



VILLAGE OF MARTIN'S ADDITIONS

7013 Brookville Road (Second Floor, Suite B)

Chevy Chase, MD 20815-3263

Phone (301) 656-4112

www.martinsadditions.org

Agenda for Council Meeting Thursday, July 15, 2021, 7:30 PM

The Council may entertain a motion in open session to enter into a closed session, in accordance with Section 3-305(b) of the Open Meetings Act (Maryland Code, General Provisions Article).

7:30 PM Call to Order: Fattig

7:31PM Officer Election

7:31 PM Opportunity for Council to hear residents' comments: TBD

7:41 PM Committee Appointments: TBD

7:51 PM Building Administrator's Report: Lohmeyer **(Page 3-5)**

7:56 PM Discussion of Montgomery County's Zoning Text Amendment (ZTA) ZTA 19-07 Telecommunications Towers – Limited Use (5G) **(Page 6-7)**

8:11 PM Discussion of the Future of the Martin's Editions newsletter

8:21 PM Financial Matters, including Treasurer's Report: Alexander **(Page 8)**

8:26 PM Manager's Report: Anderegg **(Page 9-10)**

8:31 PM Opportunity for Council to Hear Residents' Comments: TBD

8:41 PM Adjournment: TBD

*Please note: Listed times are approximate.



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Virtual Meeting Information

Below is the information for those residents who wish to dial in remotely or video in to the Council meeting.

1. Dial-In Option

Call: 1 301 715 8592

When prompted, enter the Meeting ID: **883 3117 5094#** (you must enter the "#")

Passcode: **525784**

2. Web/Video Option:

- a. Go to the Zoom meeting

link: <https://us02web.zoom.us/j/88331175094?pwd=OFNvZkFzbnA4c0ovdWI4KzA1Q2JjUT09>

- b. It will take you to Zoom to download, which is free. Then the meeting will launch. You can view the meeting or just listen in and talk when prompted.

Meeting ID: **883 3117 5094**

Passcode: **525784**

Topic: VMA Council Meeting

Time: June 17, 2021 07:30 PM Eastern Time

TO: The Council at the Village of Martin's Additions

FROM: Doug Lohmeyer

DATE OF MEMO: July 13, 2021

SUBJECT: Building Administrator's Report

3506 Bradley Lane.

Demolition and building permit applications were submitted to the Village office. The staff has initially reviewed the information. Waiting for MCDPS approval. The resident's information meeting was held on Wed. June 17th. The County has not issued their building permit and the project is on hold.

6609 Brookville Rd.

The applicants have submitted an application to remove the existing porch and add an addition to the existing house. The County issued their building permit on Nov. 18th. The Village building permit was issued on Dec. 7th. The MCDPS closed their building permit on July 13th and the Staff is scheduling a final site visit.

7200 Chestnut

The applicants applied for a Village building permit to construct an addition to the west side of the existing house. The County issued their building permit on Sept. 3rd. The Village building permit was issued on Oct. 9, 2020. The construction is ongoing.

7200 Delfield St.

The property owners have applied for a Village demolition and building permit for a new house. The County issued their building permit on Oct. 23rd. The Village issued the demo and dumpster permits on Dec. 14th and the building permit on Jan. 4, 2021. The old house has been removed and the new house is under construction.

7220 Delfield St.

The applicants have submitted an application to demolish the existing house and rebuild a new house. The plans have been revised and are waiting County approval. The Village information meeting was held on Dec. 14th. The County issued the building permit on April 20, 2021. The Village demo and building permits were issued on May 17, 2021. The house has been removed and the contractors are constructing the new basement walls.

120 Quincy

The homeowners have submitted concept plans for the Village's review. The plans propose to construct several additions to the existing house. They have not applied to MCDPS or a Village permit.

159 Quincy

The applicants have submitted an application to remove the existing rear deck and replace it with a new one. The County issued its building permit on April 9. The Village building permit was issued on April 27. Work has begun.

3515 Raymond St.

The applicant has submitted plans to remove the existing house and to construct a new house. MCDPS issued the building permit on Feb. 2nd and the Village issued their building permit on Feb. 9, 2021. The ex. house has been removed and the new house is under construction.

The public hearing for a variance for the Village's maximum 80-foot building length dimension was held on Tuesday July 13th.

3514 Shepherd St.

The homeowner has submitted an application to remove the ex. deck at the rear of the house and to build a new, larger deck in its place. The Village has issued a permit, but the work has not begun.

7200 Summit Ave.

On April 28, 2020, the homeowners submitted a Variance Application for the front and rear setbacks in order to construct a new porch and bay window at the front of the existing house and an addition on the north (right) side of the house. The Variance was approved by the Council on July 16, 2020. The applicants have not submitted to MCDPS or the Village. The Village variance was to expire on July 16, 2021 but has been extended to an additional 12 months.

7203 Summit

The homeowners have submitted plans for re-build the existing detached garage at the rear of the existing house. The plans were approved by MCDPS on Jan. 19th and the Village issued the building permit on Feb. 9, 2021. Work has begun on the garage.

3404 Turner

The applicants have submitted an application for a variance to the Village's minimum side yard setbacks, so they can add a second floor to the existing, non-conforming house. No date for the public variance hearing has been scheduled.

Miscellaneous Items

The staff is presently working with the following properties:

1. The MSHA has responded to the Village's letter regarding water ponding at the Village street intersections along Brookville Rd. The MSHA staff stated they are working with WSSC and MCDOT and will get back to us soon. The Village sent a letter to the State requesting an updated progress report on the outstanding pedestrian safety issues. The State responded and said they will be looking into adding additional pedestrian walkway safety measures at Bradley and at Taylor.

Evaluation of Montgomery County Council (MCC) draft zoning text amendment ZTA 19-07 on telecommunications towers and possible effects on the Village of Martin's Additions (VMA)

Arthur Alexander, July 13, 2021

After reviewing many hours of committee hearings, presentations by opponents of the proposed zoning changes, supporting and critical documents, and VMA's code on small wireless telecommunications facilities, I have tentatively concluded that there is less here than meets the eye with respect to VMA. This note provides the reasons behind my conclusions.

ZTA objectives: The MCC Planning, Housing, and Economic Development Committee that produced the draft ZTA and its chair Hans Riemer were motivated by several goals: enhance the county's technological attractiveness to business by improving the communications infrastructure; help bridge the digital divide by bringing 5G to as wide an audience as possible; and meet the requirements of the Ninth Circuit Court decision (August 12, 2020) that adjudicated disputes between the FCC and several jurisdictions (including Montgomery County). Since the Supreme Court has did not accept an appeal of this decision, its findings are binding. Two main points of that decision motivate the zoning amendment: (1) local restrictions may not effectively prohibit deployment of wireless facilities, and (2) application must be decided expeditiously (90-day shot-clock).

Relevant changes: ZTA 19-07 would allow poles with antennas as a "limited use" in residential zones when it replaces a pre-existing utility pole. The term "limited use" means that approval is granted automatically if the application meets objective criteria; it does not require a public hearing. To meet the limited use criteria, the replacement pole must be at least 30 feet from the nearest habitable building. (The ZTA reduces this limit from the current 60 feet.) If an antenna is placed on a pre-existing or replacement pole, the height is limited to the that of the pre-existing pole plus 10 feet. For poles less than 30 feet from the nearest habitable building, ZTA 19-07 establishes a modified "conditional use" process that would require a public hearing while still meeting the shot clock. Although conditional use is not automatic, the draft lays out a highly streamlined process that essentially eliminates objections.

Smaller setbacks not a VMA issue: The proposed changes to reduce setbacks to under 30 feet will have little impact on Martin's Additions because VMA requires a minimum 25-foot front setback of a house from the public right of way. Moreover, since the average right of way is 15 feet wide (5-6 feet on Brookville Rd.), the typical house is at least 30 feet from the curb. Therefore, allowing poles closer than 30 feet to a house does not apply to the Village.

Utility poles in VMA: There are about 127 utility poles on VMA's 12,000 feet of streets, or one pole every 95 feet: roughly one pole per 1.5 houses. Currently, neither VMA nor Montgomery County maintains utility pole control or oversight; these are regulated by the Maryland Public Service Commission. Consequently, VMA does not now review pole siting, density, height, or attachments. The Village is only notified by pole owners when activities such as replacement or maintenance require traffic control or other Village-related action. Therefore, the draft ZTA process, which essentially ignores municipalities' inputs for poles 30 feet or more from a house, is little different from current practice.

VMA requires permits and agreements: Recognizing that the coming 5G technology may involve antenna proliferation, in 2019 VMA adopted code that regulated small wireless telecommunications facilities. These regulations require a Village permit and right-of-way access agreement to install any communications facility (including antenna) or tower dedicated to wireless communications. These regulations, therefore, provide the oversight of pole and equipment installation that the draft ZTA does not grant.

VMA limits new tower proliferation: Another issue concerning opponents of the draft ZTA is the possible proliferation of new towers. The latest ZTA draft specifies that a new tower must be at least 150 feet from the nearest antenna of the same carrier, a farther separation than the average VMA pole distance; however, since there are at least three companies offering 5G services, each one could possibly erect towers within short distances of each other. The VMA regulation deals with this problem by stating that no tower may be located closer than 1,000 feet from another tower.

Health and safety concerns: When the county's ZTA was first introduced, there was considerable concern expressed over the health and safety issues that might arise from short-wave transmissions. These concerns have abated, though by no means have they disappeared. One powerful reason for the apparent lower level of concern is the appearance of research that has not found harm in the radiation. For example, a meta-analysis of more than one hundred studies found: "no confirmed evidence that low-level RF fields above 6 GHz such as those used by the 5G network are hazardous to human health."¹

Potential problems for VMA: The VMA code on wireless facilities (and similar regulations adopted by other municipalities) may be preempted by county regulations or by possible state regulations.

VMA's regulations, particularly the 1,000-foot distance between towers, may be deemed to materially prohibit 5G deployment. However, the president of Verizon in a 2018 broadcast on CNBC "busted the myth" that 5G transmissions were confined to short, line-of-sight distances. He said that Verizon is designing its network for distances of 2,000 feet between transmitters and receivers.² Given this statement and similar ones by Verizon and other providers, it could be difficult to argue that VMA regulations materially prohibit service.

¹ "5G mobile networks and health—a state-of-the-science review of the research into low-level RF fields above 6 GHz," *Journal of Exposure Science & Environmental Epidemiology* (2021) 31:585–605.

² Verizon CEO Lowell McAdam on the future of 5G (at 6.0 min.): <https://www.cnbc.com/video/2018/05/15/verizon-ceo-lowell-mcadam-5g-future.html>

**Village of Martin's Additions
Financial Report for June 2021
Arthur Alexander, Treasurer
July 15 2021**

	<u>Actual</u>	<u>Budgeted</u>
Revenues	\$ 852,228	814,800
Expenses (excluding capital projects)	633,999	753,447
Net Income (revenues minus expenses)	218,229	61,353
Capital investment expenses	\$ 43,830	
Investment reserves (less expenditures)	2,456,170	
Emergency reserves	1,000,000	

Current assets less designated reserves: \$ 636,069

In the current month, July 2021, we plan to transfer \$55,000 from the Village's savings account in the Maryland Local Government Investment Pool (MLGIP) to the checking account to cover projected expenses.

The revenues and expenses reported above are for the entire 2021 fiscal year. A few additional transactions will trickle in and our annual audit will present the final amounts. However, these figures are close to the final. Actual income was close to original projections when we first compiled a budget 15 months ago; expenditures in total were about 15% less.

When the pandemic shut down economic activity last year, we thought that Village revenues would fall. It turned out, however, that the loss of jobs was balanced by the rise of stock market prices. Subsequently, the Village's main source of revenue from the state income tax came in just about as predicted last year. Therefore, the overall financial picture is solid.

From: Niles Anderegg, Village Manager
To: Village Council
Subject: Village Office Update
Date: 7/14/2021

Overview

The Village Office has been conducting reviews of internal operating procedures and data clean-up. This included dropping off records with the Maryland State Archives that had been previously approved to be accepted by the state in accordance with the Village's record retention policy.

Public Safety Task Force

The Public Safety Task Force survey closed on July 7. We got 155 respondents; thank you to all residents who participated. I have shared the summary results with the Task Force. The Office is currently compiling the open-ended responses of Village residents for review by the Task Force as well.

Recap of MML Conference

I attended the Maryland Municipal League Conference held at the end of June including sessions related to infrastructure, the American Rescue Plan, and waste and recycling services. During the sessions, I learned more about potential options for the Village for future waste and recycling services. For example, the Maryland Environmental Services is a nonprofit that can provide waste recycling and composting services to small municipalities. They are forbidden by law from responding to RFPs, so I am investigating future opportunities to invite them to submit a proposal to the Village for these services. In addition, I had the opportunity to speak to several state agencies including the Maryland Department of Transportation regarding Brookville Road. There will be a further opportunity to talk to department heads as part of the virtual conference that will take place next week.

Walkability Improvements

Over the last several weeks, the Village has been updating and improving traffic signs to meet current standards and on July 28, the Village will be repainting or adding crosswalk markings to Village crosswalks per the recommendation of the Walkability Task Force. In addition, I have had conversations with the Village's traffic engineer regarding further walkability improvements and will be providing more information on the next steps in fulfilling the Walkability Report's recommendations.

Events

Thank you to everyone who attended the Fourth of July event. I particularly wanted to thank Keith Allen, the chair of the year Community Engagement Committee, and the rest of the committee for their help in putting on this event. The Office is currently making preparations for the Labor Day event, the movie night.

Tree Care

The Village Office, along with the Village Arborist Ed Mulheron, will be overseeing another round of tree maintenance in August. This will follow the work completed in April and the work done after the storm at the end of June. We will let residents know when work will be done on their street.

American Rescue Plan Funds

As part of the MML conference, I attended sessions regarding uses of and reporting on American Rescue plan funds. We are still working with the state to receive the funds as there have been a couple of changes in the requirements from the Treasury Department that meant the state required more information. As a reminder, Village will receive funds from the American Rescue Plan as a non-entitlement city in the state of Maryland and has received further guidance on how to access the money. We are currently working to fulfill the obligations set forward by the state of Maryland. We expect to receive the funds in FY22.