

**Village of Martin's Additions  
Council Meeting  
7013 B Brookville Road, Chevy Chase, MD 20815  
Minutes March 19, 2015**

**Council members Present:** Arthur Alexander, Tiffany Cissna, Josh Bowers, **Attorney Present:** Ron Bolt; **Guests:** Sgt Mike Pratt, Sgt Nick Picerno, **Residents:** Bill Catherwood, Ted Stoddard, Keith Allen, Frank Correl, Hanne Correl, Pat Pendergast, Chris Kohl, Molly Ruhl, Katya Hill, Bob Filley, Bernice Duvall, Steve Schmal, Richard Krajeck, Sally Maran, Steve Trowern.

**7:30 PM CALL TO ORDER** – Alexander

Commendation given to Village Manager on 30<sup>th</sup> Anniversary Incorporation Celebration on Sunday, March 15<sup>th</sup>. Commemorative certificates from County Executive Isaiah Leggett and Congressman Chris Van Hollen were highlighted. The 100<sup>th</sup> Anniversary of Martin's Additions becoming a Special Taxing District in Maryland will be observed in 2016.

**7:30 PM RESIDENTS' CONCERNS AND CONTRIBUTIONS**

*Frank Correl (Turner Ln):* Praise given for event, hopes it will be inspirational for resident involvement in Village activities. Requested Resident Comment Section be added at the end of the meeting. Granted by Council.

*Molly Ruhl (Delfield St):* Mirrored comments regarding quality of party organized by Village Office.

**INTRODUCTION OF VMA OFFICERS – Sgt Pratt and Sgt Picerno**

*Sgt Mike Pratt* – Enjoys serving the Village, encourages Residents to come up and say “hello” when they see him in the community. Also commented on how dark the Village is and encouraged Residents to turn on their lights and to lock cars and homes. Comments made related to the adoption of County Motor Vehicle Code: Sgt Picerno – Interpretation of “adjacent” is “nearby,” to which a specific distance cannot be assigned. Sgt Pratt – Guidance from Montgomery County Council to Montgomery County Police has been that the definition of adjacent is “lying near or close to, not necessarily touching,” and that parking restrictions are not to be over-burdensome to residents. It was noted that this definition is consistent with proposed Interpretative Policy No. 3-19-15 to be considered this evening.

**PUBLIC COMMENT: RESOLUTION 1-22-15: AN ORDINANCE TO AMEND MOTOR VEHICLE AND TRAFFIC LAWS IN VMA**

*Bob Filley (Brookville Rd):* Questioned officers regarding specifics of enforcing the “adjacent” portion of the resolution. Officers responded with realities of enforcement and intent to correct the situation rather than write tickets.

*Bernice Duval (Turner Ln):* Concerned parking several cars will be difficult under new ordinance.

*Anita Difanis (Bradley Ln):* Stated concern over weekend or long-term guests. Officers requested these cars be parked in driveways when possible, otherwise they will knock on doors to find owner if needed.

*Chris Kohl (Shepherd St):* Asked for need for ordinance. Attorney Bolt explained that the ordinance would amend provisions that are impermissibly in conflict with State law and adopt certain County provisions to allow County enforcement in the Village. The County's “adjacent” parking provision would replace an existing Village provision that is difficult to enforce. Existing Sec. 8-202 provides that it is unlawful to park on a Village street for more than 72 hours unless the owner is a resident and unable to move their car because they are absent from the metropolitan area and off-street is not available. This would require the Village to document ownership of all residents' vehicles and travel schedules.

*Steve Schmal (Summit Ave):* Questioned what is in VMA Code that is not in County code, Attorney Bolt provided a few examples. Asked for inclusion of definition of “adjacent” in ordinance.

*Hanne Correl (Turner Ln):* Asked if “common sense” was sufficient to handle parking near one's home or visitor parking, if specifying these in the ordinance was needed.

The Council agreed to place the body of Interpretive Policy No. 3-19-15 in a footnote of the Resolution.

**Motion to adopt Resolution 1-22-15:** Bowers; 2<sup>nd</sup>: Alexander; **Vote:** All in favor.

**INTERPRETIVE POLICIES (Definition of "Adjacent"):** Interpretative Policy No. 3-19-15 Parking Over 24 Hours  
**Action/Adoption: March 19, 2015;**  
**Effective Date: April 8, 2015**

By Ordinance No. 1-22-15, effective April 8, 2015, the Village of Martin's Additions has made applicable in the Village certain provisions of the Montgomery County Motor Vehicles and Traffic Code (Chapter 31), including Section 31-16. Said Section provides that the parking of motor vehicles on public streets for more than 24 hours is prohibited except, where not otherwise prohibited, adjacent to the property lines of the vehicle owner's residence or business.

The Village interprets this provision to allow parking on both sides of a street that is adjacent to the vehicle owner's residence, where parking is otherwise allowed. As defined in the Montgomery County Zoning Ordinance, Article 59, Section 1.4.1, the Village interprets "adjacent" to mean "close to or nearby without requiring the sharing of a common boundary."

The body of Interpretive Policy No. 3-19-15 shall be included in a footnote to Section 5-103.

**Motion to Adopt Interpretive policy:** Bowers; **2<sup>nd</sup>:** Alexander; **Vote:** All in favor.

#### **ELECTION UPDATE: Stoddard**

Nominations open for 3 vacancies on the Council. Close of nominations April 2. Four nominations so far, one acceptance, statements from candidates upcoming, presented at next Council meeting on April 23<sup>rd</sup>. Absentee ballots available after that. Election is May 14<sup>th</sup> from 5:00-7:30.

#### **TREE COMMITTEE UPDATE: Alexander**

Talked to building administrator expert about what is required to be provided on building site plans. No changes to plan as of yet. Apparent high demand for support of private plantings in surrounding municipalities. Proposed budget includes money for subsidizing private planting of trees.

#### **FY 2016 BUDGET DISCUSSION**

This meeting represents the first presentation of the proposed budget for 2016. A prior draft was discussed at the February meeting. Council member Alexander spoke regarding the budget.

**Revenues FY2016:** projected to be roughly the same as last year. Maryland has an option for the Village to adopt a constant yield tax rate, so the town revenue from this source would remain the same. While this would allow for the village to raise the property tax rate ever so slightly in order to maintain the same level as current tax receipts Little difference would result, so the Council decided to maintain income tax levels at the current rate. All properties would be subjected to the same rate, rather than levying a higher rate for Commercial property as had been done in the past. Utility rate remains at \$1.45 per \$100 assessed value and the personal property rate remains at \$.50 per \$100.

**Expenditures FY 2016:** \$250,000 added to designated funds category for sidewalk repairs. These funds have been separated, particularly because they likely will be used at different times.

#### **Comments on the Budget:**

*Frank Correl (Turner Ln)* – Asked for clarification on capital projects and when this money might be used. Questioned the interest rate on the allocated funds and surplus while unused.

Councilmember Alexander replied that the street light component of the capital budget has been through iterations of design and production of the lights. No plans for other capital projects right now, with the streets depending on information from the utilities

Council members agreed that a column with FY2014 actual (final) expense numbers would be helpful for comparative purposes and budget presentation. This additional information will be provided.

#### **PROFESSIONAL SERVICES CONTRACTS: Alexander**

Attorney Bolt was asked to explain the meaning of "personal" and "professional" service contracts as used in Charter Section 701. Professional contracts include services provided by highly skilled, trained, or licensed people (such as accountants, auditors, attorneys, arborists, etc.), and personal contracts are those to be performed by a specific person chosen for his or her experience, reputation, etc..

Competitive bids are required for contracts over \$10,000, but professional and personal services contracts are exempt from requirement. Other typical exemptions from competitive bidding include emergency services, low dollar amounts (administrative burden exceeds benefit), sole source contract (one vendor available), or piggyback contracts (often onto County contracts). Also, the Charter includes a somewhat unique exemption; bidding can be dispensed with when the Council determines that it is impractical based on a prior lack of response to advertisement. Attorney Bolt noted that exercising any of the exemptions is optional. The Council can competitively bid any service if it wants.

A work session is planned on this topic. Village Manager gathering information from other municipalities.

#### **BUILDING ADMINISTRATOR'S MARCH REPORT**

##### **New Permit**

##### **Requests/Information/Action/Acknowledgement**

- **3507 Raymond Street.** Rear Addition planned. Decision made to avoid need for variance request according to Architect. Plans should be coming soon.
- **7315 Delfield-** sports court/fire pit area. New trees in the ROW contemplated. Plan has not yet been reviewed.
- **3504 Taylor-** dumpster appeared; has since been removed upon learning it needed a bond. All work is interior and requires no VMA permit.
- **3506 Taylor-** new drawings proposed to conform to setback requirements. Not reviewed yet.

**Permitting Process Underway:**

- **3414 Cummings Lane.** Plans received for garage, swimming pool; pool house and more. Next step is county. Cleared by Beal. No further action yet.

**Permits Ready/ Issued:**

**Construction Underway:**

- **3513 Raymond Street.** Well underway. No issues
- **3521 Raymond Street.** Exterior roof lift. New front porch underway. Additional permit will be needed for driveway.
- **3509 Shepherd St** –Rear addition should be ready for final clearance.
- **3510 Bradley Ln** –Still underway.
- **3514 Bradley Ln-** Completed. Bond returned underway. WGL street patch completed.
- **7309 Delfield-** Construction continues to be a challenge; complaints continue.
- **3219 Thornapple Street-** Construction wrapping up. No issues
- **7218 Chestnut Street-**Coming to conclusion. Still awaiting water line connection. Tree-fee still needed.
- **3511 Raymond Street-**Renovations. Construction underway. Inside work continues

- **3529 Raymond Street.** Patio Construction continues.

**On Hold:**

- **3505 Raymond** Rear addition. Plans seen but not confirmed. No further action.

**Completed: Processing still needed**

- **3515 Shepherd St** - Completed. Bond needs to be returned
- **3514 Turner Ln.**– R-O-W License needed for Fence.
- **3518 Bradley Ln** –Bond still held. Possible additional work.

**Project Closed:**

- Fence at 205 Oxford
- Fence at 7200 Chestnut Street. R-O-W License needed.

**Problems:**

- **101 Quincy Street-** Unpermitted driveway work

**Other Municipal Support: Project Specific:**

- Street light review uncovered 9 street lights out. They are being processed by Pepco
- Pothole list being compiled for repair

**Other Municipal Support: General Supervision**

- Ongoing supervision and progress reporting of construction projects.
- Records of compliance with VMA requirements. (e.g. tree protection) County follow up
- Responses to resident issues
- Site visits
- Traffic management -move in/out, heavy equipment and construction supplies
- Monitoring of MC DPS Reports
- Field Observation

**FINANCIAL MATTERS** – Treasurer Fleming Absent

Accountant's Reports for the Month of February 2015 were provided.

Action on Financial February Report: **Motion to approve:** Alexander; **2<sup>nd</sup>:** Cissna; **Vote:** All in favor.

**ACTION ON MINUTES of February 19, 2015-**Action incomplete.

**Motion:** Alexander; **2<sup>nd</sup>:** Member? **Vote:** All in favor.

**MANAGER'S MARCH REPORT**

**Community Policing Service:**

- All continues smoothly. Advice was sought for parked car complaint during snow and question about legality of parking of out-of-state plates.
- No traffic complaints.
- Special attention was paid to Quincy Street to observe parking across driveway aprons and blocking the sidewalk, a concern brought up at the last meeting.

**Sanitation Services:** Bad weather continued to be a challenge for service delivery. Received a report that one of our men had a fall. Heavy trash pick-up was not well executed. Issue to be taken up with Waste Management. Men were not properly prepared with a detailed map. Track down and stop to find the truck and draw a map for the workers with no experience and no information.

"A Wider Circle" interaction with the bulk pick up went well. Many people happy with the opportunity to pull good items out of the waste stream. Chevy Chase Village is considering modeling the same program after what we did.

**Snow Plowing Services & Sidewalk Shoveling:** Rolling Acres continued to do fine job. Sidewalk shoveling, timing and quality were excellent. Storm of 3/5 and 3/6 was difficult because it really spanned 2 days-- total of about \$5,312.50 in

plowing and de-icing; \$1,500 for shoveling Brookville Road. Additional chemicals had to be purchased (\$350). County bill received for salt totaling \$993.60 for VMA and \$662.40 for Section 5 (we share the costs).

**Utility Services:**

**WSSC-WATER:** No water main breaks here. Many elsewhere. No notice about Spring renewal project.

**SEWER:** No problems

**WASHINGTON GAS:** No service issues but road repair needed and performed on Quincy.

**PEPCO:** No Issues.

**PERMITTING ISSUANCES:** Utility permit requests processed for new construction.

**UTILITY ROAD REPAIRS:** Up to date with individual construction projects.

**Trees Service:**

Winter pruning wrapping up. Will begin to get into spring work that will include:

- mulching of new trees,
- re-mulching and cleaning up Butterfly Garden
- review of all "budding out" of trees for signs of additional pruning needs
- complete Spring assessment including community wide drive-through with tree supervisor,
- recommendations for further additional assessment by the State Forester and possibly 2nd opinion for problem trees.
- Lifting of trees from around street lights (in June)
- Watering bags (June)

**Streets Road repairs/ traffic issues:**

**Street Signs:** Joe Cutro will conduct a review of the condition of our street signs and prepare a report for needed repairs and replacement. Winter damage, new PEPCO poles and wear and tear account for a lot of the need.

**Potholes:** Village will be surveyed for potholes probably next week and plans will be made for repair. Will determine whether cold or hot asphalt mix will be best.

**Traffic:** No Complaints

**Parking Concern:** Quincy Street related to a car without of state plates seemingly permanently parked on the street. Under review.

**Sidewalk Repairs:** Plans to enhance sidewalk safety brought to our attention by Precision Concrete will call for putting out a RFP. I would recommend using the same standard measurements use by Precision (3/8, 1/2, 3/4). As usual, our attorney's support for development of the RFP will be needed. Cissna suggested that we Precision's exact measurements should not to disqualify other vendors.

*Repeated from Last Month's report:*

Option 1: All hazards of 3/8" and up plus \*curb repairs: \$21,060.10 (374 locations)

Option 2: All hazards of 1/2" and up plus curb repairs: \$18,202.50 (283 locations)

Option 3: All hazards of 3/4" and up plus curb repairs: \$12,245.00 (143 location)

\* Curb repairs= \$1,040 in all options.

*Other towns that have done this: Kensington; Friendship Heights*

*Additional information provided in response to my questions:*

- ✓ ADA compliance is having no trip hazards over 3/8 of an inch.
- ✓ Panels are typically poured 4 inches thick. We won't cut more than 2 1/2 inches from a panel, to keep them from possibly breaking should a truck drive over them.
- ✓ Yes, panels will continue to shift overtime. Panels are susceptible to shifting during the winter. But, we do have a two year warranty with our cuts should panels shift over that two-year timeframe.
- ✓ E.g., should a trip hazard have disappeared between now and then, PCC will ignore it and remove that from your invoice. Should one pop up between now and then, PCC would list them and come back to you to see if you would like them cut, or, we would like the flexibility to make small cuts, and add them.
- ✓ Concrete is very resilient. In a case like this, PCC would cut in the spring, then come back next spring to look for cuts made that need warranty work and address those that have popped up since then.

**Street light update:**

Have directed Scott Watson to take more active role in coordinating with PEPCO which he has done. New sample expected to be delivered by mid-April.

**Water Issues: Oxford Street**

There will be a meeting at CCV Hall with UMD storm water management experts that the Council has been invited to attend on March 24 at 7:30 PM. An email with more information was circulated and is included in last month's

council packets. This looks like it might be an excellent opportunity for us to address some of our major stormwater concerns.

**Community Events and Wellbeing:**

Celebration of the 30th Anniversary of Incorporation was well attended and received many complements.

**Administrative Matters**

- Manager considering going to the MML convention.
- Election Committee work executed.
- LGIT Regional Work Shop Thursday April 2. Manager will attend.
- Website work-revising some of the building info to make it more accessible to the residents & builders. Any suggestions for layout are welcome.
- Continue to explore posting of recording of meetings to the website. Council members again urged to come by the office and listen to a recording to get a sense of what they sound like and to advice on guidelines to put in place.
- Monthly EOC drill.

**FINAL RESIDENT COMMENTS:**

**Steve Trowern (Raymond St)** – Commented all sidewalk shoveling could be accomplished by one snow blower, returning snow to street.

**Chris Kohl (Shepherd St)** – Praised the shoveling work done on Brookville Rd this year. Asked specifics on solesource contracts. Asked whether \$10,000 is common limit among municipalities, Sperling stated varies, will gather information. Concerned about liability issues if packs of volunteers/paid kids used for sidewalk shoveling

**Molly Ruhl (Delfield St)** - Asked if contract details could go to residents, particularly what does not go out for bid. Attorney Bolt confirmed that contracts are public documents.

**Katya Hill (Raymond St)** – requested this information be available to residents at any time throughout year.

**Discussion of Elections and Ethics Committee Issues:**

In response to a complaint from a Council member, the Committee recommended that executive closed session not be held to discuss the employment of the Manager with only three Council members present, where it was believed that at least one member had a personal animus toward the Manager. The Council followed the recommendation but Councilmember Alexander questioned jurisdiction of Committee in this area, and whether a Councilmember's individual beliefs, on any matter, should be included in determination of a conflict of interest. He noted all councilmembers have individual opinions that may impact their decisions on various issues, and the conflict of interest provisions in the Ethics Ordinance are meant to address only financial bias. He noted that only a quorum is necessary to transact business, including an employee review. Discussion followed.

**Molly Ruhl (Delfield St)** – Council took an oath to conduct business without partiality or prejudice.

Councilmember Bowers expressed support for Alexander's views, Council should have been given the opportunity to respond to the complaint before the Committee reached a conclusion and expressed such a critical opinion.

**Frank Correl (Turner Ln)** – Committee found no guidance from Charter to guide their response to the complaint made. He asked to read the Committee's written response to the complaint into the record.

Attorney Bolt recommended discussions between the Council and Committee regarding the complaint might be better addressed in an executive session, to the extent that they may involve personnel matters. A brief recess was taken.

Following the recess, the Committee's written statement was read into the record.

Correl read into record the following email sent from Elections and Ethics Committee to Village Council, dated March 19, 2015 :

Dear Arthur,

The Elections and Ethics committee has examined the correspondence referred to it by VMA Council Member Bill Lebovich by email on Tuesday, March 17.

The conclusions listed below were developed by committee chairman Ted Stoddard and member Frank Correl who met on Wednesday, March 18, after consulting with members Mark Weiner and Bill Catherwood who were unable to attend.

- 1) The Committee is unable to find any language in the VMA Charter that specifically defines any standards of legal and ethical behavior for Council members.
- 2) The Committee is unable to find any mention in the Charter of standards of ethical behavior by Council members or residents that could provide guidance for its handling of Mr. Lebovich's referral and complaint.

3) Accordingly, the Committee has relied on what it considers to be generally understood and accepted standards of ethical behavior by village residents and society in general, and has concluded:

a) that the situation described by Mr. Lebovich in e-mails to Council Chairman Alexander threatens to pose considerable danger to the reputation and effective functioning of the Council and its individual members, and

b) that the scheduling of a further Executive Session at the end of the regular March 19 Council meeting, after a hiatus of a full month on an issue requiring action prior to March 31, at a time when it is known that two of the Council members are unable to attend gives an appearance of unfair manipulation and sub-professional procedure; and

c) that the charge that at least one of the Council members bears a strong personal animus towards the Village Manager, whose future employment is being discussed, would require by any reasonable standard of fairness that such a Council member [or members] recuse himself [or themselves] from any discussion of the topic until such time as the other Council members can participate in the discussion; and

d) that, as an alternative to c) above, since the basic fairness of the planned action of the Council has been called into question by Mr. Lebovich's referral of it to the Election and Ethics Committee, the Chairman of that Committee, or his designee, be present as an observer at any and all Executive Sessions dealing with the subject at hand.

4) Accordingly, the Election and Ethics Committee strongly recommends that the planned March 19 Executive Session of the rump Village Council not take place, and that the meeting be rescheduled to another date when as many as possible Council members can attend, for example March 30.

Best regards,

Ted Stoddard, Chair  
VMW Election and Ethics Committee

Alexander noted that he resents the Committee recommendation and the Committee should have stopped, after point 2, after finding there was no basis to proceed. Attorney Bolt was asked to comment. He noted that he has not had an opportunity to review the matter. Preliminary, he thought the Committee was stating that it recognized that there was no conflict of interest in the financial sense, under the Village Code, but the Committee was offering a recommendation meant to avoid the appearance of impropriety, based on the assertion made.

Council Member Josh Bowers added that all the Council members had agreed to this meeting in advance and that it had only come to light very recently that two members could not attend; this conversation was to be in furtherance of another one that was already scheduled when all Council members could be present; it was extraordinary that the Elections and Ethics Committee would draw such conclusions and make such recommendations without any sort of interviews of the Council members who were prepared to enter into executive session; and he hoped they would withdraw their note based on further reflection. Council member Cissna added that she was taken aback by the missive and the fact that, to her knowledge, the Election and Ethics Committee had not reached out to any of her Council colleagues to discuss the matter before making conclusions

**10:30 PM      ADJOURNMENT**