



The Town of Fenwick Island

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REGULAR MEETING OF THE TOWN COUNCIL

APRIL 27, 2018

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, Lifeguard Captain Ferry, Building Official Schuchman, Public Works Supervisor Reed, Finance Manager Gary, Administrative Assistant Martin, Police Clerk Ellinger

President's Report

Mayor Langan began the meeting at 3:30 PM. He thanked the Environmental Committee for another successful Earth Day program.

The beach replenishment is still scheduled to begin in early July. There is a conference call with the Army Corp. of Engineers on April 30th regarding replenishment plans. If there are any changes with the schedule, the Town's website, along with Facebook and Twitter, will be updated.

Mayor Langan attended the Association of Coastal Towns (A.C.T.) meeting on April 6th. Senator Carper was in attendance, as well as Tony Pratt and Mike Powell from DNREC. Dredging of the back bays and a long-term back bays study were discussed at the meeting. \$250,000 needs to be funded by the State for a study to be completed in Delaware, which would research the control of flooding and the bays. The next A.C.T. meeting will be held on May 18th at 10:00 AM in Lewes.

As for offshore drilling, New Jersey recently passed a law that no drilling or seismic testing can be done within 3 miles from the coastline. The New Jersey law also requires that no pipelines or infrastructure could bring oil in from the Federal area, and the New Jersey Public Works Department also must review any plans prior to offshore drilling. Town Manager Tieman has contacted legislators who assured her that Delaware is drafting a law similar to New Jersey's.

DeIDOT has finally approved the Town's sign replacement.

Mayor Langan attended the Inland Bays Dinner on April 25th. Chris Bason was honored at the dinner.

For Discussion and Possible Action

Sidewalk Project

Council Member Carmean informed everyone that DeIDOT has finally agreed to install sidewalks in Town. The project will be done in phases, but prior to the project an agreement has to be signed to initiate a study. While DeIDOT is funding 80% of the study, the Town needs to fund 20% (\$14,000).

A MOTION was made by Council Member Lee, seconded by Treasurer Bunting, to sign the agreement and approve the funding for the study. The MOTION passed unanimously.

Council Member Williams questioned why another study needs to be conducted when two have already been done in the past. Town Manager Tieman responded that the other studies are too old to use and a new study is needed for better results.

Vice Mayor Mais asked if any community grants are available to fund the \$14,000. Town Manager Tieman responded that she is waiting for Senator Hocker to get back to her about possible funding.

Parking Permit Fees

Mayor Langan informed everyone that a parking kiosk has been purchased and should be installed within the next month.

Town Manager Tieman read the new proposed parking fees. The hours for paid parking are also being extended until 10:00 PM.

Vice Mayor Mais stated that the fees were discussed at the Finance Committee Meeting. Council Member Lee added that the entire Committee was in agreement to raise the fees and extend the hours.

A MOTION was made by Vice Mayor Mais, seconded by Treasurer Bunting, to accept the proposed parking fees and extend the hours. The MOTION passed unanimously.

Selection of Town Auditor

Mayor Langan commented that Wayne Carmean, a member of the Audit Committee, suggested that the auditing firm should be changed at least every 5 years; so the Town advertised for new auditing services.

Town Manager Tieman read the names of the auditing firms that responded with a proposal; after a review by the Audit Committee, PKS & Company was recommended to be the new Town auditor.

A MOTION was made by Vice Mayor Mais, seconded by Council Member Carmean, to approve PKS & Company as the new Town auditor. The MOTION passed unanimously.

Resolution #92-2018

Town Manager Tieman read resolution #92-2018, announcing July 1, 2018 as the Town of Fenwick Island Day.

A MOTION was made by Treasurer Bunting, seconded by Council Member Carmean, to approve the resolution. The MOTION passed unanimously.

Approval of Minutes

A MOTION was made by Council Member Carmean, seconded by Vice Mayor Mais, to accept the minutes from the March 23, 2018 meeting. The MOTION passed unanimously.

Treasurer's Report

Treasurer Bunting presented the report for the period ending March 31, 2018. He noted that although there were a few more emergency expenditures than were planned, the Town is still within the budget parameters.

A MOTION was made by Secretary Merritt, seconded by Council Member Williams, to accept the Treasurer's Report. The MOTION passed unanimously.

Town Manager's Report

Town Manager Tieman submitted her report. She added while she is on vacation next week, Chief Boyden will be the acting Town Manager.

Department Reports

Building

Building Official Schuchman stated that 25 business licenses were issued in March.

The Town appraiser has begun reviewing the building permits for potential tax adjustments. In addition, last Tuesday, Greg Williams from DNREC conducted an audit of the last 5 year's of building permits during his Community Assistance visit.

Handouts on flood plains and flood hazards were made available. Building Official Schuchman encouraged everyone to take a copy for review.

Public Works

Public Works Supervisor Reed stated that the new Polaris for Beach Patrol use has been delivered. Also, the Public Works staff has finished mulching and spraying the medians.

Mayor Langan asked if Artesian is planning to tear up King Street. Public Works Supervisor Reed responded "no", that Artesian will be repairing and cleaning up the area only.

Beach Patrol

Lifeguard Captain Ferry added to his report that he is currently working on a maintenance list for the Beach Patrol equipment.

Police Department

Chief Boyden presented Lt. Devlin with his 15 year service award.

Committee Reports

Beach

No report.

Business Development

Tim Collins stated that at the meeting on April 18th, everyone agreed to continue the "Fenwick First Friday" promotion. Two additional advertisement are also being worked on. The Fenwick Locals Program will also continue.

Kimberly Grimes presented information about the Historical Society's cottage tour, which will be held on October 6th.

Tim is hoping to have additional businesses assist with the Fenwick Island Birthday Celebration on July 1st.

The next meeting will be held on May 16th at 9:00 AM.

Dredging

Secretary Merritt stated that he is waiting to hear back from John Hynes on the results of the soil study. Once the results are received by the Town, a joint meeting with the Environmental Committee will be scheduled.

Environmental

Mary Ellen Langan thanked those that were present at the Earth Day event. Fifty participants were in attendance. She also thanked all the businesses for their donations.

The next meeting will be held on May 10th at 2:30 PM.

Finance

Vice Mayor Mais stated that the Committee made recommendations to increase some fees; all recommendations will be passed to the Budget Committee for its approval.

Pedestrian Safety

Council Member Carmean reported that the Committee met on April 12th with representatives from DelDOT. DelDOT has agreed to proceed with plans to install ADA-compliant sidewalks in Town. The project will be completed in phases over the next couple of years.

Resident and business property owners need to be made aware of the plan for Temporary Construction Easements (TCE) and Permanent Easements (PE), which would only be needed during construction times. No construction work will take place during the summer season.

One stipulation that DelDOT made at the meeting was that DelDOT is requesting that more businesses and residents become involved so the project could benefit from their input. If anyone is interested in joining the extended Committee, please contact Council Member Carmean.

Planning

Winnie Lewis stated that she plans to schedule a Planning Commission meeting after July 1st to follow up on the Comprehensive Plan.

Technology

No report.

Charter & Ordinance

Proposed Second Reading – Chapter 160-5C(3) (Vegetative Stormwater Buffer)

A MOTION was made by Vice Mayor Mais, seconded by Council Member Carmean, for the second reading of Chapter 160-5C(3) (Vegetative Stormwater Buffer) to be included in the minutes (copy attached).

Discussion: none.

Vote to adopt the second reading:

Vice Mayor Mais – yes; Council Member Lee – yes; Secretary Merritt – yes; Treasurer Bunting – yes; Council Member Carmean – yes; Council Member Williams – yes; Mayor Langan – yes

The MOTION to adopt the second reading of Chapter 160-5C(3) passed unanimously (7-0).

Old Business

Mayor Langan noted that there were several attendees in the audience with questions about small cells towers. He commented that he hates to see the Town divided over this issue and that everyone on the Town Council took an oath to do what is best for the Town, which the Council did when they adopted the ordinance for wireless infrastructure.

Bill Weistling informed everyone that the ordinance process started about a year ago after Chief Boyden pointed out that the Police Officers were having problems with several dropped calls. Bill noted that U.S. Code 253 states that no State or local statute can prohibit the installation of telecommunication services. In Delaware, the Advanced Wireless Infrastructure Investment Act allows any provider to install wireless cells in the State right-of-way. Based on Federal and State laws, Fenwick Island cannot prohibit them in Town.

Fifteen meetings were held during the last year to discuss small cells, during Charter & Ordinance, Technology, Town Council, and Public Hearing meetings. All the meetings were open to the public.

In the adopted ordinance, the Town Manager, along with at least 2 members of the Building Committee, needs to approve all installation of small cells on existing poles and the Town Council needs to approve all installation of new poles. The Town is still waiting on Verizon to provide the proposed locations/drawings of the installation of small cells. The ordinance also states that any provider must provide the Town a Certificate of Insurance, follow all laws, and provide the safety requirements of the installed small cells. He also noted that Delaware law states a pole cannot be any higher than 50'.

Town Manager Tieman was made aware of the cell problem in Town when she started over a year ago, particularly with regard to the dropped calls from the Police Department. Small cells are critical for safety, especially during storms and for Police Officers. She is aware that Verizon's contractor has sent out letters to two properties on Lewes Street. This notification was sent out due to the Historic Preservation Act. Town Manager Tieman still has not seen any plans but is aware that Verizon will try to use existing poles prior to installing any new poles.

Chief Boyden added that the Police Department has been experiencing problems for over 15 years. During Hurricane Sandy, residents could not contact the Police due to the overload of the lines. With the increase of commercial Wi-Fi sites, the Police are constantly losing their connections. The Police Department has installed hot spots in all of their vehicles, but the connections are intermittent along with the fingerprint scanner in the vehicles. He also noted that they are mandated by the State to use new technology with a cell connection.

Council Member Lee commented that she knows that the Town is still waiting to hear from Verizon on locations and the number of small cells to be installed, but questioned if it would be

beneficial if the Town Council would determine the allowable locations ahead of time. Bonnie Metz from Verizon responded that it could be helpful, but their engineers are currently conducting a study on the areas that are in need of small cells. She added that our ordinance states to use existing poles first, so Verizon will make every attempt to use existing poles instead of installing new poles. It is also more cost-effective for Verizon to use an existing pole.

Council Member Lee then commented that she is aware of the safety aspect of small cells, but asked Bonnie if Verizon is taking anything else into consideration when choosing the locations for installation. Bonnie responded that public safety is the priority, but Verizon also wants to provide the best network to everyone. Verizon is looking into prioritization for First Responders. Council Member Lee heard that the State has contracted with Verizon. Town Manager Tieman confirmed that the State has contracted with Verizon for First Responders, and the Town feels that it should contract with Verizon since that is the contractor the State is using.

Secretary Merritt noted that since State and Federal governments have control of the right-of-ways, the Charter & Ordinance Committee drafted the ordinance to protect the Town.

Treasurer Bunting commented that in the past when he was involved with the Fire Department, the department had problems with its mobile radios. He added that if someone has a health issue while on the beach, currently the only way to make a phone call is to go over the dunes.

Council Member Carmean noted that she is aware of several dead cell areas in Town. She added that the Federal Government states that the Town cannot stop any installation of small cells, but she would like to see the engineering study on the installation locations when it is completed by Verizon. Council Member Williams asked when the engineering study would be finished. Bonnie responded she wasn't sure of the date but it should be completed soon. She is unaware of the exact locations but understands the concerns of residents. Town Manager Tieman added that once the study is completed, a meeting will be scheduled for the public to review the locations.

Council Member Williams asked if some poles would need to be replaced. Bonnie responded yes, particularly on Bunting where line of sight is needed to reach the beach. Council Member Williams then asked if an extension could be installed on an existing pole instead of replacing the entire pole. Bonnie responded that the whole pole would need to be replaced due to stability issues. The existing poles need to be at least 5' higher than the current poles for beach access. Verizon is taking into consideration all locations and will try to install the small cells on Coastal Highway and in commercial zones if possible.

Council Member Carmean reiterated that the entire process for installing small cells has been transparent with several meetings and a public hearing.

New Business

Winnie Lewis noted that the former lighthouse keeper's home connected to the Fenwick Lighthouse is being renovated by the State. Windows are being replaced and other renovations will be taking place from May – September. She reminded everyone that the Lighthouse will be opening for the season on May 30th, and will available to the public Thursday – Monday throughout the summer.

Upcoming Events and Meetings

Mayor Langan confirmed the upcoming events and meetings as stated on the agenda.

Public Works Supervisor Reed added the first bulk trash ("Big Trash") pickup of the year will be held the Tuesday – Thursday after Memorial Day.

Public Participation

Kathy Jackson, 9 Lewes Street

Ms. Jackson is aware of the safety issue with the cell service in Town, but is requesting that the corner of her property not to be used. There is already a Verizon pole on her property, and with an addition of another pole, access to her property would be impeded. Bonnie Metz responded that she looked at 9 Lewes Street and has instructed Verizon to choose another location.

Phil Shedaker, 1711 Bunting Avenue

Mr. Shedaker mentioned that several poles on Bunting Avenue are owned by Delmarva Power and asked if they could be used for the installation of small cells. Bonnie responded that Delmarva Power poles cannot be used but Verizon is looking to install the small cells on guide poles. Town Manager Tieman added that according to Jim Smith, if needed, the Delmarva Power poles could possibly be used, but an agreement would need to be signed first.

Bill Weistling, 7 E. Indian Street

Mr. Weistling commented that when Verizon came down in March, he walked the Town with the engineers for over 3 hours. During that time, Verizon asked his opinion on installing additional poles. Mr. Weistling said he was opposed to more poles and encouraged the use of existing poles as much as possible.

Janet Eshbach, 1711 Coastal Highway

Ms. Eshbach thanked the Council for their transparency today and suggested another mailing should go out to all residents since the newsletter did not specifically state the reason why small cells were needed in Town.

Ms. Eshbach then asked that if the picture that Verizon presented is what the small cells are going to look like and will there be any exposed wires. Bonnie responded "yes" to the first question and confirmed that no wires will be visible.

Mary Ellen Langan, 5 E. King Street

Ms. Langan commented that the crowd at today's meeting could have been avoided if more residents would get involved in committees. She also added that minutes for every meeting are available on the Town's website for review.

Colleen Wilson, 1801 Coastal Highway

Ms. Wilson noted that she was concerned after she read in the paper that twenty 47' poles would be installed, but she now knows that information was incorrect since Verizon does not have the final plans available. She also made a request to have all the small cells installed in the commercial area if possible.

Mike Quinn, 5 W. Houston Street

Mr. Quinn questioned how high the pole needs to be for signals to reach over the dune. Bonnie responded that the poles would have to be approximately 5' higher than the existing poles, but it depends on the dune height.

Mr. Quinn then asked if we could contract through AT&T instead of Verizon since his cell service is through AT&T and he never has any dropped calls. Chief Boyden responded no because our Police Department is required to use Verizon since that is what the State uses.

In regards to the sidewalk project, Mr. Quinn questioned when the Town funds the \$14,000 will the Town receive the results back from the study and what will be the time estimate for the sidewalk installation. Council Member Carmean responded that she expects the Town to have access to the engineering study which will take 1-2 months and then phase 1 of the project will begin within the next year.

Robin Green, 1706 Bunting Avenue

Ms. Green asked if it would be more beneficial to make the Police Station a cell hub since the Police Department is having problems with dropped calls. Chief Boyden responded that creating a hub at the Police Station would not solve the problem since the Police vehicles are where the connections are being dropped. He added that the reason for the dropped calls is because the Police Officers are constantly competing with other cell phone users and Wi-Fi business access for a stable connection.

Kathy Jackson, 9 Lewes Street

Ms. Jackson asked if contracting with Verizon for small cells creates a financial benefit to the Town. Town Manager Tieman responded no, by our drafted ordinance the Town is not making any money and Verizon is only covering the expense of the installation.

Robin Green, 1706 Bunting Avenue

Ms. Green questioned if the small cells have 5g technology would it be compatible with the current Police Department's equipment. Bonnie responded that the 5g technology is several years down the road.

Adjournment

A MOTION was made by Council Member Carmean, seconded by Treasurer Bunting, to adjourn the Town Council Meeting. The MOTION passed unanimously, and the meeting adjourned at 5:21 PM.