

MEMORANDUM

To: Mr. Scott Reilly, Assistant Chief Administrative Officer
From: Marc Elrich, Councilmember At Large
Date: January 18, 2007
Re: Follow up to 1/12/07 meeting at DPS

Thank you for helping to facilitate last week's meeting at DPS. Reggie Jetter provided a great service by bringing together representatives from legislative offices, executive departments, and MNCPPC. We look forward to receiving the information promised by DEP, DPS and MNCPPC and implementing action steps as follows:

Department of Environmental Protection

- 1) Stan Edwards agreed to provide electronic versions of the emails and other documents regarding the illegal dumping on the PEPCO property. All communications that were sent to or received from DEP with regard to this matter were requested and include, but are not limited to, documents authored by County and PEPCO employees.
- 2) DEP's findings with regard to the June 14, 2006 email from Pete Dilima to Steve Martin. This email allegedly contains information regarding PEPCO's involvement in the decision making regarding what penalty if any should be assessed for illegal dumping.
- 3) Stan Edwards agreed to verify the statute of limitations, prior to January 18, as it pertains to taking additional action and/or issuing fines regarding the illegal dump and transfer station.

Department of Permitting Services

- 1) Reggie Jetter agreed to provide electronic versions of the emails and other documents related to the Palmeiro property and the illegal dumping. All communications that were sent to or received from DPS with regard to these matters were requested and include, but are not be limited to, documents authored by County, PEPCO and MNCPPC employees.
- 2) Rick Brush agreed to bring the apparent conflict between the FEMA benchmark data and the Hillmead Floodplain Elevation Certification to the attention of the engineers

responsible for the same for the purpose of learning more about the conflict in the data and resolving it.

3) Rick Brush agreed to take additional action pending the receipt of additional information from the Hillmead engineers.

MNCPPC

1) Rose Krasnow agreed to provide electronic versions of all emails and other documents related to the Palmeiro property and other issues brought to their attention by Steve Kanstoroom, including forest cutting within the adjacent non-development areas, illegal dumping on the PEPCO property, issues related to the P250 subdivision and the most recent planting plan submitted with regard to 1020 Ashton Road.

All communications that were sent to or received from MNCPPC with regard to these matters were requested and include, but are not limited to, documents authored by MNCPPC and DPS employees.

2) Rose Krasnow agreed to provide responses to the attached letters from Councilmembers dated April 21, 2006 and October 19, 2006.

3) Debra Daniels agreed to provide copies of Administrative Orders and their supporting documents over the past three years that relate to violations of the Forest Conservation Law.

4) Rose Krasnow explained that MNCPPC does not recognize private easements that are recorded in the county land records and consequently MNCPPC approves subdivision plans without regard to easements. In some cases problems occur, such as house sites being approved that block driveway access to other properties as is the case with the P250 subdivision. Rose explained that aggrieved parties can file suit after the subdivisions are approved, however this does not protect the aggrieved party from irreparable harm as is the case if the subdivision will include forest clearing that would not have been permitted had the easements been recognized. My opinion is that the process of not acknowledging private easements that are known by or brought to the attention of MNCPPC should be reviewed. See the second attached Memorandum to Royce Hanson dated October 19, 2006.

Rose also contended that MNCPPC is not required to take any action with regard to individuals or entities that submit false or misleading documents.

DHCA/DPS

It seemed that DHCA learned for the first time that no permits are active for the Palmeiro property. Accordingly, please let me know if under the circumstances DPS and DHCA could work together to direct the property owner to fill in the open trenches, remove the construction fence and bring the partially demolished garage into conformance with the building code or remove it. The argument that nothing can be done pending compliance with the MNCPPC Administrative Order by the property owner due to the pending DPS

stop work order is unacceptable. To follow that logic the property owner would also be prohibited from initiating work necessary to comply with MNCPPC's Administrative Order when he ultimately decided to comply with it.

One solution would be for DPS to issue an order stating that its stop work order does not prohibit the property owner from taking other action necessary to comply with remediation directives issued by DPS or DHCA.

Document Copies

Please send electronic copies of all documents to me and Steve Kanstoroom. Councilmember Berliner has requested that my office forward all documents related to the Hillmead matter to him.

Next Meeting Date – another date needs to be set to facilitate bringing closure to these issues. I am available to meet on Wednesday, January 31 at 12:30 pm. Please let me know if you are available and my office can take care of coordinating with the all participants.

I look forward to continue working with you, County Executive Ike Leggett, Chief Administrative Officer Tim Firestine, and the executive branch departments to identify administrative concerns and legislative measures that can be taken to resolve them. Together we can build a more responsive government for the citizens of Montgomery County.

Attachments: 4/21/06 Memorandum to Derick Berlage
10/19/06 Memorandum to R. Hanson from M. Praisner and H. Denis
10/19/06 Memorandum to R. Hanson from M. Praisner

cc: Marilyn Praisner
Royce Hanson
Timothy Firestine
Reginald Jetter
Stan Wong
Rick Brush
Susan Scala-Demby
Stan Edwards
Rebecca Lord
Rose Krasnow
Debra Daniels
Tom Dagley
Steve Kanstoroom
Susan Mize
Wayne Goldstein