

February 25, 2009

Present:

Commissioners Joanne Clark, Michael Brady, Robert Snyder, Donna Hunt and Philip Dinkel, Town Manager Cheril Thomas, Town Attorney Karen Ruff, Administrative Clerk Sabrenia Yohn, Secretary Dorothy Olley and approximately 45 members of the public

Call to Order:

President Clark called to order the regular legislative session of the Commissioners of St. Michaels at 6:30 p.m. in the meeting room of the St. Michaels Free Library, 106 S. Fremont Street. The Pledge of Allegiance was recited.

Announcement of Prior Closed Session:

President Clark announced that the Commissioners had met in closed session pursuant to Maryland Code, State Government Article § 10-508, (a) (7), at 4:00 p.m. to consult with counsel regarding 1) a request from Windward Investment, LLC for growth allocation for 130,154 sq. feet (2.099 acres) changing the Critical Area land use classification from Limited Developed Areas (LDA) to Intensely Developed Areas (IDA) pursuant to the St. Michaels Code, Section 340-28 (Growth Allocation). The property is identified on Talbot County Tax Map 200 as Parcels 1785 and 1783 fronting on Chesapeake Avenue and generally known as Chesapeake Reach, and 2) legal matters involving the application for approval of a Storm water Management Plan for the Project known as Hatton's Garden.

Presentation by Jon Burrell, Local Government Insurance Trust (LGIT):

Mr. Burrell made a presentation to the Town of an acknowledgement plaque commemorating twenty years of participation in the LGIT insurance program by the Town of St. Michaels. Mr. Burrell also noted that the Town had been given a \$6,400 credit in this fiscal year on their insurance.

Consent Agenda:

There were no comments on the Consent Agenda from the Commissioners. President Clark called for a motion to approve minutes for the closed and public sessions on January 14, 2009, January 21, 2009, January 23, 2009 and January 28, 2009. Commissioner Snyder made the motion, which was seconded by Commissioner Brady, and which passed on a roll call vote of 4-0 in favor, with Commissioner Dinkel abstaining. President Clark then called for a motion to approve minutes for the public session on January 29, 2009, the request from the Business Association for an over-the-street banner for the 2009 Dog Walk on May 2, 2009, and the Employee Acknowledgement Presentations. Commissioner Brady made the motion, which was seconded by Commissioner Snyder, and which passed on a roll call vote of 5-0 in favor. President Clark then presented plaques to the following employees for years of service to the Town of St. Michaels:

Samuel Barnett	10 years	Public Works
Ted Jones	13 years	Public Works
George Palmer	38 years	Public Works
Jeff Richardson	15 years	Public Works
Edgar Thomas	20 years	Public Works
Jean Weisman	25 years	Administration

Continued Public Hearing – Continued from January 21, 2009 – Public Hearing for the consideration of a request from Windward Investment LLC for growth allocation for 130,154 sq. feet (2.099 acres) changing the Critical Area land use classification from Limited Developed Areas (LDA) to Intensely Developed Areas (IDA) pursuant to the St. Michaels Code, Section 340-28 (Growth Allocation). The property is identified on Talbot County Tax Map 200 as Parcels 1785 and 1783 fronting on Chesapeake Avenue and generally known as Chesapeake Reach.

President Clark announced the continuation of the public hearing. Commissioner Dinkel stated that he had reviewed tapes of previous discussions of this project. President Clark also reviewed the chronology of published legal notices and mailings to adjacent property owners to verify that appropriate legal notice had been provided in this matter. President Clark then called for public comment according to the speaker's sign-in sheet. Mr. Langley Shook of Tricefields was recognized for comment. Mr. Shook asked that he be granted intervener status in this matter. During a discussion regarding Mr. Shook's request for intervener status, Attorney Ruff indicated that even if the intervener status was not granted, that Mr. Shook could participate in discussions without this status. After further discussion, Commissioner Snyder made a motion to deny Mr. Shook's request for leave to intervene in this matter. The Motion was seconded by Commissioner Brady and passed on a vote of 5-0 in favor, with none opposed. Mrs. Yohn read Exhibits 26, 27, and 28 in to the record as follows:

- Exhibit 26 - Letter from Langley R. Shook to the Commissioners of St. Michaels dated January 26, 2009 requesting leave to intervene in the Chesapeake Reach Growth Allocation Proceeding.
- Exhibit 27 - Letter from Sarah Everhart to the Commissioners of St. Michaels dated January 29, 2009 on behalf of her client, Windward Investment, LLC in response to Mr. Shook's request to intervene.
- Exhibit 28 - Letter from Langley R. Shook to the Commissioners of St. Michaels dated February 3, 2009 in response to Ms. Everhart's letter of January 29, 2009.

President Clark then said she would take public comment from those that had signed the speakers' list, and administered the oath to all who wished to comment. Mrs. Yohn noted the receipt of a letter from Elizabeth Jones as President of the Bay Hundred Foundation to the Commissioners dated February 25, 2009 which would be entered into the record as Exhibit 29. Comments in opposition to the application were made by Michael Vlahovich of 129 Miles Avenue who also submitted signed petitions in opposition of the project. The petitions were entered into the record as Exhibit 30. Steve Florkewicz of 205 E. Marengo Street spoke in opposition of the project and questioned the validity of the Planning Commission's recommendation. Mr. Florkewicz submitted a letter dated February 25, 2009 in opposition of the project which was entered into the record as Exhibit 31. Langley Shook then offered concerns about the environmental impact of the project and said he favored a reduced number of units on the property. The applicant's attorney, Sarah Everhart, was granted time for rebuttal. Attorney Everhart reviewed the application and noted improvements and changes that had been made based on concerns expressed by the Commissioners and the public during the Public Hearing on January 21, 2009. Attorney Everhart offered additional Exhibits which were entered into the record as follows:

- Exhibit 32 - Maps of the Proposed Habitat Protection Area Impact and the Existing Habitat Protection Area Impact which amends Exhibit #4 submitted during the Commissioners' February 25, 2009 Public Hearing from Sarah Everhart on behalf of her client, Windward Investment, LLC.

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- Exhibit 33 - Includes the Tree Plan which amends Exhibit #7; the Critical Area Forest Work Sheet revised February 23, 2009 which amends Exhibit #8; and amended last page of Exhibit #9 all of which were submitted during the Commissioners' February 25, 2009 Public Hearing from Sarah Everhart on behalf of her client, Windward Investment, LLC.
- Exhibit 34 - State of Maryland Department of the Environment Water Management Administration Letter of Authorization dated February 5, 2009 submitted during the Commissioners' February 25, 2009 Public Hearing from Sarah Everhart on behalf of her client, Windward Investment, LLC.
- Exhibit 35 - Outline of Key ERI Environmental Report Elements and Environmental Report for Chesapeake Reach Proposed 9 Lot Residential Subdivision prepared for Windward Investment, LLC dated February 19, 2009 submitted during the Commissioners' February 25, 2009 Public Hearing from Sarah Everhart on behalf of her client, Windward Investment, LLC.
- Exhibit 36 - Map of Off-Site Tidal Wetland Conditions submitted during the Commissioners' February 25, 2009 Public Hearing from Sarah Everhart on behalf of her client, Windward Investment, LLC.
- Exhibit 37 - Letter from Sarah Everhart on behalf of her client, Windward Investment, LLC. to the Town Commissioners of St. Michaels dated February 25, 2009.

Responding to a question by Commissioner Snyder, Rick VanEmberg of Lane Engineering (referencing Exhibit 36) explained the difference between a regular swale and a flat-bottomed swale. Mr. Langley Shook also had questions for Mr. VanEmberg, which was followed by brief discussion among the Commissioners. Attorney Everhart called upon Edward Launay of Environmental Resources Inc., who addressed storm water management and water quality treatment for the project. Mr. Launay responded to a concern by Mr. Waller of 600 Railroad Avenue that the additional proposed wetlands would bring an increase in mosquitoes to the area. Attorney Everhart then presented her summation, reiterating that the Chesapeake Reach project met or exceeded all requirements of the State, the Critical Areas Commission, and the Town with minimal impact on the Town's resources. As there were no additional questions or comments, President Clark closed the public hearing and the record and announced that the Commissioners would begin deliberations to direct Findings of Fact on this matter at a special public working session on March 3, 2009 at 3:00 p.m.

Legislation Eligible for Discussion and Vote:

- **Ordinance No. 396** - Mrs. Yohn read the title of Ordinance 396 into the record as follows: ORDINANCE NO. 396 - AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS KNOWN AS GRIFFIN DRIVE SURPLUS PROPERTY, TO DECLARE THE TOWN'S INTENT TO DISPOSE OF GRIFFIN DRIVE, AND TO AUTHORIZE THE CONVEYANCE OF ALL OF GRIFFIN DRIVE TO THE ST. MICHAELS HOUSING AUTHORITY. There were no comments or questions from the Commissioners. Commissioner Snyder made the motion to adopt Ordinance 396. Commissioner Brady seconded the motion which passed on a roll call vote of 5-0 in favor.
- **Resolution 2009-04** - Mrs. Yohn read the title of Resolution 2009-04 into the record as follows: RESOLUTION 2009-04, A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS APPROVING A STORM WATER MANAGEMENT PLAN FOR THE PROJECT KNOWN AS HATTON'S GARDEN. Attorney Ruff asked if the Commissioners had reviewed the findings and the waiver justification in this matter, to which the Commissioners responded in the affirmative. There were no additional comments or questions from the Commissioners. Commissioner Snyder made a motion to adopt

Resolution 2009-04. Commissioner Brady seconded the motion which passed on a roll call vote of 4-0 in favor, with Commissioner Dinkel abstaining.

- **Resolution 2009-08** - Mrs. Yohn read the title of Resolution 2009-08 into the record as follows: RESOLUTION 2009-08, A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS PURSUANT TO ORDINANCE 391, TO CREATE A POLICY FOR ESTABLISHING STANDARDS FOR SIDEWALKS, CURBS AND GUTTERS WITHIN THE TOWN RIGHTS-OF-WAY. The Commissioners had no additional questions or comments. Commissioner Brady made a motion to adopt Resolution 2009-08. Commissioner Snyder seconded the motion which passed on a roll call vote of 5-0 in favor.
- **Resolution 2009-09 and Resolution 2009-10** - Mrs. Yohn read the titles of both resolutions into the record as follows: RESOLUTION 2009-09, A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS TO CREATE THE ST. MICHAELS TREESCAPE POLICY AND TO APPOINT FOR A PERIOD OF ONE YEAR, A TREE ADVISORY COMMITTEE and RESOLUTION 2009-09, A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS TO CREATE THE ST. MICHAELS TREESCAPE POLICY. President Clark asked if there were any comments from the Commissioners. Commissioner Dinkel suggested that the Town adopt the tree policy as outlined in Resolution 2009-10, as the care and maintenance of the Town's trees should be the responsibility of the Public Works Department and that a Tree Advisory Committee was unnecessary. Commissioners Hunt and Snyder agreed. Commissioner Brady said he favored a Tree Advisory Committee as outlined in Resolution 2009-09. Commissioner Brady then made a motion to adopt Resolution 2009-09. Commissioner Clark seconded the Motion which failed on a roll call vote of 1-4, with Commissioners Clark, Dinkel, Hunt and Hunt dissenting. President Clark then called for a motion for the adoption of Resolution 2009-10. Commissioner Dinkel made a motion to adopt Resolution 2009-10. Commissioner Snyder seconded the motion which passed on a roll call vote of 4-1 in favor with Commissioner Brady dissenting.
- **Resolution 2009-11** - Mrs. Yohn read the title of Resolution 2009-10 into the record as follows: RESOLUTION 2009-11, A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS TO ADOPT REGULATIONS TO TEMPORARILY ALLOW A FARMERS' MARKET TO OPERATE IN MUSKRAT PARK FOR A PERIOD NOT TO EXCEED APRIL 1, 2009 TO NOVEMBER 15, 2009. Commissioner Snyder explained that the resolution of the Farmers' Market issue was going to take time beyond the deadline for the market to open in April. Therefore, Commissioner Snyder indicated that he was proposing a resolution that would permit the market to operate as it has in the past during the 2009 season. Commissioner Brady expressed concerns about public safety in Muskrat Park due to pending construction and suggested that the market move elsewhere. Mrs. Thomas explained that there would be no construction occurring on Saturday while the market is open. After some additional discussion among the Commissioners, Commissioner Snyder made a motion to adopt Resolution 2009-11. Commissioner Dinkel seconded, the motion which passed on a roll call vote of 3-2, with Commissioners Brady and Hunt dissenting. President Clark noted that there would still be a public hearing on the Farmer's Market at the March 11, 2009 meeting of the Commissioners to discuss Ordinance 402 which addresses permitted activities in all Town parks and specifically activities that will be allowed at the Farmers' Market in subsequent seasons.

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Comments from the Public:

- Marie Martin of Cherry Street suggested that residents in Town should be more diligent in the removal of pet waste.
- Phil Jones of St. Michaels Road praised the Commissioners' decision to allow the Farmer's Market to open for the coming season.
- Barney Kastel expressed concerns regarding the Commissioners' decision to vote on allowing the Farmers' Market to continue "as is" for this season due to limited public attendance at this meeting compared to the previous meetings.

Announcement of Future Meetings:

President Clark announced future meetings for March including continued deliberations with respect to the Windward Investment growth allocation application on March 3, 2009 at 3:00 in the Town Office.

Adjournment:

As there were no additional comments or questions, President Clark adjourned the meeting at 10:00 p.m.

Respectfully submitted,

Dorothy C. Olley
Assistant Town Clerk

Attachments:
Ordinance 396
Resolution 2009-04
Resolution 2009-08
Resolution 2009-10
Resolution 2009-11