

**TOWN OF FENWICK ISLAND, DELAWARE**

Minutes of the October 23, 2015, Regular Council Meeting

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

*Council in Attendance: Gene Langan, Diane Tingle, Bill Weistling, Gardner Bunting, Roy Williams, Richard Mais, Julie Lee*

*Staff in Attendance: Town Manager Burke, Town Clerk Poole, Public Works Supervisor Reed, Police Chief Boyden, Beach Patrol Captain Ferry, Town Solicitor Mary Schrider-Fox*

**PRESIDENT’S REPORT**

- Mayor Langan and Town Manager Burke, on October 13<sup>th</sup>, attended the Bethany Beach Volunteer Fire Company Service Sponsors meeting. There will be no fee increase this calendar year but will attend the meeting in November for the next calendar year budget approval process. The annual fee each homeowner in town pays is \$53.00 and will stay the same for the coming year.
- Boards, Committees and Commission members were announced (**list attached**). Mayor Langan announced that everyone that submitted an application was included on a Committee or Board. The Town has 22 new members with a total of 90 committee members. The term of a Committee is November 1, 2015 - October 31, 2016.

**TOPICS FOR DISCUSSION AND POSSIBLE ACTION**

- **FY 2016 Street Bid Award - Town Manager Burke** – Two (2) bids were received on Wednesday, October 14, 2015, for the referenced project. Kercher Engineering, Inc. estimated: \$100,124.10. Bids: George & Lynch, Inc. - \$109,638.69 and Jerry’s Inc. - \$146,680.00. Mr. Michael Baiocco, Project Manager, Kercher Engineering, Inc. is recommending award of Bid to George & Lynch, Inc. for \$109,638.69. Town Manager Burke added that Sen. Hocker and Rep. Gray, local legislators, have contributed from Community Transportation Fund to the project which will reduce the project by half.

**Motion** – Motion made for Council to approve the low bid, George & Lynch, Inc. of our Y2015 Street Patching/Paving Project for \$109,638.69 – Council Member Weistling

**Second** – Council Member Bunting

**Discussion** – Council Member Weistling added that this is the last phase of the street resurfacing that started in 2007. This will be the fourth phase completing the street repairs. After this, the engineer will probably return in 2-3 years and evaluate the streets. In his opinion the streets then would need a micro surfacing overlay if necessary.

**Vote:** (7-0)

- **Town Beach Services Contract – Town Manager Burke** – Steen’s Beach Services held the contract for the last two years, a one year contract with a one year extension. That contract is now expiring on December 31. Town Manager Burke asked Council for approval to publish another bid for 3 years, with a one year extension for the F.I Beach and State Line Beach. (rental of beach chairs and umbrellas) Steen’s Beach Services bid \$3,212.00 on the original bid with renewal. Town Manager Burke believes that if you increase the contract length multiple years, the vendors will invest more in the Town of Fenwick Island and possibly receive higher bids.

**Motion** – Motion made for Town Manager Burke to re-bid the Town Beach Services Contract - Council Member Mais

**Second** – Council Member Bunting

**Discussion** – Council Member Bunting added the town budget’s (operating budget) for this income and if we don’t bid it out we will never know if the town can increase this amount.

**Vote** – (7-0)

- **Town Wooden Beach End Signs (for sale)** – Town Manager Burke – The Town’s old wooden beach end signs maybe available for possible sale today. The Town has 13 of these signs that were removed from the beach ends last year and replaced with new ones created by Ad Art. There are mixed feeling on what to do with the signs that are currently stored in the Public Works garage. They would like some direction on what to do. Public Works Supervisor Reed stated that the signs were made by Shorty’s in Rehoboth Beach, which is no longer in business. Signs are in good shape and clean up easily with soap and water. Town Manager Burke added several suggestions; sell the signs at a fee (approved by Council), have a lottery for the signs, keep the signs as extras, etc. Council Member Williams suggest the signs be put up for sale for \$50.00 each.

**Motion** – Motion made to sell the wooden Beach End Signs for \$50.00 each – Council Member Williams

**Second** – Council Member Weistling

**Discussion** – Town Manager Burke added, sales will be first come first service bases. All signs were sold at the Council meeting.

**Vote** – (7-0)

- **Town Personnel Policy (donation of leave policy)** – Town Manager Burke recommended to Mayor and Council this particular topic be tabled for a future Council meeting. He was not prepared to discuss this amendment to the Town Personnel Policy.

**Motion** – Motion made to table the Town Personnel Policy (donation of leave policy) amendment – Council Member Tingle

**Second** – Council Member Mais

**Discussion** – none

**Vote** – (7-0)

- **2015 Opinion Survey** – Town Manger Burke – Read into record the draft of the Non-Binding Opinion Survey.

**TOWN OF FENWICK ISLAND, DELAWARE**

**NON BINDING OPINION SURVEY**

Dear Fenwick Islander,

The Town of Fenwick Island and the Town Council would like your opinion regarding a current issue facing the town so we can better work to serve all our citizens. Please take a few minutes to answer the one question below. You may bring the survey to Town Hall or mail it to 800 Coastal Highway, Fenwick Island, DE 19944. Respond by November 20, 2015. **Only ONE (1) survey per household or business please (for example, if you own multiple properties you fill out and send one (1) survey).**

Freeboarding is elevating a building's lowest floor above predicted flood elevation by a small additional height (18-24 inches above National Flood Insurance Program minimum height requirements). Elevating a home a few feet above legally mandated heights has very little effect on its overall look, yet it can lead to substantial reductions in flood insurance, significantly decrease the chances the home will be damaged by storms and flooding, and help protect it against the impacts of sea level rise. (Skaggs, Kate, What is Freeboarding?, Maryland Department of Natural Resources.)

*Question: With new construction, if there is an 18-24 inch increase in the lowest floor to accommodate for Freeboarding, should the owner be allowed to raise the overall height of the structure by 18-24 inches to compensate for the loss of height in the living area of the structure?*

**YES**

**NO**

**NEUTRAL**

Thank you for your participation.

Fenwick Island Town Council

Name Printed: \_\_\_\_\_ Date: \_\_\_\_\_

Name Signature: \_\_\_\_\_

Fenwick Island Town Address: \_\_\_\_\_

**Please RETURN by Friday, November 20, 2015, no later than 4:00 pm.**

- By hand delivery to Fenwick Island Town Hall
- By mail to Town of Fenwick Island, 800 Coastal Highway, Fenwick Island, DE 19944
- By fax to 302-539-1305

**Motion** – Motion made to accept the survey as read for Non-Binding Opinion Survey – Council Member Bunting

**Second** – Council Member Mais

**Discussion** – Council Member Williams objected to the wording. He recommended two separate questions. He would like to separate freeboard and roof heights. 1) With new construction do you support an 18-24 inch increase above the lowest floor to accommodate for freeboard? 2) Do you support an 18-24 inch increase to the Town's 30' roof height? Council Member Lee stated that she feels it should be two separate questions also. Council Member Mais added if you separate the freeboard and roof height, someone can vote to just raise the roof height but not vote for freeboard.

**Vote** – Council Member Bunting withdrew the motion, Seconded – Council Member Mais

**Motion** – New Motion made to accept the survey with amendment – Council Member Tingle

**Second** – Council Member Weistling

**Discussion** – Council Member Williams asked Council Member Lee about the wording. Question: With new construction if there is an 18-24 inch increase in the lowest floor to accommodate for freeboard, should the owner be allowed to raise the overall height of the structure by 18-24 inches above the current 30' height limit?

**Vote** – (5-2) Williams and Bunting no votes.

**Motion** – Revised motion made to eliminate the second paragraph in the non-binding opinion survey and replace with the language from the FEMA fact sheet on building height higher in flood zones freeboard. Also, to include fact sheet with the survey mailing – Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – Council Member Lee questioned the information from the Maryland Natural Resources Department. She recommended inserting a different definition of freeboard. Town Manager Burke added the FEMA definition of freeboard from the FEMA document was on the website. It was decided to remove the original freeboard language and to include the FEMA fact sheet with the survey mailing.

**Vote** – (6-1) Council Member Williams - no

**Motion** – Motion made to extend the return date from November 20, 2015 to December 1, 2016 – Council Member Lee

**Second** – Council Member Bunting

**Discussion** – none

**Vote** – (7-0)

- **Proclamation #70-2015 Community Planning Month** – Town Manager Burke read into record

#### NOTICE

On October 23, 2015, The Fenwick Island Town Council  
Passed the Following Proclamation #70-2015

#### **COMMUNITY PLANNING MONTH**

October 2015

**WHEREAS**, change is constant and affects all cities, towns, suburbs, counties, boroughs, townships, rural areas, and other places; and

**WHEREAS**, community planning and plans can help manage this change in a way that provides better choices for how people work and live; and

**WHEREAS**, community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and

**WHEREAS**, the full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and

**WHEREAS**, the month of October is designated as National Community Planning Month throughout the United States of America and its territories, and

**WHEREAS**, The American Planning Association and its professional institute, the American Institute of Certified Planners, endorse National Community Planning Month as an opportunity to highlight the contributions sound planning and plan implementation make to the quality of our settlements and environment; and

**WHEREAS**, the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the **Town of Fenwick Island** in the **State of Delaware**; and

**WHEREAS**, We recognize the many valuable contributions made by professional community and regional planners of the **Town of Fenwick Island** in the **State of Delaware** and extend our heartfelt thanks for the continued commitment to public service by these professionals;

**NOW, THEREFORE**, BE IT RESOLVED THAT, the month of October 2015 is hereby designated as **Community Planning Month** in the **Town of Fenwick Island** of the **State of Delaware** in conjunction with the celebration of National Community Planning Month.

**Adopted this 23<sup>rd</sup> Day of October, 2015.**

Attest: \_\_\_\_\_  
*Linda M. Poole, Town Clerk*

\_\_\_\_\_  
*Eugene N. Langan, President of Council*

\_\_\_\_\_  
*Diane B. Tingle, Council Secretary*

*I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Proclamation passed by the President and Council at a meeting on October 23, 2015 at which a quorum was present and voting throughout and the same is still in force and effect.*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Diane B. Tingle, Council Secretary*

**Motion** – Motion made to accept Proclamation #70-2015 Community Planning Month - Council Member Tingle

**Second** – Council Member Weistling

**Discussion** – none

**Vote** – (7-0)

- **Proclamation #71-2015 Diabetes Awareness Month** – Town Manager Burke read into the record.

**NOTICE**

On October 23, 2015, The Fenwick Island Town Council

Passed the Following Proclamation #71-2015

**DIABETES AWARENESS MONTH**

November 2015

**Whereas**, nearly twenty-six million Americans have diabetes, a serious disease that has no cure, with someone diagnosed with type 1 diabetes every 35 seconds; and

**Whereas**, type 1 diabetes is an autoimmune disease that strikes children and adults suddenly and lasts a lifetime, requiring them to take multiple injections of insulin daily or continually infuse insulin through a pump; and

**Whereas**, one of the most significant risk factors for type 2 diabetes is obesity, those at risk of developing type 2 diabetes can reduce their chances of developing the disease by engaging in regular physical activity, maintaining a healthy weight and making nutritious food choices; and

**Whereas**, with more and more people becoming affected by diabetes every day, we must work together to better prevent, manage, and treat this disease; and

**Whereas**, an increase in community awareness of risk factors and symptoms related to diabetes can improve the likelihood that people with diabetes will get the attention they need before developing the disease its devastating complications; and

**Whereas**, with more than \$1.5 billion allocated to research since 1970, the Juvenile Diabetes Research Foundation is the worldwide leader in research funding for type 1 diabetes, and is committed to improving the lives of those with diabetes today and in the future.

**Now, Therefore, We, Eugene N. Langan, Mayor and Council Members of the Town of Fenwick Island, Delaware, do recognize the month of November 2015, as ***Diabetes Awareness Month*** in the ***Town of Fenwick Island, Delaware*** and urge all residents to give full support to efforts enabling people with diabetes to live full and productive lives.**

***Adopted this 23<sup>rd</sup> Day of October, 2015.***

Attest: \_\_\_\_\_  
Linda M. Poole, Town Clerk

\_\_\_\_\_  
Eugene N. Langan, President of Council

\_\_\_\_\_  
Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Proclamation passed by the President and Council at a meeting on October 23, 2015 at which a quorum was present and voting throughout and the same is still in force and effect.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Diane B. Tingle, Council Secretary

**Motion** – Motion made to approve Proclamation # 71-2015 National Diabetes Awareness Month – Council Member Tingle

**Second** – Council Member Lee

**Discussion** – none

**Vote** – (7-0)

**APPROVAL OF MINUTES**

**Motion** – Motion made to approve the Minutes of September 25, 2015 - Council Member Weistling

**Second** – Council Member Bunting

**Discussion** – Incorrect spelling of name on page one corrected.

**Vote** – (7-0)

**TREASURER’S REPORT**

Council Member Bunting reported: The monthly report is a summary of all account balances through **September 30, 2015** and other pertinent financial information since the prior month’s Town Council meeting.

**Reserve Balance**

- \$2,720,316.36

**FY 2016 Operating Budget**

- 56.1% of Budgeted Income
- 19.18% of Budgeted Expenses

**Realty Transfer Tax (1.5% local tax)**

- \$ 16,200.00 (FY16 year-to-date)

**Outstanding Taxes and Late Fees**

- \$11,000.00 (approximate)

**Revenue Highlights**

- 90.24% of real estate property tax budget (collected \$402,488 in Sept.)
- 7.65% of rental receipt tax budget (collected \$17,627 in Sept.)
- 59.51% of parking violations budget (collected \$2,676 in Sept.)

**Municipal Street Aid Report**

- Expenses: \$1,156 Delmarva Power

**MSA Balance \$50,260.63**

**Dedicated Street Fund**

- Deposited \$1,603.80 from RTT (10%)

**DSF Balance \$53,345.10**

**Parks & Recreation**

- Deposited \$802 from RTT (5%)

**Parks & Rec Balance \$2,196.39**

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

**Second** – Council Member Weistling

**Discussion** – none

**Report accepted**

**TOWN MANAGER’S REPORT**

**Projects / Updates**

- Department supervisors have commenced FY16 Capital Improvement Plan purchases.
- Management commenced the FY15 Audit with Sombar and Associates. The final Town Audit report will be presented at the December 11 Council meeting.
- Management continues to improve and update information on the Town website.
- Management proposed amending the Town Personnel Policy to include a Donated Leave Program.
- Two bids were received on October 21 for the FY16 Street project. If Council approves a bidder, management will commence coordination of the project in 2015.
- Management followed up with DNREC and will be meeting with Chuck Williams in the future to discuss details of hydrographic surveying and canal dredging.
- Management attended and contributed to all Town Committee meetings.
- Police Clerk Wooten resigned to accept a full-time position. The Public Safety Building will be closed until May 15, 2016.
- Sen. Hocker and Rep. Gray have each contributed Community Transportation Funds to the FY16 Street project.

**Grant Applications (approved and pending)**

- **2014 DNREC Surface Water Matching Planning Grant (approved for \$22,000, 50% Town of Fenwick match)**
  - o SCD will commence drainage and paving work in early November.

- **2015 DNREC Recycling Grant (approved for \$3,000, 100% State of DE)**
  - o Town management is waiting for DNREC approval to commence purchasing grant items.
- **2015 DNREC Surface Water Matching Planning Grant (approved for \$13,000, 50% Town of Fenwick Island match)**
  - o SCD will commence the drainage work in early November.
- **2015 American Lung Association Grant (pending \$1,389, 100% State of DE)**
  - o The grant was approved by the ALA. Grant purchases will commence in early 2016.
- **2015 DNREC DTF Grant (pending \$42,585, 50 % Town of Fenwick Island match)**
  - o Town management submitted the grant application for the F.I. community Park phase 2 improvements. DNREC will consider funding in November.
- **2015 Delaware Bicycle Council Grant (pending, match TBD)**
  - o Town management submitted a grant application to the DE Bicycle Council to improve local infrastructure and increase education between motorists and bicycles. Grant applications will be reviewed by December 15.

### **DEPARTMENT REPORTS**

- **Building Official** – The September monthly report was included in the Council meeting packet.
- **Public Works** – The September monthly report was included in the Council meeting packet. Repairs to the Town’s generator have been completed.
- **Beach Patrol** – No report until March. Have started the process for ordering the shirts for the Fenwick Freeze.
- **Police Department** – The September monthly report was included in the Council meeting packet. Chief announce the arrival of baby Lowe, born on October 7th and an update of his medical issues. Cpl. Lowe wanted to extend a “Thank You so much”. The support and donations from everyone has been overwhelming.

### **TOWN COMMITTEE REPORTS**

**Motion** – Motion made for Council to withdraw First Reading from the September Council Meeting on Chapter 160 – Zoning, §160-2B Definition and §160-5C – Area Regulations – Council Member Weistling  
**Second** – Council Member Tingle

**Discussion** – Council Member Weistling explained the first reading Council approved last month would change the hotel zoning from one room per 1,000 square feet to one room per 600 square feet, with a cap of 65 rooms. Two other additional hotels in town have 61 and 62 rooms. This change would allow the Sands motel an additional 26 rooms. After that first reading, Charter and Ordinance Committee was going to proceed, with help for the town solicitor to enact an ordinance, creating a moratorium for any future hotel construction until the operations of the new hotel could be reviewed/analyzed for its impact on the town. In discussion with the town solicitor about the moratorium after the first reading, we received further input. The committee could possibly consider withdrawing this motion, and replacing it with a new motion. The new motion would be a first reading which would limit 65 room hotel and one rooms to 600 square feet to the existing three hotels in town only. All future hotels built in town would follow the current ordinance, one room per 1,000 square feet. This action would eliminate pursuing an ordinance on a moratorium, since only three existing hotels could have the 65 room total. Mayor Langan stated the

there is a motion on the floor to withdraw the prior first reading, there has been some discussion, is there any further discussion.

**Vote:** (7-0) – To withdraw the first reading of Chapter 160 – Zoning of September 25, 2015.

Council Member Weistling – Proposed First Reading – Chapter 160 - Zoning, §160-2B Definition and §160-5C – Area Regulations: entered into record.

**PROPOSED FIRST READING – OCTOBER 23, 2015**

**CHAPTER 160 – ZONING**

**§ 160-2. Definitions and word use.**

**Existing:**

B. For the purpose of this chapter, certain terms and words are defined as follows:

MOTEL/HOTEL – A building containing **16 or more sleeping rooms** occupied by transient persons as guests for compensation on a daily basis. Each motel/hotel building shall include an on-site management and reception area, daily housekeeping services, and a lighted exterior sign identifying the name of the motel/hotel and the vacancy/no vacancy status. Sleeping rooms may be offered individually or in combination in suites.

**Proposed:**

B. For the purpose of this chapter, certain terms and words are defined as follows:

MOTEL/HOTEL – A building containing **no less than 16 nor more than 65** sleeping rooms occupied by transient persons as guests for compensation on a daily basis. Each motel/hotel building shall include an on-site management and reception area, daily housekeeping services, and a lighted exterior sign identifying the name of the motel/hotel and the vacancy/no vacancy status. Sleeping rooms may be offered individually or in combination in suites.

**§ 160-5C. Area Regulations.**

**Existing:**

(5) Each motel/hotel permitted to be erected or altered hereafter shall occupy a lot(s) providing a minimum of **1,000** square feet of land area for each sleeping room therein including sleeping rooms in any apartment included in the motel/hotel building.

**Proposed:**

(5) Each motel/hotel permitted to be erected or altered hereafter shall occupy a lot(s) providing a minimum of **1,000** square feet of land area for each sleeping room therein including sleeping

rooms in any apartment included in the motel/hotel building. **Each motel/hotel existing prior to 1988 shall occupy a lot(s) providing a minimum of 600 square feet of land area for each sleeping room, not to exceed a total of 65 sleeping rooms, including rooms in any apartment included in the hotel/motel building.**

**SYNOPSIS**

***This proposed change limits one hotel/motel sleeping room to no less than 600 square feet of land area in the existing three hotels/motels in Town built prior to 1988.***

**Motion** – Motion made for Council to approve the new First Reading of Chapter 160 – Zoning, §160-2 Definition and §160-5C – Area Regulations – Council Member Weistling

**Second** – Council Member Tingle

**Discussion** – Council Member Lee stated that she believes the town has no definition of a sleeping room in the current ordinance and feels this needs to be defined. She asked Town Solicitor Schrider-Fox if this ordinance states hotel/motels existing prior to 1988. If this motel is demolished and rebuilt, is that a motel that existed prior to 1988. Town Solicitor Schrider-Fox stated that it depends if it is a full demolition of the existing structure including the footprint. She feels this would be something to consider as to whether it's an abandon structure and then rebuilt or if there is some continuity that it's an existing structure prior to 1988. An alternative version of this language could be all hotels in existence as of the date of passage of this ordinance. The hotel is still in existence and continuing, it's just being rebuilt but putting that 1988 on there may further limit it. Perhaps a better way would be to say, all hotel in existence as of today's date. Then whatever hotel your building consists of, you are not tying it to a date circuit in time from decades ago.

**Motion** – Council Member Weistling amended the motion to read – ***Each hotel/motel existing as of the date of the passage of this ordinance shall occupy a lot(s) providing a minimum of 600 square feet of land area for each sleeping room, not to exceed a total of 65 sleeping rooms, including rooms in any apartment included in the hotel/motel building.***

**Second:** Council Member Tingle

**Discussion:** Council Member Lee is still concerned that a sleeping room is not defined. Council Member Weistling stated that it will be a topic for the next Charter & Ordinance Meeting. Council Member Lee added that Council received at least one dozen letters in opposition to the original ordinance change and most of them were informed of the cancellation of the public hearing for today. Also, one letter of opposition was withdraw.

**Vote** – (5-2) opposed Council Member Williams and Council Member Lee – Motion Passed

- Council Member Weistling wanted to poll the Council on possible ordinance that's in early draft stages on Outside Showers. Sussex County, outside showers used to allow you to dump onto the ground. Sussex County changed the ordinance and you are now required to have it dump into their sanitary sewer system. Sussex County has it pretty well defined but it's a little vague because it defines an outside shower to be dumped into the sanitary sewer system, provided that there is a curb around it to keep rain and storm water from intruding. That doesn't help us on the bayside when we have two feet of water in a flood and all that water is being dumped into the sanitary sewer system. Charter & Ordinance would like to do some research on this and eliminate that. He

believes that Sussex County will allow towns to override this ordinance on drainage and feel that Charter and Ordinance should discuss this. Would like to poll Council to see if Charter and Ordinance pursue this.

**Council Polled:** R. Mais, J. Lee, G. Bunting, G. Langan, B. Weistling, D. Tingle, and R. Williams – 7 Ayes – for Charter and Ordinance to proceed with drafting outside shower ordinance.

**Charter and Ordinance** – Council Member Weistling – Proposed Second Reading – Chapter 116 – Gun Ordinance read into the records:

*Proposed Second Reading – October 23, 2015*

**CHAPTER 116  
ARTICLE III**

**ORDINANCE REGULATING THE POSSESSION OF FIREARMS,  
AMMUNITION, COMPONENTS OF FIREARMS, AND EXPLOSIVES IN  
MUNICIPAL BUILDINGS, ON MUNICIPAL PROPERTIES AND IN POLICE STATIONS  
IN THE TOWN OF FENWICK ISLAND**

**WHEREAS**, by and through adoption of House Bill 192 by the 148<sup>th</sup> General Assembly of the State of Delaware (“HB192”), codified at Title 22, Section 111 of the Delaware Code, municipalities are permitted to adopt Ordinances regulating the possession of firearms, ammunition, components of firearms, or explosives in municipal buildings, on municipal properties and in police stations.

**WHEREAS**, the Mayor and Town Council desire to add a new Article III to Chapter 116 (Peace and Good Order) of the Code of the Town of Fenwick Island to prohibit possession of firearms, ammunition, components of firearms, or explosives in municipal buildings, on municipal properties and in police stations to the fullest extent permitted by HB 192.

**WHEREAS**, the Town of Fenwick Island has introduced this Ordinance in accordance with procedures established by law.

**NOW THEREFORE, IT IS HEREBY ORDAINED**, by the Town of Fenwick Island, that the following Code changes and revisions are adopted:

**CHAPTER 116. Amend by adding Article III (Gun Ordinance) to the Code of the Town of Fenwick Island the following language:**

**§ 116-14A. Possession of Firearms, Ammunition, Components of Firearms, or Explosives in Municipal Buildings, on Municipal Properties and in Police Stations Prohibited:**

1. Prohibition. Except as set forth in §116-14A(5), possession of firearms, ammunition, components or firearms, or explosives in municipal buildings, on municipal properties and police stations is prohibited in all municipal buildings, on municipal properties and police stations.

2. Municipal Buildings/Properties Defined. For the purposes of this section “municipal buildings/properties” are defined as any building or property where the Town meets or owns in its official capacity, or any building or property containing the office of elected officials and/or public employees actively engaged in performing government business. The definition of “municipal building or property” also includes any non-Town owned or leased building or property where the Town is meeting or occupying such a building or property, but only during the time that the Town is meeting in or occupying such a building or property.
3. Required Signs. In all municipal buildings, on municipal properties and in police stations, a conspicuous sign shall be posted at each entrance stating that the possession or firearms, ammunition, components of firearms, or explosives are prohibited. Such sign may but is not required to also state that persons in violation may be denied entrance to the building and/or property or be ordered to leave the building and/or property.
4. Immediate Departure. Any person who immediately foregoes entry or immediately exits any municipal building, municipal property or police station due to the possession of a firearm, ammunition, components or firearms, or explosives shall not be guilty of violating this section.
5. Exemptions. Nothing in this Article III shall be deemed to prevent in municipal buildings, on municipal properties or in police stations:
  - a. Possession of firearms, components of firearms, and ammunition or explosives by law enforcement officers;
  - b. Law enforcement agencies receiving shipments of delivery of firearms, components of firearms, ammunition of explosives;
  - c. Law enforcement agencies conducting firearms safety and training programs;
  - d. Law enforcement agencies conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;
  - e. Possession of firearms, components of firearms, and ammunition or explosives by law enforcement officers;
  - f. Law enforcement agencies receiving shipments of delivery of firearms, components of firearms, ammunition of explosives;
  - g. Law enforcement agencies conducting firearms safety and training programs;
  - h. Law enforcement agencies conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;
  - i. Compliance by persons subject to protection from abuse court orders;
  - j. Carrying firearms and ammunition by persons who hold a valid license pursuant to either § 1441 or § 1441A of Title 11 of the Delaware Code so long as the firearm remains concealed except for inadvertent display or for self-defense or defense of others;
  - k. Carrying firearms and ammunition by officers or employees of the United States duly authorized to carry a concealed firearm; or

1. Carrying firearms and ammunition by agents, messengers and other employees of common carriers, banks, or business firms, whose duties require them to protect moneys, valuables and other property and are engaged in the lawful execution of such duties.
6. Penalties. Any person who shall violate or fail to conform to any provision of this Article shall be subject to penalties under this article not exceeding \$200 for each day of the violations, as well as the Town's costs and expenses, including reasonable attorney's fees, incurred to enforce the provisions of this Article and/or to collect the penalties imposed hereunder. Penalties assessed for a violation of this Article 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.

**§ 116-14B. Severability.**

The provisions of this Article shall be severable. If any provisions of this Article are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Article shall remain valid, unless the court finds that the valid provisions of this Article are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that the Town of Fenwick Island would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the Town of Fenwick Island's intent. To the extent that this Article is deemed to exceed the statutory authorization provided by HB 192, the Town of Fenwick Island's intent is to implement the provisions of HB 192 to the fullest extent permitted, and this Article should be interpreted so that any invalid provision is limited only to maximum authorization permitted by HB 192.

**§ 116-14C. No Repeal of Existing Firearms Related Ordinances.**

Adoption of this Article shall in no way repeal or alter any law, ordinance or regulation prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or ammunition enacted before July 4, 1985. To the extent that this Article conflicts with any similar ordinance prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or ammunition enacted before July 4, 1985, the more stringent of the two ordinances shall govern.

**§ 116-14D. Effective Date.**

This Article shall become effective immediately upon its adoption by the Town of Fenwick Island.

**Motion** – Motion made for Council to approve the Second Reading of Chapter 116 – Gun Ordinance – Council Member Weistling

**Second** – Council Member Mais

**Discussion** – Council Member Weistling added this proposed change prohibits carrying firearms into or on any town owned property.

**Vote – Polled Members** – R. Mais, J. Lee, G. Bunting, G. Langan, B. Weistling, D. Tingle, and R. Williams - 7 Ayes – Second Reading passed (7-0)

- **Beach Committee** – The Town Beach Committee is working on the Fenwick Freeze. The Turkey Trot will be November 26<sup>th</sup>, starting at Lewes Street at 8:00 a.m. This is a 2.2 mile fun/run/walk and the money raised will go to the baby Lowe fund. This year there will be long sleeve commemorative shirts for \$20.00. There is plenty of parking at Warrens Station, The Bethany/Fenwick Chamber of Commerce and the Pottery Place. Also, the Pottery Place will be giving out free coffee starting at 7:00 a.m. Sponsorship options will be available on this year t-shirt if anyone is interested.
- **Environmental Committee** – The Committee met on October 15<sup>th</sup> and will be planning an Earth Day event on April 22, 2016. Details to follow and Colleen Wilson will be coordinating this event. Mary Ellen Langan will be meeting with someone from the State of Delaware to come and inspect for Pine Bark Beetle issues. Several property owners have given permission to inspect their properties. The Committee would like to have the state representative present at the December or January Council meeting to discuss the Southern Pine Bark Beetle issue. The Committee has received grant funding (\$1,400) from the American Lung Association for tobacco-prevention signage on the rear of the lifeguard stands. The summer cigarette butts count totaled 1,252 and 21 cigars.
- **Technology Committee** – The last meeting was on October 15. The Committee has invited the State of Delaware Government Information Center to attend the November meeting. Details to follow.
- **Business Development Committee** – The next meeting will be November 12 at 2:00 p.m.
- **Ad hoc Parks Committee** – Town Manager Burke stated that a meeting will be scheduled in the near future.
- **Planning Commission** – none
- **Old Business** – none
- **New Business** – none

## PUBLIC PARTICIPATION

- Richard Benn – 1306 Bunting Ave. – Asked Mayor, “Why is increasing the number of hotel rooms good for Fenwick Island?” The Mayor stated that the property needs to be rebuilt and does not see any down side for the town. Richard asked, does the town have any insurances that will keep him from flipping the property? Mayor Langan stated the town has no insurances from any business or any homeowner. There are no insurances from anyone in town that they wouldn’t do that. Richard added he is not opposed to redevelopment but feels the town is not addressing the concerns of the neighbors.
- Kevin Carouge – 1006 Bunting Ave. – He wanted to address the survey. He feels there are three distinctive issues. 1) Should ask the population/homeowners, “Do they understand what freeboard means?” and do you feel the town has provided adequate information? 2) Do you agree that the Town of Fenwick Island should adopt freeboard? 3) If the Town adopts freeboard, should the homeowners be allowed to raise the roof height?
- Richard Curry – 7 E. Houston St. – The town has 1 room per 1,000 square feet for years, why is the town considering giving him double the room when Mr. Buas knew this information when he purchased the hotel. Why are we going from 39 rooms to 65 rooms? This is supposed to be a quiet resort. Council Member Weistling stated there are two other hotels in town with 61 and 62 rooms. The Town felt that anyone who purchased the hotel that has been in existence for over 60 years, would

tear down and rebuild. This would give the new owner the opportunity to match fairly closely the other two hotels in town. Council Member Bunting added when the Sands Motel was built, there was no zoning ordinance in this town. This was prior to the incorporation of Fenwick Island. (This is for clarification.)

- Bill Williams – 22 W. Atlantic St. – How do you regulate the number of cars? How many parking space will the new hotel need to allow? How does the town plan for this? Council Member Weistling added architecture plans will go to the Building Official, she will check off the formulas the town has in the ordinances, this will dictate what parking is required in the town. If Mr. Buas does not have adequate parking, his plans are turned down to build the hotel.
- Pat Pridgeon – 1 E. James St. – What will keep the next owner of the hotel from asking the town for the same option?
- Dottie Lopez – 1007 Bunting Ave. – Her biggest concern was that 70 – 80% of the people who make up Fenwick Island are non-residents and a Public Hearing is scheduled in the dead of winter, when most of the people are gone. I feel this should be taken into consideration because we got into trouble last year when a couple of things were passed without the majority of the population was not here.
- Tim Collins – 22 W. Georgetown St. – What is being missed here is that the obligation of the Town Council is to do what they are doing, addressing a situation that is a problem in Town and trying to resolve it. There are several glaring things in town because of ordinances on the books. The six properties that were vacant across from Ocean Bay Plaza were effected to a large degree by this ordinance about hotels/motels. The town ended up with two residential properties and a mound of dirt that sat there for year after year. Another property set there with pilings. We also had a situation with Libby’s vacant property that set for years and years because there was not move/resistance to do anything. When we don’t make an effort to change and do something that betters the town, these are the type of things that happen. He remembers attending several meetings, where there were people in town that were absolutely adamant that adding on 3-400 square feet to Mancini’s restaurant, so the restaurant could have an outdoor patio, and could almost quote verbatim, people saying this would be the end to Fenwick Island. The town is still here and things have worked out well even with an outside patio.
- Reid Cummings – 37558 Lighthouse Rd. – He stated that a proposal is completed to purchase a piece of property here in town but no sales contract has been ratified. He has two banks ready to finance a new hotel on the site as the same size as the Seaside Inn. Mr. Buas is not the only one looking to build a hotel in Fenwick Island.
- Lynn Andrews – 1205 N. Schulz Rd. – The Building Official told us about the flood insurance and the increase in flood insurance rates were from FEMA. It has nothing to do with freeboard. The Building Official said the rates were set by FEMA and would go up 20% every year for the next five years.

• **UPCOMING MEETINGS AND EVENTS**

Mayor Langan announced the following upcoming meetings and events as follows:

- |    |             |                  |   |
|----|-------------|------------------|---|
| a. | Nov 03      | 9:30 a.m.        | Charter and Ordinance Committee Meeting |
| b. | Nov 10      | 2:30 p.m.        | Planning Commission Meeting             |
| c. | Nov 12      | 2:00 p.m.        | Business Development Committee Meeting  |
| d. | Nov 26 – 27 | Town Hall Closed | Thanksgiving Holiday                    |

- |    |        |           |  |
|----|--------|-----------|--|
| e. | Nov 26 | TBD       | Turkey Trot (Bunting Avenue and Lewes Street)    |
| f. | Dec 01 | 9:30 a.m. | Charter and Ordinance Committee Meeting          |
| g. | Dec 03 | 2:30 p.m. | Environmental Committee Meeting                  |
| h. | Dec 04 | 2:30 p.m. | Public Hearing                                   |
| i. | Dec 04 | 3:30 p.m. | Regular Council Meeting                          |
| j. | Dec 11 | 5:30 p.m. | Community Holiday Event-Community Park/Town Hall |

**Motion to Adjourn** – Council Member Bunting

**Second** – Council Member Langan

**Discussion** – none

**Vote** – (7-0)

Meeting adjourned at 5:40 p.m.

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