

Introduction: 8/10/16- Harrod and Windon
Public Hearing: 8/24/2016
Adopted: 8/24/2016
Effective: 9/23/2016

ST. MICHAELS ORDINANCE NO. 479

AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS TO DECLARE CERTAIN REAL PROPERTIES OWNED BY THE TOWN OF ST. MICHAELS KNOWN AS 110 S. FREMONT STREET AND 109 CONNOR STREET SURPLUS PROPERTY; TO DECLARE THE TOWN'S INTENT TO CONVEY THE RIGHT TO USE THESE LANDS TO THE ST. MICHAELS COMMUNITY CENTER FOR A PERIOD NOT TO EXCEED FIVE (5) YEARS; SAID LANDS ARE UTILIZED AS A COMMUNITY GARDEN UNDER THE SUPERVISION OF THE ST. MICHAELS COMMUNITY CENTER COMMUNITY GARDEN COMMITTEE

WHEREAS, The Commissioners of St. Michaels (the "Town"), is a Maryland municipal corporation; and

WHEREAS, the elected legislative and executive body of the Town is known as the Commissioners of St. Michaels (the "Town Commissioners"); and

WHEREAS, the Town is empowered to enact legislation applicable to the Town by, and within the scope of, Maryland Constitution, Art. XI-E (Municipal Corporations); by Maryland Annotated Code, Local Government Article, Section 5-204 (Legislative Authority); and by the Charter of the Town of St. Michaels (1980), as amended (the "Town Charter"); and

WHEREAS, by Maryland Code, Local Government Article, Section 5-204(c)(3)- Maryland municipalities are authorized to acquire property and dispose of surplus property; and

WHEREAS, by Town Code, Chapter 63 (Town Property, Sale Of), describes the circumstances and the manner in which Town may dispose of property; and

WHEREAS, The Commissioners of St. Michaels by Ordinance No. 425 did declare 110 S. Fremont Street and 109 Conner Street surplus property for a period of 5 years, such term expiring on October 14, 2016; and

WHEREAS, the St. Michaels Community Center Community Garden Committee has successfully utilized 110 S. Fremont Street and 109 Conner Street for a community garden since 2011; and

WHEREAS, the Community garden has fostered a sense of community in St. Michaels, as well as providing a learning tool for the youth of the community and has provided produce to the community; and

WHEREAS, 110 S. Fremont Street and 109 Conner Street are further identified in “Exhibit A” of this ordinance; and

WHEREAS, upon introduction of this Ordinance, the Commissioners scheduled a public hearing on this matter for August 24, 2016; and

WHEREAS, the Commissioners conducted a public hearing on August 24, 2016 and have issued written findings of fact that the Town does not need 110 S. Fremont Street and 109 Conner Street for any immediate public purpose, and that the above noted properties are not necessary for the public health, safety and welfare of the Town or its residents, and that 110 S. Fremont Street and 109 Conner should be declared surplus property and the right to utilize these properties for a period not to exceed 5 years shall be conveyed to the St. Michaels Community Center for the express purposes stated herein, namely a community garden as defined in the materials included in the exhibits of the public hearing; and

WHEREAS, The Commissioners have determined that \$1 per year is required for this temporary conveyance of use; and as such the Town will convey to the St. Michaels Community Center the right to use 110 S. Fremont Street and 109 Conner Street for the establishment of a community garden; and

WHEREAS, the Town Commissioners deem it in the interest of the public health, welfare and safety of the citizens of the Town, and for the good government of the Town, to enact this Ordinance and to take the actions as described herein.

NOW, THEREFORE, THE COMMISSIONERS OF ST. MICHAELS HEREBY ORDAIN as follows:


- The Commissioners hereby find that the use of the property is consistent with Chapter 9, ‘Parks, Recreation and Open Space’ of the Town’s 2015 Comprehensive Plan;
- The Commissioners hereby find that the Outreach Program for the Community Center affords the citizen’s and youth of the Town an opportunity to participate in agricultural education;
- The Commissioners hereby find that they have reviewed the Community Center’s garden application and supervision guidelines and find them to be acceptable;

- The Commissioners hereby find that the last five years of rental experience with the St. Michaels Community Center's use of this land as a community garden has proven to be very successful and valuable to the citizens of the town.

BE IT FURTHER ORDAINED AND ENACTED, that upon the passage of at least 29 days following the first publication of the notice of the adoption of this Ordinance, and upon the passage of at least seven (7) days following the third publication of the notice of the adoption of this Ordinance, and provided that a proper petition for referendum has not been timely filed with the Town, and after the timely execution and delivery by the St. Michaels Community Center of a 1st amended agreement acceptable to the Town setting out the time frames of said contract, overview and daily management responsibilities, Town obligations, Community Center obligations and other operational matters specific to the use of 110 S. Fremont Street and 109 Conner Street as a community garden, the President of the Town Commissioners and the Town Manager, or such other officers of the Town Commissioners as may be appropriate under the circumstances on behalf of the Town, shall be authorized to execute such agreement to re-convey the use of 110 S. Fremont Street and 109 Conner Street to the St. Michaels Community Center for the continuation of a community garden.

AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance is not intended to become a part of the Town Code, and shall take effect twenty nine (29) days from the date of its enactment, having been read at two (2) meetings of The Commissioners of St. Michaels and having been passed by a yea and nay vote of The Commissioners of St. Michaels.

HAVING BEEN INTRODUCED, read for the first time and ordered posted on the Town bulletin board at the Public Meeting of The Commissioners of St. Michaels held on this 10th day of August, at 6:00 o'clock p.m., in the meeting room at the Town Office, St. Michaels, Maryland.

 (SEAL)
Jean R. Weisman
Town Clerk\Manager

HAVING BEEN READ for the second time and passed by a yea and nay vote of The Commissioners of St. Michaels at a Public Meeting of The Commissioners of St. Michaels held on this 24th day of August, at 6:00 o'clock p.m., in the Town Office meeting room, St. Michaels, Maryland.

Bibb	-	Yea
Boos	-	Yea
Harrod	-	Yea
Myers	-	Yea
Windon	-	Yea


I HEREBY CERTIFY that this Ordinance was passed by a yea and nay vote of The Commissioners of St. Michaels on the 24th day of August, 2016, and that the Exhibit attached hereto is a true copy of the Exhibit referred to in this Ordinance.

ATTEST:

THE COMMISSIONERS OF ST. MICHAELS



Jean R. Weisman
Town Clerk\Manager

BY:  (SEAL)

Roy B. Myers
President

I HEREBY CERTIFY that an exact copy of the above Ordinance was posted from the 25th day of August, 2016, at 8:30 o'clock a.m. to the 22nd day of September, 2016, at 4:30 o'clock p.m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a summary of the above Ordinance, the date of its passage, its effective date and the fact that the entire text of the Ordinance may be read on the bulletin board of the own Office, St. Michaels, Maryland, for at least twenty nine (29) days following the passage, has been published at least once each week for three (3) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels.

Date: Oct 4, 2016

 (SEAL)

Jean R. Weisman, Town Clerk\Manager

Eastern Shore Title Company
114 North West Street, P. O. Box 537
Easton, Maryland 21601
Phone: 410-328-4426 Fax: 410-320-4429
Website: www.easternshoretitle.com
e-mail: info@easternshoretitle.com

APR 10 2004
RECORDED
LIBER 246 FOLIO 794

This Deed, Made this 13th day of May, 2004, by DAVID T. PHIPPS, of the first part, Grantor, and THE COMMISSIONERS OF ST. MICHAELS, a body corporate of the State of Maryland, of the second part, Grantee.

Witnesseth:

THAT FOR AND IN CONSIDERATION of the sum of TWO HUNDRED FIFTY THOUSAND DOLLARS and 00/100 (\$250,000.00) and other good, valuable and sufficient consideration, in hand paid, the receipt of which is hereby acknowledged, the said DAVID T. PHIPPS does hereby grant and convey unto the said THE COMMISSIONERS OF ST. MICHAELS, a body corporate of the State Maryland, its successors and assigns, forever in fee simple, all the hereinafter described property:

PARCEL NUMBER ONE:

All and singular that lot or parcel of ground situate, lying and being in or near St. Michaels, Talbot County, Maryland and described as follows, that is to say:

BEGINNING for the same on a new street running from Church Neck Road to Olivet Cemetery, at the Southeast corner of said new street and an alley running from said new street to Fremont Street, St. Michaels, and running with said alley Eastwardly one hundred thirteen feet, six inches (113'6") to the Northwest corner of a lot formerly belonging to S.A.D. Harrison; thence Southwardly fifty-one feet, ten inches (51'10") to the Northeast corner of a lot now or formerly belonging to Mathias Horsey; thence Westwardly one hundred thirteen feet, six inches (113'6") to said new street; thence Northwardly with said new street fifty-five feet, eight inches (55'8") to the place of beginning.

PARCEL NUMBER TWO:

ALL that lot or parcel of land, with improvements thereon, situate, lying and being in the Town of St. Michaels, Talbot County, State of Maryland, and more particularly described as follows:

BEGINNING at an iron pipe formed by the intersection of the westerly right-of-way line of Fremont Street with the southerly line of Carpenter Alley, 15' wide, thence running, in the magnetic datum of December, 1979, (1) Southwardly along the westerly right-of-way line of Fremont Street South 4 degrees 28 minutes 45 seconds West 40.75 feet to a concrete monument on the northerly line of the lands of Miller as recorded in the Land Records of Talbot County, Maryland in Liber No. 409, folio 595, thence running (2) leaving said right-of-way of Fremont Street and running along the northerly line of said Miller, North 83 degrees 41 minutes 55 seconds West 115.75 feet to a point in a tree on the easterly line of the lands of Murray as recorded in the aforesaid Land Records in Liber No. 206, folio 189, passing over a railroad spike set in the east side of said tree 1.97' reversely from the end of said course, thence running (3) northwardly along the easterly line of the lands of Murray, North 3 degrees 15 minutes East 40.75 feet to a concrete monument on the aforementioned right-of-way of Carpenter Alley, thence running (4) eastwardly along the southerly line of said Carpenter Alley South 83

degrees 43 minutes East 116.62 feet to the point and place of beginning, containing 4,730 square feet of land and is intended to be all of Parcel 1 and Parcel 2 as shown on a plat entitled, "SURVEY OF THE LAND OF THE COMMISSIONERS OF ST. MICHAELS", as prepared by Andrews, Miller & Assoc., Inc., February 7, 1980 and recorded among the Land Records of Talbot County, Maryland in Plat Book No. 51, folio 33, February 11, 1980.

Being the same properties conveyed unto David T. Phipps from Church Creek Joint Venture, a Maryland General Partnership by deed dated October 3, 2001 and recorded among the Land Records of Talbot County, Maryland in Liber 1048, folio 543.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said **THE COMMISSIONERS OF ST. MICHAELS**, a body corporate of the State Maryland, its successors and assigns, forever in fee simple.

And the said Grantor does hereby covenant that he has not done or suffered to be done any act, matter or thing whatsoever to encumber the property hereby conveyed; that he will warrant specially the property hereby conveyed; and that he will execute such other and further assurances of the same, as may be requisite.

As Witness the hand and seal of the Grantor, the day and year first above written.

WITNESS:

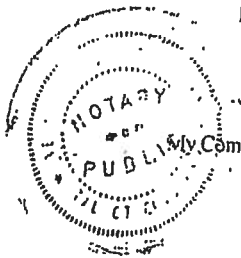
William H. Phipps

David T. Phipps (SEAL)
DAVID T. PHIPPS

State of Maryland
County of Talbot to wit:

I Herby Certify that on this 13th day of May, 2004, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared **DAVID T. PHIPPS** known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained; and further acknowledged said instrument to be his act, giving oath under penalties of perjury that the consideration recited is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



My Commission Expires: 3/1/08

William H. Phipps
Notary Public

AFFIDAVIT AS TO TOTAL PAYMENT PURSUANT TO SECTION 10-912(B)(2) OF THE TAX -GENERAL ARTICLE OF THE ANNOTATED CODE OF MARYLAND

THE undersigned make(s) oath, in due form of law and under the penalties of perjury, that the following is true to the best of my/our knowledge, information and belief, in

accordance with Section 10-912(b)(2) of the Tax-General article of the Annotated Code of Maryland, (the "withholding law") as follows:

1. That I/we am/are the transferor(s) of that real property described in the accompanying deed (the "property");
2. That I/we have examined the settlement statement prepared in connection with the transfer of the property, including both the gross amounts due to me/us and the listing of expenses and adjustments which result in a reduction in the net proceeds due to me/us;
3. That with respect to the determination of "total payment," stated below, for the purpose of the withholding law: (a) the "total payment," includes the fair market value of any property transferred to me/us as part of the sale; (b) in calculating the deductions from gross proceeds, "debts incurred in contemplation of sale" (meaning debts secured by the property that were incurred within 90 days of the sale, such as loan funds received from a financing or a previous or new line of credit within the past 90 days prior to the sale of the property) were not deducted from gross proceeds and (c) in calculating the deductions from gross proceeds, only my/our expenses arising out of the sale or exchange of the property have been deducted; and
4. That the amount of "total payment" for the purpose of the withholding law is \$0.00.

DATED THIS 13th day of May, 2004.

Witness

David T. Phipps

STATE OF MARYLAND, COUNTY OF TALBOT, to wit:

Sworn and subscribed to before the undersigned this 13th day of May, 2004.

AS WITNESS my hand and Notarial Seal.

NOTARY PUBLIC



My Commission expires: 3/1/08

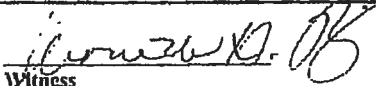
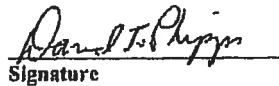
Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

Based on the certification below, Transferor claims exemption from the tax withholding requirements of § 10-912 of Maryland's Tax General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of § 10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

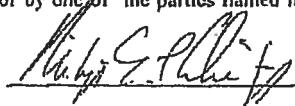
1. Transferor Information

Name of Transferor
David T. Phipps

2. Reason for Exemption

Resident	<input checked="" type="checkbox"/> I, Transferor, am a resident of the State of Maryland.
Status	<input type="checkbox"/> Transferor is a resident entity under §10-912 (a)(4) of Maryland's Tax General Article. I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Property	<input type="checkbox"/> Although I am no longer a resident of the State of Maryland, the is residence my principal residence as defined in IRC§ 121.
Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct and complete.	
3a. Individual Transferors	
Witness	 Name <u>David T. Phipps</u>
	 Signature
3b. Entity Transferors	
Witness/ Attest	Name of Entity
	By: _____
	Name _____
	Title _____

This document was prepared under the supervision of an attorney admitted to practice before the Court of Appeals of Maryland, or by one of the parties named in the within instrument.


 Philip E.L. Dietz, Jr., Esquire

AFTER RECORDING MAIL TO:
 Eastern Shore Title Company
 Telephone: 410-820-4426
 P.O. Box 857
 Easton, MD 21601
 File No. E-10785NRL

THIS IS TO CERTIFY THAT THE PROPERTY DESCRIBED
 HEREIN HAS BEEN TRANSFERRED ON THE ASSESSMENT
 RECORDS OF TALBOT COUNTY.

DAVID H. EWING
 SUPERVISOR OF ASSESSMENTS
 FIN. OFFICER

CERTIFICATION IS MADE THAT ALL TAXES
 DUE ON THE PROPERTY INDICATED IN
 THIS DEED HAVE BEEN PAID.
 FINANCE OFFICER OF TALBOT COUNTY


 ANDREW H. JONES, FIN. OFFICER