

## MINUTES



**Commissioners of  
St Michaels  
Meeting Minutes Working and Closed Session  
Wednesday, March 8, 2023, 5:30 pm - 9:30 pm  
St. Michaels Branch of the Talbot Co. Library  
106 S. Fremont Street  
St. Michaels, MD 21663**

1. 5:30 - Call to Order for Working Session - Pledge of Allegiance

Commissioner Breimhurst, President, called to order a live and remote Working Session of the Commissioners of St. Michaels at 5:30 pm in St. Michaels, Maryland and the Pledge of Allegiance was recited. Also present at the meeting were Commissioners Joyce Harrod, Tad duPont, Katrina Whittington, and Al Mercier. Other representatives include Town Administrator Rob Straebel, Special Projects Manager/Code Compliance Officer Eric Knapp, Town Planner Steve Ball, Town Clerk Vickie Sharp, Public Works Operation Manager Brian Thompson and Captain Oswald. Approximately 28 members of the public were present as well as remote attendees on Zoom.

2. Announcement of Closed Session

The Commissioner Breimhurst announced that there would be a Closed Session before the Working Session. Commissioner Harrod motioned and approved the Closed Session before the Working Session. Commissioner Whittington seconded and was passed on a roll call vote 5-0 in favor.

The Commissioners met in closed session before and after adjournment of Open Session pursuant to Maryland Code, under the Open Meetings Act, General Provisions Article Section §3-305(b) to discuss the following: (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over who this public body has jurisdiction; any other personnel matter that affects one or more specific individuals, (3) To consider the acquisition of real property for a public purpose and matters directly related thereto; (7) To consult with counsel to obtain legal advice.

3. Agenda Amendments

The Closed Session will continue after the close of the Open Session.

4. Announcements from COSM and Staff

Commissioner duPont attended the Talbot County Economic Development meeting and was involved in discussion regarding the Accommodation Tax, Tourism Tax and the availability of employees for the summer. Found it to be challenging as they are determined to raise the Accommodation Tax. The sentiment around Town most of the small B&B and Cottages are not excited about this tax. The Talbot County Economic Development is planning to have a meeting at the St. Michaels Library as part of their overall county wide promotion and explaining the value of tourism and where they are spending the money. Everyone should attend this meeting.

Rob Straebel gave an update on the new Smart Meters, the start of installation of the meters should be late April to early May. The closer we get to this time frame we will finalize the actual date and send out a Constant Contact to all the residences. There is not a time frame set on how long it will take to install the meters. Reminder about the first budget workshop to be held on March 20th 3-5pm at the St. Michaels Library. Have submitted two Congressional Appropriation request for \$2M to both the US Senator Van Hallon and US Senator Cardin for the Town Hall/Police Department building. We Thank State Senator Johnny Mautz for submitting a letter of support for the two Appropriation request. Currently setting up a meeting with the staff members to show the current Town Hall/Police Department facility and may have some Delegates coming down and we will give them a tour of the facilities and show them the plans that we are proposing for the 301 Mill Street. Hopeful the US Senators will be forthcoming with an Earmark for the construction project. Will keep everyone updated as we get closer to finalizing whether we will get funding for the project. Rob was sadden to state that Kim Shellem will be retiring as of June 1, 2023. She has been with the Commissioner's office for 20 years, has done a fantastic job and thank her for her years of public service. If you see her, please wish her well. Sending out Constant Contact message about Surplus Property that the Town has for sale. One is the 109 South Talbot (old Long and Foster Building) and the other is 800 Talbot Street parking lot.

Steve Ball announced that there are several code amendments that are before the Planning Commission for review and approval.

Eric Knapp gave an update on the permits that have been issued and/or in progress. Fremont Street parking lot is out for bid and will be posted in the paper on Sunday and next Wednesday, opening will be on April 3, 2023. Working with getting street light issues corrected, working with a great group of Ladies that have formed a Light Committee and have gotten pole numbers of the poles that need addressing. Working with this group we have come up with a solution to the lights at the Boy Scout Cabin and St. Mary's Square. When Choptank Electric will only use LED lights when replacing. These lights are to bright, there is another option to use a L1 light. These are still bright, Choptank has ordered a lower wattage light for us to view as soon as it comes in. Will be starting the Business Registration and addressing the 911 address issue as well as delivery trucks blocking the streets going over where they can deliver. Looking to digitize files and create log books. Congratulate the Ladies of the town who got together to help with the pole lights, by getting pole numbers and walking the town to find all the lights that were out.

Commissioner Harrod commended Rob Straebel for doing a great job with all the personnel changes.

##### 5. Comments from the Public

Aida Kahlil announced that it is International Woman's Day and commended all the women in the room pointing out that there are two women Commissioners, women in the office and 16 women business owners in the Town.

Langley Shook and Mark Berman stated that a month ago they had proposed two code amendments to address omissions in the code that were brought to light as a result of a recent application for a new Hotel. It was suggested for Mr. Berman and Mr. Shook to confer with the Town Attorney because they wanted some certainty that what they were telling the Town and what they believed the Town Code and controlling Maryland law stated was consistent with the Town Attorney. They conferred with the Town Attorney, they do not know the advice that was given to the Commissioners, they are fairly confident that they know have to read The Code and Controlling Maryland Law correctly and equally confident that The Commissioners would have been advised consistent with their reading. The question a month ago was, do The Commissioners have authority to adopt code amendments? The

Town Charter sets forth both general and specific duties that the Commissioners have. Mr. Berman wants to get specific language into record, among other things for the general powers "for the protection and preservation of the Town's property, rights, and privileges; for the preservation of peace and order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of and visitors to the Town". Under your special powers, among other things, to make reasonable regulations in regard to buildings and structures to be erected. To suppress fires and prevent the dangers thereof. To establish and maintain public parks, gardens, playgrounds and other recreational facilities and programs. To promote the health, welfare, enjoyment and inhabitation of this town. There is no doubt that based on the issues that we have raised; you are well within your authority to address them if you so choose. Now one might take the view of, I understand that there is a Technical Advisory Committee that is looking at some of these issues. One might take the view, well why don't we let the TAC process play out and then we'll see. If you think about that logically you realize that really doesn't make any sense, and the reason it doesn't make any sense is because participants at TAC, State Agencies and others are only able to provide input based on provisions that apply in Maryland Law and the Code. There are currently no provisions in the Code that address the issues that we have raised that are in the nature of public safety and maintaining public parks. On that basis we think it is incumbent to act sooner rather than later to the extent that you agree that these omissions need to be addressed. And we are not asking you here tonight to adopt amendments, you can't do that. What has to happen is if you are inclined to consider these you have to hold a public hearing and you have to give notice in a paper of general circulation for two weeks and this is required by 340-200. At that point you can hold the public hearing. We are encouraging you to at least start the notification process. If you hold a public hearing it gives all interested parties an opportunity to participate. I believe you will hear many voices in support of the amendments we have proposed. You may hear voices in opposition. But unless until you hold a public hearing you will not have that input. Once you hold that hearing you can then make a reasonable determination whether our request makes sense and when you chose to do so. Now, there's a lot of people in this room I don't represent them I know they have views on the hotel across the board. Our concern is very focused, public safety and maintaining the use and enjoyment of the nature trail. And I would ask you not to make us come back, like Bill Murray, meeting after meeting to make these quotes. I would respectfully encourage that you please agree with what I am saying, notice up for 2 consecutive weeks the proposed amendments we have given you and then hold a public hearing. There are others that may wish to comment but I will defer to Mr. Shook to the extent that I have misstated or admitted anything from my presentation. Mr. Shook, I think Mr. Berman stated it well in the 2 letters that we prepared and submitted, also amplified slightly on his points. Commissioner Breimhurst stated we have your letters, and we also have the advice of Counsel, and we also have a couple pieces of Legislation that address much of what you are talking about in progress right now that is before the Planning Commission. I am sure you have read those 2 text amendments that we are proposing. One dealing with Formula Businesses and the other dealing with the Gateway Neutral Zone and that process is underway. Mr. Berman stated that neither of those addressed fire safety lanes or the nature trail. Mr. Berman stated that even if you adopted them tomorrow, they are irrelevant to the issues that we are raising. Commissioner Breimhurst stated, I don't think anybody is going to approve a building that is not safe or a fire hazard. Mr. Berman, well under the NFPA the only requirement that currently exists is if the building has a sprinkler system and you can drag a hose manually 450 ft around that is good enough and that is what this proposal does. Unless you amend the code to require anything additional, you do not have authority to overrule the Planning Commission, in fact you have not part in it. Mr. Breimhurst asked were there any questions from the Commissioners and thanked Mr. Berman and Mr. Shook, stated they will take it under advisement.

Mr. Shook also stated that he was here to speak on the Environment Concern request for an extension. Mr. Breimhurst stated we would be discussing that when it comes up on the agenda.

Town Counsel, Elissa Levan stated she wanted to clarify for the record, as requested she did have a conversation with Mr. Shook and Mr. Berman, she gave no advice and no opinion. The statement that she confirmed something with her was overstated. Mr. Berman clarified that he conferred something not confirmed.

Mr. Huntoon wants to comment on the Environmental Concern extension and was directed he will get a chance when it comes up on the agenda.

#### 6. Consent Agenda for Minutes, Department Reports and Events

Correction on the meeting minutes from February 22, 2023, it was Commissioner Whittington that attended the SMVFD Banquet not Commissioner Mercier.

Commissioner Mercier stated that the Shopping Cart Race time needs to be changed from 12:00 to 12:30 to 11:00 to 11:30.

Commissioner Dupont made comments on the Accommodation tax that has been taken in. He also commented on the overtime at the Police department is spot on compared to last year.

Consent Agenda was approved with changes, Commissioner duPont motioned and approved the Consent Agenda with changes. Commissioner Mercier seconded and was passed on roll call vote 5-0 in favor.

#### 7. Old Business

Members of the State Highway joined via zoom, Jessica Kile, Robert Tucker, and Bob Rager to give an update on the sidewalks and roadway improvement projects. Commissioner Breimhurst asked about the progress of the schedule. Bob Rager stated that they are not moving quickly and are trying to get as much completed before April 30, 2023, the start of peak season. Commissioner Breimhurst asked Jessica, was there any complaints with the traffic. She stated that they are doing their best. Contract original completion date was April 30, 2023 totally complete. She stated that they are not on schedule and are still working on a completion date. There were issues that put them behind schedule. Doing the best to keep moving forward every day. Commissioner duPont asked was there any plans to resurface Route 33/Talbot Street. Jessica stated there has been talk of the resurfacing, but she did not have that updated information. Bob Rager stated it is scheduled to be done after the sidewalk work is completed. They want to get all the sidewalks completed and come back under a different contract to resurface. Commissioner duPont asked for all the crosswalks be repainted as soon as possible or before April 30th when the tourist season starts. Jessica will talk with the contractor to complete the crosswalks. Commissioner Breimhurst asked when would be the earliest that the road could be resurfaced. There was not an exact day given. Commissioner Breimhurst asked why there was an 8-month delay. Bob stated that the contractor got off to a late start, they had personnel changes with the project manager. Now the project manager is out with medical issues. They have also had staffing issues. Contractor wanted to take bigger construction areas, but the State has held them to small sections as not to disturb the community.

Resolution 2023-03 Appointment of Town Building Inspector "**RESOLUTION OF THE COMMISSIONERS OF ST. MICHAELS TO APPOINT THE SPECIAL PROJECT MANAGER/CODE COMPLIANCE OFFICER TO SERVE AS BUILDING INSPECTOR.**"

Commissioner Breimhurst motioned and approved the appointment Eric Knapp Special Project Manager/Code Compliance Officer as the Town Building Inspector. Commissioner Harrod seconded and was passed on roll call vote 4-0 in favor, Commissioner duPont recused himself from voting stating it was a conflict of interest as he has several permits in process.

Mr. Gene Slear of Environmental Concerns, Inc. has submitted a request for an extension of 60 days and to amend the Comprehensive Plan. This will allow time for him to respond to the Planning Commission. Commissioner Breimhurst stated to proceed with scheduling a public hearing for later on and not to extend by 60 days. Mr. Langley Shook stated that it has been almost a year since Environmental Concerns, Inc. asked the Town to annex into the Town about 3 acres of property along Boundary Lane and Trice Road and amend the Comprehensive Plan to allow annexation and rezoning by the Town. The certification by the Planning Commission, dated January 19, 2023 reported on the Planning Commissions unanimous 5-0 decision made on December 1, 2022 to recommend to the Town Commission not to change the Comprehensive Plan and not to grant Environmental Concerns petition for annexation. 3 months went by and then Environmental Concern asked the Town for a 60-day extension of the time with in which the Planning Commission's recommendation would become final. They have sited the Maryland Land Uses Statue Section 3-204 to support its request for an extension but that does not apply. They Planning Commission did not recommend anything be done with the Comprehensive Plan. Call attention to Section 3-204 (c)(1) and Section 3-204 (c)(4)(i). Mr. Shook stated that Environmental Concerns request for extension should be denied. Mr. Huntoon expressing concern over the annexation of Environmental Concern and recommended not going forward with the extension request. Commissioner Breimhurst asked Steve Ball about the requirements for the public hearing and advertising, why does that kick in before the expiration of our 90-day window to make a decision on whether or not to accept Planning Commission's recommendations. Steve stated that there needs to be a public hearing and advertising has to be 2 consecutive weeks. Commissioner duPont motioned to let the Planning Commission's unanimous decision stand regarding the Environmental Concern annexation. Commissioner Whittington seconded and was passed on roll call vote 5-0 in favor.

## 8. New Business

Rob Straebel presented a draft of the five-year Capital Improvement Plan for the Commissioner's consideration. The plan identifies a variety of capital improvement projects for the next five years including both maintenance items as well as development of critical planning documents. If adopted, it is recommended to update the document on an annual basis with the Commissioner's review and approval.

The Zoning Ordinance requires a side yard setback for accessory uses in residential areas of 3 feet from the property line. the property owners of townhouses in Perry Cabin desire to build patios up to 1 foot from the property line. In order to provide for such requires individual variance application for each townhouse. to address this issue in a more comprehensive manner, we are proposing to amend the code to reduce the setback from 3' to 1' for townhouses and duplexes. The design change will provide a more uniform appearance. Commissioner duPont motioned to move the proposed zoning text amendments to the Planning Commission. Commissioner Whittington seconded and was passed on roll call vote 5-0 in favor.

Steve Ball presented the proposed zoning text amendment to clarify powers and duties of the Historic District. HDC recently approved changes to their Historic District guidelines related to string lighting. Town Counsel has advised that we should also clarify language in the Zoning Ordinance as a companion item to the HDC guidelines. Commissioners

recommended to send the proposed ordinance back to the HDC for final review and approval.

9. Comments from the Public

Victoria at 111 E. Chestnut asked what type of professional Steve wanted to ask. Steve stated the State Fire Marshall and the Local Fire Chief. Victoria asked had this already been done? Steve stated they have not seen the recommendations. Rob Straebel stated that they are part of the TAC weighing on the Hotel design.

Aida Kahlil voiced concerns about the Townhouse Accessory Setbacks and fire safety regarding the setback. Are there proper paperwork on the businesses in Town. How are we going to get this information send out paperwork or knocking on doors. Eric Knapp stated he was going to actually knock on the doors and introducing himself. Will be visiting every business in town and will also address the 911 addressing making sure the proper numbers are posted on the door. Aida asked if a landlord changes the use of their building what is the process to do so? Eric stated in the International Building Code 2021, change of occupancy happens, a different business, they must complete an application for occupancy use with no build out. Requires occupancy inspection, make sure it is a legal business and building is safe for the business. This is not an addition it has been required since 2014. Eric stated he is here to help everyone understand and work through the process.

Craig Postlewait, Marea Terrace, property owner and residence, thanked Mr. Berman and Mr. Shook for all the work they have put in regarding the hotel and safety.

Walda Brandt, stands in agreement with Mr. Berman and Mr. Shook and please take their work seriously.

Karen Wald, 107 Grace, thanked Mark and Mr. Shook for all their hard work. Seconded the idea of importance of having public forum.

Mark Berman, on the issue of public safety, at the TAC meeting Chief Cooper spoke extensively on this issue. It is in the letter that we sent you. The question was put to him, what would be your preferred design solution? On access in a perfect world, we could get down both sides of the building. And went on to explain that they cannot access any of the sides. Your answer on public safety has already been provide by Chief Cooper.

Andy Roberson, 903 South Talbot Street, my and I have serious concerns as well, being across from the street for the proposed hotel location. Specifically, traffic and fire, just wanted to reiterate what everyone else was saying.

Andrea Roberson, 903 South Talbot Street, stating it is very stressful being across the street from the proposed hotel.

Charlotte Snead, stressed her concern about the proposed hotel. Concerned about franchises coming to the town of St. Michaels.

10. Comments from the Commissioners

Commissioners Breimhurst asked Steve Ball to look into the proposed language that Mr. Berman and Mr. Shook are suggesting for the Town Code regarding to public safety to see if there are holes in the Code that the Town needs to shore things up to include public safety concerns. Steve suggested to ask the professionals that have that background regarding the fire safety. Commissioner duPont stated that the Commissioners main responsibility is public safety.

11. Commissioners Calendar

March 22, 2023  
Formula Business  
Gateway Zoning Changes  
Historic Guidelines regarding String Lights & Tents  
Ordinance to Codify Guidelines  
Sea Glass Event Permit

12. Announcement of Future Meetings - to be held at Library

March 20, 2023 - Budget Session (3-5 pm)  
March 22, 2023 - COSM Legislative Session  
March 27, 2023 - Budget Session (5-7 pm)  
April 10, 2023 - Budget Session (2:30-4:30 pm)  
April 12, 2023 - COSM Working Session  
April 17, 2023 - Budget Session (5-7 pm)

13. Adjournment

Adjournment of Open Session approximately 8:00 pm and Closed Session was approximately 9:00 pm

Respectfully Submitted By  
Vickie Sharp  
Town Clerk

Public Participation: All comments from the public will be taken during the period set aside for "Comments from the Public." The "Comments from the Public" portion of the Commission agenda shall have a limited time period as determined by the Commissioners, and shall be at the beginning and at the end of each agenda. To be recognized, a member of the public should raise his or her hand and wait to be recognized by the President. Comments and questions should be kept brief and to the point, and be directed to the President.