

# e-Bugle

## Garrett Bugle Internet Edition

**Special Report**

**August 2018**

---

### Town Council Meetings, Summer 2018

When the dog days of summer arrive, the Town Council often takes a break in August. Not this year. In fact, there have been four meetings since early July:

- July 9, the regular monthly Council meeting
- July 28, a special meeting called by a majority of Council members
- August 1, a “working session” meeting
- August 13, the regular monthly Council meeting

Three of these meetings lasted three-to-four hours, quite long as these things go. With such length, there is no room here to provide a detailed chronological report. However, I must note that there were some tense (but controlled) disagreements between Council members and the Mayor, and occasional shouting from members of the audience. I can also report that the regular August Council meeting involved no angry outbursts from the audience and was characterized by civil discussion. Many in town will welcome this opportunity to move beyond a rough beginning. So here are the principal issues.

**1. Scope of Mayoral discretion on expenditures.** The special meeting on July 28 was called by a majority of the Town Council in response to the Mayor's e-mail to Council members on the evening of July 25, with the same message sent to subscribers of the Garrett Park government listserv on July 26. This message announced that the town would very soon (within a few weeks) undertake a demonstration project, replacing two segments of sidewalk with a material sold under the trademark name of Flexi®-Pave. The cost of this project would be \$65,000 with the manufacturer's discount. In the e-mail, the Mayor outlined the possible benefits of Flexi®-Pave (a pervious material that rainwater will soak through rather than running off). However, Council members raised several objections, all of which had to do with the process of the decision making, not the merits of using this material. Council members raised the following points:

- Under the Garrett Park Town Charter, all legislative and appropriations powers belong to the Council, not the Mayor.
- The town has both an arboretum committee and a historic preservation committee that review such projects, but these committees were not consulted.
- The Mayor does not have legal authority to unilaterally decide on large contract awards.

There is a line item in the current budget for sidewalks (\$167,000), but any contract using those funds costing more than \$10,000 requires approval by the Town Council. Any contract over \$25,000 requires a formal request for proposals from contractors (Flexi®-Pave is not the only option for pervious sidewalks). The Mayor's action on her own to award the demonstration contract for the use of Flexi®-Pave was a violation of these Contracting Procedures (adopted by the Council in 2002).

The Mayor responded that she was unaware of the restrictions on her ability to award the contract, and that the project seemed to her to be a useful way for the town to evaluate this

material for more stretches of sidewalks in town in the future. The Council voted 4-1 (the one being an abstention) in favor of a resolution instructing the Mayor not to proceed with this project.

This topic reappeared at the regular August meeting, by which time the Flexi®-Pave representative had offered to provide a smaller demonstration (approximately 50 feet of pavement) for free. The Council instructed the Mayor to turn down this request, at least for the time being, due to a lack of information to make an informed decision as to whether using Flexi®-Pave was the best choice for Garrett Park.

1. **The Safe Routes to School (SRTS) project.** This project has been under development for over five years, with some in town expressing strong objections. At the regular July meeting, the Mayor announced that she was working on a new cost estimate for the project to be used as part of a submission (the so-called “bid package”) to the Maryland State Highway Authority (SHA). The Mayor provided this new estimate to Town Council members before the “working session” meeting on the first of August. This document was a surprise to the Council members since it included three estimates—the project with no changes, the project with design changes altering the location of the sidewalk and road at two specific spots, and the project using Flexi®-Pave rather than concrete. Even without any changes, the new cost estimate indicated that the current level of external funding for the project would fall short of the estimated cost. Any cost overrun, though, could be paid for with a deal in which SHA would pay 80% and the town 20% of the required funds.

Members of the Council were very surprised with the Mayor’s new proposals and to learn that she had been working on these alternatives for a couple months without informing them. Members of the town’s Safe Routes to School Advisory Committee were similarly surprised, since they had not been consulted. In contrast, the Mayor said she had told both SHA and the

Federal Highway Administration (FHA) that there might possibly be design or material changes. Council members pointed out that any changes to the project would cause the SHA and FHA approval processes to restart, causing considerable further delay. The Mayor indicated that someone at FHA told her that the approval could be quick, but Council members disagreed and pointed out that FHA has strict procedures and can not make promises about streamlining decisions.

The Council also wondered why the previous cost estimate (prepared by the town engineer in April) indicated a cost less than available funding, while the new estimate indicated a cost in excess of funding. Some asked why the Mayor had not consulted with the previous Mayor about this discrepancy.

After a tense discussion of all these issues (involving at some points shouted remarks from the audience), the evening ended with a unanimous vote (5-0) by the Council requiring the Mayor to do 4 things: (1) make no changes in project design; (2) make no changes in material from concrete to Flexi®-Pave; (3) provide Council members with a weekly update on the status of the project; (4) and meet with the former mayor, town engineer, and Council member Wegner to go through the old and new cost estimates.

This reporter is pleased to report that discussion of the SRTS project at the regular August meeting went much more smoothly. SHA and FHA had been informed that any changes in the project were off the table. The meeting to resolve the differences in the old and new cost estimates had taken place, and the Mayor indicated that there was agreement on new numbers. The Mayor reported that the town engineer was sending in a few final responses to queries from SHA on the 100% design of the project (a response that he had postponed when hearing two months earlier that there might be design or material changes). There was further discussion of

when the Council might need to vote on appropriating additional funds on the basis of the new cost estimates, to which the answer seemed to be: not quite yet.

2. **Agenda setting procedures.** Readers may recall that the June meeting had involved some tense wrangling between the Council and Mayor over how the agenda gets set. This issue became part of the agenda for the “working session” on August 1. The upshot of that discussion was informal agreement that any item requested by a Council member will be included on the agenda, and that the draft agenda should be circulated to Council members and posted to the town listserv earlier. All Council members and the Mayor also agreed on the need for more communication among themselves in case of scheduling or canceling any meetings.

This concludes reporting on the most significant issues in town. Below is a summary of the remainder of the important topics that came up.

1. **Renovation of the Town Hall.** The Town Hall needs repair (new paint, fixing a leak in the roof, etc.). The question is how much to spend in the short-term on repairs and whether or how much to do in the longer run to renovate the entire building. This issue is the responsibility of Council member Paczkowski. He gave a very thorough presentation before the regular July meeting, going over the history of the building and how it was physically modified in the past, along with comments about what kinds of changes might be considered, and a caution about how much major changes might cost. At the regular August meeting, he announced that there will be a meeting at the Town Hall on Saturday, October 6, 9:00 a.m. to noon, of interested residents to discuss ideas for renovation. Mark your calendars!

2. **Storm water management at the end of Rokeby.** The footpath at the end of Rokeby that goes into Garrett Park Estates has been closed due to damage from storm water in the heavy rains of the summer. Since much of the water drains from the Estates, resolution of this problem requires County government participation. As of the August meeting, Town Manager

Swearingen explained that he had met at the site with County engineers to discuss both a short-term fix and longer-term solutions. The short-term fix will be completed by the time this report comes out. A longer-term solution will proceed after conducting a study of water flow (where is it coming from, how much flow to anticipate, etc.)

**3. Air B&B.** As of July 1, new Montgomery County regulations went into effect that will permit County residents to rent out space in their homes through Air B&B and other such services. However, at the August meeting the town lawyer, Ron Bolt, explained that while Garrett Park falls under County zoning rules (which now allow short-term rentals like Air B&B), we have opted out of Chapter 54 of the County Code (which deals with licensing landlords to provide such services). The town did so in the distant past since this rule applied to hotels and motels, none of which existed in Garrett Park. This means that currently Garrett Park property owners do NOT have the legal ability to rent out short-term space in their homes. Some in the audience testified about a recent case of a house rented out in Garrett Park through Air B&B for noisy parties, resulting in trash and illegally parked cars. The issue of whether the town should adopt Chapter 54 to allow licensing of residents to undertake short term rentals will undoubtedly come up in the future.

**4. Parking Fines.** Get ready everyone! Parking fines are coming to Garrett Park soon. This issue has been proceeding for some time. At the regular July meeting, a draft ordinance laying out the details of how this will work was introduced. At the August meeting, the ordinance, with some small amendments to the text, was ready for a final vote. As amended, it passed unanimously (4-0, since Council member Welch was out of town). The basics are that the Town Manager will issue citations and Montgomery will handle collection of fines (or disputed cases that go to traffic court).

**5. Arboretum project.** For some time, the Arboretum Committee has been working on a project what will involve both an inventory of trees on town property and development of a long-term arboretum plan of for the future. This project involves hiring a firm to conduct the inventory and provide a draft plan. By the time of the regular Council meeting in August, the Committee had completed its search and settled on a firm to undertake this work. Council member McClintock, who serves as Committee liaison, submitted a motion to approve the Committee's choice. This was approved unanimously.

**6. New wood chipper.** As readers know, the town regularly chips up branches from trees being trimmed or removed and deposits them in a pile next to the Cambria Park playground. The pile is becoming very large; please avail yourselves of these chips for your home landscaping projects. The existing town chipper has been experiencing increasingly frequent and expensive repairs, so it's time for a new one. Town Manager Swearingen was ready to move forward with the purchase when he realized from the discussion at the special Council meeting on July 28, that the cost (approximately \$37,000) exceeded what he is authorized to spend without Council approval. The Council voted unanimously to authorize him to make the purchase.

That's it folks! There were a few other issues, but these will no doubt reappear in the future and will be reported on at that time.

Ed Lincoln, *Bugle* Reporter