

**Village of Martin's Additions
Council Meeting
7013 B Brookville Road, Chevy Chase, MD 20815
June 25, 2009 Minutes**

COUNCIL MEMBERS AND VILLAGE REPRESENTATIVES PRESENT: Council Members: Noell Sottile, Richard Krajeck, Larry Wasson. **Village Manager:** Jean Sperling; **Attorney:** Ron Bolt; **Building Administrator:** Alan Beal.

Residents: Mike Zielinski, Bill Catherwood, Keith Allen, Ted Stoddard, Debbie and Steve Schmal, Alexis and Peter Mueller, Sharon Hadary Coyle, Judy Zielinski, Frank and Hanne Correl, Althea Harlin, Rick Michel

7:30PM CALL TO ORDER by Chairman Richard Krajeck

POLICE REPORT.

Sgt. Dasilva of the Chevy Chase Village Police Department reported on their activity in Martin's Additions for the past month. They responded to a suspicious vehicle call on Quincy Street and performed multiple traffic stops as a result of the "Click It or Ticket It" campaign. The County police have reported a rash of auto break-ins throughout June. About 95% of the vehicles were unlocked. It is recommended that vehicles be locked since unlocked vehicles are the targets.

COUNCIL MEMBER SWEARING IN.

Chairman Richard Krajeck administered the Oath of Office for the two new Council members, Chris Mueller and Mike Zielinski. Their official duties begin July 1, 2009.

Comments by the Elections and Ethics Committee: Sharon Hadary Coyle.

Ms. Coyle congratulated and welcomed the new council members. She informed the new members that this past year the Elections and Ethics Committee had reviewed the requirements of the Village of Martin's Additions to fulfill its obligation under the Maryland Public Ethics Law, as contained in Chapter 4 of the Village Code. She urged the new members to become aware of Chapter 4, Conflict of Interest, and she read the following report that was prepared by the EEC into the record:

"The Committee re-enforces the spirit as well as the letter of the Ordinance. As provided in the Ordinance, individual Village Council members have an affirmative duty to disclose a potential conflict of interest at the time it arises.

Consistent with the ordinances and with the published procedures of the State of Maryland Ethics Commission, we urge any Council member who believes that some activity of the Village Council may raise an issue under Chapter 4 of the Code of Ordinances to contact the Elections and Ethics Committee for guidance. All ethics issues--potential and/or perceived--should be reviewed by the Committee prior to being discussed by the Village Council or its legal counsel."

ACTION ON MINUTES of the May 27, 2009 Meeting.

Motion for Approval: Council member Wasson; 2nd: Councilmember Sottile; Vote: All in Favor

FINANCIAL REPORT FOR MONTH OF MAY- Summary of Village Accountant's Reports

Income for the month of May 2009 totaled \$107,699.04, largely as a result of more than \$100,000 in income tax revenues in this month alone. This is a reflection of the normal collection period fluctuations, not an unanticipated increase in this revenue category. Highway user revenues and cable fees are the next two largest sources of revenue at \$3,277.12 and \$1,566.02 respectively. The balance is rounded out by smaller contributions by Code enforcement, personal and real property tax receipts and interest.

Year to date total revenues (\$708,261.09) stand at about 88% of anticipated yearly total revenues of \$802,730.

Expenses for the month on May totaled \$70,041.87. There were the usual monthly expenses for rent, phone and the like. A large portion of this sum is legal fees of \$22,000 related to the development of our building regulations, another \$6,500 of street repairs and sidewalk repairs. Building and permitting costs added another \$4,800 to our expenses for the month. Printing and Mailing expenses were higher than what would be anticipated 12-month expense distribution comparison. Dues and Conference fees are also higher on a monthly basis because of the upcoming Maryland Municipal League Conference.

Year-to-date expenses (\$496,546.72) represent about 73% of budget expenses of \$683,130 planned for the year. We are still awaiting a snow removal bill, several bills for tree work and street repairs that will bring these figures closer together as the year is brought to a close.

Action on Financial Reports for the Month of May 2009.

Motion for Approval: Council member Wasson; 2nd: Councilmember Sottile; Vote: All in Favor

FY 2009 BUDGET AMENDMENT

Two budget categories need to be adjusted for the current fiscal year. An additional \$1,000 is needed for the office lease, and \$2,000 for printing and mailing. The reasons for the adjustments are noted alongside the recommendation.

Office Lease	\$25,000	\$25,805.04	\$1,000	\$26,000	Rent increase not budgeted, increased taxes and insurance.
Printing &	\$18,000	\$17,909	\$2,000	\$20,000	More mailings than originally Mailing planned.

Action on FY 2009 Budget Amendment

Motion for Approval: Council member Wasson; 2nd: Councilmember Sottile; Vote: All in Favor.

RESIDENTS COMMENT AND CONTRIBUTIONS

Keith Allen, Turner Lane. Announced that Linda and Dick Kirschten will be staffing a food collection table at the Annual July 4th Village Picnic and he urged all residents to bring a contribution for our Manna Food Project.

Frank Correl, Turner Lane. Underscored the importance of the Council Members attending the Picnic and expressed the hope that everyone could attend.

Steve Schmal, Summit Avenue. Commended the Council for the fine work they did this year, which was a challenging one. He also commended Jean Sperling as Village Manager and Alan Beal as the Building Administrator.

JUNE 2009 MANAGER'S REPORT: (Jean Sperling)

Curb and Gutter Repairs Turner Lane Cul-de-sac. County responded positively to request for curb and gutter repair to the cul-de-sac on May 28th. Work to be completed within 4 weeks.

Village Potholes and Street Repairs budgeted for FY 2009 have been completed. Jean is especially pleased that we opened the storm drains up on Taylor Street—a long standing complaint has been rectified. There was really only one complication on Raymond Street where a car was parked. Dan Shaw of Chamberlain said he will return and complete the repairs at a later time. Special thanks to Rick Michel for assisting us as the “Senior Deputy Director of the Village of Martin’s Additions, Public Works Department, Volunteer Division”. His help in assembling and installing the No Parking Signs was absolutely invaluable. We couldn’t have done it without his assistance.

Street Signage Complaint on Delfield Street is being reviewed by Joe Cutro. He will assess the situation and prepare a reply. The problem related to the difficulty of a resident backing out of their driveway.

Traffic Control. Traffic engineer Joe Cutro will begin to prepare the necessary regulatory traffic control orders for the files. Work will be completed over the summer.

Directory revisions are underway as evidenced by the enclosure of a draft directory in the last newsletter. Any suggestions for inclusions in the directory are welcome—service phone numbers and the like.

Building Permit applications are in the process of being redesigned. New permit regulations control forms are being developed with the assistance of Alan. A notice has been placed on the website alerting people to the fact that they need to call us.

Last of the Village tree pruning for the fiscal year has been wrapped up. The tree in front of the Harlin-Ross house has not been pruned because a parked car prevented the service. A few Pepco problems have been identified.

Numerous streetlights have needed attention this month—at least 7 lights were called into the office.

Missed trash pick-ups have been a bit of a problem since Mr. Powell has left but Kelvin the driver has been able to address most of them quickly. The new manager at Waste Management, Jorge Hondoy, has not been particularly responsive.

Donations for Mr. Powell are coming in well. We have received contributions from 60 residents so far. We will have a small reception for him and give him the key to the city and a certificate of appreciation at the July Council meeting

July 4th Village Event- planning is underway. No offers of help have been received from the residents (other than Chris Mueller).

House number project-Several streets have been evaluated.

Crosswalk is going to be repainted at Cummings Lane and new crosswalk to be painted on Taylor across Market entrance in response to concerns about pedestrian safety at that location.

BUILDING ADMINISTRATOR'S REPORT-(Alan Beal)

New Construction. A building application for remodeling on Summit has been sent back to architect for revision because it does not conform to the new setback requirements. Another architect has developed plans for a property on Summit that also didn't conform, but we have not yet seen the revised plans.

Corner Lot Building Issues. In response to a question about corner lot building regulations raised by Althea Harlin and Peter Ross at 3526 Raymond Street at the May 27, 2009 Council meeting, the Council directed legal counsel to examine a possible "side street" setback for certain corner lots, similar to the "side street" setback allowed by Montgomery County.. Building Administrator Alan Beal and Attorney Ron Bolt made an effort over the month's time to study the issue.

Mr. Beal explained that under the County Code, a corner lot has two front yards, each with a 25 ft building line (minimum front-yard setback). One cannot build in front of that restriction line. He explained, however, that there is a provision in the County Code that affords certain corner lots a less restrictive secondary front-yard setback—also known as a "side-street" setback. This less restrictive setback applies where the architectural fronts of two adjoining corner lot homes both do not face a street," such that the front yards adjoining that street function as side yards. The county provides a 15 ft "side-street" setback exception for these types of corner lots.

The Village amendment to the Code under consideration was based on the existing County exemption but a review of the corner lots in the Village reveals that the "side-street" condition doesn't exist in the Village. To confirm his understanding of this situation, Council member Krajeck stated that for such an exemption to be applied, the existing house on the corner of Raymond would have to face Raymond, the house on Cummings would have to face Cummings—Alan confirmed Mr. Krajeck's understanding- houses have to face different streets; there can be no frontage on the common street, such as Brookville Road.

Mr. Bolt explained that a corner lot may have less buildable area under zoning regulations because it is subject to two front setbacks. . The County "side-street" setback recognizes, however, that the purposes of a front-yard setback may not be unduly prejudiced by allowing more "front-yard" building area for certain corner lots where the front-yard in question is really functioning as a "side yard.". Front setback requirements were established to preserve the streetscape by having houses uniformly set back from the street vista, but when two adjoining corner lots are improved by homes that both do not face a common street, there may be less need to preserve the traditional "front-yard" streetscape and vista on that portion of the street.

Mr. Bolt confirmed that his evaluation of the situation and attempt to apply the County "side-street" model doesn't work out for the property in question or for any other property in the Village. There are no lots where the County "side-street" set back would apply in the Village. Mr. Krajeck suggested that this issue seems clearly best addressed by the variance process.

Alan reported that the Harlin-Ross's Brookville Road lot side appears to have already been given the privilege of a side-street exemption since an addition to their home extends into the 25 ft setback on Brookville Road. Ms. Harlin stated that they are just asking to do what had been allowed previously. Mr. Beal explained that the Harlin-Ross property enjoys an encroachment that is non-conforming and that he didn't know why that had been granted, but it's still non-conforming to current Montgomery County standards and it was non-conforming when they were given the permit. The request being made by the Harlin-Ross family asks to improve over the top of an existing non-conformity; a variance would be needed to do that.

Mr. Krajeck suggested to Ms. Harlin that if she wished to discuss that matter further or had additional questions she is welcome to contact Mr. Beal.

NON-RESIDENT VOTING RIGHTS (Attorney Bolt)

Village Attorney Ron Bolt asked to bring an issue to the attention of the Council that was brought to his attention by the Maryland Municipal League. Attorney Bolt received an email from Tim Peck at the Maryland Municipal League noting that our Charter defines a "qualified voter" as one who owns property or is a resident of Martin's Additions- in other words, someone who doesn't live here but owns property is a qualified voter. A 1986 opinion of the United States District Court for the District of Maryland found that a provision in another town's election code that allowed non-residents to vote was declared to be a violation of the equal protection clause because -- under rules adopted by the Federal courts that govern Maryland, the enfranchisement of nonresidents requires a compelling interest to justify discrimination based on property ownership, and the court found there was no compelling interest. The issue is related to the right of suffrage; at one time, only property owners were permitted to vote, that practice was stricken down as a violation of equal protection because it was discrimination in favor of land owners. Similarly, the court found that enfranchisement of nonresident property owners can unfairly result in dilution of the votes of residents.

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As a result of that opinion, the ACLU took a look at some of the charters and codes of other towns and issued warnings to change their rules.

The Village Council needn't eliminate all rights of property owners who don't live in the town to vote. The court opinion recognizes that land owners who don't live in the town often have an interest in town governance and there may be some situations where towns can constitutionally enfranchise nonresidents, perhaps using neutral criteria such as time spent in the town. . In response to a question from Council member Wasson, Elections Committee member Sharon Hadary said that the committee has not been faced with this issue to her knowledge.

Councilman Krajeck suggested that the Council may want to consider this change at a time when other Charter amendments are considered as a part of a comprehensive Charter review. The Council was in agreement.

HOUSE NUMBER IMPROVEMENTS INITIATIVE (Wasson)

House Number Project Concern. Councilmember Wasson expressed a concern about the House Number Identification project that has been initiated by the Village in concert with the Village's representative to the Fire Board. His concern centers on whether the Village wants to create a record of our villagers who do not comply with the law. He is concerned that the House Number Notice Project being undertaken today might provide a record of people who are in a contributory state of negligence that would inhibit their ability to receive insurance coverage in the event of a fire. He felt that it is appropriate to repeatedly push the information to make them aware of the law and the importance of proper house number signage by perhaps handing them a notice, knocking on the door and telling them about it, but he objected to a list being made so a notice can be mailed.

Jean explained that no one has requested a list—not the Fire Board or the Fire Department. This is being initiated by concerns that have been brought to her attention by A. Morton Thomas during the Village-wide survey, and concerns expressed by the Chevy Chase Historical Society that we had the highest proportion of unmarked or poorly-marked homes of any of the surrounding towns. Jean also noted that the Neighborhood Watch Program identifies proper house number signage as an important part of community safety. There is also a law that requires signage and signage standards for all residential properties in Montgomery County.

Mr. Wasson felt that the newsletter and website should suffice for notice, that the community did not need to be evaluated and a record did not need to be developed. Councilmember Krajeck expressed the opinion that this is really a matter of health and safety, as well as a legal requirement. He added that he hasn't heard of any intention of anything more than reminding people that there is a legal requirement to have a properly signed house number and to point out that this is for their own health and safety. In response to Mr. Krajeck's question about the process, Jean explained that the homes that need numbers or need to improve their numbers will be identified and a letter will be sent under the signature of the Fire Board or the Fire Chief, who ever is more inclined to sign it.

Mr. Wasson stated that this process will make the information public. Insurance companies routinely go to fire houses and check that information. If there is, in fact, a dispute about what is to be paid by whom, that can be used against our villagers.

Mr. Krajeck felt that it would be as incumbent upon us to do something about the problem as not to do it. In response to a query from Mr. Krajeck, Attorney Bolt expressed the opinion that the question raised by Mr. Wasson as to whether a list should be compiled is a political question, and not a legal requirement. Mr. Krajeck said he would like information from the Fire Board on the matter.

Confirmation of Location of Fire Hydrants.

Mr. Wasson noted that 15 years ago the Fire Department couldn't find the fire hydrants in the Village and this lead to a time delay in responding to a house fire. He asked that the log of the Fire Department be checked to make sure that its record of the hydrants is correct. Ms. Sperling said she would bring this to the attention of our Fire Board reps.

Fire Hydrant Checks. Mr. Wasson alleged that the Village doesn't know if it has a single working fire hydrant; he felt it was important that we try to do something as a government body. He noted that in the late 90's WSSC would not allow any fire department or any local municipality to test the hydrants. Ms. Sperling said that WSSC had done a fire hydrant check at her request within the past year. Martin's Additions requested the review in conjunction with Section 3. Mr. Wasson expressed an interest in seeing WSSC's test report on our Village. He offered to contact WSSC to get their report on our fire hydrants.

Adjournment

Motion: Wasson, 2nd Sottile. All in favor.

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