



The Town of Fenwick Island

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REGULAR MEETING OF THE TOWN COUNCIL

DECEMBER 8, 2017

MINUTES

In Attendance

Town Council Members:

Mayor Langan, Vice Mayor Mais, Treasurer Bunting, Secretary Merritt, Council Member Carmean, Council Member Lee, Council Member Williams

Staff in Attendance:

Town Manager Tieman, FIPD Chief Boyden, Building Official Schuchman, Public Works Supervisor Reed, Administrative Assistant Martin, Police Clerk Ellinger

President's Report

Mayor Langan began the meeting at 3:30 PM. He informed everyone that he attended the ACT meeting on November 17th and the topic was dredging. All local mayors and representatives were at the meeting, along with representatives from DNREC. Tony Pratt from DNREC announced his retirement at the meeting. Tony gave an update on beach replenishment that will now begin in March. The dune grass planting will now be done from November 2018 – April 2019 since grass has to be dormant when planting, and also due to the contractor not being available. The next ACT meeting will be held on January 19th at 10:00 AM in Lewes.

The tree lighting on December 2nd was a very nice event and well attended. Mayor Langan wished everyone a Merry Christmas.

For Discussion and Possible Action

2017 Town Audit

Tom Sombar presented the final Town Audit to all attendees. The Town ended the fiscal year with a lot more positives than negatives, with all revenues above budget and expenses down from the previous year.

Council Member Carmean questioned the reason for the cash reserve increase. Tom Sombar responded that the increase came from RTT. Council Member Carmean then asked the reason for the increase in miscellaneous expenses since she thought the account was not being used any more. Town Manager Tieman responded that this was for the previous fiscal year and the current fiscal year's budget that was approved does not have any expenses listed as miscellaneous.

Buzz Henifin (48 Windward Way) asked if anything was disclosed in the management letter from Sombar & Associates. Tom Sombar responded that when they looked at the cash account it did not agree with the General Ledger, so an additional step was added to verify the amounts each month. Town Manager Tieman added that an adjustment was made and the problem came from the conversion from the old bank to the new bank.

Motion – Vice Mayor Mais asked for a motion to approve the Fiscal Year 2016-2017 Audit.
Second – Treasurer Bunting.
Approved – 7-0.

Approval of Minutes

Motion – Council Member Carmean asked for a motion to approve the minutes from the October 27, 2017 meeting.
Second – Secretary Merritt.
Approved – 7-0.

Motion – Secretary Merritt asked for a motion to approve the minutes from the October 27, 2017 public hearing.
Second – Council Member Lee.
Approved – 7-0.

Treasurer's Report

Treasurer Bunting presented the report for period ending October 31, 2017. Since all the data is not in yet for November, the report could not be completed.

Motion – Vice Mayor Mais asked for a motion to approve the Treasurer's Report.
Second – Council Member Carmean.
Approved – 7-0.

Town Manager's Report

Town Manager Tieman commended the Public Works and Town staff on the holiday decorations. She also thanked Administrative Assistant Martin for helping out in the open Finance Administrator's position this past month.

Department Reports

Building

Building Official Schuchman stated that 7 business licenses were issued in the month of October, and 6 in November. Business license renewals were mailed out the previous week. She also attended the DFIT monthly meeting and has handouts available at the back table on safe driving. FEMA will be mailing out letters to all homeowners next month on flood risks.

Public Works

Public Works Supervisor Reed commented that Public Works has been busy decorating for the holidays and removing the MobiMats. They have also been working on millings on the beach ends and are half way done the project.

Police Department

Chief Boyden added that there have been an increase in phone scams. He has provided a handout on the back table on how to avoid them. As a reminder, IRS, Sussex County, and the State only send registered letters if there is a problem and do not make phone calls.

Committee Reports

Beach

Becca McWilliams reported that the Turkey Trot was a huge success with 651 runners/walkers and 54 dogs. \$8,100 was raised this year. Unfortunately, this is the last Turkey Trot that the Laurie at the Chamber of Commerce will be advertising.

The Fenwick Freeze will be held on January 1st at 11:30 AM at the Bayard Street beach. Pre-register can be done by mailing in the registration form (located on the Town's website), or register the morning of the event. There will also be a pre-registration at Town Hall on December 30th. If anyone is interested in purchasing a Fenwick Freeze t-shirt, they are available for \$20.

Business Development

Tim Collins reported that the December 1st "First Friday" was the last Friday promotion. He has heard from the Chamber of Commerce who said that they received very positive responses to the promotion.

The Chamber of Commerce, along with the Business Development Committee, the Town staff, and Bank of Ocean City, developed a "Find Freezy" promotion with 20 locations participating. The winner will be announced at the Fenwick Freeze on January 1st. He thanked all who helped with the promotion.

Dredging

Secretary Merritt reported that he attended the ACT meeting on December 1st and there is no lack of interest for dredging and all towns have concerns. The Representatives are asking for an economic footprint for our Town. He is working with the other Towns on completing the economic footprint. He plans on attending the DNREC presentation on December 15th. A dredging resolution will hopefully be passed and will be addressed at the January Council meeting.

Environmental

Mary Ellen Langan reported that the Committee is in the early stages of planning the Earth Day event that will be held Saturday, April 21st. The Committee is looking to expand the Earth Day cleaning to the unincorporated part of Fenwick Island.

The DNREC Coastal Cleanup picked up 3.8 tons of trash and 16,000 cigarette butts from the beach. Although we are not receiving assistance from the American Lung Association, the Committee will still clear out the tobacco receptacles this summer.

The Committee is still assessing the diseased trees in Town.

There is a group called the "Friends of Fenwick" that has adopted Route 1 northbound to clean up the trash. If anyone is interested in participating, please contact the State.

Finance

Vice Mayor Mais reported that the Committee met at 10:00 AM today and discussed the following: (1) the Dedicated Street Fund; (2) financing the Dedicated Street fund an addition 5% instead of the 5% going to Parks & Recreation; (3) revenue sources, including parking fees and expanding hours; (4) increasing business license fees for restaurants and hotels; (5) raising the property tax rate since there have been no increases in property taxes in over 15 years; (6)

unallocated reserve and completing the GFOA tool to look at risks (since the Town does not have too much exposure and no debt, our risks should be low).

The next meeting of the Finance Committee will be held on January 26th at 10:00 AM.

Pedestrian Safety

Council Member Carmean reported that she met with the Business Development Committee in November and talked to local business owners about sidewalk installation. She received only one negative comment (by letter) against sidewalk installation.

Council Member Carmean added that she received good news earlier this week from DelDOT that they want to reopen the sidewalk project in phases. DelDOT will be meeting with the Pedestrian Safety Committee on December 18th at 10:30 AM.

Planning

No report.

Technology

Mayor Langan reported that the Committee met on December 1st and heard a presentation by Verizon on small cell technology. The Committee approved the installation of the small cell towers. The Charter & Ordinance Committee is currently drafting an ordinance on the small cell towers and hopefully the 1st reading of the ordinance will be heard at the January Council meeting.

Charter & Ordinance

Proposed Second Reading – Charter Section 34 (Borrowing for Current Expenses)

Motion – Vice Mayor Mais asked for a motion for the second reading of Charter Section 34 (Borrowing for Current Expenses) to be included in the minutes (copy attached).

Second – Council Member Carmean.

Council Member Lee asked for a motion to amend the reading to include a super majority approval instead of a majority. Town Manager Tieman commented that you cannot have a motion inside another motion, but Council Member Lee read an excerpt from "Robert's Rules" that stated that you can. Town Manager Tieman responded that she would go along with whatever the Council would agree upon.

Motion – Council Member Lee asked for a motion to amend the Charter to require a majority vote for approval.

Second – Council Member Williams.

Council Member Lee commented that borrowing a huge amount as stated should require a super majority vote for security purposes.

Vice Mayor Mais was against amending the Charter and felt that a majority vote is sufficient. Secretary Merritt commented that the current borrowing has only required a majority vote since 1955. Treasurer Bunting felt that a majority vote is all that is needed. Council Member Williams agreed with Council Member Lee and would like to see the amendment made to a super majority vote. Council Member Carmean commented that we need to focus on the increase of borrowing amount and not if a majority/super majority vote.

Mayor Langan polled the Council on the amendment of the Charter to a super majority vote:

| | |
|--------------------------|-----|
| Vice Mayor Mais: | no |
| Council Member Lee: | yes |
| Secretary Merritt: | no |
| Mayor Langan: | no |
| Treasurer Bunting: | no |
| Council Member Carmean: | no |
| Council Member Williams: | yes |

Amendment to a super majority vote not passed.

Mayor Langan then asked for the approval of the second reading of the change to Charter Section 34.

Vote – 6-1 (Council Member Williams voted "no").

Charter change passed.

Proposed Second Reading – Chapter 160-5.C. (Area Regulations – Commercial)

Motion – Vice Mayor Mais asked for a motion for the second reading of Chapter 160-5.C. (Area Regulations – Commercial) be removed from the table (previously tabled at the October 27th Council Meeting).

Second – Council Member Carmean.

Reading taken off the table.

Motion – Vice Mayor Mais asked for a motion for the second reading of Chapter 160-5.C. (Area Regulations – Commercial) to be included in the minutes (copy attached).

Second – Secretary Merritt.

Bill Weistling noted that at the last Council meeting, the Council wanted to see a sketch of the layout of the mechanical equipment. Bill presented the sketch at the November Charter & Ordinance Committee meeting for their approval.

He pointed out on the sketch the rear of the commercial building with the 10' setback with the 5' vegetation buffer, which is a 5' free zone for residential owners. The ordinance change also has added a required 6' fence to screen the mechanical equipment. Tim Collins from the Business Development Committee requested that mechanical equipment be allowed in the side setbacks as well. The ordinance change now allows the equipment 4' in the rear and 4' in the side.

Bill Weistling added that he and Secretary Merritt walked Route 1 on the east side and found only 6 commercial and 7 residential properties that this new ordinance change could affect.

At a future meeting, upon the request of some residents, Charter & Ordinance plan to specify the height of the shrubs in the vegetation buffer.

Council Member Lee questioned where 10' was found since the sketch show a 4' setback with a 5' vegetation buffer and that only equals 9'. Vice Mayor Mais responded that there is 1' between the setback and the buffer. Council Member Lee then questioned why the sketch showed both 5' and 7' on the side setback. Bill Weistling responded the west side has a 5' setback while most of the east side has a 7' setback.

Secretary Merritt questioned if the ordinance change was not approved, then where would the mechanical equipment be allowed. Bill Weistling stated the only other option is on the roof or a commercial building would have to be built closer to the road to accommodate the mechanical equipment in the rear of the building. Bill Weistling commented that in the 25 years that he has been on either the Town Council or Charter & Ordinance he has heard of no noise complaints other than on roof tops. Secretary Merritt agreed that moving the units on the roofs would cause more noise.

Council Member Williams suggested that a notch could be cut out of a building to allow for the mechanical equipment. He feels that the residential and commercial setbacks should be the same.

Council Member Carmean agreed with Bill Weistling on defining the vegetation buffer and acceptable vegetation. Treasurer Bunting also agreed that it needs to be discussed since flowers and any type of plant that loses its leaves would not buffer noise.

Council Member Lee questioned how many corner units would be allowed to place mechanical equipment on the side. Bill Weistling responded that they did not count, but there are 13 corner lots on the west side and 9 on the east side. Council Member Lee feels it should be allowed only in the rear or side and not both. Council Member Williams commented that Just Hooked has both and also moved the building forward to accommodate for equipment in the rear. He stated that we are only talking about new construction. He has no problems with the side setbacks but does have a problem with the mechanical equipment in the rear setback. Secretary Merritt commented that all the commercial properties have the mechanical equipment in the rear now and no complaints have been received. Building Official Schuchman confirmed that no complaints have been received. There was one dispute between a residential owner and a business that went to court, but the judge ruled in favor of the commercial property.

Mayor Langan stated, for the record, that the current FISH newsletter was incorrect in writing that we are moving the setbacks when in fact we are just changing the setback for mechanical equipment only.

Mayor Langan then asked for the approval of the second reading of the change to Chapter 160-5.C.

Vote – 5-2 (Council Member Lee and Williams voted “no”).

Ordinance change passed.

Charter & Ordinance Report

Bill Weistling reported that Verizon gave a presentation at the December 1st meeting. He is currently working with Town Manager Tieman and Building Official Schuchman on the 1st reading on cell towers.

Old Business

Council Member Carmean thanked Barbara McCoy, Jeannie Nedwick, and Sue Clark on the tree lighting event and Christmas program.

New Business

Vice Mayor Mais informed everyone that Chris Lambertson, a former lifeguard and resident of the Town, passed away recently. Vice Mayor Mais asked the Council how they felt on placing a brick in the park in honor of Chris. Council Member Carmean responded that she would like to think about it and maybe it could be discussed at the January Council meeting.

Upcoming Events and Meetings

Mayor Langan confirmed the upcoming events and meetings. He added the Pedestrian Safety Committee meeting on December 18th at 10:30 AM and the Finance Committee Meeting on January 26th at 10:00 AM. Bill Weistling commented that the Charter & Ordinance meeting on January 5th is actually at 1:30 PM, not 1:00 PM.

Public Participation

Richard Benn, 1306 Bunting Avenue

Mr. Benn questioned the ordinance change. When he looked online, the current ordinance states that residential is the same as commercial. Building Official Schuchman responded that he needed to check the new laws section of General Code online. The previous ordinance never said mechanical equipment was allowed in the setbacks and the Town is adding the side setbacks area.

Tim Collins, 1200 Coastal Highway

Mr. Collins would like to thank Council Member Carmean for attending the Business Development meeting. The opposing letter in regards to sidewalks that Council Member Carmean referred to was sent by Mr. Balea. He had a personal discussion with Mr. Balea, who is concerned about the parking lot and setbacks. He wasn't trying to be negative, but just wanted to get his concerns heard.

Adjournment

Motion – Treasurer Bunting asked for a motion to adjourn.

Second – Secretary Merritt.

Vote – 7-0.

The meeting adjourned at 4:55 PM.