

July 28, 2010

Present:

Commissioners Michael Brady, Joanne Clark, T. Coleman duPont, Donna Hunt and Michael Vlahovich, Town Manager Cheril Thomas, Codes Enforcement Officer Deborah Renshaw, Administrative Clerk Sabrenia Yohn, and approximately 60 members of the public.

6:30 p.m. - Public Legislative Session

Call to Order:

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

Announcement of Prior Closed Sessions:

President Brady announced that on July 22, 2010 at 4:00 p.m. and on July 26, 2010 at 4:00 p.m. pursuant to Code 10-508 (a) (3) and (7) the Commissioners met in closed session to discuss legal matters related to a potential real estate transaction and legal matters directly related thereto and again on July 28, 2010 at 5:00 p.m., pursuant to Code 10-508 (a) (8), to discuss legal matters and legal advice previously received from the Town Attorney pertaining to referendum petition submitted by James Valliant, et al. regarding Ordinance 415 AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF ST. MICHAELS, TO OVERLAY A TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ZONE ON THE UNDERLYING R-1 ZONING ON THE LAND IDENTIFIED ON TALBOT COUNTY TAX MAP 23 AS PARCEL 111, WHICH IS GENERALLY BORDERED BY PERRY CABIN DRIVE, YACHT CLUB ROAD, MD ROUTE 33, AND THE MILES RIVER AND ENCOMPASSES APPROXIMATELY 72 ACRES, PURSUANT TO THE CODE OF THE TOWN OF ST. MICHAELS, CHAPTER 340 (ZONING)

Statement from the Commissioners regarding the Closed Sessions of July 22, 2010 and July 26, 2010:

President Brady made the following statement:

Having considered the past, present and future of the Miles Point project, this Commission has discussed that the best interests of the Town of St. Michaels will be served in the pursuit of acquiring the Miles Point property; thereby preserving the nature resource and the cherished character of St. Michaels. However, we cannot do it alone. There will undoubtedly be concerns about the financial burden such a course of action could have on the Town. Development approvals, agency rulings, court decisions and private investment over the years had added significant market value to the property we wish to preserve.

I respectfully request that the Commissioners consider and approve the following course of action to formalize this important endeavor:

- 1. Direct our Town Attorney to promptly engage in formal negotiations with the property owner for an option contract contingent upon a successful fundraising campaign. This will allow us to determine the price at which the property may be acquired and thus enable us to ascertain the amount of funds to pursue.*

2. *Direct our Town Attorney to pursue the Town partnering with the Eastern Shore Land Conservancy (ESLC), a respected land and community preservation organization with Eastern Shore roots and a successful track record in coordinating similar property conservation initiatives.*

With ESLC's experience and fundraising infrastructure, and with the support of like-minded organizations, special interest groups and individuals, I believe my fellow Commissioners share my optimism in the likelihood of success with this new direction. Likewise, there is hope that such an approach will unite our community. Once the property is under contract, the option agreement will be available to the public and public meetings will be scheduled to discuss the fundraising strategy and to more specifically challenge those who share our resolve to contribute to the cause.

President Brady then called for a motion to suspend the Commissioners' meeting rules to allow for a vote regarding the negotiations for the purchase of the Miles Point property. Commissioner Clark made the motion, as stated by President Brady. Commissioner Hunt seconded the motion which passed on a roll call vote of 5-0 in favor.

President Brady said he would accept a motion to direct the Town Attorney to enter into direct negotiations with Miles Point, LLC for an option contract contingent on fundraising for the property identified on Talbot County ax Map 23 as parcel 111 encompassing approximately 72 acres. Commissioner Hunt made the motion, as stated by President Brady. Commissioner Clark seconded the motion which passed on a roll call vote of 5-0 in favor.

President Brady said the Commissioners would now return to their regular agenda starting with the Consent Agenda. President Brady said a vote to approve the items on the Consent Agenda would include the approval of the minutes for meetings held in the month of June 2010 (June 8, 2010, June 9, 2010, June 10, 2010, June 11, 2010, June 17, 2010, June 22, 2010 and June 23, 2010). President Brady called for any public comment on the Consent Agenda. There being none, President Brady asked for comments from the Commissioners. Commissioner Clark said that a correction to the minutes of the June 23, 2010 meeting was necessary and proposed that those minutes be removed from the consent agenda to make the change. There being no objection from the Commissioners, President Brady said the June 23, 2010 minutes would be removed and made the first item under the discussion section of the agenda. President Brady then asked if there were any other comments on the remaining minutes. There being none, President Brady called for a motion to accept the Consent Agenda, with the exception of the minutes of the June 23, 2010 public session. Commissioner Clark made the motion as stated by President Brady. Commissioner Hunt seconded the motion which passed on a roll call vote of 5-0 in favor.

Board Appointments - St. Michaels Tourism Board

President Brady announced that on July 13, 2010, the Commissioners and the Tourism Board received a letter from Langley Shook, Executive Director of the Chesapeake Bay Maritime Museum (CBMM), proposing that Tracey Munson, the new Director of Marketing at CBMM, be appointed to the Tourism Board in Mr. Shook's place to serve as the Board's not-for-profit representative. President Brady said that the Tourism Board members, at their meeting on July 19, 2010, indicated that they did not object to Ms. Munson replacing Mr. Shook to serve out his remaining term on the Board. President Brady noted that Mr. Shook's term expires on June 30, 2011. The Commissioners agreed that Ms. Munson would be a good choice to replace Mr. Shook. President Brady then called for a motion to accept the resignation of Langley Shook and for the appointment of Tracey Munson to the St. Michaels Tourism Board to replace Langley Shook as the not-for-profit representative to serve out his remaining term which expires June 30,

2011. Commissioner Vlahovich made the motion as stated by President Brady. Commissioner Clark seconded the motion which passed on a roll call vote of 5-0 in favor.

Items Eligible for Discussion/Vote

- President Brady said the first item for discussion was the minutes from the June 23, 2010 meeting. Commissioner Clark said that the draft minutes referred to the Fireworks Committee as a 501(c) (3) organization. Commissioner Clark said that the Commissioners had since verified that the Committee was not a non-profit organization and the record needed to reflect this correction. As there were no additional comments or corrections, President Brady said he would accept a motion to accept the minutes from the June 23, 2010 with a footnote correction. Commissioner Clark made the motion as stated by President Brady. Commissioner Hunt seconded the motion which passed on a roll call vote of 5-0 in favor.
- **Ordinance 419** - AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS AMENDING THE CODE OF THE TOWN OF ST. MICHAELS, ARTICLE II (LITTER AND WEED CONTROL §243-10 (ENFORCEMENT), PARAGRAPH C (FAILURE TO CORRECT) TO MODIFY THE COMPLIANCE DECREASING THE PERIOD FROM TWELVE (12) DAYS TO SEVEN (7) DAYS; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY OF ORDINANCE NO. 419; AND MATTERS GENERALLY RELATING TO LITTER AND WEED CONTROL IN THE TOWN OF ST. MICHAELS.

President Brady stated that Ordinance 419 was introduced by Commissioners Brady, Clark and Hunt at the Commissioners' meeting on June 23, 2010.

There being no comments from staff, President Brady then asked for comments from the Commissioners. Commissioner Vlahovich said he would reiterate his comments from the last discussion of Ordinance 419, noting that the Commissioners should not impose stricter litter and weed control legislation on residents when the Town has neglected its own properties. Commissioner Clark acknowledged the property in the photograph produced at a prior meeting of the Commissioners and asked if there were any other Town properties that were neglected. Commissioner Vlahovich noted the Town property near his residence that he had been mowing. Commissioner Clark confirmed with Codes Enforcement Officer Deborah Renshaw that the Town was not aware of the neglect of that property.

Commissioner Hunt said she supported the Ordinance because it would force owners of neglected property to take care of the problems faster. Commissioner Brady said he agreed with Commissioner Hunt. Commissioner Vlahovich said he was not opposed to the existing Ordinance, but that he did not agree with giving the Ordinance "more teeth" at this time. There being no additional comments from the Commissioners or the public, President Brady called for a motion to adopt Ordinance 419 as presented. Commissioner Clark made the motion as stated by President Brady. Commissioner Hunt seconded it the motion which passed on a roll vote of 3-2 in favor, with Commissioners Vlahovich and duPont dissenting.

- **Ordinance 421** - AN ORDINANCE TO EXTEND THE TEMPORARY MORATORIUM UPON PROCESSING APPLICATIONS, SITE PLANS, BUILDING PERMITS, AND APPROVALS OF ADULT ORIENTED BUSINESSES IN THE INCORPORATED LIMITS OF THE TOWN OF ST. MICHAELS UNTIL DECEMBER 31, 2010 PENDING CONSIDERATION AND ADOPTION OF SUCH LEGISLATION AS THE

COMMISSIONERS OF ST. MICHAELS MAY CONSIDER ADVISABLE TO PROMOTE
THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE TOWN OF ST. MICHAELS

President Brady said Ordinance 421 was introduced by Commissioners Brady, Clark, Hunt and Vlahovich during the Commissioners' meeting on June 24, 2010.

There being no comments or changes from staff or the Commissioners, President Brady called for a motion to adopt Ordinance 421 as presented. Commissioner Hunt made the motion to adopt Ordinance 421. Commissioner Vlahovich seconded the motion which passed on a roll call vote of 5-0 in favor.

- **Resolution 2010-10** - A RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS TO AMEND THE BUDGET FOR FY 2011 TO ADD APPROPRIATIONS FOR THE ST. MICHAELS FIREWORKS FUND IN THE AMOUNT OF TWO THOUSAND DOLLARS (\$2,000.00) WITH FUNDING TO COME FROM THE PRIOR YEARS' RESERVE OF THE GENERAL FUND AND TO ADD APPROPRIATIONS FOR ENGINEERING SERVICES RELATED TO THE WATER DISTRIBUTION SYSTEM IN THE AMOUNT OF NINETEEN THOUSAND DOLLARS (\$19,000.00) WITH FUNDING PROVIDED FROM THE PRIOR YEARS' RESERVE OF THE GENERAL FUND PENDING A REVIEW OF THE ACTUAL REVENUES REALIZED FROM THE WATER DISTRIBUTION SYSTEM FOR FISCAL YEAR 2011

President Brady called for staff comment. Mrs. Thomas said the Commissioners had approved the \$2000.00 donation to the St. Michaels Fireworks Fund at a previous meeting and that this Resolution puts that money in the budget. Mrs. Thomas said the Commissioners had also discussed in a previous meeting the need to review the arsenic system and the water distribution system, and had directed staff to get a quote for the review from the Town's Engineers, Davis, Bowen and Friedel. Mrs. Thomas said that staff had obtained an estimate from Davis, Bowen and Friedel of \$19,000.00 for the water system review, and that this Resolution will put that money into the budget. In response to a question from Commissioner duPont about funds in year's reserve, Mrs. Thomas said that the Commissioners have funds that are unallocated in the general fund account. Commissioner duPont said he still had a problem with a \$2,000.00 contribution to the Fireworks Committee since it was determined that they are not a non-profit group, but that he understood that the Town had made a commitment. Responding to a question from Commissioner Vlahovich, Mrs. Thomas confirmed that the Fireworks Committee had provided an accounting of expenses at the request of the Commissioners. Commissioner Vlahovich had questions about the water system review and obtaining an estimate from the Town's engineers for the work. Commissioner Hunt said that Davis, Bowen and Friedel have expertise in water systems and she was comfortable giving the project to them. Commissioner Hunt also noted that a bidding process in this case would be time consuming and expensive and the Town needs to complete the review as soon as possible. Mrs. Thomas explained that at this time the arsenic levels are well below the federal requirements. Mrs. Thomas said the problem was that the arsenic removal system has been requiring far more monitoring than it should require at its current stage. Mrs. Thomas said Davis, Bowen and Friedel's estimate includes a review of the initial design, the design recommendations, the construction, the current operation, and the materials that are being used. After some additional discussion, Commissioner Hunt added that it was important this work be completed before the warranty runs out, or it will be much more costly to do and could result in unwanted increases in water rates. In response to a question from Commissioner Vlahovich, President Brady stated that the Resolution did not represent a contract with the Town's engineer. There being no additional questions or

comments, President Brady called for a motion to adopt Resolution 2010-10 as presented. Commissioner Clark made the motion as stated by President Brady. Commissioner Hunt seconded the motion which passed on a roll call vote of 5-0 in favor.

Discussion Items:

- **Referendum Petition submitted by James Valliant, Marie Martin, Ann Borders and Laurence Pratt to Ordinance 415 - AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF ST. MICHAELS, TO OVERLAY A TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ZONE ON THE UNDERLYING R-1 ZONING ON THE LAND IDENTIFIED ON TALBOT COUNTY TAX MAP 23 AS PARCEL 111, WHICH IS GENERALLY BORDERED BY PERRY CABIN DRIVE, YACHT CLUB ROAD, MD ROUTE 33, AND THE MILES RIVER AND ENCOMPASSES APPROXIMATELY 72 ACRES, PURSUANT TO THE CODE OF THE TOWN OF ST. MICHAELS, CHAPTER 340 (ZONING)**

President Brady opened the discussion on the Referendum Petition submitted by James Valliant, Marie Martin, Ann Borders and Laurence Pratt to Ordinance 415. President Brady announced that Ordinance 415 was adopted by the Commissioners on May 26, 2010, and an appeal to this Ordinance was filed in the Circuit Court for Talbot County on June 23, 2010. President Brady stated that a Referendum Petition pertaining to this Ordinance was submitted to the Town office on June 10 and 11, 2010, and on June 15, 2010, the petitioners were notified that Ordinance 415 is not subject to a referendum and the referendum materials were returned to the petitioners. President Brady said that at the Commissioners' meeting on June 23, 2010, the Commissioners agreed that at their July 28, 2010 meeting they would take public comment on the referendum petition. President Brady added that this discussion was not a public hearing on the Ordinance or on the Referendum Petition. President Brady said that approximately 45 minutes total would be allowed for comment and each person speaking would have three minutes to comment. President Brady asked if the Commissioners had any objection to the rules pertaining to time and the time for each speaker. As there were no objections from the Commissioners, President Brady opened the discussion to the public. The following individuals made comments in support of the referendum petition:

Marie Martin, 104 Cherry Street
Laurence Pratt, Mulberry Street
Walda duPriest-Brandt, 111 Mulberry Street
Steven Florkewicz, 205 Marengo Street
John North, Yacht Club Road
John Wolfe, 246 Perry Cabin Drive
James Valliant, 205 Green Street
Beth Jones, 9005 St. Michaels Road
Thomas Alspach, Esq. , 295 Bay Street East
Marcia Kacher, 304 Manor Street
Philip Dinkel, 218 East Chestnut Street
Ann Borders, 105 Cherry Street
Barney Kastel, Mt. Pleasant Landing
Jackie Fletcher, Yacht Club Road
Ann Hymes, 114 Grace Street
Roy Myers, 210 East Chestnut Street

After taking public comment, Commissioner duPont provided details and background on the proposal to purchase the Miles Point Property. Commissioner duPont noted that the

Commissioners would be required to complete the process, including raising the necessary funds, in a 90-day timeframe and said that if the Town was successful in this endeavor, it would be of great value to all residents in the area and to Talbot County. Commissioner Vlahovich said that the issue of the referendum petition needed to be resolved even as the Commission goes forward with the proposal to purchase the Miles Point property. Commissioner Hunt assured residents that the Commissioners would keep them informed of developments and progress on the tasks before them. President Brady asked the members of the public to give the Commissioners a few days to consider the comments at tonight's meeting and to try to obtain an option on the purchase of the property. After some additional discussion regarding the referendum petition, the Commissioners agreed to hold a special legislative session on Tuesday, August 3, 2010 at 4:00 p.m. President Brady called for a motion that the Commissioners would meet on Tuesday, August 3, 2010 at 4:00 p.m. and at that time the Commissioners would move on the reconsideration of the Town Clerk's letter to the citizens. Commissioner Vlahovich made the motion. Wally Jansen of 208 E. Chestnut Street suggested that the referendum be discussed in closed session. President Brady said he appreciated the suggestion but that he thought the Commissioners would agree that any discussion on this subject should be held in meetings open to the public. Hans Gruenberg of Water Street commented that the strategy of negotiations for the Miles Point property should be held in executive session. President Brady thanked Mr. Gruenberg for his comments and then seconded the motion as stated by Commissioner Vlahovich. Mrs. Yohn asked for a restatement of the motion. There was additional discussion of the wording of the motion, after which President Brady asked Mrs. Yohn to repeat it one more time. Mrs. Yohn said the motion is "The Commissioners will meet on Tuesday, August the third, in a special legislative session to discuss and vote to reconsider Mrs. Thomas' letter of June 15, 2010. The meeting will be at the Town Office. The Commissioners said they were satisfied with the wording. Mrs. Yohn called the roll, and the motion passed on a vote of 5-0 in favor.

- **Draft language for a text amendment to Chapter 340 of the Code; amendment to regulate adult oriented businesses**
Mrs. Thomas said the draft language before the Commissioners will legislate where adult-oriented businesses may be located in the Town and under what conditions they may be authorized. Mrs. Thomas said the legislation is necessary because the Code currently does not address these issues. Mrs. Thomas said that additional work on the legislation was needed and that staff recommends that if the Commissioners are comfortable with this first draft, that they would consider forwarding it to the Planning Commission for their review and recommendations pertaining to its compatibility with the Comprehensive Plan and any other issues they may wish to address. As there were no additional comments from the Commissioners, President Brady called for a motion to refer the language, which will be Ordinance 420 when finalized, to the Planning Commission for their review and recommendations. Commissioner Clark made the motion as stated by President Brady. Commissioner Vlahovich seconded the motion which passed on a roll call vote of 5-0 in favor.
- **Request from the St. Michaels Tourism Board to consider a text amendment regarding exemptions to Chapter 216 (Noise), Section 216.6 K (Exemptions) of the Code of the Town of St. Michaels.**

President Brady called on Mrs. Yohn to summarize the proposed text amendment. Mrs. Yohn said Section 216 of the Code provides that the Commissioners can grant two exemptions to allow audio speakers out-of-doors in the Central Commercial Zone and that one of those exemptions has been traditionally granted to Midnight Madness. Mrs. Yohn said

that because the number of events have increased and may continue to expand, the Tourism Board would like to increase the number of annual exemptions from two to eight. Mrs. Yohn said the Board is also asking that the time period of no longer than twelve hours be changed to cover the entire period for events lasting up to but no more than three consecutive days. Commissioner Vlahovich asked what events are currently held. Mrs. Yohn noted WineFest, Oyster Jam, Christmas in St. Michaels, and Fall Into St. Michaels. Commissioner Clark said the original intent of the last changes to the Noise ordinance was to find a balance between the residents who live near the commercial district and the events. Commissioner Clark expressed concerns about extending the length of time to three days. John Marrah, owner of The Patriot, suggested that the Commissioners consider a total number of hours over a three day period instead. Langley Shook provided some background on the Tourism Board's request. After some additional discussion, the Commissioners agreed they needed more information and that the issue should be put before the public and directed staff to draft the proposed text amendment language in legislative form and schedule it for discussion on a future agenda.

Comments from the Public:

Virginia Albert of Harbor Road asked if the Commissioners would be seeking independent legal advice prior to their August 3, 2010 meeting on the Referendum Petition. President Brady responded that the Commissioners would discuss the issue of independent counsel at their meeting on August 3, 2010.

Hans Gruenberg of Water Street asked how the concerts in Muskrat Park and the Fireman's carnival fit into the noise restrictions. Mrs. Thomas explained that the concerts in Muskrat Park are only restricted by the Code's defined decibel levels as the park is in a residential zone.

Roy Myers of E. Chestnut Street and John Marrah of The Patriot praised the Commissioners for their new approach to the Miles Point property.

Cathy Stinchcomb of Locust Street agreed with several residents who commented that the purchase of the Miles Point property was a scary prospect, but said she thought it was well worth pursuing.

Comments from the Commissioners

Commissioner duPont offered to discuss the purchasing plans for the Miles Point property with anyone at any time.

Commissioner Vlahovich announced that a folk festival was being held at the Chesapeake Bay Maritime Museum on the upcoming weekend and invited everyone to come to see the launching of the skipjack "Caleb Jones" at three o'clock on Saturday. Commissioner Vlahovich also thanked Barney Kastel for his help in constructing the boat and Langley Shook for the use of the museum grounds.

Announcement of Future Meetings/Events

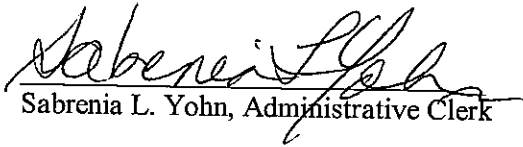
President Brady announced future meetings as follows:

- August 11, 2010 – 3:00 p.m. – Town Office – Street Pre-Construction Meeting with the residents of Cherry Street and Mulberry Street
- August 11, 2010 – 5:00 p.m. – Town Office – Regular Working Session
- August 25, 2010 – 6:30 p.m. – Town Office – Regular Legislative Session

Adjournment

President Brady adjourned the meeting at 9:00 p.m.

Respectfully submitted,


Sabrenia L. Yohn, Administrative Clerk

Attachments:

- Ordinance 419
- Ordinance 421
- Resolution 2010-10