

"Federation Corner" column
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Whose music hall is it anyway?

by Wayne Goldstein

Who decides how important land use decisions are made? Government officials, community residents, or both? How are these decisions made? By established rules or by ad hoc creations? In the case of decisions now being made about the Silver Spring Music Hall, the County Executive's office is working without including the community, is ignoring basic rules of competitive procurement, is giving special benefits where none are needed or justified, and is undermining its reputation for fair and open dealings with all.

Developing any public deal should emulate the standards of government procurement, where one either seeks the best bid or one offers a sole source contract. If there are a number of qualified businesses which can do the work, it is both sensible and legally required that there be competition, whether by awarding the contract to the lowest bidder or to the bidder who offers the best package of benefits. If only one business can do what is a highly specialized job, then that business is the obvious choice for a sole source contract. When the choice for the music hall was to have a venue with bands where the audience was served food and drink while seated, the only business that had such experience was the Birchmere. When the choice abruptly changed to a 'standing only concert floor ringed with bars serving alcohol but no food', there were a number of experienced companies who could compete with one another to offer the best deal for the government and the community. Instead, Live Nation, which grossed \$3.2 billion in the nine months ending 9/30/07, and which issued \$200 million in bonds this past year, was brought in and was offered the same deal, with millions of dollars of benefits, that had been offered to the far smaller Birchmere.

Who does the planning for such a facility? The government officials, the community, or both? In the case of the Silver Spring Civic Building, the community was asked to provide specific details of what it wanted. Community members helped shape the uses as well as the management structure for the building. When it came time to design the building, architects were invited to submit their plans. A number of these plans were shown to the community for its comment before a final decision was made. When M-NCPPC was considering how to build its new SilverPlace headquarters, it had three finalists make a public presentation of their proposals, so that the public could also comment on them. When Montgomery County was given the badly deteriorated National Park Seminary site by the U.S. Government, it invited proposals for how to reuse the historic buildings and the rest of the site. After the county chose two finalists, both made public presentations to the community and the community members then told the county which finalist they preferred.

After various government officials spent a decade battling with the Silver Spring community, first over plans for the Silver Triangle, and then over plans for the American Dream theme park, the county finally decided to create a group where community members were well-represented. This working group came up with plans for redevelopment that formed the basis for Downtown Silver Spring.

These are all examples from the last decade of ways that the government has worked with the community to make important land use decisions. As anecdotal evidence accumulates that shows that the use and user of the Music Hall is important to the community, the government instead responds by repeatedly reciting the history of the failed Birchmere negotiations while incessantly declaring that it must negotiate with Live Nation if the county's reputation of keeping its word can survive. Otherwise, apparently, no one will ever again trust the County in negotiations in the future.

While this argument may resonate with some, there is another explanation that could resonate far more. It is the perception that this is just another example of corporate welfare, giving financial favors to very large and

profitable corporations in exchange for these corporations doing what they would do anyway. The best examples of this in the last decade have been the multimillion dollar deal with Marriott Corporation to get it to stay in Montgomery County when it had no intention of leaving, and with Discovery Communications to get it to move to Silver Spring when it had every intention of doing so.

Another example of preserving the county's reputation by negotiating in good faith without public participation was the deal with a private religious school to first allow it to buy the former Belt Junior High School and then to persuade this religious school to sell back Belt to then have it be relocated to the former Montgomery Hills Junior High School. As an unintended consequence of honoring this lavish commitment, former County Executive Duncan was stricken with a severe case of 'Abramoffitis.' Interestingly, Mr. Duncan, having persuaded the Birchmere to come to College Park, now intends to persuade the state to make sure that the \$4 million in promised state money for the Birchmere Music Hall will follow the company to College Park, rather than stay in Silver Spring.

The current County Executive is committed, in a number of ways, to changing how this county does business. One hopes that this means an end to special deal making and an expansion of efforts to fully engage the community in important decisions. Simply put, it means that the County Executive needs to open up the Music Hall process to all qualified bidders, allow the public to review and comment on proposals from these bidders, and then make a decision based on what is the best deal for the county government and for the community. It may be that Live Nation would win such a competition, but it is unlikely that it would win with terms as generous as those that are on the table right now.

As for the ad hoc actions up until now, it is far more important to admit error and to correct it rather than to stubbornly stick with a position that could well be undermining public confidence in the County Executive. A County Executive so completely committed to a process as public and as transparent as CountyStat truly does not have to prove that he is decisive by being unwaveringly decisive in all things. It's time for him to listen to the community to find out what it wants its Music Hall to be.