

VILLAGE COUNCIL MEETING
AUGUST 16, 2007
7:30 PM
7013 B Brookville Road, Chevy Chase, MD 20815

Council Members present: Richard Krajeck, Catherine Gwin, Diane Everts, Noell Sottile; Village Manager Jean Sperling

Purpose: To Amend the FY 2007 budget; to introduce the resolution to create a license to use the public Right of Way; to discuss the urban planning proposal in a work session.

Call to Order: In the absence of the Council Chairman, the meeting was called to order by Noell Sottile, Vice Chairman, at 7:35 pm.

Police report:

Officer DaSilva of the Chevy Chase Village Police reported on incidents in an around the Village during the month of July and August.

-They responded to a call from the County police related to three white males throwing objects at the rear door of the Pharmacy at the rear of the Brookville Market.

- There have been some reports of items stolen from unlocked vehicles around the area--usually it has been simple things such as CD's. The officer said it is typical summer activity and urged people to lock their cars.

-There were two major burglaries however one on Shepherd Street in Section 3 and another on Sundale Street in Rollingwood. The same method of entry was made at both residence—a footstool was used to gain access to the house through a window, one on the side of the property and another on the rear. A number of expensive items were stolen in both cases. No one reported seeing any suspicious activity.

Minutes: The minutes from the July 19, 2007 meeting were presented. Richard Krajeck moved for approval of the minutes. The motioned was seconded by Diane. All voted in favor.

Proposed Amendment for the final FY 2007 Budget. Presented by Richard Krajeck

Under Maryland Municipal Law, the Village is required to allocate budget monies through a public process to cover all expenses. Thus, the Council will, from time to time, have to amend the budget to account for unanticipated expenses.

Because the Village is about to begin the annual audit of our financial activities for the Fiscal Year 2007 beginning in early September, the budget must be amended to cover previously unanticipated expenses that now exceed the earlier budget allocation. Under the proposed budget amendment, an additional \$24,500 is being added to 8 budget categories. This brings our FY 2007 budget to \$606,752. Projected FY 2007 expenses are \$575,476; income is projected at \$616,881. Income is \$41,405 greater than expenses.

Under this proposed budget amendment, the following items are added:

- \$4,500 to office expense to offset the increased cost of a new copier and training
- \$300 for payroll taxes
- \$2,000 for police for greater hours of coverage than anticipated
- \$9,000 for Street and Sidewalk Maintenance for expenses related to street work at Raymond and Melville
- \$6,000 for Waste Collection and Recycling because of fuel surcharges and increased fees to dump trash
- \$500 for Tree Maintenance to cover emergency work on Cummings Lane during a recent storm

- \$1,200 for Right-of-Way Maintenance to clean up the dead end of Bradley and Raymond Streets
- \$1,000 for Community Events to cover extra costs of the June community fair and election night food

There were no questions. Richard moved for adoption of the budget amendment as presented. Diane Everts seconded the motion. All voted in favor.

Discussion and Introduction of Ordinance 8-7-1 Amendment to Section 6-302 to require a permit for construction within the public Right-of Way.

In response to Council concerns on how to handle private construction in the Village Right of Way, the Village Attorney David Podolsky drafted an ordinance to amend the Village Code to require a permit for use of the right of way within Martin's Additions. The purpose of this change is to indemnify the village against damages that may occur as a result of private use of this public property. The construction of a replacement wall on the right of way on Taylor Street prompted this recommendation by the Attorney. Other municipalities do the same. The ordinance is as follows:

Ordinance No.: 8-7-1
 Introduced: August 16, 2007
 Adopted:
 Effective Date:

THE VILLAGE OF MARTIN'S ADDITIONS

SUBJECT: AN ORDINANCE TO AMEND SECTION 6-302 OF THE CODE OF ORDINANCES OF THE VILLAGE OF MARTIN'S ADDITIONS TO REQUIRE, AS A CONDITION OF A BUILDING PERMIT FOR CONSTRUCTION WITHIN THE PUBLIC RIGHT-OF-WAY, THE EXECUTION OF A REVOCABLE LICENSE TO USE THE RIGHT-OF-WAY AND TO CLARIFY THE REPAIR EXEMPTION FROM THE BUILDING PERMIT REQUIREMENTS

WHEREAS, Section 2(a) of Article 23A of the Maryland Code grants to the legislative body of every incorporated municipality in Maryland, including the Village of Martin's Additions, general power to pass such ordinances not contrary to the Constitution of Maryland or public general law as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality;

WHEREAS, Section 501 of the Charter of the Village of Martin's Additions authorizes the Village Council to pass ordinances as it may deem necessary for the preservation of the property, rights, and privileges of the Village and its residents;

WHEREAS, Section 6-302 of the Code of Ordinances of the Village of Martin's Additions provides that no person shall add to, erect, alter, construct, re-construct, repair or improve any structure, make any excavation or temporarily close or block any street or sidewalk within the Village prior to the issuance of a building permit;

WHEREAS, the Village Council finds that it is appropriate to require the execution of a revocable license to use the public right-of-way as a condition of a building permit to construct improvements within the public right-of-way;

WHEREAS, the Village Council finds that although an abutting property owner's proposed use may not unduly interfere with the current use of the right-of-way by the public, it may interfere with the public use of the right-of-way in the future and the Village must retain the right to control the use of all public rights-of-way;

WHEREAS, the Village Council finds that it is appropriate to require abutting property owners to agree to indemnify and hold the Village and its officers and employees harmless from any and all losses, claims, damages, demands, liabilities, or other obligations to persons or property resulting or arising in any way from the owners' use of the public right-of-way or from the owners' failure to properly maintain the improvements constructed by owners in the public right-of-way;

WHEREAS, the Village Council finds that requiring abutting property owners to execute a revocable license to use the public right-of-way as a condition to a building permit for construction of improvements within the right-of-way is necessary to protect the public health, safety, and welfare; to assure the good government of the Village; for the protection and preservation of the Village's property, rights and privileges; and to protect the health, comfort and convenience of the citizens of the Village;

WHEREAS, the Village Council introduced the following ordinance in public session assembled on the 16th day of August, 2007; and

WHEREAS, the Village Council considered the following ordinance in public session assembled on the ___ day of September, 2007.

NOW, THEREFORE, the Village Council of the Village of Martin's Additions does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND SECTION 6-302 OF THE CODE OF ORDINANCES OF THE VILLAGE OF MARTIN'S ADDITIONS TO REQUIRE, AS A CONDITION OF A BUILDING PERMIT FOR CONSTRUCTION WITHIN THE PUBLIC RIGHT-OF-WAY, THE EXECUTION OF A REVOCABLE LICENSE TO USE THE RIGHT-OF-WAY AND TO CLARIFY THE REPAIR EXEMPTION FROM THE BUILDING PERMIT REQUIREMENTS

BE IT ORDAINED AND ORDERED, this ___ day of _____, 2007, by the Village Council, acting under and by virtue of the authority given it by Article 23A of the Maryland Code and the Charter of the Village of Martin's Additions, that Section 6-302 of the Code of Ordinances is hereby amended to read as follows:

Section 6-302. Permits Required

(b) Improvements.

No person shall add to, erect, alter, construct, re-construct, repair or improve any structure, make any excavation or temporarily close or block any street or sidewalk within the Village prior to the issuance of a building permit pursuant to this Chapter. **No building permit for construction of private improvements within the public right-of-way shall be issued until the owner of the abutting property has executed a revocable license to use the right-of-way in a form approved by the Village Council.**

(c) Repairs.

[However,] **Notwithstanding paragraph (b) above**, no building permit shall be required in the case of ordinary repairs or maintenance, as defined in Section 6-101, and no building permit shall be required

for any of the above-described activities occurring entirely within the interior of a building. Emergency re-construction, repair or excavation may be undertaken without first securing a building permit, except that such permit shall be applied for as soon as possible after the need for such activities becomes known.

AND BE IT FURTHER ORDAINED AND ORDERED, that:

(1) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and

(2) This ordinance shall take effect on the ___ day of October, 2007.

ATTEST:

VILLAGE OF MARTIN'S ADDITIONS

Diane Everts, Secretary
Village Council

Timothy Price, Chair
Village Council

Bold and Underline indicates new material

[] indicates material deleted

* * * indicates material unchanged

In accordance with the Village Charter 30 days must elapse from the time of introduction to passage. 20 days after passage the ordinance can become effective.

LICENSE TO USE PUBLIC RIGHT OF WAY.

The attorney has also drawn up a form to be used as a License to Use Public Right of Way. The Council discussed the complexity of the format and asked the manager to inquire if the attorney could simplify some of the aspects of the form, particularly to eliminate the requirement that the Council chairman be the only signatory. She agreed to do so and will report back at the next meeting.

The Council discussed whether they planned on issuing a license retroactively to property owners that are currently using the right of way and it was agreed that it will only apply to new construction or improvements in the right of way.

The meeting was adjourned at 8:15 PM

COUNCIL WORK SESSION

Discussion of the proposal received from Jakubiak and Associates on the urban planning initiative for Martin's Additions.