

**Village of Martin's Additions**  
**7013 Brookville Road, Suite B, Chevy Chase, MD 20815**  
**Council Meeting Minutes**  
**November 19, 2020**  
**VIA ZOOM CONFERENCE CALL**

**Council Members Present:** Susan Fattig; Arthur Alexander; Todd Mann; Jeff Blander; Katya Hill; **Village Manager:** Niles Anderegg; **Village Manager Assistant:** Martha Fessenden, **Building Administrator:** Doug Lohmeyer; **Village Attorney:** Ron Bolt; **Residents and other Attendees:** Keith Allen (Turner Lane); Tiffany Cissna (Bradley Lane); Marty Langelan (Chestnut Street); Naomi Naierman (Quincy St); Larry Wasson (Delfield St); Elissa Bean (Turner Lane); Sally Maran (Turner Lane), Janine Trudeau (Bradley Ln); Marc Efron (Raymond St); Bill LeoGrande (Chestnut St); Debbie Roumell (Raymond St); Phil Lerman (Turner Ln); Lorie Mitchell (Cummings Ln); Jean Sperling (Shepherd St); Aleta Margolis (Turner Ln); Andrew Kauders (Turner Ln); Holly Worthington (Turner Ln); Peter Kahn (Bradley Ln); Jennifer Silberman (Summit Ave); Matt Schneider (Quincy St); Paula Goldberg (Bradley Ln); Michael Brodsky (Turner Ln);

**7:32 PM Call to Order: Fattig**

Weatherman Keith Allen (Turner Lane) stated that the current cold is going to be short-lived. There will be rain on Wednesday that will linger into Thursday morning with temperatures around 60°. Keith mentioned an interesting trivia item: November 2 is the only day in the month of November without any snow ever in Washington, DC.

**7:34 PM Opportunity for Council to hear resident comments**

Larry Wasson (Delfield Street) asked when the Council might act on the flooding in his basement, which he believes was caused by work on Thornapple Street. He expressed his support for entering the letter from residents on the ethics ordinance into the record. He also supports previous requests from residents that no more time or money be spent on the ethics ordinance and that a manual for volunteers be written. Holly Worthington (Turner Lane) thanked the Council for its hard work but commented that she also believes that a volunteer manual would solve the problems that led to the ethics ordinance.

Arthur Alexander spoke on behalf of Lauren Biel about trees. Arthur read from a proposal from five years ago that would require a permit when removing trees larger than 24" circumference and the replacement of the tree as well as payment of a fee to go into the Village's tree budget. He seconded her proposal to require replacing trees and paying a large fee for cutting down a large tree.

Phil Lerman (Turner Lane) spoke about the need for the Council to communicate better with the community. He commended Todd Mann for his letters, emails, and posts on listserv that have been very clear and expressed the hope that other Council members will follow Todd's lead.

Marty Langelan (Chestnut Street) mentioned a list of recommendations that were in a November 12<sup>th</sup> letter to the Council. She asked if the steps outlined in that letter will be followed regarding future ordinances. Susan Fattig responded that the Council would address that issue later in the agenda. Arthur Alexander commented that he will be proposing a means for communicating early on with the community on new ordinances. Jeff Blander urged that a standard operating procedure be developed for future ordinances. Bill LeoGrande (Chestnut Street) seconded the idea of finding an alternative to an ethics ordinance which he sees as potentially criminalizing volunteers and solving problems relating to one type

of behavior only, whereas a personnel manual would deal with a variety of problems. Naomi Naierman (Quincy Street) asked about the nature of the closed session that occurred before the Council meeting and whether information could be shared about what transpired at that meeting. Village Attorney Ron Bolt outlined the limits on what can be shared about a closed meeting, and Susan Fattig noted that discussion of the ethics ordinance would take place later on the agenda. Marty asked why resident comments were not attached to the minutes and asked for clarification of the Council's policy on attaching these comments to meeting minutes. In response, Susan said that comments may be attached at the request of the resident, but the minutes are meant to be concise. She further noted that the minutes have become increasing long over the last few months, to the extent that some residents find them unwieldy. She requested that people try to keep them to a minimum. Larry noted that with today's cloud storage capability, hundreds of letters could be included. Jeff Blander asked for clarification of policy. Before the Oct 15 meeting, many comments were submitted in writing and residents thought they would be included in the package that went out, but they did not see their comments as attachments. He asked whether comments that residents submit to the Village Manager are automatically part of the record. Village Manager Niles Anderegg said comments are attached to the minutes if the resident so requests. If a resident had requested that, and comments were not included, that may have been an oversight on the part of the Village Office that can be corrected. After the minutes have been approved, however, an addition to them must be approved by the Council. Arthur Alexander observed that there is no platform for residents to submit comments and he believes that providing a way to share views, such as a Village listserv, would be valuable. Larry Wasson asked that his letter about the change in the right-of-way that caused flooding in his basement be attached to the minutes of this meeting. Niles read a comment from the chat submitted by Elissa Bean thanking Arthur for his willingness to talk by phone and noting the receptivity of other Council members to resident communications. Jeff raised the issue of clarifying the process by which issues raised in the resident's letter from Nov 12<sup>th</sup> inclusive of creating volunteer manuals, the standing up of a safety committee as well as other areas such as the tree proposal might be addressed. Susan said that these questions can be put on the agenda for Council meetings.

## **8:00 PM Committee Updates: Fattig**

### **Walkability Task Force**

Peter Kahn (Bradley Lane) spoke as chair of the Walkability Task Force, which includes: Katherine Hample (Cummings Lane); Lorie Mitchell (Cummings Lane); John Sharrow (Chestnut Street); and Larry Wasson (Secretary, Delfield Street). Arthur Alexander serves as liaison with the Council. The Task Force will provide a report in February 2021. The Task Force has held numerous meetings with its urban planning consultant, Chris Jakubiak; analyzed resident preferences on its survey; presented its work to Village residents and developed a list of recommendations around which there is consensus. These recommendations include: repair sidewalk where sidewalks are uneven or broken; cut back vegetation overhanging the sidewalks or interfering with traffic sight lines; possibly change the Village code regarding parking and better parking enforcement; and improve crosswalks, traffic signage, and access for residents walking within the Village (such as a link between the Raymond Street dead end and Brennon Lane in Rollingwood that would lead directly to Shepherd Street Park, and a stair and walkway across the park that would join Shepherd and Turner). There are potential pedestrian safety issues that the Task Force will not be able to study by February and that might be addressed through a Phase II walkability project. Addressing them, however, would require a commitment from the community as well as cooperation and expertise from Montgomery County and from the State of Maryland. Peter gave a brief overview of some of these unresolved safety concerns:

1. Brookville Road has been called a “pedestrian nightmare” by Chris Jakubiak. It is the only roadway in the Village used by most residents on a daily basis. There are narrow sidewalks and traffic speeds are fairly high, and the safety of children walking to school should be assessed. There are serious drainage issues on Brookville, and the safety of crossing Brookville at Bradley, Thornapple and other places should be reviewed. Fixing Brookville Road is the single walkability issue that would most enhance pedestrian and traffic safety in the Village. Addressing this issue, however, would require Council action, engineering support, and cooperation with neighboring jurisdictions and the State of Maryland (Brookville Road is a state highway). One option that could ameliorate the cost of improvement is Montgomery County’s “[Vision Zero](#)” project which strives to reduce pedestrian injuries and deaths to zero and offers grants to projects that can affect pedestrian safety in a significant way.
2. Lack of sidewalks throughout the Village. Some of the Village streets lack sidewalks but nonetheless carry a significant volume of traffic. Whether speeds are too high for the design of the streets should be assessed. There are four streets that lack sidewalks completely: Summit, Thornapple, Chestnut, and Delfield. The Task Force has no desire to impose sidewalks on residents opposed to them, but the survey also showed meaningful support for improved pedestrian safety on those streets. The Task Force proposes doing a second survey of residents, focusing especially on those four streets, to determine attitudes toward various pedestrian safety improvements.
3. The Village code might be redrafted to strengthen provisions relating to traffic, truck usage on residential streets, and parking, an effort that should be combined with meaningful enforcement through speed cameras, increased police presence, or another means.
4. Traffic safety on Summit, Cummings, Thornapple, and Shepherd street might be improved by making changes in how traffic cuts through the Village; these changes would require cooperation with other jurisdictions.

The Task Force has already used up about two thirds of Chris’s budget and consultant time and will not need to go outside its existing budget. Susan Fattig asked if there was consensus on all of the recommendations; Peter responded that votes would be taken at future Task Force meetings. She commended the Task Force for all the time its members have committed to this work. Larry Wasson said that the Task Force will meet on December 8 and intends to present a Phase I proposal to the Council on December 17. Although Susan observed that the Walkability forum had not been well attended, Peter pointed out that the 192 responses to the Walkability survey indicated high interest on the part of residents. Jeff Blander also commended the Task Force and commented on the importance of traffic safety. Jeff suggested that specific topics focusing on traffic safety on side streets, with particular impact on families with young children and seniors, be considered for near term adoption/consideration by a safety committee or taskforce.

### **Ethics Committee**

Marc Efron (Raymond Street) reported as chair for the Ethics Committee, which also includes Lorie Mitchell (Cummings Lane) and Debbie Roumell (Raymond Street). The Committee met on November 9th via Zoom. The focus of this meeting was on reviewing a draft of changes to the Village’s code provisions related to ethics requirements and compliance. They reviewed a draft prepared by Todd Mann who is the Council’s liaison to the Committee, Village Attorney Ron Bolt, and Marc, as authorized by the Council on Oct 15. The draft was intended to address comments to the Committee from Village residents. The Committee’s original task was to add to the existing code a process for handling complaints related to the oath of service that is taken by every Village employee, Council member, and Committee member. In considering that issue, the Committee had to deal with some questions beyond the oath of service, such as

enhancing the existing code's complaint resolution process, reducing, and eliminating redundancies in the existing code, eliminating irrelevant provisions in the existing code, and making the existing code less punitive. The Nov. 9<sup>th</sup> meeting was open to Village residents with an agenda and a link to the draft ordinance posted on or around Oct. 31/Nov. 1 and additional announcements by the Village on Nov 6<sup>th</sup> and 9<sup>th</sup>. Three Council members and 15-20 residents attended this meeting as well as Committee members. Residents had been invited to submit comments and a number were received, which were very helpful for preparing for and framing the Committee's discussion. Some of these comments were directed at changing the ethics portion of the code but the Committee considered that a Council matter and focused only on the draft ordinance itself. The comments included provisions on such matters as timely updates to the conflict-of-interest questionnaires, a statute of limitations, a provision regarding the mootness of a complaint, and resolution of complaints before a formal process begins. The Committee recommends that another draft be prepared by Village Attorney Ron Bolt, Todd Mann, and Marc Efron or another member of the Ethics Committee and when that new draft is completed, another open meeting should be scheduled for the draft to be reviewed and commented upon by residents. As soon as the draft is completed, a copy should be included in a meeting notice along with an agenda for the meeting, and comments would be solicited prior to the meeting, either by email to Marc or to the Village Manager. Issues to be addressed are fewer in number than with prior drafts so Marc believes that a new draft can be completed, and a meeting scheduled early in December. The Committee referred comments to the Council that they received about the need for a change to the code or the wisdom of a change to the code and to that end Marc prepared and provided to Todd Mann a packet of all comments received. Debbie noted that Marc has put in a tremendous amount of energy to this matter and so has Todd Mann, work that may be moot if the Council pursues an option other than an ordinance. She asked the Council to evaluate its process going forward. She also urged everyone to communicate directly with the Ethics Committee since not everyone is on the listserv. Arthur Alexander noted that the proposed ordinance does three things: 1) adds oath of service - impartiality violations in addition to the financial conflict of interest; 2) widens the scope of the ordinance to committees in addition to the Council and employees; and 3) modifies procedures to enhance and clarify complaint resolution procedures. The Council has the authority to deal with violations on the part of committee members right now by simply taking a complaint and dismissing a committee member, without any clear required process. The current draft ordinance introduces a whole sequence of procedures that follow due process, call for evidence and enhance the fairness of the process, and allows the review to be undertaken by the Ethics Committee instead of just the Council. It would put into place a process for handling complaints that fills a hole that currently exists. In Arthur's view, having a handbook would not address the question of process should a complaint arise. Marc commented that suggestions from residents have been particularly helpful on the issue of due process and were largely adopted. Jeff Blander thanked the Committee for the amount of time and effort they have put into this issue and also acknowledged the investment of community time, estimated around 300 hours so far. He appreciated Debbie's comments on being more efficient going forward. Jeff questioned whether the Committee considered alternatives that were submitted from residents such as having a complaints system that did not require expanding the ethics jurisdiction since other sections of Chevy Chase do not have such an ordinance. Marc responded that the Committee followed the Council's direction to focus on a new draft of the ordinance, not alternative means of handling complaints.

**Motion: Todd Mann moved that the Council approve the Ethics Committee recommendation to prepare a third draft of the revised ethics ordinance and then hold another meeting after taking resident comments; Arthur Alexander seconded. Four votes in favor (Alexander, Fattig, Hill, and Mann) and one opposed (Blander). Motion passed.**

Todd Mann spoke for the motion because the Ethics Committee, in his view, has done an excellent job of considering process questions and incorporated many resident suggestions related to protections and other matters in its drafts, so this has been a valuable exercise. Arthur expressed support for clarifying how the Village should deal with complaints. Jeff Blander said that he felt the Council was putting all of its energy into one way of handling complaints and he would like to see alternatives explored as well. Todd asked Village Attorney Ron Bolt if there are other vehicles besides an ordinance that would accomplish the same end. Ron said instead of adding a process to the code, a complaint and resolution process could be added to a policy. A potential pitfall to that approach is that the Ethics Committee is a statutory body, and its powers are listed in the Village code and do not currently include the review of complaints related to impartiality. The code would therefore need to be amended to expand their current powers. Arthur said the Village has no handbook or SOP but having one would not necessarily address the issue of complaints. The Town of Chevy Chase has a policy that outlines roles and responsibilities but says nothing about complaints against Committee or Council members. Ron noted that laws are usually reactive, adopted based on experiences. On the municipal level most ethics ordinances concern primarily financial conflicts of interest. Complaints about the lack of impartiality are rare. If the Village wants this addressed, it would be because complaints have come to light recently, and other jurisdictions may not have experienced these problems. The State Ethics Law requires municipalities to have a conflicts of interest code, mostly addressing financial issues, but also the improper use of the prestige of office for the private gain of others. Jurisdictions of a certain size are exempt from this law. The State Ethics Commission has found that if the operating budget is greater than approx. 1.3 million and the population is of a certain size, the municipality would be subject to that act and council members must submit a detailed financial disclosure statement. If the municipality is under a certain amount in its operating budget and population, it would be exempt. The Village is exempt from State law. But in granting the exemption to the Village, the State has said that an ethics ordinance should be enforced as deemed appropriate for the jurisdiction. Todd suggested that Ron research other options while the Ethics Committee continues its work on a third draft, and Susan directed Ron to that effect. Marc reiterated that there are two ways to make comments to the Ethics Committee: 1) email the Village Manager or 2) email the Committee Chair, Marc Efron. Each of them will distribute comments to the Committee. Marc's email address will be in the announcement about the next meeting. Susan thanked everyone for their contributions. Jeff would like to work with Todd or Ron to develop specific complaint scenarios to help residents understand what issues need to be addressed.

### **Election Committee**

Tiffany Cissna (Bradley Lane) reported that the Election Committee has held three meetings. They voted for a 100% mail-in option for elections if mass gatherings are still not permitted in the spring by the County. They have been using documents from prior committees as their baseline documents, most having to do with administrative, rather than policy, issues. A few provisions raised some questions that will be presented to the Council for guidance. The plan includes dates and times for next year's election.

Susan Fattig thanked the Election Committee for their work. Their draft will be circulated to residents. Arthur Alexander asked about the issue the Committee raised about the term "qualified voter." Ron Bolt answered that the Village charter currently defines a qualified voter as someone residing or owning property in the Village. The question exists about whether a property owner who does not reside in the Village should be allowed to vote. Susan commented that this issue will be addressed at a future Council meeting and thanked the Committee for its report.

### **9:00 PM Report out from and Discussion of the Oct. 1st Community Listening Forum and Key Themes**

Jeff Blander reported on the Community Listening session. He recognized the Council, the Village Manager, and residents for its support of the forum and said that there was strong turnout. Topics discussed were: an SOP for approving new ordinances; and safety concerns including 5G, noise from leaf blowers, pesticides, traffic and how it affects children, and Shepherd Park and how the crowds there are not adhering to social distancing. Jeff commented that he thought the forum was a healthy venue and more such events should be planned. Arthur Alexander asked Ron Bolt about Village liability for radiation harms that come from 5G transmissions. Ron said that generally a utility provider is responsible, not the Village, but when 5G is operating within the standards approved by the federal government it is difficult to say that the utility is responsible. Jeff mentioned the harm from 5G exposure and particularly to young children, under five years of age. Some residents in the community are passionate about this issue so it might be an effective, proactive step to set up some sort of discussion group or included within a broader safety taskforce.

### **9:09 PM Discussion of the 2020 Annual Survey Results**

Due to the length of the meeting, Susan Fattig postponed discussion 2020 Annual Survey results to the December Council meeting.

### **9:10 PM Building Administrator's Report: Lohmeyer**

Building Administrator Doug Lohmeyer gave his report (see attachment). Susan thanked Doug for his report and for his patience.

### **9:15 PM Financial Matters, including Treasurer's Report: Alexander**

Treasurer Arthur Alexander gave his financial report. Arthur reported that he is not sure why, but the Village is spending money less rapidly than budgeted. There is hardly any money coming in from our revenues but that is expected because it will be the end of November before State income taxes come in. On November 30, a fuller picture of income will be available.

### **9:18 PM Manager's Report: Anderegg**

Niles Anderegg gave his Manager's report (see attachment). In addition to providing highlights from the written report, Niles also touched upon a letter signed by the surrounding municipalities regarding [THRIVE Montgomery 2050](#). The Council could draft its own letter in support of theirs.

Susan Fattig asked for minutes to be approved before hearing resident comments. The minutes had been approved by Council members via email and she wanted them to be approved for the record and Susan stated that the minutes were approved unanimously. Jeff Blander asked whether there were comments submitted by residents that should be attached to the minutes. Susan clarified that residents are able to append items to the minutes but not amend them, since they are the Council's meetings. Jeff called on any residents who wished to submit documents to be attached to the minutes to do so.

### **9:21 PM Opportunity for Council to hear residents' comments: Fattig**

Larry Wasson (Delfield Street) spoke in favor of Marty Langelan's suggestion of a volunteer manual and asked if the Council was considering the idea. Arthur commented that he has not seen a volunteer manual that deals with complaints. Marty Langelan (Chestnut Street) said that Naomi Naierman (Quincy Street) and Paula Goldberg (Bradley Lane) have volunteered to draft a manual that includes complaint procedures and knows of several examples that she will forward to the Council. Holly Worthington

(Turner Lane) seconded Debbie Roumell's earlier comment that the process behind the ethics ordinance was somewhat backward and spoke in support of having resident input earlier in the process. She also said that it was informative to hear Ron Bolt say that other communities do not have an ethics ordinance. Ron clarified that most communities do have an ethics ordinance, but one that focuses only on financial conflicts of interests, presumably because they have not encountered issues such as the Village recently has. Marty asked how residents can get their questions answered. The first question on her list was what happened to the suggestion for a sign at the Village Office that states that the Village opposes racism in all forms. Due to the length of the meeting, Susan Fattig postponed discussion of this issue to the next Council meeting and assured Marty that issues on her list would be addressed then. Regarding the ethics ordinance, Larry emphasized how valuable a security clearance is and that losing one would be a huge issue if that were to be a consequence of ethics violations. Susan responded that, as someone subject to the requirements of the proposed revision, she did not find those requirements to be onerous and that her experience on the Council over the past 5 years had led her to believe the ordinance was needed. She said that the Council would look into the likely impact of the ordinance on security clearances.

### **9:28 PM Adjournment: Fattig**

Arthur Alexander moved to adjourn, Katya seconded, and the motion passed unanimously. The meeting adjourned at 9:29 pm.



## **VILLAGE OF MARTIN'S ADDITIONS**

### **COUNCIL MEETING APPENDIX A**

**November 19, 2020**

Materials included in this appendix were either included in the Council monthly meeting packet distributed before the meeting or submitted to the Council as part of the meeting. All materials appear as submitted.





## VILLAGE OF MARTIN'S ADDITIONS

7013 Brookville Road (Second Floor, Suite B)

Chevy Chase, MD 20815-3263

Phone (301) 656-4112

[www.martinsadditions.org](http://www.martinsadditions.org)

### Agenda for Council Meeting

**Thursday, November 19, 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).*

6:30 PM The Council will entertain a motion to enter closed session under Maryland Code, General Provisions Article, Section 3-305(b)(1) and (7) to: (i) discuss personnel matters that affect one or more specific individual employees; and (ii) to consult with counsel to obtain legal advice regarding the ethics ordinance.

7:30 PM Call to Order: Fattig

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

7:41 PM Committee Updates: Fattig

- Committee update from the Election committee regarding the 2021 election
- Report out from the Ethics Committee and Recommendations (Nov. 9th meeting)

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

8:05 PM Discussion of the 2020 Annual Survey Results (**Pages 3-7**)

8:15 PM Building Administrator's Report: Lohmeyer (**Pages 8-10**)

8:20 PM Financial Matters, including Treasurer's Report: Alexander (**Page 11**)

8:25 PM Manager's Report: Anderegg (**Page 12**)

8:30 PM Opportunity for Council to hear residents' comments: Fattig

8:35 PM Adjournment: Fattig

\*Please note: Listed times are approximate.



## **VILLAGE OF MARTIN'S ADDITIONS**

7013 Brookville Road (Second Floor, Suite B)

Chevy Chase, MD 20815-3263

Phone (301) 656-4112

[www.martinsadditions.org](http://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: 884 5221 1432# (you must enter the "#")

Password: 110072

#### **2. Web/Video Option:**

- a. Go to the Zoom meeting link: <https://us02web.zoom.us/j/88452211432?>
- 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: 884 5221 1432

Password: 110072

Topic: VMA Council Meeting

Time: Nov 19, 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	<div></div>		49	34.0 %
Somewhat satisfied	<div></div>		51	35.4 %
Neither satisfied nor dissatisfied	<div></div>		19	13.1 %
Somewhat dissatisfied	<div></div>		10	6.9 %
Extremely dissatisfied	<div></div>		2	1.3 %
No Responses	<div></div>		2	1.3 %
No Response(s)	<div></div>		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?




respond to your request:

Answer	0%	100%	Number of Response(s)	Response Ratio
Within the same day	<div><div></div></div>		50	34.7 %
Within 3 business days	<div><div></div></div>		17	11.8 %
Within one week	<div><div></div></div>		7	4.8 %
Never received a response	<div><div></div></div>		3	2.0 %
N/A	<div><div></div></div>		46	31.9 %
No Response(s)	<div><div></div></div>		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	<div><div></div></div>		17	11.8 %
Within 3 business days	<div><div></div></div>		7	4.8 %
Within one week	<div><div></div></div>		2	1.3 %
Never received a response	<div><div></div></div>		7	4.8 %
N/A	<div><div></div></div>		87	60.4 %
No Response(s)	<div><div></div></div>		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	<div><div></div></div>		89	61.8 %
No	<div><div></div></div>		5	3.4 %
No Response(s)	<div><div></div></div>		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	<div><div></div></div>		93	64.5 %
No	<div><div></div></div>		10	6.9 %
No Response(s)	<div><div></div></div>		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	<div><div></div></div>		29	26.3 %
Halloween (October 2019)	<div><div></div></div>		39	35.4 %
Adult Spring Fling at La Ferme (March 2020)	<div><div></div></div>		24	21.8 %
I have not participated in any Village events	<div><div></div></div>		37	33.6 %
Shred Event (June 2020)	<div><div></div></div>		16	14.5 %
Candidate Forum (April 2020)	<div><div></div></div>		21	19.0 %
Other	<div><div></div></div>		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 %
<b>Totals</b>			<b>144</b>	<b>100%</b>

\*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 %
<b>Totals</b>			<b>144</b>	<b>100%</b>

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

FROM: Doug Lohmeyer

DATE OF MEMO: November 16, 2020

SUBJECT: Building Administrator's Report

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**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. On hold until spring 2021.

**6609 Brookville Rd.**

The applicants have submitted an application to remove the existing porch and add an addition to the existing house. The plans have been reviewed by the Village. Waiting the County's approval.

**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. 3<sup>rd</sup>. The Village virtual information meeting was held on Tuesday Oct. 6<sup>th</sup>. None of the adjacent residents participated. The Village building permit was issued on Oct. 9, 2020.

**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. The County issued their building permit on Oct. 23<sup>rd</sup>. The Village resident information meeting has not been scheduled.

### **7220 Delfield St.**

The applicants have submitted an application to demolition the existing house and rebuild a new house. The plans have been revised and are waiting County approval. The Village information meeting has not been scheduled.

### **113 Quincy St.**

The applicants have submitted an application to build a detached garage at the left rear of the house. The MCDPS permit was issued on Aug. 10<sup>th</sup>. 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 on Oct. 29<sup>th</sup> was suspended and a continuation meeting has not been scheduled.

### **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 applicants have revised their plans to address the “Wall Plane Length” condition. The informational meeting with the neighbors has been scheduled for Nov. 17<sup>th</sup>. Waiting to the County to approve the plans.

### **3517 Shepherd St.**

The applicant has submitted an application to add an addition to the right front side of the existing house. The County issued their building permit on Nov. 10<sup>th</sup>. The Village is reviewing the application now.

### **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.**

On May 29<sup>th</sup>, the building permit was extended and work on the house appears to be complete. 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. According to the builder, the new homeowners may not construct the detached garage. The County has closed their building permit and the Village may soon close out the Village building permit.

### **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.

**Village of Martin's Additions  
Financial Report for October 2020  
Arthur Alexander, Treasurer  
November 19, 2020**

October 2020

	<u>Actual</u>	<u>Budgeted</u>
Revenues	\$ 54,219	262,667
Expenses (excluding capital projects)	184,787	247,505
Net Income (revenues minus expenses)	-130,568	15,161
Capital investment expenses	\$ 0	
Investment reserves (less expenditures)	1,500,000	
Emergency reserves	1,000,000	
Current assets less designated reserves	\$ 424,689	

In the current month, November 2020, we plan to transfer \$50,000 from the Village's savings account in the Maryland Local Government Investment Pool (MLGIP) to the checking account to cover projected expenses. In September, the planned and actual withdrawal was \$45,000.

As of the end of October, it may appear that the Village is in a deep hole in terms of its spending versus revenues. The reason for the large negative amounts is that the Village's first major funding does not arrive until the end of November, when we receive our principal input from the state income tax.

Capital expenses for the year to date are zero. This will change as we repair the sidewalks, which is currently an ongoing project.

From: Niles Anderegg, Village Manager  
To: Village Council  
Subject: Village Office Update  
Date: 11/17/2020

### **Annual Audit**

The Village's auditors have completed their work. The results of the audit will be shared with the residents and a presentation will be given at the December meeting.

### **Sidewalk Repair**

The Village has undertaken various repairs to the Village sidewalks that were deemed to be potential hazards. These repairs began last week and will be concluded this week. The Office would like to thank residents for their cooperation in this effort, which has gone very smoothly.

### **Leaf Vacuuming**

The Village has completed one round of leaf vacuuming and is in the process of completing the second round this week. In addition, there will be two more rounds of leaf vacuuming, one the week of November 30th and the other the week of December 14th.

### **Tree Canopy Program**

Thank you to everyone who participated in the tree canopy program. The Village received 23 applications and at least 6 trees will be planted as a result of this program.

### **Fall Leaf Bag Distribution**

Thank you to everyone who filled out the leaf bag poll. There has been a delay in our supplier's delivery of the leaf bags. We anticipate having them delivered this week. As soon as we have them, we will distribute them to the community.

### **Village Directory**

The Village Office is completing the work on the directory. Emails will be sent out to each street with the entries for that street for residents to review and make any changes. Please be on the lookout for these emails.

### **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.

### **RFPs**

Several RFPs will be issued within the next couple of weeks for services that expire at year end. These include the RFPs for municipal operations, landscaping and tree care. The Office anticipates that these RFPs will be issued before December 1st and will be concluded before the December Village Council meeting.

## Appendix B

Resident comments that were requested to be attached to the November 19th minutes.

November 12, 2020

Dear Council members,

People have spent a lot of time lately dealing with two proposed ordinances that have had little or no community support. It might be good to refocus on the positive requests and priorities that residents have put forward. Here's a short list of areas where various people have suggested positive Council action.

Please put this letter on the record and include it in the community information packet for the November 19 VMA Council meeting. Thanks very much.

Best wishes,

*Michael Brodsky  
Alex Ghesquiere  
Paula Goldberg  
Marty Langelan  
William LeoGrande  
Phil Lerman  
Aleta Margolis  
Naomi Naerman*

*Kath Ratcliff  
Matthew Schneider  
Barbara Spiezio  
Janine Trudeau  
Lynn Welle  
Natalie Welle  
Holly Worthington  
Frank Correl*

### **Current Community Requests – A To-Do List for the VMA Council?**

- 1. Put up the sign that residents requested that says “VMA Opposes All Forms of Racism.”**
- 2. Do more to improve mask-wearing in and around Shepherd Park:**
  - Post multiple signs on all the VMA right-of-way areas approaching the park.
  - Ask the County Police to do “Officer Friendly” visits to the Park daily (3-6 pm) to remind everyone to wear their masks (no fines or threats, please – just friendly reminders).
  - Expedite County Parks action to post more and better official signs at every entrance to the Park.
  - Maybe provide free masks in a waterproof box at the VMA entrances to the Park?
  - Coordinate with the County to post signs on the other streets approaching the Park.
- 3. Take action on any opportunities to help our local shops and the weekly farmers market with the Covid small-business assistance offered by the County** (there is a program for towns and villages to help local businesses with some funding, but there's a November 15 deadline coming up).
- 4. VMA has quite a large reserve fund. Use a small part of VMA's reserve to do a monthly matching grant, to match the cash donations from residents to support the Manna food bank for families in need during this pandemic – a great way to recognize all the volunteer time VMA residents provide and highlight the values our community holds.**

**5. Adopt a more open VMA ordinance process with the elements that residents have requested:**

- Please post accurate meeting agendas in advance (per the Open Meetings Act), including a public heads-up about any ordinances to be proposed/discussed/revised at Committee meetings.
- Provide a straightforward written explanation in advance as to why the Council thinks the new or revised ordinance is necessary.
- Provide residents with print copies of the proposed ordinance and make it easy to find on the VMA website.
- Schedule an open community forum for residents to discuss the proposal before it moves forward to be introduced at a Council meeting.
- Publicize all these steps in the VMA newsletters and the Weekly Wrap-ups.
- Post all the residents' comments about the ordinance on an easily accessible public message board.
- Provide timely, accurate Committee and Council minutes that include the residents' comments pro and con the ordinance and residents' questions about the proposal.
- Respond publicly to residents' comments and questions before moving to introduce the ordinance.
- Be willing to revise or drop any ordinance changes that the community strongly opposes.

**6. Approve a temporary task force of past volunteers to draft a VMA Volunteer Procedures Manual. Review the CY2020 volunteer management and make improvements as needed.**

**7. Implement the recommendations of the Walkability Task Force and join the "Vision Zero" initiative, which could provide some funding to begin the walkability improvements. The Walkability Task Force's community forum on November 5 was very helpful and informative.**

**8. Hold regular public forums for residents to discuss other specific village issues as they arise. It's easy to do that by Zoom.**

**9. Restart the VMA Tree Committee and review the tree policy.**

**10. Implement the proposed new Community Safety Committee to address residents' concerns about the pandemic and other neighborhood safety issues.**

**11. Make sure that all residents can have access to the village listserv.**

**12. Coordinate with the other local jurisdictions to review and improve VMA's 5G protections. 1/**

**13. Approve a temporary VMA task force and coordinate with the other local jurisdictions to provide VMA input to the County on the Chevy Chase Library redevelopment.**

**14. Set up a community program for students to record audio/video interviews by Zoom with VMA's long-time residents and various VMA families, both for local history and for a record of how our village is coping with the pandemic. Put the interviews on the VMA website.**

**15. Last but not least, please provide the new Village Directory – the old one is way out of date.**

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1/ Alex and Kath noted that they support all of these community requests except item 12.

Re: Letter from 4 Council Members on the 11/12/20 letter:

Dear Residents:

Thank you for taking the time to compile your comments and suggestions. While it is unclear how many of you signed the letter as associating with all of its contents, we are addressing this reply to each of the ten or so households identified as if that is the case.

We hope that by replying in writing to clarify and explain the status of these items, we will be able to allow more time at a Council meeting to discuss those topics that lend themselves to discussion.

A copy of this letter will be included in the November meeting minutes.

1. Put up a sign that says "VMA Opposes All Forms of Racism."

*The Martin's Additions Council has adopted language in its personnel manual prohibiting discrimination on the basis of "race, color, sex, religion, national origin, age or disability, or other protected class." The oath of office requires that elected and appointed officials execute their offices "without partiality or prejudice." While as individuals we support such a sign, as municipal officials we represent all residents and must be mindful of the implications of supporting any cause, no matter how just.*

2. Do more to improve mask-wearing in and around Shepherd Park.

*As many residents are aware, Shepherd Park falls under Montgomery County, not VMA, jurisdiction. Village Manager Niles Anderegg contacted Shelby Bowers, Public Information and Customer Service Manager for the Montgomery County Dept. of Parks (301-670-8013) to alert them to the need for additional COVID signage. Ms. Bowers suggested that if residents observe inappropriate behavior in progress, they should contact the Park Police Non-Emergency number at 301-949-8010. Meanwhile, we will continue to post information in our Weekly Wrap-up regarding best practices.*



3. Take action on any opportunities to help our local shops and the weekly farmers market with COVID small assistance offered by the County.

*Village Manager Niles Anderegg notified local businesses when we became aware of possible COVID assistance, and will let our business neighbors know if we become aware of such opportunities in the future, although VMA Staff and Council are not in a position to monitor such assistance.*

4. VMA has a large reserve fund. Use a small part of it to support matching grants for Manna food bank.

*Over the years, and especially during the 2008-09 recession, the Council received numerous requests to use VMA funding to support charitable causes. Such requests inevitably highlighted differences of opinion as to the relative merits of selected charities as well as the advisability of designating tax dollars for such purposes. In 2012 the VMA Code of Ordinances was changed to prohibit use of VMA tax revenue for “donations or contributions to public or private institutions, programs, facilities, or charities.” (VMA Code of Ordinances 2-402.)*

*Also pursuant to Code 2-402, VMA will continue its longstanding practice of supporting organizations such as Manna and A Wider Circle by leaving a food dropoff box near the Village Office door, facilitating household pick-ups, and including such information in the monthly newsletter.*

## 5. VMA Ordinance Process

*The VMA legislative process is prescribed by the VMA charter and state law, and is in many respects more transparent than that of some of our comparably-sized government bodies. For example, the audio of all open Council meetings is posted within days of the meeting. Meeting packets are available on the VMA website prior to meetings, a feature which is more complete than in many surrounding jurisdictions.*

*VMA’s process provides for discussion of a pending issue in an open Council meeting and possible referral to a committee prior to introduction. If a*

*matter is referred to a committee, a public comment period will be held during the committee's open meeting(s). The Council will hear public comments if the committee submits a recommendation for an ordinance.*

*As with any legislative effort, crafting an ordinance may require several drafts and will incorporate resident comments and reflect resident concerns. If the Council decides to introduce it, there is a 30-day period before it can be brought up for a vote. All along the way are opportunities for public comment, and for residents to send emails to committee and/or Council members.*

*We have recognized the need for better communication all along the way. It is the commitment of the Council to do its best to improve this communication so that all residents of VMA are aware of pending Council activity.*

*The Council will continue to use its Constant Contact vehicle to communicate, as it has done recently with discrete communication on the Ethics amendment. The Village maintains a list of at least one email contact (and in some cases, multiple emails) for each household, with the exception of a few residents who lack email access or prefer to use phone and mail contacts.*

*We will also continue to remind residents that the way to communicate with the Council is via email or phone (both forms of contact for all Council members are published on the website and in Martin's Edition), and not the listserv.*

6. Approve a temporary task force to draft a VMA Volunteer Procedures Manual. Review the current one to make improvements.

*In August 2020, Village Manager Niles Anderegg, with the assistance of Village Attorney Ron Bolt, conducted an orientation which included a discussion of the Open Meetings Act and oaths of office for new committee members of the Community Engagement, Election, and Ethics Committees and the Walkability Task Force. Staff is in the process of documenting the*

*orientation, and the Council will decide if additional procedures are required.*

7. Implement the Walkability Task Force recommendations and join the “Vision Zero” initiative.

*The Walkability Task Force is expected to present its recommendations within the next three months, at which time the Council will review the Task Force recommendations.*

8. Hold regular public forums for residents to discuss specific Village issues.

*We will hold additional public forums as topics and resident interest warrant.*

9. Restart the VMA Tree Committee and review the Tree policy.

*The Council will consult with the Tree Supervisor in the new year regarding current demands. Additionally, the Council has asked staff to review work previously done by the Tree Committee to determine if the committee should be revitalized.*

10. Implement a proposed Community Safety Committee to address residents’ concerns about the pandemic and other neighborhood safety issues.

*The Council would consider a proposal for creation of a community safety task force. The proposal would need to include the development of a mission statement and would necessarily detail the parameters of the committee’s scope exclusive of any existing committee or task force, as well as a proposed budget, if any.*

11. Make sure that all residents have access to the village listserv.

*The listserv is managed privately, not by the Village, so we are unable to guarantee access to all residents. Our recommendation is that residents contact the current listserv manager, Bill Lebovich, at [architecturalphoto@mac.com](mailto:architecturalphoto@mac.com).*

*It should also be noted that a VMA Facebook page was created by residents several years ago to foster communication among residents. The Council has no role in administering the Facebook page.*

*Some residents have urged the adoption of a VMA-run listserv, which would require additional staffing and monitoring for incivility, profanity, and defamatory content, and could raise First Amendment concerns. Many of our residents object to the creation of such a vehicle with tax dollars.*

12. Coordinate with other local jurisdictions to review and improve VMA's 5G protections.

*Through staff and legal counsel, as well as through membership in the Maryland Municipal League, VMA monitors developments in pending litigation at the local, state, and federal level so that we are in a position to make changes, if necessary, to the current Small Cell Ordinance which was adopted in January 2019.*

13. Approve a temporary task force to coordinate and provide input on the CC library.

*VMA has no role in the CC library planning process. We encourage residents to contact the Dept. of General Services for Montgomery County at 240-777-6071 or to leave comments at the Chevy Chase library page at <https://www.montgomerycountymd.gov/DGS/OPD/ChevyChaseLibrary.html>*

14. Set up a community program for students to record interviews with VMA residents on coping with the pandemic.

*Residents could execute this program alone or in conjunction with Chevy Chase Historical Society or Chevy Chase at Home. We would likely publicize the project in the Martin's Edition newsletter.*

15. Provide a new Village Directory.

*The new directory will be issued in December 2020.*

Sincerely,

Susan Fattig  
Todd Mann  
Arthur Alexander  
Katya Hill

December 1, 2020

Dear Marc and Committee Members,

We are submitting this written comment for the public record at the Ethics Committee meeting this evening. Please include it on the agenda and in the minutes of the meeting.

You all have put in countless hours reviewing this ordinance, as have quite a few residents. Every resident who has spoken up about it opposes it, for good reasons. We all have a responsibility to make better use of VMA's financial and human resources.

It is unfortunate that the Council did not research the alternatives before diving into this difficult ordinance process. As many long-time residents have said, VMA needs a volunteer manual with a good standard general complaint procedure, not an over-reaching new ethics ordinance that defines supposed volunteer "bias" as a violation of law.

In response to the residents' repeated requests, the Council has now directed the VMA attorney to report back on what, if anything, other local towns have done about such "bias" ordinances, and one Council member has now asked residents to provide some samples of simple, standard complaint procedures. Out of respect for your time (and ours), it would make sense to table the draft ethics ordinance until that essential groundwork has been completed. While the Committee may not feel it has the authority to do that on its own, you should certainly recommend that course of action to the Council.

In the meantime, there are still serious problems with the text of the third draft of the ordinance:

1. As residents have noted with concern, the revised ordinance would substantially weaken the existing rules on conflicts of interest (COI). The first draft deleted a key section of the COI rules about external entities doing business with VMA, and the second draft removed the misdemeanor COI penalties and eliminated the affirmative duty to report potential conflicts when they arise. Those provisions protect VMA from financial misconduct and should remain intact. Decisions about COI enforcement should remain within VMA's authority, not be left up to the state government. When residents also objected that removing the conflict-of-interest rules was outside the scope of the Ethics Committee's assignment, the Council expanded the scope on November 19 to include the COI sections of the ordinance, after the fact. That is not a good regulatory process. Any proposed revision of the long-standing COI regulations should be addressed separately, as a significant issue for community discussion on its own merits, not as an addendum in an unrelated proposal about a controversial new "bias" ordinance.
2. The third draft still has no provisions to impose any penalties for filing false or malicious complaints. As residents emphasized on October 15, November 9, and November 19, this new government channel for filing charges about supposed "bias" violations would be wide open to abuse. Virtually any decision that any Council member or volunteer made could be falsely characterized as "biased." Any such "bias" ordinance requires serious penalties to deter false complaints.
3. Although the draft nominally guarantees defendants the right to see all the evidence presented, there is no requirement that oral evidence be recorded in its entirety. In reviewing earlier drafts, residents flagged the need to record oral evidence presented by complainants and witnesses and provide the recorded testimony to the defendants. That deficiency must be remedied to ensure due process.
4. As other residents have pointed out in more detail, Section 4-202(g) would force respondents to give evidence against themselves on pain of being presumed guilty. That is not a legitimate procedure. And Section 402(i) places an unlawful gag order on the complainant and respondent (but not third parties who may testify) as to the proceedings. Defendants have every right to discuss the proceedings with an attorney and file suit if they think they have been wronged in this process.
5. And of course, the definition of what might constitute "bias" or "impartiality" remains fundamentally vague and subjective; it is inevitably subject to interpretation.

Moreover, throughout this months-long community discussion, the Ethics Committee has defined its mandate very narrowly, to simply produce the text of a “bias” ordinance. At no point has either the Committee or the Council addressed the many, much more substantial objections about the negative impact this ordinance would have on the community.

Many residents have repeatedly warned that the ordinance is a harmful mistake – it could label almost any routine volunteer decision as an “ethics violation,” target and discredit any volunteer or Council member, irreparably damage people’s reputations, jeopardize residents’ jobs and security clearances, be used as a threat to silence community discussion, drain VMA’s limited human resources, polarize the community, deplete VMA’s financial reserves with lawsuits, and tie up the Council by involving Council members in protracted litigation to try to prove that their actions were “impartial.” It would deter anyone from ever volunteering for VMA. False “bias” complaints are easy to file under the draft ordinance; even wrongful, baseless allegations can set the gears in motion, put the respondent through the wringer, and inflict lasting damage. And any Council member who believes that his or her own decisions and actions would be immune from such destructive “bias” charges is naïve, to say the least.

At some stage, both the Ethics Committee and the Council must address these larger issues of public harm. We all have a moral obligation to take responsibility for the effects of our actions.

The decision to escalate complaints into ethics violations and hold government “ethics trials” is a bad idea on every level. It is completely unnecessary; a good basic volunteer manual and complaint procedure would be entirely sufficient and far more useful to VMA.

Sincerely,

***Isabel Brodsky, Michael Brodsky, Frank Correl, Paula Goldberg,***

***Marty Langelan, Aleta Margolis, and Naomi Naierman***

October 15, 2020

Dear Council members,

I appreciated the opportunity to attend the Ethics Committee meeting last evening and I am taking you up on your invitation for residents to contact you directly. Please enter this letter into the public record of resident comments on the issue of the Ethics Committee's scope of authority.

I care a great deal about good ethics, but the new ordinance about the Ethics Committee would cause serious harm to VMA. I urge you to vote against this proposal.

The current Ethics Committee authority applies only to conflicts of interest, a carefully defined and fairly narrow area of law. The new ordinance would significantly expand the power of the Committee, giving it sweeping new authority to rule on alleged violations of the general Oath of Service and render judgment on every aspect of every Council member's and volunteer's job performance that could possibly be construed as biased. This is a huge change. A "conflict of interest" violation is pretty clear, but almost any action could be alleged to fail the impartiality test.

The new enforcement provisions are so broad and so vague that everyone from the Council chair to the Tree Supervisor to a Community Engagement Committee volunteer could be hit with allegations of a supposed violation any time that someone disagrees with the way they perform their duties.

#### **POSITIVE RECOMMENDATIONS**

1. As we learned from the recent uproar over the sign ordinance, the Council needs to be more transparent in considering any proposed ordinances. Please revise the VMA ordinance-adoption procedure: Provide more advance notice, distribute draft ordinances in print, provide public explanations of the reasons for them, and schedule open village forums for substantive community discussion of the ordinance. If you do not wish residents to hold discussions on the listserv, set up an open message board on the VMA website for any proposed ordinance and post all the comments you receive there.
2. VMA relies on good volunteers, trustworthiness, and transparency. It would be useful for the Council to go positive, not negative, here. There's a more appropriate way to handle not only issues of alleged bias, but any other potential violations of the Oath or poor performance:  
Instead of a harmful, punitive ordinance, VMA needs a practical HR volunteer manual that includes the qualifications and expectations for the various committee appointments, the volunteer job descriptions and performance review provisions, a simple procedure to replace volunteers without branding them as unethical, and some positive community incentives for residents to volunteer. Where the appointed volunteers will have significant operational responsibilities like village elections or urban forestry work, the manual should also provide for orientation sessions to convey the essential institutional knowledge, so new volunteers will be equipped to handle their areas of responsibility. The Election Committee included a basic ethics briefing in their orientation in recent years. The Council could easily work with some of the experienced long-time volunteers to develop the volunteer manual. That would be useful to VMA.
3. It would also be helpful for the Council to give more consideration to community input on priorities. For example, there seems to be a fair amount of support for setting up a new Safety Committee to address a variety of issues, but there have been no proposed ordinance amendments to do that. There are many questions about 5G concerns and the status of the Chevy Chase Library. We need an update of the community directory, and as you know, the village election ordinance needs to be updated before the new 2021 election cycle begins in early February. I responded in June to the Council's request to provide my specific written recommendations for the election ordinance, but we have not heard anything more about it. Let's focus on positive work for the community.



The proposed ethics ordinance is unnecessary. The Council, not the Ethics Committee, is the proper venue to address any concerns about volunteers' performance of their duties. The Council already has the authority to take any appropriate, legally justified action needed. Delegating enforcement authority to an unelected committee is inappropriate.

- The threat of hauling volunteers before an ethics tribunal for any routine decision they make is not a standard HR management practice, and I know of no organization that allows it. The ordinance would create a strong disincentive for any resident to ever volunteer for anything. Despite the confidentiality language in the ordinance, an ethics-violation finding by a local government committee – even a wrongful, inaccurate finding – is a public record and could adversely affect residents' careers. It could put people's jobs and security clearances in jeopardy. No one who understood the potential ramifications would volunteer for VMA under such conditions.
- The new ordinance is wide open for abuse. It would create a very broad channel for people to attack any volunteer or Council member they dislike and tie up the Ethics Committee with personal vendettas and false, defamatory complaints. Approval of a construction variance could be cited as evidence that a Council member was "partial" to a developer; disapproval could just as readily be cited as bias in the opposite direction. The simple act of selecting a restaurant for a village event could be considered "partial" to one restaurant proprietor over another and be used to bring false ethics charges. The victims would get slammed with the task of trying to prove that their decisions were impartial. You are looking at an ordinance that would create enormous personal distress for residents and lasting damage to their reputations.
- Even more chilling: This ordinance creates a very powerful weapon to bully people into silence with the threat of ethics charges. An allegation of an "ethics violation" is an attack on a person's integrity. By framing policy and procedural disagreements as alleged ethics violations, people could use the machinery of local government to discredit any VMA official, shut down dissent, and silence any opposition to their own views. It is unconscionable for VMA to set up such a mechanism.
- There is no reason and no need to launch the heavy artillery of an ethics-violation proceeding against any volunteer. It would be especially harmful if anyone were to misuse this committee channel to try to discredit, silence, disrupt, or remove Council members by making unwarranted allegations. The voters have the right to decide who sits on the Council, and state law applies in case of any serious problems.
- The process of adjudicating alleged Oath violations is guaranteed to generate community conflict and polarization; it would demolish community trust and shred the credibility of the Ethics Committee. It would also invite expensive litigation. If the three members of the Ethics Committee do not appear to have the credentials to constitute a qualified legal investigative panel, any decision they made that led to penalties would be subject to instant legal challenge. That could prove very costly to VMA and potentially to the individual Ethics Committee members as well. The lawsuits could deplete VMA's financial reserves.
- The handling of this ordinance has been problematic in a number of ways. People who looked for the ordinance had trouble even finding it on the village website, and the Council's actions on the ordinance raise some procedural questions. As the Committee noted last night, the definitions and evidentiary standards in the draft ordinance are vague or missing altogether; the due-process provisions are also inadequate. The ordinance also includes a second, unrelated change that is really major: It would inexplicably delete an existing provision that prohibits outside persons and businesses from engaging in a material conflict of interest with village officials [Section 4-204(b)]. That looks like a huge loophole for a village official to act via a business entity to evade the regulations against conflict of interest.

What is the purpose of the rush to introduce this ordinance right now? VMA has many other much more pressing community priorities. Let's not waste any more legal fees on this proposal. There is no version of this proposed ordinance that meets even the most minimal standards of good governance.

Sincerely,  
Marty Langelan  
Chestnut St.

November 17, 2020

Dear Council Members,

We are submitting this written comment for the public record at the November 19 Council meeting. Please include it in the posted information packet for the meeting and attach it to the minutes of the meeting.

We appreciate the Council's recent effort to provide an explanation for the proposed ethics ordinance, and the Ethics Committee's efforts to address the substantive problems and invite community comments. Those are important steps forward, toward a better process. But a number of residents have voiced serious concerns about the very idea of expanding the scope of the ethics ordinance, and about the significant shortcomings of the revised draft of the ordinance itself, from the due-process and conflict-of-interest provisions to the negative impact it would have on the community. It's a mistake to create an over-reaching new ethics ordinance that could label almost any routine volunteer decision as an "ethics violation," jeopardize residents' jobs, and be used as a threat to silence community discussion. It would deter anyone from ever volunteering for VMA.

This new, expanded ethics ordinance is a Council-initiated proposal; it did not arise from any widely perceived community need. Virtually all of the residents who've spoken up about it oppose it, for good reason:

### **Conflicts of Interest**

1. The revised draft would substantially weaken the rules on conflicts of interest (COI). Residents were concerned that volunteers might face unwarranted new criminal penalties for supposed violations of the Oath of Service ("impartiality") – no one suggested removing the existing fines and penalties for conflict-of-interest violations. The long-standing COI portion of the ordinance is essential to protect VMA and should remain intact.

Moreover, removing conflict-of-interest rules is outside the scope of the Ethics Committee's assignment. The Committee was asked to add Oath of Service provisions to the ordinance, not revise the COI regulations. The first draft inexplicably deleted a key section of the COI rules about external entities doing business with VMA, and the second draft would now remove the misdemeanor COI penalties and eliminate the affirmative duty to report potential conflicts when they arise. Asked to explain at the November 9 meeting, the Ethics Committee gave an unconvincing answer, saying that state law would somehow take care of those issues if VMA's ordinance provisions were removed. The COI provisions in the existing VMA ethics ordinance are there for good reason; decisions about enforcement should not be left up to the state government.

### **Negative Impact on the Community**

2. The residents' public comments at the October 15 Council meeting described the negative consequences of the ordinance. The revised draft does nothing to mitigate the grave harm. Disputes about "impartiality" would polarize the community and burden the Ethics Committee with a workload that could destroy its own reputation. For residents, the distress of being labeled as "unethical" and having their integrity put on trial before the Committee, the Council, and the VMA attorney, the burden of trying to prove that their actions were impartial, and the irrevocable damage to their reputations would be devastating. This ordinance would hit any volunteer like a sledgehammer.

3. The chilling effect of the ordinance far outweighs any purported benefit. Because ethics charges are so damaging – and "impartiality" is always subject to interpretation – the ordinance would create a powerful weapon to bully volunteers and cut off opposing viewpoints. Just threatening to accuse someone of a "bias" violation has the potential to silence debate; it's a corrosive way to discredit any Council member or volunteer.

4. Threatening people with heavy-handed, unwarranted government charges contradicts the very core of who we are as a community. The Council can already just remove any volunteer at any time; there's no need for "ethics trials." Many residents have called the proposed ordinance harsh, mean-spirited, punitive, and unjustified. One person called it "police state-y." Is this who we want to be? Is this how we value our volunteers?

5. Employment impact: The confidentiality provisions in the revised draft provide no shield from legally mandated FBI or corporate background checks and security investigations. An "ethics violation" ruling by any local government body (even an incorrect ruling) could result in the loss of your job and security clearance.

6. The burden on VMA would be inordinate. Ethics charges are so serious that they require robust due-process guarantees, and those guarantees entail an enormous commitment of time and resources. Moreover, because

being charged with an ethical violation is so destructive – putting the accused’s reputation on trial – respondents are very likely to engage counsel to represent them and may file counter charges or defamation suits against VMA, the Ethics Committee, and the Council members personally.

7. Expense to VMA: At the October 15 Council meeting, residents noted that the lawsuits resulting from such ethics charges could demolish VMA’s financial reserves and put the individual members of the Ethics Committee at legal and financial risk as well. The current draft permits the appointment of a “special counsel” to handle each complaint [4-02(c)(2)]. It’s not clear whether that would in any way protect the Committee or Council members from personal legal liability, but it is clear that hiring a “special counsel” may be required in every case (given the village attorney’s role in this ordinance) and would be absurdly expensive to VMA. The Council has a responsibility to protect VMA from financial damage. Would VMA also lose its municipal insurance if it creates an extremely expensive, unlimited new realm of liability risk by adopting this ordinance? This proposal is financially irresponsible. VMA needs a sound general complaint procedure, not a risky, high-cost new ethics ordinance. The Council has a responsibility to make better use of VMA’s financial and human resources.

### **Specific Problems with the Revised Draft**

8. The addition of a definition of “impartiality” in the revised draft is helpful (although still subjective), as is the addition of a high “clear and convincing” standard of evidence. But the due-process provisions are still inadequate, as residents pointed out at the November 9 Ethics Committee meeting.

9. The revised draft still has no provisions to impose any penalties for filing false or malicious complaints. As residents noted on October 15 and November 9, this new government channel for allegations about supposed violations of the Oath of Service would be wide open to abuse. Virtually any decision that any Council member or volunteer made could be falsely characterized as “biased.” Any such ordinance requires serious penalties for false complaints.

10. There is no statute of limitations. A long-serving Council member or volunteer could be slammed with “bias” charges at any time, for a decision or action taken months or even years earlier. The revised draft also fails to define the circumstances under which an allegation may be moot. The Ethics Committee appears to be willing to try to address the procedural deficiencies in a subsequent draft, but the accumulating problems brought to the Committee’s attention – and the ever more complex language it would take merely to deal with the procedural deficits – suggest that the real problem here is that the ethics ordinance is not the right approach.

***Other residents have raised additional concerns about this draft ordinance. We ask the Council to take the community objections very seriously, document and attach the community comments in the minutes for the November 19 Council meeting, and take no further action toward adopting this proposal. The revised ethics ordinance is unnecessary, costly, and harmful. There is no acceptable version of this proposed ordinance.***

### **A Positive Alternative**

The Council should set aside any proposed revisions to the ethics ordinance and explore the alternative of developing a volunteer manual to address the normal range of personnel issues, including a fair and reasonable complaint procedure to handle any allegations about volunteer misconduct. In light of the Council’s recent actions regarding the VMA volunteers, the need for a volunteer procedures manual seems even more basic. Several well-qualified long-time volunteers have now offered to form a temporary task force to draft a first-rate VMA manual, with active community involvement. That would be a useful Council and village endeavor.

Residents have also requested that the Council adopt an improved process for community review of proposed VMA ordinances, with (a) full explanations up front from now on, (b) open forums for community discussion before any new or revised ordinance begins to move forward, and (c) the ordinance-adoption procedures recommended in the November 12 letter that a group of residents sent to the Council. Timely, good-faith communication and an open regulatory process are essential. The revised 2021 election ordinance is due to come up soon and could be a trial run for that new process.

We count on the Council to represent us and to run the village well, with clear, open procedures, straightforward transparency, and due respect for the community’s input on important decisions about the management of VMA affairs. Thank you.

*Submitted by Isabel Brodsky, Michael Brodsky, Paula Goldberg, Marty Langelan, Aleta Margolis, and Naomi Naierman.*

For the following reasons, I must join my neighbors in Martins Additions opposing the initiative and product of the Ethics Committee.

1. [Self-Appointment] The Ethics Committee volunteered and/or self-appointed themselves and were not elected by the community at large to specifically promote regulations regarding conflicts of interest or appearances of conflicts of interest for office holders, volunteers, contractors, consultants or temporary hires.
2. [Transparency] Instead of sending a general communication to each and every household in Martins Additions in their mail box regarding the Ethics Committee's initiative, thereby informing the community in advance, the aforementioned committee choose to use the List Serve and thereafter on line messaging which was difficult to read, including its proposed, amended, scratched out, and final drafts in miniscule *fine print*.
3. [Referendum] It would have been advisable, and certainly more democratic, to ask each and every family in Martins Additions first whether or not they felt a local ethics ordinance was (a) necessary or (b) unnecessary or were (c) undecided, before taking unilateral action or even drafting a proposal.
4. [Legal Costs] It is patently unfair to the tax payers of Martins Additions to *not* inform the community as to the cost of legal assistance before, during or at the end of its drafting, or to even estimate the approximated costs of their work prior to their endeavors. No ceiling or limit was given to the community.
5. [Trial Period] With respect to a new ordinance, it would have been advisable for a trial period of 1 year to see if the ethics ordinance was necessary, useful, overkill, or useless, and report the results to the community. I find no such detailed concept in the ordinance.
6. [Impact] Many of my neighbors, myself included, will no longer volunteer and/or run for office in Martins Additions, because of the draconian penalties and possible legal suits that the ordinance promotes. Where is the study on the impact of the ordinance on adults who would have volunteered to run for office and/or volunteer for community activities? There is none.
7. [Annual Reports] To make matters even more obscure, the ordinance does not specify what form an annual report from the Ethics Committee will make to the community with respect to its work enforcing its own ordinance or even an outside 3<sup>rd</sup> party to access its effectiveness, if any. What criteria will be used in its evaluation?
8. [Modifications] The ordinance has a standard severability clause, but does not specify when, how, where, or why, amendments, deletions, corrections, cancellations, word changes, can be made, and who must approve of such changes, or is this too only in the purview of the Ethics Committee itself? What are the criteria for changes?
9. [Sun Set Provision] In many jurisdictions in the United States, especially small municipalities, ordinances have sun set provisions whereby ordinances terminate, unless or until, the community thinks otherwise. Some jurisdictions allow ordinances to self-perpetuate after a certain sun set date, if no objections are raised. The Ethics Committee has no sun set provision. Why?
10. [Restrictions On Council Members] What penalties if any, including a bar from running or holding office in Martins Additions, pertain specifically to Council members who abuse their office, engage in self-dealing, pursue conflicts of interests, or engage in appearances of conflicts of interest? For how long? Where are the penalties spelled out?

11. [The List Serve] It has been pointed out repeatedly that the List Serve is a private affair, and, hard to register on, and does not serve the community in its endeavors to reach all residents. I myself have waited to appear on its pages for over 6 months without success. When are we going to get an official bulletin board? We now have something approaching what is needed. However, are we forsaking flyers or the mailboxes of community residents on important matters? If so, why? The Ethics Committee's ordinance is a case in point. It should have been distributed to all by mail.
12. [Diktat] Diktat, a Latin origin word, means: "A set of rules dictated by an unpopular local power." I believe sincerely that the Ethics Committee, with the best of intentions, produced a Diktat, because they failed to take the pulse of the community. The process was worthy, in my opinion, of Vladimir Putin.
13. [Proverb] A proverb that best describes my attitude to what I have witnessed as to how the Ethics Committee functions with residents is: "The bird always loves his own nest best!" I dislike the nest the Ethics Committee has built for itself and for the community I have lived in for close to 43 years.

Sincerely,

Jeffrey M. Goldberg, 207 Oxford Street, jeffrey\_m\_goldberg@hotmail.com

## Village Manager

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**From:** Inspection Manager <inspectors@affiliatedinspectors.com>  
**Sent:** Friday, September 18, 2020 10:58 AM  
**To:** Manager; susan.fattig@gmail.com; toddsmann@gmail.com; arthur.alexander@att.net; ka2shaz@gmail.com; blandervmacouncil@gmail.com  
**Subject:** Storm water from Thornapple St is flooding our house and property  
**Attachments:** thumbnail\_IMG\_3408 (2).jpg; IMG\_3509.JPG

Mr. Niles Anderegg, Manager  
Village of Martin's Additions  
7013 Brookville Road, Suite B  
Chevy Chase, MD 20815-3263

September 16, 2020

Dear Mr. Anderegg,

In June 2020, during a severe rainstorm, our finished basement and our automobile parked behind our home were flooded. We suffered thousands of dollars in damage and spent many weeks cleaning and repairing our home and car. Our house, built in 1951, had no prior history of flooding.

Our driveway runs along and against the back of our home and our basement doors exit onto the driveway. This was a concern when we purchased our home in 1979, but a careful examination of the basement wall paneling and floor tile found them to be undamaged with no sign of water intrusion or flooding.

Historically, our neighbor who shares our driveway, experiences ponding in their backyard due to a barely functional storm drain and water runoff from several surrounding neighbors' properties. Fortunately their ponding water has remained clear of our property. It was apparent to us that something had changed, e.g., extra storm water was now draining onto our driveway.

In July there were several storms with normal rain falls of 0.5 inches or less, and during these storms no unusual water flow was evident and no flooding occurred.

In August during a heavy rainstorm (over 0.7 inches), I observed water overflow the apron on Thornapple Street and run down our driveway, but there was no flooding on our driveway during that storm. Please note that the only other time we had street storm water overflow onto our driveway was about a year ago when large amounts of construction and storm debris obstructed the storm drain on Thornapple Street.

However, early this month, September 2020, we experienced a really heavy rainfall exceeding 0.9 inches and during that heavy storm I saw notable volumes of water overflowing the street curb and apron, washing up onto the grass and pouring down and starting to flood our driveway. If the rate or length of rainfall had increased, the extra water flow from the street would have been sufficient to flood our home again.

Also, during this September storm, the street between our driveway and the storm drain had an atypical accumulation of water. Prior to WSSC's major repaving of Thornapple Street the only time that water filled the street was when the storm drain became obstructed.

We are hereby notifying and requesting the Village of Martin's Additions to take immediate action to return Thornapple Street to the previously existing drainage conditions that existed prior to WSSC's extensive repaving of the street and to take all steps necessary to eliminate the previously non-existent storm water overflow from the street onto our property.

Time is of the essence in remedying this condition, e.g., unsanitary storm water from the street is flooding our home. The Village has the responsibility to make immediate remedy regardless of WSSC's willingness or

timeliness. All information concerning the condition of our property is confidential and provided to the Village solely for the purpose of informing the Village of the urgency of conditions it needs to remedy.

Sincerely,

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For Marjorie and Larry Wasson  
7223 Delfield Street

CC: members of the village council  
Email attachments: photos