

**Village of Martin's Additions
Council Meeting
7013 B Brookville Road, Chevy Chase, MD 20815
Draft Minutes of October 20, 2011**

COUNCIL MEMBERS AND VILLAGE REPRESENTATIVES PRESENT: Council Members: Richard Krajeck, Arthur Alexander, Jill Filipczyk, Chris Mueller. Village Manager: Jean Sperling. Assistant Manager: Deb Schmal. Mid-Atlantic Inspections: Alan Beal; Village Attorney: Ron Bolt.

RESIDENTS PRESENT: Steve Schmal, Hanne and Frank Correl, Dan and Kirsten Gardner, Keith Allen, Laura Thornton, Chevy Chase Patch.

7:30 PM Call to Order: Richard Krajeck. Krajeck opened the meeting, noting that it was being recorded.

REPORT ON RIGHT-OF-WAY SURVEY- Resident Steve Schmal

A right-of-way team comprised of Steve Schmal, Dan Gardner and Deb Schmal undertook a survey of what objects, in addition to Village trees and official items (e.g., fire hydrants, road signs), are in the rights of way (hereafter, ROW) on streets within Martin's Additions.

The survey was initiated after discussions with the Village Manager about several issues regarding the ROW -- lack of awareness by some residents that they do not control that portion of "their" property that is in the ROW and the presence of objects in the ROW that create access problems -- that the Council might want to address, and that data would be helpful for any such action. The Team gathered and summarized data regarding the ROW.

The depth of the ROW varies from street to street and on some streets, from property to property. The depth of the ROW was estimated using the Village's survey map. The measurements are relatively, but not precisely, accurate.

The findings from the ROW survey are as follows:

- (1) For the majority of properties in Martin's Additions, there is something other than Village trees and/or official items in the ROW. Everything other than Village trees and/or official items that is in the ROW are listed in the spread sheet.
- (2) In most cases, what is in the ROW, other than Village trees and/or official items, does not present access or other problems. In quite a few cases, what is in the ROW makes the property involved more attractive.
- (3) In a relatively small number of instances, objects in the ROW are hindrances, principally to persons trying to get out of parked cars, or present other problems. Pictures document those cases.
- (4) There are a number of trees, as distinguished from shrubs, that are in the ROW that were not planted by the Village. Some have been maintained by the Village but others have not.
- (5) We found no evidence of a past problem -- trees, hedges, shrubs that impinge on sidewalk space, making it difficult for pedestrians to use the sidewalks.

Mr. Schmal presented the Council with a full report on the survey.

Council Discussion

In the discussion that followed, Councilman Alexander asked if there is a requirement to care for the right of way. Attorney Bolt explained that Village code requires a license to use the ROW for everything that is over 12" provided that it does not interfere in any manner with pedestrian or vehicular traffic and is maintained in such a manner and at such a height that a clear and unobstructed view is available to pedestrians and vehicular traffic. Krajeck asked the Council to consider how to move forward to assure the necessary clearance is provided. Bolt suggested that the Council consider the need for clearance on a case by case basis. He also suggested that it would be advantageous for the Council to make a finding that a 3 or 4 foot area must be kept clear along the ROW. Council member Filipczyk suggested that a form letter be prepared informing property owner's of the problem with the ROW in front of their home and why it is important that it be cleared. Sperling agreed to draft a letter to that end. Resident Hanne Correl (Turner Lane) suggested that the clearance be required only on the parking side of the street.

DISCUSSION AND INTRODUCTION, AMENDMENT TO SECTION 2-401: EXPENDITURES OF VILLAGE CODE

Chairman Krajeck introduced Ordinance 10-11-1 to amend Chapter 2 of the Village Code to clarify permissible expenditures and prohibit the donation of Village funds to public and private institutions and charitable organizations. He explained the impetus for the amendment was the request from Chevy Chase@Home for financial support from the Village. In considering this request it became clear that the present code openly prohibits such a contribution and is confusing. After pervious discussions the Council felt that it is inappropriate to dedicate tax dollars to non-municipal functions and that this needed to be spelled out in the law.

Motion to Introduce Ordinance 10-11-1: Chris Mueller; 2nd: Jill Filipczyk. Vote: All in favor.

In accordance with Village requirements there will be a public hearing to discuss this matter at the next Council meeting on November 17, 2011. A formal vote will be taken at the December 15th meeting. The text of the Ordinance is summarized as follows: Ordinance No.: 10-11-1; Introduced: October 20, 2011; Public Hearing November 20, 2011; Adopted: _____ Effective Date: _____

THE VILLAGE OF MARTIN'S ADDITIONS

SUBJECT: AN ORDINANCE TO AMEND CHAPTER 2 OF THE CODE OF ORDINANCES OF THE VILLAGE OF MARTIN'S ADDITIONS TO CLARIFY PERMISSIBLE EXPENDITURES AND PROHIBIT THE DONATION OF VILLAGE FUNDS TO PUBLIC AND PRIVATE INSTITUTIONS AND CHARITABLE ORGANIZATIONS.

CHAPTER 2

GOVERNMENT ADMINISTRATION

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Section 2-401 Expenditures

- (a) The Village Council may expend municipal funds for any public purpose, including but not limited to the following:
- (1) Village sponsored celebrations;
 - (2) Membership in the Maryland Municipal League and other organizations relating to the business of the Village;
 - (3) Attendance of Village officials and employees at conferences, meetings, and seminars on matters relating to the business of the Village;
 - (4) Beautification of public places within the Village;
 - (5) Purchase of books, periodicals, and other publications relating to the business of the Village;
 - (6) Office equipment and supplies; or
 - (7) Any other purpose deemed to be public and to affect the safety, health, and general welfare of the Village and its occupants. [Donations or contributions to support public institutions, programs, or facilities serving or otherwise benefiting the Village and/or its residents. As of April 14, 1999, such public institutions, programs, or facilities include:
 - (i) The public schools that serve children residing in the Village: i.e., Rosemary Hills Primary School, Chevy Chase Elementary School, Westland Middle School, and Bethesda-Chevy Chase High School;
 - (ii) The Chevy Chase branch of the Montgomery County Public Library;
 - (iii) The Chevy Chase Fire Department;
 - (iv) The Shepherd Street park.
- (b) Donations or contributions may be made pursuant to subsection (a) (7) to support capital improvements or other extraordinary needs of the public institutions, programs, or facilities, but

not to support current operating budgets. If the Village Council determines that such donation or contribution will benefit the Village and/or its residents, the Village may give the donation or contribution directly to the public institution, program, or facility or to a tax-exempt organization under Section 501(c) of the Internal Revenue Code that supports the public institution, program, or facility.

- (c) Requests for donations or contributions pursuant to subsection (a) (7) must be made to the Village Council in writing and contain the specific amount requested, the proposed use of the requested funds, and the anticipated timing of the expenditure of the requested funds. If the entity requesting the donation or contribution is a tax-exempt organization, it must provide the Village with documentation of its tax-exempt status.

The recipient of any donation or contribution must commit the funds to the use specified in the written request and must provide the Village with a report documenting that the contribution was used for the purpose for which it was made. The Village Manager shall ensure that such documentation is received in a timely fashion.]

- [(d)]b) No expenditure may be made unless funds therefore have been properly appropriated. Funds not appropriated at the time of the annual levy shall not be expended, nor shall any funds appropriated be expended for any purpose other than that for which appropriated, except by a two-thirds vote of all members of the Village Council.

- [(e)] The aggregate amount of all donations or contributions pursuant to subsection (a) (7) in any fiscal year may not exceed the interest earned by the Village during the immediately preceding fiscal year unless approved by the unanimous vote of all members of the Village Council.]

- (c) **No municipal funds may be expended for donations or contributions to public or private institutions, programs, facilities, or charities, whether or not such entities benefit the Village and/or its residents.**

- (d) **Nothing in this section shall preclude the Village Council from encouraging Village residents to support institutions, programs, facilities, charities, or other entities that benefit Village residents or from facilitating the work of such entities, for example, by mentioning them in the Village Newsletter or allowing the use of the Village office for meetings and functions.** * * *

Bold Underline new material; [**Bold Brackets**] material deleted; * * * material unchanged

BUILDING ADMINISTRATOR'S REPORT: Alan Beal, Mid-Atlantic Inspection

Construction Completed:

7315 Delfield: Final ROW clearance will be given when new trees are planted (early November); **7404 Summit Ave:** Construction completed; awaiting final patch from Washington Gas; **7216 Chestnut Street:** Construction completed; awaiting the planting of 2 trees.

New Permit Requests:

3502 Cummings Lane: new fence permit. Neighboring notice provided, County permit received. No village permit issued yet. The permit will be issued shortly as we have a valid property survey; **3518 Bradley Lane:** Garage demo and re-build; No VMA permit issued yet. **3412 Bradley Lane:** rear deck; new fence. No application received yet.

Ongoing Projects:

3503 Bradley Lane: new home construction; no complaints. **3401 Thornapple Street:** (Variance) Construction underway; no issues. **3502 Cummings Lane:** continued interior construction; request for fence permit, County Permit issued.

Other projects supported by Mid-Atlantic:

New Pepco work: Supervision of new installations on Bradley, Raymond and Melville Place new poles, rewiring. **Water problems** on dead end Raymond. **Recording and filing** of all building plans; placement at storage unit. **Pick-up/Delivery** of recycling bins. **Leaf bag** "corrections". **Street sign repair.** Assistance with

Verizon lines pulled down and blocking driveways. **Cement clean up notice** from WSSC work; **Tree removal supervision** (Private tree-public restriction on road). **Oxford Street** water project supervision.

ISSUE: CHANGES IN PERMIT FEES

Alan Beal, the Village building administrator, noted that the Council has raised the question of whether VMA permit fees be increased or adjusted because permit fee revenues commonly do not cover the actual staff costs to oversee construction projects in the Village. He has begun a review of the data in an effort to assist the Council in making a decision about how to move forward with any permit fee structure changes.

Background:

For residential alterations, VMA permit fees are based only on the net increase in the footprint of the *exterior alterations*. Calculating the permit fee for a residential renovation is based on whether the overall footprint of the home increases by less than 500 sq ft (\$250) or more than 500 sq ft (\$500). Interior alterations require no VMA permit (and therefore no fee). Where renovations are both interior and exterior, only the exterior portion of the renovation requires a VMA permit.

New construction in VMA requires a permit with a flat fee of \$4,000. In demolition and new construction, the entire footprint of the residence is replaced (by definition).

The apparent disparity in fees between residential renovation and new construction is most obvious when an existing home is extensively renovated, with perhaps only a small net increase the footprint. In such a case, the project can have a significant impact on neighbors --and on VMA staff time -- virtually equivalent to that of a demolition/new construction, yet the permit fees are comparatively tiny.

For example, consider a hypothetical residence at 123 ABC Street with an existing footprint of 750 sq ft. If this home is demolished and replaced with a new home with a footprint of 1,000 sq ft, the VMA fees would be as follows: Demolition permit fee: \$500; New residential construction permit fee: \$4,000; Total: \$4,500; Effective permit fee cost: $\$4,500/1000 \text{ SF} = \4.50 per square foot.

On the other hand, if this 750 SF home is fully renovated inside, including the removal of two exterior walls, and also gets an addition with a footprint of 250 sq ft, the VMA fees would be as follows: Exterior alteration fee: \$250; Total: \$250; Area renovated: 1000 SF; Effective permit fee cost: $\$250/1000 \text{ SF} = \0.25 per square foot.

The disparity is clear. The solution, however, is not.

Issues to Consider:

1. VMA does not regulate interior alterations. On what basis can VMA charge fees for interior alterations?
2. VMA regulates exterior alterations, but currently charges no fee for the removal of exterior walls; fees are only charged for the net increase (if any) in the footprint following that alteration. Does VMA wish to consider imposing a fee for exterior wall replacements?
3. The drain on VMA staff hours from a large interior-only renovation stems not from plan review or permit administration, but rather issues such as:
 - (a) complaints from neighbors (justified or unjustified) about noise, location of silt-fencing, water and mud run-off, dust, etc.
 - (b) construction-related utility work in the right-of-way
 - (c) construction-related vehicles driving, parking on, and sometimes obstructing narrow VMA streets

Does VMA wish to impose fees on interior-only renovations to cover the VMA staff hours demanded from such issues? If so, should the fee be based on square footage renovated (sometimes hard to define), or a flat fee, or a fee based on a percentage of the cost of construction?

4. Residents who begin construction w/o a VMA permit can impose significant demands on VMA staff time to resolve -- the extra cost of which the ultimate permit fees do not cover. Infractions like these are theoretically subject to fines, yet VMA (like most local jurisdictions) tends to emphasize compliance over punitive fines. This approach has its merits. But just a few bad actors can drive up costs of enforcing building regulations; thus, if permit fee revenues are set to cover the cost of building regulation administration, then they will need to be higher than they would be if fines were regularly imposed for infractions.

A spread sheet was attached to the Issue Analysis identifying different options for changing construction fees. The Council agreed to consider the issues presented here and schedule a working session if necessary to allow for more discussion on possible solutions.

ISSUE: USER FRIENDLY BUILDING CODE GUIDE

Beal said that he plans on having suggestions for an improved User Guide for Construction in Martin's Additions for discussion at the next meeting.

FINANCIAL MATTERS-REPORT FOR THE MONTH OF SEPTEMBER, 2011: Alexander

July 2011-Sept 2011

	<u>Actual</u>	<u>Budgeted</u>
Revenues	\$46,816	115,989
Expenses	104,110	116,429
Net Income	-57,293	-440

Reserve account: \$970,954

Note: Budgeted Expenses and Budgeted Net Income do not include \$100,000 in planned capital improvements for Street Lighting. The listed items include only current actual and budgeted amounts.

Actual revenues shown above do not include receipts just received in October for real property taxes; with the latest receipts, property and other taxes are running about the same as last year. It is not clear yet if these revenues will hold up for the rest of the fiscal year since Martin's Additions' assessed values have declined.

Major income tax receipts should be arriving in a few weeks, which will be informative about what can be expected from that source.

Expenses in the first three months of the fiscal year are running considerably below the pro-rated annual budget amounts. The reserve account is roughly 1.5 times the average annual expenditures over the past three years, giving us a cushion against unexpected occurrences and a source for needed capital investments.

ACTION ON FINANCIAL REPORT:

Motion to accept the Treasurer's Report and all financial reports: Mueller; 2nd Filipczyk: Vote: All in favor

ACTION ON MINUTES OF SEPTEMBER 15, 2011. (Approved earlier by Email)

Motion to Approve the minutes: Alexander; 2nd Mueller; Vote: All in favor.

MANAGER'S REPORT October 2011-Sperling

Street and/Or Utility Services:

WSSC Oxford Street Waterline project: Ongoing. There have been a few problems—crushed water lines and waterline breaks.

WSSC Engineering for next phase of project doing test boring and drilling.

PEPCO: Reliability- Short outage (about 2 hours) during recent large storm

Pole Replacement Project-Brookville Road still be rewired. Additional new poles being installed on Raymond, Bradley, Chestnut and Taylor Streets will be next. Asplundh has done some more tree trimming on Raymond. Unclear as to whether they are completed.

Street Light Outages: High volume of street light have been reported out-being repaired quickly.

Trees:

Dan Gardner and Paul Wolfe developed a planting plan that we are getting ready to activate. Approximately 25 new trees are to be planted in early November. Two trees on Dead end Delfield are being paid for by the builder because the trees did not survive the transplanting during construction. Builder at 7215 is putting in two cherry trees and going to donate the maple that had been on the property to be planted elsewhere. A notice will go out to all residents about the planting near their home. **Additional ongoing tree pruning** is being conducted—lifting limbs, opening up trees around lights. **Quincy Street** will be closed for a private tree removal. *No Parking* signs provided. Email notice also.

Traffic:

Speed trailer: Chevy Chase Village Police have been trying to get the **speed trailer** up and running for us on Cummings Lane. Technical difficulties have prohibited us from successfully activating the trailer. Sgt. Dasilva is still trying though. **No Parking signs** were placed in the area of Quincy Street that was originally mis-marked.

Maintenance and Services

Storm sewers were cleaned this week. **Street cleaning** will take place if it ever stops raining. **Sidewalk extension on Bradley Lane** to be considered when builder at 3502 Bradley replaces the sidewalk. Manager will provide the council with an estimate. **Leaf Bags** delivered. **Rat problem** reported again on Raymond Street.

Community Activities and Issue

We will be wrapping up our **“Operation Treat our Troops”** this Saturday October 22. **Halloween Parade and Party** planning is underway for event on Sunday October 30 from 3 – 5 PM. **YourServiceList.org** team of Steve Conley (former resident of Martins Additions) and Dom Fuccillo have begun to build a service list for our residents. **Complaints continue** about resident problems on Turner Lane. Sperling went to District Court to testify about reports that have been made on the matter. The complainant asked that the request for a Peace Order be withdrawn because Montgomery County’s Conflict Resolution Center is going to assist with the problem. **Melville Place: Halloween Party October 31** they want to close street. Request was approved. **Chevy Chase@ Homes** Support group used the office successfully and will continue.

Administrative Work/ Broader Issues

Request has been sent to the County to open a file on Dead end Delfield Storm Drain. **Police Captain Dave Falcinelli** will attend next month’s Council meeting. **LGIT** Fall conference was good.

Discussion of Montgomery Cable Channel Donation:

Sperling explained that Montgomery Municipal Cable Channel has requested a donation to the channel operation. In the past the Village has returned the revenues from the Cable Fees to support the operation of the channel. The Village stopped doing that in FY2011. The Council felt that given the Village’s present financial situation and the apparent lack of interest and use of the channel that it would not be prudent to remit the fees back to the Cable Channel at this time.

Discussion of RISK Management Policy:

Sperling advised the Council that a Risk Management Policy Statement has been requested by the LGIT. The Council will discuss it further at the next meeting

9:00 PM Motion to Adjourn: Mueller; 2nd Alexander; Vote: All in favor.