

"Federation Corner" column
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Council reliance on herd mentality puts community into double jeopardy

by Mike Conn
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A project to connect Thompson Road with Rainbow Drive within Good Hope Estates, a neighborhood of over 600 homes in Silver Spring, was recommended in the 1981 Eastern Montgomery County Master Plan and subsequently incorporated into the 1997 Cloverly Master Plan. Over the years it has continued to sit on the books without further examination of its value

At the request of the County Executive, Ike Leggett, an authorized and fully sanctioned hearing was held on 12 September, 2012 to review the project to determine whether it remained a viable and worthwhile endeavor of the county. Mr. Michael Subin served as the Hearing Examiner in this investigatory review which included testimony from the public and from all of the relevant county departments. Mr. Subin's finding was that this project was no longer in the public interest. The County Executive subsequently agreed with Mr. Subin's finding and removed the project from the Capital Improvement Program (CIP).

The Montgomery County Council decided that it did not like the County Executive's ability to hold a public hearing prior to granting final approval to proceed with a road project, and overturned the Executive's power to do so on 08 October 2013 with the passage of Bill 24-13. To the astonishment of the residents of Good Hope Estates, however, not only did the County amend that process, but it apparently decided to "punctuate" its "show of power" by re-inserting the Thompson Road Connection Project back into the CIP, just months after the official finding and deletion.

To circumvent the fact that the County Executive had removed the project from the CIP, Council staff went to the extraordinary lengths of redefining it as a "new" project identical to the "old" one, without any justification, public announcement, or opportunity for public testimony and without any reconsideration of the facts from the County Executive's hearing that found that this project was "not in the public interest."

When the community learned of this action, the county was within weeks of concluding its budgetary process. Representatives of Good Hope Estates Civic Association (GHECA), whose members live on both sides of the proposed street connection, met with those of the County Council members who would allow us to, and attempted to determine why they had subsequently found the findings of the Hearing Examiner to apparently have been INCORRECT. We also wanted them to explain why they actually thought that the initiative WAS in the public good.

We met with, but were unable to get responses from Nancy Floreen and Roger Berliner, two of the three members of the Transportation, Energy, Infrastructure, and Environment Committee which was responsible for this action. The third member, Councilman Hans Riemer, was unresponsive to our requests. Our own District 5 Council member, Cherri Branson, refused to meet with us.

GHECA sent a survey to residents on its email list, secured over 100 household signatures against the action of the Council, and provided a list of these responders to each of the Council members. We also sent a group of questions to each of the Council members to ask what their reasons were for applying a change in process retroactively, something that has rarely, if ever, been done, and to remind them of their accountability to their constituents.

We have received no response from any Council member, and in votes taken on March 25 and on May 6, all but Council member Marc Elrich endorsed the continuance of the project. Councilmember Elrich's motion to remove the project from the CIP did not even garner a "second."

Our neighborhood now finds itself in an untenable situation that can only be described as akin to Double Jeopardy. In fact, it's worse because in the case of double jeopardy, the re-accused is afforded the benefit of a retrial. In our county we don't even have that courtesy!

The only rationale provided by the Council members for the surreptitious re-insertion of this project is the fact that it had been voted on affirmatively in the past, and that the previous votes "must" make it worthy of continued endorsement. It did not seem to matter that most of these votes were cursory and taken prior to the intensive review by the Hearing Examiner process in 2012, which was the first time that the residents directly affected by this project, who had consistently voiced opposition, were given a fair hearing.

This action by the County Council may have serious implications for any constituent who believes that our County Council functions in the best interests of its citizenry. When the County Council is able to resurrect a project that had been wiped off the books; when the County Council is able to re-affirm a project based solely on the fact that it had voted affirmatively on it in the past, albeit long ago and in a different time; when the County Council need not have to account for its actions after residents had relied on the outcome of an official government process; then every community in Montgomery County needs to pay attention to this situation of double jeopardy and herd mentality as we embark on our voting season.

What has been described above could just as easily happen in your community. With the exception of At-Large Council member Elrich, who attempted to convince his colleagues to honor the findings of a duly authorized public process, and County Executive Ike Leggett, whose last-minute appeal to remove the project was completely ignored, it may be time to give serious thought to who is representing us. If you are concerned enough, please contact your County Council member to express your opinion.

The views expressed in this column do not necessarily reflect formal positions adopted by the Federation. To submit an 800-1000 word column for consideration, send as an email attachment to montgomerycivic@yahoo.com