

**Village of Martin's Additions
Council Meeting
7013 B Brookville Road, Chevy Chase, MD 20815
Minutes of July 16, 2009 Meeting**

COUNCIL MEMBERS AND VILLAGE REPRESENTATIVES PRESENT: Council Members: Noell Sottile, Richard Krajeck, Larry Wasson, Chris Mueller, Mike Zielinski. **Village Manager:** Jean Sperling; **Attorney:** Ron Bolt; **Building Administrator:** Alan Beal.

Residents: Rick Michel, Frank and Hanne Correl, Jon Fleming, Diane Doolan Everts, Bill Catherwood and Margot Catherwood

CALL TO ORDER by Chairman Richard Krajeck 7:30PM

POLICE REPORT

The Police report for June was read into the record by Chairman Krajeck because no officer was available from the Chevy Chase Police Force to attend the meeting. For the month of June Chevy Chase Village Police did not handle any calls in Martin's Addition. There was one call in Section 3. The County Police Reported continued auto break-ins throughout the area.

ELECTION OF OFFICERS

Chairperson: Councilman Larry Wasson nominated Richard Krajeck for Council Chairmen. Noell Sottile seconded the motion; all voted in favor.

Vice Chairperson: Mike Zielinski motioned for Noell Sottile to serve as Vice Chairperson. Larry Wasson seconded; all voted in favor.

Secretary: Noell Sottile motioned for Larry Wasson to serve as secretary. Mike Zielinski seconded; all voted in favor.

Treasurer. Richard Krajeck nominated Chris Mueller to serve as Treasurer. Mike Zielinski seconded; all voted in favor.

Deputy Vice Chairman Richard nominated Mike Zielinski, Larry Wasson seconded; all in favor.

ACTION ON MINUTES:

The minutes of the June 25, 2009 Council meeting were read. There were no changes. Motion to approve was made by Sottile, second Mueller; all voted in favor.

RESIDENTS COMMENT AND CONTRIBUTIONS

Rick Michel-7003 Brookville Road. Mr. Michel expressed a concern that his efforts to beautify his corner lot are being destroyed by the trucks that are exiting the market and driving up over areas that he and his wife have planted. He is also concerned about the storm drain being damaged. The Village Office has been working with the management at the market and plans were being reviewed for improvements at this location that would prevent the large trucks from exiting at Turner and protect the right-of-way with bollards.

Frank Correl- Turner Lane. Mr. Correl remarked that people leaving the parking lot are careless, especially landscaping trucks. Jean said she would speak with our traffic engineer Joe Cutro to see if he had any suggestions on how to improve the situation.

Hanne Correl- Turner Lane. Thanked the Village Manager for a wonderful farewell event for Mr. Powell.

FINANCIAL REPORT-FINAL FOR MONTH OF JUNE

Treasurer's Report

June 30 is the end of the 2009 Fiscal year. This report is the un-audited report and does not include all of the income and expenses that will be charged to the current Fiscal Year. This report includes only income received and expenses paid through June 30. Income for the month was about \$83,675, most of which came from our Village share of State income tax revenues—nearly \$80,000—with the remainder from highway user fees.

Expenses for the month were about \$45,000. All expenses were within normal projections. A one-time expense was Street & Sidewalk maintenance of nearly \$10,000 for pot-hole repairs. For the FY 2009—and these are not finalized numbers—income is \$791,937, about \$11,000 below projections. We anticipate at least one more State income tax share payment. Expenses, year-to-date, are \$537,217, or about \$150,000 below budget. As with income, we expect substantial adjustments to be made before the final numbers are ready for audit.

Zielinski asked why there was no money in the budget for our urban planning consultant and Krajeck explained that it does not appear in the current year budget because it was budgeted as an accrued expense in FY 2008 because the contract was signed last year. Mueller motioned for approval of the financial report as presented; Second: Sottile. All in favor.

FY 2009 Audit Initiated. The FY 2009 Village Audit was initiated by receipt of the management agreement from the accounting firm of LSWG which was signed and returned. We have also signed and returned to the auditors all the letters that go to our revenue sources. The report will be completed by December.

Bank Resolution 7-09-3 to authorize signatories. Sottile made a motion to accept the Resolution (7-09-3) from United Bank to designate new signatories on the United Bank Checking Account. Second: Zielinski; All voted in favor.

MANAGER'S REPORT

A Village tree was blown down on Raymond Street on Friday June 26 during a fast moving storm. It required an emergency response from the Fire department (Walter Reed responded) with three telephone poles involved and multiple live wires. Paul Wolfe, our tree care provider, assessed the situation and ordered a crane and tree crews for the Saturday. Pepco was also involved and brought 3 new telephone poles, although none were used. The pole at the corner is a concern because it has been splinted rather than replaced. It will be followed up on by Pepco.

Sidewalk, curb, gutter and street repairs were needed for the ROW and have been performed by Chamberlain. (The bill for the work is \$5,980) Special thanks to Wayne Fowler of Mid-Atlantic for handling the safety issues related to the sidewalk at that location and properly marking it off. The manager was in Ocean City and his assistance was absolutely vital.

Street Patching was finished. The patches which couldn't be accessed in the last round of road repairs on Raymond Street were completed when the sidewalk was replaced. Paul Wolfe will be re-seeding the area.

Tree Watering. Integrated Plant has started the weekly watering program of 40 trees in the Village. He will be doing it once a week.

Cummings Lane Crosswalks have been repainted after the repaving but the markings will not last too long. They will need plastic stripping but that needs to be a part of a bigger Village-wide project or repairing all crosswalks.

New Crosswalk was painted at parking lot entrance to help define the pedestrian path to improve safety.

Delivery Trucks at the Market. The manager has been working on getting smaller delivery trucks to the Market. Resident Rick Michel has been helping with this. Several options are being considered.

Street lighting contract with *The Lighting Practice* is enclosed with the packet. The purpose of this Phase 1 is to review the existing utility pole-mounted street lights and develop recommendations for upgrading and/or replacing the existing lighting options. It will be attached to the standard legal contract provided by Ron and will include a limit or not to exceed point on the travel expenses. A completion date will also be included.

Directory- Some changes were made as a result of the newsletter call for changes. This project requires a good block of time to complete that is often difficult to find.

July 4th party was successful.

3502 Turner Lane Tree and Driveway Concern. Paul Wolfe and Dan Shaw have consulted and we are working on coming up with a solution to this problem that was identified in the Village Walk-through last March. A new curb cut will cost about \$2,200.

Website. Additional work with the website has been done-a highly visible spot has been created on the opening page where we can put special notices. If you've looked you can see the building alert and we are in the process of developing the House Numbers Project Alert.

House Numbers Project: The Manager followed up with several people associated with the Fire Department to clarify any issues related to the house numbers improvement project we discussed last month. Nighttime house numbers are really problematic. A real effort needs to be made to bring everyone's attention to this.

The Fire Board (John Bird) said they do not keep a list of house numbers that are missing and have absolutely no objection to the effort we are making to improve the numbering. In fact, he fully supported it. Likewise the County Attorney for Fire and Rescue Services fully supported our efforts and had never heard of an issue related to insurance companies such as the one suggested. She was in full support of our effort

The Fire Department (CC) reported that they have never had an insurance company come to the fire house and ask to see a list of people not in compliance with the law. Bob Stephan, Senior Officer of Station 7, said they "would have absolutely no information for the insurance companies. The insurance company would go straight to the residential homeowner." He said the Insurance companies have NEVER done such a thing. CCHS and AMT have photographs of all the houses so any concern about a written list certainly is eliminated by the presence of photographs.

Fire Hydrants log has been obtained from the fire department. It shows all the hydrants in the Village by street and is kept with the Fire Department engine. There have been no new hydrants installed according to the Fire Department. Wasson believes that the Fire department's map is inaccurate. Jean is going to ask the Fire Board to check the accuracies of the map. Krajeck asked Wasson if he had followed up with WSSC and assurance that the fire hydrants have been checked. Wasson reported that WSSC was pulling the logs to see if they can differentiate our hydrants from the others. He also suggested that the Fire Board is responsible for the safety of our Village. Wasson is going to continue to follow up with WSSC

The MML Convention was beneficial. Jean has shared some of the storm water materials with various people. Other classes attended include Traffic Calming, Fiscal Challenges, Municipal Official Liability Issues, Non-Point Source Pollution.

BUILDING ADMINISTRATOR'S REPORT

Permit Applications/Issues

- **7300 Summit Avenue.** A recent application for construction at this location was returned because it didn't conform to our new buildings regulations. New plans have been resubmitted that do conform. The permit application is now in process. The adjoining and confronting neighbors have been notified. A public informational meeting has been set for July 29th for this project.
- **7404 Summit Avenue** had approached us with questions about construction but we have received no further details. They had developed some plans that would not have conformed to our new regulations.
- **160 Quincy** has submitted a building application. Their plans too had not conformed to the building regulations but they were able to adjust one aspect and bring it into conformance. An interpretation of the corner lot status was able to move the project forward.
- **3412 Bradley Lane.** A dumpster at 3412 Bradley Lane caught us by surprise because there was no building permit. Instead the driveway was being improved and the front yard was redesigned. The project has the potential to be at issue with front lot coverage restrictions. Fortunately the front lot non-vegetative coverage of this lot is 29.8% so it conforms to our limitation. This project raises the question of how we regulate our zoning law on a project that doesn't require a permit. Most towns don't permit "flat work"—such as sidewalks, paths and driveways. Krajeck noted that we need to look beyond just the driveway because any non-vegetative surface in the front yard is going to need to be regulated through a permit process. The Village needs to have a process by which people apply for a permit. Attorney Bolt noted that the Village can regulate it whether or not you require a permit.

Definition of New Construction. Krajeck inquired about the fee for construction at 7300 Summit Avenue. Mr. Beal explained that according to the County definition a project is considered a "remodel" (and not a demolition/new construction project) only if at least 50% of the first floor exterior vertical walls are retained; the total addition can't be more than 50% of the existing footprint. We did not adopt a different definition from the County. It is the Council's policy to use the County's definition of new constructions and thus VMA doesn't need to make any further decision on the matter.

Explanation of Construction Project Public Meetings. In response to a question from the Council, Mr. Beal explained that the Village Office often arranges public informational meetings for new construction as well as large construction projects. All the adjoining and confronting neighbors of the subject property are invited, along with anyone else who has an interest, to hear a presentation from the property owner and/or builder/architect. We try to uncover any issues that might need to be mitigated as construction progresses. One of our main goals is to initiate a dialog between neighbors so that they know who they need to talk to on a day-to-day basis when they have problems with trash or parking. At least one council member attends these meetings. They are non-binding open discussions. Sperling and Beal agree that these meetings have been very useful in almost every case. Krajeck mentioned that permit conditions can and have been altered as a result of the concerns voiced by residents at these meetings, parking restrictions being one example.

BUILDING CODE VARIANCE PROCEDURES. (Resolution 7-09-1)

Beal explained that with two recent project applications filed that possibly required a variance, the Council should move forward with the adoption of a written variance processing policy. Attorney Bolt prepared a draft policy which the Council discussed at length. He explained that the variance powers are in the Village Code but the Council should establish administrative requirements to facilitate the uniform processing of applications.

When Conducted. It was decided that Variance Hearings should be conducted at regularly scheduled Council meetings, but not necessarily the "next" meeting after a variance request has been filed. Timing considerations

include the need for staff reports to be developed and for the requisite advance notice of the date of the public hearing to be given to interested parties.

Special Hearing Request. The Council agreed that 3 out of 5 members must agree to the scheduling of a special hearing, which can be done by email.

Boundary Survey and Degree of Accuracy Required. It was agreed that a boundary survey be required in all variance request cases. The accuracy/margin of error requirement of the survey is set to 1/10th of a foot or 1.25 inches. This will be written into the procedures and placed on the application.

Permits to Be Denied First. It was agreed that permits will be reviewed and formally denied prior to a variance application being filed.

Two Fees to be Paid. It was agreed that the applicant will pay both a building permit fee and a Variance Fee.

BUILDING CODE VARIANCE FEES.(Resolution 7-09-2)

The Council discussed the components required for the review, processing and resolution of variance applications. At a minimum, two hours of our attorney's time needs to be built into the formula in order for a written legal decision to be developed; the Building Administrators' review and the Village Manager's time to process and prepare for the public notice and hearing must also be considered. Based on these factors Krajeck calculated a minimum rate of \$1,500 for the Variance Fee, to offset the cost to the Village. Attorney Bolt explained that the word "reasonable" is often the test for fee setting. The state code which grants us the authority to set fees, itself uses the word "reasonable."

Recordation of Decisions in Land Records: Attorney Bolt explained that when granting a variance the Council may decide that conditions should be placed on the granting of the variance. Those conditions run with the land; e.g. the subsequent owner of a house is able to maintain something constructed in accordance with a variance, but they are also subject to the conditions imposed by the Village. In order to make such a condition binding on subsequent owners it has to be recorded in land records so that purchasers are aware of those conditions.

Balance of fee and general tax dollars. Krajeck said there must be a balance between residents of VMA being asked to pay for all of the support work that goes into enforcing our building codes and applicants paying their share. He noted that even a \$1,500 fee is likely not going to cover all the expenses but there is a certain cost level of just doing business. He also noted the importance of written decision as it serves as guidance for future councils. Beal noted that in his experience he has seen very few variance requests for new construction project, because it is easy for new construction to conform to code. It's the remodels, the additions, the non-conforming existing structures that you'll see the variances. There was no further discussion. Chairman Krajeck asked for a motion.

Motion to set the Variance Fee (Resolution 7-09-2)

Zielinski made a motion to set the variance application fee at \$1,500. Second: Sottile; No further discussion. Vote: 4 yes, 1 no (Wasson). Motion Passed (included as part of Resolution 7-09-2).

Motion to Adopt to Adopt Procedures as amended to Process Variance Applications (Resolution 7-09-1)

Mueller made a motion to adopt the Procedures for Variance Application as amended; Second: Sottile Vote: All voted in favor.

Non-vegetative Surface Coverage Discussion

The Council discussed at length how to describe the non-vegetative coverage limitation contained in the Building Regulations. It was agreed that the phrase "Front Yard non-vegetative surfaces (e.g., new driveways, sidewalks, etc)" would be used as one fee and permitting category. It was also agreed that additional interpretive guidance and language needs to be developed for this area of regulation. A fee of \$75 was set for the review and issuance of such a permit.

Motion to Set Front Yard Non-vegetative Surfaces Fee (Part of Resolution 7-09-2). Sottile made a motion to set the fee at \$75; Second: Zielinski. All voted in favor.

OTHER BUSINESS: Resident Steve Schmal submitted a paper on the Business Registration portion of the Village Code and asked the Council to take a closer look at the issue of home businesses in the Village. Chairman Krajeck asked that it be placed on the agenda for the next meeting.

August Meeting: The Council agreed that a decision on whether to hold an August meeting would depend on the issues that arise during the month.

Adjournment 9:45 PM. Motion: Mueller, Second Sottile, Vote: All in Favor.