

The Commissioners of St. Michaels

Public Working Session

December 16, 2009

Present:

Commissioners Michael Brady, Joanne Clark, Robert Snyder, Donna Hunt, and Philip Dinkel, Town Manager Cheri Thomas, Administrative Clerk Sabrenia Yohn, Police Chief Miguel Dennis, and five members of the public.

President Brady called to order the regular legislative session of the Commissioners of St. Michaels at 6:30 p.m. in the meeting room of the Edgar M. Bosley, Jr. Municipal Building, 300 Mill Street, St. Michaels. The Pledge of Allegiance was recited.

Announcement of Prior Closed Session:

President Brady announced that on December 16, 2009 at 1:00 p.m. pursuant to Maryland Code, State Government Art., § 10-508 (a) (1) (i); (7); and (8) the Commissioners met in closed session to discuss Board Appointments for 2010 and legal matters associated with Wood vs. The Commissioners of St. Michaels and TND Development, Inc. and Miles Point Property, LLC request for Traditional Neighborhood Development Floating Zone.

Consent Agenda:

President Brady said the Consent Agenda included departmental reports for the month of November, 2009 with disbursements noted in the amount of \$354,245.29 of which \$163,202.06 was expended for capital projects and engineering. The consent agenda also included draft minutes for public session meetings in the month of November, 2009. President Brady asked the Commissioners if there were any changes to the minutes or any questions on any of the reports. Commissioner Clark commented on the modified trash schedule for December due to the holidays and the Commissioners instructed Town staff to contact the St. Michaels Business Association and advise them of the trash schedule to avoid excessive trash being left on Talbot Street. Chief Dennis commented on the increase in alarms this month which have been traced back to five entities in Town. Letters have been sent to these entities and the Chief will be meeting with them. As there were no additional comments, President Brady called for a motion to accept the Consent Agenda as presented. Commissioner Snyder made the motion as stated by President Brady. Commissioner Dinkel seconded the motion which passed on a roll call vote of 5-0 in favor.

Bid Award for Town of St. Michaels Public Works Truck:

Mrs. Yohn said that on December 8, 2009, the Town of St. Michaels received four (4) bids for a public works truck. The bids were as follows:

1. Pohanka Toyota Scion of Salisbury, MD. The bid is for a 2010 Toyota Tundra for \$29,940.00. The price is same for cash or 3 year 0% financing (\$831.69 -- 36 monthly payments) and includes a 3 year/36,000 mile bumper to bumper warranty and a 5 year/60,000 mile power-train warranty. The price includes all standard equipment specifications plus additional options as requested. Delivery before December 23, 2009.
2. Ramsey Pontiac-Olds-GMC Truck, Inc. of Chestertown, MD. The bid is for a 2009 GMC Sierra 1500 for \$29,076.00. Warranties were not addressed in the bid. The price does include all standard equipment specifications. Delivery date was not addressed.
3. Preston Ford of Preston, MD. The bid is for a 2010 Ford F-150 Super Cab 4X4 for \$21,365.00. The price is for cash purchase; 0% financing is not available on Government sales. The bid provides for a 3 year/36,000 mile bumper to bumper warranty, and a 5 year/60,000 mile power train warranty. The price does not include a trailer tow package. Delivery within 6-8 weeks.

4. Norris Ford of Easton of Easton, MD. The bid is for a 2010 Ford F-150 4x4 Super Cab as follows: Cash price = \$22,279.35; 3 year 0% financing price = \$28,398.04. The bid provides for 3 year/36,000 mile bumper to bumper warranty and a 5 year/60,000 mile power train warranty. The price does include all standard equipment specifications. Delivery within 3 to 5 weeks.

Mrs. Thomas said that staff recommended awarding the bid to the lowest bidder, Preston Ford for the 2010 Ford F-150 Super Cab 4X4 for \$21,365.00. There being no comments from the Commissioners or the public, President Brady called for a motion to accept Town staff's recommendation and to award the bid to Preston Ford for the 2010 Ford F-150 Super Cab 4X4 for \$21,365.00. 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.

Legislation/Other Matters Eligible for Vote

- **Ordinance 410** – AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS AMENDING THE CODE OF THE TOWN OF ST. MICHAELS, CHAPTER 340 (ZONING), §340- 26 “CENTRAL COMMERCIAL ZONE”, TO ALLOW COMMUNITY CENTERS AS A PERMITTED USE AND TO AMEND §340-108 (DEFINITIONS) TO ADD A DEFINITION OF “COMMUNITY CENTER”; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY OF ORDINANCE NO. 410; AND MATTERS GENERALLY RELATING TO COMMUNITY CENTERS IN THE TOWN OF ST. MICHAELS

President Brady announced that the Ordinance was introduced on November 18, 2009 by Commissioners Clark, Hunt and Snyder, that it is eligible for vote this evening and if adopted, will become effective on January 5, 2010. Commissioner Hunt said she was glad that the Community Center had moved into Town which would allow them to provide better services to the community. There being no further comments from the Commissioners, President Brady called for a motion to adopt Ordinance 410 as written. Commissioner Snyder made the motion as stated by President Brady. Commissioner Dinkel seconded the motion which passed on a roll call vote of 5-0 in favor.

- **Ordinance 411** - AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS AMENDING CHAPTER 54 (SALARIES AND COMPENSATION), ARTICLE I (COMMISSIONERS) TO ADD A NEW SUB-SECTION 54.2 (OTHER COMPENSATION, NON-MONETARY) TO ENUMERATE ALL GOODS AND SERVICES THAT MAY BE GIVEN, LOANED OR OTHERWISE PROVIDED TO THE COMMISSIONERS DURING THEIR TENURE; PROVIDING THAT THIS TITLE SHALL BE A FAIR SUMMARY AND RELATING GENERALLY TO MATTERS OF COMPENSATION FOR THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS, MARYLAND.

President Brady announced that the Ordinance was introduced on November 18, 2009 by Commissioners Clark, Hunt and Snyder, that it is eligible for vote this evening and if adopted, will become effective on January 5, 2010. There being no comments from the Commissioners, President Brady called for a motion to adopt Ordinance 411 as written. Commissioner Clark made the motion as stated by President Brady. Commissioner Dinkel seconded the motion which passed on a roll call vote of 5-0 in favor.

- **Ordinance 412** - AN ORDINANCE OF THE TOWN OF ST. MICHAELS AUTHORIZING THE EXECUTION OF A LAW ENFORCEMENT MUTUAL AID AGREEMENT IN ACCORDANCE WITH MARYLAND ANNOTATED CODE CRIMINAL PROCEDURE ARTICLE SECTION 2-105.

President Brady announced that the Ordinance is eligible for vote this evening and if adopted, will become effective on January 5, 2010. There being no comments from the Commissioners, President Brady called for a motion to adopt Ordinance 412 as written. Commissioner Dinkel 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.

- **Resolution 2009-21** - A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS, MARYLAND TO AMEND THE CHARTER OF THE TOWN OF ST. MICHAELS FOR THE PURPOSE OF MAKING TEXTUAL CHANGES TO ARTICLE II, SECTION §C-5 REGARDING THE DAY OF THE MONTH IN JUNE ON WHICH A REGULAR TERM OF A COMMISSIONER EXPIRES; ARTICLE II, SECTION §C-10 REGARDING THE DAY OF THE MONTH IN JUNE ON WHICH A NEWLY ELECTED COMMISSIONER TAKES OFFICE AND THE OFFICERS OF THE COMMISSION ARE ELECTED; AND ARTICLE II, SECTION §C-10 REGARDING THE ELIGIBILITY OF AN APPOINTED COMMISSIONER TO SERVE AS PRESIDENT OF THE COMMISSION - PROVIDING THAT THE TITLE OF THIS RESOLUTION SHALL BE DEEMED A FAIR SUMMARY.

President Brady announced that the Resolution was introduced on November 18, 2009 by Commissioners Brady, Clark, and Snyder, that it is eligible for vote this evening and if adopted, will become effective on February 4, 2010. There being no comments from the Commissioners, President Brady called for a motion to adopt Resolution 2009-21 as written. Commissioner Dinkel 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.

- **Resolution 2009-26** - A RESOLUTION OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS TO ENUMERATE ALL GOODS AND SERVICES THAT MAY BE GIVEN, LOANED OR OTHERWISE PROVIDED TO THE COMMISSIONERS DURING THEIR TENURE, WHICH GOODS AND SERVICES SHALL BE IN ADDITION TO THE SALARY RECEIVED BY EACH COMMISSIONER AS MANDATED BY THE TOWN CHARTER

President Brady announced that the Resolution is eligible for vote this evening and if adopted, will become effective immediately. President Brady said that the salaries and compensation for Commissioners has not been comprehensively reviewed for very long time and in his opinion the goals set forth by Commissioner Clark in this legislation are laudable; however, the legislation is not the result of a comprehensive review and therefore falls short of these goals. President Brady said that before making the change with Resolution 2009-26, it is the responsibility of the Commissioners to ensure that it is the correct and effective legislation the Town needs to meet its goals. In addition, President Brady said that the legislation in its present form does not provide for any periodic review which is needed to ensure that the Commissioners' compensation is current and changes that are needed in the future are made in a timely manner.

President Brady then called for a motion to adopt Resolution 2009-26 as written. Commissioner Clark made the motion as stated by President Brady. Commissioner Dinkel seconded the motion. President Brady said he had a motion made and duly seconded that the Commission adopt Resolution 2009-26 as written and asked if there were any further discussion.

Commissioner Clark stated that there were conversations on the compensation of the Commissioners during the budget process in March and April 2009 and that it was again discussed in public working sessions in September and October, 2009. Commissioner Clark stated that Town employees are under a pay freeze for this fiscal year and are being furloughed, funds had to be transferred from the

Town's reserves in order to balance this budget, and the Commissioners need to look at their compensation over and above their annual salary. Commissioner Clark said that the Commissioners need to put emphasis on delivering services to the Town.

Commissioner Dinkel then stated that he supports the reasons that Commissioner Clark gave for drafting the legislation. He added that if all five Commissioners and family members received the health care benefit currently allowed, it would cost approximately \$90,000 to \$100,000 per year for the five Commissioners. Commissioner Dinkel said that Commissioners are not employees and should not be entitled to benefits or other entitlements such as health insurance.

Commissioner Hunt said that each Commission should, as they go over the budget, decide whether there is money in the budget for the Commissioners' health care coverage; determine each year if cuts need to be made; and if it came to an employee being laid off, then certainly Commissioners' insurance should be taken away. Commissioner Hunt said that the insurance is a way to entice people to do this job and that the issue should be decided by each Commission during their budget discussions.

President Brady thanked the Commissioners for their comments and noted that there was a motion on the floor. There being no further comments or discussion, President Brady called for a vote.

The motion to adopt Resolution 2009-26 as written passed on a roll call vote of 3-2 in favor with Commissioners Brady and Hunt dissenting.

- **Resolution 2009-27 - A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS, MARYLAND TO ADOPT AN INVESTMENT POLICY FOR THE TOWN OF ST. MICHAELS**

President Brady announced that the Resolution is eligible for vote this evening and if adopted, will become effective immediately. There being no comments from the Commissioners, President Brady called for a motion to adopt Resolution 2009-27 as written. Commissioner Dinkel 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.

- **Resolution 2009-28 – A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS APPROVING A STORMWATER MANAGEMENT PLAN, INCLUDING A QUANTITATIVE WAIVER, FOR THE PROJECT KNOWN AS CHESAPEAKE REACH, OWNED BY WINDWARD INVESTMENTS, LLC.**

President Brady announced that the Resolution is eligible for vote this evening and if adopted, will become effective immediately. President Brady said that Resolution No. 2009-28 approves the stormwater management plan submitted by Windward Investments, LLC for the development known as Chesapeake Reach and the accompanying stormwater quantitative waiver request. The proposed development is located immediately north of Canton Street and south of Railroad Avenue, and lies easterly along Chesapeake Avenue with one lot lying westerly along Chesapeake Avenue. The proposed development consists of a nine lot residential subdivision with a stormwater management parcel. On November 18, 2009 the Commissioners conducted a public review of the matter during which we heard an extensive presentation by the Town's Consulting Engineer, Bob Kane, regarding how the requested plan and waiver approvals meet the criteria for approval set forth in Town Code, Chapter 281. In addition, the Commissioners heard from the Applicant's Consulting Engineer as to how the requested plan and waiver meet the criteria for approval set out in the Town Code. After a careful review of the applications, hearing the presentations and discussing the matter, the Commissioners determined that the criteria for approval contained in Town Code, Chapter 281 for

both the stormwater management plan and the quantitative waiver have been met. Accordingly, the Commissioners directed the Town Attorney to draft a resolution approving the stormwater management plan and stormwater quantitative waiver request submitted for the Windward Investments property. It is that Resolution that is before the Commissioners this evening for approval.

The Commissioners reviewed the Resolution during their December 2, 2009 meeting. Since then, a few changes to the Resolution have been suggested, such as, adding to the description of the proposed development as a nine lot residential subdivision that it also includes a stormwater management/mitigation parcel, adding "wet" before "swales," adding "wetland" prior to "mitigation," and clarifying a couple of statements. President Brady then asked if the Commissioners had an opportunity to review the Resolution in its entirety, including the suggested revisions to the Resolution to which the Commissioners responded in the affirmative. President Brady asked if the Commissioners agreed with the suggested changes being incorporated into the Resolution to which the Commissioners responded in the affirmative. President Brady asked if there is anything that the Commissioners would like to add to the Resolution. There was not. President Brady asked if the Commissioners believe that the findings of fact and conclusions of law stated in the Resolution accurately reflect the Commissioners' findings and conclusions in this matter to which the Commissioners responded in the affirmative.

President Brady then said that he would like to acknowledge that Town Code, §281-7 states that quantitative stormwater management waivers can only be granted to projects which are "within areas where watershed management plans have not been developed, and points of study that discharge directly into tidally influenced receiving waters." President Brady stated that the Commissioners therefore find, based upon the presentations of both Consulting Engineers that the property discharges directly into tidally influenced receiving waters and asked if the Commissioners believe that the Resolution accurately reflects the decision of the Commissioners in this matter to which the Commissioners responded in the affirmative. Based on the affirmative responses from the Commissioners, President Brady then asked for a motion to adopt Resolution 2009-28 as written which provides that the proposed stormwater management plan and the quantitative waiver meet the criteria of approval contained in Town Code, Chapter 281. 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.

- **Scheduling Order in the Matter of the Request for TND Overlay Zone Designation for Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application**

President Brady called on Mrs. Thomas who gave an overview of the Scheduling Order for the Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application a copy of which is attached to these minutes. President Brady asked if there had been any feedback or response from the parties who had received a copy of the Scheduling Order. Mrs. Thomas responded that there had not. There being no comments from the Commissioners, President Brady called for a motion to accept the Scheduling Order as written. Commissioner Snyder made the motion as stated by President Brady. Commissioner Dinkel seconded the motion which passed on a roll call vote of 5-0 in favor.

- **Town of St. Michaels Holiday Calendar for 2010**

President Brady called on Mrs. Thomas who gave an overview of the proposed holiday calendar for 2010 a copy of which is attached to these minutes. There being no comments from the Commissioners, President Brady called for a motion to accept the 2010 Holiday Calendar as written. Commissioner Dinkel 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.

Board Appointments for 2010:

President Brady announced that the board appointments were discussed in the earlier closed session, but that the appointments are made in public. Mrs. Thomas said that there were two openings on the Board of Appeals, one full time position and one alternate position. There being no potential candidates for these positions at this time, the Commissioners agreed to defer the appointments for the Board of Appeals until their January 13, 2010 meeting. President Brady then called for a motion to accept the following slate of board appointees:

BOARD	NAME	TERM
Ethics Committee	Sidney Trond	01/01/2010 to 12/31/2012
Housing Authority	Rev. David Seymour	01/01/2010 to 12/31/2014
Planning Commission	William Rose	01/01/2010 to 12/31/2014
Waterways Advisory Panel	Virginia Adams	01/01/2010 to 12/31/2012

Commissioner Snyder made the motion as stated by President Brady to adopt the slate of appointees. Commissioner Dinkel seconded the motion which passed on a roll call vote of 5-0 in favor.

Comments from the Public:

There were no comments from the public.

Comments from the Commissioners:

President Brady wished everyone happy holidays.

Announcement of Future Meetings and Events


President Brady announced future Commissioners' meetings as follows:

- December 24 and December 25, 2009 – Town Office closed for the Christmas Holiday
- December 28, December 29 and December 30, 2009 – Town Office closed for staff furlough
- December 31, 2009 and January 1, 2010 – Town Office closed for the New Year's Holiday
- January 13, 2010 – 4:00 p.m. – Library – Closed Session regarding Miles Point III-150 TND Overlay Zone Application
- January 13, 2010 – 5:00 p.m. – Library – Regular public session including Public Hearing on Miles Point III-150 TND Overlay Zone Application
- January 14, 2010 – 3:30 p.m. – Library – Continued Public Hearing on Miles Point III-150 TND Overlay Zone Application
- January 26, 2010 – 4:00 p.m. – Town Office – Deliberations and Direct Findings on Miles Point III-150 TND Overlay Zone Application
- January 27, 2010 – 6:30 p.m. – Town Office – Regular Legislative Session
- February 10, 2010 – 4:00 p.m. – Town Office – Special Legislative Session – Final Deliberations and Decision on Miles Point III-150 TND Overlay Zone Application

Adjournment:

President Brady adjourned the meeting at 7:12 p.m.

Respectfully submitted,


Sabrenia L. Yohn
Administrative Clerk

Attachments:

- Reports - Administrative and Disbursements, Public Works, Police Dept.
- Ordinance 410
- Ordinance 411
- Ordinance 412
- Resolution 2009-21
- Resolution 2009-26
- Resolution 2009-27
- Resolution 2009-28
- Scheduling Order in the matter of the request for TND Overlay Zone Designation for Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application
- Town of St. Michaels 2010 Holiday Calendar