

TOWN OF FENWICK ISLAND, DELAWARE

Minutes of the April 1, 2016, 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, Julie Lee, Richard Mais, Roy Williams

Staff in Attendance: Town Manager Burke, Town Clerk Poole, Public Works Supervisor Reed, Building Official Schuchman, Lieutenant John Devlin,

PRESIDENT’S REPORT

- Mayor Langan announced the passing of former council member Theo Brans on March 27th. The town sends sincere condolences to the family. Council Member Weistling added that Theo was the leader in getting professional lifeguard service in town. Theo participated/volunteered in the hiring of the lifeguards and responsible for hiring Tim Ferry to the Town of Fenwick.
- Mayor Langan announced several service awards: Corporal Stephen Majewski, 12 years; Corporal Stephen Lowe, 2 years; and Town Manager Merritt Burke, 4 years.
- Mayor Langan added that DNREC has been up on the beach removing the old snow fencing and posts that were damaged. DNREC has informed the town they will be back before the summer to repair the fencing and address the dunes.
- The first budget meeting will be April 27th, 2016 at 1:00 p.m. to discuss and review the items in the fiscal year FY 2017 budget.
- Reminder from the Mayor – If you have black pine trees on your property, and they are diseased, please remove them so they don’t infect other trees.

TOPICS FOR DISCUSSION AND POSSIBLE ACTION

- **2016 Beach Service Bid Award – Town Manager Burke** – The Town of Fenwick Island published a bid for 2016 Beach Service Concession for beach chairs and umbrellas for the town beach and the State Line Beach. The town will issue the license starting May 29th, 2016 and ending September 10th, 2018, for the 3 year term. The town had one bidder, Mr. Ron Steen. Town Manager Burke recommended to council that you approve the bid for \$3,212.00.

Motion – Motion made to accept the bid from Mr. Ron Steen – Council Member Tingle

Second – Council Member Mais

Discussion – None

Vote: (7-0)

- **Resolution – Earth Day – Town Manager Burke** – The town will have its first Earth Day Event to be held on April 22, 2016 at the Town Hall at 9:00 a.m. to clean the town streets. Donuts and coffee

will be provided for all who sign up, along with an event tumbler.

- Read Resolution #76-2016 into the Record.

NOTICE

On April 1, 2016 the Fenwick Island Town Council

Passed the Following Resolution #76-2016

Whereas, the global community now faces extraordinary challenges such as environmental degradation, climate change, food and water shortages, and global health issues; and

Whereas, all people, regardless of race, gender, income, or geography, have a moral right to a healthy, sustainable environment; and

Whereas, it is understood that the people of Fenwick Island must step forward and take action to create positive environmental change to help combat the aforementioned global challenges; and

Whereas, a sustainable environment can be achieved on the individual level through educational efforts, public policy, and consumer activism campaigns; and

Whereas, Earth Day is an opportunity to increase environmental awareness, and broaden support for environmentally sound policies;

Therefore, the Town Council, of the Town of Fenwick Island, do hereby proclaim April 22, 2016 to be Earth Day in Fenwick Island. I encourage all residents to join the Town Council in celebrating the earth, as we continue to build a thriving community of residents empowered for environmental protection.

Attest: _____
Linda M. Poole, Town Clerk

Eugene N. 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 April 1, 2016, at which a quorum was present and voting throughout and the same is still in force and effect.

Date

Diane B. Tingle, Council Secretary

Motion – Motion made to accept Earth Day Resolution #76-2016 – Council Member Tingle

Second – Council Member Bunting

Discussion – None

Vote: (7-0)

- **Jr. Lifeguard Program Fee Amendment – Town Manager Burke** – Captain Tim Ferry has requested for your consideration to increase the fees for the Jr. Lifeguard Program. Current fees are \$65.00, proposed fee - \$75.00 for the regular session and \$95.00, proposed fee - \$120.00, for the advanced session.

Motion – Motion made to increase the Jr. Lifeguard Program fees – Council Member Mais

Second – Council Member Lee

Discussion – Council Member Weistling added, it’s a popular program and it is discussed every year at budget time. The town has raised the fees accordingly over the past few years and the town is still in the range with the other towns.

Vote: (7-0)

APPROVAL OF MINUTES

Motion – Motion made to approve the Minutes of February 26, 2016 with correction on page 12 lights - Council Member Weistling

Second – Council Member Lee

Discussion – None

Vote – (7-0)

TREASURER’S REPORT

2016 Monthly Report

Summary The monthly report is a summary of all account balances through **February 29, 2016** and other pertinent financial information since the prior month’s Town Council meeting.

Cash Balance

- Beginning cash balance 2/1/2016 \$2,537,379.27
- Ending cash balance 2/29/2016 \$2,460,180.00
- Reserve Realty Transfer Tax Funds \$1,471,507.81 **included above in cash balances*

FY 2016 Operating Budget (8/1/15-2/29/16)

- 87.85% of Budgeted Income
- 57.82% of Budgeted Expenses

Realty Transfer Tax (1.5% local tax)

- Taxes collected in February \$0
- Total taxes collected in FY16 \$56,543.59

Outstanding Property Taxes

- \$ 11,552.30

Revenue Highlights

- 99.45% of real estate property tax budget (collected \$0 in Feb)
- 106.96% of rental receipt tax budget (collected \$12,408.11 in Feb)
- 75.76% of parking violations budget (collected \$50.00 in Feb)

Municipal Street Aid Report

- \$1,254.03 in expenses (Delmarva Power)
- \$0 in expense (street repairs)

MSA Balance \$42,935.63

Dedicated Street Fund Report

- \$0 (*expenses*)
- \$0 (*Deposits*)

DSF Balance \$40,735.64

Parks & Recreation Fund Report

- \$228.50 in expenses. (Old Mill Impressions-bricks)
- \$0 (*Deposits*)

Parks & Rec Balance \$3,210.73

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

Second – Council Member Lee

Discussion - None

Vote: (7-0)

Treasurer’s Report accepted by Council

TOWN MANAGER’S REPORT

Projects / Updates

- The FY 2016 Street Maintenance project commenced in March.
- Management is moving forward on the Town Hall lobby project that consists of a new safety glass windows and new entrance doors with windows.
- Mrs. Katy Maglio will present the final GIS Needs Assessment report on Friday, May 27.
- The Commercial District Affiliate Program Application was approved by the State of DE.
- Town Management has started work on the draft FY 201 Financial Plan and draft 5-Year Capital Improvement Plan Budget. Both documents will be discussed at the April 27 Budget Committee meeting.
- Town management is in the process of ordering parking permits for the season.
- The new website is in the development stage. The DE Government Information Center should have the website finished no later than May 27.
- The Town website and social media websites were updated accordingly.
- Town Clerk Poole has started to prepare the voter registration list for Council approval at the May 27 Council meeting.
- The spring newsletter will be posted on the website no later than April 15.
- The 2016 Election will be held on Saturday, August 6 from 1-5 pm at Town Hall.

Grant Applications (approved and pending)

- **2015 DNREC Recycling Grant (approved for \$2,689, 100% State of DE)**
 - Grant purchases will be finalized by May 31.
- **2015 American Lung Association Grant (approved \$1,389, 100% State of DE)**
 - Grant purchases will be finalized by May 31.
- **2015 DNREC DTF Grant (pending \$42,585, 50% Town of Fenwick Island match)**
 - Town management executed the park proposal. Construction shall commence on April 6 and 7.
- **2016 DNREC Surface Water matching Planning Grant (pending, \$30,000, 50% Town of Fenwick Island match)**
 - Town management reapplied for funding to engineer three (3) drainage projects along Route 1. Grant applications of up to \$50,000 will be considered with a 1:1 cash match requirement. March 17 deadline was the deadline.
- **2016 DE Agriculture Micro Grant (pending, 100% State of DE)**
 - Town management applied for funding to improve the community garden area at the F.I. Community Park.

DEPARTMENT REPORTS

- **Building Official** – The March monthly reports were included in the Council meeting packet. Permits issued: Outside contractors 15, Resident Merchants 1 and rental licenses 5.
- **Public Works** – The March monthly report was included in the Council meeting packet. Waiting on the safety glass for the town hall and the arrival of the new pole lights.
- **Beach Patrol** – Thanked Council for the increase in fees for the Jr. Lifeguard Program. This helps with the expenses on increase costs of the shirts and bags given to all participants. Council approved a Jr. Lifeguard instructor which was added to the budget last year to keep from pulling one of the regular lifeguards from the stands. Mayor Langan asked Captain Ferry, “How many of your permanent guards have gone through the Advanced Jr. Lifeguard?” Captain Ferry stated from his returning staff of 25, 16 have completed the regular or advanced program. Return rate is excellent, he should only had to hire 5 new lifeguards for 2016 season.
- **Police Department** – The March monthly report was included in the Council meeting packet. Currently interviewing for the summer seasonal position.

TOWN COMMITTEE REPORTS

- **Charter and Ordinance** - Council Member Weistling – Proposed Second Reading - § 160-4 Residential Zone and § 160-5 Commercial Zone – Read into the record.

*Approved First Reading – February 26, 2016
Proposed Second Reading – April 1, 2016*

§ 160-4. Residential Zone.

Existing:

B. Height Regulations. No building shall exceed a height of 30 feet, except as provided in § 160-6A (2).

Proposed:

B. Height Regulations:

1. No building shall exceed a height of 30 feet, except as provided in § 160-8A (2).
2. Notwithstanding § 160-4B(1) above, where the principal building has a freeboard of 18 inches to 24 inches above base flood elevation (BFE), the principal maximum building height may be increased by said 18 inches to 24 inches, not to exceed a total building height of 32 feet measured from the highest point of the crown of the road.

§ 160-5. Commercial Zone.

Existing:

B. Height Regulations. No building shall exceed a height of 30 feet, except as provided in § 160-8A (2).

Proposed:

B. Height Regulations:

1. No building shall exceed a height of 30 feet, except as provided in § 160-8A (2).
2. Notwithstanding § 160-5B(1) above, where the principal building has a freeboard of 18 inches to 24 inches above base flood elevation (BFE), the principal maximum building height may be increased by said 18 inches to 24 inches, not to exceed a total building height of 32 feet measured from the highest point of the crown of the road.

Synopsis

The purpose of this amendment is to allow an increase of roof height based on freeboard for a building height of not more than 32 feet.

Motion – Motion made for Council to consider for approval the proposed second reading of Chapter §160-4 Residential Zone and §160-5 Commercial Zone - Council Member Weistling

Second – Council Member Mais

Discussion – Council Member Weistling stated, at our last Charter and Ordinance meeting the committee discussed these issues and voted on two (2) aspects that were brought up by Mike Quinn asking for a vote. One was to delay this vote until July which ended in a tie vote which didn't proceed and the second was

to withdraw the increased height ordinance itself and that ended up in a tie, so that did not proceed. There was a request by the committee members for council, in consideration of this vote, to apply this for new construction only. Council Member Lee is strongly opposed to this ordinance change. She stated “the proposed ordinance change, as written, DOES NOT address sea level rise. It DOES NOT encourage freeboard. It DOES NOT provide relief from flooding for those homes that need it most on the bay side. This is nothing more than a bold move, not even a veiled attempt, to raise the height limit.

As written this ordinance change allows most of the existing homes in Fenwick Island to raise their height by two feet without doing anything. The town is divided. The Charter and Ordinance Committee is split. This change is not consistent with the existing Comprehensive Plan. Yet you insist on pushing this through. The thinking and motives behind this rush to raise the height limit are questionable”.

“The survey question specifically addressed NEW CONSTRUCTION only. Any change to the ordinance should concern new construction and major renovations ONLY. Yet alternative wording was not even considered. I do not understand why this Council seems incapable of developing a thoughtful process to deal with development, as well as flooding issues, in our town”.

Council member Williams stated that he was also against this ordinance change. Council Member Bunting added, “The whole deal of freeboard was brought to our attention by FEMA. It was STRONGLY suggested by FEMA that the town consider this. Every town and every county in the state of Delaware has adopted some form of freeboard. The Town of Fenwick is the only one remaining to adopt freeboard. This is part of the sea level rise consideration. Chapter 88 was passed without freeboard and council agreed to readdress freeboard”.

**Council Polled: Council Members Mais, Bunting, Langan, Weistling and Tingle – Yes
Council Members Lee and Williams – No
Motion passed (5-2)**

- **Beach Committee** – The Bonfire is July 3rd with a rain date of July 4th. More information will be available soon.
- **Environmental Committee** – Chair, Mary Ellen Langan stated Town Manager Burke and Colleen Wilson are spearheading the Earth Day Event on April 22 from 9:00-11:30 a.m. Coffee and donuts will be served first and streets for cleanup will be assigned. There will be a raffle and drawings with prizes given. Everyone who participates will receive an event tumbler. On another note, everyone please check your trees for Pine Wilt Disease. If your trees are diseased, please have them removed immediately as to not infect your neighbor’s trees. Environmental Committee’s next meeting, April 14th at 2:30 p.m.
- **Technology Committee** – Next meeting will be scheduled when the new website draft is ready for review. Memorial Day is the target date to launch the new website.
- **Business Development Committee** – The new lights were all purchased by the business community. The only cost to the town is the labor for installation/setup and removal of the old lights. The Business Development Committee is working on some kind of activity for the first weekend in October. The Chamber Director, Kirsti Maravalli has volunteer to chair the committee and will be

looking for people to help. The committee has several ideas to bring people to Fenwick Island which will benefit anyone with a place to rent or businesses with both food and sales.

- **Ad hoc Election Committee** – A couple of changes need to be made on the new Voters Rack Card. Distribution will be included with the spring newsletter or included with the parking permit packets.
- **Ad hoc Parks Committee** - New park equipment will be installed on April 4-5.
- **Planning Commission** – Council Member Mais stated the committee has continued to meet with the consultant. The town completed the pre-plus application and received overall a good review with minor updates and areas that need to be address/added. The committee will continue to work on review/updates to the plan and will be scheduling several summer public workshops to present the changes and receive feedback.
- **Old Business** – The State of Delaware has opened up for discussion again for public comment on the oyster farming in little Assawoman Bay. Last year council agreed to send a letter to the State in opposition to this.
- **New Business** – After comments from the public Council reconsidered sending a second letter from the town. Town Manager Burke was requested to send a new letter in reference to the Aquaculture Project in little Assawoman Bay.

Motion – Motion made to revise the prior letter sent by Town Manger Burke on the Aquaculture Farming Project and resend - Council Member Tingle

Second – Council Member Bunting

Discussion – None

Vote: (7-0)

PUBLIC PARTICIPATION

- Mark Tingle – 1605 Coastal Hwy. – the State passed, Aquaculture for the State, and it was turned over to the Center of the Inland Bays to decide where the aquaculture farms were going. They had no one south of the Indian River Inlet involved in the decision making process. No consideration was given to the businesses/or water sport activity in area. There will be 25, one (1) acre parcels near Seal Island that will be available for lease if this permit is approved. It's open for public comment now. Just write a letter to DNREC which goes to the Corp of Engineers, stating that it is a navigation issue. This is a highly recreational issue. They take a highly recreational area and the state has total control of all the sub aquarist rights. There are taking a recreational area and turning it into a commercial fishing farm. There has been no public hearing or public notice. It was completely done by non-elected people as an advisory committee setup by the Center of Inland Bays. A perfect example of people not having any say and this will be a complete eye sore at the north in of our town.
- Vicki Carmean – 38 Ebb Tide Cove – Agrees with Mr. Tingle, what the Center of Inland Bays has done exactly the opposite of what was agreed upon. They agreed to put the farms back where the water was polluted and where no one would be bothered by the oyster farming, instead they are planning to do just the opposite. A new letter from the town needs to be sent with stronger language than the first one.

- Tim Collins – 1200 Coastal Hwy. – Mr. Collins wanted to comment on view points and opinions after seeing a letter to the editor. After reading these comments to the editor it was stated in a way that 1) the town council has been esqued in the last years to be very pro-business and that a lot that is going on in the community is for the benefit of the business community. 2) That Town Council has approved and passed an ordinance that allows multiple apartments in commercial buildings. He is not aware of that and only knows of one apartment being allowed in a commercial building. 3) Another statement was that Town Council has passed an ordinance that doubled the signage in the commercial zone. An ordinance was passed to modify the signage in some instances but nothing about doubling the signage throughout the commercial community. 4) The setbacks were changed by the council to significantly increase the size of commercial buildings. Mr. Collins is not sure how that formula works, but when you factor in the parking requirements the town has relative to the commercial site, he was not sure there is any significance increase to commercial buildings. 5) Another is the residential sector is subsidizing the trash collection for the commercial zone. The Commercial Zone does not pay the town for trash pickup because the commercial area contracts for their own trash pickup.
- Richard Benn – 1306 Bunting Ave. - The ordinance was changed from one apartment in a commercial building to allowing 1 apartment for every 6,000 square feet in a commercial building. The town did double the signage. Tim Collins disagreed with both statements. Richard Benn stated if someone would like to prove me wrong, please do.
- Kevin Carouge – 1006 Bunting Ave. - What do you do if your neighbor does not address their diseased trees. Is there something the town can do? Mary Ellen Langan replied at this time “NO”. Mrs. Langan is hoping the Environmental Committee can get the town to enact an ordinance that will require the homeowner to remove diseased tree. The committee hasn’t totally agreed to go down this road or not. Mr. Carouge asked if flyer could be handed out to all residents about the tree issue and how to have them removed if necessary. Mrs. Langan stated we are waiting for the GIS survey to report on the trees and then the committee can make recommendations.
- Lynn Andrews – 1205 N. Schulz Rd. – Asked for hard copies of the additional reports along with the financial reports available.
- Mike Quinn – 5 W. Houston St. – Can anyone explain why the utility company is putting more utility poles on Bunting Ave. and not taking the old ones out? Public Works Supervisor Reed stated that he spoke to the Engineer of Delmarva Power and they checked the poles and felt those poles needed to be replaced. So they are installing new poles, switching the service over and when everything has been transferred, the old poles will be removed.

UPCOMING MEETINGS AND EVENTS

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

- | | | | |
|----|---------|-------------------|---|
| a. | Apr. 5 | 9:30 a.m. | Charter and Ordinance Committee Meeting |
| b. | Apr. 12 | 2:30 p.m. | Planning Commission Meeting |
| c. | Apr. 14 | 2:30 p.m. | Environmental Committee Meeting |
| d. | TBD | 10:30 a.m. | Technology Committee Meeting |
| e. | Apr. 21 | 2:00 p.m. | Business Development Committee Meeting |
| f. | Apr. 21 | 9:30 a.m. | Ad hoc Election Committee Meeting |
| g. | Apr. 22 | 9:00 – 11:30 a.m. | Earth Day Celebration – Town Hall |

Approved 4.22.2016

- h. Apr. 22 3:30 p.m. Regular Council Meeting
- i. Apr. 27 1:00 p.m. Budget Committee Meeting

Motion to Adjourn – Council Member Weistling

Second – Council Member Tingle

Discussion – None

Vote – (7-0)

Meeting adjourned at 4:45 p.m.

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