

The Commissioners of St. Michaels

Public Working Session

January 13, 2010

5:00 p.m. – Public Working Session

Present:

Commissioners Michael Brady, Joanne Clark, Robert Snyder, Donna Hunt and Phillip Dinkel, Town Manager Cheril Thomas, Town Attorney Jefferson Blomquist, Administrative Clerk Sabrenia Yohn, Police Chief Miguel Dennis, and 11 members of the public.

Call to Order:

President Brady called to order the public working session of the Commissioners of St. Michaels at 5:05 p.m. in the meeting room of the St. Michaels Free Library, 106 S. Fremont Street, St. Michaels, Maryland. The Pledge of Allegiance was recited.

Announcement of Prior Closed Session:

President Brady announced that on January 13, 2010 at 4:00 p.m. pursuant to Maryland Code, State Government Art., § 10-508 (a) (7) the Commissioners met in closed session to discuss legal matters associated with a request for TND Overlay Zone Designation for Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application (“Application”) filed by TND Development, Inc. and Miles Point Property, LLC (“Applicant”). The land that is the subject of the Application is identified on Talbot County Tax Map 23 as Parcel 111, and is generally bordered by Perry Cabin Drive, Yacht Club Road, MD Route 33, and the Miles River, and encompasses approximately 72 acres.

President Brady also announced that this evening’s agenda includes a public hearing in the matter of a request for TND Overlay Zone Designation for Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application filed by TND Development, Inc. and Miles Point Property, LLC. Pursuant to the Commissioners’ meeting rules, ordinarily, the public hearing would be the next item on the agenda. However, because there are other matters on the public agenda that need to be addressed this evening, President Brady asked the Commissioners if there is any objection to moving the Consent Agenda, Bid Awards, 2010 Board Appointments and Discussion Items up on the agenda ahead of the public hearing. Hearing no objection, President Brady announced that following the discussion on these matters and prior to beginning the public hearing, the Commissioners will take a half-hour dinner break and that the public hearing will begin no earlier than 6 p.m.

Consent Agenda:

President Brady announced that the consent agenda includes departmental reports for the month of December, 2009 with disbursements noted in the amount of \$439,522.44, of which \$90,779.19 was for capital projects and engineering, and \$16,543.24 was reimbursable legal costs. The consent agenda also included a letter drafted by the Commissioners to the Superintendent of Talbot County Public Schools in support of the request of the St. Michaels Fire Department to hold their annual carnival on the grounds of the St. Michaels Middle-High school campus. President Brady asked if there were any questions from the Commissioners or from Town staff on the reports or the letter. As there were no additional comments, President Brady called for a motion to accept the Consent Agenda as presented. 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.

Bid Awards:

- **Bid Award for Sale of Public Works Vehicle.** On December 18, 2009, the Town received two bids for the sale of a 1992 Ford Ranger XLT to be sold “as is”, with no warranty implied or written. The bids were as follows:
 - i. Bridges Land Management, St. Michaels, MD: \$250.00
 - ii. Schultz & Sons Salvage, Inc., Denton, MD: \$435.00

President Brady asked if there were any comments or questions from the Commissioners or from Town staff. There being none, President Brady called for a motion to accept staff's recommendation and award the bid to Schultz & Sons Salvage, Inc. in the amount of \$435.00. 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.

- **Bid Award for Sale of Public Works Salvage.** On December 18, 2009, the Town received two bids for the sale of an Asphalt Roller, a 1979 Davey Quietflo gas powered Air Compressor, and a 1983 red Ford Box Dump Truck. These items are being sold “as is”, with no warranty implied or written. The bids were as follows:

1. Bridges Land Management, St. Michaels, MD:

Asphalt Roller	\$ 75.00
Air Compressor	\$ 75.00
Ford Box Truck	<u>\$225.00</u>
Total	\$375.00
2. Schultz & Sons Salvage, Inc., Denton, MD:

Asphalt Roller	\$ 480.00
Air Compressor	\$ 360.00
Ford Box Truck	<u>\$1,120.00</u>
Total	\$1,960.00

President Brady asked if there were any comments from staff. Mrs. Thomas said the staff's recommendation was to award the bid to Schultz & Sons Salvage, Inc. in the amount of \$1,960.00. There were no comments from the Commissioners. President Brady called for a motion to accept the staff's recommendation and award the bid to Schultz & Sons Salvage, Inc. in the amount of \$1,960.00. 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 made during the Commissioners' December 16, 2009 meeting however, a Board of Appeals nominee had not been determined at that time. Mrs. Thomas stated that Mr. Alan Platow has volunteered to serve on the Board of Appeals. Commissioners Clark and Snyder agreed that Mr. Platow would be a great addition to the Board of Appeals. There being no other comments by the Commissioners, President Brady called for a motion to approve the appointment of Mr. Alan Platow to serve on the Board of Appeals for a term of January 1, 2010 through December 31, 2012. Commissioner Clark 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.

Calendar Discussion:

The Commissioners discussed revisions to their Calendar and added the following: discussions with representatives from the Winefest Committee during the meeting on February 24, 2010; discussion regarding proposed legislation to address banner issues during the meeting on January 27, 2010; discussion regarding the request by the Talbot County School Board for a bell monument/sign at the St. Michaels Middle-High School complex during the meeting on February 24, 2010; a closed session at 4:00

p.m. on February 24, 2010 to discuss the FY 2011 budget and personnel matters; and a discussion on 2010 budget amendments during the meeting on February 24, 2010.

Final Comments from the Public:

There were no comments from the public.

President Brady announced that the Commissioners will recess and the public hearing will begin at 6:00 p.m.

6:00 p.m. - Public Hearing in the matter of a request for TND Overlay Zone Designation for Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application (“Application”) filed by TND Development, Inc. and Miles Point Property, LLC (“Applicant”). The land that is the subject of the Application is identified on Talbot County Tax Map 23 as Parcel 111, and is generally bordered by Perry Cabin Drive, Yacht Club Road, MD Route 33, and the Miles River, and encompasses approximately 72 acres.¹

Present:

Commissioners Michael Brady, Joanne Clark, Robert Snyder, Donna Hunt and Phillip Dinkel, Town Manager Cheril Thomas, Town Attorney Jefferson Blomquist, Administrative Clerk Sabrenia Yohn, Codes Enforcement Officer Deborah Renshaw and approximately 50 members of the public.

Call to Order:

President Brady called to order the public hearing of the Commissioners of St. Michaels at 6:00 p.m. in the meeting room of the St. Michaels Free Library, 106 S. Fremont Street, St. Michaels, Maryland.

President Brady said the public hearing was on the matter of a request for TND Overlay Zone Designation for Miles Point III-150, 238 Lot/247 Unit TND Overlay Zone Application (“Application”) filed by TND Development, Inc. and Miles Point Property, LLC (“Applicant”). The land that is the subject of the Application is identified on Talbot County Tax Map 23 as Parcel 111, and is generally bordered by Perry Cabin Drive, Yacht Club Road, MD Route 33, and the Miles River, and encompasses approximately 72 acres. President Brady said the Application was filed on October 7, 2009, that the St. Michaels Planning Commission held public hearings on December 15, 2009 and December 17, 2009, and on January 5, 2010, the Commissioners received a copy of the Recommendation issued by the Planning Commission, which has been entered as an exhibit in this hearing. President Brady said that copies of the December 16, 2009 Scheduling Order issued by the Commissioners for this public hearing have been made available to the public. President Brady then outlined the rules for this hearing and noted that the copies of the rules were also available as a handout. President Brady then summarized the rules as follows:

- Any person wishing to address the Commissioners must fill in the speaker sign-up sheet which is currently located in the hallway at the entrance to this room. Please provide your name, address and whether you wish to speak in favor or in opposition to the application. Also please indicate if you are representing an organization or if you have requested Intervener Status.
- Town Staff will enter the exhibits received so far into the record and will make the first presentation, which is a review of the application.
- The Applicant will make the second presentation
- Approved Interveners will present in the order that their applications were received.

¹ The public hearing was recorded by Corbin & Hook Reporting, Inc., 134 Holiday Court, Suite 310, Annapolis, MD 21401, 410-268-6006 and upon payment of the transcribing costs, a copy of the transcript of the hearing may be obtained.

- When Public Comment is taken, Participants in favor of the application will be recognized first, and then those in opposition will be recognized. Those making neutral comments will be heard last.
- The Applicants and Interveners shall have an opportunity to cross examine opposing witnesses and to rebut evidence/testimony. Staff, at the discretion of the Commissioners, may be afforded an opportunity to answer questions posed by Applicant or Interveners that address issues arising as the result of evidence introduced by the Parties or statements made by Participants.
- Summations will be made, first by the Interveners and then the Applicant.

President Brady outlined the criteria for the award of TND:

- Has Applicant satisfied the requirements for a TND zone set forth in the Town Code in Chapter 340, § 340-32?
- Has Applicant satisfied other applicable requirements of the Zoning Code?
- Is the Application compatible with the 1998 Comprehensive Plan which was in effect at the time of the signing of the Developers' Rights and Responsibilities Agreement?
- Is the Application compatible with existing and reasonably anticipated development in the neighborhood? If not, have adequate buffers and screening have been provided?
- Will the proposed subdivision interfere with adequate and orderly provision of public service to the area?
- Is the proposed TND Zone sensitive to any features on the property of historical, cultural or ecological significance?
- What are the reasons why the sketch plan and the design code should or should not be approved?

President Brady said the Commissioners had received requests for Intervener status from the following individuals and called upon Mrs. Yohn to read their names into the record:

Phillip Jones, St. Michaels Road
Bruce Bedford for the Fogg Cove Homeowners Association
Jerry Barsky, 356 Perry Cabin Drive
Peter Van Blarcom, 322 Perry Cabin Drive
Angela Carpenter, 354 Perry Cabin Drive,
Frederick Morgan, 232 Perry Cabin Drive
Alicia Webber, 242 Perry Cabin Drive
Richard Wheeden, 356 Perry Cabin Drive
John Wolfe, 246 & 248 Perry Cabin Drive
Jeffrey C. McGuinness, 250 and 256 Perry Cabin Drive
Edgar and Joan Pepper, 24670 Yacht Club Road
Thomas A. Hennings, 9001 N. St. Michaels Road
Helyn Jeffreys, 250 Perry Cabin Drive
Sylvia Jones, 236 Perry Cabin Drive
Eric and Jody Weinstein, 24692 Yacht Club Road
Yuan Chen Fletcher, 24640 Yacht Club Road
John C. and Ethel North, 24741 Yacht Club Road
Dennis B. Kastel, 23650 Mt. Pleasant Landing Circle
H. Russel Dize, 5423 Rude Avenue, Tilghman, MD
Stephan and Carol Florkewicz, 205 E. Marengo Street
Charles and Virginia Albert, 501 W. Harbor Road
Helene Golembowski, 102 W. Chew Avenue
Gary and Jeanne Van Vlandren, 200 W. Chew Avenue
Allen and Laverne Webb, 201 E. Marengo Street
James and Mary Burdick, 101 Thompson Street

Historic St. Michaels Bay Hundred, P.O. Box 964
Bay Hundred Foundation, P.O. Box 811
Save our St. Michaels, P.O. Box 37
Talbot Preservation Alliance, Inc. 210 Marlboro Road, Easton, MD
Maryland Watermen's Association, P.O. Box 436, Chester, MD

President Brady then asked Richard A. DeTar, attorney for the Applicant, and the Commissioners if there were any objections to granting Intervener status to these individuals or organizations. There were no objections. President Brady then called for a motion to approve the entire slate of Interveners. Commissioner Clark 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.

President Brady recognized Town Attorney Blomquist. Attorney Blomquist questioned attorney Thomas Alspach, who represents the majority of the Interveners, about the Motion to Quash that he filed on December 9, 2009, the response from Mr. DeTar of December 29, 2009 and e:mail exchanges between them on January 13, 2010. Attorney Blomquist asked the parties (Applicant and Interveners) if there were any reasons, including ethical or legal reasons, why Lane Engineering or Attorney Blomquist were conflicted or should be disqualified from providing recommendations to or representing the Commissioners in this matter. There being no objections to Lane's review or Attorney Blomquist representing the Commissioners, President Brady then administered the oath to the Applicant, staff, Interveners and all Witnesses.

President Brady called upon Mrs. Yohn who entered the exhibits 1 through 65 from the exhibit list, along with new exhibits 66 through 69 into the record. Attached to these minutes is a copy of the complete Exhibit List through exhibit 69.

President Brady then called upon the consultant's retained by the Town to review the Application and determine whether it satisfied the applicable technical requirements of the applicable Town ordinances, Barry Griffith and Richard VanEmburch of Lane Engineering. Mr. Griffith and Mr. VanEmburch presented their qualifications for the proceeding and there were no objections from the Commissioners, the Applicant or the Interveners to qualify them as experts. Mr. Griffith, and then Mr. VanEmburch, made presentation of their review and evaluation of the application. Applicant and Interveners were afforded an opportunity to cross examine Messrs. Griffith and VanEmburch. There were discussions of some length regarding issues related to stormwater management. At the conclusion of cross examination, when there were no additional questions for Mr. Griffith and Mr. VanEmburch, President Brady thanked them for their presentation and excused them from the proceeding.

President Brady then introduced Richard DeTar, attorney for the Applicant. Mr. DeTar provided a brief history of the TND application and then introduced Steve Layden of McCrone, Inc. Mr. Layden presented his qualifications and there were no objections from the Commissioners or the Interveners to qualify Mr. Layden as an expert. Mr. Layden then outlined the Applicant's plans and made a presentation in favor of the Application. Interveners were afforded an opportunity to cross examine Mr. Layden and did so asking him their questions. There were discussions of some length regarding issues related to stormwater management. When there were no additional questions for Mr. Layden, President Brady thanked him for his presentation

President Brady announced it was close to 10:00 p.m. and proposed that the public hearing be adjourned at this time and be reconvened at 3:30 p.m. on January 14, 2010. There was no objection to adjourning at this time.

Comments from the Commissioners

Commissioner Dinkel said he wanted to point out that tonight's public hearing was to discuss the TND application submitted by the Applicant, and not storm water management. Commissioner Dinkel said that storm water management will be an important part of the project, but a great deal of time was spent in discussing it, rather than the TND application. Commissioner Dinkel said that the Commissioners needed to complete a review of the TND application first to determine whether criteria were met and findings of fact could be written.

Adjournment

As there were no other comments, President Brady adjourned the meeting at 9:45 p.m.

Respectfully submitted,



Sabrenia L. Yohn
Administrative Clerk

Attachments:

- Reports - Administrative and Disbursements, Public Works, Police Dept.
- Letter to the Superintendent of Talbot County Public Schools in support of the request of the St. Michaels Fire Department to hold their annual carnival on the grounds of the St. Michaels Middle-High school campus
- Exhibit List for Miles Point III-150 Sketch Plan for TND Zone Overlay