

## TOWN OF FENWICK ISLAND, DELAWARE

Minutes of the October 24, 2014, Regular Council Meeting

Call to Order and Flag Salute at 3:30 p.m. by Mayor Serio

*Council in Attendance: Gene Langan, Diane Tingle, Bill Weistling, Audrey Serio, Gardner Bunting, Todd Smallwood and Roy Williams*

*Staff in Attendance: Town Manager Burke, Town Clerk Poole, Building Official Schuchman, Public Works Department Supervisor Reed, Chief Boyden*

### PRESIDENT'S REPORT

- The Members of the Boards and Planning Commissions are staying the same with two on the Board of Adjustments, Rodman Kushela and Lizbeth Lear, continuing another two-year term.
- On the Board of Elections, Mary Wright will continue for another term.
- The Planning Commission stays the same except for Susan Klein who will be leaving and a new replacement will be announced soon.
- Audit, Charter & Ordinance and Emergency Management Committees will remain the same.
- Scott Mumford will replace John Lewis on the Budget Committee.
- The Environmental Committee has two new members, Stuart Rubenstein and Colleen Wilson.
- The Building Committee will remain the same.
- The Beach Committee will be adding Lynn Andrews.
- The Technology Committee will remain the same.
- The Town has replaced the *Ad hoc* Parking Committee; it will become the new Business Development Committee adding Tim Collins and Reid Tingle.
- The Town is on the winter schedule for trash and recycle pickups.
- Election Day is Tuesday, November 4<sup>th</sup>.

### TOPICS FOR DISCUSSION AND POSSIBLE ACTION

- Pancreatic Cancer Awareness Month Proclamation

On October 24, 2014, The Fenwick Island Town Council passed the Following **Proclamation**;

Declaring the month of November "Pancreatic Cancer Awareness Month" in the Town of Fenwick Island.

WHEREAS in 2014, an estimated 46,420 people will be diagnosed with pancreatic cancer in the United States and 39,590 will die from the disease;

WHEREAS pancreatic cancer is one of the deadliest cancers, is currently the fourth leading cause of cancer death in the United States and is projected to become the second by 2020;

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WHEREAS pancreatic cancer is the only major cancer with a five-year relative survival rate in the single digits at just six percent;

WHEREAS when symptoms of pancreatic cancer present themselves, it is generally late stage, and 73 percent of pancreatic cancer patients die within the first year of their diagnosis while 94 percent of pancreatic cancer patients die within the first five years;

WHEREAS approximately 130 deaths will occur in Delaware in 2014;

WHEREAS the *Recalcitrant Cancer Research Act* was signed into law in 2012, which calls on the National Cancer Institute to develop a scientific framework, or strategic plans, for pancreatic cancer and other deadly cancers, which will help provide the strategic direction and guidance needed to make true progress against these diseases; and

WHEREAS the Pancreatic Cancer Action Network is the national organization serving the pancreatic cancer community in the Town of Fenwick Island and nationwide through a comprehensive approach that includes public policy, research funding, patient services, and public awareness and education related to developing effective treatments and a cure for pancreatic cancer;

WHEREAS the Pancreatic Cancer Action Network and its affiliates in the Town of Fenwick Island support those patients currently battling pancreatic cancer, as well as to those who have lost their lives to the disease, and are committed to nothing less than a cure;

WHEREAS the good health and well-being of the residents of Fenwick Island are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments; therefore be it

RESOLVED that the Town Council of Fenwick Island designate the month of November 2014 as “Pancreatic Cancer Awareness Month” in Fenwick Island.

**Motion** – Motion made to approve the Proclamation for Pancreatic Cancer Awareness Month – Council Member Tingle

**Second** – Council Member Langan

**Discussion** – none

**Vote** – (7-0)

- Bethany-Fenwick Chamber Fenwick Flicks – Kristie Maravalli, Executive Director, presented the results of the 2014 Fenwick Flicks. Kristie stated that the Fenwick Flicks were very successful this year with 300 to 400 people attending each of the three movies. She also noted that pre-flick events were created to add extra value for sponsors and attendees. The Chamber asked the Town of Fenwick to become a Supporting Sponsor at \$800 to help support the continuation of the Fenwick Flicks.

**Motion** – Motion made for the Town to be a supporting sponsor for the Fenwick Flicks at \$800 and to continue the Fenwick Flicks for the 2015 season – Council Member Weistling

**Second** – Council Member Bunting

**Discussion** – Council Member Smallwood stated “It’s a great benefit for the Town”.

**Vote** – (7-0)

- Request for extension of Building Permit #4229 - Joseph T. Dashiell, Builder, along with property owners Paul and Ellen Gaske would like to respectfully request a 60-day extension to the building permit #4229 for the property located at 1103 Bunting Avenue. Their permit is set to expire January 7, 2015. Construction was delayed due to a custom support collar which was not manufactured correctly and had to be remade and shipped to keep the house from exceeding the height requirements of the Town.

**Motion** – Motion made to extend the Permit #4229, at 1103 Bunting Avenue – Gardener Bunting

**Second** – Council Member Langan

**Discussion** – Council Member Weistling stated that by Town Ordinance, if an extension is granted, the Building Inspector and Building Committee Member or even Town Manager Burke makes periodic checks to make sure the work is ongoing and continuous.

**Vote** – (7-0)

- 2015 Beach Concession Contract – Town Manager Burke stated that Council approved an extension last year to Go Melvo, Inc. Go Melvo, Inc. is based out of Montgomery County to sell snow balls on State Line Beach. The contract for the last two years was \$11,500 and expires this year. Request for Council to approve a new two-year contract that will go to bid this winter with a two one-year extensions. Gross receipts from last summer, which are required in the contract, were approximately \$35,000.

**Motion** – Motion made to approve the new contract for 2015 Beach Concession on the State Line Beach  
– Council Member Langan

**Second** – Council Member Tingle

**Discussion** – none

**Vote** – (7-0)

- 2015 Lifeguard Stand Sponsorship Program – Town Manager Burke stated that this will be the 3<sup>rd</sup> year, if approved. Current rates are \$800 for a 14” x 40” sign on the back of each stand or \$500 for 14” x 20” sign on the side of each stand. Council Member Smallwood asked if business owners could pay this in installments. Town Manager Burke stated that we worked with several business owners this past year and would continue to do so. Council requested payment options for business owners with a deposit to hold.

**Motion** – Motion made to continue the Lifeguard Stand Sponsorship Program with installment payments  
– Council Member Tingle

**Second** – Council Member Bunting

**Discussion** – none

**Vote** – (7-0)

- DNREC Surface Water Matching Planning Grant – Town Manager Burke stated that DNREC offers various planning grants throughout the year. Currently we have hired URS to engineer a water quality design for the end of West Dagsboro St. and that project is almost complete. The

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new grant (50:50 cost share) would be for URS to design drainage plans for the north and south side of W. Dagsboro Street. The cost would be \$12,925 saving the Town \$6,462.50.

**Motion** – Motion made for Town Manager Burke to submit for DNREC Surface Water Matching (50%) Planning Grant for the north and south sides of West Dagsboro St. from Wright St to McWilliams at a cost to the Town not to exceed \$6,500.00 – Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – none

**Vote** – (7-0)

**Motion** – Motion made to approve the Minutes of September 26, 2014 - Council Member Langan

**Second** – Council Member Bunting

**Discussion** – none

**Vote** – (7-0)

## **TREASURER’S REPORT**

Council Member Bunting stated that the Town Audit has been completed. Details of the financial evaluation will be presented by Mr. Sombar at the December Council Meeting.

### **FY15 Operating Budget (August 1, 2014 to July 31, 2015)**

- 70% of Income
- 25% of Expenses

### **FY15 Capital Budget**

- \$142,000, or approximately 63%, in capital items purchased in the first 42 days of the new fiscal year

### **Realty Transfer Tax (1.5%)**

- \$117,030.01

### **Outstanding Taxes and Fees**

- Approximately \$8,000 (FY14—bulk of this is Samanda Properties)
- Approximately \$25,000 (FY15)

*\* All financial data is from the period ending October 24, 2014*

**Motion** – Motion made to accept the Treasurer’s Report - Council Member Tingle

**Second** – Council Member Langan

**Discussion** – none

**Vote** – (7-0)

## TOWN MANAGER'S REPORT

### Projects

- **Cannon Street Sidewalk (phase 2)**
  - The Town is waiting for the executed Agreement from DelDOT. The project should be completed by November 30<sup>th</sup>.
- **Online Payment Processing**
  - Online and over-the-counter payment service commenced in early October with limited services. Full payment service will start January 1, 2015.
- **Drainage / Stormwater**
  - Public works has projects on Farmington Street and at Cannon Street Park. Both projects will be completed by October 31<sup>st</sup>.
- **Rack Cards (parking and general information)**
  - Town management is in the process of drafting a general information rack card similar to the parking rack card. The card will be ready for the 2015 calendar year.
- **Website**
  - Town management is updating the website with new photos and content. Social media is updated weekly.
- **Town Audit**
  - Sombar and Associates completed the annual Audit. The Audit presentation will be on December 11<sup>th</sup>. A nominal surplus was reported.

### Grant Funding (approved / requested)

- DNREC Coastal Programs Grant (\$10,000, 50% Town of Fenwick match)
  - URS will present the Sea Level Rise Vulnerability Assessment in January, 2015.
- DNREC Surface Water Matching Planning Grant (\$22,000, 50% Town of Fenwick match)
  - URS will have engineered plans completed by November 30<sup>th</sup> with solicitation of bids to occur in early 2015 and construction to be completed by May 30<sup>th</sup>.
- 2015 DNREC Surface Water Matching Planning Grant (50% Town of Fenwick Island match)
  - The Town will apply for a surface water grant to off-set 50% of the engineering expense to design drainage improvements on W. Dagsboro Street from approximately McWilliams Street to Wright Street.

### Meetings, Workshops and Conferences

- Town Manager Burke represented the Town of Fenwick Island at the following meetings:
  - September 30th      DNREC Drainage Standards meeting, Georgetown, DE
  - October 1<sup>st</sup>      BBVFC EMS meeting, South Bethany, DE
  - October 1<sup>st</sup>      Sussex County Association of Towns dinner meeting, Lewes, DE
  - October 14th      Emergency Management full-scale meeting, Georgetown, DE

## DEPARTMENT REPORTS

- **Building Official** – The monthly report was included in the Council meeting packet. In September two new building permits were issued for new construction. October has also been busy, issuing sixteen building permits, three of which were new construction and three for demolitions. That indicates eight new houses in three months will have permits issued in September. The Town issued seven outside contractor’s licenses and one rental license
- **Public Works** – The monthly report was included in the Council meeting packet. Approval for benches to remain on the beach until November 30, 2014, was confirmed by DNREC.
- **Beach Patrol** – n/a
- **Police Department** – The monthly report was included in the Council meeting packet. Chief Boyden presented a new badge and credentials to promote Mr. John Devlin from Sargent to Lieutenant.

## TOWN COMMITTEE REPORTS

**Charter & Ordinance** – Council Member Weistling –

*Proposed First Reading – October 24, 2014  
Chapter 116 – Article II (Special Events)*

**EXISTING:**

[§ 116-9 Definitions.](#)

As used in this article, the following terms shall have the meanings indicated:

**SPECIAL EVENT**

**A.** All outdoor activities such as, but not limited to, weddings, races, block parties, etc., held on Town and/or state property, including but not limited to streets, parks, beaches and any Town public property.

**B.** Any event that requires closure of streets, parking areas and/or any Town public property.

**ADD:**

**B.** Any event that requires closure of streets, *closure of or allocation/reservation of additional* parking areas, *the use of any Town public property, and/or any outdoor events held in the commercial zone.*

**C.** *The definition of “special event” shall not include any Town sponsored event.*

**EXISTING:**

[§ 116-10 Permit required.](#)

- A. Permits for a special event/special event, nonprofit shall be required for any outdoor event held on public property and shall be issued only to a person 18 years of age or older. The person to whom the permit is issued shall be held responsible for the conduct of attendees, any activities in connection therewith and for satisfactory restoration of any area(s) involved with the special event.
- B. The Town shall require the applicant to complete a special event application. A fee and deposit will be charged for any special event. Such fees are set annually by resolution by Town Council. There will be no fee for any special event, nonprofit.
- C. Rules and regulations will accompany a special event permit. Such rules and regulations are set by resolution of the Town Council.

**PROPOSED:**

**§ 116-10 Prior Notice and permit required.**

- A. Permits for a special event *or a nonprofit* special event, shall be required for any outdoor event held on public property **and/or any outdoor event held on property in the commercial zone** and shall be issued only to a person 18 years of age or older. The person to whom the permit is issued shall be held responsible for the conduct of attendees, any activities in connection therewith and for satisfactory restoration of any area(s) ***involved*** with ***or used in connection with*** the special event.
- B. **All special events are prohibited unless a written application therefor is submitted to the Town Manager at least thirty (30) days prior to the special event.**
- C. The Town shall require the applicant to complete a special event application. A fee and deposit will be charged for ***all*** special events. Such fees are set annually by resolution ***of the*** Town Council. There shall be no fee charged for any nonprofit special event.
- D. **Only two (2) special events, with each anticipating attendance to reach or exceed 75 people, shall occur on the same day. All special events with attendance anticipated to reach or exceed 75 people shall be required to have a Town police officer on site for the duration of the special event with all costs associated therewith to be borne by the applicant.**
- E. Rules and regulations will accompany ***and be made a part of each*** special event permit ***issued***. Such rules and regulations ***shall be established*** by resolution of the Town Council, ***which may be amended from time to time in Town Council's sole discretion.***
- F. **Applicant, upon application for a special event permit and upon acceptance of any special even permit issued by the Town, agrees to indemnify and hold the Town, its officers, members, agents and employees, harmless from any and all demands, claims causes of actions, damages, injuries, liabilities, penalties and expenses (including fees and disbursements of legal counsel) arising out of or resulting in any manner from the special event held.**

**EXISTING:**

**§ 116-11 Violations and penalties.**

Any person violating the provisions of this article shall be fined \$100 and costs for each and every offense.

**PROPOSED:**

**§ 116-11 Denial and/or modification of permit application and appeal.**

- A. **The Town Manager and Chief of the Fenwick Island Police Department may deny or modify any special event permit.**
- B. **The Town Manager shall, within seven (7) days, approve, deny and/or modify the application.**
- C. **The applicant may appeal any denial and/or modification of the permit by promptly filing with the Town Clerk a written notice setting forth grounds for such appeal. Said appeal will be held before Town Council.**
- D. **The Town Manager shall inform Town Council and schedule a hearing to consider said appeal.**
- E. **The decision of Town Council regarding an appeal shall be final.**

**Insert:**

**§ 116-12 Violations and penalties.**

***Any person who shall violate or fail to conform to any of the provisions of this chapter shall be subject to penalties under this section not exceeding \$500.00 per violation for each day of violation, as well as the Town's costs and expenses, including reasonable attorneys' fees, incurred to enforce the provisions of this chapter and/or to collect the penalties imposed hereunder. Penalties assessed for a violation of this chapter shall be considered civil penalties and any action brought for the recovery of the penalties by the Town shall be brought in any civil court of competent jurisdiction. Re-number existing § 116-12 and § 116-13.***

**Motion** – Motion made to approve the changes to the ordinances as read – Council Member Weistling  
**Second** – Council Member Langan

**Discussion** – Council Member Weistling stated that changes were recommended to the Charter & Ordinance Committee by then Sgt. Devlin. It now covers outdoor Special Events in commercial areas and indemnifies and holds the Town harmless from any claims that may arise from any event. And lastly, section § 116-12 *Violations and penalties* was written entirely by the Town’s attorney.

**Vote** – All those in favor of approving the first reading Section 116 – Article II - Special Events (7-0)

**Charter & Ordinance** – Council Member Weistling –

*Proposed First Reading – October 24, 2014  
Chapter 88 – Flood Damage Reduction*

Mayor Serio, after discussing the topic with some Members and Vice Mayor Langan, decided that there were too many questions and maybe not enough understanding across the board. The Town has to pass a Flood Damage Reduction ordinance by March 15, 2015. Building Official Schuchman made arrangements for a workshop with Greg Williams, DNREC Certified Floodplain Manager, who can answer questions and explain. The Special Council meeting workshop will be held, November 25<sup>th</sup> at 10:00 a.m. at Town Hall. Council will be voting on the Flood Damage Reduction ordinance at the December 11<sup>th</sup> Council Meeting to meet March, 2015 FEMA deadline.

**Motion:** Council Member Tingle tabled Chapter 88 Flood Damage Reduction with voting to be held December 11<sup>th</sup> Council Meeting.

**Second:** Council Member Langan

**Discussion:** Council Member Bunting stated that this was the best route for the Town as it needs a full understanding of all the terminology and requirements.

**Vote:** (6-1) - In favor of tabling Chapter 88 – Flood Damage Reduction until the December 11<sup>th</sup> Council Meeting for the first reading.

- **Beach Committee** – The next Beach Committee meeting will be November 8<sup>th</sup> at 9:00 a.m.
- **Environmental Committee** – The Committee met on October 2<sup>nd</sup> but didn’t have enough members for a quorum. They still met informally. The final cigarette butt count was 1,557. The next meeting is set tentatively for January 15, 2015.
- **Technology Committee** – Council Member Langan reported the next meeting is to be determined. Town Manager Burke is in the process of implementing online payment processing. Also, he will be looking into using voice-over-internet protocol (which is using the WI-FI connection in Town Hall for phone service) and the use of the Town’s cellphones accessibility.
- **Ad hoc Parking Committee** – The Committee has completed the yearly goals and objectives. The Committee will be changed to the Business Development Committee.
- **Planning Commission** – n/a
- **Old Business** – none
- **New Business** –
  - 1) Council Member Smallwood announced the 7<sup>th</sup> Annual Turkey Trot. It will be November 27<sup>th</sup> at 8:00 a.m. on Lewes Street. The proceeds will benefit Matt Haley’s Global Delaware Fund.

- 2) Council Member Weistling congratulated Town Manager Burke and his wife Linda on the upcoming arrival of their baby girl.
- 3) Council Member Williams asked about the beach-end signs. Town Manager Burke and Public Works Supervisor Reed are currently working on this project.

## PUBLIC PARTICIPATION

- Lynn Andrews – 1205 Schulz Road – Mrs. Andrews stated that a property owner in Town has a sign business and the Town should get him to bid on new signs for the beach ends. She also wanted to know how much the town pays to maintain the median. Town Manager Burke said \$7,500. Mayor Serio is working with Town Manager Burke to redesign the landscaping in the medians.
- Buzz Henifin – 48 Windward Way – Just around the corner of Dagsboro St. there is an issue on Schulz. Town Manager Burke asked if they would like to adjust the amount on the grant so the Town can address that. He also asked if the flood information will be available at the Town Hall. Town Manager Burke stated all information will be available at Town Hall.

## UPCOMING MEETINGS AND EVENTS

Council Member Serio announced the following upcoming meetings and events as follows:

- |                     |                  |   |
|---------------------|------------------|---|
| a. October 28       | 2:00 p.m.        | Technology Committee Meeting            |
| b. November 3       | 9:30 a.m.        | Charter and Ordinance Committee Meeting |
| c. November 4       | Town Hall Closed | Election Day                            |
| d. November 5       | 10 a.m.          | Sea Level Rise Outreach Meeting         |
| e. November 6       | Town Hall Closed | Return Day                              |
| f. November 8       | 9:00 a.m.        | Beach Committee Meeting                 |
| g. November 11      | Town Hall Closed | Veterans Day                            |
| h. November 20      | 10:00 a.m.       | Business Development Committee Meeting  |
| i. November 25      | 10:00 a.m.       | DNREC Workshop – Proposed Floodplain    |
| j. November 27 & 28 | Town Hall Closed | Thanksgiving Holiday                    |
| k. December 11      | 3:30 p.m.        | Monthly Council 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*