

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

**Council Members Present:** Arthur Alexander, Bill Lebovich, Josh Bowers, Tiffany Cissna, Jon Fleming

**Village Attorney Present:** Ron Bolt

**Residents and Guests Present:** Sgt. Nicolas Picerno, Bill Catherwood, Lorie Mitchell, Keith Allen, Paula Goldberg, Richard Krajeck, Anita DiFanis, Hanne Correl, Frank Correl, Katya Hill, Steve Schmal, Yasmina Mudarres, Steve Trowern, Lynn Welle, Natalie Straus Welle, Pat Pendergast, Tom Plotz

**7:30 PM CALL TO ORDER:** Alexander

**RESIDENTS' CONCERNS AND CONTRIBUTIONS**

*Lorie Mitchell – Cummings Ln:* Seeking details and clarification of new parking regulations and reasons for adoption. Questions partially discussed with Council.

*Katya Hill – Raymond St:* Opposes Village Manager having power to choose enforcement of Montgomery County parking regulations. Supports streaming of Council Meetings live on website for accessibility by Residents.

*Steve Schmal – Summit Ave:* Stated Block Party Policy of indemnification of Village is overkill.

*Steve Trowern – Raymond St:* Supported availability of recordings of Council meetings online. Interested in information on Village contracts, including details of process and terms. Asked whether there are criteria against which Village Manager is evaluated, and why the evaluation was being conducted in a closed session. Attorney Bolt stated Open Meetings Act requires a closed session for personnel matters, to preserve the confidentiality of the discussion, and the Village Code does not establish any specific criteria for evaluation.

*Yasmina Mudarres – Shepherd St:* Concerned about lack of parking on her side of the street and that this law would force her to always be in violation of the law. Stated opposition to Block Party Policy, describing it as "overkill." Had difficulty finding traffic ordinance on the website.

*Pat Pendergast – Thornapple St:* Seeking information on procurement process.

*Lynn Welle – Oxford St:* Requested time to speak on traffic ordinance when issue arises.

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

Attorney Bolt began with a discussion of the definition of "adjacent," due to much confusion. The County Traffic Code does not specifically define the term, but it is defined in the County Zoning Ordinance. Adjacent means, "being close to or nearby, without requiring the sharing of a common boundary." While not directly binding, it is likely the definition was intended to be the same by the County.

Attorney Bolt reiterated the intention of the traffic code changes was to bring the Village in line with mandatory State laws and allow enforcement of certain County laws by the police officers secondarily employed by the Village. State law overrides both County and Village laws. Attorney Bolt highlighted the discrepancies in current regulations which violate State Law, necessitating change.

Sgt. Nick Picerno emphasized the inability of the officers to enforce Village code currently, the need to avoid gap of law, avoid confusion, and allow enforcement.

**Comments included:**

*Steve Trowern:* suggested inclusion of "adjacent" definition.

*Richard Krajeck:* asked the number of parking spaces lost due to this regulation; the answer was no lawful spaces would be lost, as the State law already requires what is proposed in the amendments with respect to parking distances.

*Steve Trowern:* questioned need for new regulations.

Sgt. Picerno provided additional clarification. Sgt Picerno added that the Village is very safe, but emphasized residents should not become complacent, continue to lock doors, be vigilant; crime may increase.

*Natalie Welle – Oxford St:* Concerned about ability of big trucks to navigate Village streets, especially fire trucks.

*Lynne Welle – Oxford St:* Welle provided Sgt. Picerno a picture of a car parked blocking a driveway and questioned the officer regarding why this particular situation was not identified and a ticket issued. Picerno emphasized need to call police non-emergency number when officers are not working in the Village if a problem is seen. Questioned regulations about parking commercial vehicles and trailers on Village streets. Discussions followed.

Manager Jean Sperling asked Sgt. Picerno to detail handling of an unregistered vehicle parked on private property. Picerno explained steps, including verifying the car has been sitting there, writing a ticket, placing a "tow sticker," contacting Abandoned Vehicles Division, then lastly towing if necessary.

Discussion reverted to the Traffic Ordinance with questions from Councilmember Alexander. Attorney Bolt established there is no exclusive right to the parking area directly in front of one's house, as by definition it is a public right-of-way. He also responded to the request to place the discussed definition of "adjacent" in the ordinance, stating it was a nullity, because a definition in the Village Code would not be binding on officers applying County Code, however, an interpretive guidance document could be drafted. It will be prepared and discussed next month.

**UPDATE OF TREE COMMITTEE WORK: Alexander**

Councilmember Alexander presented progress of the Tree Committee, which has one more meeting before a final report will be submitted to Council. The group seeks input from Casey Trees, a company which does planting of trees on private property in the District of Columbia. Also the Committee is speaking with builders regarding dry wells and other factors impacting the planting of trees on lots. The primary proposal, which involves subsidizing private planting of trees, intends to affect value of houses, thus seeking to satisfy the community benefit requirement of any proposed program. Final draft is coming together. Council expressed intent to hold a work session on this matter.

**BLOCK PARTY POLICY: Further Discussion**

Attorney Bolt sought to clarify prior discussions establishing three types of parties: those put on by the Village, those put on by private Residents with an exclusive list of guests, and those put on by private Residents allowing the public at large to attend. The second category, that of a party put on by private Residents with an exclusive guest list is generally not permissible, but discussion ensued regarding whether the policy language needed to specifically disallow this type of event. Councilmember Alexander questioned the need for anything but the exclusion of private, invitation-only parties. Councilmember Lebovich established the need for both knowledge of the party by the Village Office and control of emergency vehicle access.

Attorney Bolt discussed the purposes of indemnification. Emphasized that the current indemnity agreement is not creating potential liability That risk already exists. Anyone putting on an event risks being sued if harm results. Councilmember Bowers stated desired to abolish this and all block party policies, citing lack of need for policy or indemnification of Village, as remote risk of harm is outweighed by chilling effect on residents who may wish to host a public event. Councilmember Lebovich expressed opposition. Councilmember Fleming expressed need to create policy to protect the Village from known harm.

Councilmember Bowers moved that, as a matter of policy, the indemnification requirement be removed, seconded by Councilmember Cissna. Councilmember Fleming proposed an amendment to the motion, summarized by Attorney Bolt to strike out the indemnification and then add to the policy that exclusive invitation-only parties are not permitted.

**Motion:** Alexander; **2nd:** Cissna; **Amendment:** Fleming; **Amendment:** Alexander; **Vote:** All

**BUDGET PLANNING AND DEVELOPMENT SCHEDULE FY 16 Budget**

**Initiation of Budget Process: February 19th.** Regular Council Meeting. Council Kick-Off of Budget Ideas. Budget meeting with Accountant, Chair, Treasurer and Manager: week of February 23rd.

**Pre-Preliminary Budget Working Session: Week of March 9th** (2 weeks later). Working Session for Council. Public welcome to attend but to observe only.

**Further Public Budget Discussion: Thursday March 19th-** Regular Monthly Council Meeting. Additional opportunity to share budget and program planning ideas for FY 2016.

**Candidates Introduction / Budget and Tax Rate introduction: Thursday April 23rd.** (This reflects a meeting date change) Budget and Tax Rates should be formally introduced here with candidates. Opportunity to present and discuss budget.

**Annual Meeting (and Election):** Thursday May 14th, Election 5:30-7:30; Annual Meeting: 8-9:00 PM. Action on Tax Resolution and Budget Approved.

All meetings are held in the Village Office at 7013 B Brookville Rd. beginning at 7:30 PM.

**Discussion:**

Accepted, scheduling specific dates will continue.

## **SECURITY OF VILLAGE COMPUTER FILES POLICY: Bolt**

Pursuant to a new Maryland law, effective July 2014, municipalities must have a security policy to “protect personal information from unauthorized access, use, modification, or disclosure” (Md. Code, State Gov’t, § 10-1304). Said law provides that, a municipality that “collects personal information of an individual shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal information collected and the nature of the unit and its operations.”

“Personal information” means an “individual’s first name or first initial and last name ... in combination with one or more of the following data elements: (1) a Social Security number; (2) a driver’s license number, state identification card number, or other individual identification number issued by a unit; (3) a passport number or other identification number issued by the United States government; (4) an Individual Taxpayer Identification Number; or (5) a financial or other account number, a credit card number, or a debit card number that, in combination with any required security code, access code, or password, would permit access to an individual’s account.” “Reasonable security procedures and practices” means “data security procedures and practices developed, in good faith, and set forth in a written information security policy.”

The law is aimed at preventing identity theft and misuse. Bolt has asked Jim Peck at MML if there may be “small town” sample available, so we don’t have to reinvent the wheel. He stated he has received a lot of calls from towns and is working on tracking down a sample.

## **DISCUSSION OF ONLINE POSTING OF COUNCIL MEETINGS RECORDINGS-Alexander**

Research by the Village Manager showed the policies related to online postings of recordings in neighboring towns: Chevy Chase Village-Posts and no password needed, Town of Kensington- Posts and no password needed, Friendship Heights- Records but does not post, Chevy Chase Section 3- No recordings made, Town of Chevy Chase- Records but does not post, Chevy Chase View – No recordings made.

Attorney Bolt stated Village Council Meetings are open and the public has a right to record them, under certain guidelines. Councilmember Alexander expressed the view that putting publications online is in the public interest, that they are public “records.” Posting may communicate amount of work done by Council and seriousness of issues, recording is already available at office. Councilmember Cissna suggested making recordings available would create more resident interest. Councilmember Lebovich expressed interest to make recordings available to disabled residents. Concern was expressed whether discussion might be limited at meetings by the knowledge that recordings would be available for worldwide consumption, or alternatively it may limit unnecessary negative contribution.

Advice will be sought from Calvert Design regarding impact on website. Councilmember Lebovich raised issue of broadcast through Public Access Channels on television. Resident Trowern brought up issues of hosting and suggested video streaming. Councilmember Fleming expressed objection to video portion. Councilmember Lebovich expressed desire to contact the other towns and ask the result of posting recordings. Resident Catherwood noted the current recording equipment is really to meet records keeping requirements only, would have to be upgraded if this was to be done.

## **BUILDING ADMINISTRATOR’S REPORT**

### **New Permit**

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

- **3505 Raymond Street.** Rear Addition planned.

No Further information.

- **3517 Cummings Lane-** Pod

Unknown location; David Jones Architects - two attached garages.

#### **Permitting Process Underway:**

- **3414 Cummings Lane.** Plans received for garage, swimming pool; pool house and more.

Next step is County. Cleared by Beal.

#### **Permits Ready/ Issued:**

- **203 Oxford Street.** Fence
- **7200 Chestnut Street.** Fence

### **Construction Underway:**

- **3513 Raymond Street.** Well underway. No issues
- **3521 Raymond Street.** Exterior roof lift. New front porch underway.
- **3509 Shepherd St** –Rear addition should be ready for final clearance.
- **3510 Bradley Ln** –Still underway.
- **3514 Bradley Ln-** Completed. Bond returned underway. WGL still to do street patch.
- **7309 Delfield-** Construction continues to be a challenge; complaints; awaiting geothermal; dry wells.
- **3219 Thornapple Street-** Construction well underway. No issues

- **7218 Chestnut Street**-Construction well underway. Closed in; No issues. Tree fee still needed.
- **3511 Raymond Street**-Renovations. Construction underway. Inside work continues
- **3529 Raymond Street**. Patio Construction continues.

**On Hold:**

- **3507 Raymond** Rear addition. Originally denied. Likely pursuing variance. No further action.

**Completed: Processing still needed**

- **3515 Shepherd St** - Completed. Bond needs to be returned
- **3514 Turner Ln.**— ROW License needed for Fence.

- **3518 Bradley Ln** –Bond still held. Possible additional work.

**Project Closed:**

None

**Problems:**

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

**Other Municipal Support: General Management:**

- *General building support:* Ongoing supervision and progress reporting of construction projects. Records of compliance with VMA requirements. (e.g. tree protection) County follow up
- Monitoring of MC DPS Reports.
  - Move in and out/ construction traffic and parking controls & Supervision.

**FINANCIAL MATTERS: FLEMING:** Financial Report for January 2015

	<b>Actual</b>	<b>Budget</b>	<b>Jul — Dec 14</b>	<b>YTD Budget</b>	<b>Annual Budget</b>
Revenues	\$65,050.49	\$62,066.00	\$587,895.53	\$558,012.00	\$839,700.00
Expense	\$45,300.45	\$60,809.00	\$278,717.30	\$401,411.00	\$685,500.00
Prior Years Surplus				\$1,910,049.00	\$1,910,049
Total Income	\$65,050.49	\$62,066.00	\$587,895.53	\$2,468,061.00	\$2,749,749.00
Designated Street/sidewalk				\$500,000.00	\$500,000.00
Designated Street Lighting				\$500,000.00	\$500,000.00
Undesignated Fund				\$1,064,249.00	\$1,064,249.00
				\$2,465,660.00	\$2,749,749.00
Net Income	\$19,750.04	1,257.00	309,178.23	\$2,401.00	0.00

Comment: The Village's finances continue on course. As noted in last month's report, revenues continue to run slightly behind those received in 2014. Currently, the village has received about \$66,357 less than receipts from one year ago.

**Action on Financial Report**

**Motion:** Lebovich; **2nd:** Bowers; **Vote:** All.

**ACTION ON MINUTES OF JANUARY 2015**

**Motion:** Lebovich; **2nd:** Alexander; **Vote:** All

**MANAGER'S REPORT FEBRUARY**

**Community Policing Program:** Continues to operate well. Meeting with expert on traffic control (Sgt. Chapin from the MCPD) has been delayed. Planning a meeting next week for a consultation. Recent car theft resolved with capture of 2 culprits on Brookville Road. Sgt. Nick Picerno in attendance this evening to update the Council.

**Sanitation Services:** Bad weather presents challenges for scheduling and service delivery (this week's recycling pick up a good example). Not sure if there is a solution other than posting notice on the website and list serv. An article in the newsletter further illuminating on the challenge was suggested.

**Snow Plowing Services & Sidewalk Shoveling:** Rolling Acres continues to fine job. They finished our street cleaning for us. Sidewalk shoveling excellent at \$50 per hour.

**Utility Services:**

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

**SEWER:** Problem on Quincy Street has had the street and driveway restored. 2/13/15

**WASHINGTON GAS:** No Issues.

**PEPCO:** No Issues. Working with us on the retrofit of LED Lights into their fixtures. Has asked Scott Watson to take a more active role in this street light matter.

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

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

**Trees:**

**Pruning:** Winter pruning continues.

**Streets Road repairs/ traffic issues:**

Traffic: Quiet on Thornapple. Parking on cross walks is resulting in warnings and tickets. Crosswalk on Taylor at market identified as a problem with line of site and parked cars; officers responding.

**Repairs:** Report Received from Precision Concrete Cutting for Sidewalk Hazards: Recommend work session to review. Last tripping hazards reviews and repaired in 3/2012. Report and options included in ring binders.

In Summary:

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.

Reminder of current status: The last light sample installed was a 38 watt LED that was intended to replace the induction bulb the council had previously chosen to replace our old lights. The goal was to produce light output that was similar to the induction version type 3. As it turned out the lighting it produced was "stripy." We are now trying a type 2 light which is a cut-down version of the standard 71 watt LED running at 55 watts. This is desired because Pepco has a tariff for that light. One of the outstanding questions is whether PEPCO has the housing for this light in stock. The choice right now is to have Holophane send a new bracket arm with the new sample, so it can be mounted on the next pole down from the existing samples and compared to them, or replace one of the existing samples with the new one. In the latter case, we won't need any new mounting hardware, and PEPCO should charge substantially less for this installation than for the previous one. I recommended the cheaper approach, although that choice can be changed if the Council wishes.

**Water Issues: Oxford Street**

Next step in any action plan is yet to be determined. Chevy Chase Village has found a wonderful free service at the UMD to do storm water evaluation. There will be a meeting at CCV Hall 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 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 is set for **Sunday March 15th from 1-3 pm**. We will be featured in the Chevy Chase Historical Society Newsletter. Menu prepared. Music and kids entertainment secured. List of recognitions still to be prepared. Will circulate initial thoughts for Council additions. Need to determine who will make remarks. Some dignitaries expected. Price has been held steady for children this year and increased by only a dollar for adults.

Conversation with Robert Donnelly, Harry M. Martin's grand nephew.

**Administrative Matters**

- Information on composting bucket program pursue (in a minor fashion). Attended Chevy Chase Village public meeting on the matter. Very unproductive. No action recommended by their Board.

- Invitation from Chevy Chase Village to Lecture series re: Sustainable Living-Assigned representative likely will be withdrawn.
- Manager's Lunch with Tim Firestine, County COO.
- Convention-Discussion was held on who may attend.
- Budget Development Schedule to be approved.

### **CONCLUDING RESIDENTS' REMARKS**

*Tom Plotz – Delfield Street:* Concerned about the mature tree taken down in front of 7210 Delfield St. to allow construction of new home and replaced with small caliper tree.

*Pat Pendergast – Thornapple Street:* Sought clarification on procurement process (including the Street repair contract), specifically defining requirements and soliciting bids. Ms. Sperling confirmed that if the Council agreed the work was to be undertaken, it would be bid.

*Steve Trowern – Raymond Street:* Perceived no standards or requirements for establishing contracts. Council mentioned some of the requirements and sources for information, including the Village Code and the Village website. Trowern suggested deleting building codes could save the Village money.

### **MOTION OF THE COUNCIL TO ENTER CLOSED SESSION:**

Pursuant to Maryland Code, General Provisions Article, Section 3-305(b)(1) to discuss the employment, assignment, compensation, and performance evaluation of the Village Manager, an employee over whom it has jurisdiction:

**Motion by Councilmember Lebovich; 2nd Bowers. Vote: All in favor.**