



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, October 15, 2020, 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

7:31 PM Opportunity for Council to Hear Residents' Comments: Fattig

7:41 PM Committee Updates: Fattig

- Report out from the Community Engagement Committee & Halloween Recommendations (Oct. 8th Meeting)
- Report out from the Ethics Committee and Recommendations (Oct. 14th meeting)

7:51 PM Report out from and Discussion of the Oct. 1 Community Listening Forum and Key Themes

8:05 PM Discussion of the 2020 Annual Survey Results (3)

8:15 PM Discussion and Possible Introduction of Amendments to Ethics Ordinance** (23)

8:25 PM Building Administrator's Report: Lohmeyer (24-26)

8:30 PM Financial Matters, including Treasurer's Report: Alexander

8:35 PM Manager's Report: Anderegg (Page 28)

8:40 PM Opportunity for Council to Hear Residents' Comments: Fattig

8:45 PM Adjournment: Fattig

*Please Note: Listed times are approximate.

**Ordinance to address the Ethics Committee's recommendations, principally expanding the Committee's jurisdiction to include the handling of complaints of violations of the requirement that members of the VMA Council and VMA committees execute their duties with "strict impartiality."



VILLAGE OF MARTIN'S ADDITIONS

7013 Brookville Road (Second Floor, Suite B)

Chevy Chase, MD 20815-3263

Phone (301) 656-4112

www.martinsadditions.org

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: 836 2625 0810 (you must enter the "#")

Password: 091653

2. Web/Video Option:

- a. Go to the Zoom meeting link: <https://us02web.zoom.us/j/83626250810?>
- 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: 836 2625 0810

Password: 091653

Topic: VMA Council Meeting

Time: Oct. 15, 2020 07:30 PM Eastern Time



Constant Contact Survey Results

Survey Name: VMA Annual Survey 2020 Final

Response Status: Partial & Completed

Filter: None

10/13/2020 6:07 PM EDT

TextBlock:

The Village Council is seeking resident input on Village services and operations. We use the resident feedback to inform the Council's decision-making process and set Village priorities. The survey should take less than 10 minutes to complete. Please participate! Please submit the survey only once for each household. The survey will be open from Friday, September 25, 2020, at 5:00 PM until Sunday, October 11, 2020, at 11:59 PM. Survey results will be shared at the Thursday, October 15, 2020, VMA Council meeting.

Overall, how satisfied are you with the Village operations?

Answer	0%	100%	Number of Response(s)	Response Ratio
Extremely satisfied			49	34.0 %
Somewhat satisfied			51	35.4 %
Neither satisfied nor dissatisfied			19	13.1 %
Somewhat dissatisfied			10	6.9 %
Extremely dissatisfied			2	1.3 %
No Responses			2	1.3 %
No Response(s)			11	7.6 %
Totals			144	100%







If you would like to share your experience with the Village, please describe below.

32 Response(s)




If you have contacted the Village Office within the six months, how quickly did the Village office staff respond to your request?

Answer	0%	100%	Number of Response(s)	Response Ratio
Within the same day			50	34.7 %
Within 3 business days			17	11.8 %
Within one week			7	4.8 %
Never received a response			3	2.0 %
N/A			46	31.9 %
No Response(s)			21	14.5 %
Totals			144	100%

If you have contacted anyone on the Village Council within the six months, how quickly did the Council member(s) respond to your request?

Answer	0%	100%	Number of Response(s)	Response Ratio
Within the same day			17	11.8 %
Within 3 business days			7	4.8 %
Within one week			2	1.3 %
Never received a response			7	4.8 %
N/A			87	60.4 %
No Response(s)			24	16.6 %
Totals			144	100%

Council meetings have been held remotely since the start of the pandemic in March. If you have attended one or more Council meetings via Zoom, did you find the meetings effective?

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			30	20.8 %
No			14	9.7 %
No Response(s)			100	69.4 %
Totals			144	100%

Most of the Village budget is spent on providing our residents with services. These services often exceed what is provided by the County, such as bi-weekly trash collection from the side yard, police patrols, Village-sponsored events, and the composting program, which is a service the Village facilitates but does not pay for. Please indicate any changes in services you would like the Village Council to consider, keeping in mind the additional expense the Village would likely incur from providing additional services.

69 Response(s)

The Village staff sends regular communications to residents about upcoming events, issues under consideration by the Council, and messages from local police. If you would like to receive additional information from the Village Office, please list it here.

31 Response(s)

Do you believe the 2020 election was conducted in a fair and open manner? If you have any recommendations or comments, enter them in the comment box.

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			89	61.8 %
No			5	3.4 %
No Response(s)			50	34.7 %
Totals			144	100%

Did you get the information you needed to make an informed decision in the 2020 election?

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			93	64.5 %
No			10	6.9 %
No Response(s)			41	28.4 %
Totals			144	100%

The 2020 election was conducted entirely by mail. Was the process of voting easy in the 2020 election?

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			100	69.4 %
No			3	2.0 %
No Response(s)			41	28.4 %
Totals			144	100%

In which Village events have you participated in the past year (select all that apply)?

Answer	0%	100%	Number of Response(s)	Response Ratio
Monthly Council meeting			29	26.3 %
Halloween (October 2019)			39	35.4 %
Adult Spring Fling at La Ferme (March 2020)			24	21.8 %
I have not participated in any Village events			37	33.6 %
Shred Event (June 2020)			16	14.5 %
Candidate Forum (April 2020)			21	19.0 %
Other			4	3.6 %
Totals			110	100%

Please list, if any, other events that you would like the Village to organize or host.

26 Response(s)

In general, community engagement is a priority for Village operations and the Council. Please share ideas on how the Village can strengthen community engagement.

34 Response(s)

Would you like to volunteer your time and expertise to the Village of Martin's Additions on a short-term or long-term basis? If so, please contact the Council.

17 Response(s)

Do you have anything else you would like to share with the Village Council? For example, you could provide suggestions on what you would like to see more or less of in how we operate.

32 Response(s)

The composting program is a service that is facilitated by the Village but the Village does not pay for it. If you participated in the composting program, are you pleased with the service and would you like this service to continue?

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			37	25.6 %
No			4	2.7 %
No Response(s)			103	71.5 %
Totals			144	100%

*Please select your street below.

Answer	0%	100%	Number of Response(s)	Response Ratio
Bradley Ln			14	9.7 %
Brookville Rd			4	2.7 %
Chestnut St			6	4.1 %
Cummings Ln			9	6.2 %
Delfield St			7	4.8 %
Melville Pl			3	2.0 %
Oxford St			3	2.0 %
Quincy St			11	7.6 %
Raymond St			10	6.9 %
Shepherd St			7	4.8 %
Summit Ave			11	7.6 %
Taylor St			7	4.8 %
Turner Ln			17	11.8 %
Thornapple St			7	4.8 %
No Response(s)			28	19.4 %
Totals			144	100%

The VMA Ethics Committee has been in existence for several years. It is charged with reviewing financial conflict of interest forms submitted by Council and Committee members, and VMA staff. The Ethics Committee is also charged with reviewing any complaints related to conflicts of interest and has authority, in the VMA Code, to require the recusal of any VMA Council member or employee if found to have a conflict of interest.

Earlier this year, allegations were made known to the Ethics Committee that were not related to conflicts of interest. Because the allegations were outside the jurisdiction of the Committee, the complaints were referred to the Council. The allegations were related to the oath of office/service adopted by the Council in late 2019 as a measure to “promote...the utmost ethical service,” but there was no process established for consideration and resolution of allegations of violations of the oath.

Therefore, the Council could do no more than receive the complaints. This experience prompted the Council to seek a vehicle for handling these complaints in the future.

This issue was discussed at an August 27 meeting of the Ethics Committee. At that meeting, which was open to the public, the Committee decided to recommend to the Council that all members of the Council and VMA committees, and all VMA employees, take the VMA oath of office/service, if they were not already doing so, and

that the VMA Code be changed to provide for a process to consider and resolve alleged violations of the oath.

The Chair of the Ethics Committee reported on these findings to the Council at its recent meeting. As an outcome of the discussion, the Council asked the Village attorney to prepare draft changes to the Village Code to address this issue, and it asked the Committee to review the attorney's drafts and report back to the Council at the next meeting.

The Committee is reviewing drafts at Wednesday's meeting in anticipation of reporting on their review at the Thursday Council meeting. The attorney's drafts are attached to the Committee's notice and agenda for Wednesday's meeting. The Committee's focus will be on changes to the Code to address complaints of violations of the oath, and not on the many Code provisions that do not need to be changed to achieve this goal.

**The Village of Martin's Additions
(Ethics Committee Jurisdiction)**

Ordinance No.: 2020-9-1
Introduced:
Adopted:
Effective Date:

**ORDINANCE TO EXPAND THE JURISDICTION
OF THE ETHICS COMMITTEE TO INCLUDE OATHS OF SERVICE**

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland 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, 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, after proper notice to the public, the Village Council introduced the following Ordinance in an open meeting conducted on the ____ day of _____, 2020;

WHEREAS, after proper notice to the public, the Council considered this Ordinance in public session assembled on the ____ day of _____, 2020; and

WHEREAS, upon consideration of the testimony and evidence presented at the public hearing, 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 _____, 2020, 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 2-101.

Village Elections Committee and Ethics Committee

(a) There shall be a Village Elections Committee, which shall be composed of a minimum of three (3) members appointed by the Village Council. Members of the Elections Committee shall be qualified to vote in Village elections and shall not be members of the Village Council. The Elections Committee members shall serve until the end of the fiscal year in which they were appointed. The Elections Committee shall manage all Village elections as provided in Section 602 of the Charter of the Village of Martin’s Additions.

(b) There shall be a Village Ethics Committee which shall be composed of a minimum of three (3) members appointed by the Village Council. Members of the Ethics Committee shall be qualified to vote in Village elections and shall not be members of the Village Council or the Elections Committee. The Ethics Committee members shall serve until the end of the fiscal year in which they were appointed. The Ethics Committee shall have the following responsibilities:

(1) To provide advisory opinions to persons subject to the provisions of Chapter 4 of this Code as to its applicability; and

(2) To make determinations as authorized by Chapter 4 of this Code.

* * *

CHAPTER 4
CONFLICT OF INTEREST ETHICS

ARTICLE 1. GENERAL

Section 4-101. Definitions

For purposes of this Chapter, the following words and phrases shall have the following meanings:

- (a) The “Committee” means the “Village Ethics Committee” as constituted and described in Section 2-101.
- (b) “Gift” means the transfer of anything or service of value without identifiable and adequate consideration; “gift” does not mean or include any regulated campaign contribution.
- (c) “Public Official” or “Official” means all members of the Village Council; **all members of any Village committee or task force; the Village Tree Supervisor;** and all persons employed by the Village.
- (d) “Private interest or relationship” includes, without limitation, any existing or prospective interest or relationship of a business, contract, creditor, oblige or employment nature in which an Official or an immediate family member (including spouse, father, mother, brother, sister or child) has a direct or indirect

financial interest and by which such Official or immediate family member has a reasonable potential of profiting or otherwise benefiting financially.

(Ord. No. 08-15-01, adopted 09/17/15, effective 10/7/15; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16)

Section 4-102. Intent and Application

- (a) This Chapter provides criteria for determining **whether Officials properly act with strict impartiality when executing their official duties and** the presence or absence of conflicts between private interests or relationships and public interests. At the same time this Chapter establishes procedures for remedy when **a breach of an oath of service or a conflict of interest** has been determined.
- (i) Public Officials have an affirmative duty to disclose potential conflicts with a public interest, as provided in this Chapter. Such duty extends to and includes private interests or relationships, the mere outward appearance of which suggests a possible conflict with a public interest. The procedures herein are intended both to preserve the privacy interests of persons subject to this Chapter and to encourage voluntary disqualifications in the event of conflicts of interest under the provisions of this Chapter. Private interests or relationships disclosed hereunder are not to be made a part of the public record, except in the event of the imposition of any order or penalty under the provisions of Section 4-204 herein.
- (ii) **Public Officials have an affirmative duty to execute their duties and responsibilities with strict impartiality, in good faith, and in accordance with the Village Charter, the Code of Ordinances, and any applicable rules or procedures adopted by the Village Council.**
- (b) The provisions of this Chapter shall apply to all Officials and to all persons or entities retained by the Village or who do or seek to do business with the Village.
- (c) No part of this Chapter shall be construed to prohibit an Official from appearing in the pursuit of his private interests as a citizen; or from accepting or receiving any benefit by operation of law, or prosecuting or pursuing any claim, right, privilege or remedy which is his by operation of law.

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

ARTICLE 2. PROCEDURES

Section 4-201. Duty to Disclose; Solicitation Prohibited; Ex-Parte Communications; Oath of Service

- (a) Before participating, on behalf of the Village, in any debate or determination that may have a reasonable potential of thereafter affecting a public interest, any Public Official who is subject to this Chapter shall have an affirmative duty to disclose in writing to the Council and to the Committee the receipt of any gift and

the existence of any private interest or relationship either having a reasonable potential of conflict with a public interest or having a reasonable potential of giving the outward appearance of conflict with a public interest.

- (b) No Official may solicit any gift or knowingly accept any gift, directly or indirectly, from any person whom the Official knows or has reason to know: (i) is doing or seeking to do business of any kind with the Village; or (ii) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or non-performance of his or her official duty.
- (c) No Official may solicit any gift or knowingly accept any gift, directly or indirectly, from any person whom is engaged in activities that are regulated or controlled by the Village; except that unsolicited gifts having a value of less than fifty dollars (\$50.00) tendered for personal or social reasons may be accepted.
- (d) An Official shall not consider any ex-parte or private communication from any person, whether oral or written, that said Official knows is, or reasonably may be, intended to influence unlawfully the decision on the merits of any matter. Any such ex-parte or private communication shall be reported to the Village Council, which shall include such disclosure in the minutes of the meeting at which the matter was considered.
- (e) **Officials shall faithfully execute their duties with strict impartiality, and without personal bias or prejudice, regarding all matters of public interest. During the performance of their duties, Officials shall not discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, national origin, or other protected class. Officials shall reasonably act in good faith, in accordance with the Village Charter, the Code of Ordinances, and any applicable rules or procedures adopted by the Village Council.**
- (f) Officials shall file with the Committee, on an annual basis, prior to the 30th day of April of each year, **an oath of service and** a conflicts of interest disclosure in a form recommended by the Committee and approved by the Village Council. Such filings shall be in addition to the filing required by the Village Charter, Section 903.

(Ord. No. 08-15-01, adopted 09/17/15, effective 10/7/15; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 6-17-1, adopted 7/17/17, effective 8/7/17)

Section 4-202. Disqualification Procedures; Complaints; Records

- (a) After complying with the disclosure requirements of Section 4-201, the Public Official shall either (i) voluntarily disqualify himself and withdraw from participating in further debates or determinations with respect to the public interest in conflict with the Official's private interest or relationship, or (ii) request that the Committee determine the presence or absence of a conflict of interest and advise as to an appropriate course of conduct.

- (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~~ **address the complaint**. 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.
- (c) For the purposes of this Section, the Committee may find and advise an absence of a **violation of an oath of service or** disqualifying conflict of interest when the **asserted violation or the** Official's private interest or relationship is found to be too remote and insubstantial to affect the integrity of the Official's public actions. The intent of the foregoing is by no means to be construed as condoning a lax approach on the part of the Committee; rather, the intent is to discourage frivolous charges.
- (d) Upon being advised by the Committee of **a violation of an oath of service or** the presence of a conflict of interest, the Official shall voluntarily disqualify him/herself and so notify the Committee and the Council. If the Official does not voluntarily disqualify him/herself, the Committee shall: **(i) in the case of a Council member,** mandate that the Official be disqualified from participating in further debates, **actions,** or determinations with respect to **the violation of the oath or service or** the public interest in conflict with the Official's private interest or relationship; **or; (ii) in the case of any other Official, refer the matter to the Council for the Council to determine whether disqualification should be mandated by the Council and/or whether other action should be taken by the Council.**
- (e) Any Official who voluntarily disqualifies him/herself shall notify the Council, providing a full description of the public interest matters from which the Official has withdrawn from participation. A voluntary disqualification does not require a disclosure of the specific nature of a **violation of an oath or service or** private interest or relationship considered to be in conflict; only the **oath of service impediment or** public interest object of conflict must be disclosed.
- (f) The Committee shall notify the Council and the Official in writing of all mandated **and recommended** disqualifications and shall therein provide a full description of the public interest matters with which the Official has been found to be **in violation or** conflict and about which such Official is disqualified from participation. The Committee shall mandate a disqualification **in the case of a Council member or recommend disqualification in the case of any other**

Official for any such ~~any~~ Official who fails or refuses to provide the Committee with such information as the Committee finds necessary to ~~determine the presence or absence of a conflict of interest~~ **address a complaint**.

- (g) Any disqualifications relating to any public interest ~~description~~ shall be recorded in the minutes of the Council meeting at which the matter was considered.
- (h) The Committee shall meet in closed session (i) to protect the privacy or reputation of individuals with respect to their **alleged violations and** private interests or relationships not related to the public business, (ii) to discuss the discipline of an Official under the provisions of this Chapter, (iii) to consult with counsel or (iv) to consult with staff, consultants or other individuals about pending or potential litigation.
- (i) The Village records maintained under the provisions of this Chapter shall be privileged and not subject to public inspection to the extent that such records contain any of the following: (i) information about the finances of an individual, (including assets, income, liabilities, net worth, bank balances, financial history or activities or credit worthiness), (ii) any otherwise confidential financial information, (iii) confidential commercial information, or (iv) trade secrets. For the purpose of this Section, confidential or secret information shall be such information as is customarily regarded as confidential in business.

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

Section 4-203. Failure of Quorum

If, because of a voluntary or mandatory disqualification under the provisions of this Chapter, less than a quorum of the Council **or a committee** is available to act upon any particular matter, the matter shall be deferred until a quorum is assembled.

Section 4-204. Enforcement

- (a) The Council may file a petition for injunctive or other relief in a court of competent jurisdiction for the purpose of requiring compliance with this Chapter.
- (b) Any ~~person~~ **member of the Council or person employed by the Village** who knowingly and willfully violates the provisions of this Chapter, **with respect to a conflict of interest**, is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than \$1,000.00 or imprisonment for not more than one year, or both. ~~If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.~~
- (c) Any ~~person~~ **member of the Council or person employed by the Village** who violates the provisions of this Chapter **with respect to a conflict of interest**, shall be guilty of a municipal infraction and shall be subject to a civil penalty of \$100.00.

- (d) In addition to any other enforcement provisions in this Chapter, **any member of any committee or task force, or the Tree Supervisor, who is found by the Committee, the Council, or a court of competent jurisdiction to have violated this Chapter with respect to Oath of Service shall be subject to removal by the Council; and** any member of the Council who is found by the Committee or a court to have violated this Chapter shall be subject to recall, as provided in the Village Charter.
- (e) In addition to any other enforcement provisions in this Chapter, any employee found by the Committee or a court to have violated this Chapter shall be subject to disciplinary or other appropriate action, including dismissal or suspension of compensation.

* * *

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, by the Council of the Village of Martin's Additions, acting under and by virtue of the aforementioned authority, 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 _____, 2020 (at least 20 days after adoption).

ATTEST: THE VILLAGE OF MARTIN'S ADDITIONS

Katya Hill, Secretary

Susan Fattig, Chair
Village Council

Underline indicates new material
~~Strikethrough~~ indicates material deleted
 * * * indicates material unchanged

**The Village of Martin's Additions
(Ethics Committee Jurisdiction)**

Ordinance No.: 2020-9-1
Introduced:
Adopted:
Effective Date:

**ORDINANCE TO EXPAND THE JURISDICTION
OF THE ETHICS COMMITTEE TO INCLUDE OATHS OF SERVICE**

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland 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, 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, after proper notice to the public, the Village Council introduced the following Ordinance in an open meeting conducted on the ____ day of _____, 2020;

WHEREAS, after proper notice to the public, the Council considered this Ordinance in public session assembled on the ____ day of _____, 2020; and

WHEREAS, upon consideration of the testimony and evidence presented at the public hearing, 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 _____, 2020, 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 2-101.

Village Elections Committee and Ethics Committee

(a) There shall be a Village Elections Committee, which shall be composed of a minimum of three (3) members appointed by the Village Council. Members of the Elections Committee shall be qualified to vote in Village elections and shall not be members of the Village Council. The Elections Committee members shall serve until the end of the fiscal year in which they were appointed. The Elections Committee shall manage all Village elections as provided in Section 602 of the Charter of the Village of Martin's Additions.

(b) There shall be a Village Ethics Committee which shall be composed of a minimum of three (3) members appointed by the Village Council. Members of the Ethics Committee shall be qualified to vote in Village elections and shall not be members of the Village Council or the Elections Committee. The Ethics Committee members shall serve until the end of the fiscal year in which they were appointed. The Ethics Committee shall have the following responsibilities:

(1) To provide advisory opinions to persons subject to the provisions of Chapter 4 of this Code as to its applicability; and

(2) To make determinations as authorized by Chapter 4 of this Code.

* * *

CHAPTER 4
CONFLICT OF INTEREST ETHICS

ARTICLE 1. GENERAL

Section 4-101. Definitions

For purposes of this Chapter, the following words and phrases shall have the following meanings:

- (a) The "Committee" means the "Village Ethics Committee" as constituted and described in Section 2-101.
- (b) "Gift" means the transfer of anything or service of value without identifiable and adequate consideration; "gift" does not mean or include any regulated campaign contribution.
- (c) "Public Official" or "Official" means all members of the Village Council; **all members of any Village committee or task force; the Village Tree Supervisor;** and all persons employed by the Village.
- (d) "Private interest or relationship" includes, without limitation, any existing or prospective interest or relationship of a business, contract, creditor, obligee or employment nature in which an Official or an immediate family member (including spouse, father, mother, brother, sister or child) has a direct or indirect

financial interest and by which such Official or immediate family member has a reasonable potential of profiting or otherwise benefiting financially.

(Ord. No. 08-15-01, adopted 09/17/15, effective 10/7/15; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16)

Section 4-102. Intent and Application

- (a) This Chapter provides criteria for determining **whether Officials properly act with strict impartiality when executing their official duties and** the presence or absence of conflicts between private interests or relationships and public interests. At the same time this Chapter establishes procedures for remedy when **a breach of an oath of service or a conflict of interest** has been determined.
- (i) Public Officials have an affirmative duty to disclose potential conflicts with a public interest, as provided in this Chapter. Such duty extends to and includes private interests or relationships, the mere outward appearance of which suggests a possible conflict with a public interest. The procedures herein are intended both to preserve the privacy interests of persons subject to this Chapter and to encourage voluntary disqualifications in the event of conflicts of interest under the provisions of this Chapter. Private interests or relationships disclosed hereunder are not to be made a part of the public record, except in the event of the imposition of any order or penalty under the provisions of Section 4-204 herein.
- (ii) **Public Officials have an affirmative duty to execute their duties and responsibilities with strict impartiality, in good faith, and in accordance with the Village Charter, the Code of Ordinances, and any applicable rules or procedures adopted by the Village Council.**
- (b) The provisions of this Chapter shall apply to all Officials and to all persons or entities retained by the Village or who do or seek to do business with the Village.
- (c) No part of this Chapter shall be construed to prohibit an Official from appearing in the pursuit of his private interests as a citizen; or from accepting or receiving any benefit by operation of law, or prosecuting or pursuing any claim, right, privilege or remedy which is his by operation of law.

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

ARTICLE 2. PROCEDURES

Section 4-201. Duty to Disclose; Solicitation Prohibited; Ex-Parte Communications; Oath of Service

- (a) Before participating, on behalf of the Village, in any debate or determination that may have a reasonable potential of thereafter affecting a public interest, any Public Official who is subject to this Chapter shall have an affirmative duty to disclose in writing to the Council and to the Committee the receipt of any gift and

the existence of any private interest or relationship either having a reasonable potential of conflict with a public interest or having a reasonable potential of giving the outward appearance of conflict with a public interest.

- (b) No Official may solicit any gift or knowingly accept any gift, directly or indirectly, from any person whom the Official knows or has reason to know: (i) is doing or seeking to do business of any kind with the Village; or (ii) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or non-performance of his or her official duty.
- (c) No Official may solicit any gift or knowingly accept any gift, directly or indirectly, from any person whom is engaged in activities that are regulated or controlled by the Village; except that unsolicited gifts having a value of less than fifty dollars (\$50.00) tendered for personal or social reasons may be accepted.
- (d) An Official shall not consider any ex-parte or private communication from any person, whether oral or written, that said Official knows is, or reasonably may be, intended to influence unlawfully the decision on the merits of any matter. Any such ex-parte or private communication shall be reported to the Village Council, which shall include such disclosure in the minutes of the meeting at which the matter was considered.
- (e) **Officials shall faithfully execute their duties with strict impartiality, and without personal bias or prejudice, regarding all matters of public interest. During the performance of their duties, Officials shall not discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, national origin, or other protected class. Officials shall reasonably act in good faith, in accordance with the Village Charter, the Code of Ordinances, and any applicable rules or procedures adopted by the Village Council.**
- (f) Officials shall file with the Committee, on an annual basis, prior to the 30th day of April of each year, **an oath of service and** a conflicts of interest disclosure in a form recommended by the Committee and approved by the Village Council. Such filings shall be in addition to the filing required by the Village Charter, Section 903.

(Ord. No. 08-15-01, adopted 09/17/15, effective 10/7/15; Ord. No. 11-15-1, adopted 1/21/16, effective 2/10/16; Ord. No. 6-17-1, adopted 7/17/17, effective 8/7/17)

Section 4-202. Disqualification Procedures; Complaints; Records

- (a) After complying with the disclosure requirements of Section 4-201, the Public Official shall either (i) voluntarily disqualify himself and withdraw from participating in further debates or determinations with respect to the public interest in conflict with the Official's private interest or relationship, or (ii) request that the Committee determine the presence or absence of a conflict of interest and advise as to an appropriate course of conduct.

- (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~~ **address the complaint**. 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.
- (c) For the purposes of this Section, the Committee may find and advise an absence of a **violation of an oath of service or** disqualifying conflict of interest when the **asserted violation or the** Official's private interest or relationship is found to be too remote and insubstantial to affect the integrity of the Official's public actions. The intent of the foregoing is by no means to be construed as condoning a lax approach on the part of the Committee; rather, the intent is to discourage frivolous charges.
- (d) Upon being advised by the Committee of **a violation of an oath of service or** the presence of a conflict of interest, the Official shall voluntarily disqualify him/herself and so notify the Committee and the Council. If the Official does not voluntarily disqualify him/herself, the Committee shall mandate that the Official be disqualified from participating in further debates, **actions**, or determinations with respect to **the violation of the oath or service or** the public interest in conflict with the Official's private interest or relationship.
- (e) Any Official who voluntarily disqualifies him/herself shall notify the Council, providing a full description of the public interest matters from which the Official has withdrawn from participation. A voluntary disqualification does not require a disclosure of the specific nature of a **violation of an oath or service or** private interest or relationship considered to be in conflict; only the **oath of service impediment or** public interest object of conflict must be disclosed.
- (f) The Committee shall notify the Council and the Official in writing of all mandated disqualifications and shall therein provide a full description of the public interest matters with which the Official has been found to be **in violation or** conflict and about which such Official is disqualified from participation. The Committee shall mandate a disqualification for any Official who fails or refuses to provide the Committee with such information as the Committee finds necessary to ~~determine the presence or absence of a conflict of interest~~ **address a complaint**.
- (g) Any disqualifications relating to any public interest ~~description~~ shall be recorded in the minutes of the Council meeting at which the matter was considered.

- (h) The Committee shall meet in closed session (i) to protect the privacy or reputation of individuals with respect to their **alleged violations and** private interests or relationships not related to the public business, (ii) to discuss the discipline of an Official under the provisions of this Chapter, (iii) to consult with counsel or (iv) to consult with staff, consultants or other individuals about pending or potential litigation.
- (i) The Village records maintained under the provisions of this Chapter shall be privileged and not subject to public inspection to the extent that such records contain any of the following: (i) information about the finances of an individual, (including assets, income, liabilities, net worth, bank balances, financial history or activities or credit worthiness), (ii) any otherwise confidential financial information, (iii) confidential commercial information, or (iv) trade secrets. For the purpose of this Section, confidential or secret information shall be such information as is customarily regarded as confidential in business.

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

Section 4-203. Failure of Quorum

If, because of a voluntary or mandatory disqualification under the provisions of this Chapter, less than a quorum of the Council, **a committee, or task force** is available to act upon any particular matter, the matter shall be deferred until a quorum is assembled.

Section 4-204. Enforcement

- (a) The Council may file a petition for injunctive or other relief in a court of competent jurisdiction for the purpose of requiring compliance with this Chapter.
- (b) Any ~~person~~ **member of the Council or person employed by the Village** who knowingly and willfully violates the provisions of this Chapter, **with respect to a conflict of interest**, is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than \$1,000.00 or imprisonment for not more than one year, or both. ~~If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and, upon conviction, is subject to the same penalties as the business entity.~~
- (c) Any ~~person~~ **member of the Council or person employed by the Village** who violates the provisions of this Chapter **with respect to a conflict of interest**, shall be guilty of a municipal infraction and shall be subject to a civil penalty of \$100.00.
- (d) In addition to any other enforcement provisions in this Chapter, **any member of any committee or task force, or the Tree Supervisor, who is found by the Committee or a court of competent jurisdiction to have violated this Chapter with respect to Oath of Service shall be subject to removal by the Council;**

and any member of the Council who is found by the Committee or a court to have violated this Chapter shall be subject to recall, as provided in the Village Charter.

- (e) In addition to any other enforcement provisions in this Chapter, any employee found by the Committee or a court to have violated this Chapter shall be subject to disciplinary or other appropriate action, including dismissal or suspension of compensation.

* * *

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, by the Council of the Village of Martin's Additions, acting under and by virtue of the aforementioned authority, 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 _____, 2020 (at least 20 days after adoption).

ATTEST:

THE VILLAGE OF MARTIN'S ADDITIONS

Katya Hill, Secretary

Susan Fattig, Chair
Village Council

Underline indicates new material
~~Strikethrough~~ indicates material deleted
* * * indicates material unchanged

WORKING DRAFT

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

FROM: Doug Lohmeyer

DATE OF MEMO: October 12, 2020

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. Work was anticipated to begin in Sept. However, the County has not issued their building permit.

7200 Chestnut

The applicant's 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 virtual information meeting was held on Tuesday Oct. 6th. None of the adjacent residents participated.

7210 Chestnut St.

The Village issued their building permit on Oct. 11, 2018. The County has closed their permits. Once the applicants finish the front yard improvements and we do a final inspection, the Village Building Permit can be closed.

7200 Delfield St.

The property owners (a partnership) have applied for a Village demolition and building permit for a new house. The Village staff has completed the initial review of the application and submitted their comments of the applicant. A resident information meeting has not been scheduled.

7220 Delfield St.

The applicants have submitted an application to demolish the existing house and rebuild a new house. The project is on hold as they are planning to make revisions to the submitted plans.

113 Quincy St.

The applicant's have submitted an application to build a detached garage at the left rear of the house. The staff has reviewed the plans. The MCDPS permit was issued on Aug. 10th. The Village permit was issued on Oct. 13, 2020.

163 Quincy St.

The homeowner is proposing to add additional parking along the side of the existing driveway. The parking area will be different material than the driveway and the preliminary non-vegetative analysis indicates the non-vegetative area will not exceed 30% of the front yard. They have not filed for a Village permit.

3505 Raymond St.

The new homeowners have applied for a variance to relocate the existing HVAC units from the rear of the house to the right side of the house. The Village Code does not allow HVAC units to project into the minimum side yard setback, so a variance is required. The Variance Hearing is scheduled for Oct. 29th.

3515 Raymond St.

The applicant has submitted plans to remove the existing house and to construct a new house. The County is reviewing their plans. The applicant's have revised their plans to address the "Wall Plane Length" condition. The informational meeting with the neighbors has not been scheduled. Waiting to the County to approve the plans.

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.

3407 Thornapple St.

The Village issued their building permit on May 30, 2019. Work is continuing on the new house construction. The applicant has submitted a “Wall Check”, which indicated the new house is in conformance with the approved site plan and the Village Code. On May 29th, the building permit was extended and work is proceeding. The Applicant revised the plans to show a two-car detached garage at the rear of the lot. The MCDPS and the Village has issued their revised building permits.

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. They plan on making improvements to the intersections at Bradley, Quincy, and Cummings this summer. An email was recently re-sent to MSHA requesting a status report on their improvements.
2. The staff has spoken to several homeowners about proposed improvements to their property.

From: Niles Anderegg, Village Manager
To: Village Council
Subject: Village Office Update
Date: 10/13/2020

Annual Audit

The Village's auditors are currently reviewing the FY20 financials of the Village in preparation for completing their FY20 audit. Once the audit is complete the results will be shared with the residents and a presentation will take place, probably at the December meeting.

Sidewalk Repair

At the last Council meeting the Office was directed to survey the sidewalks in the Village and determine a priority list of sections that need to be repaired. The survey is taking place this Thursday, October 15. I will report the results of this review at the next Village Council meeting.

Tree Canopy Program

As directed at the last Council meeting, the Office removed the \$100 fee for the Tree Canopy Program. If residents want to take advantage of this program, application forms must be submitted by October 27. This deadline will be included in the weekly wrap-up and in a separate email regarding this program.

Fall leaf Bag Distribution

This week Village residents will receive a poll asking them if they would like leaf bags delivered to their address this fall. Please respond to this poll with a Yes or No. If you do not respond to the poll, you will be counted as a no unless we hear from you.

Village Directory

The Village Office is completing the work on the directory. We are currently working with a printing vendor on formatting and we hope to have the directories printed and mailed very soon.

Cybersecurity

The Village Office is finalizing the final pieces of the cybersecurity upgrades which will include an upgraded firewall and the creation of separate staff and guest Wi-Fi networks. The new email addresses for the Council members have been shared with the Council and will be shared with residents in the weekly wrap-up and on the Village website.

GIS Update

Wallace Montgomery, the Village's GIS contractor, has finished the requested updates to the GIS data. Staff is reviewing the updates and will try to finalize this project soon.

Street Cleaning, Leaf Vacuuming, and Snow Plowing RFP

The Village's street cleaning, leaf vacuuming, and snow plowing RFP has been posted on the Village website as well as with Maryland Municipal League and on the State of Maryland procurement website. This RFP will also be posted in this Friday's weekly wrap-up. The due date for responses is October 27th. Pending the awarding of a contract the plan is to do the leaf vacuuming in November and December as was done last year.