

COMMISSIONERS MEETING

September 22, 2009

LOCATION

Commissioners Meeting was held at the Oxford Fire Company on September 22, 2009. President Dunbar called the meeting to order at 7:30 p.m.

PRESENT

Commissioners present were Peter Dunbar, Timothy Kearns and James Klair. Town Attorneys Brynja Booth and David Thompson were in attendance. A Star Democrat representative was in attendance. There were approximately seventy (70) people in attendance.

APPROVAL OF MINUTES

The minutes of September 8, 2009 were approved as distributed.

MAINTENANCE REPORT

Scott DeLude, Public Works Superintendent, gave the Maintenance Report that consisted of the following:

1. The Public Works Department will begin leaf pickup on Wednesday, October 14th and continuing every Wednesday thereafter through December 16th. Leaves should be raked to the curb and covered with a tarp. Do not put the leaves on a tarp the leaf vacuum will tear up the tarp. Leaves put out by landscaper/contractors will not be picked up.
2. The pump at Banks Street lift station that had the lightning strike is up and running.
3. The brick sidewalk at the corner of Market and Factory Street has been uncovered and is now usable. The sidewalk was buried under four inches (4") of dirt. The Public Works Department would like to uncover other brick sidewalks in town to add to the history of Oxford.
4. The State Highway Administration has put millings along the paving on Morris Street where the roadway drops to the shoulder. Scott thanked the Commissioners for contacting State Highway Administration to get this work completed since he had made several calls with out receiving a response from State Highway Department.

Commissioner Klair thanked Richard Lindsay, SHA, Senator Colburn, Delegate Haddaway and Delegate Eckardt for their help in getting the work along the state road completed. A letter is being mailed from Commissioner Klair thanking all of the above for their help.

POLICE REPORT

Chief Borga gave the Police Report that consisted of the following:

- Two Fraud by Credit Card (referred to proper agency)
- Three Check the Welfare (all ok)
- Four Intoxicated Persons (Town Park) ID and moved on, staying on a boat
- Ten Police Information
- One Suspicious Vehicle (ID occupants and moved on)

Chief Borga reported one malicious destruction of property. Person or persons threw an egg and hit the living room window of Commissioner Jim Klair. There were no other reports in town concerning throwing eggs.

Commissioner Klair expressed concern over the egg incident. Commissioner Klair explained that he is available to discuss any issues with anyone that wants to talk with him. Commissioner Klair commented that over the last several years that the respect that would be expected has degenerated at various town meetings where groups have an issue. The town consists of volunteers that put in time for the citizens because they care about the town. It is discouraging to see unsigned information and attacks on the leadership of the town. Because of this, the Commissioners put out a statement of facts to rebuke incorrect information. Oxford is made up of great people and mean spirited actions should not be happening. Commissioner Klair stated that attacks hurt his family and ask that anyone that wants to talk with him to please feel free to contact him. President Dunbar commented that he shared Commissioner Klair's views.

OXFORD FIRE COMPANY

Jan Mroczek gave the Oxford Fire Company Report in the absence of Steve Mroczek. Mr. Mroczek was not in attendance due to taking a firefighter class. Ms. Mroczek reported that during the past two weeks the fire company responded to three (3) fire calls that were mutual aid and three (3) ambulance calls.

BID 0902

At this time Bid 0902 was opened, the bid is for water meter replacement. The town received a stimulus grant to cover the cost of the meter replacement. Bids were received from the following:

- National Metering Service \$255,537.60
- Gateway Construction \$167,688.40
- Retallack & Son 177,390.88
- Schummer \$345,907
- JJID Inc. \$433,590.00
- VanGuard Utility Service \$298,476.80
- Datamatic \$158,553.60

Commissioner Klair made a motion to refer the bids to Scott, Public Works Superintendent, to evaluate and make sure they meet all requirements and if the low bid is a responsive bid award to Datamatic. Commissioner Kearns seconded motion.

Peter Dunbar - Aye

Timothy Kearns - Aye

James G. Klair - Aye

REQUEST TO BE ON AGENDA – Susan Campbell – Oxford Business Association

Susan Campbell presented the Commissioners with a picture of the sign "Welcome to Oxford" planned by the Oxford Business Association to be placed on the property of Latitude. Susan explained that the Commissioners had requested the business association bring back their idea of what they wanted the sign to look like. Ms. Campbell stated that there will be landscaping around the sign. The Commissioners expressed support to the Oxford Business Association for the sign. The business association will have to file for a permit and receive approval before the sign can be placed on the property.

OLD BUSINESS

President Dunbar announced that Delmarva Power is arranging a walk through to look at the trees that need to be trimmed. The walk through will include representatives from Parks & Recreation as well as some tree experts. Gib Snow congratulated President Dunbar on the letter that was sent to Delmarva Power regarding tree trimming.

Debbie Pulzone commented that she hoped that the incident at Commissioner Klair's was kids being kids and nothing more. Ms. Pulzone questioned whether trees would be trimmed for clearance of height regulation while the trimming is being done. President Dunbar remarked that Delmarva Power will only be taking care of the utilities.

JAMES FARMAR

President Dunbar requested two minutes of silence in memory of James Farmar. Mr. Farmar passed away this week. Mr. Farmar was a former Commissioner and former President of Oxford Fire Company.

PUBLIC HEARING – Resolution No. 1001 – Annexation of Submerged Lands

President Dunbar opened the Public Hearing that would annex 142 submerged acres in the Tred Avon River to the town of Oxford. The Oxford Planning Commission gave a favorable recommendation for annexation. President Dunbar remarked that the annexation is purely for jurisdiction. Tonight's meeting will give everyone an opportunity to comment. Comments will be limited to five minutes.

President Dunbar stated that the town has jurisdiction over Town Creek, Hel's Half Acre and the Tred Avon River surrounding Bachelors Point. The town received jurisdiction of these areas through annexation. The area included in Resolution 1001 submerged lands in the Tred Avon have had a lot of inquiries over the last couple of years due to the number of moorings that are appearing. Until the town has jurisdiction of this area we do not have any say in what is happening or will happen in the future. This area started out with approximately one half dozen moorings and is now up to approximately forty two moorings. The Port Wardens and Commissioners feel that this is a safety issue. President Dunbar stated that the town could establish the size and way the moorings are to be put in with regulations. But, tonight's meeting is purely to get jurisdiction, regulations can be as lax or as stringent as the town wants them to be. Both Commissioner Klair and Kearns agreed with President Dunbar's comments.

Attorney Booth displayed maps that show where the town is seeking jurisdiction. Jurisdiction of Town Creek and parts of the Tred Avon River were established by annexation. Piers and shoreline improvements are affixed to the fast land and Port Wardens have jurisdiction. Mooring buoys are not affixed to the fast land, therefore the town has no jurisdiction. State law gives municipalities the authority to establish a Board of Port Wardens. The Commissioners established a Board of Port Wardens in 1981. Port Wardens regulate piers, wharves, shoreline improvements and moorings where they have jurisdiction. An Ordinance was adopted by the Commissioners in 1982 entitled the Harbor Management Ordinance and that actually gives the Board of Port Wardens the authority within the waters of the municipality, no person may place erect or construct any floating wharves, mooring piles without a valid permit issued by the Board of Port Wardens, that is the law in the town of Oxford, but it only applies in the areas where the town has jurisdiction. The Board of Port Wardens has been exercising that authority since 1981. The annexation proposed is about jurisdiction. The only way the Commissioners can act is if state law gives them the right, those rights are set forth in the code of Maryland regulations that were adopted by the Department of Natural Resources and what those regulations provide is that at the request of a local governing body, the Commissioners and

Department of Natural Resources will establish a registration program for all mooring facilities located in the waters under the jurisdiction of that governing body. The town can not adopt regulations or decide whether it wants to regulate without jurisdiction. The way you get jurisdiction is through annexation. Several meetings were held with the County trying to get an agreement, How can the town regulate these waters that are directly adjacent to the town. One of the ideas was that maybe the County would give the Town that authority and there was some dialogue back and forth. As issues were worked through the lawyers came to the conclusion that the County can't bargain away police powers, they can't assign them and they can't give them away. Rather than get into whether the county could give their police powers to the Board of Port Wardens the simple solution is to acquire jurisdiction the legal way and the only way to do that is through annexation. The lands under public waters are owned by the State of Maryland, by annexing this water body the town of Oxford does not acquire title to that property. It is just like when Bachelors Point was annexed, they did not acquire ownership to the land they acquired the ability to issue building permits and regulate through zoning, the ownership stayed with the private property owner. The ownership stays with the State of Maryland. Right now the county has jurisdiction even though they do not have regulations. The State does not have liability for what boaters do because they own that land, the county doesn't have any liability right now because they are within the jurisdiction of the county and the town of Oxford will not have any legal liability for extending its jurisdiction over that area. When a town, county, state exercises governmental functions as proposed to proprietary functions there is zero liability, they are immune to liability.

President Dunbar opened the meeting for public comments. He asked that everyone limit their remarks to five minutes. He also announced that the record will be kept open for ten days to allow for anyone to give comments in writing. There were no state or federal representatives in attendance that wanted to make comments on the annexation.

A letter was received from Dr. Robert J. Wood, Director of the Cooperative Oxford Laboratory. The letter stated, "It is, indeed, true that we have no concerns about existing moorings apparently placed by individual citizens with property surrounding the Laboratory. However, we would have concerns about the placing of additional moorings if they had the potential to compromise easy passage to and from our facility using our 55-foot research vessel."

Larry Murray, 109 First Street, member of Board of Port Wardens. Mr. Murray stated that his first assignment after joining the Board in 2005 was to look into how the port wardens might be able to insure that our waterfront was properly utilized. At that time there were a couple of moorings off the Strand. Mr. Murray contacted DNR to determine what might be done in order for the town to have some say in what was happening or what might happen in these waters. Mr. Murray spent the fall of 2005 trying to get some direction or commitment from the DNR. An attempt was made to set up a meeting with DNR in Annapolis and after some interaction between the town attorney and DNR this approach was dropped. The County was contacted to determine if jurisdiction could be gained through them. In preparation for this, the Commissioners asked the Port Wardens to develop a proposed regulation that would cover the potential mooring situations off our shores. The later part of 2007 and early 2008 members of the Port Wardens developed a regulation that we thought was appropriate for Oxford. It provided a registration system for mooring buoys, a specification for appropriate ground tackle and a method for consolidating mooring buoys so that there would always be adequate room for transient boaters to drop a hook. In 2008 the Port Wardens submitted the proposed document to the Commissioners. It was then discussed with county authorities and viewed favorably, with one exception. The exception being the water area we were attempting to get jurisdiction over, and the way it was defined. After this it was determined that neither DNR or the County can convert to the town legal jurisdiction over the areas adjacent to the town. Tonight is not a venue for discussing the mooring regulation draft but Mr. Murray commented that he thought it important to pass on this information. If the town gets jurisdiction over the waters the Port Wardens will continue revising the document and welcomes comments or

concerns which the Port Wardens would consider including before taking it before the public for comment.

Debbie Pulzone, 102 Myrtle Avenue, stated she is concerned over the fiscal impact. What is the unknown and what is the cost and the repercussions? Ms. Pulzone commented that time should be taken and answers found.

Mitch Nathanson, 400 East Strand, owner of Oxford Boatyard and Mears Yacht Haven. Mr. Nathanson commented that he has been in Oxford for twenty one years and has not seen any major problems other than the one boat that was on an anchor and broke free. Mr. Nathanson further commented that the Yacht Club has a few moorings and they can manage them on their own. He stated that he doesn't disagree that regulations are needed but we should not create bureaucracy that we don't need. President Dunbar stated that he had met informally with a small group and agrees that there may not be a major problem now but there may be a problem in five to seven years.

Henry Hale, 200 Banks Street, commented that he was upset when negative unsigned, nonfactual information was distributed throughout town. Mr. Hale stated that he was on Port Wardens prior to being a town commissioner and moorings were discussed during that time.

Gib Snow, 109 Stewart Ave., questioned all the different agencies that are involved and asked who will have ultimate decision making status?

Barry Starke, Tred Avon Charters, commented that it seems everyone is rushing on this issue and he agrees with Mr. Nathanson .

Bernie Witter, 501 East Strand, stated that tonight's meeting is about jurisdiction but there seems to be a hidden element, the process should be reversed, what does Port Wardens want and how will it affect citizens and visitors. It is possible that we will be confronted with 100 pages of regulations, Port Wardens should let citizens know what they want.

Dick Deerin, 301 Morris Street, commented that tonight's hearing is a duty for the commissioners to analyze all comments, consider those comments and then make a decision. He commented that he feels the decision is already made.

Ronya Driscoll, 202 East Strand, stated that citizens need to know what this will cost and felt there is not enough data to go on.

Bruce Long, 901 South Morris Street, commented the problems need to be identified and have some public input, identify cost and weigh options. He stated that he is afraid the hearing is already decided and questions the process and commented that a solution could be worked out.

Tom Campbell, 106 Myrtle Avenue, Chairman of Port Wardens. Mr. Campbell announced that he has served of the Board of Port Wardens for eight years. Mr. Campbell said he was approached by many people during the past few years requesting that something be done about the moorings that were appearing off the Strand. At that time the Port Wardens began gathering information up and down the East Coast so they could work on a solution to the moorings. Mr. Campbell commented that the boats moored off the Strand are a safety issue. Mr. Campbell stated that there were five boats anchored with anchor lights on and there were twenty boats without anchor lights, this is obviously a problem. The DNR and Coast Guard are not concerned unless the boat is in the channel. The town needs jurisdiction in this area.

David Thompson, 105 Rhonda Ave., stated the town has an opportunity to vote on the annexation. First, the Commissioners introduce the Resolution and it is advertised for Public Hearing. The ad runs one time a week for four weeks. If the Commissioners vote to annex, the town can petition this to referendum by obtaining twenty percent of the voters of the town.

This would then go to a vote by all of the voters in town participating. There is no fiscal impact related to annexation. If at some time someone was hired then there would be a cost. The town has had a Planning Commission for the past thirty years and there has been no fiscal impact on the town. Attorney Thompson thanked everyone that volunteers their services to the town.

Bob Lonergan, 112 East Strand. Mr. Lonergan commented there is a potential problem off the Strand that needs to be addressed. He wants to see more detail on regulations and cost before making a decision. He stated that the Commissioners should not annex, more information is needed.

Denise Nathanson, 400 East Strand. Ms. Nathanson questioned, if the majority are against annexation why should we have the expense of voting. She encouraged a study.

Larry Myers, 714 South Morris Street. Mr. Myers stated that he has lived at 714 South Morris Street for the past ten years and has had a mooring for the past three years. Mr. Myers referred to the annexation of Bachelors Point, explaining that the annexation went to referendum at least once if not twice before passing, so the voters of the town can stop annexation. Mr. Myers commented that the town needs to take a close look at whether we have issues and slow down before saying we have to have jurisdiction.

Robert Shattuck, 803 South Morris Street. Mr. Shattuck commented that it is important to do what is right for Oxford. The Port Wardens have worked hard and safety is the main concern. He further commented that people should not have their boats off the Strand if a storm comes in, no matter where you go you shouldn't leave a boat on a mooring. He asked that the town slow down on annexing, although annexing is not what worries him. The regulations that will be put in effect are of concern.

Mark Stein, 103 Bonfield Avenue. Mr. Stein stated that he thought annexation is the issue at present and not regulations.

Mike Rust, 108 Willows Avenue. Mr. Rust commented that he felt the Commissioners are not listening to the public regarding annexation.

Emily Knud Hansen, address not given. Ms. Hansen commented that a red flag appears before her when she hears annexation without regulations.

At this time President Dunbar closed the Public Hearing and announced that written comments will be accepted for the next ten days.

BILLS PAYABLE

The Commissioners went to Bills Payable.

Commissioner Kearns made a motion to adjourn the meeting. Commissioner Klair seconded motion.

Aye – Peter Dunbar

Aye – Timothy Kearns

Aye – James G. Klair

Respectfully submitted,

Lillian Lord

Town Clerk