



# The Town of Fenwick Island

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## REGULAR MEETING OF THE TOWN COUNCIL MAY 3, 2019

### 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, Chief Boyden, Public Works Supervisor Reed, Finance Manager Gary, Town Clerk Martin

Mayor Langan began the meeting at 3:30 PM.

#### **President's Report**

Offshore drilling has been sidelined indefinitely, but seismic testing may still be allowed. On May 18<sup>th</sup> at 11:30 AM, the Surfrider's Association of Ocean City will be holding a protest at the Delaware/Maryland line against seismic testing.

The members of the newly formed Ad Hoc Commercial District Planning Committee were named: Richard Mais will head the Committee, with Faye Horner, Winnie Lewis, Reid Tingle and Bill Weistling as members.

Mayor Langan announced Bill Weistling as the Erosion Control Officer.

In honor of Public Service Recognition Week from May 5-11, Town Manager Tieman read a proclamation that was signed by Mayor Langan.

#### **For Discussion and Possible Action**

##### Resilient Community Project

Kelly Valencik of DNREC Coastal Programs made a presentation on the Coastal Municipalities Impervious Surface Coverage Project.

##### Memorandum of Services for South Bethany Police Coverage

Chief Boyden noted that South Bethany is rebuilding their Police Department and currently has only one officer. With this agreement, South Bethany will reimburse our Town for all expenses. Our officers will be working in South Bethany on their days off. Ocean View will also be assisting South Bethany.

Council Member Carmean questioned how long would the agreement be for. Chief Boyden responded that there is no definite date, but probably around 6 months. Council Member

Carmean also asked about any liability issues and any expenses, which Chief Boyden responded that there would be no liability issues and all expenses would be covered as written in the agreement.

Council Member Williams questioned on how the Town would be reimbursed by South Bethany. Chief Boyden replied that we would submit an invoice for our time.

A MOTION was made by Council Member Carmean, seconded by Vice Mayor Mais, to approve the agreement with South Bethany. The MOTION passed unanimously.

#### Extension of Parking Hours to 6:00 PM

Town Manager Tieman noted that at the Finance Committee Meeting in March, the Committee recommended extending the parking hours to 6:00 PM. The change was discussed at the April Business Development Committee Meeting where many local business owners voiced their concerns about the change creating hardship to visitors as well as to the business employees.

Council Member Lee noted that for 2 years the Finance Committee has made recommendations to increase the parking hours, with last year the attempt to raise the hours to 10:00 PM. The majority of the Committee agreed that 6:00 PM was a fair compromise.

Vice Mayor Mais noted that along with the business owners, many residents objected to extending the time to 6:00 PM also.

Council Member Carmean commented that surrounding communities have extended hours and this change would stay in line with those communities. In addition, the increase in time would generate much needed revenue. Council Member Williams disagreed, stating that the time change would cause a disruption and would not generate excessive revenue.

A MOTION was made by Council Member Carmean, seconded by Council Member Lee, to extend the parking hours to 6:00 PM. The MOTION failed 2-5, with only Council Member Carmean and Council Member Lee in favor.

#### Revised Fee Schedule

Town Manager Tieman presented the revised Fee Schedule with the addition of the Dumpster/Temporary POD Fee of \$50 that is needed based on the ordinance change to Chapter 61-1 (to be discussed later in the meeting).

A MOTION was made by Vice Mayor Mais, seconded by Treasurer Bunting, to accept the revised fee schedule.

After discussion by the Town Council, it was agreed upon to postpone the acceptance of the revision of the fee schedule until the May 24, 2019 Council Meeting when the second reading of Chapter 61-1 will be held.

### Town Hall Roof and Window Replacement

Town Manager Tieman noted that there are several leaks in the hall. Bid contractors determined that the roof, along with the downspouts and windows, would need to be replaced. Three bids were received for the project, with Advance Inc. being recommended to complete the work.

Vice Mayor Mais asked if the project would be completed in steps. Town Manager Tieman replied yes, with the roof being done first.

Council Member Carmean questioned if the work would begin immediately. Town Manager Tieman replied yes, that the contractor would begin work within 2 weeks from the approval of the contract.

A MOTION was made by Vice Mayor Mais, seconded by Council Member Carmean, to approve the replacement of the roof and windows at Town Hall. The MOTION passed unanimously.

### **Approval of Minutes**

A MOTION was made by Treasurer Bunting, seconded by Council Member Carmean, to accept the minutes from the March 22, 2019 Council Meeting. The MOTION passed unanimously.

A MOTION was made by Council Member Carmean, seconded by Vice Mayor Mais, to accept the minutes from the April 8, 2019 Special Council Meeting.

Vice Mayor Mais noted that on page 2, under Police Discussion, the Williamsville "curb" should be changed to "curve".

The MOTION to accept the minutes as revised passed unanimously.

### **Treasurer's Report**

Treasurer Bunting presented the report for the period ending March 31, 2019. He commented that although the report shows that we are down on building permit fees, \$180,000 was received in April for the Sands project, which now puts us over for the year.

Council Member Williams questioned what is to happen to the \$180,000. Treasurer Bunting responded that the \$180,000 will be disbursed between the two funds set up for the dredging and sidewalk projects.

A MOTION was made by Council Member Carmean, seconded by Vice Mayor Mais, to accept the Treasurer's Report. The MOTION passed unanimously.

### **Town Manager's Report**

Town Manager Tieman submitted her report.

The revaluation letters were sent out today with instructions on the appeal process. 367 property taxes went down, while 446 went up. Of the 367, 126 went down less than \$100. Of the 446, 133 went up less than \$100.

Resurfacing will start next week. During the resurfacing project, owners may park on adjacent streets or at the beach ends.

## **Department Reports**

### Building

Town Manager Tieman presented the report on behalf of Building Official Schuchman. In addition to the report, 14 business licenses were issued in March.

### Public Works

Public Works Supervisor Reed reported that the Bayard Street drainage project is now complete. Public Works has been working on mulching and cutting grass in the medians. Mobi mats have been installed up through Dagsboro Street.

Mayor Langan questioned about the fencing on the dunes. Public Works Supervisor Reed replied that DNREC is removing the existing fencing, installing snow fence along the dune crossing walkway and rope/pole fencing along the beach side of the dunes.

### Police Department

Chief Boyden submitted the Police Department Report. He reminded everyone that parking would be in enforcement beginning on May 15<sup>th</sup>.

## **Committee Reports**

### Beach

No report.

### Business Development

Tim Collins noted that many business owners and staff attended the Shoplifting Workshop that was recently held in conjunction with the Chamber of Commerce and the Fenwick Island Police Department.

### Dredging

Secretary Merritt commented that he is currently obtaining bids on the cost to dredge the Bay.

### Environmental

Mary Ellen Langan thanked the participants, Committee members and business community for assistance with the Earth Day event.

### Finance

No report.

### Pedestrian Safety

Council Member Carmean reported that at the last Pedestrian Safety Committee Meeting held in April, the Committee agreed to consider sidewalks as a capital project and also work on the project in phases.

Recently, Bill Weistling walked the community with Kercher Engineering, who will be providing a quote for the project. Once the quote is received, Council Member Carmean will schedule a meeting with the Committee.

### Planning

Winnie Lewis reported that the Planning Commission met in April and discussed the Annual Report that is due in July.

She added that the Fenwick Island Lighthouse remodeling is now complete and will be opening for the season on May 30<sup>th</sup>.

### Technology

Mayor Langan highlighted that the website had 33,260 visitors over the last year. 73.6% of the 33,260 were new visitors to the website.

### Charter & Ordinance

#### Proposed First Reading of Chapter 61-1 (Building and Utility Construction)

A MOTION was made by Vice Mayor Mais, seconded to Council Member Carmean, for the first reading of Chapter 61-1 to be included in the minutes (copy attached).

Bill Weistling noted that this is a new ordinance that will require permits for dumpsters and PODs.

Council Member Lee questioned if this change was for all dumpsters, including those for construction. Bill Weistling responded that dumpsters for construction are already included with the permit. This new ordinance is for dumpsters that would be used, as example, when someone wants to clean out their house or when someone has water damage to the inside of their home.

Council Member Carmean asked if this change would impact the dumpsters that are currently on properties. Bill Weistling responded that it would only be going forward, but a courtesy call could be made to those owners with existing dumpsters after the ordinance is approved.

Council Member Carmean suggested removing "if necessary" from line 2.

The MOTION to approve the first reading of Chapter 61-1 with "if necessary" removed passed unanimously.

#### Proposed Second Reading of Chapter 61-3 (Issuance of Permits)

A MOTION was made by Vice Mayor Mais, seconded by Council Member Carmean, for the second reading of Chapter 61-3 to be included in the minutes (copy attached).

Bill Weistling noted that this change is eliminating the Building Committee for residential projects with the Building Official and Town Manager now approving applications and issuing permits.

Council Member Carmean questioned whom the outside counsel would be as noted in Section A. Bill Weistling replied that it would be any outside counsel and not legal (the Town solicitor). For clarification, she suggested to change the word "counsel" to "advice".

Based on Chapter 24-2, Council Member Lee asked if after the first reading of this ordinance was it mentioned at the April Charter & Ordinance Committee Meeting. Bill Weistling replied that it was addressed at the Planning Commission Meeting since it involves the Comprehensive Plan.

Council Member Williams noted that he was opposed since only one person will be looking at the plans instead of a committee. Secretary Merritt asked how many times in the past did the Building Committee overturn the recommendations of the Building Official. Bill Weistling replied only a few times.

Town Manager Tieman noted that the Town review is for zoning and flood plain only. The application would still need approval by Sussex County.

Vote to adopt the second reading, with the change from "counsel" to "advice" as noted:  
Vice Mayor Mais – yes; Council Member Lee – yes; Secretary Merritt – yes; Mayor Langan – yes;  
Treasurer Bunting – yes; Council Member Carmean – yes; Council Member Williams – no.

The MOTION to adopt the second reading of Chapter 61-3 passed (6-1).

Proposed Second Reading of Chapter 61-6 (Duration of Permit)

A MOTION was made by Vice Mayor Mais, seconded by Secretary Merritt, for the second reading of Chapter 61-6 to be included in the minutes (copy attached).

Bill Weistling noted that this change is the same as previous and eliminating the Building Committee.

Council Member Williams asked if the Building Official and Town Manager would have to agree. Bill Weistling responded that they would need to agree and if they didn't the extension would not be granted.

Vote to adopt the second reading:  
Vice Mayor Mais – yes; Council Member Lee – yes; Secretary Merritt – yes; Mayor Langan – yes;  
Treasurer Bunting – yes; Council Member Carmean – yes; Council Member Williams – no.

The MOTION to adopt the second reading of Chapter 61-6 passed (6-1).

Proposed Second Reading of Chapter 88-14C (Expiration of Permit)

A MOTION was made by Vice Mayor Mais, seconded by Council Member Carmean, for the second reading of Chapter 88-14C to be included in the minutes (copy attached).

Vote to adopt the second reading:  
Vice Mayor Mais – yes; Council Member Lee – yes; Secretary Merritt – yes; Mayor Langan – yes;  
Treasurer Bunting – yes; Council Member Carmean – yes; Council Member Williams – no.

The MOTION to adopt the second reading of Chapter 88-14C passed (6-1).

Proposed Second Reading of Chapter 160-5 (Commercial Zone)

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

Bill Weistling noted that this change is for height regulations for an elevator shaft to extend 4.5' over the maximum roof height and architectural aesthetics on the shaft not to increase over 12".

Council Member Carmean questioned if it is okay to list the extension at 4.5' since technology is improving and it could decrease to only 2'. Bill Weistling replied that the ordinance would change again at the time the technology changes.

Council Member Carmean questioned about the vagueness of "architectural aesthetic" and who will judge if it is architectural aesthetic. Bill Weistling replied that no one wants a "shoebox" on top of a roof so the Charter & Ordinance Committee came up with "architectural aesthetic". The architect that designed the building would determine it.

Council Member Lee questioned if the ordinance was approved by the Town attorney. Town Manager Tieman replied yes, that the Town Solicitor actually drafted the ordinance.

Council Member Lee noted that although the Board of Adjustments allowed The Sands elevator at 4.5' as it was required does not mean that every commercial structure should be allowed the 4.5' above the roof height.

Council Member Williams commented that since we are paying an architect for designs and recommendations for ordinance changes he is not sure why this ordinance is going through. Bill Weistling responded that the architect recommendations is something completely different and is mostly for mechanical equipment. This ordinance is for an elevator in a commercial building that requires the Fire Marshal and safety issues that need to be taken into account.

Vice Mayor Mais noted that the ordinance does not state that you have to put in an elevator.

With this change, Council Member Lee thinks that any business can now put an elevator 4.5' above the roofline, even a residential home that runs a business from the home. She added that she hopes the architect that was hired will be addressing more than just mechanicals.

Council Member Williams commented that he thinks this change should wait and added that he does not know what they hurry is.

Treasurer Bunting noted that elevators are needed for ADA access.

Vote to adopt the second reading:

Vice Mayor Mais – yes; Council Member Lee – no; Secretary Merritt – yes; Mayor Langan – yes; Treasurer Bunting – yes; Council Member Carmean – yes; Council Member Williams – no.

The MOTION to adopt the second reading of Chapter 160-5 passed (5-2).

### **Old Business**

Council Member Carmean commented that she felt the new Ad Hoc Commercial District Planning Committee is top heavy with oceanside people and feels the need to add bayside representation. Council Member Lee agreed, noting that a few more members are needed, especially newer residents with fresh ideas.

### **New Business**

None.

### **Upcoming Events and Meetings**

Mayor Langan confirmed the upcoming events and meetings as stated on the agenda, with the cancellation of the Dredging Committee Meeting on May 17<sup>th</sup> and the addition of the Environmental Committee Meeting on May 29<sup>th</sup> at 2:30 PM.

### **Public Participation**

Tim Collins, 22 W. Georgetown Street

After listening to the exchange in regards to increasing the parking time from 4:00 p.m. to 6:00 p.m., Mr. Collins questioned why the change was even initiated without a reason why to the business community. He feels that any proposed changes that are forwarded to the Town Council should have documentation as to a reason why.

Amy Kyle, 1205 Bunting Avenue

In regards to the height/roof/elevator discussion, Ms. Kyle feels that there is a big loophole that under the current interpretation of the Code everything is allowed on a roof. The loophole should be closed by defining what is and is not allowed on a roof.

Also, as to the revaluation and stating that the revaluation was done in fairness, part of fairness is considering the impact on people who may have bought into a very different market value. She commented that she does not want to have people pushed out of our community.

### **Adjournment**

Vice Mayor Mais made a MOTION to adjourn the meeting. The MOTION passed unanimously, and the meeting adjourned at 5:36 PM.