

TOWN OF FENWICK ISLAND, DELAWARE

Minutes of the September 26, 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, Administrative Clerk Massey, Chief Boyden, Public Works Department Supervisor Reed

PRESIDENT’S REPORT

- The Town will return to the winter schedule starting October 1st. Solid waste will be collected every Monday and recycling every Friday. Yard waste will be collected once a month on the third Thursday through the end of the year.

TOPICS FOR DISCUSSION AND POSSIBLE ACTION

- State of the Dunes – DNREC Shoreline Administrator – Tony Pratt
 - o Tony Pratt has been with DNREC since 1980. He presented dune and storm erosion history for Fenwick Island. 1988 was the first nourishment project in Fenwick to rebuild the beach. Since that time, with a combination of Federal and State work, there has been 2,250,000 cubic yards of sand deposited on the beach at a cost to the Federal and State governments of \$13,030,000.00. Town Manager Burke thanked Tony Pratt from attending the Council meeting. Mayor Serio asked each Council Member for comments or questions. The questions and comments were as follows:
 - a) Who owns the beach?
 - b) Why is the Town not allowed to maintain the dunes?
 - c) What should the Town do to help the people access the beach?
 - d) Has DNREC considered zigzag fencing or re-engineering the walkways?
 - e) Is there a number where people can call to ask questions?
 - f) What will happen as the dunes grow higher?
 - o Mr. Pratt stated that the State of Delaware owns the beach fee simple (highest ownership interest possible that can be had in real property), but it is dedicated to public use. Deeds in Fenwick Island only extend to the west side of the dunes. He stated the decision for State maintenance was made by Attorney General a decade ago and that the State, under current law, could not transfer the responsibility of dune maintenance to another entity. He added that they have approximately 250 crossings to maintain and only five (5) employees

to do the work. He continued his discuss dune fencing, sea grasses, walkway engineering and the maturing height of the dunes.

Motion – Motion made to approve the Minutes of August 22, 2014 - Council Member Langan

Second – Council Member Weistling

Discussion – none

Vote – (7-0)

TREASURER’S REPORT

Council Member Bunting stated that the Town Audit has been underway for about a week and everything is looking good.

FY 2015 Operating Budget:

- 19.9% of Income
- 10% of Expenses

FY 2014 Capital Budget:

- \$121,000 or approximately 50% in capital items purchased in the first 42 days of the new fiscal year.

Realty Transfer Tax (1.5%)

- \$11, 887.51

Outstanding Taxes and Fees:

- Approximately \$8,000.00
- All financial data is from the period ending August 31, 2014

Motion – Motion made to approve 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)**
 - o DelDOT approved \$11,800.00 from the Community Transportation Fund (CTF) to complete the second phase of the Cannon Street sidewalk project. The project is scheduled to be completed by October 31st.
- **September Bulk Trash Collection and Disposal Service**
 - o Republic Services performed the bulk trash service for \$3,500.00 plus tonnage fees.
- **Online Payment Processing**

- o Town management is coordinating online and over-the-counter payment services with MuniPAY to commence in early October with limited services. Full payment service will start January 1, 2015.
- **Drainage / Stormwater**
 - o Public works has scheduled projects on Farmington Street and at Cannon Street Park to be completed by October 31st.
 - o Town management is soliciting a proposal from URS to install drainage on the north side of W. Dagsboro Street to reduce flooding. This project is in conjunction with the W. Dagsboro water quality and drainage grant project.
- **Rack Cards (parking and general information)**
 - o 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**
 - o Town management is updating the website with new photos and content.

Grant Funding (approved)

- DNREC Coastal Programs Grant (\$10,000.00, 50% match)
 - o Public Outreach Meeting - Public Hearing, Sea Level Rise - November 5, 2014 at 10:00 a.m. at Town Hall.
 - o URS will present the Sea Level Rise Vulnerability Assessment at the January 23, 2015, Council Meeting, or later date.
- DNREC Surface Water Matching Planning Grant (\$22,000.00, 50% match)
 - o URS and Town management met on August 28th to review preliminary drainage plans. The plans will be completed by November 30th with solicitation of bids to occur in March, 2015.

Meetings, Workshops and Conferences

- Town Manager Burke represented the Town of Fenwick Island at the following meetings:
 - o September 3 SCAT Dinner Meeting, Georgetown, Delaware
 - o September 5 SCAT Steering Committee Meeting, Georgetown, Delaware
 - o September 10 DEMA Emergency Management Course, Dover, Delaware
 - o September 15 – 17 ICMA virtual conference, Fenwick Island, Delaware
 - o September 17 Surfrider Sea Level Rise Workshop, Lewes, Delaware

DEPARTMENT REPORTS

- **Building Official** – The August report was included in the Council meeting packet. In August the Town issued four (4) outside contractor’s licenses and one (1) rental license.
- **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 & Ordinance – Council Member Weistling –

2nd reading for Chapter 160 – Zoning

**Approved First Reading - June
27, 2014**

Proposed Second Reading - September 26, 2014

Chapter 160 - Zoning:

Chapter 160-2B (Definitions and word use):

Insert new definition:

“VEGETATIVE STORMWATER BUFFER - an area of land maintained in a permanent vegetative state that functions to intercept stormwater runoff. Such buffers must be designed by an engineer who is duly registered and licensed in the State of Delaware.”

Chapter 160-5C(1):

Existing:

Front building limit line. The building limit line shall be set back from the front lot line not less than **25 feet**.

Proposed:

Front building limit line. The building limit line shall be set back from the front lot line not less than **fifteen feet (15')**.

Chapter 160-5C(3):

Existing:

Rear yard. There shall be a rear yard having a minimum depth of 10 feet.

Proposed:

Rear yard setback requirements:

- a) ***The rear yard building limit line shall be set back from the rear lot line not less than twenty feet (20'). In addition:***
 1. ***All rear yard setbacks for lots located east of Route 1 shall include a five foot (5') landscaped buffer when abutting lots used for residential purposes.***
 2. ***All rear yard setbacks for lots located west of Route 1 shall include a professionally engineered five foot (5') vegetative***

stormwater buffer when abutting lots used for residential purposes.

Chapter 160-5F (Sidewalks):

Add:

Sidewalks approved by DELDOT, in compliance with ADA regulations and no less than five feet (5') in width or a DELDOT and ADA approved alternative are required for all new construction and substantial improvements in the Commercial Zone (see § 140-2 - Article II - Sidewalks).

Chapter 160-8A(9)(b):

Existing:

An exception to Subsection A(9)(a) above is that a **fence, wall, hedge, partition or other such structure along the rear lot line within the limits of any lot zoned commercial which fronts on Route 1, and/or along the corresponding property line in the Residential Zone comprising such property line, shall be permitted**, not to exceed seven feet in height above the curb or crown level of the adjoining street of such structure, except that, in the case of corner lots fronting on Route 1, the structure from the side street property line to a point 15 feet in from said property line shall not exceed four feet in height above the curb or crown level of the adjoining street of such structure. A solid foundation or retaining wall for such structure shall be permitted, not to exceed two feet in height above the crown of the side streets adjacent to the commercial property. The remainder of the fence, **wall or partition or other such structure** shall not be solid but shall have openings approximately 20% to 30% of the total surface area to provide for the flow-through of air. A detailed design drawing of the structure shall be submitted with the application for a building permit.

Proposed:

The following are exceptions to Subsection A(9)(a) above:

[1] Fences:

[a] A fence is required for new construction along the rear property line on any lot in the Commercial Zone, used for commercial purposes, where designated parking spaces and/or an open area used for parking abuts adjacent property used for residential purposes. Said fence shall be no less than six feet (6'), nor more than seven feet (7'), in height above the curb or crown level of the adjoining street.

[b] Fences are prohibited in the front setback area of all lots in the Commercial Zone.

[c] Fences along the side property line of all lots in the Commercial Zone shall not exceed four feet (4') in height above

the curb or crown level of the adjoining street and shall not encroach into the front setback area.

[d] A solid foundation or retaining wall for such fence structure along the side property line shall be permitted, not to exceed two feet in height above the crown of the side streets adjacent to the commercial property. The remainder of the fence shall not be solid but shall have openings approximately 20% to 30% of the total surface area to provide for the flow-through of air. A detailed design drawing of the structure must be submitted with the application for a building permit.

[2] Sidewalks and structures in an area 10' from the curb along Route 1:

[a] New construction and substantial improvements in the Commercial Zone:

[a.1] A five foot (5') wide sidewalk constructed in compliance with all ADA and DELDOT approved standards is required for new construction. Such sidewalk must be five feet (5') wide, measured from the back of the existing curb along Route 1. Where no curb exists, the five feet (5') shall be measured from the plane of the back of the curb from adjacent properties in the same block along Route 1. All existing entrances are subject to DELDOT approval and may or may not be allowed to remain.

[a.2] A five foot (5') wide sidewalk constructed in compliance with all ADA and DELDOT approved standards or a DELDOT approved alternative is required for substantial improvement construction.

[a.3] All landscaping, permanent structures, and/or temporary or portable structures located in the area five feet (5') in width, measured from the edge of the sidewalk required by subparagraph [a.1] above and projecting into the commercial property, shall not exceed three feet (3') in height from ground elevation.

[b] Existing commercial properties in the Commercial Zone:

[b.1] No new landscaping, vegetation, permanent structures, and/or temporary or portable structures on a parcel along Route 1 in the Commercial Zone, located ten feet (10') or less from the edge of the curb, shall exceed three feet (3') in height from ground elevation.

[b.2] Existing designated parking spaces located in the ten foot (10') area described in subparagraph [b.1] above may continue until such time as a total destruction and

removal of the existing commercial building occurs and new construction commences.

Chapter 160-10C(2) (Location of parking spaces):

Add:

(d) Parking in the fifteen foot (15') side setback is prohibited for any new construction.

Council Member Weistling asked Council to approve for second reading the following changes to Chapter 160 – Zoning, Chapter 160-2B (Definitions and word use) and insert new definition: “Vegetative Stormwater Buffer”. The next one, Chapter 160-5C (1), existing: Front building limit line of 25 feet. Proposed: Front building limit line 15 feet. The next one, Chapter 160-5C (3): Existing: Rear yard depth of 10 feet. Proposed: Rear yard depth of 20 feet in addition to some other items in that section. Next section, Chapter 160-5F (sidewalks) adding a requirement for DELDOT approved sidewalks. The next section, Chapter 160-8A (9)(b), existing, proposed, (1) Fences, (2) Sidewalks and structures. To (a), (a.1), to (a.2), (a.3), (b), (b.1), (b.2).

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

Second – Council Member Williams

Discussion – Council Member Weistling stated that these changes were drafted by the Town Charter and Ordinance Committee over the last year with the help from the Planning Commission. The primary intent was to follow the guidelines of the Comprehensive Plan. A Town resident and business owner, Mr. Tim Collins, questioned Chapter 160-5C (1) the front and rear building limit lines. Council Member Weistling continued the discussion for clarity. The suggestion was made to hire an independent planner to make recommendations.

Vote – Council polled – (0-7) – All members – No – Reading polled

Motion: Council Member Weistling asked Council to approve for second reading the following changes to Chapter 160-10C (2) (Location of parking spaces) which added (d) Parking in the fifteen foot (15') side setback is prohibited for any new construction.

Second: Council Member Langan

Discussion: none

Vote: Council polled – (0-7) – All members – No – Reading polled

- **Beach Committee** – none
- **Environmental Committee** – Next meeting is October 2nd at 2:30 p.m. The coastal clean-up picked up 334 cigarette butts versus 24 last year. A lot of cigarette butts were collected around the benches.
- **Technology Committee** – Council Member Langan reported the next meeting will be October 28th at 2:00 p.m. Town Manager Burke is working on the online payment processing roll out plan. 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 Towns cellphones accessibility.

- **Ad hoc Parking Committee** – Chair Gardner Bunting reported the Committee reviewed the suggestions that were made. A recommendation was made by Council for the Charter and Ordinance Committee to eliminate the parking restrictions on the beach ends to allow parking for restaurant employees and bonfires.
- **Planning Commission** – none
- **Old Business** – none
- **New Business** – Council Member Tingle asked about a Floodplain Ordinance. Building Official Schuchman will work on a draft ordinance.

PUBLIC PARTICIPATION

- Lynn Andrews – 1205 Schulz Road – Mrs. Andrews reported on the beach cleanup. They had 2,500 people sign-up and only 1,900 tee shirts. Fenwick Island had 43 participants.
- Buzz Henifin – 48 Windward Way – The Inland Bay Foundation is having a dinner on October 16th at Irish Eyes. The speaker will be Governor Markell speaking about Clean Water Initiatives.

UPCOMING MEETINGS AND EVENTS

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

a. October 2	2:30 p.m.	Environmental Committee Meeting
b. October 14	2:30 p.m.	Planning Commission Meeting
c. October 24	3:30 p.m.	Regular Council Meeting
d. October 28	2:00 p.m.	Technology Committee Meeting

Motion to adjourn – Council Member Weistling

Second – Council Member Langan

Discussion – none

Vote – (7-0)

Meeting adjourned at 5:50 p.m.

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