

~~CONFIDENTIAL~~

**TOWN OF FENWICK ISLAND, DELAWARE**

Minutes of the September 25, 2015, Regular Council Meeting

Call to Order and Flag Salute at 3:30 p.m. by Mayor Langan

*Council in Attendance:* Gene Langan, Diane Tingle, Bill Weistling, Gardner Bunting, Roy Williams, Richard Mais, Julie Lee

*Staff in Attendance:* Town Clerk Poole, Public Works Supervisor Reed, Police Chief Boyden, Town Manager Burke, Beach Patrol Captain Ferry, Town Solicitor Mary Schrider-Fox

**PRESIDENT’S REPORT**

- Mayor Langan opened by thanking the Chamber of Commerce for giving the Town \$500 for the lifeguard department.
- Committees will be announced at the October 23 Council meeting. The term of a Committee Membership is November 1 - October 31.
- We plan on mailing the opinion survey in October. The Town Council will get feedback from the property owners about free boarding and increasing the roof height. The Town Council wants to know what the property owners have to say.
- Winter trash collection starts October 1<sup>st</sup> and winter recycle collection is every other Friday.
- Mayor Langan and Town Solicitor Schrider-Fox have reviewed the 2015 Town Election process. A few minor issues have been corrected with Town Manager Burke. The vote count for Artificial Entities, LLC and Trusts will not change. Prior to the Council enacting the laws to allow Trusts and Corporations to vote in 2008, none of these entities were allowed to vote. The Town did not suppress the vote. It actually increased the number of people who were eligible to vote.

**TOPICS FOR DISCUSSION AND POSSIBLE ACTION**

- **DNREC Parks and Recreation Contract** – Town Manager Burke stated that DNREC contributes \$45,000 per year to the Town to assist the lifeguards. Our current contract is due to expire and DNREC is looking for a new three year contract.

**Motion** – Motion made for Council to extend the DNREC Parks and Recreation Contract for three more years – Council Member Lee

**Second** – Council Member Bunting

**Discussion** – none

**Vote:** (7-0)

- **Little Assawoman Bay (discussion of issues)** – Town Manager Burke stated several residents and Council Members have approached the Town about dredging the canals. After performing research this is what he found: 1) Mr. Burke is not sure the canals have ever been dredged. 2) To dredge the canals the first step was to speak with Mr. Tony Pratt (DNREC) to discuss options for the

community. The options are the Town could petition the State to dredge the canals or the Town could pay to dredge the canals. Regardless of who dredges the canals a feasibility study should be completed first. A feasibility study could cost between \$10,000 and \$75,000 depending on the scope of services. Mr. Pratt would be interested in consulting with the Town if they decide to go forward with a feasibility study. Town Manager Burke will continue researching grant options. Council Member Bunting stated that the Town should look at the federal level to see if funding is available for the project. The State of Delaware is unlikely to pay for the project.

**Motion** – Motion made for Town Manager Burke to pursue searching for information or options on canal dredging – Council Member Bunting

**Second** – Council Member Mais

**Discussion** – Council Member Weistling added to pursue researching for grant funds, as this project will be quite expensive.

**Vote** – (7-0)

- **FY 2016 Fee Schedule (amendment)** – Town Manager Burke stated that at the last Council meeting a recommendation was made to add an annual non-profit fee of \$50 to the FY 2016 Fee Schedule. The fee would be charged to non-profit organizations for unlimited use of Villalon Hall. This has been completed and will go in effect on January 1, 2016.

**Motion** – Motion made to approve the annual non-profit fee of \$50 to the FY 2016 Fee Schedule to be effective January 1, 2016 – Council Member Mais

**Second** – Council Member Lee

**Discussion** – none

**Vote** – (7-0)

- **DE Bicycle Council Grant Application** – Town Manager Burke read a letter from the Delaware Bicycle Council including an application to apply for assistance to improve bicycling infrastructure in Delaware. Town Manager Burke asked Council to approve for him to apply to the Delaware Bicycle Council for funding to improve bicycle infrastructure throughout Town.

**Motion** – Motion made for Town Manager Burke to apply for funding from the Delaware Bicycle Council to improve bicycle infrastructure in Town – Council Member Bunting

**Second** – Council Member Mais

**Discussion** – Council Member Weistling asked if there was a cap on funds requested. Town Manager Burke stated that there is no cap for the application and applications are considered as received. A decision will be made by December 15.

**Vote** – (7-0)

- **2015 Fenwick Flicks Summer Review** – Executive Director Kristie Maravalli of the Bethany-Fenwick Chamber of Commerce reported that the Fenwick Flicks were a great success even though two movie nights were rescheduled due to rain. The Chamber would like to continue the partnership with the Town of Fenwick Island and requested an \$800 sponsorship fee for the 2016 Fenwick Flicks. Executive Director Maravalli also wanted to thank the public works, police and the lifeguard departments for their assistance with the movie activities.

**Motion** – Motion made to approve the \$800 sponsorship for the 2016 Fenwick Flicks – Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – none

**Vote** – (7-0)

- **Committee Participation Application** – Council Member Lee stated that it is her understanding that the Mayor selects the Committee Chairperson and the Committee Chairperson selects the committee members. She made a motion to alter the Town Committee participation application process.

**Motion** – Motion made to allow the Council Members to participate in the selection of some of the committee members - Council Member Lee

**Second** – Council Member Williams

**Discussion** – Council Member Weistling stated that through the years, the Committee Chairman has always been able to choose their participants on the committee. In most cases there is no limit to the number of members but would like to keep Charter and Ordinance committee to seven members. He feels it should be left to the committee chair to choose his people. Council Member Lee stated there has to be a way to get new people in Town involved in the committee process.

**Vote** – (2-5) **Motion not passed**

- **2015 DTF Grant Resolution** – Town Manager Burke read into the record Resolution #69-2015

#### **NOTICE**

On September 25, The Fenwick Island Town Council Passed the Following **RESOLUTION #69-2015**

#### **AUTHORIZING SUBMISSION OF A DELAWARE LAND AND WATER CONSERVATION TRUST FUND (DTF) 2015 PARK GRANT APPLICATION, IDENTIFYING A PROJECT MANAGER THEREFOR, IDENTIFYING FINANCIAL INVESTMENTS THEREFOR, AND CONFIRMING A COMMITMENT TO MAINTAIN THE FENWICK ISLAND COMMUNITY PARK**

**WHEREAS**, the Delaware Land and Water Conservation Trust Fund (DTF) is accepting applications for grant assistance to fund park projects that fall into the following categories: park master planning, outdoor recreation facility construction, purchase of park or conservation lands and park design and engineering; and

**WHEREAS**, the Town currently has an existing Fenwick Island Community Park (FICP) and would like to improve said FICP by creating a second playground area for older children on the grassy, undeveloped area located within the FICP; and

**WHEREAS**, the Town Manager, who has and will continue to manage this project, has prepared and completed the necessary application to request \$21,292.00 in grant assistance from the Delaware Land and Water Conservation Trust Fund (DTF); and

**WHEREAS**, the Town has available, not to exceed \$25,000.00 in matching funds, for a total project cost of \$42,585.00, should the Town's grant request be approved by the Delaware Land and Water Conservation Trust Fund (DTF); and

**WHEREAS**, should the Town's grant request be approved by the Delaware Land and Water Conservation Trust Fund (DTF), the future maintenance of the FICP, as improved by the addition of a second playground

area for older children, is presently secured by 5% of the Town's realty transfer taxes that are deposited into a parks and recreational maintenance account, as well as the public works department operating account and reserve accounts as necessary.

**NOW THEREFORE, BE IT RESOLVED** by the Town Council in session met, a quorum pertaining at all times thereto, that:

- (1) The Town Manager of the Town of Fenwick Island is hereby authorized to submit an application requesting \$21,292.00 in grant assistance from the Delaware Land and Water Conservation Trust Fund (DTF) for the purpose of creating a second playground area for older children within the Town's existing Fenwick Island Community Park (FICP); and
- (2) The Town Manager of the Town of Fenwick Island is hereby appointed as the project manager for purposes of submitting the above-described application and for purposes of supervising the FICP project should the grant be approved by the Delaware Land and Water Conservation Trust Fund (DTF); and
- (3) A total sum of \$21,292.00 in matching funds, for a total project cost of \$42,585.00, is hereby approved to be used in conjunction with the \$21,292.00 in grant assistance from the Delaware Land and Water Conservation Trust Fund (DTF), should such grant assistance be approved by the Delaware Land and Water Conservation Trust Fund (DTF); and
- (4) Should the Town's grant request be approved by the Delaware Land and Water Conservation Trust Fund (DTF), it is hereby confirmed that the Town is committed to the future maintenance of the FICP, as improved by the addition of a second playground area for older children, and the funding for such future maintenance is presently secured by 5% of the Town's realty transfer taxes that are deposited into a parks and recreational maintenance account, as well as the public works department operating account and reserve accounts as necessary.

I, Diane Tingle, Secretary of the Town Council of the Town of Fenwick Island, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the Town Council at its Regular Meeting held on September 25, 2015, at which a quorum was present and voting throughout and that the same is still in full force and effect.

**Therefore**, the Town Council, of the Town of Fenwick Island, on behalf of the citizens and property owners of the Town of Fenwick Island, in order to accomplish this goal, do hereby establish for this purpose, and do hereby

*Attest:* \_\_\_\_\_  
*Linda M. Poole, Town Clerk*

\_\_\_\_\_  
*Eugene Langan, President of Council*

\_\_\_\_\_  
*Diane B. Tingle, Council Secretary*

*I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on November 25, 2015, at which a quorum was present and voting throughout and the same is still in force and effect.*

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*Date*

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*Diane B. Tingle, Council Secretary*

**Motion** – Motion made to approve Resolution #69-2015 to proceed with the DTF Grant funding – Council Member Weistling

**Second** – Council Member Bunting

**Discussion** – Council Member Weistling stated this is a considerable expense without the DTF Grant funding. Town Manager Burke stated that on November 5<sup>th</sup> the Parks Council will meet to make its decision on applications. He feels the Town has a strong chance for approval. It was approximately 10 years ago the Town applied for DTF Grant funding Assistance to construct the original Fenwick Island Community Park and the Town just recently invested over \$30,000 to renovate the park including a \$10,000 grant from Sussex County Council.

**Vote** – (7-0)

- **Charter and Ordinance Committee Chairperson** – Mayor Langan asked Council Member Weistling to speak. Council Member Weistling stated that the Charter and Ordinance Committee is one of the most important Committees we have in Town and there is no formal process in naming the Chairperson. He feels Council should consider this position the same as Treasurer, Secretary or President and should be voted on by Council. Council Member Tingle stated that Council Member Weistling should complete this year and applications should be taken the next year.

**Motion** – Motion made to accept Council Member Weistling for the Chair of the Charter and Ordinance Committee for the 2015/2016 year – Council Member Tingle

**Second** – Council Member Bunting

**Discussion** – none

**Vote** – (6-0) Council Member Weistling Abstained.

## **APPROVAL OF MINUTES**

**Motion** – Motion made to approve the Minutes of August 28, 2015 - Council Member Bunting

**Second** – Council Member Lee

**Discussion** – Correction to page 6 and correction to the last Council Minutes date.

**Vote** – (7-0)

## **TREASURER’S REPORT**

Council Member Bunting reported: The monthly report is a summary of all account balances through **August 31, 2015** and other pertinent financial information since the prior month’s Town Council meeting.

### **Reserve Balance**

- \$2,222,800.42

### **FY 2016 Operating Budget**

- 20.59% of Budgeted Income
- 10.21% of Budgeted Expenses

### **Realty Transfer Tax (1.5% local tax)**

- \$ 0 (none received in August)

### **Outstanding Taxes and Late Fees (FY14 and FY15)**

- n/a *Note:* 31.8% of taxes due by 9/15/15 have been collected.

**Revenue Highlights**

- 31.87% of real estate property tax budget (collected \$219,19)
- .87% of rental receipt tax budget (collected \$2,270)
- 31.21% of parking violations budget (collected \$4,465)

**Municipal Street Aid Report**

- Received MSA Grant FY16 \$32,131.30 on 8/10/15 **Balance \$52,573.95**

**Dedicated Street Fund**

- No report/No expenditures **Balance \$51,721.83**

**Parks & Recreation**

- \$6,600 expenditures (\$3,899 irrigation completion; \$812 electric service; \$256 Peninsula Oil; \$122 supplies)

**Motion** – Motion made to accept the Treasurer’s Report as read – Council Member Tingle

**Second** – Council Member Weistling

**Discussion** – none

**Report accepted**

**TOWN MANAGER’S REPORT**

**Projects / Updates**

- The Town of Fenwick Island Newsletter was posted on the website and mailed to property owners. The next newsletter will be mailed in January, 2016.
- Town management / staff have commenced FY 16 Capital Improvements Plan purchases.
- Town management commenced the FY 15 Audit with Sombar and Associates. The final Audit report will be presented at the December Council meeting.
- Management and staff continue to improve and update information on the Town website.

**Grant Applications (approved and pending)**

- **2014 DNREC Surface Water Matching Planning Grant (approved for \$22,000, 50% Town of Fenwick match)**

Town management and AECOM met with the Sussex Conservation District (SCD) on site to discuss the project. Construction should commence in early November.

- **2015 DNREC Recycling Grant (approved for \$3,000, 100% State of DE)**

Approved by DNREC. Town management executed the Contract and will commence purchasing after October 1st.

- **2015 DNREC DTF Grant (pending \$42,585, 50% Town of Fenwick Island)**

Town management submitted the grant application for the F.I. Community Park phase 2 improvements. DNREC will consider funding in November.

- **2015 DNREC Surface Water Matching Planning Grant (approved for \$13,000, 50% Town of Fenwick Island match)**

Town management and AECOM met with the Sussex Conservation District (SCD) on site to discuss the project. Construction should commence in early November.

- **2016 DNREC Surface Water matching Planning Grant (pending \$30,000, 50% Town of Fenwick Island match)**

AECOM submitted a grant application to perform water quality designs at three separate locations within the Commercial Zone. The project cost breakdown is as follows: surveying, geotechnical analysis, engineering and permits.

- **2015 American Lung Association Grant (pending \$1,389, 100% State of DE)**

Town management submitted a grant application for additional outreach items with the support of the Town Environmental Committee.

### **DEPARTMENT REPORTS**

- **Building Official** – The August monthly report was included in the Council meeting packet.
- **Public Works** – The August monthly report was included in the Council meeting packet. Mobi-mats will start being removed in early October starting on Lewes and heading south. Public Works will be picking up yard waste in October, brown paper bags only. They will not pickup black plastic bags.
- **Beach Patrol** – We are at the end of the great season and thanked Council for all their support. The side-by-side has been great for the Town.
- **Police Department** – The August monthly report was included in the Council meeting packet. The construction on the bathroom in the prisoner area has started. This will be covered by grant funds. We started a fund raiser for one of our employee’s. One of our police officers wife is expecting their first child in the next couple of weeks. The baby has been diagnosed with a prenatal congenital heart defect (Transposition of the greater arteries - TGA) where the main arteries of the heart are connected on the opposite sides. Also, one of the major arteries has a weakness and will need to be grafted. Our healthcare will cover but the out of pocket expenses has already started to accumulate, as the birth will take place at the Children Hospital in Philadelphia. The couple needs housing in Philadelphia both before and after the birth. They tried to get into the Ronald McDonald house and discovered that it’s booked one year in advance. There are two ways to donate, one is through an on line account that has been setup, GofundMe.com and the other is the Baby Lowe account at PNC. The funds will help offset the costs of co-pays, living expenses, gas and out of pockets expenses. We have had great support from the neighborhood.

### **TOWN COMMITTEE REPORTS**

**Charter and Ordinance** – Council Member Weistling – Proposed First Reading – Chapter 116 – Gun Ordinance read into the records:

*Proposed First Reading – September 25, 2015*

#### **CHAPTER 116 ARTICLE III**

#### **ORDINANCE REGULATING THE POSSESSION OF FIREARMS, AMMUNITION, COMPONENTS OF FIREARMS, AND EXPLOSIVES IN MUNICIPAL BUILDINGS, ON MUNICIPAL PROPERTIES AND IN POLICE STATIONS IN THE TOWN OF FENWICK ISLAND**

**WHEREAS**, by and through adoption of House Bill 192 by the 148<sup>th</sup> General Assembly of the State of Delaware (“HB192”), codified at Title 22, Section 111 of the Delaware Code, municipalities are permitted to adopt Ordinances regulating the possession of firearms, ammunition, components of firearms, or explosives in municipal buildings, on municipal properties and in police stations.



**WHEREAS**, the Mayor and Town Council desire to add a new Article III to Chapter 116 (Peace and Good Order) of the Code of the Town of Fenwick Island to prohibit possession of firearms, ammunition, components of firearms, or explosives in municipal buildings, on municipal properties and in police stations to the fullest extent permitted by HB 192.

**WHEREAS**, the Town of Fenwick Island has introduced this Ordinance in accordance with procedures established by law.

**NOW THEREFORE, IT IS HEREBY ORDAINED**, by the Town of Fenwick Island, that the following Code changes and revisions are adopted:

**CHAPTER 116. Amend by adding Article III (Gun Ordinance) to the Code of the Town of Fenwick Island the following language:**

**§ 116-14A. Possession of Firearms, Ammunition, Components of Firearms, or Explosives in Municipal Buildings, on Municipal Properties and in Police Stations Prohibited:**

1. Prohibition. Except as set forth in §116-14A(5), possession of firearms, ammunition, components or firearms, or explosives in municipal buildings, on municipal properties and police stations is prohibited in all municipal buildings, on municipal properties and police stations.
2. Municipal Buildings/Properties Defined. For the purposes of this section “municipal buildings/properties” are defined as any building or property where the Town meets or owns in its official capacity, or any building or property containing the office of elected officials and/or public employees actively engaged in performing government business. The definition of “municipal building or property” also includes any non-Town owned or leased building or property where the Town is meeting or occupying such a building or property, but only during the time that the Town is meeting in or occupying such a building or property.
3. Required Signs. In all municipal buildings, on municipal properties and in police stations, a conspicuous sign shall be posted at each entrance stating that the possession or firearms, ammunition, components of firearms, or explosives are prohibited. Such sign may but is not required to also state that persons in violation may be denied entrance to the building and/or property or be ordered to leave the building and/or property.
4. Immediate Departure. Any person who immediately foregoes entry or immediately exits any municipal building, municipal property or police station due to the possession of a firearm, ammunition, components or firearms, or explosives shall not be guilty of violating this section.
5. Exemptions. Nothing in this Article III shall be deemed to prevent in municipal buildings, on municipal properties or in police stations:
  - a. Possession of firearms, components of firearms, and ammunition or explosives by law enforcement officers;
  - b. Law enforcement agencies receiving shipments of delivery of firearms, components of firearms, ammunition of explosives;
  - c. Law enforcement agencies conducting firearms safety and training programs;
  - d. Law enforcement agencies conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;

- e. Possession of firearms, components of firearms, and ammunition or explosives by law enforcement officers;
  - f. Law enforcement agencies receiving shipments of delivery of firearms, components of firearms, ammunition of explosives;
  - g. Law enforcement agencies conducting firearms safety and training programs;
  - h. Law enforcement agencies conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;
  - i. Compliance by persons subject to protection from abuse court orders;
  - j. Carrying firearms and ammunition by persons who hold a valid license pursuant to either § 1441 or § 1441A of Title 11 of the Delaware Code so long as the firearm remains concealed except for inadvertent display or for self-defense or defense of others;
  - k. Carrying firearms and ammunition by officers or employees of the United States duly authorized to carry a concealed firearm; or
  - l. Carrying firearms and ammunition by agents, messengers and other employees of common carriers, banks, or business firms, whose duties require them to protect moneys, valuables and other property and are engaged in the lawful execution of such duties.
6. Penalties. Any person who shall violate or fail to conform to any provision of this Article shall be subject to penalties under this article not exceeding \$200 for each day of the violations, as well as the Town's costs and expenses, including reasonable attorney's fees, incurred to enforce the provisions of this Article and/or to collect the penalties imposed hereunder. Penalties assessed for a violation of this Article shall be considered civil penalties and any action brought for the recovery of the penalties by the Town shall be brought in any civil court of competent jurisdiction.

**§ 116-14B. Severability.**

The provisions of this Article shall be severable. If any provisions of this Article are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Article shall remain valid, unless the court finds that the valid provisions of this Article are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that the Town of Fenwick Island would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the Town of Fenwick Island's intent. To the extent that this Article is deemed to exceed the statutory authorization provided by HB 192, the Town of Fenwick Island's intent is to implement the provisions of HB 192 to the fullest extent permitted, and this Article should be interpreted so that any invalid provision is limited only to maximum authorization permitted by HB 192.

**§ 116-14C. No Repeal of Existing Firearms Related Ordinances.**

Adoption of this Article shall in no way repeal or alter any law, ordinance or regulation prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or ammunition enacted before July 4, 1985. To the extent that this Article conflicts with any similar ordinance prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or ammunition enacted before July 4, 1985, the more stringent of the two ordinances shall govern.

**§ 116-14D. Effective Date.**

This Article shall become effective immediately upon its adoption by the Town of Fenwick Island.

**Motion** – Motion made for Council to approve the First Reading of chapter 116 – Gun Ordinance – Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – Council Member Bunting stated he believes that the City of Lewes has already addressed this along with a couple of other Towns in Northern Delaware and feels the Town should go forward with this.

**Vote** – (7-0)

**Charter and Ordinance** – Council Member Weistling – Proposed First Reading – Chapter 160 - Zoning:

***PROPOSED FIRST READING – SEPTEMBER 25, 2015***

***CHAPTER 160 – ZONING***

***§ 160-2. Definitions and word use.***

**Existing:**

B. For the purpose of this chapter, certain terms and words are defined as follows:

MOTEL/HOTEL – A building containing ***16 or more sleeping rooms*** occupied by transient persons as guests for compensation on a daily basis. Each motel/hotel building shall include an on-site management and reception area, daily housekeeping services, and a lighted exterior sign identifying the name of the motel/hotel and the vacancy/no vacancy status. Sleeping rooms may be offered individually or in combination in suites.

**Proposed:**

B. For the purpose of this chapter, certain terms and words are defined as follows:

MOTEL/HOTEL – A building containing ***no less than 16 nor more than 65*** sleeping rooms occupied by transient persons as guests for compensation on a daily basis. Each motel/hotel building shall include an on-site management and reception area, daily housekeeping services, and a lighted exterior sign identifying the name of the motel/hotel and the vacancy/no vacancy status. Sleeping rooms may be offered individually or in combination in suites.

***§ 160-5C. Area Regulations.***

**Existing:**

(5) Each motel/hotel permitted to be erected or altered hereafter shall occupy a lot(s) providing a minimum of ***1,000*** square feet of land area for each sleeping room ***therein***, not to exceed a total of 65 sleeping rooms, including sleeping rooms in any apartment including sleeping rooms in any apartment included in the motel/hotel building.

**Proposed:**

(5) Each motel/hotel permitted to be erected or altered hereafter shall occupy a lot(s) providing a minimum of **600** square feet of land area for each sleeping room, **not to exceed a total of 65 sleeping rooms**, including sleeping rooms in any apartment included in the motel/hotel building.

**Motion** – Motion made for Council to approve the First Reading of Chapter 160 – Zoning, §160-2 Definition and §160-5C – Area Regulations – Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – Council Member Weistling stated that this topic was discussed at four (4) Charter and Ordinance Committee meetings from May through September and was also brought up at the August Council meeting last month, for discussion to allow comments from the public. The majority of the members of the Charter and Ordinance Committee supported the change to the 600 square foot, 65 room range. There are two (2) existing hotels in Fenwick Island, one has 61 rooms for 650 square feet and the other has 62 rooms for 363 square feet. It was the opinion of the Charter and Ordinance Committee that two hotels in Town have above 60 rooms and there have been no problems in the past with these two hotels. The Sands Motel is probably the second oldest building in Town of Fenwick Island, approaching sixty (60) years old. The motel is in bad condition and this gives us the opportunity to build a new hotel equivalent to the two existing hotels/rooms. Council Member Tingle mentioned that the Council had spoken of a moratorium and we all agreed that we needed to consult the Town Solicitor to see how long we could have a moratorium. Town Solicitor, Mary Schrider-Fox stated that there is no set rule. The Town can set it for any amount of time, but should follow the process as with any other zoning changes and you will need to justify the time for the moratorium with your Comprehensive Plan. Council Member Weistling commented the Town Solicitor has been asked to research this and get back to Council on wording for a proposed Ordinance change for a moratorium on this particular issue. Council Member Lee asked if the moratorium was set for three (3) years, can it be changed after one if the Town decides to make that change. Town Solicitor stated yes as long as you follow the same process.

**Vote** – (5-2) opposed Council Member Williams and Council Member Lee – Motion Passed

- **Beach Committee** – none
- **Environmental Committee** – Chair Mary Ellen Langan stated that the Committee met on September 17<sup>th</sup> but she unfortunately was not able to attend; member Buzz Henifin chaired the meeting. Town Manger Burke has applied for a grant to add tobacco prevention signage to the lifeguard chairs in 2016. Also, there is one large concern they have in Town, the Southern Pine Bark Beetle. They are killing the pine trees, so watch for any changes to your pine trees. Tracey Redding, who does yard work said she has taken down eight (8) trees this summer. She said there are several dead trees around Town that need to be taken down. There is not treatment, only removing the dead trees to eliminate the problem. She would like to ask the Town to hire an Arborist to verify these trees are dead from the Southern Pine Bark Beetle and then ask the property owner to have the trees removed as soon as possible. Also, Sally Craig and Chair Langan participated in the Coastal Clean Up which had very low attendance. Next meeting will be October 15<sup>th</sup>, 2015 at 2:30 p.m.
- **Technology Committee** – Next Meeting will be October 15<sup>th</sup>, 2015 at 10:30 a.m. and will have a presentation from Mr. Earl Babb from General Code.
- **Business Development Committee** – The next meeting will be October 14<sup>th</sup> at 2:00 p.m. The Committee is looking for more participation at the next meeting from the public.
- **Ad hoc Parks Committee** – Town Manager Burke stated that a meeting will be scheduled in the near future.
- **Planning Commission** – none

- **Old Business** – none
- **New Business** – Council Member Lee stated that she felt it was important to select an *Ad hoc* Election Committee, and she would be willing to Chair, to review, notify and clarify. This would be to develop a paper that clearly explains the process for registration, absentee ballots and what needs a Notary and Power of Attorneys. We need to get this information out in a timely manner so everyone in Town can vote. Town Manager Burke suggested putting together a rack card with this information. Mayor will add an *Ad hoc* Election Committee and appointed Julie Lee as Chairperson. Council Member Lee asked about the survey that will be going out to the property owners. Mayor Langan stated they will be asking how the community feels about free boarding, and if we were to pass free boarding, would they also like us to raise the height limit. They will also be asking the resident an open ended question, “What else do you think the Town should be doing?”

## **PUBLIC PARTICIPATION**

Mayor Langan announced there will be new rules for the public participation section of the monthly agenda. Each participant will be given three minutes to speak. Questions and comments should be addressed to Council and not to the employees. Lastly, please no criticizing of the employees in public. If you have an issue, make an appointment and speak to them in person. Also, there will be no questions to other people in the audience. Direct all comments to Council and the Council Members will decide who should answer the question or if we are going to answer it.

- Vicky Carmean – 38 Ebb Tide Cove – She has an issue with the acoustics in the Town Hall. Very hard to hear Council Members. Also, the median need work, as they are full of weeds. She would also like to see hard copies of the Council packet provided to the public.
- Richard Benn – 1306 Bunting Ave. – He wrote a letter to each Council Member (letter not available to public) wanted to know why the Council was taking its current views on the zoning for the commercial area. He feels it doesn’t fit with the Comprehensive Plan.
- Tim Collins – 22 W. Georgetown St. – He wanted to complement Police Chief Boyden with his assistance arresting a serial shoplifter this spring. Mr. Collins followed up with the Town officers and was able to come to a legal resolution with the offender. He wanted to say thank you. Mr. Collins also wanted to know if there was any way a zone can be defined for motels. Or can the current zone be limited to a certain area instead of covering the entire town? Council Member Whistling stated they have discussed this topic with the Town Solicitor. A new hotel zone could be specific areas of the Town or include an area of with the limited number of hotels. This could be one of the discussions for review during the Comprehensive Plan recertification.
- Susan Klein – 1305 Bunting Ave. – In reference to the moratorium, what is this in reference to? Council Member Weistling stated this would be for no further hotels built in the Town for whatever the period of the moratorium is. Ms. Klein also asked the Council to include free boarding information within the survey.
- Jim Simpson – 1 Lewes St. – Mr. Simpson asked a general zoning question. What if the owner of the Sands Hotel, what are his rights to build without coming to Town Council to get a variance? Council Member Weistling stated that the Town Code lists the allowable business in Town. The Sands Property could be a gas station, a strip mall, a hotel, could be Retail mixed use, WAWA or restaurant. There is a list of allowable businesses in our Town Code Book.
- Ben Waide – 12 W. Dagsboro St. – The Council voted to continue to have the Chairman select the membership. If it means expanding the membership, the Chairman works very hard to make sure their committee is represented.

- Lynn Andrews – 1205 N. Schulz Rd. - She found it a terrible shock that those of us who are planning our financial future put their property in Trusts. Both groups pay taxes and we both have input as to what goes on in Town, and to deny the second person the right to vote is an infringement of our constitutional right. Mayor Langan stated that residents in Trusts are both allowed to vote. Lynn stated that this information needs to be made clearer.
- Mary Ellen Langan – 5 E. King St. – She stated that anyone who wants to join the Environmental Committee will be accepted.
- Dottie Lopez – 1007 Bunting Ave. – She asked why the Council is changing the zoning of the Sands Hotel for one man? Council Member Weistling stated what you are saying would be correct if we had no hotels in Town. There are two (2) hotels in Town that have 61 and 62 rooms. They are successful with no problems. The Sands' owner requested to have a hotel with 78 rooms, which the Charter and Ordinance Committee rejected. Council member Weistling stated the Council was not changing the zoning for the owner of the Sands. There already is a precedent with two (2) hotels in Town, with no negative impact from anyone, so another hotel with the same amount of rooms shouldn't have any impact in Town.
- Mark Tingle – 1605 Coastal Highway – Mr. Tingle stated that a nicer or better hotel would bring a higher quality of customers to Town, and thus eliminating the problems discussed. He is not sure why the Town is doing the opinion survey.
- Chris Clark – 1100 Schulz Rd. – Mr. Clark read a lot about the Comprehensive Plan in newspapers, meetings and reviews. He believes that some people may be a little off in what their perception is of the Comprehensive Plan. He invited them to go back and reread word for word the Commercial Area of the Plan. There was a group of over 100 people in Town who participated in the Comprehensive Plan. They returned saying they didn't like the existing commercial district the way it stands. They wanted more inviting and more welcoming Commercial District that presented a seaside beach community. It was not necessarily about how many hotel rooms or height limits. They would have to be addressed by changing ordinances as to what is being reviewed right now. One thing everyone agreed upon was having a better looking Town. Did it mean that we might have to raise heights limits for elevator shafts, possibly? Does it mean we might have to change square footage or change signage, absolutely to all these. Change isn't easy, free boarding isn't easy but these things are a matter of fact that have to be addressed.
- Doug Lopez – 1007 Bunting Ave. – The law was changed in 1986, directly because of the two hotels that were built. From that perspective, we are going away from the Comprehensive Plan.
- Jackie Ferry – 2 E. James St. - Something needs to be done with the Sands, but she feels what the Town is doing with the ordinance is a concern, futuristically for Fenwick Island.
- Jody Hayden – 4 E James St. – How do you notify the public of a Public Hearing of zoning changes? Council Member Weistling stated this is the 6<sup>th</sup> public meeting the Town has had on this zoning change. The Town has had four (4) Charter and Ordinance Committee meetings. It was brought up in the August Council meeting, in this Council meeting for review and we still have a Public Hearing and a Second Reading, which will be eight (8) times since May that we will have a Public meetings on this issue. All of the meeting are open to the Public and advertised. You can check the Coastal Point every week that list all the activities in Fenwick Island. We start this process in May, when everyone is here, and will wrap up in October. Council Member Weistling is not sure what else the Council can do. If anyone has any ideas, please let him know. Council Member Lee stated that we need clearer advertisement. We need clearer direction on the website for information. Town Manager Burke stated we can have a public workshop on the website, Facebook and Twitter.
- Buzz Henifin – Windward Way – It doesn't look good if you have three or four members of the Council on each committee. It looks like we are being forced to do what Council wants. Please be considerate of this when assigning members to committee.

- Kenneth Broadwater – 1 Indian St. – On this ordinance change, today was the first reading and October 23<sup>rd</sup> will be the second reading, when is the Public Hearing? Council Member Weistling stated it will be before the Council Meeting on October 23<sup>rd</sup> at 3:00 p.m. Mr. Broadwater asked, “What if you want to do something different than that or are we locked into the 600 square feet. Is there some give and take on this?” Council Member Weistling stated that’s the way it stands at this time. But if new information becomes available in the next month or at the Public Hearing any of these ordinances can be amended at the Second Reading.

- **UPCOMING MEETINGS AND EVENTS**

Mayor Langan announced the following upcoming meetings and events as follows:

- |    |            |            |  |
|----|------------|------------|--|
| a. | October 6  | 9:30 a.m.  | Charter & Ordinance Committee meeting  |
| b. | October 13 | 2:30 p.m.  | Planning Commission meeting            |
| c. | October 15 | 10:30 a.m. | Technology Committee meeting           |
| d. | October 15 | 2:30 p.m.  | Environmental Committee meeting        |
| e. | October 14 | 10:30 a.m. | Business Development Committee meeting |
| f. | October 23 | 3:30 p.m.  | Regular Council meeting                |

**Motion to Adjourn** – Council Member Bunting

**Second** – Council Member Langan

**Discussion** – none

**Vote** – (7-0)

Meeting adjourned at 5:45 p.m.

*\*Transcribed by Linda Poole, Town Clerk  
for Council Member Diane Tingle, Secretary*