. In this year of budget constraints, it is important to remember that the research that has been provided has come at no cost to the City, and many members of our group have offered their continued help should the City wish to use them.

I would also like to compliment and thank the city staff, and especially the Communications Department, for their time and cooperation in providing any requested information. We are gratified to see that throughout our tenure many of the ideas and suggestions we were compiling have already been implemented. The increased neighborhood communications, the Mayor and Council meetings in the community, as well as the increased interactive programming on Channel 11, serve to bring the city to the people, which will benefit Rockville in a myriad of ways.

Last but not least, I thank the Mayor and my fellow Councilmembers. With your support, we were able to bring together many ideas for future implementation and concrete recommendations for improvements to Rockville's communication vehicles.

Sincerely,

Bridget Donnell Newton, Councilmember

Chair of the Rockville Communications Task Force

# Table of Contents

<b>1. EXECUTIVE SUMMARY .....</b>	<b>4</b>
1.1 CITIZEN OUTREACH SUBCOMMITTEE SUMMARY .....	4
1.2 COMMUNICATIONS MECHANISMS SUBCOMMITTEE SUMMARY .....	5
1.3 DEVELOPMENT REVIEW PROCESS SUBCOMMITTEE SUMMARY .....	5
<b>2. CITIZENS OUTREACH SUBCOMMITTEE .....</b>	<b>5</b>
2.1 METHODOLOGY .....	6
2.2 FINDINGS .....	6
2.3 RECOMMENDATIONS .....	13
<b>3. COMMUNICATIONS MECHANISMS SUBCOMMITTEE .....</b>	<b>14</b>
3.1 METHODOLOGY AND THE CASE FOR IMPROVEMENT .....	14
3.2 STRATEGY #1: APPROACH COMMUNICATIONS THROUGH THE EYES OF THE CITIZENS .....	16
3.3 STRATEGY #2: USE THE ROCKVILLEMD.GOV WEBSITE AS THE HUB OF THE CITY COMMUNICATIONS.....	20
3.4 STRATEGY #3: CONTINUOUSLY TAKE THE PULSE OF CITIZENS TO PROVIDE TIMELY INFORMATION AND ACTION .....	20
3.5 RECOMMENDATIONS .....	21
<b>4. DEVELOPMENT APPROVAL PROCESS.....</b>	<b>23</b>
4.1 INTRODUCTION AND ACKNOWLEDGMENTS .....	23
4.2 METHODOLOGY .....	23
4.3 FINDINGS .....	25
4.4 RECOMMENDATIONS .....	29
 FIGURE 1 ROCKVILLEMD.GOV AS THE HUB OF ALL CITY COMMUNICATIONS .....	 20
 EXHIBIT 1 QUESTIONS FROM THE CHAIRMAN OF THE PLANNING COMMISSION.....	 36
EXHIBIT 2 COUNCILMAN PIERZCHALA’S REVIEW OF THE ZONING ORDINANCE AND NOTES ON THE REVIEW PROCESS	38
EXHIBIT 3 INFORMATION ON ALTERNATIVE DISPUTE RESOLUTION .....	40
EXHIBIT 4 INFORMATION ON LEGAL DEFENSE FUNDS.....	41
EXHIBIT 5 INFORMATION ON COMMUNITY BENEFIT AGREEMENTS .....	49

## 1. Executive Summary

The Communications Task Force (CTF) was recommended by Mayor Phyllis Marcuccio and approved by the Mayor and Council at their 01.11.10 meeting. Since then, the group has met more than a dozen times to discuss their ideas, research and findings as they relate to their mission statement:

- To encourage and improve dialogue between Citizens and City hall with an emphasis on listening and incorporating Citizen's views
- To recommend ways to use communication vehicles – new and old – more effectively
- To improve the transparency of decisions affecting our City
- To make information easy to access and understand

Rockville has a large variety of methods for communicating between City Hall and citizens and the task force has found many ways to improve the effectiveness and increase citizen engagement. The CTF broke into three subcommittees to examine the issues in more detail and developed the following written reports. A PowerPoint presentation was created to showcase the main points and facilitate discussion for the 06.21.10 Mayor and Council meeting.

The overriding themes that emerged from our research are as follows:

- Officially embrace and adopt open government principles – transparency, accountability, measurability – especially on Budget and Development issues
- Develop an Integrated Communications Strategy with input from Mayor and Council
- Make the Web site a priority for improvement.
- Commit to informing and engaging citizens in the Development process
- Recommend a Worksession With Mayor and Council, Boards and Commissions

### 1.1 *Citizen Outreach Subcommittee Summary*

This subcommittee focused on the effectiveness of two-way communications between the City and Citizens. They interviewed many neighborhood groups, staff, members of the Mayor and Council (both current and former), small business owners and members of the Asian Pacific American Task Force. Major recommendations from this group include more fully and effectively harnessing the existing communication methods, more advocacy on the part of the city with developers and higher governmental entities, more detailed information and transparency regarding the budget process, and proactive engagement with citizens in all processes affecting them.

## **1.2 Communications Mechanisms Subcommittee Summary**

The mechanisms subcommittee reviewed all current methods used by the city to share information with residents. They employed three strategies; approach communications through the eyes of the citizens, use the RockvilleMD.gov website as the HUB of city communications, and continuously take the pulse of citizens to provide timely information and action. Immediate recommendations include using feedback from citizens to fine-tune Channel 11, Rockville Reports and the website; having an expertly designed website that is easy to read and navigate, driving all traffic to that website for more information on items discussed on TV, email, Rockville Reports, Channel 11, social media, etc; continuing to monitor and solicit citizen feedback to help improve Rockville and its operations. Most importantly, the subcommittee believes that these recommendations can be adopted at minimal cost through a reallocation of existing communications resources.

## **1.3 Development Review Process Subcommittee Summary**

The mission statement of the Development Review Process subcommittee was:

- To discover ways that the city of Rockville can better communicate with its citizens about development in our community.

To this end they conducted interviews with neighborhood associations, individual citizens, and communities affected by development projects and planning staff. They attended the first Planning Academy. Their broad recommendations are to officially embrace and adopt open government principles, transparency, accountability and measurability, especially on budget and development issues; develop an integrated communications strategy with input from the Mayor and Council; commit to informing and engaging citizens early in the development process.

One of the most difficult tasks fell to this subcommittee. In an effort to respond to letters from David Hill (Chair of the Planning Commission) and Councilmember Mark Pierzchala, this group had the added assignment of identifying problems with the current development review process and coming up with suggestions based on input from the community at large. I strongly urge the Mayor and Council to adopt their suggestion of a worksession (to include Boards and Commissions involved in development review) on the zoning ordinance, as they have produced documentation that strongly supports the need for revisions.

## **2. Citizens Outreach Subcommittee**

The purpose of the Citizen Outreach subcommittee was to gather input from citizens about their communication needs and experiences with the City and find out what is working well and what could be improved. Our goal was to help ensure that the Communications Task Force reflected not only the opinions of the CTF members but also the opinions of a wider community. The comments from the citizens represent different perspectives and reflect citizens' perceptions, and accordingly are not the

result of a scientific survey or sampling of the entire population of Rockville.

This section of the report summarizes the comments and concerns expressed by citizens. The Communication Mechanisms and Development Review Process sections of the report offer a response in the form of suggestions and recommendations to improve communications with citizens.

## **2.1 Methodology**

Given our limited time, we decided that an interview approach would work best. Data already exists from a citizen survey done in 2008; accordingly we concluded that we would obtain a richer set of feedback through the in-person or live interviews rather than through an offline approach. The Citizen Outreach Subcommittee identified key groups and people within those groups to interview. We developed a questionnaire to help guide the interviews and establish a common baseline of information to collect, yet allow the discussion about communications to be free-flowing. Each subcommittee member was responsible for reaching out to different citizens to invite them for an interview. Nearly all the interviews were conducted in person or over the phone, with a few in email. Subcommittee members shared their notes and reviewed them with each other and the CTF.

We identified an extensive list of citizens and groups to interview and reached out to many of them. Even with the challenge of coordinating schedules in a short time frame, we were able to meet with a diverse group of citizens as follows:

- Neighborhoods: Twinbrook, Lincoln Park, Regents Square, Plymouth Woods, Americana Centre, Rockshire (former HOA director)
- Asian Pacific American Task Force
- Small business owners
- Current and former members of Mayor and Council
- Other Members of City Government (Communications Staff, City Manager, Recreation and Parks, Neighborhood Resources Coordinator, Senior Citizens Commission, Rockville Bike Advisory Commission)

The Citizen Outreach Subcommittee appreciates these groups and individuals who gave their time to meet with us and share their views.

## **2.2 Findings**

Our findings are a distillation of over 20 hours of interviews. This report highlights the key or common points we heard regarding communications between citizens and the City.

### **2.2.1 Snapshot of General Citizen Comments**

Comments from citizens ranged over many topics, from the City website to business issues to engagement with citizens, and we heard both positive comments as well as constructive criticism.

Many things are working well:

- There are many ways to communicate with the City

The City provides a number of mechanisms for citizens, business people, visitors, and others to find and receive information. Phone and print media provide a traditional source of information access while electronic media such as email, the web, and television are now integral ways to communicate with City government or access information about the City. More recently, Rockville has begun experimenting with “new media” such as Facebook and Twitter. The City also conducts a biannual survey of citizens and other surveys pertaining to specific topics.

- “Imagine Rockville” led to TCAT, Bike Advisory Committee, Science Center Task Force

“Imagine Rockville” occurred at least 15 years ago yet people are still praising this process of citizen engagement. It was created to involve citizens and gather their input on a new vision for revitalizing the Town Center<sup>1</sup>. To quote one citizen, “Imagine Rockville ... was very uplifting – modern day Rockville came from citizen input during this program.... The City had tons of goodwill from citizens.”

- Suggestions are already being implemented

The Communications Task Force launched in January 2010 and already the City is implementing new or revising existing communications on different concerns such as development and neighborhoods, trying new communications mechanisms such as blogs, and adding new programming on Channel 11.

Citizens raised several issues as well:

- Some feel there is more one-way than two-way communication between Citizens and the City

Many citizens cited this issue. They feel that the City is “pushing out” information or “broadcasting” information and don’t feel that the communication is “two-way”. Citizens want real responses. If a citizen sends an email to the Mayor and Council, they immediately receive a standard response which acknowledges that the Mayor and Council have received the email. However, not all departments follow this procedure. Therefore, citizens do not always know if the City has received the email, has read it, and is responding to it. Citizens want to be able to easily find out the status of actions and complaints. They would like issues and requests to be tracked and monitored for a timely closure. One person remarked that what exists today is “information, not communication” and that “what we have are information devices, not communication devices”.

- The City needs to communicate more proactively with Citizens

The issue of proactive communications cuts across many areas such as emergency communications, the Neighborhood Resources Coordinators (NRCs), and development review and approval. The existing communications mechanisms could be used more effectively to facilitate proactive communications. The Communications Mechanisms section of this report

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<sup>1</sup> See <http://www.rockvillemd.gov/FAQ/towncenter.htm#process>.

elaborates on this point further with specific suggestions.

- City needs to advocate Citizen concerns to County and Other Parties

In recent years many projects and events have led to this concern. The City of Rockville missed its opportunity to express its views on the new District Courthouse project. When the County announced its longer range plans for expansion of its buildings, with the first project being the expansion of the Judicial Center Annex, citizens and Mayor and Council raised concerns about the possibility that the Rockville Town Center area could become dominated by government buildings and become a “dead zone” at night, creating an unwelcoming environment. The fact that the County is a superior authority to the City also limits the City’s ability to ensure its concerns are addressed, however, we are hopeful that the newly established joint committee which will be comprised of representatives from the County, City and citizens will help us address these issues.

The Montgomery College/Princeton Place fence controversy is one example of the City not having any real authority over other parties to affect a resolution of this issue. Rockville citizens feel that the City could have pressured Montgomery College to protect the City, the Town Center, and its neighborhoods from the impact of the school’s actions.

With respect to development, citizens look to the City staff, Boards and Commissions to represent their views and concerns, but they have not always felt this to be the case. They want their elected officials to represent them but their elected officials have limited powers and restrictions on their role. The Development Review Process section of the report provides a more detailed discussion about these concerns and suggestions for improvement.

- The needs of small businesses in Rockville should garner more attention from the City

The good news is that one business owner stated that it is not too hard to start a business in Rockville, that one can get a business license in a day and a construction license takes only six to eight weeks. This same business owner noted the importance of reaching out to the business community because there are a number of people who are employed by Rockville businesses but do not live in Rockville. Another small business owner expressed frustration about signs and the City budget not being clear about the purpose of fees and taxes and where the money goes, asking “What is the reasoning for a \$350 signage variance when the signage board is completely voluntary?” These are high costs to impose on a small business, especially when the purpose of the fee is neither clear nor documented.

Some proactive outreach has begun with small businesses. One of the NRCs is trying to build relationships and visits five businesses each week to check in and solicit input on how the City can help them. The Rockville Chamber has an improved working relationship with the City brought on mainly because of the “Buy Rockville” program, and the City’s outreach to the business community with regards to parking concerns has helped contribute to greater

understanding of business issues.

- Communication and coordination between the City and neighborhood and homeowner associations needs improvement

One neighborhood leader said “It’s not easy for individual associations to communicate with the City” and that technology could be better harnessed for this communication. Other people mentioned this issue, including one member of the Mayor and Council who said “City communication with community associations is not always effective because there’s no way to know if it’s going to go beyond the association president or not.” The fact that half of the associations are inactive, according to the Neighborhood Resources Coordinator we interviewed, and therefore probably have not provided updated contact information to the City, does not help this situation. Another neighborhood reported how their property manager “has tried forever to get them (the City) to include him in mailings that go out to other property managers. I think it just happened.”

The Neighborhood Resources Coordinators should be part of the solution to communications with neighborhoods, but there has been high turnover amongst the staff and they are short-staffed today, with just two full-time NRCs. Citizens have varying levels of satisfaction with their services. Ten years ago NRCs were seen as advocates and “your first line of defense”, as one citizen put it. Now citizens are saying that this is no longer true. One citizen said “you don’t get any answers. Now they’re just puppets. They’ve lost their power.”

- A few long-time residents of Rockville reported feeling less connected to the City than in the past. This comment was expressed in different ways:

*“Citizens feel disconnected. A lot of people have a lot of opinions.”*

*“We’re struggling to preserve a way of life, that it’s slipping away. Change is coming and things we’re trying to protect are hardly tangible anymore. The struggle is to remain connected.”*

*“We feel what’s slipping away is that the City isn’t communicating in a way that is consistent with the community.”*

The citizen who commented on “Imagine Rockville” being an uplifting experience contrasted that with the feeling that “Now it’s like they closed the door and the City doesn’t want to hear from you anymore.”

While this “disconnected feeling” itself isn’t a communication issue per se, many of the existing communication methods can and should be used to re-establish the sense of connection.

These are just tools however to facilitate the connection. Anyone can implement and use a tool, but it is how the tool is used and the intent of the user that will determine if the City and the citizens establish a stronger sense of community.

## **2.2.2 Engagement with Rockville's Diverse Population**

We were able to meet with just one group representing a specific ethnic group, the Asian Pacific American Task Force (APATF). This task force was created two years ago and their goal is to promote greater awareness and understanding of Asian culture, and help people understand what City government does and where to go for help. The Asian Pacific American Task Force provides assistance to immigrants and people new to Rockville, and confirmed that it would be useful to have more content translated into other languages. To partially satisfy this need at only the cost of a little time, the Rockville website could link to resources in other languages; for instance, a Google search turns up links to several Chinese yellow pages. Koreans will tend to get information from their church so links to these church web sites would provide another resource.

One issue noted is the need for better coordination with other City bodies, specifically other boards, commissions, and task forces. The Asian Pacific American Task Force was not listed on the City's web site until recently. The Asian Pacific American Task Force did not know that the Rockville Sister City Corporation was organizing a trip to China until the Lunar New Year event in February 2010. Meanwhile they were trying to organize a trip through the University of Maryland. One suggestion was that there should be a cross-task force meeting held periodically so that the task forces can understand and promote each other and join forces.

The State of the City address given by the Mayor on June 15, 2010 cited several statistics including data showing that the Asian minority group is the largest minority group in Rockville, comprising 19% of the population in 2008, and is growing faster than Hispanic and African-American groups<sup>2</sup>. Given this growing demographic, the City should work more closely with the APATF and other organizations representing the Asian population. The City's website could have an index to all the various groups and resources within Rockville for the different ethnic communities. Today the only way to get this information is to ask a Neighborhood Resources Coordinator.

## **2.2.3 Budget Comments**

Budget decisions are the most complex and critical responsibility the City undertakes each year, yet many people including Mayor and Council find it difficult to get the information they need to do the due diligence and analysis they feel is required for such an important decision. There were three overall themes to the comments on the budget:

- Need more explanation, information, transparency on the budget, large projects, and components

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<sup>2</sup> The next largest ethnic group is the Hispanic population at 13%, and African Americans comprise 7%. See more data at <http://www.rockvillemd.gov/government/mc/stateofthecity/index.html>.

People do not understand the budget and planning processes and want to know how the money is allocated<sup>3</sup>. They are asking for more details in the City's budget and of proposed projects because only the lump sum figures are being presented to them. For example, the budget had allocated \$819,000 for Special Events (a one-line entry). Upon further inquiry, some of the component figures were given: \$67,000 for fireworks, \$144,000 for Hometown Holidays, and \$41,000 for wine tasting<sup>4</sup>. Only when these components are broken out can residents and the Mayor and Council evaluate whether the City is allocating its money according to citizens' priorities, and whether the amounts recommended are appropriate.

Another recent budget issue that was not immediately transparent to citizens and Mayor and Council is that the cost of the conversion of the old post office to the new police headquarters has nearly doubled from its originally proposed and approved cost of \$5 million, due primarily to the addition of the annex.

Citizens also report that it is unclear what is a fee, tax, or user fee. One example cited previously was a small business owner who did not know what costs the \$350 signage variance covers, given that the signage board is completely voluntary. Another is the recently adopted ordinance to have the Montgomery County Commission on Common Ownership Communities (CCOC) apply to Rockville<sup>5</sup>. The initial information presented to citizens did not explain what costs are covered by the fees paid by the associations. People understand that City or County services must be paid for but when they are charged a fee or tax, they are entitled to know where it is being applied and what value they are receiving in return. They want the City to be more proactive and provide this information upfront instead of waiting for a citizen to ask for the information.

- Articulate the value of projects

Related to the above points, more information about the value of the projects should be provided as a matter of routine and not in response to citizen inquiry. The cost/benefit to the public for projects such as the police station + annex and senior center was not well-publicized. People have asked "What is driving the need for the projects? Is this according to a strategic plan for the City? What are the tradeoffs if we do this project - what will not be funded or will be delayed and is that acceptable?"

- Information needs to be more accessible and available

The City website's explanation of City projects is insufficient according to some. Although it

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<sup>3</sup> There is a citizen-driven Finance and Budget Task Force that will produce its own report on the budget process later this year.

<sup>4</sup> The budget document now says \$803,430 proposed for Fiscal Year 2011 but there is still no breakdown of this number. See <http://www.rockvillemd.gov/budget/proposedfy11.htm>.

<sup>5</sup> See the City of Rockville staff report dated January 11, 2010 that explains the CCOC at <http://bit.ly/bjxqym>.

lists projects, it fails to set forth their cost. This is a significant omission. The overall problems of the website navigation affect the ability to find City financial information online as well. Citizens who are interested in only one particular project or section of the budget must wade through too much other material to find the information.

Our recommendations to improve the communication on budgets and large projects that involve a significant financial commitment:

- Every undertaking of the City should, at a minimum, set forth a dollar figure and that figure should appear in every form of communication used to present the project.
- Every significant increase in the basic cost of a project must be laid out and subject to additional scrutiny by citizens and the Mayor and Council.
- Information about City projects should include a project description, the needs driving the project, the fit with the overall strategic plan, a detailed budget spreadsheet with explanation of costs, a public cost/benefit analysis, and the opportunity cost.
- Information about the City budget should include a budget narrative that provides an overview of the major components of the budget. It should include a detailed budget spreadsheet with expenditure descriptions, cost breakdowns and explanations. There should be a spreadsheet that is easily available and understood.
- The website should be used as a repository and resource for ALL information about the City budget and projects.

#### **2.2.4 Range of Views from current and former Mayor and Council members**

We interviewed current and former Mayor and Council members because one of the main issues identified is the need to improve two-way communication. This refers not only to Citizen to City but also City to Citizen communication, so we sought to understand what the current and former City leaders hear from Citizens and what their own challenges are in communicating with citizens.

All the City leaders cite email and phone as the most frequent ways citizens contact them. When they do hear from citizens, it is most likely about a local neighborhood issue, either directly or perceived to be directly affecting their quality of life. The snowstorm and the Senior Center have generated the most emails for one councilmember, and proposed developments within a neighborhood are one of the other issues that prompt citizens to contact the City.

These City leaders cited a few challenges that they face in communication with citizens:

- How do we communicate complex issues?
- Are we hearing from a diverse group of affected citizens?

Certain issues that affect citizens are complex and therefore difficult to communicate to citizens, such as stormwater management, property assessments, zoning impacts, and increases in water and sewer fees. There are often historical, financial, and technical factors involved that cannot be conveyed easily or

quickly; nonetheless, the City must make an effort to communicate these issues.

Time-sensitive issues, such as the snowstorm and other emergencies, cause particular concern for some councilmembers. The emails to one councilmember were split 50-50 between people praising and condemning the City's performance during the snowstorm. Given that Rockville is part of the greater Washington, D.C. metro area, emergency communications require sustained attention. The Rockville City Police has in place a Continuity of Operations Plan (COOP) and Emergency Operating Procedures (EOP) that encompasses each City department and their response to an emergency. These plans are designed to enable the government to continue operating in a safe and efficient manner should something happen to disrupt normal procedures.

Both City leaders and citizens commented on several of the current "live" venues for communication between City leaders and citizens. Some citizens do not find City Hall to be a welcoming place, and they are very much in favor of the recent move by Mayor and Council to hold council meetings periodically at community centers. One citizen suggested holding the drop-in sessions at different community locations as well instead of at City Hall. The City "would get more people participating who don't care to make the trek to City Hall". They also said that "there needs to be more of a personal touch or reaching out to the various neighborhoods."

Citizens Forum gets mixed reviews. On the one hand it gives anyone an opportunity to speak on any topic, but on the other, the three-minute limitation does not allow for meaningful comments on substantive issues. Some council members view it as being too open, and that it plays to the "squeaky wheel" and the same people appear each week to testify. One citizen said it is not a communications mechanism, it's an information mechanism, because it only allows the citizen to make a statement; no direct or immediate response follows from the Mayor and Council. It is still one-way communication because it does not allow for a dialogue between the citizen and the Mayor and Council. When Mayor and Council respond to Citizens Forum, they choose which citizen comments to respond to, and there is no opportunity for the citizen to correct a misinterpretation or misquote by a councilmember. It has a limited purpose but it is one way to know what is on the minds of Rockville citizens.

There are also mixed opinions about the Town Hall meetings held from time to time. While they offer another opportunity to speak on any issue in a more casual setting than City Hall, others see it as more of a public relations tool. We recommend that the full Mayor and Council members hold the Town Hall meetings at least quarterly.

### **2.3 Recommendations**

The popularity and utility of the existing print and electronic communication methods vary and can be more fully harnessed. The Communications Mechanisms section of the report addresses the above communication methods in more detail including specific recommendations for improvement.

Other recommendations include:

- Rockville Channel 11 can be used to present programs on the complex issues citizens need to know about: the City budget, development process, property taxes, water and sewage fees. Channel 11 can broadcast interviews with experts and even tutorials or presentations that walk the viewer through the issue or process.
- To partially address the concern that City communications to neighborhood associations may not reach all the membership, the City should be more proactive about reaching the associations. For example, the City should send communications to a minimum of two officers (with email there would be no cost involved for multiple recipients). This applies to all kinds of communications, whether they are about a new fee, a survey, or a development proposal in the neighborhood. The City can also email each association once a year to request updates of contact information for new officers but the City needs to remember to update all departments.
- Surveys are the right mechanism to obtain a statistically significant random sampling of the Rockville population, but if there is interest in conducting more information interviews, the City could talk to more citizens and groups our subcommittee did not reach in the first round.

### **3. Communications Mechanisms Subcommittee**

The City of Rockville utilizes a compelling array of tools (online, print and cable television) for communicating with citizens. The city has a professional communications staff that has won awards for its communications programs. For example, in 2009, the city won three awards from the City-County Communications & Marketing Association, including first place for the Channel 11 newscast.

Professional tools and personnel are in place. However, they can and should be utilized better and more efficiently to keep pace with changing technology and the changing needs of citizens. We are heartened to see the city is continuing to make improvements to its communications output, including greater integration with the website. To further that goal, we recommend three strategies:

- Approach communications through the eyes of the citizens
- Use the RockvilleMD.gov website as the hub of city communications
- Continuously take the pulse of citizens to provide timely information and action

#### **3.1 Methodology and the Case for Improvement**

Great communications mechanisms are already available.

- RockvilleMD.gov website

## Communications Task Force

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- Rockville Reports newsletter
- Channel 11
- E-mails to the Community
- Social Media: Facebook, Twitter, YouTube

### What Are Common Criticisms of Current Communications?

- Finding information on RockvilleMD.gov is frustrating.
- Content in Rockville Reports is not timely, is “feel good.”
- It is difficult to know what content is on Channel 11 and when it is shown.
- Comments and complaints to city staff are not being received, heard or acted upon.

### What Do Citizens Need to Know About City Communications?

- How to contact the city with problems and ideas and get timely, responsive feedback.
- How to locate the information they are seeking on RockvilleMD.gov.
- What content is on Channel 11 and when it is shown.
- How to provide information and feedback to Rockville Reports.
- What “official” Rockville city communications look like, with similar branding across all mechanisms.
- That their feedback is being heard and what the city is doing about it.
- That the city cares most about common issues of concern and encourages citizen feedback on what can be done to improve.

## **3.2 Strategy #1: Approach Communications Through the Eyes of the Citizens**

### **3.2.1 Channel 11 TV Station**



#### **Status**

- Expensive, but programming and facilities are funded by cable/DSL/FIOS franchise fees.
- City hall meetings are broadcast live at 7 p.m. daily. This "hallmark programming" is an essential community service.
- The website contains the programming schedule and video on demand.

#### **Recommendations**

- More tightly integrate Channel 11 programming with the website. Video on demand, scheduling and other content can be more broadly present on the website. This may open the door for franchise fee-funded staff to take on more content duties for the website.
- Solicit on-air for viewer feedback and programming submissions/suggestions.
- Use website data to schedule and generate programming around popular concerns and interests. In turn, refer back to the website with all programming.
- Utilize on-screen messaging for schedule information. Such information is not available in on-screen guides offered by Comcast, et al. Request that channel providers include this information in their on-screen guides.

- Maximize relationships with cable providers to implement citizen-volunteer training so Rockville residents can contribute programming.

**Considerations**

- Provide a program for the mayor to respond directly to citizen concerns (“Mayor on the Street,” “Mayor’s Mailbag”).

**3.2.2 Rockville Reports**



**Status**

- The newsletter is very popular and is the #1 news source for the city, as it reaches every household.
- The "news you can use" format is informative and the content is broad.
- A recent redesign was not a major overhaul but added some new visual elements.
- It is very expensive, but would be missed if eliminated.

**Recommendations**

- Promote the ability to read the content online.
- Allow for content and comments to be submitted online.
- Encourage community submissions for calendar of events.
- Promote other city mechanisms, including Channel 11 programs.

Include, to the extent possible, the upcoming Channel 11 schedule.

**Considerations**

- Offer limited promotional space for local businesses or business/community events, perhaps through the Chamber of Commerce.
- Consider columns or other space for direct messages from mayor and council members to residents, without overwhelming the content. Invite feedback.
- Printing was recently downsized from 12x/year to 10x/year. Consider a publishing change to bimonthly, 6x/year.

**3.2.3 RockvilleMD.gov Website**



**Status**

- The website functionality is on par with municipal websites of comparable cities. The amount of content is impressive and substantial.
- The website has tremendous potential. It is in need of a substantial redesign. The last redesign was in 2001 and 2003. In 2003, a content-management system was added. This foresighted approach will make future upgrades much more practical, affordable and efficient.

## **Communications Task Force**

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- It has too many options and suffers from “link bloat.” There are no clear priorities and navigation is opaque.
- There is an existing trouble-ticket system for comment processing. However, where these comments go is not defined. There is no feedback that the comment has been received or is being responded to. “We heard you. Here’s what we’re doing about it.”

## **Recommendations**

- Link all other communications mechanisms -- Rockville, Reports, Channel 11, e-mails, social media -- to website features and content.
- Consider two “Top Links” lists for the home page: (a) the top most-visited links, and (b) the top city-assigned priorities. It is important for residents to know the most significant agenda items and priorities of the mayor and the City Council. It is essential for city officials and staff to know what members of the Rockville community say are their most important concerns and interests.
- Allow visitors to provide feedback on every page: "Was this page helpful to you?" More popular, helpful pages show more. Low-performing pages are flagged for review to fix, eliminate, or combine with other pages.
- The City Manager has recommended \$50,000 be allocated for a substantial website upgrade. This should be carried out.

Every city department should have a lead web person to keep content current. Simplify and categorize navigation. It is not necessary to have every link on the home page. The appearance of simplicity is more important than simplicity itself. Place all e-mail subscriptions, social media links and other online resources on one page. Use dynamic and unique photos to represent the city. Avoid clip art or stock photos.

## **Considerations**

- The Rockville University program attracts about 15 people per year.

Consider an online version of the program.

### **3.3 Strategy #2: Use the RockvilleMD.gov Website as the hub of the City Communications**

Some 93% of Rockville households are online, according to data compiled in a City Manager's report<sup>6</sup>.

We are a wired community.

More than two-thirds of respondents to the 2008 Rockville Citizen Survey reported visiting the RockvilleMD.gov website in the previous 12 months. More residents reported visiting the website than in the year before – 68% versus 60%. There is every reason to believe this figure has grown since 2008 and will continue to rise, given the high percentage of Internet-ready households and the spread of online technology and services.



**Figure 1 RockvilleMD.gov as the hub of all city communications**

### **3.4 Strategy #3: Continuously Take the Pulse of Citizens to Provide Timely Information and Action**

#### **How Can the City Learn What Matters to its Citizens? Free Research.**

- Attendance at civic and community events

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<sup>6</sup> <http://www.rockvillemd.gov/government/citymanager/rockville-citizen-survey-2008.pdf>, page 70.

- Citizens' forums
- Business, real estate and transportation activity
- Monitor local media coverage
- Surveys
- Trouble-ticket system (CRS)
- Most popular web pages
- Phone calls and e-mails to city staff, mayor and council

Use this information to continually refine and improve city communications.

- Publish a monthly "Top 10" list of categorized tickets, so that city staff and citizens know what are the top concerns at any time.
- Inspire immediate action by the mayor and council
- Improve city operations
- Prioritize budget items
- Fund activities and events that citizens most enjoy
- Publicize resolution of trouble tickets, especially common concerns.

This is an opportunity to show the community WHEN and HOW the city is responsive.

### **3.5 Recommendations**

Use feedback from citizens to fine-tune Channel 11, Rockville Reports and RockvilleMD.gov.

Clearly communicate through existing mechanisms that the city is hearing feedback from its citizens and plans are in motion to address the most common concerns. Solicit new feedback through existing mechanisms to encourage citizens to make their voices heard to Improve the city and its operations.

Bring Rockville to life through an expertly designed website that is easy to read and navigate. Drive all traffic to the website for more information on content in various city communications (Channel 11, Rockville Reports, e-mail, social media, etc.).

Integrate recommendations with the ongoing Rockville branding campaign for maximum efficiency and coherence.

City communications staff have developed Rockville's social media presence, particularly on Facebook and Twitter, as identified in a recent presentation prepared by staff. We recommend this presence continue to be developed, with feedback used to inform the city's use of RockvilleMD.gov, Channel 11 and Rockville Reports.

These recommendations can be adopted at minimal cost through a reallocation of existing communications resources.

## 4. Development Approval Process

### 4.1 Introduction and Acknowledgments

This subcommittee sought to discover ways that the City of Rockville can better communicate with its citizens about development in our community. To achieve this goal we conducted interviews with many people within the community.

The members of this Subcommittee on Development of the Communications Task Force wish to express their deep appreciation for the insights and thoughtful recommendations provided to us during these interviews. The people who participated gave generously of their time in assembling the information needed to talk with us, in long evenings relaying their individual experiences and in carefully reviewing the notes taken during the meeting. It is only through their contributions that the efforts of this subcommittee were possible.

### 4.2 Methodology

#### 4.2.1 Outline of the methodology

The following steps summarize the approach that was used.

- **Interviewed City's Planning Staff and Attended the City's First Planning Academy-** We interviewed members of the City's Planning Staff to learn the processes and procedures that the City uses to approve new developments. This spring we attended the City's first Planning Academy, a class for citizens to learn about the Planning processes and the Zoning Ordinance in Rockville.
- **Investigated Case Histories -** We interviewed members of the community to hear their experiences with City planning personnel and Boards/Commissions during the various phases of 7 different recent development/planning projects in Rockville. The seven projects are:
  - Brightview of Rockville** -90 unit Assisted Living Apartments
  - Bealls Grant Apartments-** 74 unit Multi-family Affordable Housing Apartments
  - C.C.B. School of Rockville**
  - Legacy at Lincoln Park-** 60 unit Community of Townhouses/ Single Family Houses
  - Princeton Place Fence**
  - Twinbrook Neighborhood Plan**
  - Victory Housing-** 86 unit Affordable Housing Apartment for seniors

- **Guided by Questions from the Chairman of the Planning Commission-** On January 31, 2010, the Communications Task Force received a letter from David Hill, Chair of the Planning Commission, who requested that we address a specific set of issues related to the Planning Commission’s work. He asked that we provide recommendations to the Planning Commission. His questions are included as Exhibit 1 to our report.
- **Informed by Notes from Councilmember Pierzchala -** This spring Councilmember Pierzchala completed a review of Rockville’s Zoning Ordinance and identified potential revisions that are needed. As part of this effort he also made notes on the development review process and directed these to the Communications Task Force for discussion. Councilmember Pierzchala’s “Notes to the Communications Task Force” are included in Exhibit 2.

#### **4.2.2 Questions for the Planning Staff**

The following questions were asked of the Planning Staff:

- What are the policies that govern how you do your job?
- Who determines how these policies are translated into procedures and processes?
- Are your procedures and processes documented? May we have copies of these documents?
- How would you define the role of Citizens in the development approval process?
- At what points in the process are Citizens invited to participate?
- When do these occur?
- When do citizens first hear about a proposed development typically?
- What do you think your role is in communicating with Citizens?
- How do you interface with the Communication and Public Information organization?
- What is the purpose of the Development Review Committee? Who is on it? What does it do?  
When does it meet?
- How can citizens be involved in the pre-application process?
- Under what circumstances are developers required to hold information meetings during the pre-application phase?

#### **4.2.3 Case Histories: Questions for Citizens**

The following questions were presented to each of the citizens and community representatives we interviewed. Their answers were compiled and they were given the opportunity to review and revise our notes to be sure that they accurately reflected their statements.

- Please describe the case.
- What type of development is it?
- What process is it following? (e.g. Special Exception)?
- Where is it currently in the review and approval process?
- When did you first learn about the proposed development?
- Has your community had sufficient time to learn about the project and develop a community position before it came to a public hearing?
- Was the City staff responsive to your questions and concerns?
- Did you have sufficient time to prepare and present your position?

- Did you feel that your position was accurately considered in the evaluation of staff and in the decision rendered by the decision body (e.g. M&C, Planning Commission, Board of Appeals)?
- Do you think that citizens are treated fairly by the process? Explain
- What suggestions do you have for improving the process?

### **4.3 Findings**

Our findings are a compilation of the statements made by the people that we interviewed. We have collected them in groups based on their subject.

#### **4.3.1 Citizens Expressed a Lack of Input into the Decision-Making Process**

Many residents we interviewed expressed frustration and passion at their lack of input into the decision-making process when it came to developments approved by the city in their neighborhoods.

This occurred even when the residents welcomed the development in their community.

As one resident (who supported the development in the neighborhood) put it:

*“There appears to be a change in philosophy in the city. Neighborhoods are largely left to negotiate complicated infill development projects seemingly without the support of city planners. The role of city planners seems to be limited to just enforcing city land use codes, leaving residents to discern their real impact on existing neighborhoods. We felt alone.”*

As another resident expressed:

*“We desperately need changes.”*

In one instance where a group of citizens opposed the size of the proposed construction of an assisted living facility in their neighborhood, the citizens felt they were following the procedures established by the city to allow them to have their voices heard. They submitted a petition to the city that outlined their community’s objections to the project, along with all the names and addresses of people who opposed the project. This material was submitted prior to a Planning Commission meeting on the project, yet the report that city planning staff submitted to the Planning Commission completely omitted information about the petition.

*“I do not know what goes on with the city. Staff got the letters and petitions but neither were seen by the Planning Commission. Our input and concerns are discounted.”*

*“We think we have been given short shrift. There needs to be somebody inside the government representing the citizens.”*

In a similar vein, one person commented:

*“For all the taxes we pay, I do not see any ombudsman who is speaking for the citizens.”*

Another issue aggravating citizens is the way they feel they are treated by members of the Planning Commission. One resident said:

*“I was Joe Citizen. I had never interacted with the city before [the development issue arose in the neighborhood]... We were treated as persona non grata and demonized by the Planning Commission. The Planning Commission members were rude and combative... We were lectured to by the Planning Commission. Issues raised by citizens were dismissed and not responded to. Their attitude was – ‘the planning staff recommended this project so why shouldn’t we?’ There was no request for additional information or a search for the truth.”*

Misleading statements by planning staff and planning officials were a source of frustration to citizens.

*“Staff made misleading statements and/or mistakes in their reports to the planning commission. There is no system to resolve mistakes.”*

Other citizens observed that the planning staff pays little or no attention to the economic benefits/detriments of proposed projects.

*“All a developer has to say is ‘any change is not economically feasible’ and the staff concurs.”*

Traffic studies, in particular, were singled out as being misinformation. One resident, who felt the roads were inadequate to handle a proposed commercial development, pointed out:

*“The Traffic and Transportation Department must understand that recommendations cannot be made only on the number of vehicles a street will accommodate, according to some standardized guidelines, but must include a history of traffic accidents, police actions and the changes to the traffic patterns.”*

One interviewee stated that the developer hired and paid for the traffic study in his neighborhood, so it was no surprise when the study suggested that the roads, surrounding the development project, could handle the increased traffic. In addition, one resident pointed out that several years ago, a traffic calming plan was created for his neighborhood. The plan was approved by the neighborhood and the Council. However, the plan was never completed as approved.

*“To add insult to injury, a staff member informed us that the ordinance was just changed by the Council and speed humps were not to be used on primary residential streets. I contacted the Council and found out that no such change had ever been made.”*

Several citizens we talked to mentioned receiving “the runaround” from planning staff and officials.

*“Everybody wants to pass the buck on the decision.” One interviewee raised the question: “If the Planning Commission rules only on the conformity to the master plan, then there is no need for a separate commission.”*

One of the community leaders we talked to pointed out how important it is that the development process be “fixed” in Rockville.

*“We are at a critical point in our community’s history... We don’t have a lot of developable land left... much of the development will be infill, making it even more important that citizens’ voices be heard.”*

*“We have to ask: Is identifying public benefits for development occurring as part of the process?”*

Another said:

*“There is very little or no land to develop within the City. Most new projects will be rebuilding the present structures. I have no problem in rebuilding but we do not have to pave Rockville. Do not allow commercial development to infringe upon residential areas.”*

When it comes to Special Exceptions, two community leaders concisely stated what was expressed by many:

*“The height and the density are too big for the site. Staff did not address these issues.”*

*“The practice of approval of Special Exceptions should not be just a formality.”*

#### **4.3.2 Citizens said that their Opinions and Testimony were Often Discounted or Ignored**

When they were able to provide public testimony as to the development taking place, citizens said their opinions and testimony were often discounted or ignored, and issues they raised were not responded to. Several people we interviewed commented that even when they were involved, the whole process was weighted against them.

*“If I can’t phrase my question in zoning or planning language then my concern will go unheard.”*

*“For both the board and the commission, there is a failure to pursue the truth. The “deciders” rely heavily on staff recommendations which discount citizen input.”*

*“The quality of the staff work could be improved, and relies too heavily on developer-provided information. There is a perceived lack of objectivity by the planning staff. Citizens do not think they represent citizens’ best interests.”*

Some of Rockville’s residents were particularly frustrated with the processes of the Boards and Commissions:

*“The Staff report that was sent to the Planning Commission was the same report that was sent later on to the Board of Appeals, despite additional information revealed during the Planning Commission meeting.”*

*“In order to speak at the Board of Appeals, citizens need a lawyer.”*

*“It’s so sloppy.... The decision from the Board of Appeals does not necessarily match what is being reported in the Board’s final report. There are procedural irregularities.”*

*“The Planning Commission and the Board of Appeals are far too dependent on the Planning staff.”*

*“Specific evidence relating to our opposition was never addressed by the Planning staff and the Planning Commission never asked ‘Is this true?’”*

*“In our case, the city caved to the threat of a lawsuit... We shouldn’t have to hire an attorney to fight this.”*

*“Sometimes it seems that the city’s actions are ‘knee-jerk’ reactions....Has the city ever stood up for the interests of its citizens?”*

*“Why can’t the community cross examine the builder or developer in an open forum?”*

*“We need a legal fund to help the community defend itself.”*

*“Why should tax-paying citizens have to pay an attorney to fight [City/staff] mistakes?”*

### **4.3.3 Citizens Observed a Lack of Parity**

Citizens noted a lack of parity in the planning process. Developers were able to work closely with staff early on in the initial phases of development/construction while citizens had no access to staff or even knowledge about planned developments in their communities.

Several of the groups of citizens we interviewed noted that they knew nothing about the development until it was too late for them to do anything about it. Others mentioned that the postcards they received notifying them about the proposed development were confusing and unclear. Many of the people we interviewed had comments about the type and quality of “public meetings” being held by developers and planning staff to present their plans and gain feedback from the community.

*“The current notification requirements give insufficient lead time to citizens to conduct their research...The area of inclusion for public notice of a meeting by the developer is not wide enough.”*

*“First meeting went quite well. At the next meeting, the staff got a young man to act as a facilitator who set the rules for the meeting. ‘These are the rules’ he said: ‘You cannot bring up topics that are not on this list.’ The audience would not accept this treatment. The citizens were being treated as kindergarteners.”*

Taking minutes at the meetings was also an area of contention:

*“The city staff took the minutes at our meeting and they did not accurately reflect what was said.”*

One neighborhood resident remarked that the current process that allows the developer to meet privately with the Planning Staff before any citizens are involved has skewed the outcome of development decisions.

*“The process of the staff meeting with the developer – in effect “birthing” the development –has led staff to become so deeply involved that they become advocates for the development. Their analyses will be compromised.”*

*“The analysis by staff is less than professional. It gives the benefit of the doubt to the developer.”*

*“Why do developers do the notification of pre-application and area meetings? Notification is in*

*jargon.”*

*“If not for word of mouth people in the community would never have known about the meeting.”*

*“I don’t think the Board of Appeals or the Planning Commission gets the material they need to make informed choices.”*

#### **4.3.4 The Current Process does not Bring Citizens into the Formulation of a Project**

Many citizens observed that the current development process does not accommodate early citizen interaction. Citizens remarked that “the deal had already been cut” between the city and the developer by the time citizen input was sought. Here is what they said:

The first critical meeting between the developer and the planning staff is closed to the public. There is no one at the meeting to represent the residents’ points of view. Citizens believed that the DRC meeting is when the deal is cut.

*“Why aren’t citizens allowed to sit in on the early meetings and/or the Development Review Committee meetings that the Planning staff holds with developers?”*

*“The project emerged [to the public] not as an infant or a child but a fully grown teenager with a license to drive.”*

Citizens had many comments about the public meetings planned by the developer.

*“There was no specified format for these meetings...not enough time for citizens to prepare for the meetings, no site plans available before the meetings...not enough people in the community notified.”*

Members of one community even suggested that the pre-application public meeting was scheduled to be held during times of the year when people would likely not be able to attend (summer vacation).

*“The public meetings do not have independent moderators, specified formats or content. Developers are not motivated to value these meetings as a way to communicate and compromise with the public. The ability to compromise, which could have taken place earlier in the process, is diminished.”*

*“At the pre application public meeting, the developer didn’t know how big the building was going to be... they wouldn’t tell us the size of the project or how it was being financed.”*

#### **4.4 Recommendations**

The recommendations that follow were made by Rockville citizens, and are an outgrowth of the experiences they had navigating through the current development review process. It’s about communication, but it’s also about inclusion. If citizens are notified and informed, they can participate in the process. Many times we were told that “the culture and operational philosophy needs to change”. The members of this subcommittee do not claim to be experts on planning, however we have learned a

great deal about the current process, and we offer these recommendations from the community with the hope that you will give careful consideration to the potential benefits that can be realized if citizens are included as stakeholders at the outset and given a level playing field.

Rockville is a growing city and as such needs to find a way to include new development while still affording protection and preservation to existing neighborhoods. Citizens should not have to be experts on land use or hire attorneys in order to be respected and included in each step of the planning process. Notification in such manner as affords the community the opportunity to be educated, prepared and included will eliminate the costly adjudication process for both the city and citizens that several of our recent development projects have incurred.

After careful analysis, it is our considered opinion that both the city and the community will stand to benefit from the inclusion of new developments if representatives from the existing neighborhoods are brought into the process early and given parity with developers. The Special Exception process, in particular, was mentioned many times as lacking in a willingness to appreciate the impacts that could be realized if such a project is not tempered and adjusted to enhance the neighborhood where it will be located. It is our belief that embracing these recommendations will enable the city to move down a path that embraces growth while still respecting the rights of our current residents and the neighborhoods where they live.

The recommendations that are delineated below are separated into two sections. The first section, Top Level Recommendations, presents substantive changes that citizens felt were essential to give citizens a fairer and greater voice in development decisions. The second section, Specific Recommendations for Changes to Development Review Process, provides detailed recommendations for revisions to the steps of the development review process such that it will be more inclusive of citizens and give greater consideration to their views.

There is a wealth of knowledge and thoughtful ideas within the community. This report is but a glimpse of the valuable information that they provided. To do justice to them and to reap the benefits of their ideas, we recommend that you hold a work session devoted to the development review process. This will allow citizens to have a meaningful, two-way dialogue with the Mayor and Council about their concerns and thoughts for improvements that will enhance the City of Rockville.

#### **4.4.1 Top-Level Recommendations**

- Institute Methods for Dispute Resolution Prior to Resorting to the Courts - While Rockville currently allows citizens to request a review of a decision, this review occurs in parallel with the timeline established by state law for submitting a petition to the courts. Effectively citizens cannot wait for the review of a decision without giving up their right to seek redress in the courts. Further, the review is conducted by the same body that issued the decision which precludes an independent assessment of the merits of citizens' claims. Most citizens felt that the process, as it currently exists, does not afford them a way to resolve their issues without hiring

attorneys and incurring significant expense. Accordingly we recommend the institution of dispute resolution methods as follows:

- Create an Inspector General or Ombudsman reporting to Mayor and Council - An independent person/body with the authority to investigate the approval process and preliminary decision of an approving authority, if evidence presented by citizens indicates that the process is seriously flawed.
- Institute Alternative Disputes Resolution (ADR) Procedures - These procedures allow for an independent person/body to hear both sides of the case, apply mediation/arbitration methods and recommend a resolution that may or may not be binding. Alternative dispute resolution lends itself well to virtually all types of disputes, including the following: Property, Real Estate, and Land Use including land use/zoning. For further information refer to Exhibit 3.
- Revise development review process to include a step that allows citizens to engage in Dispute resolution. One possible approach follows:
  - A Preliminary Decision would be issued by the Deciding Authority prior to the Final Decision.
  - Citizens would be given a specified time to apply for dispute resolution in the period between the Preliminary and Final Decisions.
- Create a Legal Defense Fund for Citizens - Many communities around the country have created legal defense funds to offset the wide disparity between the resources available to developers and those available to average citizens. A legal defense fund provides a way to assure that citizens can operate on an equal playing field. Exhibit 4 provides case histories of other communities that have created Legal Defense Funds.
- Rewrite the City's Development Review Processes to include Citizens – In the current processes citizens are only shown as recipients of the actions of others. These processes need to be revised to include citizens as active players and show their roles at each step of the process.
- Review the Fees Paid by Developers to Determine if they Reflect the “True Costs” Incurred by the City
- Review and Potentially Revise Special Exceptions – This last recommendation is not strictly within the mission of the Communications Task Force, but it was raised so many times by the citizens that we interviewed that we thought it was worthy of being brought to your attention.

As the findings show, citizens believe that special exception applications need to be “special” and not routine approvals. Many suggested that the portion of the Zoning Ordinance on special exceptions needs to be reviewed and revised to better protect and preserve neighborhoods. They felt that both the zones in which special exceptions are allowed and the maximum parameters allowed, such as height, should be evaluated.

#### **4.4.2 Specific Recommendations for Changes to the Development Review Process**

##### **4.4.2.1 Pre-Application Phase**

###### **4.4.2.1.1 Notification of Citizens- They need to be brought in from the beginning.**

- As soon as a developer files a pre-application, 15 days for example, citizens should be notified of the pre-application including an overview of the location, intended use and size of the proposed project; information on the availability of citizen training on the approval process and date of the Pre-Application Area Meeting.
- The notification should be written in user-friendly text (i.e. plain English).
- The notification should be prepared and sent by the City. It should be funded by the developers.
- The area of notification should to be expanded to reach a wider group of citizens- the Zoning Ordinance needs to be modified accordingly.

###### **4.4.2.1.2 Training for Citizens**

- Training sessions should be available to teach citizens about how the development approval process is conducted by the City and how they can effectively engage.
- These should be available upon request from citizens.
- Citizens would learn of the availability of these training sessions as part of the notification of a pre-application submitted to the City.
- This training course should be specific to the Approval Process that is required by the Zoning Ordinance (e.g. Level II Site Plan or Special Exception).
  - The course should be available on-line. City staff should be available to hold follow-up meetings with citizens to clarify issues in the training session.
  - The training course should include specific examples of the findings required by the Zoning Ordinance.

###### **4.4.2.1.3 Stakeholders Meetings**

- A joint meeting of stakeholders (i.e. Citizens, developer, City staff) should be conducted to layout the process, events, schedule and mechanism for sharing documents and modifications to the application as soon as the pre-application is filed.

#### **4.4.2.1.4 Community Benefits Agreements**

- A community benefits agreement, or CBA, is a private contract between a developer and a community coalition that sets forth the benefits that the community will receive from the development. CBAs ensure that development is equitable and benefits all members of the community, eventually contributing to stronger local economies, livable neighborhoods and increased public participation in the planning process. CBA's are strongly encouraged for implementation for all infill-development. (See Exhibit 5 for more information.)

#### **4.4.2.1.5 Development Review Committee (DRC) Meetings**

- Include citizens in meetings of the DRC and notify them of the DRC meetings scheduled for their project.
- Meetings of the DRC should not be conducted until after the Pre-Application Area Meeting has been held.
- Modifications to an application must be given in a timely manner to all interested parties. The schedule established in the Stakeholders meeting will be modified to reflect the additional time required by staff and citizens to review and understand the modification.

### **4.4.2.2 Post Application Phase**

#### **4.4.2.2.1 Interaction with City Staff and Boards and Commissions**

- Citizen testimony must be included in the analysis provided to the Decision Authority. Currently the timing of staff reports does not allow citizen testimony to be part of this analysis. In the future staff reports should be based on input from all sources. An alternative approach for including citizen testimony is to create a hearing examiner with responsibility to evaluate testimony provided by all parties-developers, citizens and staff.
- Evaluations will be developed on a factual basis.

- When conflicting testimony is provided “ground truth” must be determined. When alternative views are presented by developers and citizens, an evaluation needs to be conducted to accurately and factually assess the benefits/detriments of the alternative views.
- All Decision Criteria must be addressed by Boards/Commissions. All criteria specified in the Zoning Ordinance must be evaluated by the Boards/Commissions with decision authority and documented in the written decision issued by the Board/Commission. The staff should provide analysis and pertinent information to the Board/Commission to assist them in their evaluation.
- The focus of staff reports should be on assembling all of the information needed by commissioners to be able to thoughtfully and comprehensively weigh all issues that affect a decision on approval. It is the responsibility of the decision authority to integrate this information and reach a decision.
- Staff reports should be available to all interested parties 15 days before the decision meeting of an approving authority. Citizens’ comments must be included in the evaluation presented.
- It is recommended that the time constraints imposed on testimony from citizens be changed. Current time limits given to citizens are unreasonable. Where citizens have valid information to present they should be afforded adequate time to do so. It should be the judgment of the members of the Board/Commission that guides the amount of time given to citizens.

**4.4.2.2.2 Cross Examination - Right to Question Others at a Public Hearing**

- Citizens as well as the developer should be allowed to ask questions of any individuals who testify at a public hearing.
- Replace Courtesy Reviews with formal meetings since recommendations emanating from them are regarded as authoritative by the Decision Authority and often have significant impact on the decision issued.

**4.4.3 Area Meetings**

- Revised guidelines for conducting an area meeting should be developed. It is the goal that everyone hear the same commentary and hear the same questions and answers.
  - A series of meetings with individuals should not count as an area meeting.
  - A charette-style meeting should not count as an area meeting.

- The area meeting should begin with an overview of the development approval process and information on training that is available to citizens.
- A member of the City staff should act as impartial moderator and minute taker. At the Post-Application Area Meeting if information provided by the applicant is in conflict with information in the application or recommendations of the DRC, the moderator should advise citizens of this discrepancy.
- Any reasonable requests for information from citizens should receive a response from the applicant within 7 days. Failure to comply should result in delays of the schedule.
- Copies of the materials used in the meeting should be available to anyone. These can be in digital form using commonly available file formats such as PDF files.
- To ensure transparency full identification of all attendees should be required.

**4.4.4 Mechanisms for Citizen Communications from beginning to end of approval process**

- Create a log of Citizens questions and a tracking system to assure responses.
- Create a tickler list on the internet for each project. Citizens may elect to be on the tickler list for any project that they choose. The tickler list would include schedule information, document submissions, document availability and other pertinent information.
- Availability of Documents, such as applications, staff reports, DRC minutes, should be available to citizens on request, mostly through on-line sources. However, for complex site plans which are very difficult to read on-line, a specified number of hard copies should be available to citizens for their use and retention. These should be provided by the applicant at no cost to citizens.

**Exhibit 1 Questions from the Chairman of the Planning Commission**

January 31, 2010

David Hill  
Chair, Planning Commission  
City of Rockville

Communications Task Force  
c/o City Clerk  
City of Rockville

Re: Referral of procedures and communications issues with citizens

Dear Task Force,

As you undertake recently appointed duties, I refer issues in the attached message to your consideration, with perhaps the outcome of a recommendation back to the Planning Commission. As happens in most standing public bodies, we have statutory requirements and keep regular rules of procedures for our proceedings. These aim to assure proficient and efficient operations for the substance of our proceedings. They also should promote fairness among the parties to matters. Then, as a body of the municipal government, we are ostensibly public servants, and we should indeed be servicing that public.

However, this letter raises issues doubting the fairness and citizen service provided. Some issues are recurring for Boards and Commissions, acting in official capacities, and we tend to swing back and forth in cycles of citizen effectiveness and communication. As I understand, an inherent matter for your Task Force is assessing where that balance is currently, and where it should be.

Thank you, for your considerations,



David Hill  
Chair, Planning Commission

cc Mayor and Council  
Scott Ullery, City Manager  
Debra Daniel, City Attorney  
Susan Swift, Dir. of Comm. Planning....

**Notes on Planning Commission Referral to Communications Task Force**

**David Hill, Chair, Planning Commission**

**Jan. 31, 2010**

Based on the message attached, here are issues that I refer to the Communications Task Force. I am interested in your recommendations, which I intend to pass back to the Planning Commission, with possible subsequent action.

- What action and communication do we expect of City staff? How should they go about being impartial professional experts? How should they handle applicant and other party submissions?
- Where is the optimal balance between timely addressing planning applications submitted to the City (under statutory obligations), and providing for citizen review and input? When citizen input arises, how do we activate it early? And provide for communication of that input in City review process and commission proceedings?
- How do we engage citizens usefully and equitably (relative to both applicants and each other) in testimonial proceedings? What merits for showing of good cause might warrant an unequal time allocation between those testifying? The existing time limits are established on certain assumptions, are those valid and warranted? If otherwise, what other premises should be applied?
- Ceding testimonial time is a recommendation. What are the mechanics of doing so that promote better operations and remain equitable to parties?
- All parties in a quasi-judicial proceeding should enjoy the benefit of cross-examination of testimonial evidence. How should this work in public hearings? How to educate parties regarding what this means and where the boundaries of further session participation lay?

Note, for a couple recommendations herein, the Commission is already moving on or will not pursue for the mentioned reason. I suggest the Task Force not spend time on these, unless a strong desire to make a supplemental recommendation exists.

- There have been some lapses in the formal sequence of testimonial order and particular allowing the participation of some parties into essentially Commission discussion activity. We recognize this as an aspect the Commission should improve upon.
- The Commission expects to address a further rule for the deferral of applications during consideration of general rules of procedures updates.
- In quasi-judicial matters, the communication of any party directly with the Commissioners constitutes ex parte communication. So we cannot countenance this. Staff is in this communication chain to assure broad exposure of matters discussed with any party and legally defensible standards apply to all proceedings.

**Exhibit 2 Councilmember Mark Pierzchala's Notes on the Review Process**

**Notes on the Review Process, draft for wider discussion by the Communications Task Force**

1. Area meetings should be of a form where:
  - a. Minutes can be taken. The reason is to have a meeting where everyone can hear the same commentary, and hear the same questions and answers.
    - i. A series of meetings with individuals does not count as an area meeting.
    - ii. A charette-style meeting does not count as an area meeting.
  - b. A private minute-taking organization should be hired by the developer to take the minutes and the minutes should be available to anyone.
  - c. Copies of the materials used in the meeting should be available to anyone. These can be in digital form using commonly available file formats such as PDF files.
  - d. The roster of 'interested parties' should be made available to anyone who asks, including the required mailing lists
  - e. At the beginning of the meeting, a City-produced DVD should be played (maybe 5 or 7 minutes) that explains the development process. In particular, the DVD should specifically indicate the criteria under which area citizens can object to a project or attempt to modify it. For example, it doesn't do any good for citizens to just say they don't like it. The zoning ordinance relationship to The Plan and its role in determinations should be part of the DVD. The DVD should explain how the City Staff review developer's applications according to explicit tests and methodologies. Citizens should be encouraged to engage responsibly.
2. A short document should be produced giving examples of how objection criteria are evaluated. For example, what does it mean to "Change the character of the neighborhood"? How do citizens show this?
3. City staff briefing materials to an Approving Authority must explicitly address citizen concerns.
4. The Approving Authority should must explicitly address all citizen concerns.
5. Any staff report should be available X days before the Planning Commission meeting to all interested parties. Citizen comments must be included.
6. Tightly scheduled successive meetings are hard for a neighborhood group to deal with and to have meaningful involvement.
7. Modifications to an application must be given in a timely manner to all interested parties.
8. Advanced review of other parties' materials should be afforded to all parties or none at all.
9. The Approving Authority should follow the order of the published agenda.

---

*To: mayorandcouncil  
From: Mark Pierzchala/RKV  
Date: 04/26/2010 07:55AM  
cc: Susan Swift/RKV@RKV  
Subject: Review of the zoning ordinance*

*April 26, 2010*

*All,*

*I have attached my review of the zoning ordinance. ....*

*.....*

*.....*

*Bridget,*

*The last part of the document, Notes on the Review Process, is intended for the Communications Task Force to review.*

*Mark*

**Exhibit 3 Information on Alternative Dispute Resolution**

*The following is an excerpt from the Maryland Mediation and Resolution Office.*



903 Commerce Road  
Annapolis, MD 21401  
phone: 410-260-3540  
fax: 410-260-3541  
email: macro@mdcourts.gov

**DEFINITION**

Alternative dispute resolution (ADR) is an umbrella term for processes that resolve conflicts peacefully and promote creative win-win solutions. [ADR](#) processes include [mediation](#), [community conferencing](#), [arbitration](#), [settlement conferences](#), [early neutral case evaluation](#), and [consensus building](#). ADR is increasingly being used by courts, communities, schools, government agencies, criminal and juvenile justice programs, businesses, and other organizations across the country.

1) *Md. Rule 17-102* (2010)

**DEFINITION**

(a) Alternative dispute resolution. "Alternative dispute resolution" means the process of resolving matters in pending litigation through a settlement conference, neutral case evaluation, neutral fact-finding, arbitration, mediation, other non-judicial dispute resolution process, or combination of those processes.

2) The Maryland ADR Commission conducted an extensive review of ADR in Maryland's state and local government agencies and found ADR efforts at all levels of Maryland government. ADR is being used to mediate some employment-related disputes, to partner with business and others for state contract implementation, to develop public policy through multi-party consensus building, to address land-use and environmental conflicts, and to mediate interjurisdictional disputes involving multiple agencies or government bodies

Practical Action Plan

*Maryland Alternative Dispute Resolution*

*Commission*

Final Copy — Submitted to Printer October 8, 1999

Page 52

3) During regional public forums, the Maryland ADR Commission heard from many people who are interested in seeing state and local government move forward in this area. There was particular support for using ADR to resolve local zoning disputes, conflicts between parents and local boards of education, agricultural disputes, natural resource issues, regulatory negotiations, regulatory enforcement, inter-jurisdictional disputes and many other local government projects.

*DRAFT Practical Action Plan -- Page 55*

### **Exhibit 4 Information on Legal Defense Funds**

The Defense (Fund) Never Rests Its Case

Sq. Group Fights for Mom-And Pops

The Harvard Crimson

March 5, 1997

Synopsis

Cambridge Massachusetts community residents have band together, setting up the Harvard Defense Fund to win compromises from Developers.

#### **The Defense (Fund) Never Rests Its Case**

#### **Sq. Group Fights for Mom-And-Pops**

By ADAM S. HICKEY,

Published: Wednesday, March 05, 1997 .

McDonald's may have lowered the price of the Big Mac to 55 cents, but that won't affect too many people in Harvard Square, where fast-food chains are about as common as aquatic life in the Charles River.

The Harvard Square Defense Fund has been one of the most effective and pugnacious community groups in Cambridge, fighting to defend the small-town, Mom-and-Pop feel of the Square against what it sees as the encroachment of big-name businesses--the so-called "chain creep."

But hopeful entrepreneurs and real-estate moguls assert that the Defense Fund is a legalistic group of obstructionists whose only achievement has been to stymie free enterprise in the city and usurp what should be the prerogative of consumers.

The 450-member group is adept at winning compromises in development proposals through skillful negotiation--and litigation.

Since 1988, the Fund has filed five lawsuits. In three of those cases, the Fund's tenacity brought results.

\* In 1989, the Fund sued Harvard and a developer, Carpenter and Co., after the city Planning Board granted them a permit to convert what is now the Harvard Square Hotel into a six-story office building. Eventually, the University dropped its plans to develop. The developer sued the Defense Fund, but the case was settled out of court, according to Defense Fund President Gladys "Pebble" Gifford.

\* In 1992, the Fund sued Harvard, challenging the plans to build Harvard-Radcliffe Hillel's Rosovsky Hall, which required a special permit to provide fewer than the required number of parking spaces. Harvard and the Fund settled out of court, with the University making concessions in the building's height, although that had not been an issue in the lawsuit.

\* In 1996, the Fund sued Baldini's, an Italian restaurant chain, contesting the transfer of a special permit allowing the company to open a fast-food restaurant on the Harvard Student Agencies property on Mt. Auburn Street. During the suit, Baldini's dropped its effort, though the Defense Fund maintains the two events were unconnected.

In two other cases the Fund was not so successful.

\* In 1989 the Fund lost a major effort to scale down what is now One Brattle Square--home of such shops as HMV Records and Compagnie Internationale Express. In a major defeat for the Fund, the court ruled that it had no legal standing to challenge the project.

\* Last year, the Fund's attempt to prevent the opening of a Starbucks on Church Street was thwarted when its suit was dismissed from court.

Detractors say the Defense Fund's tactics are heavy handed--last year it hired a high-school student to photograph people entering and leaving Starbucks Coffee to demonstrate "congestion." But supporters assert aggressive methods are necessary to get results.

Gifford says that "80 percent of the work we do has nothing to do with lawsuits," but tax returns filed by the group with the Massachusetts Attorney General's Office between 1990 and 1995 indicate that 85 percent of the more than \$114,000 it raised during that period went to attorneys.

"The Defense Fund plays a necessary watchdog function in the Square," says Charles M. Sullivan, executive director of the Cambridge Historical Commission and a 32-year resident of the city. "It's an area where the stakes are highest and the controversy's the sharpest. And the Defense Fund has been correspondingly vigorous."

Others assert the only result of that vigor has been to leave Square businesses and residents frustrated.

"Some people feel that it's a waste of time, energy and money and that the whole process is frivolous," says a board member of the Harvard Square Business Association who asked to remain anonymous.

### **Losing the Village Feel**

Sitting in the Algiers Cafe, sipping a cup of chamomile tea amid the din of conversation, Gifford, 10-year president and a founding member of the Defense Fund, peers over her glasses intently and describes what she thinks is special about the Square.

"There are wonderful shops, and I know the merchants. You feel like you're a member of a community," says Gifford, a real-estate agent. "It sure beats the mall."

"If it doesn't exist in the Square, no one gets it for Christmas," she says, noting that her family moved recently "to enjoy the Square without driving a car." The family eats out frequently, and when the children come home to visit, Chili's on Mt. Auburn Street is a favorite restaurant for dinner.

But Gifford and other members of the Defense Fund see a tendency toward change for the worse in the Square.

They point to development projects such as One Brattle Square, the Charles Square Hotel and the Kennedy School of Government as buildings that "canyonize" the Square, destroying the historic, low-rise character that makes it unique.

In addition, Defense Fund members feel that the Mom-and-Pop establishments which make the Square more than a mall are threatened by national chains that can pay higher rents, edging out their smaller competitors.

"We think what makes the Square special, what people come here for, is the Brattle Theatre, the Tasty, Algiers, Casablanca--for the things that are different," says Gifford.

But not every Harvard Square loyalist carries a Defense Fund membership card.

For 41 years, Alexander M. "Sandy" Cahaly ran a men's clothing store store on Brattle Street. His father had run a grocery store on Mt. Auburn Street, where Christy's now sits.

"I literally grew up in Harvard Square," he says in a characteristically gruff voice.

"I have made my living in Harvard Square. I am one of the people who love Harvard Square and want what's best for the Square."

### **Legal Tangles**

In 1995, Cahaly needed to find a new tenant for his property on Church Street when Steve's Restaurant closed.

Before choosing a tenant, he and his wife, Janet A. Cahaly, came up with a "wish list" of what they wanted their lessee to offer the Square.

"When we ran the clothing store we'd have tourists come in with a youngster bouncing up and down who really had to use the bathroom," he recalls.

So they asked for public restrooms, and a tenant who would hire from within the community, run a clean operation and not detract from other business in the Square.

Starbucks Corp. met the bill, agreeing also to preserve the historic character of the building--the site of Cambridge's first jail.

But before the coffee could brew, Starbucks needed a special permit from the Cambridge Planning Board to operate as a fast-food restaurant.

The Defense Fund argued that Starbucks didn't adequately prove there was a "need" for Starbucks coffee that could justify granting an exception to the city ordinance restricting fast-food establishments.

To prove that point, the Defense Fund took a survey of area restaurants and found that there were already more than 1,000 seats for coffee lovers in the Square. It also hired a student to take photographs as evidence of coffee-shop crowding.

The city's Planning Board gave the go-ahead anyway, and the Fund filed an appeal. But the Defense Fund never got the chance to show its research in court. Starbucks motioned for summary judgment, and the case was dismissed for a lack of standing.

The Fund may appeal the ruling. In the meantime, Cahaly says he's happy with what Starbucks has brought to the community.

"What could be more Harvard Square than what's going on there now?" he asks. "I walk by in the morning and see people reading the newspaper, sipping coffee and working on their laptops."

If the city approves a project that the Defense Fund feels would threaten the Square, the Fund's 24-member board can file a suit in the Superior Court of Middlesex County, naming the developer as well as the members of the Planning Board as defendants.

But Gifford stresses that the group aims for cooperation and views legal measures as a last resort.

"It's not as if we're going around looking for people to sue," she says. "The public sees the appeals, the lawsuits. What they don't see is our participation in the hearings night after night. We don't just come in out of the blue after the decision."

In addition to its legal work, the Defense Fund holds annual meetings designed to educate the public on issues concerning the Square, publishes an annual newsletter, and concerns itself with "street-life" issues within the Square.

Vigilance is the price of maintaining the Square's traditional feel, Gifford says.

"I just don't want to see a Starbucks on every corner of every street," she says.

### **How It Began**

The Defense Fund was born out of a struggle in the mid-1970s to develop the area where the Kennedy School of Government and the Charles Square Hotel now rest.

At that time, the property belonged to the Massachusetts Bay Transportation Authority (MBTA) and was used as a "car barn," where subway cars were parked when not in use.

Priscilla J. McMillan, treasurer and a founding member of the Fund, remembers the conflict as a galvanizing force for local residents who until that time had been divided into sectional neighborhood associations.

"People were beginning to be more environmentally conscious and began to realize several things at once."

Plans for a memorial library and museum dedicated to former President John F. Kennedy '40 would have meant more tourist buses, cars, congestion and pollution.

The residents won a compromise, and Columbia Point in Dorchester was chosen as the final destination for the Kennedy memorial.

The Defense Fund was founded out of that struggle as a non-profit corporation in 1979, dedicated "to preventing the environmental and ecological deterioration of the Harvard Square area."

### **Whose Job Is It?**

At the crux of many disputes over development in the Square is the granting of special permits that allow developers to deviate from the standard zoning requirements.

Special permits, unlike variances, do not require the applicant to demonstrate that a hardship is imposed by the zoning ordinances, says Lester W. Barber, the director of land use and zoning in the city's Community Development Department.

"[The Defense Fund] views the special permit as something that should almost never be given," Barber says. "That is not how the Planning Board...views it."

Members of the Defense Fund argue for a more restrictive approach to special permits.

"Special permits should be specifically for the community and not the developer," says John R. Moot '43, a member of the Defense Fund's board of directors.

Critics of the Defense Fund dispute its interpretation of the law, and some even assert that the group should not be in the business of legal interpretation. One Harvard Square property owner, who spoke on condition of anonymity, said he approved of public debate over development, but only in the "proper forum."

"Part of the thing with the Defense Fund is [it wants to] seem like the 'big monster,'" he said. "It wants people to pay homage to it first" before presenting plans to the Planning Board.

Gifford described citizen involvement with the development process as a "backlash" against years of neglect by the city and as an effort to look out for Cantabrigians' concerns. "If the residents hadn't responded to the total abandonment by the city, it would have been much worse," she said.

A frequent catch phrase offered by proponents of the Defense Fund is, "Don't kill the goose that laid the golden egg."

"The goose is that unique thing that we all feel is Harvard Square," said Moot. "The golden egg is the revenue that it yields to the city."

### **'Killing the Goose'?**

But property owners maintain that they have no interest in destroying the appeal of Harvard Square.

"Think about the logic here: the developers have an interest in killing the goose? The Defense Fund, which doesn't own property in the Square, is actually better qualified?" muses one Harvard Square landowner.

"They want it in their image and likeness. They have a particular omniscience in knowing how many coffee shops should be here," he says, referring to the Defense Fund's challenge to Starbucks.

Other detractors feel that customers, and not residents, should be the final judges of Harvard Square, and that change is the inevitable companion of time.

"Harvard Square is not their private Disneyland," says Janet Cahaly. "It's a commercial area."

Her husband agrees. "The goddamn fools [who opposed Starbucks] are afraid of competition, and in the retail business we used to say, 'If you can't stand the heat in the kitchen, get the hell out,'" says Sandy Cahaly.

### **Breaking the Chains**

Many have argued the "chain creep" crisis is overstated.

According to Kristen T. Sudholz, executive director of the HSBA, "the Square is still a good niche for Mom-and-Pops to open new businesses."

Figures from a recent HSBA study indicate that of the stores which have closed in the Square during recent years, only roughly half were "Mom-and-Pops," the other half chain stores.

And in an odd way, unique stores can find their way to national-chain stardom by starting in the Square, say some, pointing to Pier One Imports, Learningsmith, Au Bon Pain, Cybersmith and Newbury Comics as stores--now chains--that got their start in the Square.

Developers, city officials and Defense Fund members alike insist they're striving to reach a balance of interests in Harvard Square.

And though the Defense Fund logo--a map-like street grid with an arrow shooting upward--may imply a single direction for Harvard Square, local business people and residents will doubtless continue to be divided in their support for the group.

Developers assert the Fund's grass-roots tactics, while noisily aggressive, serve only to cripple the evolution of the Square. The board member of the HSBA asks: "The Defense Fund can rally people--they can do that well--but at what benefit?"

But long-time residents say that the character of the Square is irrevocably disappearing.

"They really used to roll up the sidewalks at 8 p.m.," Sullivan recalls. "In the middle of the 1960s, Harvard Square was really a college town. Stores served homeowners, housewives and college students."

Gradually, that homely atmosphere has faded away, Sullivan says. CrimsonGrigory Tovbis "Harvard Square is not their private Disneyland," says JANET CAHALY, who, with her husband ALEXANDER, fought off a Defense Fund suit.<>

### **Township may shut door on Wal-Mart**

By JULIE EDGAR - Detroit Free Press

July 27, 2005

#### **Synopsis**

A local grassroots organization is asking for a half-mill tax -- levied only if needed, sometime between 2006 and 2010 -- that would raise a legal defense fund of \$750,000 to repel unwanted developers.

Bigfoot retailers like Wal-Mart and Home Depot are happy to use their brawn to fight off foes in court.

But few have tried to scare them off -- something Independence Township voters may be asked to do.

A local grassroots organization is asking for a half-mill tax -- levied only if needed, sometime between 2006 and 2010 -- that would raise a legal defense fund of \$750,000 to repel unwanted developers.

The township Board of Trustees will consider the idea during its Aug. 2 and Aug. 16 meetings.

The spark for the contingency tax was set when a Troy developer asked for a zoning change to locate a supercenter at Sashabaw and I-75, inspiring Citizens for Orderly Growth to hit the streets with petitions.

A special election in November would cost the township \$20,000. Ballot language needs to be at the county by Aug. 30 for a special referendum.

"When a developer wonders if he can bully the township, they might think, 'Wait a minute, the township board has the authority to collect a defense fund to fight me,' and maybe they'll just leave us alone," said Neil Wallace, an attorney leading the petition drive.

In February, Orco Development asked for commercial rezoning of a 70-acre site at Sashabaw and I-75 for a supercenter of 400,000-plus square feet that would, township officials say they assume, include a Wal-Mart superstore, a home improvement superstore like Lowe's, two restaurants, a bank, a hotel and an assisted-living facility.

If Orco's request is rejected, it would probably sue, township Supervisor Dave Wagner said Tuesday.

Courts favor zoning laws -- the 70 acres are designated for residential building -- but companies like Wal-Mart spook communities into retreat by threatening to sue, said Al Norman, founder of Sprawl Busters, a national clearinghouse for information on big box sprawl.

"If Wal-Mart shows up with a lawyer and sitting across is a citizens group without one, local officials are worried about litigation by Wal-Mart, not by citizens," Norman said Tuesday.

He said he's never heard of a special tax anywhere in the country to fight off the giants.

Orco did not return phone calls seeking comment.

Wallace said it isn't just Wal-Mart but any regional shopping center that isn't welcome in the township.

He noted that just a few minutes' drive south on I-75 is Great Lakes Crossing in Auburn Hills; across the freeway are Costco, Target and Meijer.

Wallace said the average homeowner in Independence Township, which includes the Village of Clarkston, would pay \$69 if the proposal passes. That's, of course, if the home has a market value of \$276,000; one real estate agent has many more homes listed in the \$450,000 to \$600,000 range.

Dolores Hall, a 50-year resident of the township, said she isn't sure whether she favors a special tax, but she's tired of all the new development in the area.

The township's population swelled to 32,000 in 2000 from 23,000 in 1990.

"I do use Home Depot and such in Auburn Hills, and I think that's close enough," the retired nurse said Tuesday.

Wagner, the township supervisor, is ambivalent about a new tax and said he'd even be in favor of public hearings -- even if the township misses the Aug. 30 deadline.

"I have mixed emotions about it," Wagner said. "Maybe developers will be scared off by \$750,000 in a fund."

## **Wal-Mart abandons Portsmouth Township store plans**

By [John Hiner](#)

August 08, 2008, 11:29AM

Wal-Mart Stores Inc. announced today that it is dropping plans to build a store on M-15 in Portsmouth Township. The decision was met with disappointment by some and celebration by others.

"We are no longer exercising the option to buy the property on M-15 and build a Wal-Mart there," said Nick Infante, senior manager of public affairs for the retailer.

Infante said Wal-Mart's decision is based on research of the area's customer base and a nationwide strategy to scale back building plans. Longstanding opposition to the project by some residents in rural Portsmouth was not a factor in the company's action, he said.

But the news was welcomed by people such as Tim Kaczmarek, a Portsmouth resident who waged a more than four-year fight to stop the project.

"I don't feel I won. I feel the people of Portsmouth Township and all the small-business owners won," Kaczmarek said. "I feel very good about this."

Another Wal-Mart opponent, Dr. Mark Stewart, expressed similar sentiments.

"This is great news. It means we're going to save farmland and it means we're not going to lose local jobs and not going to duplicate services with another Wal-Mart down the road," Stewart said today.

Wal-Mart would have been the biggest commercial development in the township of 3,500 people, and Infante said the store would have employed 300 to 350 people.

Losing that development was a letdown to Portsmouth Supervisor Robert Pawlak.

"The news that Wal-Mart has decided not to pursue construction in Portsmouth Township is very disappointing," Pawlak said in a prepared statement he gave The Times.

"Portsmouth Township officials have always maintained the issue was not 'about Wal-Mart' as the developer, but about development - in general - by a major company in an area that has been designated for commercial growth for over 30 years," he said.

Pawlak said more than 60 percent of township residents approved rezoning the property to allow for the development and court rulings cleared the way for the project.

Infante said Wal-Mart currently is not considering building at any other site in the Bay City area. The existing Wal-Mart on Wilder Road in Bangor Township will remain open, he said.

Infante, based in Lansing, said one reason the company made the announcement today is that the owner of the 27 acres of property proposed for the store faced a deadline to keep it included in a state tax-incentive program to preserve farmland. The program is a state law known as Public Act 116.

"It was coming out in the next week or two, and we wanted to pull out so it would allow them to keep it in (Public Act) 116. They had that option," Infante said.

But Kaczmarek said his group - Friends of Portsmouth Township - had appealed the state's decision to release the property from the farmland preservation act and a hearing on the issue is set for Aug. 13.

"Thank God Wal-Mart is gone," Kaczmarek said. "I'm looking out my window right now at 116 acres of corn."

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## **Exhibit 5 Information on Community Benefit Agreements**

### Definition

A community benefits agreement, or CBA, is a private contract between a developer and a community coalition that sets forth the benefits that the community will receive from the development. Common benefits include living wages, local hiring and training programs, affordable housing, environmental remediation and funds for community programs. CBAs ensure that development is equitable and benefits *all* members of the community, eventually contributing to stronger local economies, livable neighborhoods and increased public participation in the planning process.

### Synopsis

Purpose: Author's aim to help planners prepare to deal appropriately with community benefits claims in their communities by closely examining four urban redevelopment projects in which CBAs have been negotiated by stakeholder organizations, legislators, developers, and government agencies."

The Author selects four (4) test cases:

- L .A. Live: Los Angeles sports and entertainment district
- Redevelopment of the former Gates Rubber factory
- Park East corridor redevelopment
- Yankee Stadium redevelopment

Journal of the American Planning Association

Community Benefits Agreements and Local Government: A Review of Recent Evidence

By Laura Wolf-Powers

First published on: 23 February 2010