

TOWN OF FENWICK ISLAND, DELAWARE

Minutes of the July 22, 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, Chief Boyden

PRESIDENT’S REPORT

- Mayor Langan presented certificates to the retiring Town Council Members Weistling and Tingle for ten (10) years of service to the Town of Fenwick. Also, a brick will be placed in the Town’s Community Park acknowledging their service and dedication to the town.
- Mayor Langan presented a certificate to the departing Town Manager Burke thanking him for service and noted his accomplishments over the past five (5) years.
- Mayor Langan stated that a new *Ad hoc* Financial Committee will be formed to address beach replenishment, canal dredging, gross rental receipt tax (both commercial and residential) and sidewalk funding. Committee Chair will be Council Member Mais. Also, the Emergency Management Committee will be changed to include Infrastructure (Emergency Management and Infrastructure. The committee will expand on it duties to oversee the counties repair work on the sewer pumping station between the police department and the parks. Bill Weistling will be working with the county on repairs/updating of equipment and progress on the project.
- Mayor Langan announced that Chief William Boyden has agreed to be the interim Town Manager until a new Town Manager can be hired. The job posting will be in the newspaper and ICMA website. Deadline to submit application is September 9th, 2016.

TOPICS FOR DISCUSSION AND POSSIBLE ACTION

- **Special Events Permit – 2016 Lifeguard Awards** – Town Manager Burke – The Bethany-Fenwick Chamber of Commerce request a Special Events Permit for the 2016 Lifeguard Awards sponsored by Hocker’s Super Center on August 18th at 5:00 p.m. on Lewes Street. This event honors the lifeguards with voting by their peers. The Chamber is requesting to set up a tent, DJ and a grill. The application fee is \$250 and \$400 for an police officer. The Chamber is requesting the fee of \$650 to be waived. The Town Manager and Chief of Police both support this event and council has been briefed on this event. Lauren Weave is the Events Manager and parking is available at the Chamber for the event. No parking allowed on the beach ends.

Motion – Motion made to approve the Special Events Permit for the Lifeguard Awards – Council Member Mais

Second – Council Member Lee

Discussion – Council Member Lee stated since Fenwick was hosting this event maybe Bethany and South Bethany could make a donation to help offset the expense of \$650 to the town.

Vote: (7-0)

- **Town Beach End Maintenance** – Public Works Supervisor Reed – After years of complaining about the dust on the beach ends, Town Manager Burke suggested requesting next year’s budget to support adding millings to all the beach ends. Lewes Street was done with the millings from the town road repairs. The cost to do all the street would be about \$1293.00 per street. This would mean 2 20 Ton load millings and ½ day rental of a roller for an estimated cost of \$14,223. The Town Manager added that the town just received \$31,975.99 Municipal Street Aid for 2017 and this could be used to support the project if council approves.

Motion – Motion made to amend the 2017 Capital Budget with \$15,000 to cover the project – Council Member Mais

Second – Council Member Bunting

Discussion – Council Member Weistling noted that this was discussed at the budget meeting but it was decided to waiting until Public Works Supervisor Reed got some estimates on the cost. The committee decided this was something to pursue pending costs. Mayor Langan was concerned about the timing of the project as summer was almost over. Council Member Lee asked if the project would be better to wait until spring. Public Works Supervisor Reed said its best to do in late summer into the fall. Council Member Bunting stated that we should start right after Labor Day and get it done because Public Works has other things to do in the spring.

Vote: (7-0)

APPROVAL OF MINUTES

Motion – Motion made to approve the Minutes of June 17, 2016 - Council Member Bunting

Second – Council Member Mais

Discussion – None

Vote – (7-0)

TREASURER’S REPORT

2016 Monthly Report

Summary The monthly report is a summary of all account balances through **June 30, 2016** and other pertinent financial information since the prior month’s Town Council meeting.

Cash Balance

- Beginning cash balance 4/1/2016 \$2,096,314.46
- Ending cash balance 4/30/2016 \$1,931,423.19
- Reserve Realty Transfer Tax Funds \$1,487,365.81 **included above in cash balances*

FY 2016 Operating Budget (8/1/15-6/30/16)

- 101.4% of Budgeted Income
- 91.01% of Budgeted Expenses

Realty Transfer Tax (1.5% local tax)

- Taxes collected in June \$0
- Total taxes collected in FY16 \$687,248.01

Outstanding Property Taxes

- \$ 4,769.99

Revenue Highlights

- 99.68% of real estate property tax budget (collected \$0 in June)
- 111.54% of rental receipt tax budget (collected \$1,008.75 in June)
- 102.59% of parking violations budget (collected \$2,795.00 in June)

Municipal Street Aid Report

- \$329.28 in expenses (Delmarva Power)
- \$0 (*Deposits*)

MSA Balance \$35,968.53

Dedicated Street Fund Report

- \$0 (*expenses*)
- \$16.50 (*Deposits*)

DSF Balance \$45,153.85

Parks & Recreation Fund Report

- \$417.40 in expenses
- \$0 (*Deposits*)

Parks & Rec Balance \$1,801.60

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

Second – Council Member Weistling

Discussion - None

Vote: (7-0)

Treasurer’s Report *accepted* by Council as read.

TOWN MANAGER’S REPORT

- All projects have been completed.
- Transition Plan has been completed.
- Recycle Rack Card still needs to be drafted.
- Most of the Grants have concluded.
- The FY 2017 Plan starting August 1, 2017, on the capital side things that will be purchased: 1) The Essex Street Shed will be replaced. 2) Captain Ferry is looking at a new rescue board. 3) Three drainage projects along Route 1. Public Works Supervisor Reed will be coordinating these projects. 4) The back doors on the Vallalon Hall will be replaced in the fall. 5) Check valves to reduce flooding will be installed throughout the year. 6) Public Works will continue the stone project to replace stone along the road to preserve the edges of the roads in town. 7) Folding chairs for the hall. 8) New police vehicle, which Chief Boyden has already started working on. 9) Additional money to pay the consultant for the Comprehensive Plan 10 year update.

DEPARTMENT REPORTS

- **Building Official** – The monthly report was included in the Council meeting packet. Licenses issued 21 (business). Twenty two new tax assessment letters were mailed out to property owners increasing

assessed property value to \$448,418.00 which generates \$8,600 revenue dollars. Also, ATM has been installed at the Village of Fenwick and is operational. PNC Bank has been sold.

- **Public Works** – The monthly report was included in the Council meeting packet.
- **Beach Patrol** – The Monthly report was included in the Council meeting packet.
- **Police Department** – The monthly report was included in the Council meeting packet.

TOWN COMMITTEE REPORTS

- **Charter and Ordinance** – Council Member Weistling read the proposed second reading – Chapter 116 – Article IV (Hunting) into the record.

Proposed Second Reading – June 17, 2016

Chapter 116 – Peace and Good Order

New:

Article IV

Offenses Against Public Peace and Safety

§ Chapter 116-15. Hunting.

It shall be unlawful for any person to hunt any game bird or game animal within the incorporated limits of the Town of Fenwick Island with any type of weapon.

§ Chapter 116-16. Violations and penalties.

- A. The Town Council shall appoint a designee who shall have discretion in determining when a violation of the hunting prohibition set forth in § 116-15 has occurred.***
- B. In the event the Town Council's appointed designee determines that a violation of § 116-15 has occurred, the person who is determined by said designee to have violated or failed to conform to any provision of this Article shall be subject to penalties imposed in accordance with the fee schedule established by Town Council by Resolution, as the same may be amended from time to time, and shall be responsible for all of 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, together with any enforcement and/or collection costs as described in the foregoing sentence, shall be considered civil penalties and any action brought for the recovery of said penalties and costs by the Town shall be brought in any civil court of competent jurisdiction.***

§ Chapter 116-17. Appeals.

Appeals concerning the interpretation or application of this chapter shall be submitted to the Town Council for review. The decision of the Town Council concerning any such appeal shall be final.

Motion – Motion made to accept the second reading Chapter 116 – Article IV (Hunting) into the record–
Council Member Mais

Second – Council Member Bunting

Discussion – Council Member Weistling noted this was a recommendation from the Police Chief for a very small limited area in the north-west part of town where some hunting was going on the bay side where private residences were and complaints issued.

Vote: Council Polled: Council Member Williams, Tingle, Weistling, Langan, Bunting, Lee, Mais - 7 Aye
Motion passed (7-0)

- **Charter and Ordinance** – Council Member Weistling read the proposed first reading – Chapter 146 – Taxation into the record.

Proposed First Reading – July 22, 2016

CHAPTER 146 – TAXATION

INSERT (NEW):

*Article I
Real Estate Tax*

§ 146-1. Real Estate Tax.

- A. *All real estate taxes imposed by the Town in accordance with Section 24 of the Town’s Charter shall be due and payable on or before September 15 annually.*
- B. *All real estate taxes that remain unpaid thirty (30) days following the aforementioned deadline shall be subject to a penalty in an amount equal to five percent (5%) of the delinquent amount owed for each month, or fraction thereof, that such taxes remain unpaid. The penalty imposed hereby shall be collected in the same manner as the original amount of the real estate tax.*
- C. *All real estate taxes that remain unpaid as of the 15th day of September shall be considered delinquent.*
- D. *Whenever it shall be necessary to pursue collection of delinquent real estate taxes, the Town Council shall impose a collection charge in an amount equal to eighteen percent (18%) of the amount of the delinquent real estate tax due and the accruing penalties imposed thereon.*
- E. *Whenever it shall be necessary to pursue collection of delinquent real estate taxes, the Town shall be entitled to recover, as part of the amount collected and/or any judgment obtained, the Town's costs and expenses (to include, but not be limited to, all recording fees, filing fees, court reporting charges and/or expert witness fees) and its reasonable attorney's fees.*

Re-number remaining Sections in Article I.

SYNOPSIS

This amendment is to include collection of real estate taxes, penalties and attorney’s fees in Chapter 146 - Taxation.

Motion – Motion to accept first reading Chapter 146 - Taxation – Council Member Weistling

Second – Council Member Tingle

Discussion - None

Vote: (7-0)

- **Charter and Ordinance** – Council Member Weistling read the proposed first reading Chapter 120 – Property Maintenance – Council Member Weistling

• *Proposed First Reading – July 22, 2016*

Chapter 120 – Property Maintenance

Existing:

§ 120-2. Surface water and stormwater management.

In an attempt to reduce the discharge of pollutants and sediment in surface water and stormwater runoff and in an attempt to control erosion of the banks and waterways within the Town, the Town Council has adopted the following section.

A. Roof drainage system (RDS). Any equipment and/or facilities, including, but not limited to, gutters, downspouts, and piping, that are used for the purpose of transporting and disposing of roof rainwater.

1. Roof drainage systems on all new construction and/or on substantial improvements to existing properties ***shall not*** extend into the front or rear setbacks and shall not be located closer than five feet from the side property line.
2. Roof drainage systems on all new construction and/or on substantial improvements to existing properties shall not extend into canals, lagoons or bay waters.
3. Roof drainage systems existing at the time of enactment of this section shall be considered grandfathered and shall be permitted to remain. Said existing roof drainage systems, including sections or parts thereof that drain into canals, lagoons or bay waters, may be repaired and maintained. However, roof drainage systems grandfathered hereby shall not be enlarged or remodeled in any manner to include new or additional piping ***whereby additional drainage into canals, lagoons or bay waters will occur.***

Proposed:

Insert the following new subparagraph A. to § 120-2.; re-letter existing subparagraph A. as subparagraph B. and make additional, identified changes to said subparagraph; and re-letter all following subparagraphs in § 120-2. as necessary:

A. **In the following situations, a professionally engineered drainage plan shall be part of any application for a building permit:**

1. **All new construction;**
2. **All substantial improvements that affect property drainage; and/or**
3. **All improvements that affect property drainage.**

Whether or not an improvement affects property drainage, so as to require a professionally engineered drainage plan, shall be decided in the reasonable exercise of the Building Official's sound judgment. Any person aggrieved by a decision of the Building Official made pursuant to this §120-2 has the right to appeal to the Town Council within 15 days of receipt of the Building's Official's decision, by giving written notice of his or her election to do so to the office of the Town Manager and upon payment of a fee as set by resolution of the Town Council from time to time. The Town Manager shall notify the Secretary of the Town Council and shall transmit to the Secretary all the papers constituting the record upon which the decision appealed from was taken. Town Council shall set a date, time and place for the hearing of the appeal, which time and date may be at a regular Town Council meeting or a special meeting of the Town Council, so long as the applicable notice and time requirements may be met. Notice of the appeal and scheduling of the appeal before Town Council shall be sent to the appellant at least 15 days prior to the hearing date. In the event of such an appeal, enforcement and construction activities are stayed until a decision has been reached by Town Council. Any decision made by Town Council is final.

- B. Roof drainage system (RDS). Any equipment and/or facilities, including, but not limited to, gutters, downspouts, and piping, that are used for the purpose of transporting and disposing of roof rainwater.

1. Roof drainage systems on all new construction and/or on substantial *or other* improvements affecting property drainage to existing properties *may* extend into the front or rear setbacks and shall not be located closer than five feet from the side property line.
2. Roof drainage systems on all new construction and/or on substantial *or other* improvements affecting property drainage to existing properties shall not extend into canals, lagoons or bay waters unless properly engineered. No direct piping will be permitted.
3. Roof drainage systems existing at the time of enactment of this section shall be considered grandfathered and shall be permitted to remain. Said existing roof drainage systems, including sections or parts thereof that drain into canals, lagoons or bay waters, may be repaired and maintained. However, roof drainage systems grandfathered hereby shall not be enlarged or remodeled in any manner to include new or additional piping which would directly drain into canals, lagoons or bay waters.

Existing:

§ 120-3. Written notice of violation.

In the event any lot owner shall fail to comply with § 120-1A, 120-1B, 120-2A or 120-2B hereof, he shall be given written notice, by certified mail, return receipt requested, of the violation, which notice shall specify the action necessary to correct the violation. The owner shall be required to take the corrective action to remedy a violation of § 120-1A, 120-2A or 120-2B within 30 days of such notice. The owner shall be required to take the corrective action to remedy a violation of § 120-1B within 10 days of such notice.

Proposed:

§ 120-3. Written notice of violation.

In the event any lot owner shall fail to comply with § 120-1A, 120-1B, 120-2A or 120-2B hereof, he shall be given written notice, by certified mail, return receipt requested, of the violation, which notice shall specify the action necessary to correct the violation. The owner shall be required to take the corrective action to remedy a violation of § 120-1A, 120-2A, 120-2B or 120-2C within 30 days of such notice. The owner shall be required to take the corrective action to remedy a violation of § 120-1B within 10 days of such notice.

Existing:

§ 120-4. Failure to comply with notice.

C. As to a violation of § 120-2A or B, the authority, but not the obligation, to take such steps as it deems necessary to cure the violation, including the option of hiring a professional and licensed contractor to perform the curative work necessary, which shall be done at the expense of the owner. The Town shall also have the authority to impose a monetary fine in the amount of \$500 for each thirty-day period in which the violation is not cured.

Proposed:

§ 120-4. Failure to comply with notice.

- C. As to a violation of § 120-2A, B or C, the authority, but not the obligation, to take such steps as it deems necessary to cure the violation, including the option of hiring a professional and licensed contractor to perform the curative work necessary, which shall be done at the expense of the owner. The Town shall also have the authority to impose a monetary fine in the amount of \$500 for each thirty-day period in which the violation is not cured.

Re-number remaining section.

Motion – Motion made to accept the first reading Chapter 120 – Property Maintenance – Council Member Weistling

Second – Council Member Tingle

Discussion – Council Member Weistling stated that our current Town Ordinance there is a brief section that mentions you are not allowed to drain any of your water onto your neighbor’s/ or adjacent properties. This was a proposal sent to Charter & Ordinance to add additional strength to the verbiage to mainly add new construction or any construction that would affect drainage. It now will be professionally engineered. This will make it easier for the town to enforce.

Vote: (7-0)

- **Beach Committee** – Good turn-out on the two bonfires. Second bonfire held due to weather conditions ending the bonfire on July 3rd. With donations, sales and silent auction items the Beach Committee collected about \$8,000. Thanks to Public Works for all their help (outstanding as usual). Lifeguard Captain, Tim Ferry stated this year’s trip to Hermosa Beach California will be about \$550 each for airfare, room and expenditures.
- **Environmental Committee** – Chair Mary Ellen Langan – Thanks to Merritt for all his work/assistance on getting the grant from the American Lung Association for materials to handout at the public events. Next meeting will be August 11th at 2:30 p.m.
- **Technology Committee** – The next meeting will be in the fall.
- **Business Development Committee** – Council Member Bunting stated there will no meetings until September.
- **Ad hoc Election Committee** – Council Member Lee stated the words of The Town Charter “people are not supposed to be on the role. If a property is owned as an artificial entity, Limited Liability LLC, Corporation or Trust or Limited Partnership, it is the trust or partnership or limited liability actually the owner of the property and that is the name that should be on voter role”. A person can be designated to vote by a Power of Attorney to vote on behalf of the Entity. Now the town voter roll is made up of Trust, LLC, Limited Partnership and Corporation, not people. The Town should look over the Charter and carefully revise the voter’s qualification and candidate qualification and make sure the town actually has people voting as opposed to entities registered on our voter’s role registration. Council Member Lee suggest looking into Delaware State Title 15. Also, changes may be needed on the town’s Voter Rack Card.
- **Ad hoc Parks Committee** – Nothing to report. Mayor stated committee is no long needed.
- **Planning Commission** – Chair Winnie Lewis gave an update of the Comprehensive Plan and announced the public workshop for residents input scheduled for August 13 from 9:00 a.m. – 11:00 p.m. at the Town Hall.
- **Old Business** – None.

- **New Business** – Council Member Lee stated that Becca McWilliams asked that there be no campaign signs or campaign signs at the Town Bonfire. She agrees with that statement and so do the candidates. On the same note, I’m requesting there be no campaign in front or around the farmers market.

PUBLIC PARTICIPATION

- Richard Benn – 1306 Bunting Ave. – Thanked Merritt for his five years of dedicated service. Also, wanted to thank Bill Weistling and Diane Tingle for their dedicated 10 years of service. Asked if all money’s have been collected on the holiday lights? Also, questioned if a trust is registered, how does that play into being a registered voter for one year?
- Vicki Carmean – 38 Ebb Tide Cove – Has issue on the verbiage in Chapter 120 on proposed section 120-2 Surface water and stormwater management A 3 – “Any person aggrieved by”. What does this mean? Council Member Weistling stated the wording was written by the town solicitor.
- Virginia Davidson – 706 Coastal Highway – Thanked the council for being open aired about any issues that needed to be addressed. Also, acknowledged great assistance from the front office, public works and police. Just wanted everyone to know how awesome the people in town are.
- Gail Warburton – 20 W Farmington - Confused about the lights? Council Member Bunting recapped the purchase of the holiday lights to highlight the town and businesses.
- Ben Waide – 1206 Dagsboro St – Let’s stop all the finger pointing and end the meeting. Let’s just thank the ones departing for a job well done.
- Jim Simpson – 1 E. Lewis St. – Noted the articles from the Coastal Point and Fenwick Forum. Questioned who is running the Fenwick Forum Website and why no one will come out of the darkness and acknowledge who’s behind it.
- Lynn Robinson – 9 E. Bayard St. – Stated that she hasn’t been in town for quite a while and noted how much Fenwick had grown. More square footage of roof space than green space on Bunting Avenue. Is there any options/discussions of bring back the green space?

UPCOMING MEETINGS AND EVENTS

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

a.	Aug 02	9:30 a.m.	Charter and Ordinance Committee Meeting
b.	Aug 06	1:00-5:00 p.m.	Town Election – Town Hall
c.	Aug 11	2:30 p.m.	Environmental Committee Meeting
d.	Aug 13	9:00-11:00 a.m.	Planning Commission Workshop II
e.	Aug 26	3:30 p.m.	Regular Council Meeting

Motion to Adjourn – Council Member Tingle

Second – Council Member Weistling

Discussion – None

Vote – (7-0)

Meeting adjourned at 4:55 p.m.

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