

Village of Martin's Additions

7013 Brookville Road (Suite B, 2nd floor)

Chevy Chase, MD 20815-3263

**Agenda for
Council Meeting
June 16, 2016**

- 7:45 PM Call to Order: Krajeck
- 7:45 PM Opportunity for Council to hear residents' comments: Krajeck
- 7:55PM Update from the Centennial Celebration Committee: Naierman
- 8:05PM Update from the Election Committee: Naierman
- 8:10PM Update from the Ethics Committee: Efron
- 8:15PM Site Visit: Review the Taylor-Brookville intersection and proposed State Highway Plans: Krajeck
- 8:20PM Action on Annual Meeting Minutes of May 12, 2016: Krajeck
- 8:20PM Introduction of Ordinance No. 6-16-1, Renewal of RCN Cable TV Franchise: Bolt
- 8:25PM Financial matters, including Treasurer's Report and FY16 budget amendments: Hill
- 8:35PM Public Hearing on Ordinance No. 4-16-1 to amend Chapter 7 of the Village Code and adding a counsel for Ethics Committee reference in Code: Krajeck
- 8:50PM Manager's Report, including: updates on office lease; update on street light improvement project; street repaving; WSSC water main replacement project; and contracts: Trollinger
- 9:00PM Opportunity for Council to hear residents' comments: Krajeck
- 9:10PM Oath of Office for In-Coming Council Members: Krajeck

The Council will meet in open session for the purpose of entertaining a motion to enter closed session pursuant to Maryland Code, General Provisions Article, Section 3-305(b)(1) to discuss the appointment, assignment, and compensation of a specific appointee over whom it has jurisdiction, and Section 3-305(b)(7) to consult with counsel to obtain legal advice on a legal matter, concerning an existing contract.

- 9:20PM Adjournment: Krajeck

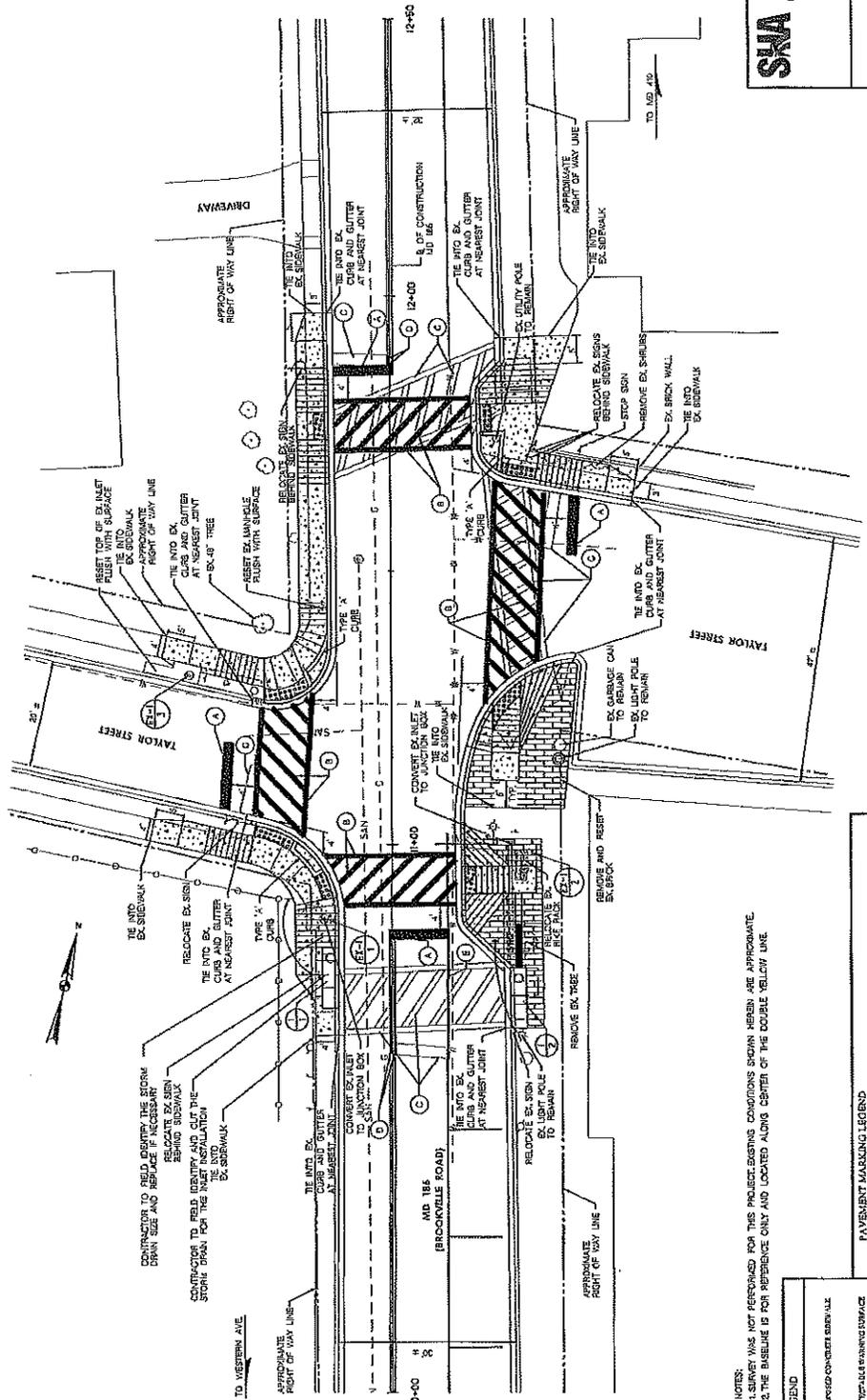
From 7:00 – 7:45pm, there will be a reception in honor of all the resident-volunteer Committee members who have served this fiscal year. All are encouraged to attend.

Following are draft meeting materials up for discussion by the Village Council at the monthly meeting.

Feel free to bring copies to the meeting.

Centennial Celebration Committee: update to VMA Council 6/16/2016

1. The Committee consists of: Naomi Naierman (chair), Richard Krajeck, Susan Fattig, and Michelle Malloy.
2. There were about 125 adults and 25 children in attendance.
3. Residents were able to hear from Maryland State Delegate Al Carr and Montgomery County Executive Ike Leggett as well as Karen McManus representing Congressman Chris Van Hollen. The Village received congratulatory certificates from all three.
4. Thanks to speakers Paul Weller, Arthur Alexander, and Tiffany Cissna. Peggy Eastman read her new poem "A Community to Celebrate" and Anthony Blake Clark performed an anthem commissioned for the Village Centennial. Anthony Blake Clark wrote the music and Nan Ottenritter wrote the lyrics.
5. Thank you also to the sponsors of the event who provided donations: Brookville Market; Chevy Chase Supermarket; and La Ferme. Raffle donations were provided by Brook Taylor Interiors, Brookville Barbershop, and Brookville Pharmacy.
6. The Committee will develop videos from the Centennial Celebration events: one of the event itself and one with snippets of interviews of residents of VMA.
7. Budget estimate: Thus far the budget estimate is \$19,820, including expenses related to the program itself, such as children's entertainment, videography and AV equipment. The estimated expense of the development of the two videos is included and it will not exceed the \$20,000 event budget. The total includes purchasing 50 copies of the DVD of the event for households requesting them.
8. We are looking into a dedication plaque for the white oak tree donated to commemorate the centennial. A dedication ceremony will be announced later this spring.



CONCEPT 1

SMA STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
DISTRICT 3 - PROJECT DEVELOPMENT

100 ISS AT TAYLOR STREET

ROADWAY PLAN

SCALE: 1" = 20' DATE: FEBRUARY 2018 CONTRACT NO. NA

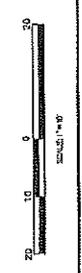
DESIGNED BY: [blank] DRAWN BY: [blank] CHECKED BY: [blank]

DATE: [blank] DATE: [blank] DATE: [blank]

PROJECT NO. 1 OF 2

W

SALE AND SERVICE, INC.
10000 WOODBURN ROAD
COLUMBIA, MD 21046
TEL: 410-326-7000



- NOTES:
1. SURVEY WAS NOT PERFORMED FOR THIS PROJECT. EXISTING CONDITIONS SHOWN HEREIN ARE APPROXIMATE.
 2. THE BASELINE IS FOR REFERENCE ONLY AND LOCATED ALONG CENTER OF THE DOUBLE YELLOW LINE.

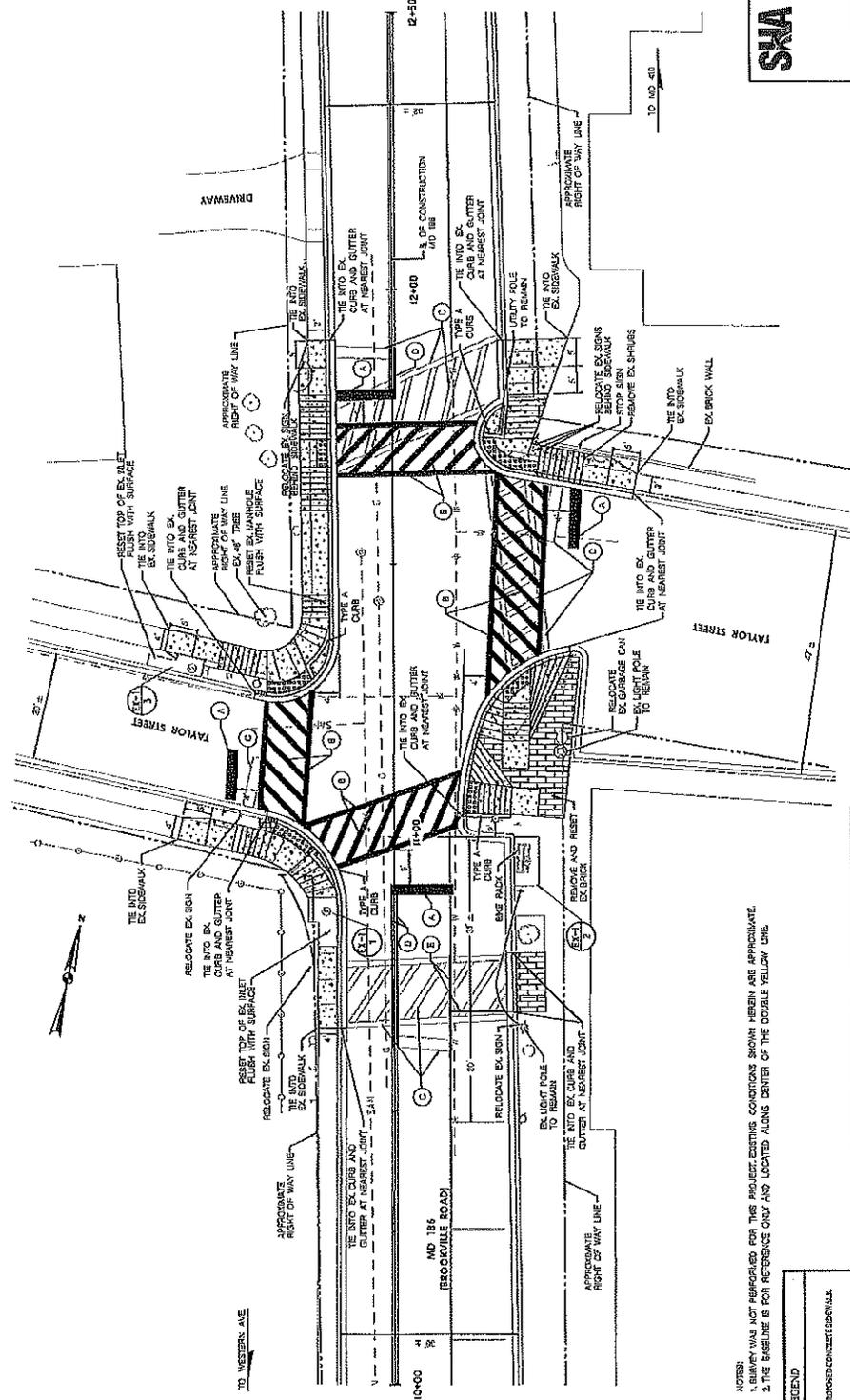
LEGEND

[Symbol]	PROPOSED CONCRETE DRIVEWAY
[Symbol]	EXISTING PAVED DRIVEWAY
[Symbol]	ASPH. DRIVEWAY PAV.
[Symbol]	SUBP. LAY. PAVEMENT REMOVAL
[Symbol]	PROPOSED DRIVEWAY

PAVEMENT MARKING LEGEND

[Symbol]	24 INCH WHITE PREGRADED STRENGTH LAYER PAVEMENT MARKING LINES
[Symbol]	36 INCH WHITE PREGRADED STRENGTH LAYER PAVEMENT MARKING LINES
[Symbol]	REMOVE EXISTING PAVEMENT MARKING LINES (AFT. WORK)
[Symbol]	1 FOOT YELLOW LED PAVEMENT MARKING LINES (AFT. WORK)
[Symbol]	1 FOOT WHITE LED PAVEMENT MARKING LINES (AFT. WORK)

NET WEIGHT: 25 LBS. PER SHEET. SHEETS: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.



NOTES:
 1. SIGNAGE HAS NOT BEEN SHOWN FOR THIS PROJECT BECAUSE CONDITIONS SHOWN WOULD MAKE IT APPROPRIATE.
 2. THE SIGNAGE IS FOR REFERENCE ONLY AND LOCATED ALONG CENTER OF THE DOUBLE YELLOW LINE.

LEGEND

	PROPOSED CONCRETE SIDEWALK
	STREET USER MAINTENANCE
	ASPHALT CONCRETE PAVEMENT
	EXISTING PAVEMENT
	PROPOSED DRIVES

PAYMENT MARKING LEGEND

	A WHITE PARALLEL LINES TO INDICATE VERTICAL MARKING LINES
	B WHITE PARALLEL LINES TO INDICATE VERTICAL MARKING LINES
	C DOUBLE YELLOW LINE TO INDICATE VERTICAL MARKING LINES
	D DOUBLE YELLOW LINE TO INDICATE VERTICAL MARKING LINES
	E DOUBLE YELLOW LINE TO INDICATE VERTICAL MARKING LINES

CONCEPT 2

SHA

STATE OF MARYLAND
 DEPARTMENT OF TRANSPORTATION
 DISTRICT 3 - PROJECT DEVELOPMENT

NO. 86 AT TAYLOR STREET

ROADWAY PLAN

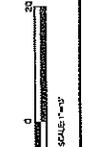
SCALE: 1" = 40'

DESIGNED BY: DATE: COUNTY: CONTRACT NO.: JAA
 DRAWN BY: DATE: COUNTY: CONTRACT NO.: JAA
 CHECKED BY: DATE: COUNTY: CONTRACT NO.: JAA
 APPROVED BY: DATE: COUNTY: CONTRACT NO.: JAA

DATE: 10/15/2013 10:52 AM
 PROJECT: 184-02-02
 SHEET NO.: 2 OF 2

W

WALSH, YANG & ASSOCIATES, INC.
 1000 W. BROADWAY, SUITE 200
 BALTIMORE, MD 21201
 TEL: 410-528-1234
 FAX: 410-528-1235
 WWW.WYANDASSOCIATES.COM



Village of Martin's Additions
7013 Brookville Road, Suite B, Chevy Chase, MD 20815
Minutes for Annual Meeting on
May 12, 2016

Council Members Present: Richard Krajeck (Chair), Arthur Alexander, Tiffany Cissna, Susan Fattig, Katya Hill; **Village Manager:** Matt Trollinger; **Assistant Village Manager:** Beth Boa; **Attorney:** Ron Bolt; **Building Administrator:** Doug Lohmeyer; **Residents and other attendees:** Lee Ann Anderson (Quincy St) (arrived 9:15PM), Marty Langelan (Chestnut St) (arrived 9:15 PM), Naomi Naierman (Quincy St) (arrived 9:15 PM), Molly Ruhl (Delfield St), Steve Schmal (Summit Ave), Steve Trowern (Raymond St) (arrived 9:15 PM), Lynn Welle (Oxford St), Natalie Welle (Oxford St) (arrived 9:15 PM).

8:15 PM Call to Order; Welcome and Introductions: Krajeck

8:15 PM Action on Council Meeting Minutes of April 21, 2016: Krajeck

Motion by Councilmember Alexander to approve the draft minutes for the Council meeting held on April 21, 2016; seconded by Councilmember Fattig. All in favor.

The minutes as approved are attached.

8:15 PM Financial matters, including Treasurer's Report: Hill

Councilmember Hill reported that the Village continues to be in a very good financial state. Income has exceeded the budget and expenses are below budget for the month of April. The Village has a surplus of about \$30,000.

Motion by Councilmember Alexander to approve the Treasurer's Report; seconded by Councilmember Cissna. All in favor.

Treasurer's Report attached.

8:20 PM FY2016 State of the Village: Krajeck

Councilmember Alexander, Chair of the Tree Committee, gave his report. The Village Council established a tree committee in January 2014, almost two and a half years ago. Its instructions were to assess the state of the tree canopy in the Village, and if appropriate, propose policies to remedy identified deficiencies or to otherwise improve the state of the Village canopy.

Comparisons with earlier times revealed some worrying trends. Overhead photography going back to the 1960s indicates considerable tree loss, which

became especially noticeable in the 1980s, driven by larger houses and increased paved areas. In the most recent data for 2013, however, the community did not experience a net loss over a four-year period. The images show the capability of large trees to significantly increase their spread, compensating for significant losses due to natural loss from age, house building, power line clearing, and storms.

We took account of the many positive attributes of a healthy tree population. Of particular interest, trees on private property increase not only a given lot's monetary value, but also that of its neighbors. More broadly, the entire Village benefits, both monetarily and through the many other values generated by the presence of trees. We therefore proposed that the Village take steps to maintain and enlarge the tree population on private property.

In particular, we urged the Village to subsidize and implement the purchase and installation of native canopy trees for residents on their property. We found that often residents desire to plant, but do not have the information on sources, species, and service provider. Adding a private tree program to the Village's public plantings could take advantage of scale economies. However, we suggest that the Village not bear the entire cost, but that property owners also contribute in order to create an incentive to care for the newly planted specimens.

The Village has budgeted an initial amount to begin this program. We are now putting together request forms, procedures, and a list of trees. We discussed specific species with experts and examined the experience of neighboring towns. Objectives included availability, cost, suitability to private properties, and diversity. We came up with the following list:

- American beech
- American elm
- Black gum
- Northern red oak
- Pin oak
- Red maple
- Sugar maple
- Swamp white oak
- Sweet gum
- Willow oak

So, look forward to an announcement in the coming fiscal year of the new tree program. In twenty, thirty, or forty years, we should be living with the benefits of this program

This subsidy proposal was not the only one that the Committee came up with. The others, shown below, were judged by the Council to be too expensive to administer or involve too much administrative time. One consultant called it the "full employment act for arborists."

The second proposal intends to identify trends in the tree population by requiring construction site plans to list the trees on the property that will be affected by development.

The third proposal requires that large canopy trees that are removed in conjunction with a building project be replaced.

The final proposal requires the planting of a net new canopy tree when significant construction is undertaken on a property that has no canopy trees, thereby enhancing renewal of the Village tree canopy.

Councilmember Alexander made a motion to sunset the Tree Committee; second by Councilmember Hill. All in favor.

Councilmember Cissna discussed the Requests for Proposals (RFPs) that have been disseminated by the Village in FY2016. The RFPs provide documentation for the process of hiring contractors and the scope of work and are posted on the Village website.

Policies and regulations have been updated, including a new data security policy which is posted on the website and a Records Retention Policy which has been approved by Maryland State Archives.

The Village Code has been updated, with a process including open meetings, hearings, and feedback from the residents.

All of these changes and updates are documented on the Village website.

Councilmember Hill gave an update on the streetlight project. The Council has agreed on fixtures and the RFP is in development for installation and maintenance. \$500,000 is set aside for the street lights project.

Councilmember Fattig gave an update on street repairs. The Village has set aside \$750,000 for relevant repairs, which includes \$250,000 for sidewalks and \$500,000 for streets. Washington Gas and WSSC will contribute toward these repairs. An RFP is being drafted for streets with assistance from Joe Cutro, PE. The street repaving and repairs will begin after WSSC completes work on Quincy St.

Chairman Krajeck noted that the Village has accomplished a lot.

Village Manager Trollinger gave his report (attached.)

Chairman Krajeck thanked the Village office staff and the committee volunteers: Centennial Celebration Committee; Election Committee; Ethics Committee; and Tree Committee. He also thanked the Tree Supervisor Dan Gardner, the Village Arborist Paul Wolfe, and Attorney Ron Bolt.

8:40 PM FY17 Budget and Tax Rate Public Hearing: Krajeck

Councilmember Alexander reported on the state of the budget for FY16 (attached.) He noted that expenses for building review and legal were larger than anticipated. Property taxes for FY17 are the same as FY16.

Resident Comments:

Steve Schmal (Summit Ave) commented that he is delighted about street lights moving forward. He asked if the street repaving project would include milling. He had questions about the FY17 budget that the Council addressed.

Councilmember Hill moved to approve the Ordinance to Adopt a Budget for Fiscal Year July 1, 2016 to June 30, 2017 (No. 3-16-1); seconded by Councilmember Fattig. All in favor.

Councilmember Hill moved to approve a Resolution to Approve Levying a Tax on Certain Real and Personal Property under the Provisions of Section 6-203 of the Tax-Property Article of the Annotated Code of Maryland, as Amended (No. 3-16-2); seconded by Councilmember Fattig. All in favor.

Ordinance to Adopt a Budget for Fiscal Year July 1, 2016 to June 30, 2017 (No. 3-16-1) attached.

Resolution to Approve Levying a Tax on Certain Real and Personal Property under the Provisions of Section 6-203 of the Tax-Property Article of the Annotated Code of Maryland, as Amended (No. 3-16-2) attached.

9:00 PM Discussion about 3505 Raymond Street Request to Build a Front Porch:
Krajeck

The resident at 3505 Raymond Street, Michael Connelly, proposes to build a 9 foot porch on the front of his home. Mr. Connelly met with Richard Krajeck (Council Chairman), Matt Trollinger (Village Manager), Doug Lohmeyer (Building Administrator), and Ron Bolt (Attorney) on May 12, 2016 to discuss his pending application. He argued that since Melville Place intersects Raymond (albeit only on the south side), the Established Building Line (EBL) front setback calculation should not include homes east of the Raymond Street / Melville Place intersection, under the current wording of the Code. The Council agreed that this was a reasonable interpretation of the EBL calculation as currently drafted. As a result, Mr. Connelly's application will be approved and the definition of EBL will be clarified in the proposed amendment to the VMA Code that is pending.

9:20 PM Announcement of Council Election Results: Anderson

Lee Ann Anderson (Quincy Street), Chair, Election Committee, reported the results of the May 12, 2016, Council Election for the Village of Martin's Additions:

Total ballots cast: 228

207 ballots were cast at the polling table.

34 absentee ballots were requested and sent out; 21 completed absentee ballots came in before voting opened at the polling table. Almost all of the absentee voters used the new election procedures that allow residents to request and receive their absentee ballots by email.

Results:

Tiffany Cissna	179 votes
Susan Fattig	169 votes
Arthur Alexander	168 votes

Various write-in candidates received a total of 33 votes, as follows:

Jean Sperling	16 votes
Katie Howard	6 votes
Kathy Bishop	2 votes
Ben Dunford	2 votes
Paul Bishop, Bill Catherwood, Frank Correl, Dan Gardner, Andrew Kauders, Bill Lebovich, and Halie Soifer	each received one vote.

In addition, there was one vote for Hillary Clinton and one for Angela Merkel, which the Election Committee disqualified on grounds that they are not residents or property owners in the Village of Martin's Additions. There was one ballot on which the voter wrote in unknown nicknames, which the Election Committee disqualified because it could not identify the candidates, and there were two ballots on which voters wrote in Larry, Moe, and Curly, which the Election Committee disqualified on grounds that they are deceased.

The Election Committee thanks all the residents of Martins Additions who came out to vote or sent in their absentee ballots. The tally of 228 votes, while below the record set in 2015, was more than twice the level in preceding years. We extend our warmest congratulations to the winning candidates.

We thank the VMA staff for their very helpful assistance with the election mailing, postings, and Election Day logistics.

We'd also like to thank the VMA staff for setting up the outstanding Celebration on the Sidewalk this year, all the artists, participants, and community organizations who added to the festivities, and the shops for contributing such generous support with their participation on Election Day.

9:25 PM Discussion of Village Office Lease: Krajeck

Ron Bolt reported that the Village office landlord, Michael Shirazi, has not responded to the letter from the Council requesting an amendment to the renewal of the office lease. Ron Bolt will call the landlord for his response to the letter and report back to the Council.

9:30 PM Adjournment: Krajeck

**The Village of Martin's Additions
Ordinance Granting Non-Exclusive Franchise for the
Operation of a Cable Television System**

Resolution No.:
Introduced: May 19, 2016
Adopted:
Effective Date:

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, 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 the public general law, as deemed 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, Maryland Code, Local Government Article, Section 5-204(d) and Section 1-708(c), as amended, authorize the legislative body of each municipal corporation in the State of Maryland to grant a franchise for a cable television system;

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

WHEREAS, Starpower Communications, L.L.C. has applied for renewal of its non-exclusive franchise for the operation of a cable television system within Montgomery County, Maryland, including within the corporate limits of the Village;

WHEREAS, on behalf of the Village and other participating municipalities, Montgomery County, Maryland negotiated a franchise agreement renewal with Starpower Communications, L.L.C., upon the terms and conditions set forth in that certain Cable Franchise Agreement by and between Montgomery County, Maryland and Starpower Communications, L.L.C., and conducted a public hearing on said Franchise Agreement on May 3, 2016 (the "Franchise Agreement");

WHEREAS, the Franchise Agreement was approved by the Montgomery County Council on May 3, 2016;

WHEREAS, the Franchise Agreement is to be administered by Montgomery County, Maryland within the Village, according to Montgomery County Chapter 8A;

WHEREAS, the Village Council introduced the following Ordinance in public session assembled on the 19th day of May, 2016;

WHEREAS, the Village Council, after proper notice to the public, considered the following Ordinance at a public hearing held on the ___ day of _____, 2016; and

WHEREAS, the Village Council finds that the foregoing Ordinance would assure the good government of the municipality, protect and preserve the municipality's rights, property, and privileges, preserve peace and good order, secure persons and property from danger and destruction, and protect the health, comfort and convenience of the citizens of the Village of Martin's Additions, and is necessary for the preservation of the property, rights, and privileges of the Village and its residents.

NOW, THEREFORE, the Village Council does hereby adopt the foregoing uncodified Ordinance.

BE IT ORDAINED AND ORDERED, this ___ day of _____, 2016, by the Village Council, acting under and by virtue of the authority given it by the Maryland Code and the Village Charter that a non-exclusive franchise for the operation of a cable communications system be and the same is hereby granted upon the following conditions:

1. Starpower Communications, L.L.C. shall enter into an agreement with the Village upon the same terms and conditions as are set forth in the Franchise Agreement; and
2. The franchise within the Village shall be effective from the effective date of the Franchise Agreement until the end of the term of the Franchise Agreement in the unincorporated areas of Montgomery County.

AND BE IT FURTHER ORDAINED AND ORDERED, by the Village Council, acting under and by virtue of the authority granted to it by the Maryland Code and the Village Charter, that:

1. The Chair of the Village Council be and is hereby authorized to execute any and all documents necessary to effectuate the intent and purpose of this Ordinance;
2. 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
3. This Ordinance shall take effect on the _____ day of _____, 2016.

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

_____, Secretary

_____, Chair
Village Council

Ordinance No.: 4-16-1
Introduced: April 21, 2016
Adopted:
Effective Date:

THE VILLAGE OF MARTIN'S ADDITIONS

SUBJECT: AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO REVISE THE DEFINITION OF NON-VEGETATIVE SURFACE TO INCLUDE GRAVEL SURFACES; REQUIRE THE ETHICS COMMITTEE TO REVIEW COMPLAINTS WITH COUNSEL; CLARIFY WHEN A STOP WORK ORDER WILL BE LIFTED; LIMIT APPLICATION OF THE ESTABLISHED BUILDING LINE FRONT SETBACK REQUIREMENT TO NEW MAIN BUILDINGS; CLARIFY HOW THE ESTABLISHED BUILDING LINE FRONT SETBACK AND ESTABLISHED BUILDING HEIGHT RESTRICTIONS ARE CALCULATED; CLARIFY THAT SEPARATE VIOLATIONS OF CODE PROVISIONS SHALL BE SEPARATE INFRACTIONS; TO DECLARE A SECOND VIOLATION OF THE CODE TO BE PUNISHABLE BY A \$250 FINE; TO AMEND AND REORGANIZE PENALTY PROVISIONS; CLARIFY THE DEFINITION OF "BUILDING;" AND CLARIFY OTHER EXISTING PROVISIONS

WHEREAS, Local Government Article, Section 5-202 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, Maryland Code, Local Government Article, Section 5-211 authorizes the legislative body of each municipal corporation in the State of Maryland to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits;

WHEREAS, Maryland Code, Land Use Article, Section 20-509 grants to the legislative body of incorporated municipalities in the Maryland-Washington Regional District general power to adopt building regulations for the protection of the public health, safety, and welfare; the preservation, improvement, and protection of lands, water, and improvements in the municipal corporation; and to regulate the construction, repair, or remodeling of buildings on land zoned for single-family residential uses at it relates to fences, walls, hedges, and similar barriers; signs; residential parking; residential storage; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

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

WHEREAS, the Village Council introduced the following Ordinance at a public meeting held on April 21, 2016;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the ____ day of _____, 2016, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council did not submit any comments;

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Village Council considered the following Ordinance in public session assembled on the ____ day of _____, 2016;

WHEREAS, the Village Building Permit Administrator has made certain recommendations to the Village Council for amendment of the Village building regulations concerning the application of the established building line front setback, the permissible encroachment of porches, and the lifting of a stop work order;

WHEREAS, the Village Council asked the Village Ethics Committee to make a recommendation concerning whether complaints submitted to the Committee should be reviewed by the Committee in consultation with counsel and who should appoint special counsel if the Village Attorney cannot provide the consultation;

WHEREAS, the Village Ethics Committee has found such consultation advisable and has recommended that, if the Village attorney cannot perform this function, presumably because of a conflict of interest, the special counsel should be appointed by the Village Council, or, if necessary, by the Ethics Committee;

WHEREAS, the Village Council finds that the foregoing Ordinance would assure the good government of the municipality, protect and preserve the municipality's rights, property, and privileges, preserve peace and good order, secure persons and property from danger and destruction, and protect the health, comfort and convenience of the citizens of the Village of Martin's Additions, and is necessary for the preservation of the property, rights, and privileges of the Village and its residents.

NOW, THEREFORE, the Village Council does hereby adopt the following Ordinance.

BE IT ORDAINED AND ORDERED, this ____ day of _____, 2016, by the Village Council, acting under and by virtue of the authority given it by the Maryland Code and the Charter of the Village of Martin's Additions, that the Village Code is hereby amended as follows:

Section 3-103. Continuing Violations

Any person who violates any provision of this Code or directs or allows another to commit an act that violates this Code, the person's employer if the person acted in the course of his or her employment, and any property owner who allows a violation of this Code on his or her property, shall be guilty of a violation and shall be jointly and severally subject to the penalties provided in this Code. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation. Each day a violation of this Code continues shall constitute a separate infraction. Each separate violation of a provision of this Code shall constitute a separate or repeat offense or infraction. Each day a violation of this Code continues shall, unless otherwise provided, constitute a separate or repeat offense or infraction.

(Note: Moved from Sec. 6-311(c))

(Ord. No. 4-16-1...).

Section 3-104. Additional Remedies

- (a) In addition to any other remedies provided for in this Code, where there is a violation of any provision of this Code, any court of competent jurisdiction may authorize a designee of the Village to enter onto the subject property and cause the violation to be corrected in accord with the court's order and to charge the costs and expenses, including legal expenses, thereof to the property owner, the occupant, or both, responsible for the violation. Such costs and expenses may be collected by way of any appropriate legal proceeding.
- (b) In addition to any other remedies provided in this Code, the Village may institute injunctive or other appropriate action or proceedings to correct any violation of this Code, and any court of competent jurisdiction may issue such injunctions, restraining orders or other appropriate forms of relief.
- (c) Judicial proceedings pursuant to this Chapter shall not be initiated by the Village without the affirmative vote of a minimum of three (3) members of the Village Council.
- (d) In addition to any other remedies provided in this Code, the Village may by contract or otherwise abate a violation that is not abated after ten (10) days' notice of the violation, or such other period as the Council may specify. The cost of any abatement by the Village shall be paid immediately by such person or persons upon demand of the Council, in addition to any penalties that may be imposed. The Village may collect the cost: (1) as a lien on the property tax bill; (2) in an action at law; or (3) in any other way legally available for collection of debts owed to the Village.

(Note: Moved from Sec. 3-201(b))

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1...)

* * *

Section 3-201. Declaration of Municipal Infractions and Misdemeanors; ~~Civil Penalties; Abatement by the Village~~

~~(a) The Village Council, by ordinance, shall determine which violations of this Code shall constitute municipal infractions and may set a specific civil penalty for each such violation. Unless otherwise specified in the Code, civil penalties shall not exceed one hundred dollars (\$100) for each violation. Notwithstanding the declaration of a violation of this Code as a misdemeanor, any violation of any provision of the Code may be prosecuted as a municipal infraction, at the Village's discretion, and, except as otherwise specified in this Code, such violations shall be punishable by a civil penalty not to exceed one hundred dollars (\$100) for each violation and two hundred fifty dollars (\$250) for any subsequent violation.~~

(Note: Moved to Sec. 3-301)

~~(b) The Council may by contract or otherwise abate a violation that is not abated after ten (10) days' notice of the violation, or such other period as the Council may specify. The cost of any abatement by the Council shall be paid immediately by such person or persons upon demand of the Council, in addition to any penalties that may be imposed. The Village may collect the cost: (1) as a lien on the property tax bill; (2) in an action at law; or (3) in any other way legally available for collection of debts owed to the Village.~~

(Note: Moved to Sec. 3-104)

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1...)

* * *

Section 3-301. General Municipal Penalties

Unless otherwise specified in this Code, any person found guilty of violating any provision of this Code for which violation is a misdemeanor shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00), and/or imprisonment of not more than six (6) months, for each violation. Notwithstanding the declaration of a violation of this Code as a misdemeanor, any violation of any provision of the Code may be prosecuted as a municipal infraction, at the Village's discretion, and, except as otherwise specified in this Code, such violations shall be punishable by a civil penalty not to exceed one hundred dollars (\$100) for each violation and two hundred fifty dollars (\$250) for any subsequent violation.

(Ord. No. 4-16-1...)

Section 3-302. General Municipal Infraction Penalties

Unless otherwise specified in the Code, the general penalty for commission of a municipal infraction shall be One Hundred Dollars (\$100.00) for each violation and two hundred fifty dollars (\$250) for any subsequent violation.

(Ord. No. 4-16-1...)

* * *

Section 4-202. Disqualification Procedures; Complaints; Records

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- (b) Any person alleging a violation of this Chapter may file a written complaint, under oath, with the Committee. Upon the receipt of such complaint, the Committee shall send a written acknowledgement of its receipt, notify the Official and the Council of the allegation, and review the complaint with the Village attorney. If the Village attorney recommends that special counsel be appointed, special counsel shall be selected by the Committee and appointed by the Council. If, upon consultation with the Village attorney or special counsel, the Committee determines that the complaint should be addressed by the Committee, the Committee shall request that the Official provide the Committee such information as the Committee finds necessary to determine the presence or absence of a conflict of interest. A written complaint shall not require a formal hearing; such complaints shall be processed under the procedures described in subsections (c), (d), (e), and (f) of this Section. Upon final resolution of the matters alleged, the Committee shall provide a written summary of the resolution to the Official, the Council and the person who filed the complaint.

* * *

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, ...)

* * *

Section 6-101. Definitions

* * *

- (n) “Non-vegetative surface” means any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, gravel, sandstone pavers, and the like.

* * *

(Ord. No. 5-13-1, adopted 9/9/13, effective 10/10/13; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, ...)

* * *

Section 6-303. Applications; Investigations and Inspection; Issuance

* * *

- (c) Written notification of any application for a building permit ~~shall will~~ promptly be ~~hand~~-delivered by the Village to all properties in the Village that border or directly face the property with respect to which the permit is sought. The notice shall include,

at a minimum, a description of the proposed activity; the identity, address and phone number of the Code Enforcement Officer; and a statement that the full application is available for review through the Code Enforcement Officer. All applications for building permits and decisions thereon by the Code Enforcement Officer and the Council shall be published in the next edition of the Village's newsletter, except that application received and decisions made less than five (5) days prior to issuance may be published in the following issue. Decisions by the Council on applications for permits shall be communicated to the applicant in writing.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, ...)

* * *

Section 6-308. Enforcement

- (a) It shall be unlawful for any person to conduct work without a building permit issued by the Village for which a permit is required. It shall be unlawful for any person to conduct work that is not in strict compliance with the plans and specifications approved by the Village and/or the building permit conditions. Any person who commences any addition, erection, alteration, construction, re-construction, repair or improvement in violation of this Article may be enjoined from proceeding.
- (b) In addition to the other provisions set forth in this Article:
 - (i) When the Code Enforcement Officer determines that work on any structure is being performed in violation of the provisions of this Article, including those conditions upon which the building permit was issued, or in a manner which threatens the safety, health, comfort and welfare of the public, he may order that the work be stopped immediately.
 - (ii) The stop work order shall be issued in writing and posted at the work site. A stop work order does not extend the permit expiration date.
 - (iii) It shall be unlawful for any person to continue or permit the continuance of work in or about a structure after a stop work order has been posted on the structure, except such work as is directed in the order to be performed to remove a violation or unsafe condition.
 - (iv) Any bond or deposit held by the Village may be withheld until such time as the stop work order is lifted and all permit conditions are satisfied.
 - (v) A stop work order will be lifted by the Code Enforcement Officer only once the violation is removed, abated, or otherwise satisfactorily addressed as determined by the Code Enforcement Officer.
- (c) The Council may revoke a permit or approval issued under the provisions of this Article when the application or the plans on which the permit or approval was based contain a false statement or misrepresentation of fact or when any deviation from the approved plans or any violation of the conditions upon which such permit was issued occurs.

(Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, ...)

* * *

Section 6-311. Work Hours and Noise Control.

- (a) No construction activities shall commence prior to 7:00 a.m. on Monday through Friday, and 9:00 a.m. on Saturdays, Sundays, and all federal holidays. Construction activities shall end no later than 9:00 p.m. on Monday through Thursday, and 7:00 p.m. on Friday through Sunday, and all federal holidays.
- (b) As used herein, “construction activities” means temporary activities directly associated with site preparation, assembly, erection, repair, alteration, renovation, construction, or demolition of improvements, or other activities, including but not limited to, moving heavy equipment onto or off the site, delivering materials, loading or unloading, operating equipment with audible “back-up” warning devices, allowing engines to idle, and any other indoor or outdoor activities which could reasonably be expected to be disturbing to persons beyond the boundary line of the property on which the construction activity is taking place.

~~(c) — The municipal infraction fine for violation of this Section 6-311 is \$100 for the first violation and \$250 for subsequent violations. Any person who violates this Section 6-311 or directs or allows another to commit an act that violates this Section 6-311, the person’s employer if the person acted in the course of his or her employment, and any property owner who allows a violation of this Section 6-311 on his or her property, shall be guilty of a violation and shall be jointly and severally subject to the penalties provided herein. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.~~

(Ord. No. 4-16-1, ...)

* * *

Section 7-101. Definitions

For the purposes of this Chapter,

* * *

- (b) “Building” means a structure on a lot which has one or more stories and a roof and is designed primarily for the shelter, support or enclosure of persons or property of any kind. “Building” includes above-grade projections and appurtenances, including, but not limited to, porches, decks, breezeways, steps, stoops, exterior stairways, bay windows, oriel entrances, balconies, vestibules, air conditioners, heat pumps, and generators. “Building” excludes projections and appurtenances that are constructed at or below grade, such as a stairwell or patio.

* * *

- (m) “Established building height” means a height building line, which is the average height of all buildings that are:
- a. within 300 feet of each side property line of the proposed construction site;
 - b. along the same side of the street;
 - c. between intersecting streets or to the point where public thoroughfare is denied;
 - d. existing at the time the building permit application is filed;
 - e. ~~not non~~conforming to the maximum building height restriction, not unlawfully constructed, ~~or~~and not constructed pursuant to a lawfully granted variance; or
 - f. not located on a pipestem or flag-shaped lot.

Corner lots are subject to the established building height of both of the streets.

- (n) “Established building line,” means the average front line of all buildings that are:
- a. within 300 feet of each side property line of the proposed construction site;
 - b. on the same side of the street;
 - c. between intersecting streets on the same block or to the point where public thoroughfare is denied;
 - d. existing at the time the building permit application is filed;
 - e. ~~not non~~conforming to the required front setback, not unlawfully constructed, ~~or~~and not constructed pursuant to a lawfully granted variance;
 - f. not located on a pipestem or flag-shaped lot; and
 - g. not on the subject lot or a corner lot.

Corner lots are subject to established building line standards on both of the adjoining streets.

* * *

(hh) “New Construction” means construction of a new main building on a vacant lot or on a lot subsequent to the demolition of the main building.

(hii) “Non-vegetative surface” means any surface that is not vegetative, including, but not limited to, asphalt, concrete, stone, gravel, sandstone pavers, and the like.

* * *

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 12-09-1, adopted 1/21/10, effective 2/10/10; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, ...)

* * *

Section 7-402. Construction Standards

(e) Setbacks

- (1) Front: Except as otherwise set forth in this Chapter, no wall or projection of any main building shall be located closer to any front lot line than ~~the established building line or~~ twenty-five (25) feet. For new construction, except as otherwise set forth in this Chapter, no wall or projection of any main building shall be located closer to any front lot line than the established building line or twenty-five (25) feet, whichever is greater.

* * *

(Ord. No. 4-09-2, adopted 5/27/09, effective 6/16/09; Ord. No. 4-10-1, adopted 6/17/10, effective 7/8/10; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 4-16-1, ...)

* * *

AND BE IT FURTHER ORDAINED AND ORDERED, by the Village Council, acting under and by virtue of the authority granted to it by the Maryland Code, and the Charter of the Village of the Village of Martin's Additions, 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 _____, 2016.

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

Tiffany Cissna, Secretary

Richard Krajeck, Chair
Village Council

Underline indicates new material
~~Strikethrough~~ indicates material deleted

* * * indicates material unchanged