

Introduced: August 9, 2017
Public Hearing: August 23, 2017
Passed: August 23, 2017
Effective: October 13, 2017

CHARTER AMENDMENT RESOLUTION NO. 2017-05

A CHARTER AMENDMENT RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS, PASSED PURSUANT TO THE AUTHORITY OF ARTICLE XI-E OF THE CONSTITUTION OF MARYLAND AND §§ 4-302(1) AND 4-304 OF THE LOCAL GOVERNMENT ARTICLE OF THE MARYLAND ANNOTATED CODE TO AMEND THE CHARTER OF ST. MICHAELS FOR THE PURPOSE OF ESTABLISHING CERTAIN FUNDS AS PART OF THE TOWN BUDGET; UPDATING CERTAIN FISCAL MANAGEMENT PROVISIONS; PROVIDING THAT THE TITLE OF THIS CHARTER AMENDMENT RESOLUTION SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO THE FINANCIAL MANAGEMENT OF THE TOWN OF ST. MICHAELS.

WHEREAS, pursuant to Article XI-E, § 3 of the Constitution of Maryland, the Commissioners of St. Michaels (the “Commissioners”), as the legislative body of the Town of St. Michaels (the “Town”), are authorized and empowered to amend the Charter of the Town of St. Michaels (the “Charter”); and

WHEREAS, pursuant to Article XI-3, § 4 of the Constitution of Maryland, an amendment to the Charter shall be proposed either by a resolution of the Commissioners or by a petition containing the signatures of at least twenty (20) percent of the registered voters of the Town and filed with the Commissioners; and

WHEREAS, pursuant to Md. Code Ann., Local Gov’t §§ 4-302(1) and 4-304, the Commissioners may initiate a proposed amendment or amendments to the Charter by a resolution which, except as otherwise specified in Title 4, Subtitle 3 of the Local Government Article, is adopted in the same manner as other resolutions in the Town by a majority of all the individuals elected to the Commissioners, as the legislative body of the Town, and the same shall be subject to the right of referendum; and

WHEREAS, in 2016 the Commissioners commissioned a comprehensive Full Reserve Study (the “Reserve Study”) that examined the physical assets of the Town government; the repair and replacement schedules for Town property, equipment and infrastructure; the financial mechanisms to adequately fund the depreciation of the Town’s physical assets in accordance with generally accepted municipal accounting standards, and potential funding sources to implement the recommendations from the Reserve Study; and

WHEREAS, the Commissioners deem it in the best interests of the Town to implement certain recommendations resulting from the Reserve Study and to amend the Charter and certain fiscal management policies of the Town accordingly; and

WHEREAS, the Commissioners, to provide for the reasonable and appropriate representation of the citizens of the Town and to provide for the better management and governance of the Town and its affairs, deem it necessary and appropriate for the good government and citizens of the Town to amend certain provisions of the Charter as set forth herein.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that, pursuant to the authority of Article XI-E of the Constitution of Maryland and §§ 4-302(1) and 4-304 of the Local Government Article of the Maryland Annotated Code, the Charter of St. Michaels (as published in Compilation of Municipal Charters, Chapter 128, Vol. 7 (2001 Edition and February 2016 Supplement) be, and the same is hereby, amended as follows:

SECTION 1. Article V, § C-49 of the Charter is hereby amended as follows:

§ C-49 Lapse of appropriations after one year.

All appropriations lapse at the end of the budget year to the extent that they are not expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be ((included among the anticipated revenues for the next succeeding budget year)) either included in the anticipated revenues for the next budget year or otherwise included in a specific Town fund to be determined by the Town Commissioners.

SECTION 2. Article V, § C-55 of the Charter is hereby amended as follows:

§ C-55 Sale of tax-delinquent property.

A list of all property on which the Town taxes have not been paid, or on which the Town has any lien for water, sewer, or other charges which have not been paid, and which are in arrears as provided by § C-54 (When taxes are overdue) of this Charter, shall be turned over by the Town Clerk to the official of Talbot County responsible for the sale of tax-delinquent property as provided by state law. All such property for which Town taxes, water, sewer, or other charges remain in arrears shall be sold for taxes by that county official, in the manner prescribed by state law.

SECTION 3. Article V, § C-62.1 of the Charter is hereby amended as follows:

§ C-62.1 Balance of revenues from lease and sale of St. Michaels electric distribution system.

After the Town has ceased to own and ceased to have any responsibility for operating the St Michaels electric distribution system (the "System"), after the Town has received all payments due to it relating to the lease and/or sale of the System, and after the Town has made all payments due from it relating to the System, then the balance of all such revenues, and the balance the Town's sinking fund relating to the System, after payment of all expenses of the Town relating to the termination of the lease of the System to Delmarva Power & Light Company and the sale of the System to Choptank Electric Cooperative, Inc., shall be transferred to the Town's general fund. The funds thus transferred to the Town's general fund shall be segregated and such funds, together with all earnings thereon, shall be used solely for such Town capital improvements ((by the Town)), repairs and maintenance as deemed appropriate by the Town Commissioners from time-to-time.

SECTION 4. A new § C-62.2 entitled “Town Funds” shall be added to Article V – Finance of the Charter as follows:

§ C-62.2 Town funds.

The Town Commissioners shall segregate Town monies into separate funds to help ensure the Town’s long-term financial stability. Upon the Town Clerk’s recommendation, the Town Commissioners shall establish by resolution the balances maintained in such funds and the methods for maintenance. The following funds shall be established and maintained as the Town Commissioners deem appropriate from time to time:

- A. General Operating Fund. A fund used to account for all activity, assets and liabilities of the Town except those assigned for other purposes in another specific fund. This fund is the primary operating fund that contains uncommitted resources that may be used for the Town’s general purposes.
- B. Repair and Replacement Fund. A fund used to cover anticipated expenses for the repair and replacement of Town facilities, equipment, and infrastructure, otherwise known as reserve elements, as identified in a formal reserve study, which may be updated from time to time at the Town Commissioners’ discretion and may be further defined and described by resolution. This fund’s purpose is to maintain adequate reserves for the repair, maintenance and replacement of Town assets over time.
- C. Capital Fund. A fund used for capital projects and improvements, including the acquisition of property and assets not accounted for in the Repair and Replacement Fund.
- D. Contingency Fund. A fund used to manage uncertain or unexpected emergencies, events, and risks.
- E. Water System Enterprise Fund. A fund used to manage the Town’s Water System finances. This fund may be used for all activity related to the Town’s Water System, including capital expenditures.

SECTION 5. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that, in this Resolution, unless a section of the Charter is expressly repealed in its entirety and reenacted, new or added language is underlined and deleted text is enclosed in double parentheses. Language added after the date of introduction is in italicized type and text deleted after the date of introduction is enclosed in bold brackets.

SECTION 6. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that if any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Resolution, it being the intent of the Council that this Resolution shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 7. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that to the extent that any section of the Charter is in conflict with the provisions of Sections 1 through 4 of this Resolution, such section or sections be and hereby are repealed to the extent of such conflict.

SECTION 8. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that the Charter amendments adopted by this Resolution shall become effective upon the fiftieth (50th) day after adoption unless a proper petition for a referendum hereon shall be filed on or before the fortieth (40th) day after adoption, as provided by law. A complete and exact copy of this Resolution shall be posted at the Edgar M. Bosley, Jr. Municipal Building, 300 Mill Street, St. Michaels, Maryland 21663, or another main municipal building or public place, for a period of at least forty (40) days following its adoption, and the title to this Resolution, being a fair summary of the Charter amendments adopted hereby, shall be published in a newspaper of general circulation in the Town not less than four (4) times, at weekly intervals within a period of at least forty (40) days, starting immediately after the date of its adoption.

SECTION 9. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that as soon as the Charter amendments adopted by this Resolution shall become effective, either as herein provided or following a referendum, the Town Clerk/Manager or the Town's chief executive officer shall send by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the Department of Legislative Services of the State of Maryland, the following documents or information concerning the Charter amendments herein: (1) the complete text of this Resolution; (2) the date of the referendum election, if any, held with respect thereto; (3) the number of votes cast for or against this Resolution by the Council or in a referendum; and (4) the effective date of the Charter amendments.

SECTION 10. BE IT FURTHER RESOLVED BY THE COMMISSIONERS OF ST. MICHAELS that the Town Clerk/Manager is hereby authorized and directed to carry out the provisions of Sections 8 and 9 hereof; and as evidence of compliance herewith, the Town Clerk/Manager shall cause to be affixed to the minutes of the Commissioners for the meeting at which this Resolution is adopted: (1) a certificate to the effect that this Resolution was duly and properly posted as provided in Section 8 herein; (2) an appropriate certificate of publication in the newspaper in which the fair summary of the Charter amendments herein shall have been published as provided in Section 8 herein; and (3) the return receipt of the mailing as provided in Section 9 herein; provided, however, that failure to comply with any of the foregoing shall not invalidate this Resolution.

THIS CHARTER AMENDMENT RESOLUTION HAVING BEEN INTRODUCED by The Commissioners of St. Michaels at a Public Meeting held on the 9th day of August, 2017 at 6 o'clock p.m., in the meeting room of the Town Office of St. Michaels, Maryland.

A PUBLIC HEARING REGARDING THIS CHARTER AMENDMENT HAVING BEEN HELD by the Commissioners of St. Michaels on the 23rd day of August, 2017.

I HEREBY CERTIFY that the above Charter Amendment Resolution No. 2017-05 was adopted by a yea and nay vote of the Commissioners of St. Michaels on the 23rd day of August, 2017.

Boos	-	_____ yea _____
Bibb	-	_____ yea _____
Myers	-	_____ yea _____
Harrod	-	_____ yea _____
Winton	-	_____ yea _____

ATTEST:

THE COMMISSIONERS OF ST. MICHAELS

Jean R. Weisman
 Jean R. Weisman, Town Clerk/Manager

By: *W E Boos* (Seal)
 William E. Boos, President

I HEREBY CERTIFY that an exact copy of the foregoing Resolution was posted on the bulletin board in the Town Office on the 24th day of August, 2017, and was there continuously posted for at least fifty (50) consecutive days, said posting having terminated on the 13th day of October, 2017.

Jean R. Weisman (SEAL)
 Jean R. Weisman, Town Clerk/Manager