

**The Commissioners of St. Michaels**

**Special Public Session**

**June 10, 2009**

**3:00 p.m. – Public Working Session – Edgar M. Bosley, Jr., Building, 300 Mill Street**

**Present:**

Commissioners Joanne Clark, Michael Brady, Donna Hunt and Philip Dinkel, Town Manager Cheril Thomas, Administrative Clerk Sabrenia Yohn, Secretary Dorothy Olley, and four members of the public. Commissioner Robert Snyder was absent.

**Call To Order:**

President Clark called to order the special public session of the Commissioners of St. Michaels at 3:05 p.m. in the meeting room of the Edgar M. Bosley, Jr. Municipal Building (Town Office), 300 Mill Street. The Pledge of Allegiance was recited.

**Legislation for Discussion and Introduction:**

- **Ordinance 401** - Mrs. Yohn read the title of Ordinance 401 into the record as follows: ORDINANCE 401, AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS; ADDING NEW CHAPTER 42 (FEES) TO THE CODE OF THE TOWN OF ST. MICHAELS; STATING THE POLICY OF THE TOWN REGARDING FEES AND CHARGES ASSOCIATED WITH THE EXERCISE OF CERTAIN GOVERNMENTAL FUNCTIONS; RE-ESTABLISHING A CONSOLIDATED SCHEDULE OF FEES; SPECIFYING THE APPLICABILITY OF THIS CHAPTER; PRESCRIBING CERTAIN CONDITIONS AND REQUIREMENTS APPLICABLE TO CERTAIN APPLICATIONS AND REQUESTS FILED WITH THE TOWN OF ST. MICHAELS; MAKING PROVISION FOR A WAIVER OF CERTAIN FEES; PROVIDING PROCEDURES FOR RESOLVING CERTAIN BILLING DISPUTES; PROVIDING FOR REFUNDS; ESTABLISHING THAT CERTAIN UNPAID FEES ARE TO BECOME LIENS ON PROPERTY TO BE COLLECTED IN THE SAME MANNER AS MUNICIPAL TAXES; AND GENERALLY RELATING TO THE ESTABLISHMENT AND COLLECTION OF FEES AND CHARGES FOR CERTAIN FRANCHISES, LICENSES, OR PERMITS AUTHORIZED BY LAW TO BE GRANTED BY THE TOWN OF ST. MICHAELS.

Mrs. Thomas noted the changes in this latest version of Ordinance 401. President Clark explained that this Ordinance would enable the Commissioners to set or change administrative fees and that the actual schedule of fees would be contained in a resolution to follow. As there were no questions or comments from the Commissioners or the public, President Clark called for a motion to introduce Ordinance 401. Commissioner Dinkel made the motion to introduce Ordinance 401 as presented. The motion was seconded by Commissioner Brady and passed on a roll call vote of 4-0 in favor. President Clark said Ordinance 401 would be eligible for a vote at the July 24, 2009 meeting of the Commissioners.

President Clark asked if the Commissioners wished to discuss the draft fee schedule. Commissioners Dinkel said he would like to defer discussion until Commissioner Snyder could be present. President Clark said she agreed, but that Commissioner Hunt should go ahead with her comments on the fee for parking spaces. Commissioner Hunt proposed a reduction in the parking fee from the current \$3,000.00 per space to \$250.00 because it was a burden on businesses in the current economic downturn. Commissioner Brady said that he

agreed with Commissioner Hunt and proposed possibly drafting the Resolution for the fee schedule to include a two year sunset clause for the \$250.00 reduction. Commissioner Dinkel had no comments at this time, preferring to do so when Commissioner Snyder can be present. President Clark said that there are many ways that the money could help with infrastructure in the town and she believed the fee could be less than the current \$3,000.00 but she is not sure what the correct figure is at that time and that she would also like to have Commissioner Snyder's input on the issue. The Commissioners concluded their discussion, and President Clark called for comments from the public.

- Chris Agarabi, owner of Ava's restaurant on Talbot Street and resident of 106 N. Harbor Road, said he was in favor of a reduction in the fee and suggested that the fee be prorated over a longer period. As he is looking to increase the amount of seating at his establishment, he hopes that the Commissioners will have a decision on the matter in July.
- Jennifer Bridges, owner of the Market House restaurant on Talbot Street, agreed with Mr. Agarabi's comments. She is also interested in expanding the seating at her establishment and proposed that the Commissioners consider an annual fee.

President Clark thanked Mr. Agarabi and Ms. Bridges for coming and for their comments, and said there would be another discussion of Ordinance 401 and the fee schedule at the Commissioners' June 24, 2009 meeting.

- **Ordinance 403** - Mrs. Yohn read the title of Ordinance 403 into the record as follows: ORDINANCE 403, AN ORDINANCE OF THE COMMISSIONERS OF ST. MICHAELS TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS, CHAPTER 340 (ZONING), ARTICLE III (NONCONFORMING LOTS, USES OF LAND, STRUCTURES, AND PREMISES) §340-8 (INTENT), TO CLARIFY THE LONG STANDING ADMINISTRATIVE INTERPRETATION OF THE TOWN AS TO THE APPLICATION OF THE NONCONFORMING STRUCTURE PROVISIONS OF THE TOWN CODE TO RESIDENTIAL DWELLING UNITS IN RESIDENTIAL DISTRICTS THAT ARE NONCONFORMING SOLELY DUE TO FRONT YARD BUILDING SETBACKS; TO AMEND CHAPTER 340 (ZONING), ARTICLE III (NONCONFORMING LOTS, USES OF LAND, STRUCTURES, AND PREMISES) §340-11 (NONCONFORMING STRUCTURES AND SIGNS) TO CLARIFY THAT THE RESTRICTION ON THE EXPANSION OF NONCONFORMING STRUCTURES DOES NOT APPLY TO RESIDENTIAL DWELLING UNITS IN RESIDENTIAL ZONES THAT ARE NONCONFORMING SOLELY DUE TO A NONCONFORMING FRONT YARD SETBACK AND THAT SUCH STRUCTURES MAY BE EXPANDED, ALTERED AND ENLARGED, PROVIDED THAT THE EXPANSION, ALTERATION OR ENLARGEMENT COMPLIES WITH ALL APPLICABLE REQUIREMENTS OF THE TOWN CODE; AND PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE A FAIR SUMMARY OF ORDINANCE 403 AND GENERALLY RELATING TO NON CON-FORMING RESIDENTIAL DWELLING UNITS IN RESIDENTIAL ZONES.

Deborah Renshaw gave an overview of the purpose for Ordinance 403, which she noted was to correct and clarify the Town Code with regard to nonconforming lots, land uses, structures, signs, and premises. After some discussion of clarifying language in the Ordinance, Commissioner Brady made a motion to refer Ordinance 403 to the Planning Commission for review and opinion. There was no second and

the motion failed. Based on a suggestion by Commissioner Hunt, Mrs. Renshaw said she would draft language separating the sections on nonconforming structures and signs. President Clark asked if the Commissioners had any further questions. Commissioner Brady noted that he could not support the Ordinance without a review by the Planning Commission. Commissioner Hunt stated that she feels comfortable not sending the Ordinance to the Planning Commission.

President Clark called for a motion to recess at 4:05 p.m. Commissioner Hunt made the motion, which was seconded by Commissioner Dinkel, and which passed on an aye vote of 4-0 in favor.

### **5:00 p.m. - Public Working Session - St. Michaels Free Library**

#### **Present:**

Commissioners Joanne Clark, Michael Brady, Donna Hunt and Philip Dinkel, Town Manager Cheril Thomas, Town Attorney Jeff Blomquist, Administrative Clerk Sabrenia Yohn, Project Manager Jean Weisman, Secretary Dorothy Olley, and approximately 25 members of the public. Commissioner Robert Snyder was absent.

#### **Call to Order:**

President Clark re-convened the Public Working Session of the Commissioners of St. Michaels at 5:00 p.m. in the meeting room of the St. Michaels Public Library. The Pledge of Allegiance was recited.

#### **Announcement of Closed Session:**

President Clark said the Commissioners had met in closed session on Friday, June 5, 2009, pursuant to Maryland Code, State Government Article § 10-508 (a)(7), to discuss legal matters related to potential litigation regarding the Agreement of Sale with Westside Village, LLC.

#### **Election of Officers of the Commissioners of St. Michaels:**

President Clark said if there were no objections from the Commissioners, the election of officers would be deferred to the June 24, 2009 meeting. There were no objections.

#### **Presentation by TND Development, Inc. (Miles Point):**

President Clark noted that the applicant had requested time to make a presentation to the Commissioners, but that this was not a public hearing. Attorney Blomquist provided a brief update, noting that the applicants had submitted a revised sketch plan and design code, which had been referred to Town staff for review, and that copies were available in the town office for public viewing. President Clark then recognized Mr. T.J. Pecorak and Attorney Rad DeTar, representing TND Development, Inc., and asked that they limit their remarks to one hour. Attorney DeTar said the applicant wanted to put before the Commissioners possible changes that could be made to their planned development that might be of greater benefit to the Town. Attorney DeTar made the following suggested proposals: (1) a density reduction from 260 units to 245 units; (2) offering the Huntman property to the Town for use as a public park; (3) further clean up of the Development Rights and Responsibilities Agreement (DRRA) language to bring it up-to-date; and (4) reduction of the \$1,000.00 per unit fee with 50% collected going to the community and 50% being used for maintenance of the marsh.

Following the presentation, Attorney Blomquist reiterated the suggestions for clarity, but also asked if any further reduction in density was possible. Attorney DeTar said further reduction is possible, but that trade-offs may be necessary to maintain profitability. Attorney DeTar said the goal in offering the Huntman property was to not only create a public park for the Town, but also to preserve the value of the two residential lots on the property. President Clark asked if there were any comments or questions from the Commissioners. Commissioner Brady inquired about the purpose and intent of the DRRA, to which Attorney DeTar responded. President Clark then opened a public comment period and asked that any comments be limited to three minutes. Attorney Blomquist added that comments should be restricted to this presentation only, and that now was not the time for the presentation of alternative plans.

- John Wolfe of Perry Cabin Drive had a question about density.
- Roy Myers of E. Chestnut Street suggested that additional clarification language for the Miles Point project be added to the DRRA. Attorney Blomquist responded that there were numerous processes involved and that the attorneys and the Commissioners would be reviewing language for clarification.
- Ted Doyle of Perry Cabin Drive asked about the location of the lots which might be eliminated from the plan. Mr. Doyle also thought that cleaning up the DRRA language was a good idea.
- Victor MacSorley of Cherry Street said he favored going ahead with the project and that it might be the last opportunity to obtain a waterfront park for the Town.
- Ann Hymes of Grace Street said she also supported the park, and that the developers should be praised for their patience in the face of a very organized opposition and numerous delays.

Commissioner Dinkel said he thought the presentation was worth exploring. President Clark thanked Attorney DeTar and Mr. Pecorak for their presentation.

**Ordinance 404:**

President Clark asked if the Commissioners had any objection to moving the discussion of Ordinance 404 up on the agenda while Attorney Blomquist was present. There was no opposition. Mrs. Yohn read the title of the ordinance into the record as follows: ORDINANCE 404, AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS TO AMEND CONDITIONS 23-32 OF THE GROWTH ALLOCATION FINDINGS OF FACT, DECISION AND CONDITIONS RELATIVE TO THE PROJECT KNOWN AS MILES POINT III-150, WHICH THE COMMISSIONERS OF ST. MICHAELS ADOPTED ON THE 22ND DAY OF MARCH 2006.

Commissioner Hunt said she had no additional questions, as the Ordinance was simply clarifying what the Commissioners had already done. As there were no additional comments or questions from the Commissioners, President Clark called for a motion to introduce Ordinance 404. Commissioner Dinkel made the motion to introduce Ordinance 404 as presented. The motion was seconded by Commissioner Hunt and passed on a roll call vote of 4-0 in favor. President Clark noted that Ordinance 404 would be eligible for a vote at the June 24, 2009 meeting of the Commissioners.

**Consent Agenda:**

President Clark asked if there were any comments on departmental reports for the month of May 2009. There were no comments or questions. President Clark said disbursements

for the month of May were in the amount of \$220,953.64. The Commissioners by roll call vote of 4-0 in favor approved the Consent Agenda.

**Contract Awards and Amendments:**

- **Dinghy Dock Bid Award** - The Town of St. Michaels received four bids for the replacement of the Town's dinghy dock at the bid opening on Monday, April 13, 2009 at 1:00 p.m. Mrs. Yohn read the bid results into the record as follows:
  1. E.A. & J.O. Crandell, Inc. – Total lump sum bid = \$44,640
  2. Dissen & John Corporation – Total lump sum bid = \$54,750
  3. Heinshon Contracting, Inc. – Total lump sum bid = \$55,080
  4. Harper & Sons, Inc. – Total lump sum bid = \$74,440

Mrs. Yohn also noted that the Town staff and engineers recommendation is to award the bid to the low bidder, E.A. & J.O. Crandell, Inc. in the amount of \$44,640. The Maryland Department of Natural Resources (DNR) concurs with the Town and Engineers' recommendations for the bid award.

Town Project Manager Jean Weisman answered questions about the project. She noted that the project would be funded entirely by the Maryland Department of Nature Resources (DNR). After some discussion, and suggestions for minor changes from Commissioner Dinkel, Commissioner Hunt made the motion to accept the low bid from E.A. Crandell, Inc., as recommended by Staff and as concurred by DNR. Commissioner Brady seconded the motion which passed on a roll call vote of 4-0 in favor.

- **Demolition of 109 Conner Street Bid Award** - The Town of St. Michaels received five bids for the demolition of 109 Conner Street, St. Michaels, Maryland at the bid opening on Friday, June 5, 2009 at 1:00 p.m. Mrs. Yohn read the bid results into the record as follows:
  1. Bridges Waste Management, Inc. Total bid = \$3,500.00 with a start date of June 11, 2009 and a one day estimated completion.
  2. Tyler Contracting Co. – Total bid = \$4,975.00 with a start date of June 22, 2009 and a one day estimated completion.
  3. Duvall Brothers, Inc. – Total bid = \$6,900.00 with a start date of June 15, 2009 and 2 days estimated completion.
  4. Norris E. Taylor Contractors, Inc. – Total bid = \$6,570.00. No start date provided and no estimated completion.
  5. Harper & Sons, Inc. – Total bid = \$5,640.00 with a start date of June 11, 2009. No estimated completion

President Clark announced that on Thursday, June 4, 2009, the Town received notice from Brian Goldstein, Principal of Westside Village, LLC that he intends to appeal the Town's decision to demolish this structure. Additionally, the Town has learned that it may be possible to dismantle the structure and store it until such time as it is possible to restore the building to its original state. The Commissioners have not as yet made a decision on whether to demolish the structure or to dismantle and store it. Ads will run in the *Star Democrat* on Thursday, June 11, 2009 for bids to dismantle and store the structure. President Clark also explained that the same contractors who had bid for demolition had been invited to bid for the de-construction and storage project. At their June 24, 2009 meeting, the Commissioners will decide whether to

demolish the building or to dismantle and store it and at the same meeting, the Commissioners will award the bid contract.

Marie Martin of Cherry Street thanked the Commissioners for looking into dismantling and storage as an alternative to demolition. Julio Rodriguez of Conner Street said he lived across the street from the building and had concerns for the safety of his children playing around it. President Clark said that something would be done about the building by the end of this month.

**Amendment to Street Reconstruction Project - Phase III – specifically, St. Mary’s Square - regarding sidewalk area located at southwest corner adjacent to E. Chestnut Street:**

President Clark opened the discussion regarding the sidewalks on St. Mary’s Square. Don Paris of 410 St. Mary's Square requested that a curb be put in from the back edge of his property to the corner of St. Mary's Square and E. Chestnut Street. He said he would also like to have a brick sidewalk. Both, he noted, would help with drainage in that area and finish the street to look like the opposite end. The Commissioners and Town Engineer Ben Taylor discussed costs and the various options in complying with Mr. Paris' suggestions. It was decided to go ahead with the granite curbing because the Town had the materials on hand, but to delay the brick sidewalk in order to secure better pricing. Commissioner Dinkel made a motion to have the granite curbing installed now; to accept Mr. Paris’ request that there be no concrete apron installed on his property; that one concrete apron will be installed at the house on the corner of E. Chestnut and St. Mary’s Square; and that the sidewalk area be blocked for the brick sidewalk to be installed after the curbing and after the 4<sup>th</sup> of July festivities at St. Mary’s Square. Commissioner Hunt seconded the motion which passed on a roll call vote of 4-0 in favor.

**Commissioners' Calendar:**

The Commissioners reviewed their calendar and agenda items for meetings through the end of August 2009.

**Comments from the Public:**

- Jim Valliant of Green Street requested a copy of draft Ordinance 403 regarding nonconforming structures.
- Roy Myers of E. Chestnut Street had general comments regarding the Miles Point project.
- Marie Martin of Cherry Street provided information regarding the Upper Shore Workforce Investment Board which is a six week program that would utilize local St. Michaels’ youth to perform various jobs as needed around Town, i.e., gardening, cleanup, etc.

**Comments from the Commissioners:**

Commissioner Brady commented that he was looking forward to having a booth at the upcoming MML Convention to increase awareness of St. Michaels as a tourist destination. Mr. Brady also noted the marsh creation award received by the Town of St. Michaels from Environmental Concern and a Certificate with acknowledgement from the Maryland State Senate.

**Announcement of Future Meetings:**

President Clark announced future meetings of the Commissioners on June 24, 2009 at 6:30 p.m., a closed session on July 8, 2009 at 3:00 p.m., followed by a regular working

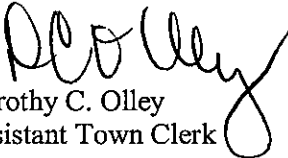
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session at 5:00 p.m., and a Regular Legislative Session on July 22, 2009 at 6:30 p.m. All meetings are currently scheduled to be held in the meeting room of the Town Office, 300 Mill Street.

**Adjournment:**

President Clark adjourned the meeting at 7:30 p.m.

Respectfully submitted,

  
Dorothy C. Olley  
Assistant Town Clerk

**Attachments:**

- Reports - Administrative, Public Works, and Police Departments
- Draft Ordinance 401
- Draft Ordinance 403
- Bid Minutes - Dinghy dock replacement
- Bid Minutes - 109 Conner Street