

September 9, 2009

Present:

Commissioners Michael Brady, Joanne Clark, Robert Snyder, Donna Hunt, and Philip Dinkel, Town Manager Cheril Thomas, Police Chief Miguel Dennis, Codes Enforcement Officer Deborah Renshaw, Town Attorney Jeff Blomquist, Administrative Clerk Sabrenia Yohn, Secretary Dorothy Olley, and approximately 15 members of the public.

Call To Order:

President Brady called to order the public working session of the Commissioners of St. Michaels at 5:00 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.

President Brady thanked the Commissioners, staff and residents for their consideration and kindness following his recent illness.

President Brady said that if there was no objection from the other Commissioners, he would like to move the Consent Agenda items forward to be first on the agenda. There was no objection.

Consent Agenda:

President Brady said the Consent Agenda included departmental reports for the month of August, a request from the St. Michaels Business Association for an over-the-street banner advertising "Fall Into St. Michaels," and setting the date and time for Trick-or-Treating. President Brady said disbursements for the month August 2009 were in the amount of \$364,398.24, noting that \$152,974.57 was directed to capital projects and \$4,849.50 were reimbursable legal costs. President Brady asked if there were any questions on the departmental reports. Commissioner Hunt expressed concerns about the timing of a Halloween parade on Talbot Street overlapping with the start time of Trick-or-Treating and potential safety issues for the children. Police Chief Miguel Dennis said that he would contact the parade organizers to see if the parade could be held an hour earlier, and that he would let the Commissioners know the outcome. The Commissioners agreed to postpone a decision on the date and time for Halloween Trick-or-Treating to their September 23, 2009 meeting, pending a response from Chief Dennis. President Brady thanked Chief Dennis for his report on patrols for the Nature Trail and progress on reducing false alarms. Chief Dennis said he was confident that a significant reduction in false alarms would be reflected on his October report. As there were no additional comments or questions, President Brady called for a motion to accept reports for the month of August and to approve the "Fall into St. Michaels" event banner. Commissioner Hunt made the motion as stated by President Brady. Commissioner Snyder seconded the motion which passed on a roll call vote of 5-0 in favor.

Public Hearing:

- **Ordinance 407** - President Brady opened the public hearing on Ordinance 407 and asked Ms. Olley if there were any names on the sign-in sheet of those wishing to comment during the public hearing. Ms. Olley responded that there were none. President Brady then asked Mrs. Yohn to read the title of the ordinance and any exhibits. Mrs. Yohn read the title of Ordinance 407 into the record as follows: **ORDINANCE 407, AN ORDINANCE TO AMEND THE TOWN OF ST. MICHAELS CRITICAL AREA MAP TO REFLECT THE**

CHANGE IN THE DESIGNATION OF 2.99 ACRES OWNED BY WINDWARD INVESTMENT, LLC IN THE TOWN OF ST. MICHAELS CONSISTING OF 2.99 ACRES IDENTIFIED ON TAX MAP 200, GRID 21, AS PARCELS 1783 AND 1785, A PORTION OF WHICH CONSISTS OF THE ROAD BED OF CHESAPEAKE AVENUE THAT IS OWNED BY THE COMMISSIONERS OF ST. MICHAELS FROM LIMITED DEVELOPMENT AREA TO INTENSELY DEVELOPED AREA ; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY; AND GENERALLY RELATING TO THE AWARD OF GROWTH ALLOCATION FOR THE WINDWARD INVESTMENT, LLC PROPERTY.

Mrs. Yohn then read the exhibits into the record as follows:

1. Notices of the public hearing scheduled for September 9, 2009 as published in the Star Democrat on August 24, 2009 and August 31, 2009
2. Ordinance 407
3. Notice of Public hearing on September 9, 2009 for Ordinance 407 which was posted on the bulletin board in the Town Office [and as advertised in the Star Democrat per the Certification of Publication].

President Brady recognized Codes Enforcement Officer Deborah Renshaw, who provided background and an update on the Chesapeake Reach project, noting that the Critical Area Commission had reviewed and approved growth allocation for the Windward Investment LLC property and directed the Town to amend its Critical Area Map to reflect the change in designation for the property. President Brady asked if there were any questions or comments from the Commissioners or the public. As there were no comments, President Brady closed the public hearing on Ordinance 407 and called for introduction. Commissioners Brady, Clark, Dinkel, Hunt and Snyder introduced Ordinance 407. President Brady noted that the Ordinance would be eligible for a vote at the September 23, 2009 legislative meeting of the Commissioners.

- **Ordinance 408 - Continuation of Public Hearing on August 26, 2009.** President Brady opened the public hearing on Ordinance 408 announcing that this is a continuation of the public hearing on the Ordinance from August 26, 2009 and that Resolution 2009-19 will be discussed concurrently with the Ordinance. President Brady asked Ms. Olley if there were any names on the sign-in sheet of those wishing to comment during the public hearing. Mrs. Yohn read the title of Ordinance 408 into the record as follows: Ordinance 408 - AN ORDINANCE OF THE COMMISSIONERS OF ST. MICHAELS TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS, CHAPTER 340 (ZONING) §340-108 (DEFINITIONS) TO AMEND THE DEFINITION OF A PUBLIC PARK TO INCLUDE THE HOLDING OF COMMUNITY ENHANCEMENT EVENTS AS DEFINED; TO AMEND §340 (ZONING) TO ADD A NEW SUBSECTION 340.51.2 (COMMUNITY ENHANCEMENT EVENTS); TO DEFINE COMMUNITY ENHANCEMENT EVENTS AS OPEN AIR CONCERTS/PERFORMANCES, CULTURAL AND GOVERNMENT SPONSORED OR SUPPORTED EVENTS AND FARMERS' MARKETS; TO DEFINE THE PURPOSE AND GENERAL REQUIREMENTS OF ALL COMMUNITY ENHANCEMENT EVENTS; TO AMEND CHAPTER 234, (PEDDLING AND SOLICITING), ARTICLE I, (TRANSIENT VENDORS), §234-2 (PROHIBITED CONDUCT) TO ALLOW FOR THE VENDING OF GOODS ON PUBLIC PROPERTY UNDER THE PROVISIONS OF A COMMUNITY ENHANCEMENT EVENT; AND PROVIDED THAT THIS TITLE SHALL BE A FAIR SUMMARY AND GENERALLY RELATING TO PUBLIC PARKS AND COMMUNITY ENHANCEMENT EVENTS IN THE TOWN

Mrs. Yohn then read the exhibits into the record as follows:

1. Petition submitted by the St. Michaels Concerned Citizens and Residents during the public hearing on August 26, 2009.
2. FreshFarm Markets DOT Survey Results dated May 23, 2009 which were submitted during the public hearing on August 26, 2009.
3. Letter from Ted Doyle to the Commissioners of St. Michaels dated September 3, 2009
4. Ordinance 408 – Draft as of 08/21/09 for continued public hearing on September 9, 2009
5. Notice of Continuation of the Public Hearing on September 9, 2009 for Ordinance 408 which was posted on the bulletin board in the Town Office.

President Brady asked if the Commissioners had any comments. Commissioner Dinkel gave an overview of his proposed changes to the Ordinance, which were in part based on comments received from Mr. Doyle, and included adding a definition for “Town Owned Property”; enumerating the types of events that could take place on Town Owned Property; and an inventory of Town Owned Properties on which community enhancement events could take place. Commissioner Hunt pointed out that there are more Town properties than were listed in the proposed inventory. The Commissioners discussed whether or not an inventory of Town properties was necessary as the list could change in the future which would require revisions to the Ordinance. Based on the discussion, the Commissioners agreed to leave the inventory out of the legislation. President Brady recommended eliminating reference to "community enhancement events" in the Ordinance and preferred that reference to "events by permit only" be included in Resolution 2009-19. Commissioner Clark said that criteria should be clear as to what events the Commissioners will issue permits for. As there were no additional comments from the Commissioners, President Brady called for public comment.

Ted Doyle of Perry Cabin Drive said he felt that the Commissioners were now on the right track regarding the Ordinance and the Resolution and that the intent of his letter was to urge the Commissioners to retain flexibility with regard to events and where they could be held. He said he also agreed that regional limitations are restrictive, and by including "a preference" for local area producers, the necessary flexibility is maintained. Mr. Doyle also said he favored some kind of outreach to local farmers so that those who want to participate are not left out.

Carol Bean of Pot Pie Farm, Wittman, said that the regulations in the Resolution may be too specific, as terms like “producer only” speak for themselves. She felt that some parts were redundant in their definitions.

Elizabeth Beggins of Conner Street, said that even though Freshfarm market has a 150-mile radius as the geographic location for their vendors, in reality the farmer that comes the farthest to participate in the market is currently 83 miles and only comes bi-weekly. She encouraged the Commissioners to carefully look at the geographic locations in the legislation, i.e., limiting it to the State of Maryland versus using radius miles. Ms. Beggins also said that "producer-only" markets are difficult to police and restrictive to farmers. She also asked how preference among vendors would work without creating bad will among competing participants.

Commissioners Clark proposed that anyone asking for a permit for a farmers’ market will be required to provide proof that they have reached out to local farmers and indicated that the Commissioners need come up with a good radius giving preference to local counties.

Marie Martin of Cherry Street, said that after eleven years, any local farmers interested in participating in the farmers' market would have contacted Freshfarm to be in the market..

Phil Jones of St. Michaels Road said that Delaware is closer than Ocean City and favored giving preference to the Eastern Shore versus the State of Maryland. He also stated that the key issue is having a good product mix and it should be left to the market managers determine the best mix to draw customers.

Barney Kastel of Mt. Pleasant Road offered the use of two acres of property free of charge for the location of a farmers' market. He also noted that the prospect of selling seafood would be in direct competition with three businesses in Town. Finally he stated his belief that this issue needs to be put to rest because the taxpayers are bearing the burden of the costs involved in continuing discussions and public hearings on this matter.

President Brady asked if there were any other comments by the Commissioners or the public. Commissioner Snyder said he agreed with Mr. Dinkel's version of Ordinance 408, but that he would take out the inventory. Commissioner Snyder said he believed that the market managers should be managing the market and not the Commissioners, and therefore proposed that removal of the language in Section 3, 3 D of the Resolution which states "items allowed to be sold must be grown or produced on land in the State of Maryland with preference given to vendors from the Eastern Shore of Maryland" and also in Section 3, 3, E, removing the word "regional".

Commissioner Clark said if "community enhancement events" is taken out, then she would propose adding language to the effect that the Commissioners will issue permits for Town supported social and cultural events that are open to the general public and that have as a priority the enlarging and promoting a sense of community in St. Michaels.

Without objection from the Commissioners, President Brady proposed continuing the public hearing to September 23, 2009 and directed staff to make the changes discussed and agreed upon, including the language proposed by Commissioner Clark, and to have the revised re-drafts of Ordinance 408 and Resolution 2009-19 available for discussion at that time.

Items for Discussion:

- **Resolution 2009-20** - President Brady opened the discussion on Resolution 2009-20 and Mrs. Yohn to read the title of Resolution 2009-20 into the record as follows: Resolution 2009-20 - A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS TO PERMIT THE FILING AND PROCESSING OF A SUBSEQUENT APPLICATION FOR A TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ZONE APPLICATION BY MILES POINT PROPERTY, LLC AND TND DEVELOPMENT, INC. FOR THE MILES POINT III-150' PROJECT, PURSUANT TO CHAPTER 340 (ZONING), SECTION 340-32.

Town Attorney Jeff Blomquist provided an overview of the TND applications filed by Miles Point and noted that the purpose of Resolution 2009-20 is to allow the applicant to file a new application with a proposed reduction in the number of units for the project. This subsequent application would have to go before the Planning Commission and does not automatically grant a new application but merely allows the applicant to submit the application for the Commissioners' consideration. Richard DeTar, attorney for Miles Point Property LLC, said if the Commissioners were to adopt the Resolution, that he would submit a proposal that would reduction in the number of units from 260 to 238. Attorney Blomquist answered

questions from the public regarding erosion and the mean high water mark, revision of permits, and the structure of the hearing process under the Town's rules. President Brady asked for any comments from the Commissioners. There being none, President Brady announced that Resolution 2009-20 would be eligible for a vote at the Commissioners' September 23, 2009 meeting.

- **Heatherington Harbor Annexation Request - Discussion and Possible Referral to the Planning Commission.** President Brady introduced Stan Marks, owner of the Heatherington Harbor property, and his attorney Dave Thompson. Mr. Thompson indicated that his client was interested in proceeding with the process of annexation into the Town. Mr. Thompson explained that this property was at one time a part of the Hatton's Garden project, but was now coming in as a separate parcel to be annexed. Mr. Thompson said he would submit documents requesting unconditional annexation only, and that his client was willing to wait the five years required by the County before any work would begin and that when the time came, Mr. Thompson and his client would be asking the Town for its preferences in the ultimate use for the property. President Brady asked Deborah Renshaw for a comment. Mrs. Renshaw said that the property was clearly a growth area for St. Michaels, as identified by the County, and that the Planning Commission had indicated they would be pleased to review the request again to ensure its compliance with the Town's Comprehensive Plan. Commissioner Snyder asked how much tax revenue this one parcel would bring to the Town if it were annexed. Mrs. Thomas said it would produce approximately \$12,800.00 per year in tax revenue. President Brady asked if there were any comments from the Commissioners or from the public. As there were none, President Brady called for a motion to proceed with the annexation process and to refer the matter to the Planning Commission. Commissioner Dinkel made the motion as stated by President Brady. Commissioners Hunt and Clark seconded the motion which passed on a roll call vote of 5-0 in favor.

Commissioners' Calendar

The Commissioners discussed changes and additions to future agendas for their October and November meetings. Commissioner Clark asked that a special public session be added for the purpose of discussing potential budget amendments due to reductions in tax revenue and other income. The Commissioners set October 7, 2009 at 4 p.m. for this discussion.

Comments from the Public

Maric Martin of Cherry Street praised the Commissioners for their work.

Comments from the Commissioners

The Commissioners welcomed President Brady back after a speedy recovery.

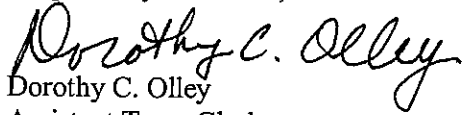
Announcement of Next Meetings

President Brady announced that the next meetings of the Commissioners would be on September 16, 2009 at 4:00 p.m. and 6:00 p.m. at the Town Office and on September 23, 2009 at 6:30 p.m. at the Town Office.

Adjournment

President Brady adjourned the meeting at 6:45 p.m.

Respectfully submitted,



Dorothy C. Olley
Assistant Town Clerk

Attachments

- Reports - Administrative, Public Works, Police
- Business Association Banner Request
- Ordinance 407 and Exhibits
- Ordinance 408 and Exhibits
- Resolution 2009-19
- Resolution 2009-20